REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

INVESTORS FINANCE CORPORATION,
Petitioner,

- versus - CTA CASE NO. 3482

COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - x

6/29

D E C I S I O N

Petitioner appeals to this Court from the decision of respondent Commissioner of Internal Revenue dated April 22, 1982 denying petitioner's protest on the assessments of deficiency income, percentage and documentary and science stamp taxes for the fiscal year ended December 20, 1975 in the amounts of P598,327.94, P264,044.92 and P40,000.00 respectively (Exhibit H, p. 12, CTA rec.).

As gathered from the records of this case, it appears that petitioner is a corporation duly organized and existing under the laws of the Philippines and engaged in the financing company business under the Financing Company Act as well as in quasi-banking functions under the regulations of the Central Bank, with business address at Esquerra Building II, Amorsolo Street, Legaspi Village, Makati, Metro Manila (see Paragraph 1, p.1, CTA rec., admitted in paragraph 1, answer, p. 30 CTA rec.).

On December 24, 1981 respondent Commissioner of Internal Revenue issued an assessment against petitioner for deficiency income tax for the year 1975 and demanded that payment be made in favor of the government in the total amount of P598,327.94, inclusive of interest pursuant to Section 51 (d) of the Tax Code, as amended by Presidential Decree No. 69 which took effect on January 1, 1973 (Exhibit E, p.8, BIR rec.). Likewise, on the same date December 24, 1981 another letter was issued by respondent assessing petitioner for deficiency percentage and documentary science stamp taxes amounting to P264,044.92 and P40,000.00 respectively (see p.9, CTA rec.).

These assessments were protested by petitioner in its letter dated January 29,1982 claiming that the assessments were done in an arbitrary manner considering that the revenue examiner assigned to investigate did ask additional document to support the entries appearing in its books of accounts and promised to return at a future date, but said examiner never did return, but instead petitioner received the subject assessment last January 29, 1982. Likewise, petitioner claims that the right of respondent to collect the subject deficiency taxes has already prescribed pursuant to Section 318 of the Tax Code (Exh. G. p. 10, CTA rec.). Respondent in his letter decision dated April 22, 1982 denied petitioner's protest and informed petitioner that the assessments was issued on time since the Vice President of petitioner's corporation executed a waiver of statute of limitation on November 11, 1980 and June 24,1981. It likewise informed petitioner that respondent's denial is final and if petitioner is not agreeable to his decision, petitioner may appeal to the Court of Tax Appeals within 30-days from receipt of his letter of denial (Exh. H, p.12, CTA rec.). On the basis of his denial, petitioner on June 18, 1982 interposed its appeal to this Court.

Sometime on September 23, 1988, petitioner filed a Manifestation and Formal Offer of Evidence stating that last August 17, 1988 petitioner manifested before this Court that out of the three (3) assessments subject matter of the instant case, the deficiency income tax assessment in the amount of P598,327.94 and the alleged surcharge on gross receipts tax in the amount of P264,044.92 have already been compromised under Executive Order No. 44 (see p. 136, CTA rec.) and the only remaining issue left to this Court to be resolved is the assessment for documentary and science stamp taxes in the amount of P40,000.00 for the year in question computed as follows:

Documentary & Science Stamp Taxes - 1975

Stock Dividend----------------	P8,000,000.00
Documentary stamp tax due thereon-------------------	20,000.00
Science stamp tax (equal amount)----------------	20,000.00
AMOUNT DUE AND COLLECTIBLE ---	P40,000.00

This manifestation was concurred to by respondent in his comment to petitioner's offer of evidence dated October 10, 1988 (see p.276, CTA rec.). On the hearing of February 24, 1989, both parties waived the filing of their respective memorandum in support of their cases. Respondent further manifested that he will no longer present documentary or testimonial evidence and merely submit this case for decision on the basis of the records and the pleadings (see p. 284, CTA rec.).

Hence, the only remaining issue in this case for this Court to resolve is whether or not petitioner is liable for the assessment of documentary and science stamp taxes by the respondent in the total amount of P40,000.00 for the year 1975.

Petitioner does not dispute the mathematical computation in the questioned assessment, but claims that the said amounts of documentary & science stamp taxes were attached to the various respective certificates of stock issued by the petitioner to its stockholders .

In this jurisdiction, settled is the rule that the determination of the Commissioner of Internal Revenue is presumed correct. It behooves the taxpayer to rebutt such presumption (Tan Guan vs. Court of Tax Appeals and The Commissioner of Internal Revenue, G.R. No. L-18164, January 23, 1957. 19 SCRA 903; citing Perez vs. Court of Tax Appeals et. al.,L-10507, May 30, 1958; Collector of Internal Revenue vs. Bohol Land Transportation Co., L- 13099, L-13462, April 29, 1960). Likewise, the Supreme Court said that as a logical outgrowth of the presumption in favor of the validity of assessments, when such assessments are assailed, the burden of proof is upon the complaining party. It is incumbent upon the property owner to show clearly that the assessment was erroneous, in order to relieve himself from it (Interprovincial Autobus Co., Inc. vs. Collector of Internal Revenue, G.R. No. L-6741, January 31, 1956, 98 Phil. 290).

In the case at bar, this presumption of correctness of the assessment in favor of the respondent for deficiency documentary and science stamp tax in the amount of P40,000.00 has been convincingly rebutted by petitioner when it presented to this Court sufficient documentary evidence showing that such taxes have already been paid to the Consolidated Bank and Trust Company on August 5, 1975 by the petitioner in the amount of P40,259.00 as evidenced by Official Receipt No. 2602 (Exh. "O" p. 142. CTA rec.), and that the requisite stamps were affixed to various stocks certificates issued to its stockholders as shown on the submitted documentary exhibits, thus: P-1 to P-113, P-115 to 122, found on pages 149-263; 264-271 of the CTA record and Exhibits P-1-a to P-10-a; P-11-b; P-12-a to P-113-a found on pages 150 to 263 of the CTA rec.; Exhibits P-15-a to P-122-a found likewise on pages 265 to 272, CTA record; Exhibits P-122-e to 122-c found on pages 273 to 174 CTA rec.; and lastly Exhibit P-122-d found on page 275 of the CTA record. The documentary stamp taxes affixed to various stockholders certificate issued amounted to P20,014.60 while the science stamp taxes likewise affixed amounted to P20,008.10 or a total of P40,022.70.

As we have said, respondent did not present testimonial or documentary evidence in support of his case, but rather submitted the same for decision merely on the basis of the pleadings and records. Respondent having failed to overcome the convincing and sufficient evidence presented by petitioner, we therefore sustain petitioner herein.

WHEREFORE, the decision appealed from is hereby reversed. Without costs.

SO ORDERED.

Quezon City, Metro Manila, June 29, 1990

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

12.

C E R T I F I C A T I O N

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.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals