REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

DANILO A. LIHAYLIHAY, Petitioner,	**CTA Case No. 7515**
- versus -	Members: **ACOSTA,** *Chairperson* **BAUTISTA,** and **CASANOVA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** NOV 23 2009; 10:00am

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DECISION

CASANOVA, *J.:*

The instant Petition for Review prays that a judgment be rendered ordering respondent to deliver to petitioner a check payment of P795,974.21 representing informer's reward; to unilaterally decide/approve the payment of informer's reward money or reward cases pursuant to Section 4 of the 1997 National Internal Revenue Code in order to avoid delay of payment; and to promptly pay or immediately deliver to the concerned informer the reward money within one (1) month from the date of collection of the deficiency taxes to avoid paying legal interest and further wasting public funds.

As shown by the records, the facts of the case are as follows:

Danilo A. Lihaylihay (petitioner) is a tax informer who files tax denunciations with the Bureau of Internal Revenue (BIR) against certain tax evaders and smugglers in the country[1] with post office address at No. 25 Kaunlaran Street, Batasan Hills, Quezon City where summons and other legal processes may be served.

Respondent is the duly appointed Commissioner of Internal Revenue mandated by law to enforce and implement the provisions of the National Internal Revenue Code (NIRC) as well as related tax statutes and their implementing rules and regulations, including the power to decide "other matters" or claims for the payment of informer's reward pursuant to Section 4 of the 1997 NIRC, with office address at the BIR National Office Building, Agham Road, Diliman, Quezon City, where summons and other legal processes may be served[2].

On August 8, 1997, petitioner filed a sworn information docketed as Confidential Information (CI) No. 45-97 referring to the alleged tax evasion schemes of Gemsteel, Incorporated for the taxable years 1993, 1994, 1995 and 1996[3].

Petitioner claims that Gemsteel, Incorporated filed an amended Income Tax Return (ITR) for the year 1996 on November 28, 1997 having been forewarned of the impending tax investigations against it. Upon filing an amended ITR, Gemsteel, Incorporated allegedly made the following credit and payments of its deficiency taxes[4]:

1996 deficiency income tax paid but applied as credit to next year (1997 ITR)	P1,255,528.66
1996 deficiency withholding tax	275,191.00

[1] Petition for Review, paragraph 1, *Rollo,* p. 1.
[2] Respondent's Pre-Trial Brief, paragraph 1 of Summary of Admitted Facts, *Rollo,* p. 47.
[3] Exhibit "A", *Rollo,* pp. 273-274.
[4] Supra, note 1, paragraph 4, *Rollo*, p. 2.

Total deficiency taxes paid	P1,530,719.66

On January 18, 2005, respondent received a letter of formal demand from petitioner, dated January 17, 2005, stating that under Section 281(1) of the 1977 NIRC, a reward in the amount of P422,478.63 should be paid to him based on the following computation[5]:

1996 deficiency income tax paid/credited	P1,255,528.66
1996 deficiency withholding tax	275,191.00
Total deficiency taxes paid	P1,530,719.66
15% Informer's reward due	229,607.94
Add: 12% legal interest per annum from 1997 up to 2004 (Art. 1169 of the Civil Code) and Supreme Court Ruling in Eastern Shipping Lines, Inc. vs. Court of Appeals and Mercantile Insurance Co., Inc, G.R. No. 97412 dated July 12, 1994 (84%)	192,870.67
Total rewards collectible	**P 422,478.63**

On April 20, 2006, petitioner sent another letter to the BIR Law Division which was stipulated to be a supplement to his formal demand dated January 18, 2005. In said letter, petitioner is now claiming a reward equivalent to 25% of the taxes collected pursuant to the Informer's Reward Law (Republic Act 2338) which is a special law that should prevail over a general law, i.e. the 1977 NIRC. Thus, petitioner now claims that the informer's reward due him is P246,418.42[6].

Not having received any decision from the respondent, petitioner filed the instant Petition for Review on August 25, 2006.

Respondent filed his Answer on October 12, 2006 denying paragraphs 1, 3, 4, 5, 6 and 12 of the Petition for Review because he has no knowledge or information

[5] Exhibit "G-1", *Rollo*, pp. 286-287 and Annex "D" of the Petition for Review, *Rollo*, pp. 15-16.
[6] Exhibit "G", *Rollo*, pp. 284-285.

sufficient to form a belief as to the truth of such allegations; denying paragraphs 7, 8, 9, 11 and 13 of the same Petition for being erroneous conclusions of fact and law; and admitting paragraphs 2 and 10 of the Petition for Review.

On December 6, 2006, the Court issued a Resolution[7] ordering respondent to elevate the entire BIR Records of this case. On December 8, 2006, respondent filed a Manifestation[8] stating that he cannot elevate the BIR Records of the case because Revenue Region No. 5 of Valenzuela City denied the Litigation Division's request to forward the docket of the Gemsteel, Incorporated Case on the ground that the assessment was already settled.

In two hearings, respondent explained that there are two records of the case; one is for the informer's reward and the other is for the assessment for Gemsteel, Incorporated. However, Gemsteel, Incorporated records can no longer be forwarded to this Court as the assessment has been cancelled on account of payment by said corporation. As to the informer's reward records, respondent committed to transmit the same to the Court and, likewise, manifested in open court that it will file a motion for the issuance of a *subpoena* addressed to the Regional Director of Region No. 5, Valenzuela City[9].

On March 1, 2007, respondent filed an *Ex Parte* Motion for Issuance of Subpoena Duces Tecum[10] praying that the Regional Director of Revenue Region No. 5 of Valenzuela City and Commission on Audit of the BIR Field Office be required to submit the pertinent dockets in their custody to this Court. Nonetheless, despite

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[7] *Rollo*, p. 96.
[8] *Rollo*, p. 102.
[9] Transcript of Stenographic Notes (TSN) for January 12, 2007 and Feburary 23, 2007.
[10] *Rollo*, p. 115-118.

notice, both the Regional Director and Commission on Audit failed to submit the records of the case in their possession[11].

On March 19, 2007, petitioner filed a Motion for Contempt[12] praying that then Commissioner of Internal Revenue, Atty. Jose Mario C. Buñag, and his special counsel, Atty. Romel C. Curiba, be cited for indirect contempt for having failed to submit the records of the case. On April 30, 2007, this Court issued a Resolution[13] ordering the Regional Director of Revenue Region 5 and the Resident Auditor of the Commission on Audit assigned at the BIR Field Office to explain why they failed to forward the records of the case of Gemsteel, Incorporated for taxable years 1993 to 1995.

On May 18, 2007, the Assistant Regional Director and Officer-in-Charge of BIR Revenue Region No. 5 of Valenzuela City, Eduardo T. Bajador, filed an Explanation[14] which stated in sum that the records of Gemsteel Incorporated were already disposed as of October 31, 2006.

On June 6, 2007, the Supervising Auditor of the Commission on Audit elucidated that although they have records of other payments made to petitioner by the BIR as informer's reward, records pertaining to the case at hand is not with them nor was there any record received from the BIR Law Division[15].

During the hearing on June 8, 2007, the instant Petition for Review was dismissed on the ground of lack of jurisdiction based on the findings that there was

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[11] *Rollo*, p. 121.
[12] *Rollo*, pp. 122-125.
[13] *Rollo*, pp. 136-137.
[14] *Rollo*, pp. 148-149.
[15] *Rollo*, pp. 156-157.

actually no formal denial by respondent of petitioner's claim for informer's reward[16]; the Court added that the case should be filed with the Regional Trial Court.

On July 23, 2007, petitioner filed a Motion for Reconsideration on the denial of his Petition arguing mainly that under Section 11 of Republic Act 1125, as amended by Republic Act 9282, the Court of Tax Appeals has jurisdiction over appeals filed by "any party adversely affected by the inaction" of the respondent[17]. The Court, finding merit in said argument, granted the Motion for Reconsideration *via* a Resolution dated October 15, 2007[18].

On April 9, 2008, petitioner filed an Omnibus Motion stating that the Motion for Contempt filed on March 19, 2007 be resolved in so far as Atty. Romel Curiba is concerned. On April 25, 2008, respondent filed an Opposition to the Motion for Contempt alleging that Atty. Romel Curiba is not in possession of the records sought by petitioner and, likewise, exercised due diligence in locating the records. In a Resolution[19] dated May 9, 2008, petitioner's Omnibus Motion was denied for lack of merit.

Petitioner presented his documentary and testimonial evidence on April 10, 2008[20], and, thereafter, filed his Formal Offer of Exhibits[21] on April 29, 2008 which this Court resolved[22] on June 23, 2008 by denying all documentary exhibits except Exhibits "C", "F", "G", and "H". Petitioner filed a Motion for Reconsideration[23] on said

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[16] *Rollo,* p. 172; TSN for the hearing dated June 8, 2007, pp. 8-14; Resolution dated June 25, 2007, *Rollo,* p. 206.
[17] *Rollo,* pp. 208-212.
[18] *Rollo,* pp. 225-227.
[19] *Rollo,* pp. 311A-311D.
[20] *Rollo,* pp. 249-250; TSN for April 10, 2008.
[21] *Rollo,* pp. 266-272.
[22] Resolution, *Rollo,* pp. 315-316.
[23] *Rollo,* pp. 318-325.

Resolution on July 2, 2008. Having found the Motion meritorious, the Court admitted the initially denied Exhibits "A, A-1, A-2, B, D, E, E-1, G-1 and J".[24]

On September 16, 2008, respondent manifested in open Court that he will no longer present any evidence in his behalf and thereby submitted the case for decision[25]. Upon submission of the parties respective Memorandum, November 6, 2008 for the petitioner[26] and November 14, 2008 for respondent[27], the case was submitted for Decision on November 21, 2008[28].

From the parties' respective Pre-Trial Brief[29], the issues to be resolved are as follows:

1. Whether petitioner is legally entitled to the 25% informer's reward on the compromise payments made by Gemsteel, Incorporated to respondent on November 28, 1997; and

2. Whether petitioner is legally entitled, by way of damages for breach of obligation or for late payment, to the 12% legal interest per annum due to the delay of payment of his vested reward money.

As to the first issue, in order to determine whether petitioner is entitled to an informer's reward, We must first resolve which law is applicable in the instant case.

Petitioner argues that Section 281(1)(2) of the 1977 NIRC giving 15% as informer's reward was not published in the text of Presidential Decree No. 1158 and therefore not published in the Official Gazette. Pursuant to the ruling in *Tañada vs. Tuvera*[30], said provision has no effectivity. Petitioner further argues that a special law cannot be repealed by a general law, hence, the 25% rate of informer's reward

[24] Resolution dated January 13, 2009, *Rollo,* pp. 391-392,
[25] *Rollo,* p. 354, Resolution dated September 17, 2008, *Rollo,* p. 355.
[26] *Rollo,* pp. 372-380.
[27] *Rollo,* pp. 381-387.
[28] Resolution, *Rollo,* p. 389.
[29] Respondent's Pre-Trial Brief, *Rollo,* pp. 46-49; Petitioner's Pre-trial Brief, *Rollo,* pp. 51-61.
[30] G.R. No. 63915, December 29, 1986

under Republic Act (RA) 2338 still prevails over Section 281(1)(2) of the 1977 NIRC[31].

Respondent countered that assuming petitioner may lay claim to such informer's reward, he is not entitled to twenty-five (25%) but only to 15% under the 1977 NIRC; and even assuming that certain provisions of the 1977 NIRC were not published, he can only claim 5% as Presidential Decree (PD) 707 already amended RA 2338 on March 24, 1974[32].

We disagree with petitioner.

The 1977 NIRC is a valid law.

The entirety of PD 1158 that was published in the Official Gazette is as follows:

> **"PRESIDENTIAL DECREE NO. 1158**
>
> **A DECREE TO CONSOLIDATE AND CODIFY ALL THE INTERNAL REVENUE LAWS OF THE PHILIPPINES**
>
> WHEREAS, the present National Internal Revenue Code is the result of the first codification of our tax laws dating back to the year 1939;
>
> WHEREAS, there exists in the said Code a substantial number of provisions which were rendered obsolete by recent amendments introduced by various laws and presidential decrees;
>
> WHEREAS, there are not innumerable tax laws enacted since the Code's inception up to the present by various Republic Acts and Presidential Decree that need consolidation and codification;
>
> WHEREAS, it is imperative to adopt a consolidated tax code to integrate such amendatory laws and decrees and to harmonize their provisions not only for the proper guidance of the taxpayers but also for the efficient administration thereof:
>
> NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby order and decree as follows:

[31] Petition for Review, *Rollo,* pp. 3-4.
[32] Memorandum by the Respondent, *Rollo,* pp. 381-388.

SECTION 1. Codification of all internal revenue laws. — All internal revenue laws embodied in the present National Internal Revenue Code and various laws and presidential decrees are hereby consolidated and codified into a single tax code to be known as the National Internal Revenue Code of 1977, which shall form an integral part of this Decree.

SECTION 2. Effectivity. — The provisions of the National Internal Revenue Code of 1977 shall take effect immediately without prejudice, however, to the effectivity dates of the various laws and decrees which have so far amended the provisions of National Internal Revenue Code of 1939, as well as new revenue laws, as consolidated with the National Internal Revenue Code of 1977.

Done in the City of Manila, this 3rd day of June, in the year of Our Lord, nineteen hundred and seventy-seven.

-signed-
FERDINAND E. MARCOS
President of the Republic of the Philippines"

Upon confirmation with the National Printing Office, it appears that the body of the 1977 NIRC was not published as PD No. 1158 and was merely an order for the codification of all tax laws. However, the 1977 NIRC was issued during the Martial Law era where laws were instantly executory. True to form, Section 2 of PD No. 1158 states that the provisions of the 1977 NIRC shall take effect immediately.

In the case of *Association of Small Landowners of the Philippines Inc. vs. Secretary of Agrarian Reform*[33] the Supreme Court noted in the wise that:

"The Court wryly observes that during the past dictatorship, every presidential issuance, by whatever name it was called, had the force and effect of law because it came from President Marcos. Such are the ways of despots. Hence, it is futile to argue, as the petitioners do in G.R. No. 79744, that LOI 474 could not have repealed P.D. No. 27 because the former was only a letter of instruction. **The important thing is that it was issued by President Marcos, whose word was law during that time.**" (Emphasis supplied)

Although the case of *Tañada vs Tuvera*[34] mandates that laws should be published in order to be valid, the case stated that assuming a presidential issuance

[33] G.R. No. 78742, July 14, 1989.

or a law be subsequently declared invalid due to non-publicaton, such declaration cannot be given retroactive effect as it is detrimental to all persons who relied on the law. The pertinent portion of the decision reads as follows:

> "The Court therefore declares that presidential issuances of general application, which have not been published, shall have no force and effect. Some members of the Court, quite apprehensive about the possible unsettling effect this decision might have on acts done in reliance of the validity of those presidential decrees which were published only during the pendency of this petition, have put the question as to whether the Court's declaration of invalidity apply to P.D.s which had been enforced or implemented prior to their publication. The answer is all too familiar. In similar situations in the past this Court had taken the pragmatic and realistic course set forth in *Chicot County Drainage District vs. Baxter Bank* to wit:
>
>> The courts below have proceeded on the theory that the Act of Congress, having been found to be unconstitutional, was not a law; that it was inoperative, conferring no rights and imposing no duties, and hence affording no basis for the challenged decree. *Norton v. Shelby County, 118 U.S. 425, 442; Chicago, 1. & L. Ry. Co. v. Hackett, 228 U.S. 559, 566.* It is quite clear, however, that such broad statements as to the effect of a determination of unconstitutionality must be taken with qualifications. **The actual existence of a statute, prior to such a determination, is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects-with respect to particular conduct, private and official. Questions of rights claimed to have become vested, of status, of prior determinations deemed to have finality and acted upon accordingly, of public policy in the light of the nature both of the statute and of its previous application, demand examination.** These questions are among the most difficult of those which have engaged the attention of courts, state and federal and it is manifest from numerous decisions that an all-inclusive statement of a

[34] G.R. No. L-63915, April 24, 1985.

> principle of absolute retroactive invalidity cannot be justified." (*Emphasis supplied*)

Thus, petitioner's reliance on RA 2338 due to the non-publication of the 1977 NIRC is misplaced. Considering that PD No. 1158 was never declared invalid, the same is still effective and controlling.

This Court likewise finds it necessary to cite the recent Supreme Court Decision in *British American Tobacco vs. Camacho*[35] emphasizing that it is outside this Court's jurisdiction to determine the validity of a law, to wit:

> "The jurisdiction of the Court of Tax Appeals is defined in Republic Act No. 1125, as amended by Republic Act No. 9282. Section 7 thereof states, in pertinent part:
>
> > Sec. 7. Jurisdiction. — The CTA shall exercise:
> >
> > a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
> >
> > 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;
> >
> > 2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; . . . .
>
> While the above statute confers on the CTA jurisdiction to resolve tax disputes in general, this does not include cases where the constitutionality of a law or rule is challenged. Where what is assailed is the validity or constitutionality of a law, or a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by

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[35] G.R. No. 163583, August 20, 2008.

> an administrative agency contravenes the law or the constitution is within the jurisdiction of the regular courts. Indeed, the Constitution vests the power of judicial review or the power to declare a law, treaty, international or executive agreement, presidential decree, order, instruction, ordinance, or regulation in the courts, including the regional trial courts. This is within the scope of judicial power, which includes the authority of the courts to determine in an appropriate action the validity of the acts of the political departments. Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

Thereby, with the above pronouncement, We can merely implement and interpret tax laws saving the determination of their validity to the regular courts.

The 1977 NIRC is a special law which expressly repealed inconsistent provisions in RA 2338.

As to petitioner's argument that the 1977 NIRC, being a general law, cannot prevail over RA 2338, a special law; We find this without merit.

Petitioner is mistaken as it has been consistently held that the National Internal Revenue Code is not a general law but a special law[36]. Moreover, the provisions of RA 2338, inconsistent with the amended provisions of the 1977 NIRC, regarding informer's reward were repealed by PD No. 1773. The pertinent provisions of PD No. 1773 read as follows:

> **"SECTION 35. Section 331 of the National Internal Revenue Code is hereby amended to read as follows:**
>
> **'Sec. 331.** ***Informer's reward to persons instrumental in the discovery of violations of the National Internal Revenue Code and in the discovery and seizure of smuggled goods.*** —
>
> xxx xxx xxx

[36] *Republic vs. Santiago Gancayco*, L-18307, June 30, 1964; *The Commissioner of Internal Revenue vs. Ilagan Electric and Ice Plant Inc.*, 29 SCRA 634; *The Guagua Electric Light Co., Inc. vs. CIR*, 19 SCRA 790.

> **SECTION 37. Repealing Clause. — The provisions of Republic Act Nos. 2338** and 4713, Presidential Decree Nos. 707 and 708, Sections 158-A, 193(c), 259-A and 281-A of the National Internal Revenue Code **and all laws, rules and regulations or parts thereof inconsistent with the provisions of this Decree are hereby repealed or amended accordingly**." (Emphasis supplied)

Considering that the inconsistent provisions of RA 2338 have been repealed, it is but proper to uphold respondent's argument that the informer's reward is 15% not 25% pursuant to Section 331 of PD No. 1158, or Section 281 (1)(2) of the 1977 NIRC, as amended by PD No. 1773.

Petitioner is entitled to the rate of 15% as informer's reward.

As regards petitioner's entitlement to informer's reward, petitioner claims that the BIR took action on his confidential information when a Memorandum, dated August 21, 1997, was issued to Revenue Officers Remedios Advincula and Angelito B. Burgos to conduct a thorough preliminary investigation of the veracity of the information[37]. Petitioner further pointed out that, in a letter dated November 10, 1998, the Chief of the Tax Fraud Division, Antonio F. Montemayor, informed petitioner that Gemsteel, Incorporated was availing of the Voluntary Assessment Program (VAP) of the BIR and action on his confidential information would depend on the valuation of the VAP Committee[38].

Respondent, for his part, countered that petitioner failed to show any evidence that petitioner is deserving of any informer's reward as no amount recovered was proven.

We agree with petitioner.

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[37] Memorandum for Petitioner, *Rollo*, pp. 372- 379.
[38] Ibid., Exhibit "C".

Section 281 (1) of the 1977 NIRC, as amended, states that:

> "**SECTION 281.** ***Informer's reward to persons instrumental in the discovery of violations of the National Internal Revenue Code and in the discovery and seizure of smuggled goods.***
>
> **(1) For violation of the National Internal Revenue Code. — Any person, except an internal revenue official or employee, or other public official, or his relative within the sixth degree of consanguinity, who voluntarily gives definite and sworn information, not yet in the possession of the Bureau of Internal Revenue, leading to the discovery of frauds upon the internal revenue laws or violations of any of the provisions thereof, thereby resulting in the recovery of revenues, surcharges and fees and/or the conviction of the guilty party and/or the imposition of any fine or penalty, shall be rewarded in a sum equivalent to fifteen per centum of the revenues; surcharges or fees recovered and/or fine or penalty imposed and collected**. The same amount of reward shall also be given to an informer where the offender has offered to compromise the violation of law committed by him and his offer has been accepted by the Commissioner and in such a case, the fifteen per centum reward fixed herein shall be based on the amount agreed upon in the compromise and collected from the offender: Provided, That should no revenue, surcharges or fees be actually recovered or collected, such person shall not be entitled to a reward: Provided, further, That the information mentioned herein shall not refer to a case already pending or previously investigated or examined by the Commissioner or any of his deputies, agent or examiners, or the Secretary of Finance or any of his deputies or agents: Provided, finally, That the reward provided herein shall be paid under regulations issued by the Commissioner of Internal Revenue with the approval of the Secretary of Finance." (*Emphasis supplied*)

From the above law, the determining factor to entitle petitioner to a reward is that he gave information "leading to the discovery of frauds" by internal revenue officers. Further, in order for the above section to be operative, it is sufficient that the person or entity concerned is subject to, and violated revenue laws, and the informer's report thereon resulted in the recovery of revenues[39].

[39] *Commissioner of Internal Revenue vs. Commission on Audit*, G.R. No. 101976, January 29, 1993.

Based from the records of the case and evidence presented by petitioner, it can be concluded that CI 45-97 precipitated the investigation of Gemsteel, Incorporated which resulted in the recovery of taxes: petitioner filed his CI 45-97[40] on August 8, 1997 with the BIR notifying the latter of Gemsteel, Incorporated's alleged evasion of payment of taxes; on August 21, 1997, the Tax Fraud Division of the BIR issued a Memorandum[41] ordering Revenue Officers Remedios Advincula and Angelito Burgos to investigate the veracity of CI 45-97; on November 28, 1997, Gemsteel, Incorporated filed its Amended ITR[42], paid its deficiency taxes[43] and availed of the Voluntary Assessment Program (VAP) which was contested by petitioner in a letter to the BIR dated October 28, 1998[44]. The BIR itself admitted that it acted on CI 45-97 in its letter-reply[45] dated November 10, 1998, which stated that a report on the information was already submitted on September 28, 1998 by the assigned revenue officers. Naturally, if Gemsteel, Incorporated availed of the VAP, payment of taxes was eventually made and revenue inured to the government.

Respondent failed to present records to disprove petitioner's claim, manifesting that the VAP files of Gemsteel, Incorporated were destroyed despite less than ten (10) years of being an active file and that the informer's reward files of petitioner were curiously cannot be found or forwarded by the responsible department. Moreover, respondent failed to move for reconsideration on the admission of all the documents of petitioner. Hence, this Court finds no basis to

[40] Exhibit "A", *Rollo,* pp. 273-274.
[41] Exhibit "B", *Rollo,* p. 275.
[42] Exhibit "D", *Rollo,* pp. 278-281.
[43] Exhibit "E", *Rollo,* p. 280.
[44] Exhibit "F", *Rollo,* p. 283.
[45] Exhibit "C", *Rollo,* p. 276.

deny petitioner's claim for informer's reward, albeit not at the rate of 25%, but at the rate of 15%.

Petitioner is not entitled to interest.

Moving on to the issue of interest, petitioner claims that he be paid interest at the rate of 12% pursuant to the ruling in *Eastern Shipping Lines vs. Court of Appeals*[46] quoting that:

> "1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% *per annum* to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code."

Respondent countered that an informer's reward is neither a loan nor forbearance, thus, it cannot accrue interest; recent jurisprudence does not grant any legal interest on the informer's reward; and even if petitioner is entitled to an informer's reward, he is not entitled to legal interest until the decision of this Court has become final and executory.

We agree with respondent.

In the case of *Reformina vs. Tomol*[47], the High Court had the occasion to rule that the 12% interest applies only on loans, forebearances of money and rate of judgments. The pertinent part of the decision states as follows:

> "Acting pursuant to this grant of authority, the Monetary Board increased the rate of legal interest from that of six (6%) percent per

[46] G.R. No. 97412, July 12, 1994.
[47] G.R. No. 59096, October 11, 1985.

annum originally allowed under Section I of Act No. 2655 to twelve (12%) percent per annum.

It will be noted that Act No. 2655 deals with interest on (1) loans; (2) forbearances of any money, goods, or credits; and (3) rate allowed in judgments.

The issue now is—what kind of judgment is referred to under the said law. Petitioners maintain that it covers all kinds of monetary judgment.

The contention is devoid of merit.

The judgments spoken of and referred to are Judgments in litigations involving loans or forbearance of any 'money, goods or credits. Any other kind of monetary judgment which has nothing to do with, nor involving loans or forbearance of any money, goods or credits does not fall within the coverage of the said law for it is not within the ambit of the authority granted to the Central Bank. xxx

xxx xxx xxx

Coming to the case at bar, the decision herein sought to be executed is one rendered in an Action for Damages for injury to persons and loss of property and does not involve any loan, much less forbearances of any money, goods or credits. As correctly argued by the private respondents, the law applicable to the said case is Article 2209 of the New Civil Code which reads—

> Art. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of interest agreed upon, and in the absence of stipulation, the legal interest which is six percent per annum." (*Emphasis supplied*)

The determining factor for the application of the 12% interest rate is whether the obligation is one arising out of a loan or a forbearance of money. A "loan" is defined as the delivery by one party to and receipt by another party of sum of money upon agreement, express or implied, to repay it with or without interest[48]. An informer's reward cannot be considered as a loan or forbearance of money as it is

[48] Black's Law Dictionary, 6th ed. 1990, p. 936.

not governed by an agreement of receiving money with the obligation to return it with or without interest. Hence, petitioner cannot properly claim 12% rate of interest but the 6% interest under Article 2209 of the 1987 New Civil Code.

The Supreme Court further explained the application of the 6% interest as damages in its Decision in *National Power Corporation vs. Angas*[49].

> "(T)he transaction involved is clearly not a loan or forbearance of money, goods or credits but expropriation of certain parcels of land for a public purpose, the payment of which is without stipulation regarding interest, and the interest adjudged by the trial court is in the nature of indemnity for damages. The legal interest required to be paid on the amount of just compensation for the properties expropriated is manifestly in the form of indemnity for damages for the delay in the payment thereof. **Therefore, since the kind of interest involved in the joint judgment of the lower court sought to be enforced in this case is interest by way of damages, and not by way of earnings from loans, etc. Art. 2209 of the Civil Code shall apply**." (*Emphasis supplied*)

Considering that the interest sought by petitioner is not one stipulated in a loan or forbearance of money, it is in the nature of damages, thus, confirming the application of the 6% interest.

In *Eastern Shipping Lines, Inc. vs. CA,* the reckoning of the 6% interest was held to start from the date the judgment of the court was made. The relevant portion of the decision is as follows:

> "II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:
>
> 1. When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, i.e.,

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from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. **No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty**. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, **the interest shall begin to run only from the date of the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount of finally adjudged**.

3. **When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit**.

WHEREFORE, the petition is partly GRANTED. The appealed decision is AFFIRMED with the MODIFICATION that the legal interest to be paid is SIX PERCENT(6%) on the amount due computed from the decision, dated 03 February 1988, of the court a quo. A TWELVE PERCENT (12%) interest, in lieu of SIX PERCENT (6%), shall be imposed on such amount upon finality of this decision until the payment thereof." (Emphasis supplied)

Applying the above pronouncement, considering that the amount to be paid is unliquidated, unsettled or undetermined, the 6% interest shall run from the time this judgment is rendered. However, from finality of the decision up to actual payment of petitioner's reward, the applicable interest shall be 12%.

WHEREFORE, in view of the foregoing, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Respondent is **ORDERED** to pay to petitioner the amount of P229,607.94, computed as follows.

1996 deficiency income tax paid/credited	P1,255,528.66
1996 deficiency withholding tax	275,191.00
Total deficiency taxes paid	P1,530,719.66
15% Informer's reward due	**P 229,607.94**

Respondent is likewise ordered to pay 6% interest from the date of this judgment, and 12% interest from finality of judgment until actual payment thereof.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division