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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LECA MEDICAL FOUNDATION, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 3683

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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3/30/88

D E C I S I O N

The case presents the question of whether or not petitioner is entitled to the refund of the final tax on interest on savings deposit imposed in Section 21(d) of the Tax Code, as amended, by PD 1739 and BP 135 which reads as follows:

> "Interest from Philippine Currency Bank deposits and yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements whether received by citizens of the Philippines or by resident alien individuals, shall be subject to the final tax as follows: (a) fifteen per centum (15%) of the interest on savings deposits, and (b) twenty per centum (20%) of interest on time deposits and yield or any other monetary benefit from deposit substitutes and from trust fund and

> similar arrangements, which shall be collected and paid as provided in Sections 53 and 54 of this Code: Provided, That no tax shall be imposed if the aggregate amount of the interest on all Philippine Currency deposit accounts maintained by a depositor alone or together with another in any one bank at any time during the taxable period does not exceed One thousand pesos (P1,000.00) a year or Two hundred fifty pesos (P250.00) per quarter: Provided, further, That if the recipient of such interest is exempt from income taxation, no tax shall be imposed and that, if the recipient is enjoying preferential income tax treatment, then the preferential tax rates so provided shall be imposed." (Underscoring supplied)

Some of the facts have been stipulated and are so found.

Petitioner is duly incorporated under the laws of the Philippines engaged in charitable activities as a non-stock, non-profit trust foundation no part of the income inures to the benefit of any private individual or member; likewise, registered with the Government and Tax Exempt corporation Division of the Bureau of Internal Revenue as a donee institution in accordance with the NEDA-BIR Regulations relative to the application of Section 30(h) of the Tax Code.

On December 23, 1981 petitioner received a P300,000.00 donation which it deposited with the

Citibank, Greenhills branch, Metro Manila, earning for the year 1981 an interest of P787.50 from which the amount of P118.13 as fifteen per cent (15%) final tax was withheld.

Petitioner requested the refund of the withheld amount under a claim dated May 19, 1982, invoking its tax exempt status under Section 27(e) of the Tax Code, but was denied by the respondent's office for "lack of legal basis". Reconsideration proved to no avail as the denial was reiterated by the respondent on September 26, 1983, ruling that petitioner's "interest income from savings deposit is subject to income tax."

Petitioner instituted this present petition.

Petitioner contends that it is income tax exempt under Section 27(e) of the Tax Code (i.e., Corporation organized for charitable or cultural purposes no part of the net income inures to the benefit of any private stockholder or individual), consequently its interest earning from bank deposit is not taxable as so provided, "That if the recipient of such is exempt from income taxation, no tax shall be imposed" (Sec. 21, supra).

Moreover, Section 53(e)(2) of the Tax Code as amended by PD 1739 and BP 135, also provides:

> In all cases where the depositor or placer/investor is tax exempt or is enjoying preferential income tax treatment under existing laws, the withholding tax imposed in this paragraph shall be refunded or credited as the case may be upon submission to the Commissioner of Internal Revenue of proof that the said depositor or placer is a tax exempt entity or enjoys a preferential income tax treatment.

Respondent posits his denial essentially on the proposition that petitioner's interest income on its bank deposit being income derived from personal property is subject to the final withholding tax at the rate prevailing in 1982 regardless of the disposition made of such income pursuant to the last paragraph of the same Section 27 of the Tax Code, to wit:

> Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organization from any of their properties, real or personal, or from any of their activities conducted for profit, regardless of the disposition made of such income, shall be subject to tax imposed under this Code.

And, "While it is true that under Sections 21 and 53(e)(2) of the Tax Code, as amended, by PD 1739 and BP 135, tax exempt depositors are exempt from the final withholding tax on interest income of savings deposit, petitioner failed to consider the fact that this exemption holds true only with respect to those specifically exempted under existing laws, e.g., the Cultural Center of the Philippines, but not with respect to organizations or associations enumerated under Section 27(e) of the Tax Code, which, then and now, are subject to tax on income derived from any of their properties. Petitioner likewise failed to consider that the interest income on bank was subjected to the withholding tax scheme under PD 1156 which took effect on June 3, 1977. Said Decree also contained the above-quoted provision. On the same date, Section 27(e) of the Tax Code already contained the proviso that income of whatever kind and character of all the organizations enumerated therein derived from any of their properties, regardless of the disposition made of such income, is subject to income tax. Thereafter, this proviso became the last paragraph of Section 27 of the Tax Code under PD 1457 effective June 11, 1978, in order that the same could apply to all the organizations enumerated in said Section. Thus, there is a clear indication that the organizations enumerated in Section 27(e) shall continue to be subject to income tax with respect to the income derived from their properties. Said income includes interest income on bank deposits."

Be that as it may, the sprouting impression precipitately broached by the petitioner that its interest income from bank savings deposit is within the contemplation of its exemption under Section 27, ibid., can hardly be a reassuring prospect that can easily be reconciled with the affiliating statutory limitations. The tax privilege so accorded by said section cannot be naively viewed as of such a broad spectrum with open ended features as would sire every comminute income or gain which petitioner may proffer to attach. The language of the last paragraph thereof explicitly states and clearly establishes the metes and bounds for the enjoyment of the tax exemption privilege.

Again, We do not hesitate to apply, not that We are helpless y beholden, the rule oft-quoted and well fortified with reassuring precedents, i.e., exemptions are never presumed, the burden being on the claimant to establish clearly his rights thereto, and that an alleged grant of exemption will be strictly construed and cannot be made out of inference or implication but must be beyond reasonable doubt. They have lost none of their validity in the case at bar. Since a refund undoubtedly partakes of a nature of an exemption, it cannot be allowed unless granted in the most explicit and categorical language. (**Resins, Inc. v. Auditor General,** L-17888, October 29, 1968, 25 SCRA 754). Petitioner has failed to "justify its exemption by words too plain to be mistaken and too categorical to be misinterpreted." (**Reagan v. Commissioner of Internal Revenue,** L-26379, December 27, 1969, 30 SCRA 969).

In this circumstance We can say as a matter of law that respondent's position comports with the statutory intendment.

WHEREFORE, the petition is hereby dismissed at petitioner's costs.

SO ORDERED.

Quezon City, Metro Manila, March 30, 1988.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
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