REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

AVON PRODUCTS MANUFACTURING, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8207

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

SEP 2 0 2012
4:30 p.m.

x- x

DECISION

CASTAÑEDA, JR., *J.*:

This is a Petition for Review filed by Avon Products Manufacturing, Inc. to seek the refund of its alleged erroneously paid excise tax on non-essential articles, particularly, toilet waters, for the period covering January 5, 2009 to December 29, 2009 in the total amount of P38,873,976.07.

Avon Products Manufacturing, Inc. (petitioner) is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Calamba Premiere Industrial Park, Barangay Batino, Calamba, Laguna.[1] Petitioner is engaged

[1] Par. 1, Summary of Admitted Fact, Joint Stipulation of Facts and Issues (JSFI), docket, p. 516.

in the manufacture of cosmetic and personal care products, including perfumes, toilet waters, splash colognes, and body sprays.[2]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) with the authority to decide, approve, and grant tax refunds. She holds office at the BIR National Office Building, Diliman, Quezon City.

Petitioner alleges that for the period covering January 5, 2009 to December 29, 2009, it paid the twenty percent (20%) excise taxes imposed on perfumes and toilet waters under Section 150 of the National Internal Revenue Code of 1997 (NIRC of 1997) on its removal of perfumes, toilet waters, splash colognes, and body sprays. The excise taxes paid for said period on products actually removed by petitioner from their place of production totaled P133,827,221.51.[3]

Petitioner asserts that out of the total excise taxes it paid during said period, the amount of P38,873,976.07 represents the 20% excise tax erroneously paid by petitioner on removals of splash colognes and body sprays containing essential oils of three percent (3%) or less by weight.[4]

Petitioner argues that since the essential oil content of its splash colognes and body spray products is not more than 3% by weight, these products are not subject to the excise tax on toilet waters imposed under

[2] Par. 1, Stipulation of Facts, JSFI, docket, p. 517.

[3] Par. 3, Jurisdictional Allegations, Supplemental and Amended Petition for Review (Supplemental and Amended Petition), docket, pp. 175-176.

[4] Par. 4, Jurisdictional Allegations, Supplemental and Amended Petition, docket, p. 182.

Section 150 of the NIRC of 1997. It thus erroneously paid excise taxes thereon.[5]

On December 9, 2010, petitioner filed a written claim for refund of its erroneously paid excise taxes with respondent's Large Taxpayer's Service through a letter dated December 7, 2010 and a duly accomplished Application for Tax Credits/Refund (BIR Form No. 1914).[6]

Due to respondent's failure to act on petitioner's claim for refund, petitioner opted to file the instant Petition for Review on December 22, 2010.

On January 26, 2011, respondent filed her Answer[7]. However, on February 24, 2011, petitioner filed a Motion to Admit with attached Supplemental and Amended Petition for Review[8]. Consequently, on April 13, 2011, respondent filed an Amended Answer[9] and interposed the following special and affirmative defenses:

> "4. Respondent hereby reiterates and repleads the preceding paragraphs of this answer as part of her Special and Affirmative Defenses.
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> 5. Taxes collected are presumed to be in accordance with laws and regulations.
>
> 6. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau of Internal Revenue. A claim for refund is not *ipso facto* granted because respondent CIR still has to investigate and ascertain the validity of the claim.
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> 7. Petitioner's articles were paid pursuant to Section 150(b) of the Tax Code of 1997 which provides –

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[5] Par. 7, Jurisdictional Allegations, Supplemental and Amended Petition, docket, p. 188.
[6] Exhibits "B" and "B-1".
[7] Docket, pp. 138-146.
[8] Docket, pp. 172-195.
[9] Docket, pp. 503-511.

'SEC. 150. Non-essential Goods. – There shall be levied, assessed and collected a tax equivalent to a twenty percent (20%) based on the wholesale price or the value of the importation used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, of the following goods:

'(a) ...

'(b) Perfumes and toilet waters;

'(c) ...'

Revenue Memorandum Circular No. 17-02 which emphasized BIR Ruling 43-2000, defines 'colognes' as follows:

'*Cologne (toilet water) is a scented alcohol-based liquid used as perfume, after-shave, lotion or deodorant.' (Hawley's Condensed Chemical Dictionary, 11th ed.)*

The foregoing declares null and void all previous BIR ruling pertaining thereto.

8. In general, rules and regulations issued by administrative or executive officers pursuant to the procedure or authority conferred by law upon the administrative agency have the force and effect, or partake of the nature, of a statute. The reason is that statutes express the policies, purposes, objectives, remedies and sanctions intended by the legislature in general terms. The details and manner of carrying them out are oftentimes left to the administrative agency entrusted with their enforcement. **(Commissioner of Internal Revenue vs. Solidbank Corporation, G.R. 148191, November 2003)**

Regulations are formal pronouncements of the respondent, intended to prescribe the methods of administration and enforcement. These are valid as long as the standards set by the legislature are complied with. Specifically, the regulation must (1) be germane to the object and purpose of the law; (2) not contradict, but conform to, the standards the law prescribes; and (3) be issued for the sole purpose of carrying into effect the general provisions of tax laws. **(Commissioner of Internal Revenue vs. Solidbank Corporation, G.R. No. 148191, November 2003)** While Revenue Memorandum Circulars are issuances disseminating amplification of the rules, precedents, laws, regulations, opinions and other orders and directives issued or administered by the Commissioner for the information, guidance or compliance. These are accorded with great respect like any administrative issuances, being interpretations intended to carry the provisions of the Tax Code.

When an administrative agency renders an opinion by means of a circular or memorandum, it merely interprets a pre-existing law. Construction by an executive branch of government of a particular law although not binding upon the courts must be given weight as the construction came from the branch of government called upon to implement the law. **(La Suerte Cigar Factory vs. Court of Appeals, January 1985)**

It also bears stressing that respondent is not bound by its previous rulings. To the contrary, the overruling of decisions is inherent in the interpretation of laws. Therefore, respondent cannot be faulted much less denounced by overturning previous BIR rulings.

9. In claiming a refund, a claimant must first file a written claim for refund, categorically demanding recovery of overpaid taxes with the Commissioner of Internal Revenue, before resorting to an action in court, first, to afford the CIR an opportunity to correct the action of the subordinate officers; and second to notify the government that such taxes have been questioned, and the notice should then be borne in mind in estimating the revenue available for expenditure **(CIR vs. Rosemarie Acosta, G.R. No. 154068, Aug. 3, 2007)** If there was no such decision of the Commissioner because he was not even given such opportunity to do so, the taxpayer cannot seek refuge under the cloak of having filed the action within the two (2) year prescriptive period on the ground that the Commissioner has not yet acted upon said claim for tax refund or tax credit. To allow the taxpayer to file his claim for refund will be creating a dangerous precedent. It would not be long that the court will be dealing with monstrous clogging of dockets which

could have been otherwise solved in the administrative level had taxpayer filed his claim for refund at the earliest opportunity. **(Geodetic and Construction Survey, Ltd vs. Commissioner of Internal Revenue, CTA Case No. 4526, June 1993)** In this case, it should be noted that the administrative claim for refund was filed on December 9, 2010 while this petition was filed on December 22, 2010 claiming that the two-year prescriptive period is about to lapse. Although, petitioner is not legally prescribed to file this present petition, the intendment of the law in affording opportunity to the government will not be served.

10. Taxes are essential to government's very existence; **(CIR v. Solidbank Corporation, G.R. No. 148191, November 25, 2003)** hence, the dictum that 'taxes are the lifeblood of the government.' For this reason, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority. **(CIR v. Fortune Tobacco Corporation, G.R. Nos. 167274-75, July 21, 2008)** Since tax refunds are regarded as tax exemptions and these are to be construed ***strictissimi juris*** against the person or entity claiming the exemption. **(Philippine Phospate Fertilizer Corporation vs. Commissioner of Internal Revenue G.R 141973, June 28, 2005)**

11. In an action for refund, the burden of proof is on the taxpayer who claims the exemption and he must justify his claim by the clearest grant under the Constitutional or statutory law and cannot be permitted by vague implications **(BPI Leasing Corporation vs. Honorable Court of Appeals, G.R 127624, November 18, 2003)**. Petitioner's plain reliance on the regulation to justify its claim for refund is unfounded. The taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund. **(Commissioner of Internal Revenue vs. Eastern Telecommunications Philippines, Inc. G.R. 163835 July 7, 2010)**

12. The amount of Thirty Eight Million, Eight Hundred Seventy Three Thousand, Nine Hundred Seventy Six and 7/100 (P38,873,976.07) being claimed by petitioner arising from documentary stamp tax paid

and incurred for the taxable year 2009 is not properly documented.

11. Following the premise above-mentioned, petitioner has the burden of proving that the right to such tax refund indubitably exists and well-founded doubt is fatal to the claim."

On May 27, 2011, the parties filed their Joint Stipulation of Facts and Issues[10]; which this Court approved in a Resolution dated May 31, 2011 and thus, terminating the pre-trial.

During the trial on the merits, petitioner presented documentary and testimonial evidence. Meanwhile, respondent, through counsel, manifested that she will no longer present evidence considering the lack of finding on actual audit.[11]

On June 11, 2012, case was submitted for decision, considering respondent's Memorandum [12] filed on April 19, 2012, petitioner's Memorandum[13] filed on April 25, 2012, and petitioner's Reply Memorandum[14] filed on May 2, 2012.

The issues[15], as jointly stipulated by the parties, are the following:

"1. Whether or not the definition of the term 'toilet waters' under Revenue Regulations No. 8-84 can be validly amended by BIR Ruling No. 43-2000 dated September 15, 2000 which was published in Revenue Memorandum Circular No. 17-02.

2. Whether or not Petitioner's splash colognes and body sprays containing essential oils of 3% or less by weight are subject to the 20% excise tax on toilet waters. Je

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[10] Docket, pp. 516-519.
[11] Minutes of the hearing dated March 5, 2012, docket, p. 919.
[12] Docket, pp. 932-957.
[13] Docket, pp. 959-1044.
[14] Docket, pp. 1047-1055.
[15] Stipulation of Issues, JSFI, docket, pp. 516-517.

3. Whether or not Petitioner is entitled to a refund of erroneously paid excise tax in the amount of Thirty Eight Million Eight Hundred Seventy Three Thousand Nine Hundred Seventy Six Pesos and Seven Centavos (P38,873,976.07).

4. Whether Petitioner has complied with the submission of complete documents in support of its administrative claim for refund.

5. Whether Petitioner's claim for refund of excise tax for taxable year 2009 was filed within the period prescribed by law."

Petitioner bases its refund claim of the 20% excise tax imposed on the toilet waters used in its splash colognes and body spray products on the ground that the definition of "toilet waters" under Revenue Regulations (RR) No. 8-84, otherwise known as the "Cosmetic Products Regulations" was not modified by any statute or regulations.

Petitioner contends that under RR No. 8-84, the term "toilet waters" is defined as follows:

> "(e) *Toilet waters* are scented alcoholic or non-alcoholic preparations primarily used as body fragrance containing essential oils *i.e.*, more than 3% by weight. Examples: Lavender water, Eau de Cologne, Eau de Toilette."

Petitioner points out that at the time RR No. 8-84 was issued in 1984, the sale of perfumes and toilet waters was subjected to a fifty percent (50%) sales tax as a sale of non-essential articles. However, on January 1, 1988, the said sales tax was replaced by the value-added tax (VAT) and the excise tax. Consequently, the sale of perfumes and toilet waters was then subjected to a 10% VAT as provided under Section 100 of the Tax Code, as amended by Executive Order (EO) No. 273. In addition to VAT, perfumes and toilet waters were also subjected to a 20% excise tax on non-essential goods imposed under Section 150(b) of the same Code, upon their removal from the place of production.

Nevertheless, petitioner maintains that despite the shift from sales tax to VAT and excise tax, the definition of "toilet waters" under RR No. 8-84 was not modified by either statute or regulations. Petitioner contends that even if VAT and excise tax provisions of the Tax Code underwent several amendments since 1986, the definition of "toilet waters" remained untouched. Moreover, petitioner claims that no revenue regulation was issued to implement Section 150(b) of the Tax Code, imposing an excise tax on perfumes and toilet waters. However, in 2000, respondent issued BIR Ruling No. 43-2000 dated September 15, 2000 and ruled that Green Cross Baby Cologne is subject to excise tax on toilet waters and used the definition of "cologne" in Hawley's Condensed Chemical Dictionary, 11th Edition, to wit:

> "Cologne (toilet water) is a scented alcohol-based liquid used as perfume, after-shave, lotion or deodorant."

BIR Ruling No. 43-2000 was then published in Revenue Memorandum Circular (RMC) No. 17-02, and provided that colognes are considered toilet waters and therefore, subject to excise tax. With such issuance, petitioner contends that respondent, without any legal authority, modified the definition of toilet waters under RR No. 8-84 and disregarded the requirement that toilet waters must have an essential oil content of more than 3%.

On the other hand, respondent argues that petitioner's articles were assessed pursuant to Section 150(b) of the NIRC of 1997, as amended, which provides:

> "SEC. 150. *Non-essential Goods.* – There shall be levied, assessed and collected a tax equivalent to twenty percent (20%) based on the wholesale price or the value of the importation used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, of the following goods:
>
> xxx xxx xxx
>
> (b) Perfumes and toilet waters;"

Furthermore, respondent states that RMC No. 17-02, which emphasized BIR Ruling No. 43-2000, correctly defines "colognes" as follows:

> "Cologne (toilet water) is a scented alcohol-based liquid used as perfume, after-shave, lotion or deodorant." (Hawley's Condensed Chemical Dictionary, 11th ed.)"

Finally, respondent contends that the issuance of RMC No. 17-02 declares null and void all previous BIR Rulings pertaining to the same subject matter and that it is a valid interpretation of Section 150(b) of the NIRC of 1997, as amended.

The pertinent provisions of Revenue Regulations No. 8-84 are as follows:

> "SECTION 1. *Scope.* – Pursuant to Section 326, in relation to Section 4 of the National Internal Revenue Code, the following regulations relating to the sales tax payable by manufacturers and/or exporters of cosmetic products are hereby promulgated. These regulations shall be known as Revenue Regulations No. 8-84 or the Cosmetic Products Regulations. These regulations deal with the tax on cosmetic products imposed by Sections 194(b) and (e) and Section 326 of the National Internal Revenue Code, which provides as follows:
>
>> Sec. 194. *Percentage tax on sales of non-essential products.* – There shall be levied, assessed and collected once only on every original sale, barter, exchange, or similar transaction for nominal or valuable consideration intended to transfer ownership

> of, or title to, the articles hereinbelow enumerated a tax equivalent to fifty per centum of the gross value in money of the articles so sold, bartered, exchanged or transferred, such tax to be paid by the manufacturer or producer.
>
> xxx xxx xxx
>
> (b) Perfumes, essences, extracts, toilet waters, cosmetics, hair dressings, hair dyes, hair restoratives, aromatic cachous, toilet powders, except tooth and mouth washes, dentifrices, tooth paste, talcum and medicated toilet powders, hair oils and pomades.
>
> xxx xxx xxx
>
> (e) Similar or analogous articles, substances, or preparations to those enumerated above as determined by the Minister of Finance upon recommendation of the Commissioner of Internal Revenue based on the inherent essentiality of the product.
>
> xxx xxx xxx

SECTION 2. *Articles taxable as cosmetic products.* – The articles defined as follows shall be taxable as cosmetic products:

xxx xxx xxx

(e) *Toilet waters* are scented alcoholic or non-alcoholic preparations primarily used as body fragrance containing essential oils *i.e.* more than 3% by weight. Examples: Lavender water, Eau de Cologne, Eau de Toilette." *(Emphasis supplied)*

A careful perusal of the foregoing provisions of RR No. 8-84 reveals that its coverage is limited to percentage tax on sales of non-essential products, including cosmetic products, as provided by Section 194(b) and (e) of the 1977 Tax Code. *gr*

However, it is noteworthy that Section 194 of the 1977 Tax Code underwent several amendments. The original Section 194 of the 1977 Tax Code was eventually amended by Section 23 of Presidential Decree (PD) No. 1994, dated November 5, 1985 and renumbered as Section 163, which reads:

> "SECTION 23. Section 194 of the National Internal Revenue Code is hereby renumbered and amended to read as follows:
>
> > 'Sec. 163. *Percentage tax on sale of non-essential articles.* - There shall be levied, assessed and collected, once only on every original sale, barter, exchange, or similar transaction for nominal or valuable consideration intended to transfer ownership of, or title to, the articles herein below enumerated a tax equivalent to 50% of the gross value in money of the articles so sold, bartered, exchanged or transferred, such tax to be paid by the manufacturer or producer:
> >
> > (a) All articles commonly or commercially known as jewelry, whether real or imitation, pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical and dental instruments, silver-plated wares, frames or mounting for spectacles or eyeglasses, and dental gold or gold alloys and other precious metal used in filling, mounting or fitting of the teeth); opera glasses, and lorgnettes. The term 'precious metals' shall include platinum, gold, silver, and other metals of similar or greater value. The term 'imitations thereof' shall include platings and alloys of such metals.
> >
> > (b) Perfumes, essences, extracts, toilet waters, cosmetics, hair dressings, hair dyes, hair restorations, aromatic cachous, toilet powders, except tooth and mouth washes, dentifrice, toothpaste, talcum and medicated toilet powders, hair oils and pomades." *gr*

Thereafter, Section 163 was amended and renumbered as Section 150(b) by virtue of Executive Order No. 273 on July 25, 1987, which provides:

> "SECTION 16. *Paragraphs (1) (a), (b) and (g) of Section 163 of the National Internal Revenue Code are hereby renumbered and amended to read as follows:*
>
> SEC. 150. ***Non-essential goods.*** - There shall be levied, assessed and collected a tax equivalent to 20% based on the wholesale price or the value of importation used by the Bureau of Customs in determining tariff and customs duties; net of excise tax and value-added tax, of the following goods:
>
> (a) All goods commonly or commercially known as jewelry, whether real or imitation, pearls, precious and semi-precious stones and imitations thereof; goods made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical and dental instruments, silver-plated wares, frames or mountings for spectacles or eyeglasses, and dental gold or gold alloys and other precious metals used in filing, mounting or fitting of the teeth); opera glasses and lorgnettes. The term 'precious metals' shall include platinum, gold, silver, and other metals of similar or greater value. The terms 'imitations thereof' shall include platings and alloys of such metals;
>
> (b) **Perfumes and toilet waters**;
>
> (c) Yachts and other vessels intended for pleasure or sports." *(Emphasis supplied)*

As a result of the several amendments, the sales tax (percentage tax) imposed under Section 194 of the 1977 Tax Code was eventually replaced by Section 150 of the NIRC of 1997, as amended; which imposes excise tax on non-essential goods, a completely different kind of tax. Basing on the amendments that Section 194 of the 1977 Tax Code went through, it is evident that the intention of the legislature is to repeal Section 194 of the 1977 Tax Code and to replace it with the present Section 150 of the NIRC of 1997, as amended. *gr*

Moreover, a reading of the "whereas clause" of EO No. 273 would clearly show that it was enacted to replace the percentage taxes previously imposed with value-added tax, to wit:

> "ADOPTING A VALUE-ADDED TAX, AMENDING FOR THIS PURPOSE CERTAIN PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AND FOR OTHER PURPOSES
>
> WHEREAS, there is a need to rationalize the present system of taxing goods and services by imposing a multi-stage value-added tax to replace the tax on original and subsequent sales tax and percentage tax on certain services;
>
> WHEREAS, the adoption of value-added tax is one of the structural reforms provided in the 1986 Tax Reform Program which is designed to simplify tax administration and make the tax system more equitable; and
>
> WHEREAS, it is also necessary to amend, revise and renumber the provisions of the National Internal Revenue Code and to transfer the collection of certain taxes as a consequence of these and previous amendments in order to strengthen and improve tax administration and facilitate compliance thereof;"

Thus, given the purpose of EO No. 273, which is to "rationalize the present system of taxing goods and services by imposing a multi-stage value-added tax and to replace the tax on original and subsequent sales tax and percentage tax on certain services", the amended act, which is Section 150(b) of the NIRC of 1997, should then be construed differently from Section 194 of the 1977 Tax Code.

Furthermore, Section 29 of EO No. 273 states:

> "SECTION 29. The provisions of any law, whether general or special, rules and regulations and other issuances or parts thereof which are inconsistent with this Order are hereby repealed, amended or modified accordingly."

With the foregoing, it therefore follows that all regulations which are inconsistent with EO No. 273, such as RR No. 8-84, which seeks to implement Section 194 of the 1977 Tax Code, became inoperative and inapplicable. Consequently, the definition of "toilet waters" provided by RR No. 8-84 and relied upon by petitioner for its claim for refund no longer holds true.

This interpretation is in line with the time-honored principle that an amended act is ordinarily to be construed as if the original statute had been repealed, and a new and independent act in the amended form had been adopted in its stead; or, as frequently stated by the courts, so far as regards any action after the adoption of the amendment, as if the statute had been originally enacted in its amended form.[16] And as a rule, an amended act should be given a construction different from that of the law prior to its amendment, for it is presumed that the legislature would not have amended it had it not wanted to change its meaning.[17]

However, given that Section 150(b) did not provide a definition for "toilet waters", the definition of "toilet waters" under RMC No. 17-02 dated May 24, 2002, which emphasized BIR Ruling No. 43-2000 dated September 15, 2000, should be applied, which states:

> "In reply, please be informed that the term 'cologne' which is an alcohol-based preparation is defined as follows:
>
> > 'Cologne (toilet water) is a scented alcohol-based liquid used as perfume, after-shave, lotion or deodorant." (Hawley's Condensed Chemical Dictionary, 11th ed.)'

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[16] *Kua vs. Barbers*, G.R. No. 159410, January 28, 2008.

[17] Agpalo, Statutory Construction, Fifth Edition 2003, p. 390, citing *Palanca vs. City of Manila, et al.*, 41 Phil. 125.

xxx xxx xxx

> Accordingly, all other colognes are, likewise classified as toilet waters subject to excise tax under the same section xxx"

As the government agency charged with the enforcement of the law, the opinion of the Commissioner of Internal Revenue, in the absence of any showing that it is plainly wrong, is entitled to great weight.[18] The ruling and issuance made by the Commissioner of Internal Revenue were made in the exercise of the power provided under the Tax Code; which gives the Revenue Commissioner the power to *make rulings or opinions in connection with the implementation of the provisions of internal revenue laws.*

In view of the foregoing, the toilet waters used in petitioner's splash colognes and body sprays would fall within the purview of the definition of "toilet waters" contemplated by Section 150(b) of the NIRC of 1997, in relation to RMC No. 17-02. As a consequence, petitioner's splash cologne and body spray products should be subject to the 20% excise tax on toilet waters provided by Section 150(b) of the NIRC of 1997, as amended. Accordingly, petitioner's claim for refund must be denied.

The power of taxation is an inherent attribute of sovereignty; the government chiefly relies on taxation to obtain the means to carry on its operations. Taxes are essential to its very existence; hence, the dictum that "taxes are the lifeblood of the government." For this reason, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority and are strictly

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[18] *Commissioner of Internal Revenue vs. Court of Appeals and Commonwealth Management and Services Corporation*, G.R. No. 125355, March 30, 2000, citing *Misamis Oriental Association of Coco Traders, Inc. vs. Department of Finance Secretary*, 238 SCRA 63, 68 (1994).

construed against the person or entity claiming the exemption. Claims for tax refunds, when based on statutes granting tax exemption or tax refund, partake of the nature of an exemption; thus, the rule of strict interpretation against the taxpayer-claimant similarly applies.[19]

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

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[19] *Commissioner of Internal Revenue vs. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, July 7, 2010.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice