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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ALFONSO B. CAMILLO,
Petitioner,

- versus -

C.T.A. CASE NO. 4260

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

This case comes on a simple issue of whether or not terminal leave pay of retiring government officials is exempt from the withholding tax.

It appears that petitioner, a Revenue Regional Director II of the Bureau of Internal Revenue, was "forced by the respondent Commissioner of Internal Revenue to retire on November 3, 1987 under the provisions of Section 12(c) of C.A. 186, as amended by R.A. 1616 and further amended by R.A. 4968; that as a consequence he received among other retirement benefits the sum of P133,365.59 as terminal leave pay and thereupon the corresponding sum of P18,365.74 was deducted and withheld as income tax; and that he claims that the full sum of terminal leave pay is exempt from tax of whatever kind pursuant to Presidential Decree No. 1146, which, in pertinent part, provides:

> "Sec. 33 Exemption from Tax, Legal Process and Lien. xxx Accordingly, notwithstanding any laws to the contrary the System, its assets, revenue including accruals thereto and benefits paid, shall be exempt from all taxes, assessments, fees, charges or duties of all kinds xxx." (Emphasis supplied)

As thus petitioner on February 1, 1988 filed with the respondent's office a claim for the refund of the amount withheld from his terminal leave pay which however was denied by the respondent on February 18, 1988.

Hence, this petition for review.

Perhaps We need take no time in going into all the details of this case as it may suffice to state that analogous appealed cases have since been pending resolution by the Supreme Court. And, so recently in the case of ***Commissioner of Internal Revenue v. Oscar Victoriano and the Court of Tax Appeals,*** *G.R. No. 83176, August 10, 1989,* the Supreme Court ruled, that -

> "In view of the fact that terminal leave pay of the respondent former Presiding Justice of the Court of Appeals, Oscar Victoriano, is part of his salary, the Court Resolved to Grant the petition and thus allows the imposition of the withholding tax thereon."

The said decision may now be referred to as an authoritative disposition of the issue in controversy. As was in that case, so here with the petitioner, the ruling applies with legal certainty.

It is very clear, therefore, upon the adjudged appeal, that petitioner's action cannot be maintained and that the judgment must be entered for the respondent Commissioner of Internal Revenue.

WHEREFORE, petition is hereby dismissed with no pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, December 29, 1989.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals