Lit

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ROGELIO M. ANTONIO, JR.,
Petitioner,

- versus -

C.T.A. CASE NO. 6157

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

JUL 09 2001

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DECISION

The present case seeks the refund of the amount of P200,000.00 representing the 20% final tax withheld from Petitioner's P1 Million prize money won in the 1st Pambansa Millenium Chess Grand Prix held last April, 2000.

The facts of the case are as follows:

Petitioner is a Chess Grandmaster, of legal age, Filipino, married and with postal address at No. 152-A Sct. Gandia Street, Quezon City (No. 1, Joint Stipulation of Facts and Issues). In April, 2000, Petitioner won the Millenium Chess Grand Prix sanctioned by the Philippine Chess Federation (PCF), a sports association recognized by the Philippine Sports Commission (PSC). During the awarding ceremonies on April 18, 2000, the PCF withheld twenty percent (20%) of Petitioner's P1 Million cash prize, prompting the latter to refuse to accept the slashed award not only because the PCF announced during the start of the competition that the champion's purse would be tax-free, but also because of the existence of Republic Act (R.A.) No. 7549 which exempts all prizes and awards gained from local and international sports tournaments and competitions from the payment of income and other forms of taxes.

On April 27, 2000, Petitioner requested for a ruling from herein Respondent as to whether the former's P1 Million prize is tax-exempt or not (No. 3, Joint Stipulation of Facts and Issues). In reply thereto, Respondent issued BIR Ruling No. 026-2000 stating that Petitioner's P1 Million purse is not tax-exempt because the Philippine Chess Federation (PCF) which sanctioned the sports tournament is not accredited by the Philippine Olympic Committee (POC) pursuant to Section 2 of Republic Act (R.A.) No. 7549 (No. 4, Joint Stipulation of Facts and Issues).

On June 27, 2000, Petitioner filed a request for reconsideration of BIR Ruling No. 026-2000 and at the same time disputed the assessment made on his P1 Million prize (No. 5, Joint Stipulation of Facts and Issues and Exhibit "I"), advancing the following arguments:

> "First, by imposing a 20% tax on his P1 Million prize, Respondent unduly discriminated against him and unlawfully denied him the equal protection guarantee enshrined in the 1987 Constitution;
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> Second, the rule that "exemptions from taxation are construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority" is not absolute. Special laws applying to special cases (like R.A. No. 7549) are liberally construed in favor of the taxpayer and strictly construed against the State;
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> Third, chess, as a sport, has its own Olympiad which, is held every two (2) years. The PCF which sanctioned the subject chess event gets its

> accreditation from the World Chess Federation (FIDE) and not from the International Olympic Committee (IOC). The PCF does not need prior accreditation by the POC before it becomes a member of the FIDE. Therefore, being a sports association recognized by the Philippine Sports Commission (PSC), the PCF never sought accreditation from the POC.
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> It results, hence, that Section 2 of R.A. No. 7549 does not and cannot apply to the PCF. But this insignificant technicality should not defeat the laudable purpose behind the enactment of the law. Respondent should have interpreted R.A. No. 7549 not by the letter that killeth, but by the spirit that giveth life because when the reason for the law ceases, the law automatically ceases to be one. "*Cessante ratione cessat ipsa lex.*"
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> Finally, R.A. No. 7549 is a special law intended for a special purpose while the Tax Code of 1997 is intended for general application. The settled rule is that "If the general law was enacted after the special law, the special law remains unless the subsequent general law covers the whole subject and is clearly intended to replace the special law on the matter. The Tax Code of 1997, particularly Section 32(B)(7)(d) thereof has, indeed, replaced R.A. No. 7549 and has also done away with the definition of a "National Sports Association" as one accredited by the POC."

On July 18, 2000, Respondent denied with finality Petitioner's request for reconsideration, standing firm in his position that the exemption granted under Section 32(B)(7)(d) of the Tax Code of 1997 does not apply to Petitioner. This letter of denial was received by Petitioner on July 24, 2000. According to Respondent, "this provision was recommended for inclusion into the present Tax Code by the Technical Working Group of the BIR during the formulation of the CTRP in Congress, precisely on account of the special law on the matter, which is R.A. No. 7549. For all intents and purposes, therefore, it is R.A. No. 7549 which is the governing special law on the matter while the Tax Code, as amended by the CTRP, serves as the general law on the subject. x x x In case of conflict, the rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special statute must prevail since it evinces the legislative intent more clearly than that of a general statute x x x." Thus, based on R.A. No. 7549, Respondent held that to be exempt from taxes on prizes and awards received by athletes in sports competition, that competition must be sanctioned by their national sports association. Since the governing special law defined "national sports associations" to mean only those duly accredited by the POC, then the clear intent of the law is to grant exemption only when this condition is met.

On July 28, 2000, the PCF remitted to the Bureau of Internal Revenue the amount of P200,000.00 representing the 20% final withholding tax on the P1 Million prize of Petitioner (Exhibits J and K).

On August 4, 2000, Petitioner filed a second request for reconsideration, this time on account of his meeting with former Congressman Leonardo B. Fugoso, the author of House Bill No. 22232 which later became R.A. No. 7549, who wrote a letter to Respondent on May 8, 2000 and received by the latter on May 9, 2000, explaining the legislative motive and intent behind the enactment of R. A. No. 7549. Thinking that the said letter might have been overlooked by the Respondent in formulating the correct ruling on the matter, Petitioner moved for another reconsideration and requested again for a refund.

However, since there was no immediate action on the part of the Respondent and the thirty-day period from receipt of the final decision or ruling of the Commissioner of

Internal Revenue within which to file an appeal before this Court was about to lapse, Petitioner elevated his case before Us on August 23, 2000.

Respondent filed his Answer on September 18, 2000, and claimed by way of Special and Affirmative Defenses that:

> "7. Petitioner failed to demonstrate that the tax subject of the case at bar was erroneously or illegally collected.
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> 8. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable.
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> 9. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to refund, and failure to adduce sufficient proof is fatal to the action for tax refund/credit.
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> 10. Republic Act (R.A.) 7549 entitled "An Act Exempting All Prizes And Awards Gained From Local And International Sports Tournaments And Competitions From The Payment Of Income And Other Forms Of Taxes And For Other Purposes, which is the law on the issue is quoted as follows:
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> > "SECTION 1. All prizes and awards granted to athletes in local and international sports tournaments and competitions held in the Philippines or abroad and sanctioned by their respective national sports associations shall be exempt from income tax: Provided, That such prizes and awards given to said athletes shall be deductible in full from the gross income of the donor: Provided, further, That the donors of said prizes and awards shall be exempt from the payment of donor's tax.
> >
> > "The benefits herein provided shall cover the XVIth Southeast Asian Games (SEA Games) held in Manila from November 25 to December 5, 1991.
> >
> > "SECTION 2. As used in this Act, the term:
> >
> > (1) "Sports tournaments and competitions" shall mean those tournaments and competitions sanctioned by the national sports associations in accordance with the rules and regulations pursuant to Section 3 hereof; and

(2) "National sports association" shall mean those duly accredited by the Philippine Olympic Committee."

"SECTION 3. Upon the recommendation of the Commissioner of the Bureau of Internal Revenue, the Philippine Sports Commission (PSC) and the Department of Finance shall, within thirty (30) days from the effectivity of this Act, jointly promulgate rules and regulations necessary for the effective implementation of this Act.

"SECTION 4. All laws, decrees, executive orders, other executive issuances, rules and regulations, or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

"SECTION 5. This Act shall take effect upon the completion of its publication in at least two (2) newspapers of general circulation.

"Approved: May 22, 1992"

The present provision of the Tax Code, as amended, which include prizes and awards in sports competition among the items of income exempt from tax, is found in Section 32(B)(7)(d) thereof and this is quoted as follows:

"(d) Prizes and Awards in Sports Competition. - All prizes and awards granted to athletes in local and international sports competitions and tournaments whether held in the Philippines or abroad and sanctioned by their national sports associations."

11. For all intents and purposes, R.A. 7549 is the governing special law on the matter while the Tax Code, as amended is the general law on the subject. Where there are two statutes, the earlier special and the later general – the terms of the general being broad enough to include the matter provided for in the special – the fact that one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, one as a general law of the land, the other as the law of a particular case. (Manila Railroad Co. vs. Rafferty, 40 Phil. 224.)

12. Therefore, in order that prizes and awards may be exempt from taxes as provided in R.A. 7549, the tournaments and competitions must be

sanctioned by their respective national sports associations. The governing special law defines "national sports association" to mean only those duly accredited by the Philippine Olympic Committee. Hence, if the sanctioning national sports association is not duly accredited by the Philippine Olympic Committee, the exemption does not apply.

13. As a rule, any claim for exemption must be strictly construed against the grantee. In addition, where the provision of the law is clear and unambiguous, so that there is no occasion for the court's seeking the legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction. (Republic Flour Mills, Inc. vs. CIR, 31 SCRA 520).

14. Finally, there is no way to dispute the cardinal rule in taxation that tax exemptions are highly disfavored in law and he who claims tax exemption must be able to justify his claim or right. The exemption cannot be established by mere implication but it must be clearly expressed. (Wonder Mechanical Engineering Corporation vs. Court of Tax Appeals, et al., 64 SCRA 555)."

On September 26, 2000, Respondent answered Petitioner's second request for reconsideration, but merely reiterated his previous arguments (Exh. M).

In their Joint Stipulation of Facts and Issues filed on October 30, 2000 (p.58, CTA Records), the parties submitted the following issues for resolution:

1. Whether or not in order that prizes and awards may be exempt from taxes as provided in Republic Act No. 7549, tournaments and competitions must be sanctioned by their respective national sports associations, which must be duly accredited by the Philippine Olympic Committee.

2. Whether or not Republic Act No. 7549 is the governing special law regarding prizes and awards granted to athletes in local and international sports competitions.

3. Whether or not Petitioner is entitled to a refund of the withholding tax on the prize he won in a chess tournament.
4. Whether or not the P1 Million champion's prize of Petitioner in the Millenium Chess Grand Prix is tax-exempt.

After a painstaking study of the arguments raised by the parties and the applicable provisions of law, We rule against Petitioner.

With reference to the first and second issues, this Court rules in the affirmative.

Sections 1 and 2(2) of R.A. 7549 are quoted hereunder, thus:

> **Section 1.** All prizes and awards granted to athletes in local and international sports tournaments and competitions held in the Philippines or abroad and sanctioned by their respective national sports associations shall be exempt from income tax: Provided, That such prizes and awards given to said athletes shall be deductible in full from the gross income of the donor: Provided, further, That the donors of said prizes and awards shall be exempt from the payment of donor's tax.
>
> The benefits herein provided shall cover the XVIth Southeast Asian Games (SEA Games) held in Manila from November 25 to December 5, 1991.
>
> **Section 2.** As used in this Act, the term"
>
> (1) x x x
>
> (2) "National sports association" shall mean those duly accredited by the Philippine Olympic Committee.

It is clear from the aforequoted provisions of R.A. 7549 that the tax exemption applies only if such prizes and awards were granted in local and international sports competitions that are duly sanctioned by their respective national sports associations and that the latter term shall mean only those that are accredited by the Philippine Olympic Committee, otherwise the exemption does not apply.

Consequently, the Court has no recourse but only to apply the law as written for "(a) statute is not open to construction as a matter of course. It is open to construction only where the language used in the statute requires interpretation, that is, where the statute is ambiguous, or will bear two or more constructions or is of such doubtful or obscure meaning, that reasonable minds might be uncertain or disagree as to its meaning. (*50 Am. Jur., pp. 204,205*). Where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation, and the court has no right to look for or impose another meaning. A plain and unambiguous statute is to be applied, and not to be interpreted, since such a statute speaks for itself, and any attempt to make it clearer is a vain labor and tends only to obscurity. (*Ibid., pp. 205,207*).

In his first letter to the Respondent dated April 27, 2000 requesting for a ruling on the taxability of the P1 Million cash prize, Petitioner himself acknowledged that R.A. No. 7549 has not yet been repealed nor amended and that it is still a good law which should be made applicable on the matter (Annex B, Petition for Review). Noticeably, however, after Respondent issued a ruling unfavorable to him, Petitioner, in his request for reconsideration , averred that the Tax Code of 1997, particularly Section 32 (B) (7) (d) thereof, has replaced R.A. No. 7549 and has also done away with the definition of a "National Sports Association" as one accredited by the POC.

We cannot agree with Petitioner that R.A. No. 7549 had already been superseded by the Tax Code of 1997. The former remains to be the governing special law on the matter of granting tax-free prizes and awards to athletes in local and international sports competitions. "A subsequent statute which is general does not repeal or abrogate a former statute which is special and intended to operate on a particular subject, or a particular phrase thereof, or for the benefit or relief of individuals." (*C.J.S., p.515*). Excepted from this rule are cases where a different legislative intent is plainly manifested (*People vs. Quack, 11 N.E. 2d., p.965*), or where the general act is a revision of the whole subject intended to contain all the law on the matter or where the two acts are so repugnant and irreconcilable as to indicate a legislative intent that one should repeal or modify the other. (*82 C.J.S.,pp.511, 513*). (cited on pp.178, 179, Statutory Construction, Martin, Sixth Edition) Unfortunately for the Petitioner, his case does not fall under any of the exceptions.

Petitioner also presented as witness former Congressman Leonardo Fugoso, the principal author of House Bill No. 22232, which eventually became R.A. No. 7549. When he testified during the hearing of this case on November 16, 2000, Mr. Fugoso explained that his bill really intended to benefit the athletes engaged in all kinds of sports including chess and that the reason why a national sports association was taken to mean only those duly accredited by the POC is that the PSC was created only in 1991, or two (2) years after House Bill No. 22232 was filed.

While it may be true that at the time Mr. Fugoso introduced House Bill No. 22232 in 1989 the PSC was not yet in existence (the same having been created in 1990, not in

1991, by R.A. No. 6847) and that only the POC was at the time in the position to discharge the duty of accrediting the different sports associations, it bears stressing that R.A. No. 7549 was finally approved only in 1992 when the PSC had been in existence for quite sometime, which clearly shows that the lawmakers had the opportunity to change POC to PSC or add within its scope also those duly accredited by the PSC. In fact, on February 4, 1992, certain members of the Senate and the House of Representatives met at the 5th Regular Session of the Bicameral Conference Committee on Ways and Means (Exhibit D) to make final changes in the bill. Still, they did not introduce any change in the meaning of the term "National Sports Association." They likewise refrained from making an enumeration of the sports included in the bill, allowing the same to be enumerated or stated in the rules and regulations to be promulgated in accordance with the bill. For purposes of clarity, quoted hereunder are the pertinent portions of the deliberations taken during the said meeting:

> "THE CHAIRMAN (SEN. LINA): And in Section 2, as used in this Act, the term sports tournaments and competitions shall mean those tournaments and competitions sanctioned by the National Sports Associations in accordance with the rules and regulations pursuant to Section 3 hereof.
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> THE CHAIRMAN (REP. PEREZ): We agree in essence subject to style.
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> THE CHAIRMAN (SEN. LINA): And then the term National Sports Association shall mean those duly accredited by the Philippine Olympic Committee.
>
> (Off the record)

THE CHAIRMAN (SEN. LINA): On record na. So I propose that we adopt this sub-section, of paragraph 2 of Section 2, Mr. Chairman.

THE CHAIRMAN (REP. PEREZ): Yes, I accept that."

Verily from the above, the intention of the lawmakers was to grant the exemption only to those duly accredited by the POC. For if they intended otherwise, they could have easily revised the bill. "Indeed, it is the duty of the courts to give a statute the interpretation its language calls for, where this can reasonably be done, and the general rule is that no intent may be imputed to the legislature in the enactment of a law other than such as is supported by the face of the law itself." The law may be harsh, but that is the law. ***Dura lex sed lex.*** "xxx (T)he legislature must be assumed or presumed to know the meaning of the words, to have used the words advisedly and to have expressed its intent by the use of such words as are found in the statute." (*50 Am. Jur., pp.211, 212*)

Since Petitioner won in the Millenium Chess Grand Prix sanctioned by the PCF, a sports association recognized by the PSC but not accredited by the POC, it follows then that his champion's prize of P1 Million is not tax-exempt. We agree with Respondent that from the provisions of R.A. No. 7549, it is clear that the law intended to extend the benefit of tax exemption to athletes in sports events played in the Olympic Games, thus the need for accreditation with the POC. Therefore, Petitioner is not entitled to a refund of the tax withheld on the said amount.

Time and again, this Court has held that since a tax exemption implies a waiver on the part of the Government of its right to collect what is otherwise due it, the same is subject to the rule on strict construction against the taxpayer claiming the exemption and he who claims its benefit has the burden of proving that there is a law that clearly and expressly grants the exemption and that he is qualified to enjoy the privilege. The grant cannot be given a wider or extended scope than what is clearly granted. (*p.85, Principles of Taxation, Palma, 1988 Edition*).

While We commiserate with winning athletes who are not members of the POC for they have to be taxed accordingly, this Court has no recourse but only to apply the law. The legislative intent is plain and clear making it unnecessary to apply any presumption of law. Unless and until the provisions of R.A. 7459 are amended so as to include within its purview even non-members of the POC, the law prevails and has to be followed.

WHEREFORE, premises considered, Petitioner's claim for tax refund is hereby **DENIED** for lack of merit.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

I CONCUR:

ERNESTO D. ACOSTA
Presiding 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