REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

JEWEL PAWNSHOP CORP.,
Petitioner,

- versus -

C.T.A. CASE NO. 6824

COMMISSIONER OF INTERNAL, REVENUE,
Respondent.

Promulgated:
SEP 14 2004
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DECISION

This is a judicial appeal from the decision of the respondent holding petitioner liable for the amount of P1,922,028.26 as deficiency value-added tax for taxable year 1999.

The antecedent facts of the case are as follows:

Petitioner is a corporation duly organized and existing under and by virtue of the Philippine laws, engaged in the pawnshop business, with principal place of business at M. Lhuillier Bldg., Benedicto Street, North Reclamation Area, Cebu City *(p. 3, Petition for Review).*

On May 7, 2002, petitioner received a Preliminary Assessment Notice from the Regional Director of Revenue Region No. 13, Cebu City, demanding payment of the amount of P1,922,028.26 as deficiency value-added tax (VAT) *(Annex C, Petition for Review).* Petitioner, however, filed its letter protest against said notice on May 28, 2002, questioning the legality of the imposition of VAT to pawnshops *(Annex D, Petition for Review).*

Upon denial of said protest *(Annex E, Petition for Review)*, a Final Assessment Notice dated June 4, 2002 was issued by respondent assessing petitioner of deficiency VAT in the amount of P1,922,028.26 for the taxable year 1999 duly received by the petitioner on July 25, 2003 *(Annex F, Petition for Review)*. Attached to said final assessment notice were the Details of Discrepancies *(Annex G, Petition for Review)*, Final Notice Before Seizure *(Annex H, Petition for Review)* and Formal Letter of Demand *(Annex I, Petition for Review)*.

On July 30, 2003, petitioner filed a Motion for Reconsideration of respondent's letter of denial and final assessment notice questioning the legality and validity of the assessment *(Annex J, Petition for Review)*. Petitioner received the final decision of respondent denying the said motion for reconsideration on October 22, 2003 *(Annex K, Petition for Review)*.

Hence, on November 18, 2003, petitioner filed thru registered mail the instant petition which was received by this court on December 1, 2003, seeking the reversal of the decision of the respondent by alleging, among others, that Section 102 (a) of the old Tax Code (now Section 108 [A], 1997 Tax Code) does not include pawnshop businesses as being subject to VAT.

By way of an Answer filed on January 21, 2004, respondent asserted the following Special and Affirmative Defenses, to wit:

> 8. Petitioner, as a pawnshop operator, performs services for others for a fee, remuneration or consideration. Its gross receipts derived from such services are subject to value-added tax (VAT) on sale of services under Section 108 (A) of the Tax Code (Commissioner of Internal Revenue vs. Agencia Exquisite of Bohol, Inc., CA-G.R. Sp. No. 68180, February 12, 2003; Commissioner of Internal Revenue vs. Exquisite Pawnshop &

Jewelry, Inc., CA-G.R. Sp. No. 70319, May 13, 2003; Commissioner of Internal Revenue vs. Prime Asia Pawn and Jewelry Shop, Inc., CA-G.R. Sp. No. 70318, November 6, 2003).

9. Interest on pledge loans and past due loans and liquidated damages are part of petitioner's gross receipts subject to VAT.

10. The assessment was issued in accordance with law and regulations.

11. All presumptions are in favor of the correctness of tax assessments.

The parties filed their Joint Stipulation of Facts on April 21, 2004 manifesting their mutual agreement on the facts and issues involved in this case as follows:

Summary of Jointly Stipulated Facts

1. Parties stipulated on their respective legal capacity.

2. Parties stipulated that the petition was timely filed and that the same was filed in accordance with the requirement (sic) of the Tax Code.

3. Parties stipulated that BIR Rulings Nos. DA-10302002 (sic), Revenue No. 43-91 were not published.

4. Parties stipulated that (sic) pawnshop is not akin to lending investors as ruled by the Supreme Court.

Stipulated Issues

1. Whether or not petitioner, as a pawnshop operator is subject to VAT on sale of services under Section 108 (A) of the Tax Code.

2. Whether or not interest on pledge loans and past due loans and liquidated damages are part of petitioner's gross receipt subject to VAT.

3. Whether BIR Ruling No. DA-10302002 (sic), Revenue Memorandum Circular No. 45-2001, RMO No. 15-91 and RMC No. 43-91 were published and passed in compliance of the requirement of due process.

This court deems it appropriate to resolve first the third issue above stipulated.

Petitioner questioned the validity of BIR Ruling No. DA-103-2002, RMC No. 45-2001, RMO No. 15-91 and RMC No. 43-91 for failure thereof to comply with the requirements of due process.

In the case of ***Commissioner of Internal Revenue vs. Hon. Andres B. Reyes, Jr., CA-G.R. SP No. 28824, December 23, 1993***, the Court of Appeals first ruled on the validity of Revenue Memorandum Circular Nos. 15-91 and 43-91, wherein it held that the said circulars are null and void, thus:

> Revenue Circulars Nos. 15-91 and 43-91 are not implementing rules but are new and additional measures which only congress is empowered to impose. Section 245 of the Tax Code has limited or confined petitioner's power to issuing rules and regulations to implement or carry into effect the provision of the Code in the enforcement of taxes provided therein, and petitioner cannot impose additional taxes not provided therein.

The Supreme Court likewise declared the same, when it enunciated in another case, that:

> Since Section 116 of the NIRC of 1977, which breathed life on the questioned administrative issuances, had already been repealed, **RMO 15-91** and **RMC 43-91**, which depended upon it, **are deemed automatically repealed**. Hence, even granting that pawnshops are included within the term lending investors, the assessment from 27 May 1994 onward would have no leg to stand on.
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> Adding to the invalidity of the RMC No. 43-91 and RMO No. 15-91 is the **absence of publication**. While the rule-making authority of the CIR is not doubted, like any other government agency, the CIR may not disregard legal requirements or applicable principles in the exercise of quasi-legislative power.
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> xxx xxx xxx
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> RMO No. 15-91 and RMC No. 43-91 cannot be viewed simply as implementing rules or corrective measures revoking in the process

> the previous rulings of past Commissioners. Specifically, they would have been amendatory provisions applicable to pawnshops. *Without these disputed CIR issuances, pawnshops would not be liable to pay the 5% percentage tax,* considering that they were not specifically included in Section 116 of the NIRC of 1977, as amended. **In so doing, the CIR did not simply interpret the law. The due observance of the requirements of notice, hearing, and publication should not have been ignored.**
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> xxx xxx xxx
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> In view of the foregoing, **RMO No. 15-91 and RMC No. 43-91 are hereby declared null and void.** *Consequently, Lhuillier is not liable to pay the 5% lending investor's tax* ***(Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc., G.R. No. 150947, July 15, 2003).*** *(Emphasis and italics supplied).*

Petitioner further averred that the interpretation of the respondent expressed in Revenue Memorandum Circular No. 45-01 (RMC No. 45-2001) is a mere afterthought.

We do not agree.

Said administrative ruling may be viewed simply as an implementing rule or corrective measure revoking in the process the previous rulings of past Commissioners. Thus, said administrative issuance is "merely interpretative in nature and is designed to provide guidelines to the law which the agency is in charge of enforcing ***(Misamis Oriental Association of Coco Traders, Inc. vs. Department of Finance Secretary, G.R. No. 108524, November 10, 1994)***."

This court already upheld the validity of the subject revenue memorandum when it pronounced in this wise:

> From the very text of RMC No. 45-2001, the CIR merely elaborated on the provisions of R.A. 7716, otherwise known as the Expanded Value-Added Tax Law. <u>The said revenue memorandum did not in any way amend the provisions of the law. At the very most, it</u>

reiterated what the law already provided for, as can be gleaned from certain paragraphs of the actual text, to wit:

> "The foregoing amendments to the VAT law leave no room for interpretation. Thus, unless expressly exempt from VAT, any person engaged in the sale of goods, property or services in the course of his trade or business shall be liable to the 10% VAT. The definition of the phrase '*sale or exchange or service*' under Section 108 of the National Internal Revenue Code of 1997 (NIRC) is broad enough to cover other 'xxx *similar services regardless of whether or not the performance thereof calls for the exercise or use of physical or mental faculties* xxx" ***(RD Pawnshop, Inc. vs. Commissioner of Internal Revenue, CTA No. 6531, April 15, 2004; Exquisite Pawnshop Jewelry, Inc., vs. Jaime B. Santiago, in his capacity as Revenue Regional Director, Revenue Region No. 13 of the Bureau of Internal Revenue and the Commissioner of Internal Revenue, CTA Case No. 6755, July 6, 2004).***

With respect to BIR Ruling No. DA-103-2002, as stated by the petitioner in its Petition for Review, the same was issued only for the purpose of interpreting RMC No. 45-2001, RMO No. 15-91 and RMC No. 43-91. Thus, "being merely interpretative in nature, its applicability needs nothing further than its bare issuance, for it gives no real consequence more than what the law itself has already prescribed ***(Commissioner of Internal Revenue v. Court of Appeals, 261 SCRA 236, 247 [1996])***."

At this juncture, this court would like to point out that the issue on the validity of the above-cited rulings of the respondent does not in any way affect the issue of whether or not pawnshop businesses are subject to the 10% VAT imposed under Section 108 (A) of the 1997 Tax Code. As clearly stated, said rulings are limited only to the 5% percentage taxes and did not even make mention of the 10% VAT.

Let us now delve on the remaining issues.

This court has consistently ruled that pawnshops are subject to VAT on sale of services as provided for under Section 108 (A) of the 1997 Tax Code. Said ruling finds support in the recent decisions laid down by this court, to wit: ***RD Pawnshop, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6531, April 15, 2004; Surigao-Jupiter Pawnshop, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6690, May 27, 2004; Agencia Exquisite of Dipolog, Inc. vs. Hadji Mama B. Marzoc, Ceso V (In his official capacity as Revenue Regional Director, Revenue No. 15 of the Bureau of Internal Revenue) and the Commissioner of Internal Revenue, CTA Case No. 6748, May 28, 2004; and Regional Pawnshop, Inc. vs. Bureau of Internal Revenue, South Solano, Nueva Viscaya, CTA Case No. 6709, August 9, 2004***, among others. This much is a settled matter.

Section 108 (A) of the Tax Code provides:

> **SEC. 108. Value-added tax on Sale of Services and Use or Lease of Properties. -**
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> **(A) Rate and Base of Tax.** – There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties.
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> <u>The phrase "sale or exchange of services" means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered</u> by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessor or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repacking of goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshments parlors, cafes and other eating places, including clubs and caterers; dealers in securities;

> lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire and other domestic common carriers by land, air and water relative to their transport of goods or cargoes; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code; services of banks, non-bank financial intermediaries and finance companies; and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. xxx *(Underscoring supplied)*

In the instant appeal, it is the petitioner's contention that the phrase "sale of services" should be understood in the light of the original interpretation given by the BIR in its series of rulings anent the application of Executive Order No. 273, whereby pawnshops were not made subject to VAT because "operations of a pawnshop partakes of the nature of a contract of pledge, thus, no service is rendered to its clients".

It further argued that considering that the phrase "sale of services" is merely a carry-over from said Executive Order, then said VAT Rulings and administrative issuances should be observed and consequently adopted in deciding the instant case.

The court is not persuaded.

While it is true that respondent has issued VAT Ruling Nos. 022-90 (January 23, 1989), 067-90 (March 9, 1990), and 226-90 (December 18, 1990) interpreting the term "sale of services", to the effect, that a pawnshop is not subject to VAT as provided for in Section 99 of the old Tax Code, as amended by E.O. No. 273, yet BIR Rulings are not conclusive in the interpretation of tax laws. BIR Rulings have been aptly described as "the best guess of the moment x x sort of an information service to the taxpayer" and are "not binding on the courts" ***(Commissioner vs. Ledesma, L-17509, January 30, 1970; Commissioner of Internal Revenue vs. Placer Dome Technical Services (Phils), Inc., CA-GR SP 71458, June 30, 2004)***. In other words, said rulings should not be taken as the gospel truth of the interpretation of tax laws which will deprive the courts of its statutory mandate to interpret said laws. They are merely persuasive in nature and deemed applicable only in a case-to-case basis. Thus:

> Rulings issued by the Commissioner of Internal Revenue command respect and weight. However, such rulings are not conclusive upon the courts and will be ignored if found to be erroneous. Hence, in the case of ***Philippine Bank of Communications vs. Commissioner of Internal Revenue, G.R. No. 112024, January 28, 1999***, our Supreme Court, in disregarding a Revenue Memorandum Circular issued by the Commissioner of Internal Revenue, held:
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>> "It bears repeating that Revenue memorandum-circulars are considered administrative rulings (in the sense of more specific and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous. Thus, courts will not countenance administrative issuances that override, instead of remaining consistent with, the law they seek to apply and implement." ***(Nippon Life Insurance Company of the Philippines, Inc. vs. Commissioner of Internal Revenue, SC-G.R. No. 159612, November 19, 2003, CA-G.R. SP No. 69224, November 15, 2002, CTA Case No. 6142, February 4, 2002; Malayan Reinsurance Corporation [Formerly Eastern General Reinsurance Corporation] vs. Commissioner of Internal Revenue, CTA Case No. 6471, January 26, 2004)***

Moreover, in Revenue Circular Order No. 15-91 (March 11, 1991), the ruling that "pawnshop is subject to percentage tax under Section 116 of the NIRC as amended by E.O. No. 273 and not under VAT on sale of services" has long been reversed by numerous jurisprudence. "Article 8 of the New Civil Code recognizes judicial decisions, applying or interpreting statutes as part of the legal system of the country. But administrative decisions do not enjoy that level of recognition. A memorandum-circular of a bureau head could not operate to vest a taxpayer with a shield against judicial action. For there are no vested rights to speak of respecting a wrong construction of the law by the administrative officials and such wrong interpretation could not place the Government in estoppel to correct or overrule the same ***(Philippine Bank of Communications vs. Commissioner of Internal Revenue, supra)***." When an administrative agency renders an opinion or issues a statement of policy, it merely interprets a pre-existing law and the *administrative interpretation is at best advisory for it is the courts that finally determine what the law means.* xxx ***(Baltazar vs. COMELEC, 350 SCRA 518)***.

Time and again, this court has always been guided by the principles laid down in the case of ***Commission of Internal Revenue vs. Exquisite Pawnshop and Jewelry, Inc., CA-G.R. Sp No. 70319, May 13, 2003***, when it proclaimed that:

> Section 105 of the National Internal Revenue Code (NIRC) subjects "any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods to a value-added tax (VAT)". While Section 108 of the National Internal Revenue Code of 1997 defines the phrase "sale of services" as the "performance of all kinds of services for others for a fee, remuneration or consideration". It includes the services enumerated in the aforementioned section and similar

services regardless of whether or not the performance thereof calls for the exercise or use of physical or mental faculties. The wordings of the definition of the phrase "sale or exchange of services" is unambiguous. It encompasses the performance of all kinds of services for a fee, remuneration or consideration.

Thus, the sale or exchange of services is subject to 10% VAT. Indeed, for as long as the entity provides service for a fee, remuneration or consideration, then the service rendered is subject to VAT.

Section 3 of Presidential Decree No. 114 defines a pawnshop, thus:

"Pawnshop shall refer to a person or entity engaged in the business of lending money on personal property delivered as security for loans."

From the foregoing definition, the fact that, the principal activity of a pawnshop is lending money at interest on the security of personal property is instantly recognizable. Needless to state, the act of lending money at interest constitutes a performance of a service for a fee, remuneration or consideration.

The phrase "all kinds of services" as stated in the second paragraph of Section 108 (A) of Republic Act No. 8424 is broad enough to cover the kind of service which is provided by pawnshops to their borrowers, that is lending money in consideration of personal property delivered as security. Hence, a pawnshop is engaged in the sale of services that is subject to VAT under Section 108 (A) of the Tax Code, although it is not specifically mentioned in the law. *(Underscoring supplied).*

Clearly then, pawnshops are subject to value-added tax.

Furthermore,

From the wordings of Section 108 (A) of the NIRC, it is clear that the intention of the legislature is not to limit its application to those enumerated therein, nor exclude other kinds of services performed for a fee, remuneration or consideration. The use of the word "including" in the statute is indicative of the intention to enlarge rather than to limit its coverage. And petitioner's attempt to restrict its application to those categorically mentioned clearly disagrees with the very import of the phrase "all kinds of services" as used in the above-quoted provisions. xxx ***(Regional Pawnshop, Inc. vs. Bureau of Internal Revenue, South Solano, Nueva Viscaya, CTA Case No. 6709, August 9, 2004).***

From the plain language of the law, the sale or exchange of services is subject to VAT and the phrase "sale or exchange of services" encompasses the performance of all kinds of services for others for a fee, remuneration or consideration. The enumeration of persons performing services for a fee, remuneration or consideration, such as construction and service contractors, stock, real estate, commercial, customs and immigration brokers, etc., is merely to give examples of businesses performing services for a fee, remuneration or consideration that are subject to VAT. The enumeration is not exclusive, which means that other persons performing services for a fee, remuneration or consideration, who are not expressly mentioned in the enumeration, are also subject to VAT. In the case of ***Gomez vs. Ventura, 54 Phil. 726***, it was ruled that:

> "xxx The maxim *expressio unius est exclusio alterius* should be applied only as a means of discovering legislative intent and should not be permitted to defeat the plain indicated purpose of the legislature. It does not apply when the words are mentioned by way of example, or to remove doubts (See Cyc., 1122 xxx.)."

Section 108 (A) of the 1997 Tax Code does not limit its application to those enumerated therein because the law speaks of "all kinds of services". To limit its application to the enumeration would contradict the very clear meaning of the phrase "all kinds of services" ***(Cebu Mabuhay Pawnshop, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6266, March 25, 2004; Regional Pawnshop, Inc. vs. Bureau of Internal Revenue, South Solano, Nueva Viscaya, supra)***. *(Underscoring supplied).*

It bears stressing once again that tax exemptions are strictly construed against the person or entity claiming the same being regarded as in derogation of sovereign authority ***(Commissioner of Internal Revenue vs. Procter and Gamble Phil. Mfg. Corp., 204 SCRA 377; Commissioner of Internal Revenue vs. S.C. Johnson & Son, Inc., 309 SCRA 87; Cyanamid Phils., Inc. vs. Court of Appeals, 322 SCRA***

639). Thus, this court reiterates its dissertation on the subject matter, wherein it ruled that:

> Furthermore, Section 109 [formerly Section 103] of the Tax Code, as amended, enumerates the transactions that are exempt from VAT. Pawnshop transactions are not among the exempt transactions under the said section. Neither are there any express provisions of law exempting pawnshops from VAT. Since the transactions of pawnshops are not among those enumerated in Section 109 or any other express provision of law as VAT-exempt, it follows that the same are subject to VAT under Section 108 (A) ***(Cebu Mabuhay Pawnshop, Inc. vs. Commissioner of Internal Revenue, supra)***.

Relative thereto, petitioner's reliance on the ruling elucidated in the case of ***Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc., supra***, wherein it was ruled that "while it is true that pawnshops are engaged in the business of lending money, they are not considered 'lending investors' for the purpose of imposing the 5% percentage taxes" to bolster its claim, is misdirected.

The aforementioned case involves a different issue, as pointed out by petitioner itself, which particularly speaks of the imposition of the 5% lending investor's tax under the then Section 116 of the Tax Code. This is completely different from the subject matter at hand, particularly, the imposition of the 10% VAT. Section 116 of the Tax Code had in fact been repealed upon the effectivity of R.A. No. 7716 (the Expanded VAT Law) on January 1, 1996. Hence, petitioner's contention has no legal ground for this court's consideration. The issue of distinction between lending investors and pawnshops has become moot and academic upon the implementation of the EVAT Law abovementioned. Therefore, there is a clear intention on the part of the legislature to subject pawnshop businesses to 10% VAT.

As a matter of fact, the same contention has been raised in the case of ***RD Pawnshop, Inc. vs. Commissioner of Internal Revenue, supra***, wherein we elucidated, that:

> We concur with petitioner when it argued that pawnshops and lending investors are dealt with differently. However, as held in the most recent case of ***Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.***, G.R. No. 150947, July 15, 2003, the Supreme Court ruled that pawnshops are not considered as "lending investors" only for the purpose of imposing the 5% percentage taxes, x x x
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> Nowhere in the aforecited case did the Highest Tribunal rule that pawnshops are not liable to value-added tax pursuant to Section 108(A) of the 1997 Tax Code. The 5% percentage tax is definitely different from the value-added tax. The issue raised and resolved by the Honorable Supreme Court dealt with the 5% lending investor's tax, and thus, it would be incorrect to assume that the same resolution also applies to the issue of the value-added tax liability of pawnshops, under the provisions of Section 108 (A) of the 1997 Tax Code. (*Underscoring supplied).*

After the lengthy and exhaustive discussion of the correct interpretation of Section 108 (A) of the 1997 Tax Code, this court will now tackle the final issue of whether or not interest on pledge loans and past due loans and liquidated damages are part of petitioner's gross receipt subject to VAT.

Petitioner argued that interest on pledge loans and past due loans are not subject to VAT for the same are not income/receipt arising from sale or exchange of services but are compensation for forbearance of money. Likewise, liquidated damages are not income from sale or exchange of services but arise from breach of contract committed by its clients when the latter incur in delay in delivering or paying the amount it borrowed.

The court disagrees.

As correctly pointed out by the respondent in his Memorandum filed on June 25, 2004, this court has already passed upon and finally settled such issue in the case of ***Kwik Loan Pawnshop, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6424, April 21, 2003***, in this wise:

> By the very nature of the pawnshop business, money is being lent secured on personal property. The interest on pledge loans and past due loans are not compensation for forbearance of money. The same is true with liquidated damages in case the pawner fails to pay the borrowed money on time. Said loan having been secured on personal property, the pawnshop operator does not suffer any damage if ever the pawner defaults in the payment of the borrowed money. This is because in the pawnshop business, the loaned money is always very much lower than the actual worth of the personal property pawned.
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> As regards the sale of the pawned items, what is being taxed by the respondent is the gain on auction sale and not the auction *per se*. But more importantly, gross receipts is defined in Section 108 as follows:
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>> "The term '*gross receipts*' means the <u>total amount of money or its equivalent</u> representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced <u>payments actually or constructively received</u> during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax." *(Underscoring supplied)*
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> Thus, all interest income, liquidated damages and gains from auction sale of pawned items actually or constructively received by petitioner, *having been derived as an intrinsic part of the pawnshop business*, form part of the gross receipts of pawnshops subject to VAT.

In a capsule form, this court reiterates its consistent rulings that: (1) RMC No. 45-2001 and BIR Ruling No. DA-103-2002 are valid; (2) pawnshops are subject to VAT on sale of services as provided for under Sec. 108(A) of the 1997 Tax Code;

and (3) all interest income, liquidated damages and gains from auction sale of pawned items actually or constructively received by pawnshops as form part of its gross receipts and are subject to VAT.

WHEREFORE, the instant petition is hereby **DENIED** for lack of merit. Accordingly, petitioner is hereby **ORDERED TO PAY** deficiency value-added tax for the taxable year 1999 in the total amount of P1,922,028.20 (inclusive of 20% deficiency interest), plus 25% surcharge and 20% delinquency interest from July 5, 2002 until fully paid pursuant to Section 249 (c) of the 1997 Tax Code.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

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 Justice