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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

UNIVERSAL LAND & RESORT DEVELOPMENT CORPORATION (Doing business under the name "Albatross Inn"),
Petitioner,

- versus - C.T.A. CASE NO. 2945

COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - - - x

D E C I S I O N

This case comes on a simple issue of whether or not Section 191-A of the Old Tax Code was imposed during the period from January, 1976 to December, 1978.

Petitioner, a domestic corporation, operates a resort hotel including a restaurant, bar and cafe. For the period from January, 1976 to December, 1977 petitioner paid the total sum of P51,408.58 as the 3% caterer's tax on its gross receipts from sale of food and beverages pursuant to Section 191-A of the Tax Code.

The Court of Tax Appeals in its decision in CTA Case No. 2630, entitled, ***Manila Golf & Country Club v. Commissioner of Internal Revenue*** promulgated on March 30, 1977, ruled that Section 191-A (Caterer's tax) of the Tax Code vetoed by the President of the Philippines; that it did not become a law and, thus it did not form part of the Old Tax Code. Relying on this decision the petitioner on March 27, 1978, filed with the respondent a claim for the refund of the said amount of P51,408.58. In order to toll the period of the statute of limitations, it likewise filed the instant petition on April 11, 1978.

The situation in this case comes analogous in facts and principle with the cases brought on appeal to the Supreme Court. And, the issue raised has since been adjudged in the ***Commissioner of Internal Revenue v. Manila Hotel Corporation, et. al.****, G.R. No. 83250, September 26, 1989*, which may now be referred to as the authoritative disposition of the particular question in controversy. As thus ruled by the Supreme Court, *inter alia*, that -

> "The power of the State to impose the 3% caterer's tax is not debatable. The Court of Tax Appeals erred, however, in holding that the tax was abolished as a result of the presidential veto of August 4, 1969. It failed to examine the law then, and up to now, existing on the subject which has always imposed a 3% caterer's tax on operators of restaurants. Since the Manila Hotel operates restaurants in its premises it

> is liable to pay the tax provided in paragraph (1) Section 206 of the Tax Code.
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> "WHEREFORE, the petition for review is granted. The decision of the Court of Tax Appeals in CTA Case No. 2991 is annulled and set aside, and the claim of the respondent Manila Hotel Corporation for a refund of its payment of caterer's tax in 1977 to 1978 is dismissed."

It is very clear, therefore, upon the adjudged appeal, that the petitioner's action cannot be maintained, and that the judgment must be entered for the respondent Commissioner of Internal Revenue.

WHEREFORE, petition is hereby dismissed without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, December 29, 1989.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals