REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

METROPOLITAN BANK & TRUST COMPANY
Petitioner,

- versus -

C.T.A. CASE NO. 6378

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
APR 16 2004

x -- x

DECISION

This is a petition which seeks to set aside the decision of herein respondent dated December 7, 2001 directing petitioner to pay deficiency documentary stamp taxes for the calendar years 1982, 1983, 1984, and 1985 amounting to P 9,571,536.00 and for the calendar year 1986 in the amount of P5,119,282.50, inclusive of 25% surcharge, or a total of P14,690,818.50.

The antecedent facts are as follows:

Petitioner is a universal banking corporation duly organized and existing under Philippine laws with principal office at Metrobank Plaza Building, Sen. Gil J. Puyat Avenue Extension, Makati City (*par. 1, Stipulation of Facts, p. 94, CTA Records).*

During the years 1982 to 1986, petitioner entered into SWAP Arrangements and/or Forward Exchange Agreements with the Central Bank of the Philippines. Such Swap Arrangements and/or Forward Exchange Agreements involve the following:

a. Petitioner (local bank) has a deposit account or credit line with its foreign correspondent bank (abroad);

b. Petitioner instructs its foreign correspondent bank (abroad) to draw a certain amount from its deposit account or credit line and to remit the

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same to the Central Bank of the Philippines (now Bangko Sentral ng Pilipinas);

c. Petitioner's foreign correspondent bank (abroad) remits the amount to the Federal Reserve Bank (abroad) which in turn remits the same to the Central Bank of the Philippines (now Bangko Sentral ng Pilipinas) for the account of the petitioner;

d. Petitioner (local bank) sells (spot sale) the foreign exchange to the Central Bank and, in turn, petitioner also forward purchases the foreign exchange from Central Bank of the Philippines (now Bangko Sentral ng Pilipinas). (*par. 6, Stipulation of Facts, p. 96, CTA Records*).

On September 18, 1986, Jose J. Santos, Chief of the Franchise & Miscellaneous Taxes Division of the Bureau of Internal Revenue, issued a memorandum-report addressed to respondent, finding original SWAP Arrangement and/or Forward Exchange Agreement, its renewal, continuance and extension of the maturity period, subject to the documentary stamp tax at the rate prescribed under Sec. 195 of the NIRC. He then recommended for the issuance of a formal letter of demand to the taxpayer to effect the collection of the assessed amount.

On April 20, 1989, petitioner received a demand letter dated April 11, 1989 from herein respondent. Said letter-demand, which was signed by then Asst. Commissioner for Collection Pedro A. Aguillon, directed petitioner to pay the entire amount of P 92,711,161.09, representing deficiency withholding tax at source which amounted to P 78,020,342.59 and documentary stamp tax which amounted to P 14,690,818.50 including the increments thereof covering the calendar years 1982, 1983, 1984, 1985 and 1986, within a period of thirty (30) days from receipt thereof, for petitioner's sales of foreign exchange under its SWAP Arrangements and/or Forward Exchange Agreements. The particulars of the aforementioned deficiency assessment together with their corresponding assessment notice numbers are as follows:

A. WITHHOLDING TAX AT SOURCE			
Assessment Number	Year	Amount	
FAS-1-82-89-00578	1982	P	4,089,075.54
FAS-1-83-89-00579	1983		10,555,922.94
FAS-1-84-89-00580	1984		30,592,765.75
FAS-1-85-89-00581	1985		19,512,529.42
FAS-1-86-89-00582	1986		13,270,048.74
		P	**78,020,342.59**
B. DOCUMENTARY STAMP TAX			
FAS-82/85-5-89-00583	1982-1985	P	9,571,536.00
FAS-5-86-89-00584	1986		5,119,282.50
		P	**14,690,818.50**
		P	**92,711,161.09**

(par. 2, Stipulation of Facts, p. 95, CTA Records)

On May 19, 1989, petitioner timely contested the legality of respondent's assessment for deficiency withholding tax at source and documentary stamp taxes as shown on its demand letter dated April 11, 1989. (*par. 3, Stipulation of Facts, p. 95, CTA Records*).

On December 20, 2001, petitioner received respondent's decision dated December 7, 2001, canceling and withdrawing its assessment on deficiency withholding tax at source but affirming the validity of its assessment of the deficiency documentary stamp taxes for the calendar years 1982 to 1985 covered by Assessment Notice No. FAS-82/85-5-89-00583 amounting to P 9,571,536.00 (*Annex "A-4", Petition for Review*), and for the year 1986 covered by Assessment Notice No. FAS-5-86-89-00584 amounting to P5,119,282.50 (*inclusive of the 25% surcharge which amounted to P1,023,856.50*) (*par. 5, Stipulation of Facts, p.95, CTA Records*). Thus, petitioner's assessment was reduced as follows:

Deficiency Documentary Stamp Taxes:

For the years 1982-1985		P 9,571,536.00
For calendar year 1986	P 4,095,426.00	
Add: 25% Surcharge	1,023,856.50	5,119,282.50
Total Amount Due and Collectible		P 14,690,818.50

In affirming the validity of the assessments for documentary stamp taxes, respondent relied on the following grounds, to wit:

"The deficiency documentary stamp tax (DST) assessment is based on the order or cable/instruction of the local bank to its foreign correspondent bank to remit a specific sum in dollars to the Federal Reserve Bank (which, in turn advises the Central Bank (CB) that a specific sum in dollars/foreign currency is available to the local bank). It is the position of the BIR that when the local bank sells a foreign exchange (spot sale) in a SWAP and said local bank orders its correspondent bank abroad to remit the dollars so sold to the correspondent bank of the Central Bank of the Philippines (now Bangko Sentral ng Pilipinas), e.g., Federal Reserve Bank, said order is considered a telegraphic transfer subject to the DST under the then Section 195 (now Section 182) of the Tax Code, as amplified by Sections 51 and 50 of Regulations No. 26, otherwise known as the Documentary Stamp Tax Regulations, pertinent provisions of which read as follows:

> Sec. 195. Stamp Tax on Foreign Bills of Exchange and Letters of Credit. – On all foreign bills of exchange and letters of credit (including orders, by telegraph or otherwise, for the payment of money issued by express or steamship companies or by any person or persons) drawn in but payable out of the Philippines in a set of three or more according to the custom of merchants and bankers, there shall be collected a documentary stamp tax of thirty centavos on each two hundred pesos, or fractional part thereof of the face value of any such bill of exchange or letter of credit, or the Philippine equivalent of such face value, if expressed in foreign currency. (as amended by P.D. 1457 and P.D. 1959)." (Underscoring supplied)
>
> Sec. 51. What may be recorded as telegraphic transfer. – If a local bank cables to a certain bank in a foreign country with which bank said local bank has a credit, and directs that

> foreign bank to pay another bank or person in the same locality a certain sum of money, the document for and in respect of such transaction will be regarded as a telegraphic transfer, taxable under the provisions of Section 1449(i) of the Administrative Code.
>
> Sec. 50. Basis of tax in case of telegraphic transfers or orders for the payment of money drawn in but payable out of the Philippine Islands (now Philippines) should be the face value of such telegraphic transfers or orders computed, if expressed in a foreign currency with the rate of exchange taken into consideration." (Underscoring supplied)

Thus, this Petition for Review filed on January 18, 2002.

In his Answer dated March 5, 2002, respondent claimed the following as Special and Affirmative Defenses, to wit:

3. He reiterates and repleads the preceding paragraphs of this Answer as part of his Special and Affirmative Defenses.

4. The assessments were issued in accordance with law and regulations.

5. The documentary stamp tax (DST) assessment is based on the order or cable/instruction of the local bank (petitioner herein) to its foreign correspondent bank to remit a specific sum in dollars to the Federal Reserve Bank (which, in turn, advises the Central Bank (CB) that a specific sum in dollars/foreign currency is available to the local bank). When the local bank sells a foreign exchange (spot sale) in a Swap Arrangement and said local bank orders its correspondent bank abroad to remit the dollars so sold to the correspondent bank of the CB, e.g. Federal Reserve Bank, said order is considered a telegraphic transfer subject to DST under then Section 195 (now 182) of the Tax Code, as amplified by Sections 51 and 52 of Revenue Regulations No. 26. The then Section 195 (now Section 182) of the Tax Code subjects to the DST foreign bills of exchange and letters of credit (including orders by telegraph or otherwise) for the payment of money drawn in but payable out of the Philippines. Accordingly, the DST prescribed by Section 195 of the Tax Code, as amended, is due and payable on the order covering the forward transaction as well as the order covering or leading to the spot sale of foreign exchange and not on the sale or purchase of foreign exchange which are not subject to the DST (Bank of the Philippine Islands vs CIR, CTA Case No. 4461, May 31, 1994, affirmed in CA-G.R. SP No. 35383, August 14,

1998).

6. Pursuant to the then Section 222 (now Section 173) of the Tax Code, the DST is payable indifferently by either party making, signing, issuing, accepting or transferring the taxable document. In the case at bar, the real parties to the transaction are the local bank (petitioner herein) as drawer which has a Swap Arrangement with the CB and the former's foreign correspondent bank (Federal Reserve Bank) as drawee/acceptor. Since the drawee (local bank's foreign correspondent bank) is not within the Philippines Government's taxing jurisdiction, the drawer local bank is liable to pay the DST on the aforementioned orders, any market convention to the contrary notwithstanding.

7. The imposition of surcharge and interest on deficiency tax is mandatory.

8. All presumptions are in favor of the correctness of tax assessment.

Petitioner and respondent stipulated the following as the issues of the case:

(1) Whether or not respondent Commissioner of Internal Revenue's assessment of deficiency documentary stamp taxes for the calendar years 1982, 1983, 1984 and 1985 covered by Assessment Notice No. FAS-82/85-5-89-00583 amounting to P 9,571,536.00 and for 1986 covered by Assessment Notice No. FAS-5-86-89-00584 amounting to P 5,119,282.50 (inclusive of the 25% surcharge which amounted to P 1,023,856.50) on petitioner's swap transactions/arrangements are valid.

(2) Whether or not respondent Commissioner of Internal Revenue's assessments of 25% surcharge on top of the DST deficiency assessment for the calendar year 1986 is valid.

(3) Whether or not respondent Commissioner of Internal Revenue's assessments of interest on DST deficiency assessments for calendar years 1982, 1983, 1984, 1985 and 1986 are valid.

Petitioner argues that the deficiency assessment for documentary stamp taxes on telegraphic transfers effected under the subject Swap Arrangements and/or Forward Exchange Agreements executed from 1982 to 1986 lacks factual and legal basis for it is evident that respondent based its DST deficiency assessment on the presumption that all the SWAP Agreements listed in its Worksheets have corresponding telegraphic transfers. According to petitioner, this presumption is erroneous because the subject Swap Arrangements were mere renewals or extensions of the Swap Agreements. Thus, such renewals or extensions of the initially executed Swap Agreements have no corresponding telegraphic transfers or cable instructions made by petitioner to its foreign correspondent bank. Being such, the corresponding Swap Agreements appearing on the respondent's worksheets cannot be subject to DST on telegraphic transfers under Section 195 (now Section 182) of the Tax Code.

Furthermore, petitioner argued that under both Section 195 of the Tax Code and Section 50 of Revenue Regulations No. 26, it is provided that Documentary Stamp Tax shall be collected on telegraphic transfers for the payment of money drawn in but payable out of the Philippine Islands. Simply put, petitioner stresses that the applicability of both sections is limited to telegraphic transfers of money drawn in but not out of the Philippines.

Section 195 (now Section 182) of the Tax Code and Section 50 of Revenue Regulations No. 26 are hereunder provided for easy reference:

> "**Section 182. Stamp Tax on Foreign Bills of Exchange and Letters of Credit.** - On all foreign bills of exchange and letters of credit (including orders, by telegraph or otherwise, for the payment of money issued by express or steamship companies or by any person or persons) drawn in but payable out of the Philippines in a set of three or more according to the custom of merchants and bankers, there shall be collected a documentary stamp tax of thirty centavos on each two hundred pesos, or fractional part thereof, of the face value of any such bill of exchange or letter of credit, or the Philippine equivalent of such face value, if expressed in foreign currency."

> **"Section 50. Basis of tax in case of telegraphic transfers.** – The basis of the tax in the case of telegraphic transfers or orders for the payment of money drawn in but payable out of the Philippine Islands (now Philippines) should be the face value of such telegraphic transfers or orders computed, if expressed in a foreign currency, with the rate of exchange taken into consideration."

Respondent, however, contends that the flow of funds abroad from the Philippines to the United States is irrelevant to the accrual of the DST. The liability of an instrument to the documentary stamp tax and the amount of tax are determined by the form and face thereof and cannot be effected by proofs of facts outside of the instrument itself (U.S. vs. Isham, 17 Wall. 496, 84 U.S. 496). Then Section 195 (now Section 182) of the Tax Code subjects to the DST foreign bills of exchange and letters of credit (including orders by telegraph or otherwise) for the payment of money drawn in but payable out of the Philippines. Accordingly, the DST prescribed by Section 195 of the Tax Code as amended is due and payable on the order covering the forward transaction as well as the order covering or leading to the spot sale of foreign exchange and not on the sale or purchase of foreign exchange which are not subject to the DST. In the case at bar, the real parties to the transaction are the local bank as drawer which has a SWAP arrangement with the Central Bank and the former's foreign correspondent bank as drawee/acceptor. Pursuant to then Section 222 (now Section 173) of the Tax Code, the DST is payable indifferently by either party making, signing, issuing, accepting or transferring the taxable document. Hence, since the drawee (local bank's foreign correspondent bank) is not within the Philippine Government's taxing jurisdiction, the drawer local bank is liable to pay the DST on the aforementioned orders, any market convention to the contrary notwithstanding. And with the amendment of Section 222 of the Tax Code by Presidential Decree No. 1994 effective January 1, 1986, respondent concludes that the liability of the local bank, as drawer, for the DST on the order/cable instruction effected under the SWAP agreement becomes more explicit.

The issue presented is not novel. As has been held in a number of cases promulgated by this court and affirmed by the Court of Appeals (***China Banking Corporation vs. The Commissioner of Internal Revenue, CTA Case No. 4361, December 22, 1993; Consolidated Bank & Trust Company vs. The Commissioner of Internal Revenue, CTA Case No. 4647, November 21, 1994; Bank of the Philippine Islands vs. The Commissioner of Internal Revenue, CTA Case No. 4481, May 31, 1994; China Banking Corporation vs. Commissioner of Internal Revenue, CA-G.R. SP No. 33651, September 23, 1994; and Consolidated Bank & Trust Company vs. The Commissioner of Internal Revenue and the Court of Tax Appeals, CA-G.R. SP No. 35950, March 31, 1995***), the liability of petitioner for documentary stamp tax on the sale of foreign bills of exchange through telegraphic orders or transfers finds support under Section 51 of Revenue Regulations No. 26.

Moreover, "(a) documentary stamp tax is in the nature of an excise tax. It is not imposed upon the business transacted but is an excise upon the privilege, opportunity or facility offered at exchanges for the transaction of the business" (Commissioner of Internal Revenue vs. Heald Lumber Co., L-16340, February 29, 1964). Section 51 of

Revenue Regulations No. 26 is hereunder quoted, to wit:

> **Section 51. What may be considered as telegraphic transfer.** – If a local bank cables to a certain bank in a foreign country with which bank said local bank has a credit, and directs that foreign bank to pay to another bank or person in the same locality a certain sum of money, the document for and in respect of such transaction will be regarded as a telegraphic transfer, taxable under the provisions of Section 1449(i) of the Administrative Code.

Petitioner's cabled instructions to its foreign correspondent bank to remit a specific sum in dollars to the Federal Reserve Bank to be credited to the account of the Central Bank is in the nature of a telegraphic transfer subject to DST under Section 195 (now Section 182) of the Tax Code. In the case of ***Bank of the Philippine Islands vs. The Commissioner of Internal Revenue, CTA Case No. 4481, May 31, 1994***, this court had the occasion to rule that:

> "It has been shown above that by virtue of Section 51 of Revenue Regulations No. 26, mere cabled instructions to a foreign correspondent to pay money would fall within the ambit of Section 182.
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> Even if such instructions were not covered, Petitioner's argument would still not stand. Section 182 mentions "foreign bills of exchange and letters of credit" that are "drawn in but payable out of the Philippines." Obviously, it is not money that is being drawn in the Philippines, as the Petitioner would have it, but bills of exchange and letters of credit. It is hard to imagine how the law could contemplate bills of exchange and letters of credit being drawn "from a place of deposit in the Philippines" in relation to DST liability under Section 182.
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> It is more logical to consider that what the law means with "drawn in" is "executed in". In fact, the Centennial 6^{th} Edition of Black's Law Dictionary defines "draw" as:
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> > *The act of a drawer in creating a draft. To draw a bill of exchange, check, or draft, is to write (or cause it to be written) and sign it; to make, as a note.*

Thus, to draw bills of exchange and letters of credit in the Philippines is to write, sign, or otherwise execute such bills of exchange and letters of credit in the Philippines."

Likewise, Section 211 of the Tax Code of 1986 (now Section 198) provides that:

Section 211. Stamp tax on assignments and renewals of certain instruments. - Upon each and every assignment or transfer of any mortgage, lease or policy of insurance, or the renewal or continuance of any agreement, contract, charter, or, any evidence of obligation or indebtedness by altering or otherwise, there shall be levied, collected and paid a documentary stamp tax, at the same rate as that imposed on the original instrument."

With the above-quoted provision, all renewals and continuances of a taxable instrument are, too, within the sphere of taxation. The law is very clear on the matter. Thus, when the law speaks in a clear and categorical language, then there is no room for interpretation but only room for application.

Having resolved that Swap Agreements or arrangements are subject to documentary stamp taxes, we now rule on the issue of whether or not petitioner is liable to pay such taxes covering the taxable years 1982 to 1986, including interest and surcharges.

It is petitioner's stand that even granting that petitioner is liable for the deficiency assessment of DST, it cannot be held liable for deficiency assessment covering the calendar years 1982-1986 for the reason that Central Bank (now Bangko Sentral ng Pilipinas), the buyer of foreign exchange, which is the party liable for the DST, is tax-exempt under P.D. 1827. According to petitioner, the amendment introduced by PD 1994 [amending Section 222 (now Section 173) of the Tax Code] which now imposes the DST on the other party who is not exempt became effective only on June 18, 1986, which was the time the Official Gazette on which PD 1994 was published, was released for general circulation. Accordingly, petitioner may be held to pay DST only starting from June 18, 1986 up to December 31, 1986, but not those prior to such date. In the instant case, since the Swap Agreements entered into by petitioner and the Central Bank were all executed before June 18, 1986, the last contract, according to respondent's worksheets, being executed on April 21, 1986 with Forward Exchange Contract No. 832742 (Exhibit "E"), then petitioner is not liable to pay the documentary stamp tax.

We do not agree with the petitioner.

In the case of ***Philippine Commercial International Bank (as successor-in-interest of Insular Bank of Asia and America) vs. The Commissioner of Internal Revenue, CTA Case. No. 4883, April 11, 1996,*** citing the case of Bank of Philippine Islands vs. The Commissioner of Internal Revenue, CTA Case No. 4481, May 31, 1994, this court held that:

> "Even assuming, for the sake of argument, that there was a valid DST assessment issued by respondent, the second question to be argued upon is this: Is petitioner liable for DST even if the buyer is the Central Bank, a tax-exempt entity, but who has assumed responsibility for the payment of such tax?
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> Respondent asserts that petitioner is liable, invoking the amendatory provision of P.D. 1994 to Section 222 (now Section 186), which states:
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>> *"Provided: That whenever one party to the taxable document enjoys exemption from the tax herein imposed, the other party thereto who is not exempt shall be the one directly liable for the tax."* (Underscoring supplied)

> Petitioner and even this court beg to disagree. P.D. 1994 expressly provides in its Section 49 that it shall take effect on January 1, 1986. In the case of Bank of Philippine Islands vs. The Commissioner of Internal Revenue, CTA Case No. 4481, May 31, 1994, this Court even ruled that the date of publication of P.D. No. 1994 for purposes of its effectivity was June 18, 1986, the day the Official Gazette on which it was published was released for publication. It was only after June 18, 1986 that BPI was made to pay the deficiency DST. Applying this decision to the case at bar where the taxable year involved is 1985, it is undeniably clear that P.D. 1994 is inapplicable. Therefore, it is again erroneous for respondent to maintain that since Central Bank is tax-exempt, it is the other party (the herein petitioner) who is liable for the DST. Precisely, this is the reason why petitioner offered as its Exhibit "A" (Rebuttal Evidence) the Rules and Regulations of the Bankers Association of the Philippines. In said rules, it was expressly agreed upon that "documentary stamps on trading floor transactions shall be for the account of the buyer bank" (Exhibit "A-1", Rebuttal Evidence; par. E, p. 7, Rules and Reg.; p. 117, CTA records). The CB is the buyer bank. It is tax-exempt and so, nobody is liable on the subject assessment."
> (Emphasis supplied)

Considering that the issue on the date of effectivity of P.D. 1994 has already been resolved in the case of Bank of Philippine Islands vs. The Commissioner of Internal Revenue, CTA Case No. 4481, such will no longer be the tackled.

At this point, it bears stressing that it is not enough that the party liable to pay the DST is tax-exempt. It is indispensable that such party "assume" the responsibility to pay the subject tax. In the case at bar, there is no showing that the Central Bank assumed the responsibility to pay the DST. Then Section 222 of the Tax Code of 1977 clearly provided that:

> **"Section 222. Stamp taxes upon documents, instruments, and papers.** – Upon documents, instruments, and papers, and upon acceptances, assignments, sales, and transfers of the obligation, right, or property incident thereto, there shall be levied, collected and paid, for and in respect of the transaction so had or accomplished, the corresponding documentary stamp taxes prescribed in the following section of this Title, by the person making, signing, issuing, accepting, or transferring the

same, and at the time such act is done or transaction had."

With the above-mentioned provision, there is no question that the documentary stamp tax is payable by either the person making, signing, issuing, accepting, or transferring the document, instrument or paper. Said provision leaves the tax to be paid indifferently by either party (*Sta. Clara Lumber Company, Inc. vs. Jose Aranas, C.T.A. Case No. 502, June 12, 1959*). Consequently, since, in this case, through accepted market practice, the Central Bank, as the buyer, is made the party liable to pay the documentary stamp taxes, it should assume the responsibility of paying for the DST, or else nobody would be paying for such taxes, considering that the Central Bank is tax-exempt. The intention of the lawmakers to make either party, be it tax-exempt or not, be liable for the payment of the DST is now made explicit by the amendment of Section 222 (now Section 173) of the Tax Code.

Additionally, even the Bankers Association of the Philippines, to which petitioner is a member, affirmed that the party liable to pay the taxes, if tax-exempt, should **assume** the responsibility to pay such tax. Likewise, BIR Ruling No. 097-79 dated October 31, 1979 states similarly so. And to quote certain comments as found in the same Memorandum issued by the Bankers Association of the Philippines to the Bureau of Internal Revenue thru the BIR-BAP Tax Committee dated September 29, 1987:

> *"The BAP contends that since the CB is the buyer in the spot sale of foreign exchange by telegraphic transfer, the CB perforce should pay for the corresponding DST. Did CB, in fact, pay the DST on the spot sale of foreign exchange as buyer thereof? CB under Section 130, of its charter, is exempt from all national, provincial, municipal, and city taxes and assessments. Certainly, the local bank cannot be made to pay twice on the same swap agreement, both on the spot sale and forward purchase. In the former, the local bank is the seller; in the latter, it is the*

buyer. It has been ruled by the Bureau of Internal Revenue that where the deed of absolute sale specifies, among others, that the buyer/vendee ***assumes*** *the payment of the documentary stamp tax (DST) and by virtue of P.D. 1448, it is exempted from all taxes,, etc., the buyer/vendee is therefore, exempt from paying the DST on the aforementioned deed of sale. (Letter to Philippine Convention Bureau dated July 19, 1984) Likewise, in* ***Ruling No. 097-79****, dated October 31, 1979, the BIR ruled that if under the terms of the contract you* ***assumed*** *the payment of the DST and thereby becomes directly liable for the tax, the said document is exempt from the DST in view of your exemption under P.D. 87. Ruling No. 140-79 dated December 27, 1979, similarly states so.*

(BAP Memorandum to The Commissioner of Internal Revenue, pp 104-105, BIR Records, CTA Docket)(Emphasis supplied).
(Emphasis supplied)

Unfortunately, petitioner failed to show proof that the Central Bank (now Bangko Sentral ng Pilipinas) had indeed assumed the responsibility for the payment of the documentary stamp taxes. There is nothing in the records of this case that will support Central Bank's assumption of responsibility to pay the subject documentary stamp tax.

It has been held time and again that taxes are the lifeblood of the nation, thus, tax exemptions are regarded as in derogation of sovereign authority and must be construed *strictissimmi juris* against the person or entity claiming the same. In other words, the claimant/petitioner has the burden of proof to establish the factual basis of its claim. Failure to do so is fatal to its claim.

WHEREFORE, the instant Petition for Review is hereby **DENIED** for lack of merit. Assessment Notices Nos. FAS-82/85-5-89-00583 and FAS-5-86-89-00584 are **AFFIRMED**. Accordingly, petitioner is **ORDERED** to pay the respondent Commissioner of Internal Revenue the amount of P14,690,818.50 (P9,571,536.00 for the years 1982-1985 and P5,119,282.50, inclusive of 25% surcharge, for the year 1986), plus 20%

delinquency interest from May 30, 1989 until fully paid pursuant to Sections 248 and 249 of the Tax Code, as amended.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Judge

LOVELL R. BAUTISTA
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