REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA-E.B. NO. 2** (C.T.A. Case No. 6438)
- *versus* -	*Present:* **Acosta**, *P.J.*, **Castañeda, Jr.,** **Bautista,** **Uy,** **Casanova,** and **Palanca-Enriquez,** *JJ.*
ST. WILLIAM DRUG CORPORATION, Respondent.	Promulgated: APR 26 2005

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D E C I S I O N

UY, *J.*:

This is a Petition for Review before the Court of Tax Appeals *en banc* filed on May 7, 2004 under Republic Act No. 9282, seeking for the reversal of the Decision and subsequent Resolution rendered by the then Court of Tax Appeals, which under R.A. No. 9282, is now a Division of the current Court of Tax Appeals, in C.T.A. Case No. 6438, entitled "St. William Drug Corporation vs. Commissioner of Internal Revenue", to wit:

1. Decision promulgated on December 11, 2003 granting petitioner's (now respondent) claim for refund

> and accordingly ordered respondent (now petitioner) to issue a Tax Credit Certificate in favor of petitioner (now respondent) in the reduced amount of P519,424.36 representing overpaid income taxes for the taxable years 1999 and 2000; and
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> 2. Resolution promulgated on April 19, 2004 denying respondent's (now petitioner) Motion for Reconsideration of the aforementioned Decision.

The undisputed facts as culled from the records of the case are briefly narrated as follows:

Respondent St. William Drug Corporation is a domestic corporation organized and existing under the laws of the Republic of the Philippines with business address at Laoag Commercial Complex, F.R. Castro corner Villanueva Sts., Laoag City and is a franchisee under the business name and style "Mercury Drug", while petitioner is the duly appointed Commissioner of the Bureau of Internal Revenue with office address at BIR National Office Building, Diliman, Quezon City.

During the period from January 1, 1999 to December 31, 2000, herein respondent granted twenty percent (20%) discounts, in compliance with Republic Act No. 7432 otherwise known as "An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes", to qualified senior citizens on their various purchases of medicines, or in the amounts of P878,891.18 and P556,824.19 for the taxable year 1999 and in the amount of P322,066.99 for the taxable year 2000.

On April 17, 2000 and April 17, 2001, respondent filed its Annual Income Tax Return for the taxable years 1999 and 2000, respectively, showing the total discounts given to the senior citizens as a deduction from its gross income. However, respondent, relying mainly on the provisions of R.A. No. 7432 and believing that Revenue Regulation No. 2-94 or the rules implementing R.A. No. 7432 is erroneous as it contravenes the provisions of the said law, filed, on March 1, 2002, a claim for tax credit/refund with petitioner in the aggregate sum of P606,607.28 representing the cost of the twenty percent (20%) discount granted to qualified senior citizens on their purchases of medicines for the same period. Petitioner's inaction on the claim constrained respondent to file a petition for review on April 11, 2002 before the then Court of Tax Appeals.

In the questioned Decision subject of this petition, respondent's claim for refund or issuance of a tax credit certificate was granted but in the reduced amount of P519,424.36. Petitioner's Motion for Reconsideration assailing the said Decision was likewise denied for lack of merit on April 19, 2004.

Hence, this recourse.

The lone issue being raised by petitioner in this instant petition for review is whether or not the 20% sales discount granted to qualified senior citizens on their various purchases of medicines should be treated as a deduction from gross income pursuant to Revenue Regulation No. 2-94 or as a tax credit pursuant to R.A. No. 7432.

Petitioner anchors its petition for review on the following grounds:

1. The 20% discount granted to senior citizens under R.A. No. 7432 may be claimed by private establishments as a deduction from gross income or gross sales, pursuant to Revenue Regulation No. 2-94 or the rules prescribing the guidelines for the effective and proper implementation of Section 4 of R.A. 7432, and not as a credit against tax liability. The said revenue regulation clearly defined the term "tax credit" as referring to "the amount representing the 20% discount granted to qualified senior citizen by all establishments relative to their utilization of transportation services, hotels and similar lodging establishments, restaurants, drugstores, recreation centers, theaters, cinema houses, concert halls, circuses, carnivals and other similar place of culture, leisure and amusement, which discount shall be deducted by the said establishments from their gross income for income tax purposes and from their gross sales for value-added tax or other percentage purposes."; and

2. To allow private establishments, like respondent, to claim the 20% discount as a credit against tax liability, instead of a deduction from gross income or gross sales, would amount to refunding a tax not paid to the government;

3. Further, to allow private establishments, like respondent, to claim the 20% discount as a credit against tax liability, instead of as a deduction from gross income or gross sales, would be to give them benefits not intended by law. While the law gives an incentive to private establishments in the form of a tax benefit, it was not the intention of the law to extend to them more than what they actually give as 20% discount. Accordingly, if the 20% discount is to be credited against the tax liability, the tax benefit is 100%.

Respondent filed its Comment (On Petition for Review) on January 19, 2005 alleging that the Court of Tax Appeals is correct in holding that the twenty percent (20%) discounts granted to qualified senior citizens under Republic Act No. 7432 may be claimed as tax credit instead of as a deduction from gross income or gross sales under BIR Revenue Regulations No. 2-94. Section 4 of R.A. No. 7432 provides, in clear and unequivocal language, that the discounts granted to senior citizens may be claimed by the private establishments as a tax credit, to wit:

> SEC. 4. Privileges to Senior Citizens. – the senior citizen shall be entitled to the following:
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> a. the grant of twenty percent (20%) discount from all establishments relative to utilization of transportation services, hotels and similar lodging establishments, restaurants and recreational centers and purchase of medicines anywhere in the country: Provided, That the private establishments may claim the cost as tax credit. *(Underscoring provided)*

The Court En Banc finds that the lone issue raised in this petition was appropriately resolved in the assailed Decision of December 11, 2003, citing this Court's decision in the case of Sto. Rosario Drug Corporation v. Commissioner of Internal Revenue in CTA Case No. 5367 (February 16, 1998), to wit:

> "'The provision of Section 4 of R.A. No. 7432 is crystal clear – the 20% discounts granted to qualified senior citizens may be claimed as tax credit. And as a settled rule of statutory construction, when the language of the law is clear and unequivocal, the law must be taken to mean exactly what it says (Marin vs. Nacianceno 19 Phil 238). Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them (People vs. Mapa, G.R. No. L-22301, August 30, 1967)."

A cursory review of the wordings of Section 4 of Republic Act No. 7432 readily shows that the law literally intended the cost of the 20% discount to be claimed as tax credit. There is therefore no plausible reason for the petitioner to interpret the phrase to mean that such discount can only be utilized as a deduction from gross income and from gross sales as provided in Revenue Regulation No. 2-94.

It must be remembered that to be valid, an administrative regulation must not be in contravention, but should conform to the standards that the law prescribes (Tayug Rural Bank vs. Central Bank, 146 SCRA 120). Revenue Regulation No. 2-94 which engraved a new meaning to the phrase "tax credit" (in relation to the 20% discount granted to senior citizens by private establishments) as merely a deductible item from gross sales is patently incongruous and a deviation from the plain intendment of the law in R. A. No. 7432. And in case of conflict between a statute and an administrative order, the former must prevail (Kilusang Mayo Uno vs. Garcia, Jr., 239 SCRA 386).

Under these circumstances, the clear and unequivocal terms of Section 4(a) of Republic Act No. 7432 should prevail over the provisions of Revenue Regulations No. 2-94.

Moreover, in the case of **Commissioner of Internal Revenue vs. Central Luzon Drug Corporation, CA-G.R. Sp No. 70480, August 13, 2003,** the Court of Appeals, in affirming this Court's ruling in the case of

Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 6054, April 15, 2002, made this pronouncement, to wit :

> *Under the* **verba legis** *or* **the plain meaning rule**, *if the statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. The principle rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent or will and preclude the court from construing it differently. The legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by use of such words as are found in the statute (Republic vs Court of Appeals, 299 SCRA 199). Section 4 (a) of R.A. No. 7432 provides in clear, unambiguous and unequivocal terms that private establishments granting 20% discounts to qualified senior citizens "may claim the cost as a tax credit". There being no ambiguity in the language employed, the CTA therefore committed no error in applying said law according to its express terms.*
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> *xxx xxx xxx*
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> *Neither can We go along with petitioner's argument that to allow respondent to claim the 20% discount as tax credit instead of as a mere deduction from gross income/gross sales would be to grant a benefit not intended by law. The main objective of R.A. No. 7432 is to provide assistance and special privileges to senior citizens. In the implementation thereof, the State essentially requires drugstores, like herein respondent, to give the 20% of the value of the medicines sold in the form of a discount in prices. This is tantamount to taking of private property for public use under the power of eminent domain. While the State's power of expropriation is authorized by the Constitution, it should not be exercised without payment of "just compensation" (Article III, Section 9). As aptly held in the case of Manosca vs Court of Appeals, 252 SCRA 412, the only direct constitutional qualification for the exercise of such power is that "private property shall not be taken for public use without just compensation". The tax credit scheme provided under the subject law is designed to compensate private establishments the full and fair equivalent of the property taken from them, hence, it would be highly*

> *inappropriate to consider the same as "benefit not included by law".*

All the foregoing considered, this Court *en banc* finds no reversible error committed by the Division of this Court in rendering the assailed Decision dated December 11, 2003 and Resolution dated April 19, 2004.

WHEREFORE, the instant petition is **DENIED** due course and is hereby **DISMISSED** for lack of merit. The assailed Decision dated December 11, 2003 is correspondingly affirmed in toto.

SO ORDERED.

ERLINDA P. UY
Associate Justice

We concur:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of this Court before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice