Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

CITYTRUST BANKING CORPORATION
as Trustee of Various
Retirement Funds,
Petitioner,

- versus -

C.T.A. CASE NO. 4421

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:
JAN 03 1996

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D E C I S I O N

This is a claim for refund of the amount of ₱12,798,826.39 representing withholding tax on income from its investments on bank deposits, money market placements and securities for the year 1988.

It appears that petitioner Citytrust Banking Corporation is an employees trust, set up by the employer for the purpose of providing its employees retirement, disability, death and separation benefits.

From January to December 1988 petitioner as trustee and investment manager deposited and reinvested the assets of the Fund in savings and time deposits as well as in fixed-income investments, including money market instruments, and in securities (including government securities, such as treasury bills with various banking and financial institutions. These banking and financial institutions withheld the final tax of 20% provided under Section 21(cc)(1) in relation to Section 50(a) all of Title II of the NIRC, from the interest income or yield derived by the Funds on various dates during the calendar year 1988.

On January 8, 1990, petitioner filed a written claim for refund with respondent. Without waiting for respondent to resolve its claim for refund, petitioner filed the instant petitioner for review as a way of tolling the two (2) year prescriptive period set by law.

The sole issue to be resolved in this case is whether or not petitioner is exempt from withholding tax on income from money market placements, bank deposits and securities pursuant to Presidential Decree 1959.

Petitioner alleged that the withholding and collection of the 20% final tax from the income or yield derived by the Fund from bank deposits and investments are erroneous and/or illegal, the Fund being exempted by law from income tax.

Likewise it invokes the ruling in *GCL Retirement Fund vs. Commissioner of Interal Revenue, CTA Case No. 3888, December 16, 1986*, in maintaining that the issues in the case at bar are similar. Under Section 53(b) of the NIRC, petitioner alleged that it is exempt from income tax being a qualified retirement fund.

Respondent on the other hand alleged among other things that:

1.) Petitioner does not state a cause of action

2.) Petitioner who claims to be entitled to income tax exemption of the earnings of its employees retirement fund under R.A. 4917, in relation to Sec. 56(b) (now Section 53(b) of the National Internal Revenue Code, cannot invoke the aforesaid section to claim exemption from the final tax imposed by Section 21(d) and 24(cc) [now Section 21 (c)(1) and 24(e)(1)] of the said Code on earnings derived from interest on bank deposits and/or deposit substitutes.

3.) The exemption from the final tax on interest on bank deposit substitutes which petitioner previously enjoyed was pursuant to the then <u>proviso</u> found in Sections 21(d) and 24(cc) of the NIRC.

4.) Presidential Decree No. 1959 which took effect on October 15,1984 amended the aforesaid sections by deleting the said proviso granting exemption from the 10% final tax of interest from bank deposits and/or deposit substitutes to recipient therein who are expressly exempted by law from income taxation.

5.) Moreover, petitioner averred that because of such amendment, the exemption granted under Sections 21(d) and 24(cc) is now deemed to have been repealed or withdrawn.

6.) Additionally, petitioner cannot claim exemption from the final tax imposed by Section 21(d) and 24(cc) [now Section 21(c)(1) and 24(e)(1)] since such exemption which is previously enjoyed had already been revoked by Presidential Decree No. 1959.

7.) It is alleged that petitioner has not shown that the tax sought to be refunded was actually withheld and remitted to herein respondent in accordance with the NIRC.

8.) Petitioner who has the burden of proving that it is entitled to tax refund, has failed to establish that the tax subject of its claim for refund was erroneously or illegally collected.

9.) Respondent argued that petitioner was not able to comply with the provisions of Sections 243 and 246 (now Sections 204 and 230 of the Tax Code.

10.) Likewise, the claim for refund, being in the nature of an exemption from taxation, must be construed strictly against the petitioner.

We find for the petitioner.

First of all, it is noteworthy to state that Citytrust Banking Corporation being an employees trust has qualified as exempt from income tax by the Commissioner of Internal Revenue in accordance with Republic Act No. 4917 which was approved on 17 June 1967. The said law is herein quoted to wit:

> **Section 1. Any provision of the law to the contrary notwithstanding,** the retirement benefits received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer shall be *exempt from all taxes* and shall not be liable to attachment, levy or seizure by or under any legal or equitable process whatsoever except to pay a debt of the official or employee concerned to the

> private benefit plan or that arising from liability imposed in a criminal action." (Underscoring supplied)

The pertinent law which exempts employees trust from income tax is Section 56(b)(now 53[b]) of the Tax Code, as amended by Rep. Act. No. 1983, supra which took effect on June 22, 1957 and reads as follows:

> "**Sec. 56. Imposition of Tax.**
>
> ***(a) Application of tax.*** - The taxes imposed by this Title upon individuals shall apply to the income of estates or of any kind of property held in trust.
>
> xxx xxx xxx
>
> ***(b) Exception.*** - The tax imposed by this Title shall not apply to employee's trust which forms part of a pension, stock, bonus or profit-sharing plan of an employer for the benefit of some or all of his employees x x x "

Mainly, the rationale behind the tax exemption extended to employees trust is because of the purpose of its creation. Employees trust or benefit plans are designed to provide economic assistance to employees upon the occurrence of certain contingencies, namely old age, retirement, death, sickness or disability. It assures protection against certain risk to which members of the Plan may be exposed. Likewise, it is an independent and additional source of protection for the working group, and is established for their sole benefit and for no other purpose. (*GCL Retirement Plan vs. Commissioner of Internal Revenue, CTA Case No. 4130, February 18, 1993*).

The deletion in Presidential Decree No. 1959 of the provisos dealing with tax exemption and preferential rates under the old law, therefor cannot apply or extend to employees trusts. The said decree, being a general law, cannot impliedly repeal a specific provision, Section 56(b)(now 53[b]) in relation to Republic Act No. 4917 granting exemption from income tax to employee's trusts, Republic Act No. 4917 was enacted on June 17, 1967, long before the issuance of Pres. Decree No. 1959 on October 15, 1984. A subsequent statute, general in character as to its terms and application, is not to be construed as repealing a special or specific enactment, unless the legislative purpose to do so is manifested. This is so even if the provisions of the latter are sufficiently comprehensive to include what was set forth in the special act. (*Villegas vs. Subido, G.R. No. L-31711, 30 September 1971, 41 SCRA 190*).

Insofar as the final tax and the withholding thereof are contained in Title II of the Tax Code under "Income Tax", inevitably said trust must be deemed exempt therefrom. Section 56(b) in relation to Section 56(a) supra, clearly excepts employees trust from "the taxes imposed by this Title". Moreover, it cannot be denied that the final withholding tax is collected from income in respect of which employees trusts are declared exempt [Sec. 56(b) now 53(b)], Tax Code.

Section 56(b), now 53(b) of the Tax Code, as amended by Republic Act No. 1983, exempted employee's trusts from income tax. (Commissioner of Internal Revenue vs. Court of Appeals, 207 SCRA 487)

The subsequent application of the withholding systems to interest on bank deposits or yield from deposit substitutes is essentially to maximize and expedite the collection of income taxes by requiring its payment at the source. Since, Citytrust Banking Corporation is an employee's trust, it certainly enjoys a tax-exempt status from income. Therefore, we find it illogical in withholding a certain percentage of that income which it is not obliged to pay in the first place. (*Commissioner of Internal Revenue vs. The Honorable Court of Appeals, et.al., G.R. No. 95022, March 23, 1992*)

Petitioner was able to prove its entitlement for the refund by proving that the interest from the investments of various retirement funds are tax exempt as certified by the Bureau of Internal Revenue and provided for under R.A. 4917.

It was likewise established by petitioner that it filed its claim for refund within two-years from the date of payment of the tax as provided for under Section 230 of the NIRC..

By way of evidence, petitioner presented various monthly remittance returns of income tax withheld which was filed by the Central Bank with the BIR. Various certificate of final income tax withheld issued by the Central Bank in favor of petitioner was likewise presented to prove that the 20% final tax withheld by the Central Bank from interest on taxable securities purchased were remitted to the BIR.

From the foregoing, petitioner was able to prove by way of material evidences its clear entitlement to the refund sought for.

It is a well established principle that tax exemption is likewise to be enjoyed by the income of the pension trust. (*Commissioner of Internal Revenue vs. Court of Tax Appeals, 207 SCRA 487*)

WHEREFORE, in view of the foregoing, respondent Commissioner of Internal Revenue is hereby ordered to refund to petitioner the sum of ₱12,798,826.39 representing withholding tax on income for the year 1988.

SO ORDERED.

MANUEL K. GRUBA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
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.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals