REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BALIUAG DRUG CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 6537

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
NOV 25 2004

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DECISION

This is a case which involves a claim for refund and/or issuance of a tax credit certificate in the total amount of P1,085,605.00 allegedly representing overpaid income taxes for the taxable years 2000 and 2001 due to the alleged erroneous treatment by the petitioner of the 20% sales discounts granted to senior citizens' purchases of medicines as deductions from gross sales as per Revenue Regulations No. 2-94 instead of as tax credit pursuant to Republic Act No. 7432.

The antecedent facts of the case are as follows:

Petitioner is a domestic corporation organized and existing under the laws of the Republic of the Philippines with business address at Plaza Naning, Baliuag, Bulacan *(Paragraph 1, Joint Stipulation of Facts and Issues)*.

As a franchisee under the business name and style of "Mercury Drug", petitioner is duly licensed to operate a drug store by the Department of Trade and

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Industry, the Bureau of Food and Drugs, and the Municipal Government of Baliuag, Bulacan *(Paragraph 2, Joint Stipulation of Facts and Issues)*.

During the period of taxable years 2000 and 2001, petitioner alleged that it granted twenty (20%) percent sales discount to qualified senior citizens on their purchases of medicines totaling P1,587,767.00 in compliance with Republic Act No. 7432, otherwise known as "An Act to Maximize Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes".

On April 18, 2001 and April 15, 2002, petitioner filed its Annual Income Tax Returns for taxable years 2000 and 2001, respectively *(Paragraph 3, Joint Stipulation of Facts and Issues; Exhibits B and Q)*.

On July 9, 2002, petitioner filed with respondent a claim for a tax credit/refund in the total amount of P1,085,605.00 arising from the twenty (20%) percent discount it granted to qualified senior citizens under Republic Act No. 7432 on their purchases of medicines during the period from January 1, 2000 to December 31, 2001 *(Paragraph 4, Joint Stipulation of Facts and Issues)* asserting that Section 2(i) of Revenue Regulations No. 2-94 made an erroneous interpretation of the tax credit provision of the Senior Citizens Law. Petitioner's administrative claims were computed as follows *(Exhibit Z)*:

TAXABLE YEAR 2000		
SALES, Net		P 79,215,009.00
Add: Cost of 20% Discount to Senior Citizens		613,425.00
SALES, Gross		P 79,828,434.00
Less: Cost of Sales		
Merchandise Inventory	P 11,754,171.00	
Purchases	73,068,396.00	

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Merchandise Inventory, Ending	(12,966,783.00)	71,855,784.00
GROSS PROFIT		P 7,972,650.00
Add: Other Income (Net of Interest Income Subject to Final Tax)		320,391.00
TOTAL INCOME		P 8,293,041.00
Less: Operating Expenses		6,863,901.00
NET INCOME BEFORE TAX		P 1,429,140.00
INCOME TAX (32%)		P 457,325.00
Less: Income Tax Actually Paid		(273,231.33)
Cost of 20% Discount to Senior Citizens		(613,425.00)
INCOME TAX REFUNDABLE/CREDITABLE		P (429,331.00)

TAXABLE YEAR 2001

SALES, Net		P 88,400,736.00
Add: Cost of 20% Discount to Senior Citizens		974,342.00
SALES, Gross		P 89,375,078.00
Less: Cost of Sales		
Merchandise Inventory	P12,966,783.00	
Purchases	81,309,361.00	
Merchandise Inventory, Ending	(14,051,150.00)	80,224,994.00
Gross PROFIT		P 9,150,084.00
Add: Other Income (Net of Interest Income Subject to Final Tax)		366,222.00
TOTAL INCOME		P 9,516,306.00
Less: Operating Expenses		7,914,132.00
NET INCOME BEFORE TAX		P 1,602,174.00
INCOME TAX (32%)		P 512,696.00
Less: Income Tax Actually Paid		(194,628.00)
Cost of 20% Discount to Senior Citizens		(974,342.00)
INCOME TAX REFUNDABLE/CREDITABLE		P (656,274.00)
TOTAL INCOME TAX REFUNDABLE/CREDITABLE		P (1,085,605.00)

Respondent having not acted upon with finality petitioner's claim for tax credit/refund *(Paragraph 5, Joint Stipulation of Facts and Issues)*, petitioner filed the instant Petition for Review with this Court on September 20, 2002.

By way of an Answer filed on October 1, 2002, respondent asserted the following Special and Affirmative Defenses, and posited:

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4. Revenue Regulations No. 2-94 did not alter, modify or amend the intent of the law to consider the 20% discount granted to qualified senior citizen as deduction from petitioner's gross income and not as credit against its tax liability as petitioner insists;

5. With the accumulation of experience and growth of specialized capabilities by the agency charged with implementing a particular statute, it is now a recognized principle that the construction given to a statute by an administrative agency charged with the interpretation and application of that statute is entitled to great respect and should be accorded great weight by the courts, unless such construction is clearly shown to be in sharp conflict with the governing statute or the constitution and other laws (Nestle Philippines, Inc. vs. CA, et al., 203 SCRA 504);

6. R.A. 7432 allows the discounts granted to senior citizens to be claimed as a tax credit but is silent as to the mechanics of availing the same. For clarification and as a curative measure, Revenue Regulations No. 2-94 was issued defining the term "tax credit" as used in the law and providing therein the manner of claiming the same, which is by deduction from the establishment's gross income and not from its income tax liability. Otherwise an absurdity, not intended by law, will arise;

7. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau;

8. The amount of P1,085,605.00 being claimed by petitioner as alleged sales discount to senior citizens on their purchases of medicines for taxable years 2000 and 2001 was not properly documented;

9. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;

10. Petitioner must show that it has complied with the provisions of Sections 204 (C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit;

11. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.

After trial on the merits, the Court issued a resolution dated September 2, 2004 and considered the case submitted for decision after both parties filed their respective memorandum.

Gathered from the Joint Stipulation of Facts and Issues submitted by parties on November 25, 2002, the following are matters for the Court to resolve in this case:

a. Whether or not the administrative and judicial claim of Petitioner for tax credit/refund were filed within the two (2) – year statutory period.

b. Whether the twenty (20%) percent discount granted to qualified senior citizens on their purchases of medicines should be treated as a tax credit/refund deductible from the tax due as provided under Republic Act No. 7432 or merely as a deduction from gross income as provided under Revenue Regulations No. 2-94.

c. Whether or not during the period from January 1, 2000 to December 31, 2001, Petitioner granted discounts to qualified senior citizens on their purchases of medicines pursuant to Republic Act No. 7432 in the total amount of P1,587,767.00.

d. Whether or not Petitioner's claim for tax credit/refund is substantiated by documentary evidence.

e. Whether or not Petitioner is entitled to a tax credit/refund in the amount of P1,085,605.00 arising from the twenty (20%) percent discount it granted to qualified senior citizens under Republic Act No. 7432 on their purchases of medicines during the period from January 1, 2000 to December 31, 2001.

After a cursory reading of the jointly stipulated issues of the parties, this Court finds that the main issue in this case, despite the numerous matters raised, basically boils down to the correct treatment of the twenty (20%) percent discounts granted by petitioner to qualified senior citizens under Republic Act No. 7432 on the latter's purchases of medicines during the period from January 1, 2000 to December 31, 2001.

Be that as it may, this Court opts to discuss the other issues insofar as they are necessary for a complete and comprehensive resolution of this case.

To begin with, it bears stressing that tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed in *strictissimi juris* against the person or entity claiming the exemption (***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***). Thus, the claimant must be able to establish clearly and convincingly that it is entitled to such exemption.

Petitioner anchored its claim for refund on Section 204 in relation to Section 229 of the Tax Code, to wit:

> **SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.** -- The Commissioner may --
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. <u>No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty</u>: x x x

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> **SEC. 229. Recovery of Tax Erroneously or Illegally Collected.** -- No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: x x x *(Underscoring supplied)*

Applying the aforequoted provisions, this Court finds that petitioner has indeed established the facts that it was able to file both its administrative and judicial claims for refund within the aforesaid period. The two-year prescriptive period for the filing of a claim for refund commences from the date of filing of the final adjustment return ***(ACCRA Investment Corporation vs. Court of Appeals, 204 SCRA 957)***. Based on the records, petitioner's administrative claim filed on July 9, 2002 *(Exhibit Z)* and its judicial appeal by way of Petition for Review filed on September 20, 2002 fall very much within the two-year prescriptive period to be reckoned from petitioner's filing of its 2000 and 2001 Income Tax Returns on April 18, 2001 and April 15, 2002, respectively *(Exhibits B & Q)*.

In discussing the issue regarding the proper treatment of the twenty percent (20%) discount granted to qualified senior citizens, this Court finds it relevant to quote paragraph (a), Section 4 of Republic Act No. 7432 (An Act to Minimize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special

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Privileges and for Other Purposes) and Section 2(i) of Revenue Regulations No. 2-94, *viz*:

> **SEC. 4. *Privileges for the Senior Citizens.*** – The senior citizens shall be entitled to the following:
>
> (a) the grant of twenty percent (20%) discount from all establishments relative to utilization of transportation services, hotels and similar lodging establishments, restaurants and recreation centers and purchase of medicine anywhere in the country: *Provided*, That private establishments may claim the cost as tax credit; x x x *(Underscoring supplied)*
>
> **Section 2 (i), Revenue Regulations No. 2-94:**
>
> i. Tax credit – refers to the amount representing the 20% discount granted to a 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 places of culture, leisure and amusement, which discount shall be deducted by the said establishments from their gross sales for value-added tax or other percentage tax purposes." *(Underscoring supplied)*

Our ruling in the case of ***Sto. Rosario Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5367, February 16, 1998*** interpreted exhaustively the aforequoted provisions when We enunciated, that:

> The provision of Section 4 of R.A. 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).

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> It is true that the respondent has the power of subordinate legislation effected by her issuance of implementing rules and regulations such as Revenue Regulations No. 2-94 in the case at bar, but the said power is not without limit. The administrative regulation must not be in sharp conflict with the governing statute it seeks to implement (Nestle Philippines, Inc. vs. Court of Appeals, et al., 203 SCRA 504). Revenue Regulations No. 2-94 gave a new meaning to the phrase "tax credit", interpreting it to mean that the 20% discount granted to qualified senior citizens is an amount deductible from the establishment's gross sales, which is **completely contradictory** to the literal or widely accepted meaning of the said phrase, as an amount subtracted from an individual's or entity's tax liability to arrive at the total tax liability (Black's Law Dictionary). *(Underlining and emphasis supplied)*
>
> A research made on the deliberations of the Bicameral Conference Committee with respect to the contents of Republic Act 7432 clearly shows that the real intent of the lawmakers was to treat these discounts as a tax credit rather than as a deduction as interpreted by the respondent.
>
> In view of such apparent discrepancy in the interpretation of the term "tax credit", the provisions of the law under R.A. 7432 should prevail over the subordinate regulation issued by respondent under Revenue Regulations No. 2-94.

Relevant to the foregoing, it is true that 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. They 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. Hence, in the case of ***Philippine Bank of Communications vs. Commissioner of Internal Revenue, G.R. No. 112024, January 29, 1999***, our Supreme Court, in disregarding a Revenue Memorandum Circular issued by the Commissioner of Internal Revenue, held:

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. *(Underscoring supplied)*

Furthermore, to clearly elaborate the aforesaid provision of R.A. No. 7432, We reiterate our dissertation in the case of ***Del Rosario Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5357, April 6, 1998***, wherein We elucidated the following points:

A cursory review of the wordings of Section 4 of Republic Act No. 7432 would reveal that the law literally intended the cost of the 20% discount to be claimed as tax credit by private establishments. We could not see any plausible reason for the respondent to interpret the phrase in a different way. The discount being available for tax credit as stated in the law cannot be made incoherent to mean that such discount be utilized instead as a deduction from gross income and from gross sales as what is provided in RR No. 2-94.

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 12). Its promulgation must be authorized by the legislature. (Philippine Administrative Law, Cruz, 1994 ed., p. 32).

RR No. 2-94 which engraved a new meaning to the phrase "tax credit" as referring to the 20% discount which is deductible from gross sales is patently incongruous and a deviation from the plain intendment of the law. It is even repugnant to the common dictionary acceptation of said phrase.

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> In declaring that the provisions of RA 7432 prevail over Revenue Regulations No. 2-94, it is important to point out that the cost of the 20% discount shall not be treated as deduction from the gross income of the petitioner nor deducted from its gross sales for VAT or other percentage tax purposes. The benefit that can be derived by taxpayers is the privilege of claiming these discounts as tax credit and no longer as deductions as what other taxpayers have done. They cannot avail of tax credit and claim said discounts as deductions at the same time because this would be tantamount to granting them benefits that are already disproportionate to the obligations imposed upon them by virtue of said law. This is to make clear for both the taxpayers and respondent that the tax credit privilege takes the place of claiming these discounts as deductions pursuant to this Court's stand that Section 2(i) of Revenue Regulations No. 2-94 is null and void and it is Section 4(a) of RA 7432 that will apply in cases of this nature.

The above-quoted ruling was reiterated in a long line of cases, to wit: ***Anno Domini Drug, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6437, December 15, 2003; Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 6046, June 7, 2002; Southern Luzon Drug Corporation (formerly known as Laguna Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 6049, May 14, 2002; Tropical Hut Food Market, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6048, May 14, 2002; Bicolandia Drug Corporation (formerly known as Elmas Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 6047, April 16, 2002 – CA-G.R. SP No. 70534, June, 2, 2003; Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 6054, April 15, 2002 – CA-G.R SP No. 70480, August 13, 2003; Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5773, March 19, 2002; Cagayan Valley Drug Corporation (formerly known as Vas Salus Drug***

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Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 6053, March 11, 2002; Southern Luzon Drug Corporation (formerly known as Laguna Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5770, March 6, 2002; Tropical Hut Food Market, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5771, March 6, 2002; M.E. Holding Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5772, February 12, 2001; Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5767, February 12, 2001; Bicolandia Drug Corporation (formerly known as Elmas Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5768, February 12, 2001; Cagayan Valley Drug Corporation (formerly known as Vas Salus Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5769, February 8, 2001; Tropical Hut Food Market, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5600, February 8, 2001; Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5612, January 9, 2001; Bicolandia Drug Corporation (formerly known as Elmas Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5599, October 10, 2000; Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5315, September 6, 2000; Trinity Franchising and Management Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5605, May 30, 2000; Cagayan Valley Drug Corporation (formerly known as Vas Salus Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5581, April 26, 2000; M.E. Holding Corporation vs. Commissioner

of Internal Revenue, CTA Case No. 5604, April 25, 2000; Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5582, April 24, 2000; Southern Luzon Drug Corporation (formerly known as Laguna Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5583, April 24, 2000; Vas Salus Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5509, November 26, 1999; Tropical Hut Food Market, Inc. vs. Commissioner of Internal Revenue; CTA Case No. 5312, May 28, 1999; Elmas Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5311, August 27, 1998 – CA-G.R. SP No. 49946, October 19, 1999; Trinity Franchising and Management Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5313, August 18, 1998; M.E. Holding Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5314, August 17, 1998; and Baliuag Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5365, May 13, 1998, among others.

In the case of ***Commissioner of Internal Revenue vs. Central Luzon Drug Corporation, supra***, the Court of Appeals, in affirming the ruling of this Court, made the following pronouncements:

> 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 the use of such words as are found in the statute (Republic vs. Court of Appeals, 299 SCRA 199). Section 4 (a), R.A.

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7432 provides in clear, unambiguous and unequivocal terms that private establishments granting 20% discount to qualified senior citizens "may claim the cost as 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. Its use of the plain meaning or literal rule therefore is but in keeping with its sworn duty to apply the law in accordance with the intent of the legislature. *The intent of the Legislature to be ascertained and enforced is the intent expressed in the words of the statute* (Regalado vs. Yulo, 61 Phil. 173,179 1935).

It bears to stress that tax credit and deduction have different connotations and applications. *"Tax credit"* is defined and understood as a credit against income tax itself (Ballantines Law Dictionary, 3rd edition), as distinguished from a mere deduction which applies only to reduce the income upon which the income tax is to be computed. *"Tax Credit"* is an amount subtracted from an individual's or entity's tax liability to arrive at the total tax liability. *Tax credit* reduces the taxpayer's liability while *deduction* reduces taxpayer's taxable income upon which the tax liability is computed. A credit differs from deduction in that the former is subtracted from tax while the latter is subtracted from income before tax is computed (Black's Law Dictionary). As the subject law uses the term "tax credit", it must be taken to mean exactly what it says. Moreover, the plain and evident intent of the legislature in enacting R.A. 7432 is to treat the 20% discount as a tax credit rather than as a deduction.

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. 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 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 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

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and fair equivalent of the property taken from them, hence, it would be highly inappropriate to consider the same as "benefit not intended by law".

Moreover, in the case of ***Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CA G.R. SP No. 60057, May 31, 2001***, the Court of Appeals ruled that the full amount and not only the cost of the 20% sales discounts to senior citizens should be the basis of the tax credit. To quote:

> Lastly, the concept of tax credit as just compensation, leads us to conclude that the term "cost" under Sec. 4(a) of R.A. 7432 refers to cost of acquisition, not the cost of medicines sold to senior citizens, which was already reduced by 20%. Just compensation is the full and fair equivalent of the property taken from the private owner by the expropriator. It is intended to fully indemnify the owner for the loss sustained. The actual, basic or market value of the property is the standard of just compensation. Among the factors considered are the cost of acquisition of the property, the current value of like properties and its actual or potential uses. Clearly, the cost of medicines sold to senior citizens, which is already discounted, does not come close to the full and fair equivalent of the property taken. It should not be the basis of the tax credit.

Thus, from the above-quoted jurisprudence, it could be seen with pristine clarity that the twenty percent (20%) sales discounts granted to qualified senior citizens on their purchases of medicines should be treated as tax credit and not merely as deductions from gross income.

After the lengthy and exhaustive discussion of the subject matter at hand, which clarifies the first two (2) issues raised in the case at bar, this Court will now proceed to the remaining stipulated issues, the discussion of which shall likewise be tackled jointly for convenience and brevity.

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To prove that it actually granted the 20% sales discounts to qualified senior citizens, petitioner submitted in evidence various cash slips *(Exhibits AA, EE, II and MM)*, the 2000 and 2001 Summary of Senior Citizens Discounts *(Exhibits QQ, RR, SS and TT)*, Special Record Book for 2000 and 2001 as required under the implementing rules of RA 7432 *(Exhibits BB, FF, JJ and NN)*, the 2000 and 2001 Cash Receipts Book *(Exhibits CC, GG, KK and OO)* and General Ledger *(Exhibits DD, HH, LL and PP)*.

After conducting a thorough verification of the various cash slips, the Summary of Senior Citizens Discounts, the Special Record Book, the Cash Receipts Book, the General Ledger, and that of the report of the Commissioned Independent CPA *(Exhibit UU)*, this Court has determined that petitioner was able to substantially establish its compliance with the applicable law and granted the aforesaid discount to senior citizens.

It should be noted that per Audited Comparative Financial Statements *(Exhibit Y)* in relation with petitioner's Income Tax Returns for taxable years 2000 and 2001 *(Exhibits B and Q)*, it appears that petitioner had sales discounts of P613,425.00 *(Exhibit Y-2-b)* and P974,342.00 *(Exhibit Y-2-e)* for 2000 and 2001, respectively, or in the aggregate sum of P1,587,767.00. However, based on the findings of the commissioned independent CPA, the sales discounts, which were duly substantiated, amounted to P664,760.58 for taxable year 2000 and P1,081,544.85 for taxable year 2001, or for a total sum of P1,746,305.43 which is more than P1,587,767.00, the amount of sales discount reported by petitioner in its financial statements. Hence,

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We shall only consider the amount P1,587,767.00 sales discounts given to senior citizens since this is the amount reported in petitioner's income statement as well as the amount administratively and judicially claimed by petitioner.

In computing petitioner's 2000 overpaid income tax, it is necessary to add back to petitioner's net sales of P79,215,009.00 *(Exhibit Y-2-c)* the amount of P613,425.00 representing the 20% sales discounts granted to senior citizens, which was previously deducted from its gross sales, since said discounts are no longer to be treated as deductions from gross income but rather as tax credit.

The same procedure shall likewise be adopted with respect to the computation of petitioner's 2001 overpaid income tax. We shall add back to the net sales of P88,400,736.00 *(Exhibit Y-2-f)* the amount of P974,342.00 representing the 20% sales discounts granted to senior citizens.

Consequently, a re-computation of petitioner's 2000 and 2001 income tax liabilities using the substantiated amounts of P613,425.00 and P974,342.00, respectively, as allowable tax credits will result to an overpaid income taxes of P429,331.00 and P656,274.00 for 2000 and 2001, respectively, or a total amount of P1,085,605.00 overpaid income tax for the two taxable years, as correctly computed by petitioner in its administrative claim for refund *(Exhibit Z)*.

All told, this Court finds petitioner to have sufficiently proven its claim for issuance of a tax credit certificate in the total amount of P1,085,605.00 representing overpaid income taxes for the taxable years 2000 and 2001 due to the erroneous treatment of the 20% sales discounts granted by petitioner to senior citizens on their

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purchases of medicines as deductions from gross income as prescribed by Revenue Regulations No. 2-94, instead of as tax credit pursuant to Republic Act No. 7432.

WHEREFORE, the instant petition is hereby **GRANTED**. Accordingly, respondent is hereby **ORDERED** to **ISSUE A TAX CREDIT CERTIFICATE** in the total amount of P1,085,605.00 in favor of the petitioner representing overpaid income taxes for the taxable years 2000 and 2001 pursuant to Sec. 4(a) of R.A. No. 7432.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA P. ENRIQUEZ
Associate Justice

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Division of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
(Chairman)