REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

MICHEL J. LHUILLIER PAWNSHOPS,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7312

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:
JAN 15 2007; 11:25 AM

x - x

AMENDED DECISION

BAUTISTA, L., *J.*:

On October 23, 2006, this Court promulgated its Decision affirming the assessment for deficiency documentary stamp tax for taxable year 1999 save for the compromise penalty of P25,000.00. Thus, the amount of deficiency DST was recomputed as follows:

Documentary stamp tax due	P 4,416,200.00
Add: 25% surcharge for late payment	1,104,050.00
20% interest (up to 3/31/04)	4,194,285.95
Total amount due	**P 9,714,535.95**

Petitioner filed a Motion for Reconsideration of the above Decision on November 13, 2006, praying for the cancellation of the imposed surcharges, interest and penalty.

Petitioner implores that the imposition of surcharges and interest should be lifted considering that its non-payment of documentary stamp tax (DST) can be attributed to the confusion caused by the conflicting rulings of the respondent on that matter of DST on pawnshops. Petitioner argues that such confusion is akin to a mistake in the application or interpretation of a difficult or doubtful question of law. While as a rule, ignorance of the law excuses no one from compliance therewith, this only refers to mistakes with regard to the existence of a law rather than to mistakes with regard to the application or interpretation of a difficult or doubtful question of law. The latter constitutes an excuse and is a legal defense.

This Court rules for the petitioner.

In a Resolution dated September 11, 2006, the Supreme Court in *Michel J. Lhuillier Pawnshop, Inc. vs. Commissioner of Internal Revenue (G.R. No. 166786)* ruled that:

> "Nevertheless, all is not lost for petitioner. The settled rule is that good faith and honest belief that one is not subject to tax on the basis of previous interpretation of government agencies tasked to implement the tax law, are sufficient justification to delete the imposition of surcharges and interest. In *Connell Bros. Co. (Phil.) v. Collector of Internal Revenue*, it was held that:
>
> > We are convinced that appellant, in preparing its sales invoices as it did, was not guilty of an intentional violation of the law. It did not delay filing the returns for the sales taxes corresponding to the period in question, let alone did so purposely. The delay was in the payment of the deficiency, which arose from a mistaken understanding of the regulations laid down by appellee. The ensuing controversy was, in our opinion, generated in good faith and should furnish no justification for the imposition of a penalty.
> >
> > WHEREFORE, modified by eliminating the surcharge of 25% imposed upon appellant, the judgment appealed from is affirmed, without costs.
>
> This ruling was subsequently reiterated in *Tuason, Jr. v. Lingad,* where we deleted the order to pay interest and surcharges, and in *Commissioner of Internal Revenue v. Republic Cement Corporation,* where the same surcharge was dispensed with because of the taxpayer's good faith and the BIR's previous erroneous interpretation of the laws involved. We see no reason not to apply the same doctrine in the instant case which settles

> the divergent rulings of the BIR on DST and establishes the foremost categorical pronouncement of the Court that pledge transactions entered into by pawnshops are subject to DST." *[Underscoring supplied. Citations omitted]*

In view of the foregoing jurisprudence, the Court hereby deletes the surcharge and interest imposed upon petitioner. Thus, the total amount of deficiency DST due for the subject period is P4,416,200.00.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is hereby **GRANTED** and the Decision of October 23, 2006 is hereby **MODIFIED** deleting the surcharge and interests imposed. Accordingly, petitioner is **ORDERED TO PAY** respondent the amount of P4,416,200.00 representing deficiency documentary stamp tax for the taxable year 1999, plus legal interest from the time the Decision becomes final and executory.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

160