REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

BPI LEASING CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 4252

5/13/94

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - - - - - - x

D E C I S I O N

Petitioner BPI Leasing Corporation has filed this petition for review seeking for the refund of the amount of P777,117.05 allegedly representing overpaid gross receipts tax for 1986.

As borne out by the pleadings, petitioner is a corporation duly organized and existing under the laws of the Philippines engaged in the business as an equipment leasing and financing company.

Petitioner alleged that for the calendar year ending December 31, 1986 it paid the 4% contractor's tax of P1,134,041.49 based on gross rentals of P27,783,725.42 on equipment leasing and operating leases.

On the basis of Section 6.02 of Revenue Regulations No. 19-86 (issued on November 10, 1986), petitioner filed on April 11, 1988 a claim for refund or tax credit with the respondent alleging that it overpaid its gross receipts tax by P777,117.05 for the year 1986, computed as follows:

BPI LEASING CORPORATION
Recomputation of GRT for 1986
on Equipment Leasing/Operating Lease

	Rental Income	Rate	GRT
First quarter	P7,587,996.99	4%	P303,519.88
Second quarter	6,694,280.28	4%	267,771.21
Third quarter	6,823,216.09	4%	272,928.65
Fourth quarter			
Income prior to 10-01-86	6,678,232.06	4%	267,129.28
Income after 10-01-86			
within 2 years	200,246.15	5%	10,012.31
within 4 years	570,984.03	3%	17,129.52
within 7 years	55,063.67	1%	550.64
GRT paid on Equip. Leasing			P1,139,041.49

As Per Revenue Regulations No. 19-86:

	Earned Actual Income	Rate	GRT
within 2 years	P4,549682.66	5%	P 227,484.13
within 4 years	4,469,036.36	3%	134,071.09
within 7 years	36,922.03	1%	369.22
GRT paid on Equp. Leasing Per Rev. Regs. 19-86			P 361,924.44
Alleged Overpaid GRT per Rev. Regs. 19-86			P 777,117.05

Section 6.02 of Revenue Regulations No. 19-86 provides:

"PART B: GROSS RECEIPTS TAX

Section 6. Basis of the gross receipts tax. -

6.01 x x x x x x x x x.

6.02 The amount of interest, if the same is derived by a finance and leasing company registered under R.A. 5980 shall be subject to the gross receipts tax prescribed in Sections 260 and 261 (as amended by P.D. 1739) of the National Internal Revenue Code based on the remaining maturity of the lease. Amounts which the lessee, under the agreement, pays to the lessor (in addition to a stipulated rental) for certain other expenses properly payable by the lessor (as described in Section 2.01) shall be excluded for purposes of the gross receipts tax determined under this subparagraph."

Relying on the above-mentioned Regulation, petitioner claims that it had erroneously paid the 4 % contractors tax for 1986 based on gross rentals amounting to P27,783,725.42 instead of a graduated rate of 5%-3%-1% on gross receipts derived from actual leasing income received from its clients based on the remaining maturity of the leases pursuant to the provisions of Sections 260 and 261, as amended by P.D. 1739, of the National Internal Revenue Code which was later renumbered to Sections 220 and 221 of the 1986 Tax Code.

Without waiting for the decision of respondent, petitioner filed a Petition for Review with this Court on April 15, 1988 in order to toll the prescriptive period for claiming for a refund or tax credit pursuant to the provisions of Sections 243 and 246 of the same Code.

The issue posed is whether or not petitioner is entitled to the refund of P777,117.05 as alleged overpaid gross receipts tax for 1986 pursuant to Revenue Regulations No. 19-86.

Respondent denied the material allegations in the petition and alleged as special and affirmative defense that the petition states no cause of action considering the provision of Section 7 of Revenue Regulations No. 19-86, which provides:

> "**Section 7. Effectivity** - These regulations shall take effect on October 1, 1986 and shall be applicable to all leases written on or after the said date." **(Underling supplied.)**

There was no allegation nor was there any evidence presented regarding leases entered into on or after October 1, 1986 in order for it to be covered by said Regulations. A fortiori Section 6.02 cannot be applied to rental income earned from January 1 to September 30, 1986 or prior to the effectivity of said Revenue Regulation.

Petitioner pleads that the graduated rate of 5%, 3% and 1% gross receipts tax under Section 6.02 of Revenue Regulations No. 19-86 should be applied to its rental income derived from equipment leasing and operating leases in 1986 and not the flat 4% contractor's tax on gross receipts.

We disagree with petitioner.

Section 7 of Revenue Regulations No. 19-86 issued on November 10, 1986 was subsequently amended by Revenue

Regulations No. 22-86, dated December 16, 1986, said provision reads as follows:

> "**Section 7. Effectivity** - These regulations shall take effect on January 1, 1987 and shall be applicable to all leases written on or after the said date." **(As amended by Revenue Regulations No. 22-86 dated December 16, 1986)**

The effectivity of Revenue Regulations No. 19-86 providing for the graduated rate of 5%, 3% and 1% of gross receipts tax based on the remaining maturity of the lease pursuant to Section 260 and 261 of the National Internal Revenue Code (as amended by P.D. 1739) is on January 1, 1987. It is therefore clear that petitioner cannot invoke the provisions of Revenue Regulations No. 19-86 for the period in question, that is 1986, since at that time said Regulations still has no effect even if the same was issued in November 10, 1986 by reason of its amendment as provided for by Revenue Regulations No. 22-86 dated December 16, 1986. Furthermore, Revenue Regulations No. 19-86 shall be applicable to all leases written on or after January 1, 1987. Since all the rental income received covers the period January 1, 1986 to December 31, 1986 it is crystal clear that this covers leases prior to January 1, 1987.

When the words and phrases of a statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says. **(Fagel Tabin Agricultural Corporation v. Jacinto, 203 SCRA 189.)** Petitioner cannot invoke the provisions of Revenue Regulations No. 19-86 for it is clear from the aforecited Regulation that it shall take effect only on January 1, 1987 and shall be applicable to leases written on or after January 1, 1987.

WHEREFORE, the petition is dismissed and the claim for refund is hereby **DENIED**. No pronouncement as to cost.

SO ORDERED.

Quezon City, Metro Manila, May 13, 1994.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

MANUEL K. GRUBA
Associate Judge

(on leave)

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals