REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MANILA NEW TOWN DEVELOPMENT CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 3649

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - - x

D E C I S I O N

This is an appeal from the decision dated March 1, 1983 of respondent Commissioner of Internal Revenue denying the protest of petitioner Manila New Town Development Corporation against the assessment issued against it in the amounts of P1,563,329.10 and P7,643,792.83 for the years 1976 and 1977, respectively, representing deficiency income tax and interest covered by respondent's demand letter dated January 29, 1982.

For repeated failure of petitioner to prosecute its action by presenting documentary and/or oral evidence in support of its case during the scheduled hearings thereof, in spite of several postponements granted by the Court to give petitioner the fullest opportunity to establish the merits of its appeal, this case was submitted for decision by the parties on the basis of the pleadings and the records. And while the parties were given ample time to file memoranda in support of their respective positions, no memoranda were submitted by them.

The material facts as stated in the petition for review and admitted in the answer are:

1. That petitioner is a corporation duly organized and existing under the laws of the Philippines with main office address at D & E Building, Quezon Boulevard, Quezon City, while respondent is the duly appointed Commissioner of Internal Revenue and may be served with summons at the BIR Building, Quezon City;

2. That in a letter dated January 29, 1982, which petitioner received on March 25, 1982, respondent assessed and demanded from petitioner the aggregate amount of P9,207,121.97 as deficiency income taxes for the taxable years 1976 and 1977, details of which are as follows:

1 9 7 6

Net income (loss) per return		(P5,324,551.74)
Add: Unallowable deductions:		
Management fee	P1,400,000.00	
Loss of cancellation of contracts	5,249,313.75	
Interest expense	1,830,198.50	
Bad debts	19,142.77	8,498,655.02
Net income subject to tax		P3,174,103.28
Income tax due thereon		P1,100,936.00
Add: 14% int. fr. 9/15/76 - 9/15/79		462,393.10
TOTAL AMOUNT DUE AND COLLECTIBLE		P1,563,329.10

1 9 7 7

Net income (loss) per return		(P11,929,886.67)
Add: Unallowable deductions:		
Bad debts	P 70,265.08	
Research & Dev. exp.	2,840,590.80	
Professional fees	180,000.00	
Interest expense	24,160,544.35	P27,251,400.23
Net Income subject to tax		P15,321,513.56
Income tax due thereon		P 5,352,530.00
Add: 14% int. fr. 9/15/77 to 7/31/80	2,158,065.16	
20% int. fr. 8/1/80 to 9/15/80	133,197.71	2,291,262.87
TOTAL AMOUNT DUE AND COLLECTIBLE		P 7,643,792.87

3. That the above-stated assessment arose from the disallowance of the following deductions claimed by petitioner: management fees, loss, bad debts, interest, research and development expense, and professional fees;

4. That in a letter dated April 20, 1982, petitioner protested the aforesaid assessment;

5. That in a letter dated March 1, 1983 which was received by petitioner on May 24, 1983, respondent rendered his final decision on the aforementioned assessment by reiterating his demand for the payment of the sum of P9,207,121.93 as deficiency income taxes for the years 1976 and 1977.

Hence, this appeal.

As special and affirmative defenses, respondent alleges in his answer that:

Deductions are a matter of legislative grace. The taxpayer seeking a deduction must point to some specific provisions of the statute in which that deduction is authorized, and must be able to prove that he is entitled to the deduction which the law allows ***(Perez vs. Com. of Int. Rev.,*** *G.R. No. L-30403, April 12, 1969)*;

The management fees in the amount of P1,400,000.00, aside from being unreasonable, is not supported by documentary evidence. Moreover, the recipient of the alleged management fees is a sister company of petitioner, the Manila Inter-public Development Corporation;

The alleged loss in the amount of P5,249,313.75 is not substantiated by documentary evidence. Said loss could not be effected by a mere adjusting entry in petitioner's books without supporting documentary evidence;

The research and development expenses incurred by petitioner in its mining venture should have been treated as capital expenditures and amortized for a period of at least five (5) years. The amount of P2,840,590.80 was properly disallowed for future amortization;

The professional fee in the amount of P180,000.00 allegedly paid to lawyers, accountants, and consultants is not an ordinary and necessary expenses inasmuch as the same was paid to City Investment Corporation in behalf of Manila Inter-public Development Corporation, an affiliate of petitioner;

Interest expense should have been distributed, apportioned and allocated among the controlled organizations of petitioner to clearly reflect the actual income of said organizations pursuant to Section 44 of the Tax Code. For the year 1976, petitioner was allowed as interest expense the amount of P3,310,843.71 after deducting the amount of P1,830,198.50 as disallowance from its claim in the amount of P5,141,042.21. For the year 1977, petitioner was allowed as interest expense deduction the amount of P11,766,223.31 out of its claim in the amount of P35,926,767.66. The amount of P24,160,544.35 should be disallowed as interest expense for the year 1977;

The deduction of the amount of P89,407.85 allegedly representing bad debts was properly disallowed inasmuch as the claim was not duly supported by pertinent documents. The alleged bad debts should have been ascertained to be worthless before it could be claimed as deductions;

The assessment issued in the instant case is in accordance with law and regulations.

The basic issue of course is whether or not petitioner Manila New Town Development Corporation is liable for the amounts of P1,563,329.10 and P7,643,792.83 representing deficiency income tax and interest for the years 1976 and 1977, respectively.

There is no showing in the pleadings or in the records that petitioner questioned the computation of the deficiency income tax assessed against it by respondent. We take it that this is not an issue in this case. While petitioner prays in its petition for review filed with this Court that after hearing, this Court renders judgment cancelling and withdrawing respondent's tax assessment for the reason that the same is arbitrary and without any legal and factual basis, petitioner utterly failed to present evidence at the scheduled hearings to substantiate the nullity and illegality of the assessment.

The Court recognizes that the burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the Commissioner of Internal Revenue is wrong but that he (taxpayer) is right. ***(Lino Gutierrez vs. Collector of Internal Revenue,*** *CTA Case No. 504, January 28, 1962; see also* ***Tan Guan vs. Court of tax Appeals,*** *L-23676, April 27, 1967, 19 SCRA 903.)* And if the taxpayer fails to present evidence or proof in support of his allegations in his petition for review, or to prosecute his action, as in this case, conformably to the doctrine of the presumption in favor of the correctness of the tax assessment *(**Interprovincial Autobus Co., Inc. vs. Collector of Internal Revenue,** L-6741, January 31, 1956, 98 Phil. 290; **Collector of Internal Revenue vs. Bohol Land Transportation Co.,** L-13099 and L-13463, April 29, 1960, 107 Phil. 965)*, the Court of Tax Appeals will merely sustain the assessment against the taxpayer. *(**Caresosa vs. Bureau of Internal Revenue,** CTA Case No. 3713, January 25, 1985, certiorari denied in G. R. No. L-70758, Aug. 30, 1985.)*

Since no evidence was presented by petitioner to substantiate the errors that are claimed to have been committed by the Commissioner of Internal Revenue in making the assessment in question, this Court has no other alternative than to resort to the legal truism that "all presumptions are in favor of the correctness of tax assessments." The burden of proof is on the taxpayer to show the contrary. Petitioner utterly failed to do so. This action finds support in the following authorities: *(See **Collector of Internal Revenue vs. Bohol Land Transportation Co.; Bohol Land Transportation Co. vs. Collector of Internal Revenue**, L-13099 & L-13462, April 29, 1960, 107 Phil. 965.)*

> "All presumptions are in favor of the correctness of tax assessments. The good faith of tax assessors and the validity of their actions are presumed. They will be presumed to have taken into consideration all the facts to which their attention was called. No presumption can be indulged that all of the public officials of the state in the various counties who have to do with the assessment of property for taxation will knowingly violate the duties imposed upon them by law.
>
> "As a logical outgrowth of the presumption in favor of the validity of assessments, when such assessments are assailed, the burden of proof is upon the complaining party. It is incumbent upon the property owner clearly to show that the assessment was erroneous, in order to relieve himself from it.' *(51 Am. Jur. pages 620-621)*." *(**Interprovincial Autobus Co., Inc. vs. Collector of Internal Revenue**, 98 Phil., 290; 52 Off. Gaz., /2/ 791.)*
>
> "When an importer challenges by legal steps the correctness of the assessment of a duty by the Collector of Customs, the question to be decided is not whether the Collector was wrong but whether the importer was right, the burden being on the latter to establish the correctness of his own contention." *(**Behn, Meyer & Co. vs. Collector of Customs**, 26 Phil., 647)*

> "That the determination of the tax deficiency by the Government has *prima facie* validity and the burden rests upon the taxpayer to overcome this presumption and to show to the satisfaction of the Tax Court that the determination was not correct." ***(Perez vs. Court of Tax Appeals, et al.****, G.R. No. L-10507, May 30, 1958)*"

And again in the recent case of ***Commissioner of Internal Revenue vs. Antonio Tuason, Inc., et al.****, G.R. No. 85749, May 15, 1989*, the Supreme Court stressed that all presumptions are in favor of the correctness of respondent Commissioner of Internal Revenue's assessment against the taxpayer. It is incumbent upon the taxpayer to prove the contrary *(**Mindanao Bus Company vs. Commissioner of Internal Revenue**, 1 SCRA 538)*. Unfortunately, petitioner failed to overcome the presumption of correctness of the Commissioner's assessment.

Accordingly, petitioner Manila New Town Development Corporation is hereby ordered to pay to respondent Commissioner of Internal Revenue the amounts of P1,563,329.10 and P7,643,792.87 as deficiency income tax and interest for the years 1976 and 1977, respectively, plus surcharges and interest incident to delinquency pursuant to the provisions of Section 51(e) of the applicable National Internal Revenue Code.

WHEREFORE, the decision appealed from is hereby affirmed at petitioner's costs.

SO ORDERED.

Quezon City, Metro Manila, July 14, 1989.

AMANTE FILLER
Presiding Judge

WE CONCUR:

(on leave)
CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge

C E R T I F I C A T I O N

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