

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

STEELASIA MANUFACTURING C.T.A. CASE NO. 6678
CORPORATION,

Petitioner,

Members:

- versus -

ACOSTA, Chairperson
BAUTISTA, , and
CASANOVA, JJ.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

Promulgated:

APR 30 2010 ; 2:00 pm

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AMENDED DECISION

CASANOVA, J.:

On October 9, 2009, the Court's Special First Division promulgated a Decision¹ (Assailed Decision), to wit:

"**WHEREFORE**, the petition for review is partially **GRANTED**. Respondent's deficiency tax assessment issued against petitioner-SAMC is hereby partially **CANCELLED** and reduced to the amount of P2,836,303.80. Petitioner -SAMC is hereby ordered to pay the amount of P2,836,303.80 with interest from January 11, 1998.

SO ORDERED."

On October 29, 2009 petitioner-Steelasia Manufacturing Corporation (SAMC) filed a Motion for Partial Reconsideration². On the other hand, respondent-Commissioner of Internal Revenue (CIR) filed a Motion for Partial

¹ Docket, pp. 704-721.

² Docket, pp. 733-746.

Reconsideration³ on October 30, 2009. During the scheduled hearing⁴ on November 13, 2009, the parties' respective Motion was submitted for this Court's resolution.

Respondent-CIR raised the sole ground⁵ in support of its Motion, to wit:

THE HONORABLE COURT ERRED IN RULING THAT PETITIONER MAY PRESENT EVIDENCE FOR THE FIRST TIME ON AN ISSUE OF FACT AFTER COMPLETELY FAILING TO SUBMIT DOCUMENTS ON THE SAME ISSUE DURING THE ADMINISTRATIVE PROCEEDINGS IN VIOLATION OF SECTION 228 OF THE TAX CODE OF 1997 AND THE DOCTRINE OF PRIMARY JURISPRUDENCE.

Petitioner-SAMC, on the other hand, moves for the reconsideration of the Court's Decision, based on the following grounds⁶:

- I. THAT THE HONORABLE COURT FAILED TO DECLARE THE SUBJECT ASSESSMENTS AS INVALID AND WITHOUT ANY LEGAL EFFECT FOR BEING A RESULT OF A FISHING EXPEDITION AND GROSS IRREGULARITIES COMMITTED BY RESPONDENT;
- II. THAT THE HONORABLE COURT FAILED TO RULE THE ILLEGALITY AND INVALIDITY OF THE HASTILY ISSUED PRELIMINARY ASSESSMENT NOTICE AND UNDATED FINAL ASSESSMENT NOTICE AGAINST THE PETITIONER FOR BEING CONTRARY TO SECTION 3.1.2 OF REVENUE REGULATION 12-99 AND SECTION 228 OF THE 1997 TAX CODE; AND
- III. THAT WHILE PETITIONER'S EXHIBITS "D-13", "D-16", "D-17", "D-18", "D-19" AND "D-20" WERE DENIED, PETITIONER PRESENTED REBUTTAL TESTIMONIES AND DOCUMENTARY EXHIBITS TO PROVE THAT THE SUBJECT INTEREST PAYMENTS OF P28,363,038.00 REFER TO PESO DENOMINATED LOANS. 

³ Docket, pp. 722-731.

⁴ Minutes of the Hearing, Docket, p. 749.

⁵ Respondent's Motion for Partial Reconsideration, Docket, p. 722.

⁶ Petitioner's Motion for Partial Reconsideration, Docket, p. 734.

After a careful study of the arguments proffered by the respondent-CIR in its Motion for Partial Reconsideration, this Court finds that the matters raised therein have already been thoroughly discussed and disposed of in the assailed Decision. What the said Motion seeks is for the Court to view and appreciate the evidence in respondent's own perspective of things, which unfortunately had already been considered and passed upon.

With regard to the first argument raised by the petitioner in its Motion, it alleges that, *"what could have prodded Respondent to (i) unjustly alleged fraud against the Petitioner; (ii) required Petitioner to submit voluminous documents despite Respondent's opportunity to examine the same; (iii) filed flimsy criminal case against the President of the Petitioner Corporation; and more importantly, (iv) fast track the issuance of the disputed deficiency assessment notices by its Tax Fraud Division is obviously to avoid prescription and at the same time employ 'fishing expedition'."*⁷

In support of its second argument, SAMC further states that, *"This abruptness in the issuance of assessments leaves Petitioner to think that the same was designed purposely by the Respondent to prescription to set in. Note that the last day for Respondent to assess Petitioner for the paid taxes for the subject taxable year 1997 is 15 April 2001. No wonder Respondent sent Petitioner the questioned PAN and FAN on 12 and 26 of February 2001, respectively, or with an interval of only ten (10) days, to beat the upcoming prescription."*⁸

These allegations are based on mere presumptions which petitioner failed to prove, thus, this Court cannot countenance the said arguments.

The Court, however, finds the contention of SAMC with regard to its third argument, partly meritorious. Hence, this Amended Decision.

As found out by the Court in the assailed Decision, SAMC failed to prove that the total amount of P111,731,801.00 interest expense was all from peso-denominated loans. Specifically pointed out by the Court is the amount of 

⁷ Par. 19, Petitioner's Motion for Partial Reconsideration, Docket, p. 739.

⁸ Par. 25, Petitioner's Motion for Partial Reconsideration, Docket, p. 741.

P28,363,038.00, which represents the total interest expense pertaining to the following documents: Exhibits "D-13", "D-16", "D-17", "D-18", "D-19" and "D-20". The above-mentioned documents were denied admission by the Court for failure of SAMC to present the originals thereof for comparison. Thus, for failure of petitioner to show such interest payments pertain to peso-denominated loans, the Court subjected the amount of P28,363,038.00 to 10% FWT. Accordingly, the Court ordered petitioner-SAMC to pay the amount of P2,836,303.80 representing its Final Withholding Tax (FWT) liability.

In support of its Motion for Reconsideration, petitioner-SAMC alleges that while petitioner's Exhibits "D-13", "D-16", "D-17", "D-18", "D-19" and "D-20" were denied admission, it presented rebuttal testimonies and documentary exhibits to prove that the subject interest payments of P28,363,038.00 refer to peso-denominated loans.

Upon a careful review of the pieces of evidence submitted by the petitioner, the Court partly reconsiders its denial of the above-mentioned documents.

Records show that petitioner-SMAC filed a Supplemental Offer of Evidence on April 30, 2008, which covers the following documents, to wit:

1. Exhibit "W" - Certification dated October 11, 2007 issued by PCI Capital Corporation through its Manager, Mr. Henry S. Santos.
2. Exhibit "X" - Letter-Certification dated October 10, 2007 issued by Banco de Oro, through its VP & Head-Loan Operations Department, Ms. Belinda Abad with attached eight (8) certified true copies of the Promissory Notes (PN) executed on different dates with different amounts by the Petitioner in favor of the said bank, namely: PN No. 630/95; PN No. 631/95, PN No. 934/95; PN No. 933/95; PN No. 1123/95; PN No. 1390/95; PN No. 1919/95; and PN No. 1040/97.
3. Exhibit "Y" - Letter-Certification dated October 10, 2007 issued by Banco de Oro, through its VP & Head-Loan Operations Department, Ms. Belinda Abad, with attached eight (8) certified true copies of the Promissory Notes (PN) executed on different dates with different amounts

by the petitioner in favor of the said bank, namely: PN No. TL# 095121; PN No. TL# 095120; PN No. TL# 095153; PN No. TL# 095152; PN No. TL# 095186; PN No. TL# 095187; PN No. TL#095217; and PN No. TL# 095269.

4. Exhibit "Z" – Letter-Certification dated October 8, 2007 issued by Allied Banking Corporation through its Manager/KLTC (Kaloocan Loan & Trade Center) Head, Mr. Noel U. Go, with attached certified true copies of: a) five (5) Loan Payment Manifold issued on different dates; b) one (1) Peso-denominated Promissory Note with PN No. 0024-96-16052 in the amount of 17 Million Pesos; c) three (3) US Dollars Promissory Notes issued on different dates in the amount of 1 Million US Dollars each with PN Nos. 96-10496, 97-02498 and 97-02714.

As borne by the records of this case, the above-mentioned exhibits were not contested by the respondent and were subsequently granted admission by this Court in a Resolution dated June 24, 2008. Notwithstanding such admission, the Court does not totally agree with the petitioner's contention that the foregoing documents prove that the amount of P28,363,038.00 was not from foreign currency loans thus, the deficiency withholding tax of P2,836,303.80 has no factual and legal basis.

A close scrutiny of the exhibits and their attached promissory notes would show that only the certified true copy of PN No. 1040/97⁹ (attached to Exhibit "X") corresponds with Exhibit "D-13". Petitioner-SAMC was able to prove that Exhibit "D-13", with face value of Ten Million Pesos (P10,000,000.00), was peso-denominated loan. The other promissory notes attached to Exhibits "X", "Y" and "Z" do not, in any way, pertain to the previously denied Exhibits "D-16", "D-17", "D-18", "D-19" and "D-20". Thus, their denial for failure of petitioner to present the originals thereof for comparison remains.

Therefore, the basic FWT liability of petitioner-SAMC of P2,720,102.40 is computed as follows: 

⁹ Docket, pp. 631-633.

<u>Denied Exhibits</u>	<u>Alleged Peso Loans</u>	<u>Interest</u>
"D-16"	75,500,000.00	7,054,771.00
"D-17"	29,500,000.00	2,731,625.00
"D-18"	47,635,775.00	3,948,241.00
"D-19"	106,536,154.00	9,785,144.00
"D-20"	<u>37,000,000.00</u>	<u>3,681,243.00</u>
	<u>296,171,929.00</u>	<u>27,201,024.00</u>
Multiply by rate		x 10%
Deficiency FWT		<u>2,720,102.40</u>

WHEREFORE, premises considered, respondent-CIR's Motion for Partial Reconsideration is hereby **DENIED** for lack of merit. Petitioner-SAMC's Motion for Partial Reconsideration is hereby **PARTIALLY GRANTED**. Accordingly, petitioner-SAMC is hereby **ORDERED** to pay the reduced amount of P2,720,102.40 as its deficiency Final Withholding Tax, with interest from January 11, 1998.

SO ORDERED.


CAESAR A. CASANOVA
Associate Justice

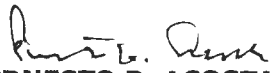
WE CONCUR:


ERNESTO D. ACOSTA
Presiding Justice


LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.


ERNESTO D. ACOSTA
Presiding Justice