REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

A.L.L. PAWNSHOP, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 6482

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
SEP 03 2003

x - x

DECISION

This case is a judicial appeal involving Assessment No. 81-vat-13-99-2001-11-621 for deficiency value-added tax in the amount of P2,972,147.96 covering the taxable year 1999.

As borne out by the records, the antecedent facts of the case are as follows:

Petitioner is a corporation duly existing and organized under the Philippine laws. It is engaged in the pawnshop business, with principal place of business at M. Lhuillier Bldg., Benedicto Street, North Reclamation Area, Cebu City.

On August 18, 2000, the Regional Director of Revenue No. 13, authorized Revenue Officer Fidela Bardelas and Group Supervisor Jonathan Capanas of Revenue District No. 81 Cebu City-North, through Letter of Authority No. 1998-00022091, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the calendar year 1999 *(BIR Records, p. 30)*.

On September 6, 2001, respondent issued a Preliminary Assessment Notice for deficiency income tax of P35,227.82 and deficiency value-added tax (VAT) in the amount of P2,918,467.69 totalling P2,953,695.51 for the taxable year 1999 *(BIR Records, pp. 244-245)*. On September 14, 2001, petitioner paid the deficiency income tax *(BIR Records, p. 246)* but as to the deficiency VAT, petitioner, through a letter dated September 25, 2001 and filed with the BIR on September 27, 2001, informed the Regional Director of Revenue Region 13 of the Bureau of Internal Revenue (BIR) of its disagreement with the preliminary assessment (*BIR Records, 247-248)*.

After investigation, respondent found due from the petitioner deficiency VAT for the taxable year 1999 in the amount of P2,972,147.96. Hence, on November 15, 2001, respondent simultaneously issued his final resolution on the protest, Assessment Notice No. 81-vat-13-99-2001-11-621 for deficiency value-added tax in the amount of P2,972,147.96 covering the taxable year 1999, together with a formal letter of demand *(BIR Records, pp.254-256)*.

On November 27, 2001, petitioner filed a motion for reconsideration on the decision of the respondent denying the protest on the preliminary assessment *(BIR Records, pp. 259-263)*. Petitioner claims that Section 102 (a) of the Tax Code does not subject pawnshop businesses to value-added tax; that the computation of the value-added tax should be 1/11 and not 10% of the gross receipts and that VAT on the sale of rematado should not be a tax against the pawnshop but on the pawner.

On February 19, 2002, the Assistant Chief, Assessment Division of Revenue Region No. 13 issued a Memorandum to the Chief of the Assessment Division advising the latter that after verification of the documents submitted by petitioner, it was found out that only jewelry sales were recorded net of value added tax. All other receipts were recorded inclusive of value-added tax or its total invoice amount. Consequently, only the receipts subjected to value-added tax should be multiplied by 1/11 and not 10%. Thus, a recomputation of the deficiency value-added tax amounted to P3,230,407.38, detailed as follows: *(BIR Records, pp.279-280).*

	Output Tax
Total	P21,980,091.40
Deficiency VAT	P 1,998,190.13
20% Interest p.a. (1/26/99-2/28/02)	1,232,217.25
Total amount due & payable	P 3,230,407.38

On April 1, 2002, the Regional Director of Revenue Region No. 13, issued a letter which, in effect, informed the petitioner of his final decision denying its protest *(BIR Records, pp. 282-284)* and adjusting the deficiency VAT in the amount of P3,230,407.38. This was received by petitioner on April 10, 2002.

On May 3, 2002, petitioner filed through registered mail a Petition for Review with this court, which was received on May 22, 2002.

Subsequently, summons was issued to respondent and in his answer filed on July 11, 2002, respondent raised the following Special and Affirmative Defenses, to wit:

"5. 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 the 10% value-added tax (VAT) imposed under Section 108(A) of the Tax Code;

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

7. The original basic deficiency VAT (inclusive of interest) in the amount of P2,198,009.14 was computed at ten percent (10%) of gross receipts of

P21,980,091.40. However, acceding to petitioner's protest, the basic tax was recomputed by multiplying the total amount indicated in the invoice by 1/11. Hence, the basic deficiency VAT was adjusted to P 1,998,190.13.

8. Respondent's right to assess has not prescribed. Contrary to petitioner's claim that the assessment is for the taxable year ending December 31, 1996, it is for taxable year 1999.

9. The assessment was issued in accordance with law and regulations; and

10. All presumptions are in favor of the correctness of tax assessments."

The parties mutually agreed that the issues to be resolved in this case are the following:

(1) Whether pawnshop business is that of service or mere forbearance of money;

(2) Whether pawnshop businesses are subject to VAT on sale of services under Section 108(A) of the NIRC;

(3) Whether pawnshop business is akin to a lending investor business;

(4) Whether interest on pledge loans, past due loans and liquidated damages are income from service or a simple item of indemnification, and whether the same is part of petitioner's gross receipts subject to VAT; and

(5) Whether respondent is legally empowered to impose and charge Value-Added Tax on the petitioner for the proceeds of the auction sale of pawned item.

Petitioner strongly maintains that it is not subject to value-added tax, claiming that a pawnshop business is not engaged in the sale of service, thus, not subject under VAT on Sale of Services of the Tax Code, as amended. According to petitioner, the business of forbearance of money, which is the very nature of a pawnshop business, is not within the generic or basic definition of service and the fact that Section 102 (a) of the Tax Code did not include pawnshop business in the list would show that Congress had no intention to subject pawnshop business to value-added tax.

Respondent, on his part, maintains that from the words of Section 108(A) of the Tax Code, the sale or exchange of services is subject to 10% VAT and the enumeration of persons performing services is not exclusive but merely intended to give examples of businesses subject to VAT on sale or exchange of services. Respondent further contends that assuming *arguendo* that the enumeration in Section 108(A) is exclusive, the services of pawnshops are similar to those of a lending investor.

We find the contentions of the petitioner bereft of merit.

Under Section 108(A) [formerly Section 102(a)] of the Tax Code, as amended, it is provided that:

> **SEC. 108.** ***Value-Added Tax on Sale of Services and Use or Lease of Properties. –***
>
> (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.
>
> <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; lessors or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment 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; <u>and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties</u>. xxx. (Underscoring supplied.)

Prescinding from the above law, any sale of services for others for a fee, remuneration or consideration is subject to 10% VAT. The phrase "sale or exchange or services" encompasses the performance of **all kinds of services** in the Philippines for others for a fee, remuneration or consideration. It includes the services enumerated therein and similar services regardless of whether or not the performance thereof calls for the exercise of physical or mental faculties.

Petitioner, however, points out that its position is premised on the issue of taxability of pawnshops under VAT and not on the issue of whether pawnshop is exempt from VAT. According to petitioner, in order to be subject to VAT, respondent must first establish that petitioner is in fact subject to VAT and the determination of whether herein petitioner is subject to VAT or not must be guided accordingly by the standard of strictissimi juris against the government. Pawnshop business is allegedly a distinct tax subject and Section 108, *aforequoted*, does not expressly subject pawnshop businesses to VAT. Nowhere in the said law does it state that pawnshop businesses are liable to VAT. Therefore, petitioner is not subject to the 10% VAT.

We are not impressed by petitioner's arguments.

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. <u>It does not apply when words are mentioned by way of example, or to remove doubts</u>. (See Cyc., 1122 xxx." (Underscoring ours.)

Section 108(A) [formerly Section 102(a)] 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".

In addition, the phrase "including" should be construed merely as an enlargement and not of limitation.

> "The intention of an act will prevail over the literal sense of its terms. Thus, limited words in one part of an act may be expanded by general words in another part, if the general words more nearly express the legislative intent.

> A term whose statutory definition declares what it 'includes' is more susceptible to extension of meaning by construction than where the definition declares what a term 'means'. Thus, it has been said that 'the word 'includes' is usually a term of enlargement, and not of limitation... It, therefore, conveys the conclusion that there are other items includable, though not specifically enumerated..." [Sutherland, *Statutory Construction*, 4th Ed., Vol. 2A, p. 82, Sec. 47.07 citing United States Argosy Ltd. v. Hennigan, 404 F2d 14 (CA 5th, 1968); See United States v. Gertz, 249 F2d 662 (CA 9th, 1957); Federal Land Bank of St. Paul v. Bismarck Lumber Co., 314 US 95, 86 L Ed 65, 62 S Ct1 (1941)]. (Emphasis supplied.)

Hence, the terms "includes" and "including" do not exclude items otherwise within the scope of the defined term.

> The terms "includes" and "including" when used in the Code are not deemed to exclude items otherwise within the meaning of the term defined. Thus, where Section 1(e) applies to the taxable income of estates "including" and thereafter lists four types of income from trusts or estates that are taxable, other types of estates may also be subject to taxation under Section 1(e). To hold differently would, in effect, substitute the term "limited to" for "including". [Mertens, *Law of Federal Income Taxation*, 1995 Ed., Section 3.37, Chap. 3, pp. 55-56, citing *In re Joplin, Jr.*, 882 F2d 1507 (CA10 1989), applying IRC & 7701(c)].

In the cases of ***Genato Commercial Corporation vs. The Court of Tax Appeals, et al., 104 Phil. 615*** and ***Philippine American Drug Co. vs. Collector of Internal Revenue and Court of Tax Appeals, 106 Phil. 161***, general words were harmonized with specific words found in the statute in question so as not to limit the coverage of the taxing statute. In determining that the bank charge in question formed part of the charges enumerated in Art. 183-(B) of the then Tax Code, the Supreme Court held:

> "As may be seen, an importer is required to pay in advance the necessary percentage tax on the articles imported "based on the import invoice

> value thereof, certified to as correct by the Philippine Consul at the port of origin if there is any, including freight, postage, insurance, commission, customs duty, and all similar charges." In other words, the law requires that it be included in the assessment not only the import invoice value of the merchandise, which includes freight, postage, insurance, commission and customs duty, but all other similar charges which would necessarily increase the landed cost of the merchandise imported, which, in our opinion, should include the difference of Php 0.15 paid by petitioner to a local bank in the purchase of foreign exchange to carry out the importation. Indeed, the intention of Congress in enacting the above-quoted provision is to include in the assessment *all charges, whether specified or otherwise*, which an importer has to pay to complete his importation.
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> Invoking the rule of *ejusdem generis* which provides that "where, in a statute, general words follow a designation of a particular subjects or classes of persons, the meaning of the general words will ordinarily be presumed to be restricted by the particular designation, and to include only things or persons of the same kind, class or nature as those specifically enumerated," petitioner contends that the difference of Php 0.15 which it paid to a local bank in the purchase of foreign exchange to cover the importations in question cannot be included in the assessment for the purpose of determining the advance sales tax because they are not similar to the charges specifically enumerated in the law.
>
> With this we disagree, for it cannot be denied that the intention of the law is to include *all charges* that may be paid by the importer to bring the importation into the country. In other words, all items of expense that may be incurred by the importer in bringing the importation into the country and which would necessarily increase the landed cost must be deemed included in the phrase "all similar charges" mentioned in the law. The doctrine of *ejusdem generis* is but a rule of construction adopted as an aid to ascertain and give effect to the legislative intent when that intent is uncertain or ambiguous, but the same should not be given such wide application that would operate to defeat the purpose of the law. In other words, the doctrine is not of universal application. Its application must yield to the manifest intent of Congress (State vs. Prather, 21 LRA 23, 25)."

In the case at bar, the law is not only clear in its intent but also in its wording that "all kinds of services" should be subject to VAT. Indubitably, pawnshop services are subject to VAT.

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).

Well settled is the jurisprudence that tax exemptions are strictly construed against the taxpayer ***(Cyanamid Phils., Inc. vs. Court of Appeals, 322 SCRA 639).*** In the absence of any clear provision of law exempting pawnshops from VAT, it is our conclusion that pawnshops are subject to VAT on their gross receipts considering that they are clearly engaged in the performance of services for a fee, remuneration or consideration.

In the case of ***Commissioner of Internal Revenue vs. Court of Appeals and Commonwealth Management and Services Corporation*****, G.R. No. 125355, March 30, 2000,** the Supreme Court ruled that the taxpayer, not falling within the exemptions mentioned under Section 109 of the Tax Code, is subject to VAT. The High Tribunal held:

> "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." xxx
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> xxx xxx xxx
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> Hence, it is immaterial whether the primary purpose of a corporation indicates that it receives payments for services rendered to its affiliates on a reimbursement-on-cost basis only, without realizing profit, for purposes of

determining liability for VAT on services rendered. As long as the entity provides service for a fee, remuneration or consideration, then the service rendered is subject to VAT.

At any rate, it is a rule that because taxes are the lifeblood of the nation, statutes that allow exemptions are construed strictly against the grantee and liberally in favor of the government. Otherwise stated, any exemption from the payment of a tax must be clearly stated in the language of the law; it cannot be merely implied therefrom. In the case of VAT, Section 109, Republic Act 8424 clearly enumerates the transactions exempted from VAT." (*Emphasis ours.*)

Moreover, Section 105 of the Tax Code provides:

"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 shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code."

Inasmuch as pawnshops are engaged in the sale of services for a fee, remuneration or consideration, they are subject to VAT under Section 108(A) of the Tax Code, as amended. This conclusion finds support in recent decisions laid down by the Court of Appeals (***Commissioner of Internal Revenue vs. Agencia Exquisite of Bohol, Inc.***, *C.A. G.R. SP No.59282, March 23, 2001 and* ***Commissioner of Internal Revenue vs. Exquisite Pawnshop and Jewelry, Inc.***, *C.A. G.R. SP No. 59401, September 30, 2002)*, the latest of which is the case of ***Commissioner of Internal Revenue vs. Agencia Exquisite of Bohol, Inc.***, *C.A. G.R. SP No. 68180, promulgated on February 10, 2003*, where the Court of Appeals categorically ruled that pawnshops are subject to the 10% VAT imposed under Section 108 (A) of R.A. 8424, thus:

"A value-added tax is a tax on transactions, imposed at every stage of the distribution process on the sale, barter, exchange of goods or property, and on the performance of services, even in the absence of profit attributable thereto.

In the case at bar, it has been the contention of respondent Agencia Exquisite of Bohol, Inc. that the business of a pawnshop is not similar to that of a lending investor. A pawnshop, according to respondent is principally engaged in the business of delivering money to another, secured by personal property, upon the condition that the latter shall pay the former, otherwise, the thing pawned shall be sold for the payment of the principal obligation. Hence, a pawnshop operator engages in a pledge transaction.

We are not convinced. The business of pawnshops are akin to that of lending investors. Respondent itself admitted that a lending investor is a person who makes a practice of lending money for themselves or others at interest. It seems that respondent forgotten that the business of a pawnshop is also to lend money for others at interest. The difference between lending investors and pawnshops lies only on the security given, that is, a lending investor may require both real and personal property as security for the loan; whereas a pawnshop can require only personal property as security for the loan. But in the end, a lending investor and a pawnshop both engage in the business of lending money for others at interest. Accordingly, a lending investor and a pawnshop are both subject to VAT, pursuant to the provision of the National Internal Revenue Code of 1997 which provides that "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. 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 by x x x lending investors x x x."

Even assuming *arguendo* that we do not classify pawnshops as lending investors, still pawnshops are subject to the 10% VAT imposed under Section 108(A) of R.A. 8424. Pawnshops refer to persons or entities engaged in the business of lending money on personal property delivered as security for loans. As long as the entity provides service for a fee, remuneration or consideration, then the service rendered is subject to value added tax. The personal properties delivered by clients of pawnshops as security for the loans which the former obtained from the latter are in the form of remuneration or consideration, for without such personal properties, pawnshops will not extend any loan to a borrower. Furthermore, the payment of interest imposed on a borrower by a pawnshop is equivalent to a fee in exchange of the service provided by the pawnshop in lending money

> to such borrower. Thus, the phrase "***all kinds of services***" as stated in the second paragraph of Section 108(A) of R.A. 8424 is broad enough to cover the kind of service, that is, lending money in consideration of personal property delivered as security, which is provided by pawnshops to their borrowers. And the enumeration of sale or exchange of services under Section 108(A) of R.A. 8424 does not limit nor exclude other kinds of services performed for a fee, remuneration or consideration. Rather, such enumeration even expanded the meaning of the phrase "***all kinds of services***".
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> Besides, pawnshops do not merely engage in the service of lending money to pawners. Rather, pawnshops also sells, at public auction, personal properties pawned to them, in the event that the pawner fails to redeem the pawn within ninety days from the date of maturity of the obligation, the pawnbroker may ***sell or otherwise dispose*** of any article taken or received by him in pawn. Thus, by selling properties, pawnshops shall be subject to VAT.
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> Finally, respondent Agencia Exquisite of Bohol, Inc. reiterates that it is claiming exclusion from the coverage of the value-added tax law and it is not claiming exemption from payment thereof. We are not persuaded. When a taxpayer claims exclusion from payment of the VAT, he is thereby claiming exemption from payment thereof. For what is the effect of exclusion from the VAT other than exemption from payment thereof? They have the same effect. That is, when a taxpayer claims exclusion or exemption from payment of the VAT, he is in effect claiming that he is not liable to pay a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services.
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> It is settled that tax exemptions should be strictly construed against those claiming to be qualified thereto. Any exemption from the payment of a tax must be clearly stated in the language of the law. Pawnshops are not clearly stated in the National Internal Revenue Code of 1997 to be exempted from payment of the VAT. Hence, pawnshops shall be liable to pay ten percent (10%) of their gross receipts derived from sale or exchange of services as value-added tax."

It must be pointed out that Section 3 of Presidential Decree No. 114, otherwise known as the "Pawnshop Regulation Act", defines a pawnshop as follows:

> "Pawnshop shall refer to a person or entity engaged in the business of lending money on personal property delivered as security for loans and shall be synonymous, and may be used interchangeably with, pawnbroker or pawnbrokerage."

Judicial notice may be taken of the fact that the principal activity of pawnshops is lending money at interest on the security of personal property. The act of lending money at interest constitutes the performance of a service for a fee, remuneration or consideration for such service. In other words, the liability of pawnshop operators to pay the VAT no longer depends on the classification of their business but on the services they rendered. As a consequence thereof, any allegation that pawnshops are not lending investors has lost its bearing. For as long as pawnshops are engaged in lending money on the security of personal property, they are still within the ambit of Section 108(A). Petitioner, being engaged in the pawnshop business, is undoubtedly engaged in the sale of services like lending money. Hence, it cannot escape liability to pay the VAT under Section 108(A) of the Tax Code, as amended.

On the issue of whether or not interest on pledge loans and past due loans, liquidated damages and proceeds from the auction sale of pawned items are part of petitioner's gross receipts subject to VAT, petitioner believes that interest on pledge loans and past due loans are not subject to VAT for the same are not income/receipts arising from the sale or exchange of services but are compensation for forbearance of money. Likewise, petitioner argues that liquidated damages are not income from services but are simple items of indemnification arising from breach of contract committed by its clients when the latter incur in delay in paying the borrowed money. Petitioner asserts that auction sale of pawned items is being done for and in behalf of the owner of the pawned items and that the contract of sale is between the pawners and the auction buyers and not the pawnshop business.

On the other hand, respondent argues that interest on pledge loans and past due loans, liquidated damages and proceeds from the auction sale of pawned items, being incidental to the pawnshop business, are all part of the gross receipts subject to the value-added tax.

In the case of Michel J. Lhuillier vs. Commissioner of Internal Revenue, CTA Case No. 6533, promulgated on May 16, 2003, the court had the occasion to rule on the issue, thus:

> "The court does not agree with the petitioner's view.
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> Section 108 of the Tax Code provides:
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> > "The term '*gross receipts*' means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received 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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> On the basis of the above provision in the Tax Code, we believe that interest income, liquidated damages and gains from the sale of the rematados form part of the gross receipts of pawnshop business which are subject to value-added tax. All of these are payments which are actually or constructively received incidental to the pawnshop business and, therefore, within the contemplation of the law.
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> In our recently decided case, we have passed upon the same issue 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 amount 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 sale *per se*. xxx" *(Kwik Loan Pawnshop, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6424, promulgated on April 21, 2003)*

WHEREFORE, premises considered, Assessment Notice No. 81-vat-13-99-2001-11-621 issued by respondent against petitioner is hereby upheld (*with adjustments*). Accordingly, petitioner is **ORDERED** to **PAY** the respondent **COMMISSIONER OF INTERNAL REVENUE** the amount of P3,230,407.38 representing deficiency VAT for the year 1999, inclusive of 20% deficiency interest, plus 20% delinquency interest from April 11, 2002 until fully paid pursuant to Sections 248 and 249 of the Tax Code, as amended.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

JUANITO C. CASTAÑEDA, JR.
Associate Judge

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 Judge