REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GCL RETIREMENT PLAN,
represented by its
Trustee-Director,
Petitioner,

- versus -

C.T.A. CASE NO. 3888

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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

12/15/86

D E C I S I O N

This is a claim for refund of the amount of ₱11,302.19 representing withholding tax on income from money market placements and purchase of treasury bills, imposed pursuant to the Presidential Decree No. 1959.

The facts are not disputed. It appears that petitioner GCL Retirement Plan, is an employees trust set up by the employer for the exclusive benefit of its employees, to provide them retirement pension, disability and death benefits. The plan as submitted was approved and qualified as exempt from income tax by respondent pursuant to Republic Act No. 4917. (Please see Exh. H & H-1, pp. 88-90, CTA rec.)

In 1984 petitioner made the following investments and earned from the same interest income (ANNEX C-D-2, inclusive and ANNEX E, pp. 15-20 and p. 30, respectively, CTA rec.) from which was withheld the 15% final withholding tax imposed pursuant to Presidential Decree No. 1959 which took effect on October 15, 1984, to wit:

Date	Kind of Investment	Principal	Income Earned	15% Tax Withheld
ACIC				
12/ 5/84	Market placement	₱236,515.32	₱ 8,751.06	₱1,312.66
10/22/84	Market placement	234,632.75	9,815.89	1,472.38
11/19/84	Market placement	225,886.51	10,629.22	1,594.38
11/23/84	Market placement	344,448.64	17,313.33	2,597.00
12/ 5/84	Market placement	324,633.81	15,077.44	2,261.52
COMBANK	Treasury bills			2,064.15
				₱11,302.19

Petitioner filed a claim for refund with respondent on January 15, 1985 of the amounts of ₱1,312.66 withheld by Anscor Capital and Investment Corporation and ₱2,064.15 by Commercial Bank of Manila. (Exh. O, pp. 120-122, CTA rec.) On February 12, 1985, it filed a second claim for refund of the amount of ₱7,925.38 withheld by Anscor Capital and Investment Corporation (Exh. P, pp. 123-124, CTA rec.) stating in both letters that it disagreed with the collection of the 15% final withholding tax from the interest income as it is an entity fully exempt from income tax as provided under Republic Act No. 4917 in relation to Section 56(b) of the Tax Code.

Without waiting for respondent to resolve its claim for refund, petitioner filed the instant petition for review.

The only issue to be resolved is whether or not petitioner is exempt from withholding tax on income from money placements and purchase of treasury bills imposed pursuant to Presidential Decree No. 1959.

Respondent maintains that under the present law, Presidential Decree No. 1959, which took effect on October 15, 1984, interest income of petitioner derived from money placements and treasury bills are subject to the 15% final tax.

The laws involved in this case are hereby quoted for ready reference, to wit:

"REPUBLIC ACT NO. 4917

"AN ACT PROVIDING THAT RETIREMENT BENEFITS OF EMPLOYEES OF PRIVATE FIRMS SHALL NOT BE SUBJECT TO ATTACHMENT, LEVY, EXECUTION, OR ANY TAX WHATSOEVER.

"Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Any provision of law to the contrary notwithstanding, the retirement benefits received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer shall be exempt from all taxes and shall not be liable to attachment, garnishment, levy or seizure by or under any legal or equitable process whatsoever except to pay a debt of the official or employee concerned to the private benefit plan or that arising from liability imposed in a criminal action: Provided, That the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty years of age at the time of his retirement: Provided, further, That the benefits granted under this Act shall be availed of by any official or employee only once: Provided, finally, That in case of separation of an official or employee from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee, any amount received by him or by his heirs from the employer as a consequence of such separation shall likewise be exempt as hereinabove provided.

"As used in this Act, the term 'reasonable private benefit plan' means a pension, gratuity, stock bonus or profit sharing plan maintained by an employer for the benefit of some or all of his officials and employees, wherein contributions are made by such employer or officials and employees or both, for the purpose of distributing to such officials and employees the earnings and principal of the fund thus accumulated, and wherein it is provided in said plan that at no time shall any part of the corpus or income of the fund be used for, or be diverted to, any purpose other than for the exclusive benefits of the said officials and employees.

"SEC. 2. This Act shall take effect upon its approval.

"Approved, June 17, 1967." (Underscoring supplied.)

in relation to Section 56(b) of the Tax Code which reads as follows:

"SEC. 56. Imposition of Tax.- (a) Application of tax.- The taxes imposed by this Title upon individuals shall apply to the income of estates or of any kind of property held in trust, including -

(1) xxx
(2) xxx
(3) xxx
(4) xxx

"(b) Exception.- The tax imposed by this Title shall not apply to employee's trust which forms part of a pension, stock bonus or profit-sharing plan of an employer for the benefit of some or all of his employees (1) if contributions are made to the trust by such employer, or employees, or both for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, and (2) if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employ-es under the trust, for part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees: Provided, That any amount actually distributed to any employee or distributee shall be taxable to him in the year in which so distributed to the extent that it exceeds the amount contributed by such employee or distributee."

xxx xxx xxx

and

PRESIDENTIAL DECREE NO. 1959
October 15, 1984

Amending Certain Sections of the National Internal Revenue Code, as amended.

WHEREAS, the current economic crisis amounts to grave emergency which effects the stability of the nation and requires immediate action;

WHEREAS, the issuance of this decree is an essential and necessary component of the national economic recovery program formulated to meet and overcome the emergency.

xxx xxx xxx

Section 1. A new Subsection (y) is inserted in Section 20 of the National Internal Revenue Code to read as follows:

"(y) 'Deposit substitute' shall mean an alternative form of obtaining funds from the public, other than deposits, through the issuance, indorsement, or acceptance of debt instruments for the borrower's own account, for the purpose of relending or purchasing of receivables and other obligations, or financing their own needs or the needs of their agent or dealer. These promissory notes, repurchase agreements, certificates of assignment or participation and similar instrument with recourse as may be authorized by the Central Bank of the Philippines for banks and non-bank financial intermediaries or by the Securities and Exchange Commission of the Philippines for commercial, industrial, finance companies and other non-financial companies. Provided, however, that only instruments issued for inter-bank call loans to cover deficiency in reserves against deposit liability including those between or among banks and quasi-banks shall not be considered as deposit substitute debt instruments."

Section 2. Section 21(d) of this Code as amended, is hereby further amended to read as follows:

"(d) On interest from bank deposits and yield or any other monetary benefit from deposit substitute and from trust fund and similar arrangements.- Interest from Philippine currency bank deposits and yield or any other monetary benefit from deposit substitute and from trust fund and similar arrangements whether received by citizens of the Philippines or by resident alien individuals, shall be subject to a 15% final tax to be collected and paid as provided in Sections 53 and 54 of this Code."

Section 3. Section 24(cc) of this Code, as amended, is hereby further amended to read as follows:

"(cc) Rates of tax on interest from deposit and yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements.- Interest on Philippine currency bank deposits and yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements received by domestic or resident foreign corporation shall be subject to a 15% final tax to be collected and paid as provided in Section 53 and 54 of this Code."

Section 4. Section 53(d)(1) of this Code is hereby amended to read as follows:

"Sec. 53(d)(1). Withholding of Final Tax.- Every bank or non-bank financial intermediary or commercial, industrial, finance companies, and other non-financial companies authorized by the Securities and Exchange Commission to issue deposit substitutes shall deduct and withhold from the interest on bank deposits or yield or any other monetary benefit from

> deposit substitutes a final tax equal to fifteen per centum (15%) of the interest on deposits or yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements."

Section 5. A new subsection (g) is hereby added to Section 54 of this Code, as amended to read as follows:

> "(g) all taxes withheld pursuant to the provisions of this Code and its implementring regulations are hereby considered trust funds and shall be maintained in a separate account and not co-mingled with any other funds of the withholding agent.
>
> "any violation of this provision shall be subject to the surcharges and penalties prescribed in paragraph (b) of this Section.
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We cannot adhere to the stand of respondent. From the above-quoted provisions of law, it is clear and explicit that employees trust maintained by an employer and forming part of a retirement pension, stock bonus or profit-sharing plan for the exclusive benefit of its employees are exempt from income tax. The interest income therefore of petitioner from money placement and treasury bills are not subject to the 15% final tax.

A perusal of Presidential Decree No. 1959 do not contain any provision, paragraph or sentence that inferentially suggest the repeal of the exemption of retirement and/or pension trust under Section 56(b) of the Tax Code in relation to Republic Act 4917.

The deletion by P.D. No. 1959 of the provisos in Sections 21(d) and 24(cc) of the Tax Code, referring generally to exemption and preferred rates of income tax does not imply nor mean the repeal of the exemption expressly granted by law (Republic Act No. 4917 in relation to Section 56(b))to employees' retirement plans and trust because said provisos are not the sources of nor did they grant the exemption from income tax enjoyed by employees' trust and retirement plans like petitioner herein. Presidential Decree No. 1959 revoked only the exemptions that flowed from the provisions amended, namely, Sections 21(d) and 24(cc) of the Tax Code.

As to retirement plans, the deleted provisos constituted a surplusage and their deletion produced no significance in so far as retirement plans are concerned.

On the other hand, another amended portion, Section 53(d)(1) is addressed to withholding agents to withhold from interest and other "yields" the income tax from taxable persons.

Mention has been made by respondent in his memorandum of Presidential Decree Nos. 1156 and 1739, issued prior to P.D. 1959, from where he based his stand. The former which was issued on June 3, 1977, amended Section 53 of the Tax Code imposing withholding tax on interest on bank deposits granting exemption from withholding tax to tax exempt depositors, while the latter which was issued on September 17, 1980, provided for final withholding tax on interest on deposit and yield from deposit substitute except that it deleted the proviso referring to the inapplicability of the 15% final tax to interest income that is exempt. Respondent believes that since the exemption from withholding tax to tax exempt depositors under Presidential Decree No. 1156 was deleted in Presidential Decree No. 1739 (the proviso referring to the inapplicability of the 15% final tax to interest income that is exempt) when it provided final withholding tax on interest on deposit and yield from deposit substitute, the exemption was taken away from employees retirement plans and trust and so hold, that petitioner being such, is taxable under the present law (Presidential Decree No. 1959).

The argument of respondent is without basis. The exemption of employees retirement plans and trust, like petitioner herein, was granted under Section 56(b) of the Tax Code in relation to Republic Act No. 4917 which were approved and made effective on June 22, 1957 and June 17, 1967, respectively, long before the above amended Presidential Decrees were issued.

It is a canon of interpretation and construction that general laws, which Presidential Decree No. 1959 is, do not repeal special laws and that repeals by implication are not favored. More specifically, a subsequent statute, general in character as to its terms and application, is not to be construed as repealing a special or specific enactment, unless the legislative purpose to do so is manifested. This is so even if the provisions of the latter are sufficiently comprehensive to include what was set forth in the special act.(Villegal vs. Subido, 41 SCRA 190.)

IN VIEW OF THE FOREGOING, respondent Commissioner of Internal Revenue is hereby ordered to refund to petitioner the sum of ₱11,302.19, representing the 15% final tax withheld. No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, December 15, 1986.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge