REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

H. TAMBUNTING PAWNSHOP, INC.
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. EB No. 68
(C.T.A. Case No. 6238)

Present:
Acosta, P.J.
Castañeda, Jr.
Bautista,
Uy,
Casanova, and
Palanca-Enriquez, JJ.

Promulgated:

APR 24 2006

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DECISION

BAUTISTA, J.:

This Petition for Review seeks the reversal of the Decision and Resolution rendered by the Court of Tax Appeals, sitting as a Division, promulgated on October 8, 2004 and February 11, 2005, respectively, upholding a portion of the deficiency income tax assessment for the taxable year 1997 issued by the respondent against herein petitioner.

The facts as gathered from the records are:

Petitioner is a domestic corporation organized and existing under the laws of the Philippines. It is duly licensed under pertinent laws as a corporation to engage in the pawnshop business with principal address at 22 Trabajo Street, Sampaloc, Manila.

On June 26, 2000, the Bureau of Internal Revenue, through then Acting Regional Director Lucien E. Sayuno of Revenue Region No. 6, Manila, issued Assessment Notices and Demand Letters all numbered 32-1-97, assessing petitioner for deficiency percentage tax, income tax and compromise penalties for taxable year 1997, in the following amounts:

Deficiency Percentage Tax

Taxable Sales/Receipts	Php12,749,135.25
Percentage Tax due (5%)	Php 637,456.76
Add: 20% Interest up to 7-26-00	320,513.24
Total Percentage Tax Due	Php 957,970.00

Deficiency Income Tax

Taxable Net Income per Return		Php 54,107.36
Adjustments per investigation Section 28		
Overstatement of gain/loss on auction sales		
Gain/Loss per F/S	Php 4,914,967.50	
Gain/Loss per Audit	133,057.40	4,781,910.00
Unsupported Security/Janitorial Expenses		
Per F/S	2,183,573.02	
Per Audit	358,800.00	1,824,773.02
Unsupported Rent Expenses		
Per F/S	2,293,631.13	
Per Audit	434,406.77	1,859,224.35
Unsupported Interest Expenses		1,155,154.28
Unsupported Management & Professional Fees		96,761.00
Unsupported Repairs & Maintenance		348,074.68
Unsupported 13th Month Pay & Bonus		317,730.73
Disallowed Loss on Fire & Theft		906,560.00
Taxable Net Income per Investigation		Php 11,344,295.43

Income Tax Due (35%)	Php 3,970,503.40
Less Income Tax Paid	18,937.57
Deficiency Income Tax	Php 3,951,565.83
Add: 20% Interest to 7-26-00	1,799,938.23
Total Income Tax Due	Php 5,751,504.06

Compromise Penalties

Late Payment of Income Tax	Php 25,000.00
Late Payment of Percentage Tax	20,000.00
Failure to Pay Withholding Tax Return for the Months of April and May	24,000.00
	Php 69,000.00

On July 26, 2000, petitioner filed an administrative protest with the Bureau of Internal Revenue.

On February 21, 2001, due to respondent's failure to act upon petitioner's protest within the one hundred eighty (180) day period prescribed by law, petitioner filed a petition for review before the Court of Tax Appeals, sitting as a Division, pursuant to Section 228 of the National Internal Revenue Code of 1997.

On October 8, 2004, the Court's Division rendered a decision partly granting the petition for review and canceling the assessments for deficiency percentage tax, compromise penalties and reducing the assessment for deficiency income tax, pertinent portion is quoted hereunder:

"In view of all the foregoing verification, petitioner's allowable deductions are summarized below:

Particulars	Per Petitioner's Financial Statement	Per BIR's Examination	Per Court's Verification
Loss on Auction Sale	Php4,914,967.50	Php133,057.40	Php133,057.40
Security & Janitorial Services	2,183,573.02	358,800.00	736,044.26
Rent Expense	2,293,631.13	434,406.77	642,619.10
Interest Expense	1,155,154.28	-	1,155,154.28
Professional & Management	96,761.00	-	-

Fees			
Repairs & Maintenance	348,074.68	-	329,399.18
13th Month pay & Bonuses	317,730.73	-	317,730.73
Loss on Fire	906,560.00	-	-
Total	Php12,216,452.34	Php926,264.17	Php3,314,004.95

Apparently, petitioner is still liable for deficiency income tax in the reduced amount of P4,536,687.15, computed as follows:

Net Income Per Return		P54,107.36
Add: Overstatement of Gain/Loss on Auction Sales		
Gain/Loss on Auction Sales per F/S	P4,914,967.50	
Gain/Loss on Auction Sales per Court's Verification	133,057.40	4,781,910.00
Unsupported Security/Janitorial Services		
Security, Janitorial Services per F/S	P2,183,573.02	
Security, Janitorial Services per Court's Verification	736,044.26	1,447,528.76
Unsupported Rent Expenses		
Rent Expenses per F/S	P2,293,631.13	
Rent Expenses per Court's Verification	642,619.10	1,651,012.03
Unsupported Management & Professional Fees		96,761.00
Unsupported Repairs & Maintenance (P348,074.68 – P329,399.18)		18,675.50
Disallowed Loss on Fire & Theft		906,560.00
Net Income		P8,956,554.65
Income Tax Due Thereon		P3,134,794.13
Less: Amount Paid		18,937.57
Balance		P3,115,856.56
Add: 20% Interest until 7-26-00		1,420,830.59
TOTAL INCOME TAX DUE		P4,536,687.15

WHEREFORE, petitioner is **ORDERED** to **PAY** the respondent the amount of P4,536,687.15 representing deficiency income tax for the year 1997, plus 20% delinquency interest computed from August 29, 2000 until full payment thereof pursuant to Section 249 (C) of the National Internal Revenue Code. However, the compromise penalties in the sum of P49,000.00 is hereby **CANCELLED** for lack of legal basis.

SO ORDERED."

A motion for reconsideration was filed by petitioner insofar as the Court's decision only reduced the assessment for deficiency income tax from P5,751,504.06 to P4,536,687.15, disallowing the deductions from gross income claimed by petitioner in determining its income tax liability for the year 1997. In a Resolution dated February 11, 2005 and received by petitioner's counsel on February 18, 2005, petitioner's motion for reconsideration was denied.

Hence, the instant Petition for Review was filed with the Court *en banc,* raising this sole assignment of error:

> "THE HONORABLE COURT A *QUO* ERRED IN DISALLOWING THE DEDUCTIONS CLAIMED BY PETITIONER ON THE GROUND THAT THEY WERE NOT PROPERLY SUBSTANTIATED BY SUFFICIENT EVIDENCE."

We resolve to deny the petition for review.

This case involves assessments pertaining to transactions incurred by petitioner for the taxable year 1997. We shall resolve the propriety of the disallowed deductions in accordance with the law in force at the time the transactions were incurred.

Bearing in mind that the transactions involved in this case were incurred prior to January 1, 1998, effectivity date of the National Internal Revenue Code of 1997, the law applicable in this case is the National Internal Revenue Code of 1977, as amended, pertinent provisions are hereunder quoted for easy reference, viz:

> "Sec. 29. Deductions from gross income. – In computing taxable income subject to tax under Sections 21(a); 24(a), (b) and (c); and 25(a)(1), there shall be allowed as deductions the items specified in paragraphs (a) to (i) of this section:
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> xxx xxx xxx

(a) Expenses. – (1) Business expenses. – (A) In general. All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses while away from home in the pursuit of a trade, profession or business, rentals or other payments required to be made as a condition to the continued use or possession, for the purpose of the trade, profession or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

xxx xxx xxx

(d) Losses. – xxx

(2) By corporation.- In the case of a corporation, all losses actually sustained and charged off within the taxable year and not compensated for by insurance or otherwise.

(3) Proof of loss. – In the case of a nonresident alien individual or foreign corporation, the losses deductible are those actually sustained during the year incurred in business or trade conducted within the Philippines, and losses actually sustained during the year in transactions entered into for profit in the Philippines although not connected with their business or trade, when such losses are not compensated for by insurance or otherwise. The Secretary of Finance, upon recommendation of the Commissioner of Internal Revenue, is hereby authorized to promulgate rules and regulations prescribing, among other things, the time and manner by which the taxpayer shall submit a declaration of loss sustained from casualty or from robbery, theft, or embezzlement during the taxable year: Provided, That the time to be so prescribed in the regulations shall not be less than 30 days nor more than 90 days from the date of the occurrence of the casualty or robbery, theft, or embezzlement giving rise to the loss.

xxx xxx xxx'

The following deductions from petitioner's 1997 gross income which were disallowed by the respondent were sustained by the Court's Division in the assailed Decision and Resolution, to wit:

1) Loss on auction sales

2) Security/Janitorial services

3) Rental expenses

4) Management and Professional fees

e) Loss on fire and theft

Petitioner argues that the deductions from its gross income for the taxable year 1997 were duly substantiated with sufficient evidence in accordance with Section 34(A)(1)(b) of the National Internal Revenue Code of 1997, to wit:

> "(b) Substantiation Requirements – no deduction from gross income shall be allowed under Subsection (A) hereof unless the taxpayer shall substantiate with sufficient evidence, such as official receipts or other adequate records: (i) the amount of the expense being deducted, and (ii) the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of the trade, business or profession of the taxpayer."

It further asserts that based on the afore-quoted provision of law, the legislature did not intend to limit the manner of substantiating deductions through official receipts or invoices but also by means of other adequate records.

To bolster its stance, petitioner cited the case of ***Paper Industries Corporation vs. Commissioner of Internal Revenue***[1]**,** where this Court, sitting as a Division, set the basic principles governing deductions, to wit:

1. The taxpayer seeking a deduction must point to some specific provision of the statute in which that deduction is authorized;

2. He must be able to prove that he is entitled to the deduction which the law allows; and

3. Adequate records should be kept to support deductions.

Petitioner contends that the documents adduced in support of the deductions for ordinary and necessary expenses are more than sufficient to substantiate its claimed deductions. The cash vouchers submitted in evidence by petitioner were accompanied by other documents like certifications, lease contracts, showing beyond doubt that the deductions claimed by petitioner are *bona fide* business expenses incurred in the

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[1] CTA Case No. 3843, August 15, 1989

conduct of its trade or business. In addition to the aforesaid documents, petitioner avers that the expenses claimed by petitioner as deductions were subjected to the applicable expanded withholding taxes duly remitted to the Bureau of Internal Revenue. These certificates of remittance give credence if not prove beyond doubt that the questioned/disallowed deductions are *bona fide* expenses of petitioner.

Furthermore, petitioner argues that in a number of cases, this Court allowed deductions for ordinary and necessary business expenses on the basis of cash vouchers issued by the taxpayer[2] and/or certifications issued by the payee evidencing receipt of interest on a loan as well as agreements relating to the imposition of interest[3].

After a careful review of the facts and the pertinent law and jurisprudence, the Court *en banc* finds petitioner's arguments bereft of merit.

Well-settled is the rule that tax assessments are presumed to be correct unless the contrary is shown, and the burden of proof rests upon the taxpayer to overcome this presumption. The determination, however, of a deficiency tax by the Government is only prima facie correct.[4] The taxpayer has the duty to prove otherwise. In the absence of proof of any irregularities, an assessment duly made by a Bureau of Internal Revenue examiner and approved by his superior officers will not be disturbed. All presumptions are in favor of the correctness of tax assessments.[5]

Moreover, it is a recognized rule in taxation that when a taxpayer claims a deduction, he must point to some specific provision of the statute in which that deduction is authorized and must be able to prove that he is entitled to the deduction which the law

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[2] Guanzon vs. Commissioner of Internal Revenue, CTA Case No. 2821, August 27, 1980
[3] Soriano vs. Commissioner of Internal Revenue, CTA Case No. 2949, December 27, 1982
[4] Gutierrez vs. Collector of Internal Revenue, L-19537, May 20, 1967; Tan Guan vs. Court of Tax Appeals, L-23676, April 27, 1967; Republic vs. Philippine Rabbit Bus Lines, Inc. L-26862, March 30, 1970
[5] Bonifacia Sy Po vs. Court of Tax Appeals, G.R. L-81446, August 18, 1988

allows.[6] The statutory test of deductibility of a business expense imposes three conditions, to wit[7]:

(1) the expense must be ordinary and necessary;

(2) it must be paid or incurred within the taxable year; and

(3) it must be paid or incurred in carrying on a trade or business.

Further, the taxpayer must substantially prove by evidence or records the deductions claimed under the law, otherwise, the same will be disallowed. The mere allegation of the taxpayer that an item of expense is ordinary and necessary does not justify its deduction.[8]

We shall discuss the propriety of the disallowed deductions from petitioner's gross income in the order listed in the petition for review.

1. Loss on Auction Sales

As found by the Court's Division in the assailed decision, petitioner's "Loss on Auction Sale" amounted to P4,914,967.50 as shown on its Financial Statement. On the other hand, as per the respondent's examiner's audit, the amount of loss should only be P133,057.40. The overstatement of P4,781,910.00 accounts for the balance between the loss on auction sale per financial statement and the loss as per respondent's examination.

To prove the loss on auction sale, petitioner submitted in evidence its "Rematado" and "Subasta" books and the "Schedule of Losses on Auction Sale". The "Rematado" book contained a record of items foreclosed by the pawnshop while the "Subasta" book contained a record of the auction sale of pawned items foreclosed.

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[6] Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue, G.R. No. L-26911, January 27, 1981 and Commissioner of Internal Revenue vs. Atlas Consolidated Mining and Development Corporation and Court of Tax Appeals, G.R. No. L-26924, January 27, 1981
[7] Ibid.
[8] Basilan Estate vs. Commissioner of Internal Revenue, L-22492, September 5, 1967

However, as elucidated by the petitioner, the gain or loss on auction sale represents the difference between the capital (the amount loaned to the pawnee, the unpaid interest and other expenses incurred in connection with such loan) and the price for which the pawned articles were sold, as reflected in the "Subasta" Book. Furthermore, it explained that the amounts appearing in the "Rematado" book do not reflect the total capital of petitioner as it merely reflected the amounts loaned to the pawnee. Likewise, the amounts appearing in the "Subasta" book, are not representative of the amount of sale made during the "subastas" since not all articles are eventually sold and disposed of by petitioner.

Petitioner submits that based on the evidence presented, it was able to show beyond doubt that it incurred the amount of losses on auction sale claimed as deduction from its gross income for the taxable year 1997. And that the documents/records submitted in evidence as well as the facts contained therein were neither contested nor controverted by the respondent, hence, admitted.

We are not convinced.

It is a governing principle in taxation that tax exemptions must be construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority and he who claims an exemption must be able to justify his claim by the clearest grant of organic or statute law. An exemption from the common burden cannot be permitted to exist upon vague implications. Deductions for income tax purposes partake of the nature of tax exemptions; hence, if tax exemptions are strictly construed, then deductions must also be strictly construed.[9]

In this case, petitioner's reliance on the entries made in the "Subasta" book were not sufficient to substantiate the claimed deduction of loss on auction sale. As admitted

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[9] Commissioner of Internal Revenue vs. General Foods (Phils.), Inc., G.R. No. 143672, April 24, 2003

by the petitioner, the contents in the "Rematado" and "Subasta" books do not reflect the true amounts of the total capital and the auction sale, respectively. Be that as it may, petitioner still failed to adduce evidence to substantiate the other expenses alleged to have been incurred in connection with the sale of pawned items.

As correctly held by the Court's Division in the assailed decision, and We quote:

> "xxx The remaining evidence is neither conclusive to sustain its claim of loss on auction sale in the aggregate amount of P4,915,967.50. While it appears that the basis of respondent is not strong, petitioner, nevertheless, should not rely on the weakness of such evidence but on the strength of its own documents. The facts essential for the proper disposition of the said controversy were available to the petitioner. Petitioner should have endeavored to make the facts clear to this court. Sad to say, it failed to dispute the same with clear and convincing proof.
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> It is hardly necessary to add that the burden of proof is on the taxpayer contesting the validity or correctness of assessment to prove not only that the Commissioner of Internal Revenue is wrong but that he (taxpayer) is right. ***(Lino Gutierrez vs. Collector of Internal Revenue, CTA Case No. 504, January 28, 1962)"***

2. Security and Janitorial Services

Petitioner claims that the janitorial expenses paid to Pathfinder Investigation in the amount of P659,839.65 were fully substantiated by sufficient evidence as shown by a Certification[10] issued by Oscar Balisado, Operations Manager of Pathfinder Investigation and as testified to by Mr. Balisado himself.[11]

In addition, the disallowed amount of P787,689.11 representing expenses incurred for office supplies, advertising and repairs were inadvertently misclassified as security and janitorial services, and that such misclassification did not nullify the deductibility of said expenses from petitioner's taxable income. Furthermore, petitioner submits that the classifications used are mere tools employed in accounting for and monitoring said expenses.

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[10] Petitioner's Exhibit F-249, Tambunting Pawnshop, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6238
[11] TSN, December 12, 2001, CTA Case No. 6238

Further, petitioner asserts that the expenses incurred for office supplies are fully supported by official receipts issued by MTO International Product Mobilizer and Aldana Printing Press.[12]. While expenses for advertising/publication of auction sales are fully supported by official receipts issued by the service providers.[13]

Repairs, on the other hand, made by Nazario Tan are alleged to have been substantially supported by cash vouchers issued by petitioner, the receipt of which is duly acknowledged by Mr. Tan in the respective vouchers,[14] as well as in his testimony.[15] Petitioner further claims that although described in the vouchers as leasehold improvements, these repairs consist of ordinary repainting and refurbishing of walls and ceilings which are not capitalized in view of their routine and ordinary character, and charged off as expenses in the year incurred.

Moreover, petitioner submits that expenses for both repairs and maintenance were properly substantiated, the only difference being the misclassification of one. With regard to office supplies and advertisement misclassified as security and janitorial expenses, a reading of petitioner's Income Statement would easily show that the amounts correctly classified as office supplies and advertisement could not logically include those misclassified office supplies and advertisement expenses for the reason that the amount misclassified are substantially greater than those correctly classified as office supplies and advertising. Thus, it cannot be said that petitioner's office supplies and advertising expense mistakenly classified as security and janitorial expense were already included in the office supplies and advertising expense properly reported as such in the income statement of petitioner for taxable year 1997. Moreover, the

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[12] Petitioner's Exhibits F-1 to F-7 and F-8 to F-15, respectively, CTA Case No. 6238
[13] Petitioner's Exhibits F-16 to F-20, CTA Case No. 6238
[14] Petitioner's Exhibits F-250 to 257, CTA Case No. 6238
[15] TSN, December 12, 2001, CTA Case No. 6238

amounts properly classified as office supplies and advertisement expenses have already been examined and found by respondent to have been properly substantiated.

Likewise, petitioner submits that these expenses were subjected to the applicable expanded withholding tax as required by the 1997 Tax Code and its implementing regulations and evidenced by the 1997 Annual Information Return of Income Tax Withheld on Compensation, Expanded and Final Withholding Taxes duly stamped received by the BIR[16] schedules attached thereto[17] and the Monthly Returns of Income Taxes Withheld[18].

We are not swayed by petitioner's assertions.

Contrary to petitioner's contention, the security/janitorial expenses paid to Pathfinder Investigation were not duly substantiated. The certification issued by Mr. Balisado was not the proper document required by law to substantiate its expenses. Petitioner should have presented the official receipts or invoices to prove its claim as provided for under Section 238 of the National Internal Revenue Code of 1977, as amended, to wit:

> "SEC. 238. Issuance of receipts or sales or commercial invoices. – All persons subject to an internal revenue tax shall for each sale or transfer of merchandise or for services rendered valued at P25.00 or more, issue receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service; *Provided*, That in the case of sales, receipts or transfers in the amount of P100.00 or more, or, regardless of amount, where the sale or transfer is made by persons subject to value-added tax to other persons also subject to value-added tax; or, where the receipts is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer, or client. *The original of each receipt*

[16] Petitioner's Exhibit O, CTA Case No. 6238
[17] Petitioner's Exhibits O-1 to O-3, ibid.
[18] Petitioner's Exhibits P, P-1 to P-9, ibid.

> *or invoice shall be issued to the purchases, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of 3 years from the close of the taxable year in which such invoice or receipt was issued,* while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period. (Emphasis and underlining supplied)

With regard to the misclassified items of expenses, petitioner's statements were self-serving, likewise it failed to substantiate its allegations by clear and convincing evidence as provided under the foregoing provision of law.

Bearing in mind the principle in taxation that deductions from gross income partake the nature of tax exemptions which are construed in *strictissimi juris* against the taxpayer, the Court *en banc* is not inclined to believe the self-serving statements of petitioner regarding the misclassified items of office supplies, advertising and rent expenses.

Among the expenses allegedly incurred, courts may consider only those supported by credible evidence and which appear to have been genuinely incurred in connection with the trade or business of the taxpayer.

3. Rental expenses

To prove its rental expenses, petitioner submitted in evidence cash vouchers, lessor certifications and contracts of lease. To further strengthen its stance, petitioner cited the case of ***Spouses Gonzales vs. Commissioner of Internal Revenue***[19], where this Court held that the certification issued by the lessor attesting to the rental payments by the lessee were admitted as sufficient evidence to prove the lessee's rental expense.

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[19] CTA Case No. 2578, July 23, 1981

In the instant case, the certification issued by the respective lessors on rental payments made by petitioner must be deemed sufficient and adequate in proving the rental expense incurred for the taxable year 1997. Petitioner further avers that these rental payments were subjected to the applicable expanded withholding taxes and which were duly remitted to the BIR.

We cannot accede to petitioner's contentions.

As previously discussed, the proper substantiation requirement for an expense to be allowed is the official receipt or invoice. While the rental payments were subjected to the applicable expanded withholding taxes, such returns are not the documents required by law to substantiate the rental expense. Petitioner should have submitted official receipts to support its claim.

Moreover, the issue on the submission of cash vouchers as evidence to prove expenses incurred has been addressed by this Court in the assailed Resolution, to wit:

> "The trend then was to allow deductions based on cash vouchers which are signed by the payees. It bears to note that the cases cited by petitioner are pronouncements by this Court in 1980, 1982 and 1989.
>
> However, latest jurisprudence has deviated from such interpretation of the law. Thus, this Court held in the case of ***Pilmico-Mauri Foods Corporation vs. Commissioner of Internal Revenue C.T.A. Case No. 6151, December 15, 2004;***
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>> "[P]etitioner's contention that the NIRC of 1977 did not impose substantiation requirements on deductions from gross income is bereft of merit. Section 238 of the 1977 Tax Code [now Section 237] provides:
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>> xxx xxx xxx
>>
>> From the foregoing provision of law, a person who is subject to an internal revenue tax shall issue receipts, sales or commercial invoices, prepared at least in duplicate. The provision likewise imposed a responsibility upon the purchaser to keep and preserve the original copy of the invoice or receipt for a period of three years from the close of the taxable year in which the invoice or receipt was issued. The rationale behind the latter requirement is

> the duty of the taxpayer to keep adequate records of each and every transaction entered into in the conduct of its business. So that when their books of accounts are subjected to a tax audit examination, all entries therein could be shown as adequately supported and proven as legitimate business transactions. Hence, petitioner's claim that the NIRC of 1977 did not require substantiation requirements is erroneous."

In order that the cash vouchers may be given probative value, these must be validated with official receipts.

4. Management and Professional fees

Petitioner's management and professional fees were disallowed as these were supported merely by cash vouchers, which the Court's Division correctly found to have little probative value.

5. Loss on fire and theft

The following documents were submitted by petitioner to prove the deduction claimed due to loss on fire and theft, namely: (1) Certification from DILG Bureau of Fire Protection Malolos Fire Station; (2) Certification from National Police Commission PNP Malolos Police Station; (3) Accounting entry for the loss; and (4) List of property loss.

Petitioner claims that with the submission of the foregoing documents it has fully substantiated the loss incurred in the fire and the theft committed on the occasion of such fire. It further asserts that its submission of all the available documents to support the loss constitute substantial compliance of the requirements of the regulations.

We do not agree.

Revenue Regulations No. 12-77, implementing Section 29(d) of the 1977 National Internal Revenue Code, as amended, provided for the substantiation requirements for losses, to wit:

1. A declaration of loss which must be filed with the Commissioner of Internal Revenue or his deputies within a certain period prescribed in these regulations after the occurrence of the casualty, robbery, theft or embezzlement.
2. Proof of the elements of the loss claimed, such as the actual nature and occurrence of the event and amount of the loss.

Failure to submit the declaration of loss within the period prescribed by the regulations will result in the disallowance of the casualty loss claimed by the taxpayer in its income tax return.

The Court's Division correctly held that petitioner's failure to submit the sworn declaration of loss with the Revenue District Officer of the Bureau of Internal Revenue, proved fatal to its claim. The said document is vital in proving its claim of losses due to fire and theft. It is incumbent upon the taxpayer to prove and substantiate his claim for deduction for losses in its income tax return.

Petitioner having failed to justify and substantiate the deductibility of this expense, the same was properly disallowed.

In conclusion, where the taxpayer objects to the assessment, it is incumbent upon him to prove what is the correct and just liability by a full and fair disclosure of all pertinent data in his possession. Otherwise, if the taxpayer confines himself to proving that the assessment is wrong, the tax court proceedings would settle nothing, and the way would be left open for subsequent assessments and appeals in interminable succession.[20]

WHEREFORE, the Court *en banc* finds no reversible error to warrant the

[20] Bonifacia Sy Po vs. Commissioner of Internal Revenue, supra.

reversal of the assailed Decision and Resolution promulgated on October 8, 2004 and February 11, 2005, respectively, the instant Petition for Review is hereby **DISMISSED**. Accordingly, the aforesaid Decision and Resolution are hereby **AFFIRMED** *in toto*.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

(on leave)
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 Resolution has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of this Court.

ERNESTO D. ACOSTA
Presiding Justice