REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EQUITABLE BANKING CORPORATION,
Petitioner,

\- versus -

C.T.A. CASE NO. 5460

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 06 1999

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DECISION

Before Us for consideration is Petitioner's Petition for Review filed on January 20, 1997, seeking for a refund of the sum of ONE MILLION TWO HUNDRED THIRTY ONE THOUSAND SIX HUNDRED SEVENTY ONE AND 92/100 PESOS (₱1,231,671.92) or in the alternative, the issuance of a Tax Credit Certificate for the said amount, representing allegedly overpaid Gross Receipts Tax for the last quarter of 1994.

The antecedent facts giving rise to the controversy at bar are as follows:

Petitioner is a banking corporation duly organized and existing under and by virtue of the laws of the Philippines with principal office at 262 Juan Luna St. Binondo, Manila.

Records show that Petitioner filed with the Respondent Bureau of Internal Revenue its quarterly percentage tax returns, covering those of its head office and branches, for the quarter ended December 31, 1994,

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and allegedly paid its Gross Receipts Tax due in the amount of ₱28,130,119.44 (Annex "A").

Petitioner alleges that, of the said amount of ₱28,130,119.44, ₱17,072,627.26 pertains to percentage tax paid by its head office and its Arranque, Magdalena, Ongpin, Reina Regente and Soler branches (Annexes "B", "B-1" and "B-2").

On September 26, 1996, Petitioner filed an administrative claim for refund or issuance of a tax credit certificate with the Bureau of Internal Revenue for its alleged overpaid gross receipts tax paid for the quarter ended December 1994 in the amount of ₱1,231,671.92, computed as follows:

Gross Receipts Subjected to Tax	₱445,573,851.09
Less: 20% Portion of Tax Paid Income (Annex B1 of 2	4,048,536.75
Investment Income subject to 20% final tax booked at gross (Annex B2 of 2)	20,584,901.89
Adjusted Gross Receipts Tax Base	₱420,940,412.45

Computation of Adjusted Gross Receipts Tax:

	Gross Receipts	Tax Due
0%	₱ 67,358,042.92	₱ 0.00
1%	32,479,385.55	324,793.86
3%	26,949,386.08	808,481.58
5%	294,153,597.90	14,707,679.90
	₱420,940,412.45	₱15,840,955.34

Gross Receipts Tax Paid	₱ 17,072,627.26
Adjusted Gross Receipts Tax	15,840,955.34
Tax Refund	₱ 1,231,671.92

Petitioner anchors its claim for refund mainly on the decision of this Court in the case of **Asian Bank**

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Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4720, January 30, 1996, where We categorically ruled that the 20% final tax on passive income should not form part of the taxable gross receipts for Gross Receipts Tax (GRT) purposes.

Unable to obtain an affirmative relief from the Respondent, Petitioner filed the instant Petition for Review on January 20, 1997 before this Court lest it be barred by the mandatory two-year prescriptive period under Section 230 of the Tax Code (now Section 229 of the NIRC of 1997).

In opposition thereto, Respondent filed its Answer and interposed the following Special and Affirmative Defenses, to wit:

> 11. The decision in Asian Bank Corporation vs. Commissioner of Internal Revenue (CTA Case No. 4720) being invoked by Petitioner under paragraph III(3) of the petition is pending appeal with the Honorable Court of Appeals, hence, invocation thereof at this point in time is premature.
>
> 12. Revenue Regulations No. 13-80, dated November 7, 1980, cited by Petitioner governs the taxation of minerals and mineral products and, therefore, it is not applicable to Petitioner's case considering that Petitioner is a banking institution.
>
> 13. The petition does not state a cause of action as there is no allegation that the tax sought to be refunded was actually paid and remitted to the Bureau of Internal Revenue in accordance with the provisions of the Tax Code.
>
> 14. Standard procedure in any claim for tax refund requires sufficient time for Respondent to examine the records and business

> operations of the claimant for the quarter/year involved, and Respondent is still investigating the claim.
>
> 15. In an action for tax refund, the burden of proof is upon the claimant to establish its right to refund and failure to sustain the burden is fatal to the action.
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> 16. The allegations regarding tax refundability do not ipso facto merit the refund claimed.
>
> 17. Any claim for tax refund is construed strictly against the claimant, the same being in the nature of exemption from taxation.

To further prove its entitlement to a refund, Petitioner presented, among others, the following evidence:

1) EBC's Transmittal Sheet of Percentage Tax of the Head Office and Branches/Units of Large Taxpayers for the Quarter ended December 31, 1994 (Exh. "A");

2) EBC's Quarterly Percentage Tax Return for the quarter ended December 31, 1994 (Exhs. "B", "B-1" and "B-2");

3) Written claim for tax refund dated September 26, 1996 by EBC, thru its Senior Manager Maritess B. Antonio, with supporting documents, requesting the Commissioner of Internal Revenue for refund of, or issuance of credit certificate for, among other figures, the amount of ₱1,231,671.92 for the alleged excess GRT for the quarter paid on January 20, 1995 (Exhs. "C-1" to "C-10"); and

4) Various EBC's Income and Expense Account Subledgers.

In a Resolution promulgated on September 29, 1998, after the parties submitted their respective memorandum, this case was considered submitted for decision.

Submitted for consideration before Us are the following issues:

1) Whether or not the 20% final withholding tax on bank's passive income forms part of the gross receipts of a taxpayer for GRT purposes;

2) Whether or not, on the basis of the evidence presented and submitted to this Court, Petitioner is entitled to a refund in the amount of P1,231,671.92 representing alleged overpaid gross receipts tax.

With regard to the first issue, this Court, in several cases, has consistently held that the 20% final withholding tax should not form part of the gross receipts of the taxpayer for purposes of the 5% gross receipts tax **(China Banking Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5433, October 7, 1998; Equitable Banking Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4720, January 20, 1996).** This is in accord with the thrust of our Decision in the Asian Bank case, *supra*, where We emphatically ruled in this wise:

> "We agree with the Petitioner that the 20% final withholding tax on its interest income

should not form part of its taxable gross receipts.

Revenue Regulations No. 12-80 dated November 7, 1980 on Taxation of Certain Income Derived from Banking Activities provides that the rates of tax to be imposed on the gross receipts of such financial institution; shall be based on all items of income actually received, thus:

> SEC. 4. x x x x x x x x x
>
> (e) *Gross receipts tax on banks, non-bank financial intermediaries, financing companies, and other non-bank financial intermediaries not performing quasi-banking activities.* — The rates of taxes to be imposed on the gross receipts of such financial institutions shall be based on all items of income actually received. Mere accrual shall not be considered, but once payment is received on such accrual or in cases of prepayment, then the amount actually received shall be included in the tax base of such financial institutions, as provided hereunder. (Underscoring supplied)

From the foregoing, it is but logical to infer that the final tax, not having been received by the Petitioner but instead went to the coffers of the government, should no longer form part of its gross receipts for the purpose of computing the GRT. This conclusion is in accord with the interpretation of the Supreme Court in the case entitled **Collector of Internal Revenue vs. Manila Jockey Club**, 108 Phil. 821, as quoted by this Court in disposing of a similar issue in the case entitled ***Compania Maritima vs. Acting Commissioner of Internal Revenue***, CTA Case No. 1426 dated November 14, 1966, thus:

> In the second place, the highest tribunal of the land interpreted the term "gross receipts: to mean all receipts of a taxpayer excluding those which have been especially earmarked by law or regulation for the government or some person other than the taxpayer. Thus, it was held:

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> "x x x x. The Government could not have meant to tax as gross receipt of the Manila Jockey Club the 1/2% which it directs same Club to turn over to the Board of Races. The latter being a Government institution, there would be double taxation, which should be avoided unless the statute admits of no other interpretation. In the same manner, the Government could not have intended to consider as gross receipt the portion of the funds which it directed the Club to give, to winning horses and Jockeys-admitted 5%. It is true that the law says that out of the total wager funds 12 1/2% shall be set aside as the 'commission' of the track owners but the law itself takes official notice, and virtually approves or directs payment of the portion that goes to owners of horses as prizes and bonuses of jockeys, which portion is admittedly 5% out of the 12 1/2% commission. As it did not at that time contemplate the application of 'gross receipts' revenue principle, the law in making a distribution of the total wager funds, took no trouble of separating one item from the other; and for convenience, grouped three items under one common denomination.
>
> "Needless to say, gross receipts of the proprietor of the amusement place should not include any money which although delivered to the amusement place has been especially earmarked by law or regulation for some person other than the proprietor." **(The Commissioner of Internal Revenue vs. Manila Jockey Club, Inc., G.R. Nos. L-13890 & L-13887, June 30, 1960)**

It is to be noted that, under Section 260 of the Tax Code, a race-track is subject to an amusement tax of 20% of its gross receipts and the term 'gross receipts' embraces all the receipts of the proprietor, lessee, or operator of the amusement place." Notwithstanding the

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broad and all-embracing definition of the term "gross receipts" found in our amusement tax law, our Supreme Court did not adopt a literal interpretation of the said term in the case of the **Manila Jockey Club, Inc., supra.**"

At this point, this Court finds no cogent reason to deviate from, much less depart, from settled doctrine which We have adhered to.

Proceeding now to the factual issue, this Court after a careful scrutiny of the evidence on record, finds that the Petitioner failed to substantiate its claim for refund.

As regards the 20% portion of Tax Paid Income in the amount of ₱4,048,536.75, Petitioner submitted subsidiary ledgers of the following passive interest income, with the exception of interest income, on Time Loan - Asahi, viz:

	Exhibit	Interest Income (Net of FT)	Exhibit	20% Final Tax
On deposits w/ local banks	LL	₱ 125,745.33	C-3-a	₱ 31,436.33
Trading gains on Gov't. Securities	SS	14,067,614.16	C-3-a	3,516,903.54
On interbank loans	KK	1,051,192.55	C-3-a	262,798.14
On time loan - Asahi			C-3-a	237,398.74

Based on the subsidiary ledgers (Exhs. D, E, J to M, T to U, BB to DD, KK, LL, QQ to SS), Petitioner was able to show that the interest income was booked net of final withholding tax. Prescinding from this, Petitioner's computation of overpaid gross receipts tax would appear to be correct. However, these subsidiary ledgers submitted by the Petitioner do not deserve much weight

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inasmuch as the same cannot be considered as conclusive evidence of payment of final tax. In other words, it is not the best evidence. As We have repeatedly ruled in a number of cases, Petitioner has to prove to this Court that the 20% final withholding taxes on interest income were withheld and remitted by its withholding agent(s) to the Respondent. In this respect, Petitioner must, as a condition *sine qua non*, present the Statements or Certificate of Tax Withheld at Source issued by its withholding agents, accompanied by its Summary, as these documents will undisputably prove the fact of withholding and remittance to the Bureau of Internal Revenue. Absent the aforementioned documents, there is no way by which this Court will be able to ascertain with certainty whether or not there was in fact double payment.

Likewise, this Court is not inclined to believe Petitioner's allegation that the amount of ₱20,584,901.89, representing the 20% final tax on interest income from trading accounts securities which was booked at gross and recorded under Provision for tax - final tax, was indeed withheld for there is no document whatsoever on record to prove such fact of withholding. There being therefore a cloud of doubt as to the entitlement of the Petitioner to the refund sought, and considering that tax refund is in the nature of tax exemption which shall be construed in *strictissimi juris* against the taxpayer and in favor of the taxing authority, the cause for the petitioner must necessarily fail.

WHEREFORE, in view of all the foregoing, the herein Petition for Review is hereby **DISMISSED** for insufficiency of evidence.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

(Dissenting)
AMANCIO Q. SAGA
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge

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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EQUITABLE BANKING CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 5460

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 06 1999

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DISSENTING OPINION

The petition for review was denied by the majority opinion due to insufficiency of evidence.

In my humble opinion, I believe that the claim for refund should be denied for lack of legal basis and not on the grounds of insufficiency of evidence.

The ruling in the Asian Bank case which declared that the 20% final withholding tax on the bank's interest and other passive income should not form part of the taxpayer's gross receipts is, to my mind, erroneous as there is no provision in the Tax Code or any special law which excludes the 20% final withholding tax from the total gross receipts for purposes of computing the 5% gross receipts tax.

Section 8(c) of Revenue Regulations No. 12-80, dated November 7, 1980, as amended by Section 7(c) of Revenue Regulations No. 17-84, dated October 12, 1984 have the same provisions, thus:

> "If the recipient of the above-mentioned items of income are financial institutions, the same shall be included as part of the tax base upon which the gross receipts tax is imposed."

Clearly, there is no doubt that the 20% final withholding tax is legally includible as part of the gross receipts for purposes of computing the gross receipts tax.

The petitioner cited the case of **Asian Bank Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4720, dated January 30, 1996**, where this Court has upheld the petitioner's contention that the interest income included as part of such gross receipts should be computed minus the 20% final tax already withheld and deducted by various withholding agents for the reason that the amount did not go to its funds, hence, was not actually received by them. And the Court approved the petitioner's citation of Section 4(e) of Revenue Regulations No. 12-80, dated November 7, 1980, thus:

> "Gross receipts tax on banks, non-bank financial intermediaries, financing companies, and other non-bank financial intermediaries not performing quasi-banking activities. - The rates of taxes to be imposed on the gross receipts of such financial institutions shall be based on all items of income actually received. Mere accrual shall not be considered, but once payment is received on such accrual or in cases of overpayment then the amount actually received shall be included in the tax base of such financial institutions, as provided hereunder."

This Court concluded in said case that from the aforestated provisions it can logically be inferred that the amount representing the final tax, not having been received by the petitioner but instead went to the coffers of the government, should no longer form part of its gross receipts for purposes of computing the gross receipts tax. Such conclusion in law is legally objectionable for two (2) reasons, to wit:

(1) Section 4(e) of Revenue Regulations No. 12-80 is not a computation determinative of the amount of gross receipts as basis of the gross receipts tax under Section 119 of the Tax Code. Said revenue regulations merely authorize the determination of the amount of gross receipts on the basis of the method of accounting being used by the taxpayer under Section 37 of the Tax Code. Such accounting methods for tax purposes comprise a set of rules for determining when and how to report income and deductions (Consolidated Mines, Inc. vs. CTA, L-18843, August 29, 1974). The two principal accounting methods expressly and impliedly recognized by the Tax Code and the Income Tax Regulations are:

(a) Cash receipts and disbursement method or cash basis. - Income earned by the taxpayer is not included in gross income until received and expenses are not deducted until paid within the taxable year; and

(b) Accrual basis. - Income is included in gross income when earned, whether received or not, and expenses are allowed as deductions when incurred although not yet paid within the year.

(2) That the non-inclusion of the 20% final withholding income tax from the gross interest income for purposes of the gross receipts tax operates as an exemption from tax. Being an exemption from tax, the same must be construed strictly not against the government but against the one who asserts the claim of exemption. Tax exemption can only be given effect when the grant is clear and categorical inasmuch as taxation is the rule and exemption is the exception, Section 26, Tax Code. The holding therefore in the Asian Bank Corporation to the effect that the non-inclusion of the 20% final withholding income tax from the gross receipts can logically be inferred from the wordings of said Section 4(e) of Revenue Regulations No. 12-80, is misplaced.

Tax statutes are to receive a reasonable construction with a view to carrying out their purpose and intent (51 Am Jur 361). It should not be construed as to permit the taxpayer to easily evade the payment of the tax (Cabon Steel Co. vs. Lewelyn, 251 U.S. 501). Thus, the good faith of the taxpayer is not sufficient justification for exemption from the payment of surcharges imposed by law (Commissioner vs. Royal Interocean Lines and CTA, L-26506, July 30, 1970). A tax statute should be construed to avoid the possibilities of tax evasion (Lorenzo vs. Posadas, 64 Phils. 353).

The High Court's decision in the case of **Commissioner of Internal Revenue vs. The Manila Jockey Club, Inc., 108 Phils. 821, June 30, 1960**, which was reaffirmed by the said Court in the case of **Visayan-Cebu Terminal Co., Inc. vs. Commissioner of Internal Revenue, 13 SCRA 357, February 27, 1965** cannot be considered as precedent cases, hence, inapplicable to the two cases decided by this Honorable Court in the cases of **Compania Maritima vs. Acting Commissioner of Internal Revenue, CTA Case No. 1426 dated November 14, 1966 and Asian Bank Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4720 dated January 30, 1996**, for the following reasons:

> In the Manila Jockey Club, Inc. case, the Club was authorized to operate horse races in which betting was made through the sale of tickets to the public. The total amount of bets called "wager fund" were distributed pursuant to Executive Order No. 320 and Republic Act No. 309, as follows:
>
> 87% as dividends to holders of winning tickets
>
> $12^{1}/_{2}$ as "commissions" of the Manila Jockey Club, of which $^{1}/_{2}$ % was assigned to the Board on Races and 5% was distributed as prizes for owners of winning horses and authorized bonus for jockeys.

According to the above-mentioned distribution of the "wager fund", the then Collector of Internal Revenue assessed the Club on the whole amount of its "commission" of $12^{1}/_{2}$. But since the Club had already paid the amusement tax based on its 7% share of the "commission", the amount assessable pertains only to the $5^{1}/_{2}$% for the period from November 1946 to October 1950. On various instances, the Club protested the proposed assessments and was sustained by the opinions of the Secretary of Justice rendered on three different occasions (Opinion No. 345, series of 1941; Opinion No. 249, series of 1952 and Opinion No. 340, series of 1955).

Notwithstanding the opinions of the Secretary of Justice to the effect that the amount corresponding to the $5^1/_2\%$ was held only by the Club in trust for the owners of winning horses and authorized bonuses of jockeys, the then Collector of Internal Revenue demanded payment of amusement taxes for the period November 1946 to October 1950. Said demand letter was timely appealed to the Court of Appeals wherein a unanimous judgment was obtained reversing the Collector's stand on the matter. In the High Court, the position of the Secretary of Justice was sustained thereby upholding the Court of Tax Appeals' decision.

Accordingly, gross receipts of the proprietor of the amusement place should not include any money which, although delivered to the amusement place was "especially earmarked" by law or legal rule and regulations for some persons other than the proprietor. Undeniably, they are money received by the racing club but they are moneys earmarked by law or regulations for winning horse owners and jockeys and never for a minute become the property of the race track. The same is true in the case of the $^1/_2\%$ which the law directs the club to deliver to the Board on Races. The High Court therefore agrees with the stand of the Court of Tax Appeals that such funds representing $5^1/_2\%$ of the $12^1/_2\%$ "commissions" of the race track do not form part of the gross receipts, hence not subject to the amusement tax of 20%.

The above-mentioned decision of the High Court was also applied in the case of **Visayan Cebu Terminal Co., Inc. vs. Commissioner of Internal Revenue, 13 SCRA 357, Nos. L-19530 and L-19444, February 27, 1965**. The legal issue involved in this case is the interpretation of the management contract entered into by and between the Bureau of Customs and Visayan Cebu Terminal Co., Inc. whereby the latter as contractor was appointed the sole manager of the Arrastre Service at the Port of Cebu City. In the said Management Contract, it was further agreed and understood that in consideration of the rights and privileges granted the Contractor for the management of the Arrastre Service, the Bureau of Customs shall receive twenty eight (28%) percent of the total monthly gross income derived from whatever source in connection with the operations of the Arrastre Service, payable within ten (10) days of the succeeding month. The main legal issue involved in this case is whether or not the gross receipts corresponding to the 28% of the total gross income of the Service Contractor delivered to the Bureau of Customs within ten (10) days of the following month should form part of the gross receipts subject to 3% contractor's tax under Section 191 of the Tax Code. The Court of Tax Appeals ruled in favor of the petitioner, holding the view that the said 28% payment by the Arrastre Contractor based on its monthly gross income should not form part of the gross receipts subject to 3% contractors tax and that paragraph 23 of the said Management Contract can legally be construed as a "regulation". As the learned trial court has aptly observed: "x x x the government could not have intended to consider as gross receipts the 28% that went to one of its institutions, the Bureau of Customs, and thereby collect percentage tax on it from petitioner. To hold petitioner liable for the payment of percentage tax is unquestionably unjust and not contemplated by Section 191 of the Tax Code."

All the above-mentioned decisions of the High Court made specific reference to gross receipts which are especially "earmarked by law or legal rule or regulation" as not forming part of the taxable gross receipts for purposes of the gross receipts tax under the Tax Code. For this purpose, it is pertinent to define the word "earmark" as a mark put upon a thing to distinguish it from another. Originally and literally, a mark upon the ear, a mode of marking sheep and other animals. Property is said to be earmarked when it can be identified or distinguished from other property of the same nature. To set apart from others (Black's Law Dictionary, 6th Edition, p. 508). In the case of the Manila Jockey Club, Inc. Executive Order No. 320 and Republic Act No. 309 made the specific "earmarking" for distribution of the total wager fund to different persons other than the proprietor. The same is true in the case of Visayan Cebu Terminal Co., Inc. where the specific earmarking of the 28% of the total monthly gross income to be delivered to the Bureau of Customs by the Contractor was provided in paragraph 23 of the Management Contract. Such specific earmarking of the twenty percent (20%) final income tax as not includible in the gross receipts for purposes of the gross receipts tax was not provided by any law or legal rule or regulations, hence the non-applicability of the above-cited High Court decisions to the Asian Bank Corporation case. This legal observation is also in point in the case of Compania Maritima case where the non-inclusion of the 10% reserve from the total cash collection to avoid claim for refund on freight and passengers tickets not taken is not provided by any law or legal rule or regulations.

In the Asian Bank Corporation case, petitioner bank alleges that subjecting the gross receipts to the 20% final withholding income tax and later to the 5% gross receipts tax is not only oppressive and obnoxious but even a confiscatory form of double taxation. Double taxation has been defined "as the taxing of the same item or piece of property twice to the same person, or taxing it as the property of one person and again as the property of another, but this does not include the imposition of different taxes concurrently on the same property or income (e.g. federal and state income taxes), nor the taxation of the same piece of property to different persons when they hold different interests in it or when it represents different values in their hands, as when both the mortgagor and mortgagee of property are taxed in respect to their interests in it, or when a tax is laid upon the profits of the corporation and also upon the dividends paid to its stockholders" (Black's Law Dictionary, 6th Edition, p. 491). This acceptable form of double taxation is reflected in BIR Ruling No. 223 dated November 2, 1989, thus:

> "The 5% gross receipts tax under Section 120 of the Tax Code is collectible on all finance companies doing business in the Philippines from interests, discounts, and all other items treated as gross income under the Tax Code. Accordingly, your income derived from investing the excess funds in short-term market placements through commercial banks constitutes income hence, subject to the 5% gross receipts tax under said Section. The fact that it has been subjected to the 20% final withholding income tax under Section 50(a) is immaterial. Besides, the withholding tax is imposed under Title II of the Tax Code while the finance tax is provided under Title V thereof." (BIR Ruling No. 223, November 2, 1989)

For as long as the basis for the claim for refund or tax credit certificate is based on the non-inclusion of the amount representing the final withholding income tax under Section 50(a) as part of the gross income subject to gross receipts tax, this dissenting opinion will stand. For purposes of the amusement tax under Section 260 of the Tax Code, the term `gross receipts' embraces `all the receipts' of the proprietor, lessee, or operator of the amusement place. The words `all the receipts' refer to the total amount of cash received which becomes part of the funds of the taxpayer and does not include any money which has been specially earmarked by any law or legal rule or regulation for some other person other than the proprietor, lessee or operator of the amusement place. Receipts means actually received (**Philippine Long Distance Telephone Co. vs. Collector of Internal Revenue, G.R. No. L-3222, January 21, 1952) for itself and not for others, for otherwise they would not be receipts (Manila Jockey Club, Inc. vs. Collector of Internal Revenue, CTA Case No. 205, April 15, 1958; Jai Alai Corporation of the Philippines vs. Araneta, CTA Case No. 108, July 31, 1956 [Annotated, NIRC by Commissioner Jose Arañas, 1988 Edition, p. 687**).

IN VIEW OF THE FOREGOING, I hereby register my dissent to the majority opinion and vote for the denial of the entire claim for refund not because of insufficiency of evidence but for lack of legal bases.

AMANCIO Q. SAGA
Associate Judge

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