REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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FIRST NATIONWIDE ASSURANCE CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NOS. 6854, 6903 6972 and 6994

Members:

ACOSTA, *Chairman*
BAUTISTA, *and*
CASANOVA, *JJ.*

Promulgated:
AUG 02 2005

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RESOLUTION

Under consideration is petitioner's Motion to Dismiss filed on May 23, 2005. In seeking for the dismissal of the consolidated cases, petitioner invoked the Supreme Court's ruling in *Nippon Life Insurance Corporation vs. Commissioner of Internal Revenue* (without giving the general register number and date of promulgation of the decision or resolution). During the hearing on the motion held on June 7, 2005, respondent interposed no objection on petitioner's motion provided that the dismissal be with prejudice.

The Court finds merit in petitioner's motion.

In dismissing the consolidated cases, the Court reiterates its stand on the issue of whether interest payments on treasury notes with maturity date of more than five (5) years are taxable under the 1997 National Internal Revenue Code ("Tax Code"). In ***Malayan Zurich Insurance Company, Inc. vs. Commissioner of Internal Revenue*** *(CTA Case No. 6474, September 2, 2004)*, the Court ruled as follows:

> "This is not a novel issue. This court has always been consistent in ruling that interest income derived from treasury notes which have a maturity in excess of five (5) years is not exempt from the 20% withholding tax. This much is a settled matter. As previously enunciated in numerous cases, this court has uniformly ruled that only the gain from sale (as distinguished from interest) of bonds, debentures or other certificates of indebtedness with maturity of more than five years shall be exempt from income tax. Therefore, interest income earned from investments in long-term fixed rate treasury notes are subject to 20% withholding tax.
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> Time and again, this court has always been guided by the principles laid down in the case of ***Nippon Life Insurance Company of the Philippines, Inc. vs. Commissioner of Internal Revenue, CA-G.R. SP No. 69224, November 15, 2002***, wherein the Court of Appeals affirmed in toto this court's ruling on said issue, when it enunciated that:
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> > "The CTA is absolutely correct. Income is the flow of money to an individual or corporation within a specified time, as payment for services, interests, or profits from investments. Income is the return in money from one's business, labor or capital invested. The famous analogy used by the Supreme Court described property, labor and capital as trees and income as their fruits. Thus, income is synonymous with profit or gain. Nippon used this general concept of income or gain to include interest within the meaning of Section 32(B)(7)(g). This strained interpretation suffers from serious flaws.
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> > First, while the Tax Reform Act adhered to the above definition of income, it also classified income into the following categories: compensation for services, income derived from the conduct of business or exercise of profession, gains derived from dealings in property, interest, rents, royalties, dividends, annuities, prizes and winnings, pensions, and a partner's distributive share from net income of a general professional partnership. Section 32(B)(7)(g) clearly refers to gains realized from

the sale, exchange or retirement of bonds, among others, with a maturity date of more than five (5) years. There is no reason to confuse gains from sale of bonds with gains in the general sense of income. Nippon argued that the law did not qualify the term "gains" but it is impossible not to see that the law did qualify such term and restricted it to gains from sale of bonds.

Section 32(B) enumerates the exclusions from gross income. Exclusions, like tax exemptions, are highly disfavored in law. A person claiming a tax exemption must justify his claim by the clearest terms possible because an exemption from the common burden of taxation is not allowed upon vague implications but on language too plain, to be mistaken. In the instant case, Nippon's claimed exclusion runs counter to the plain, unequivocal language of the law. It resorted to the legislative intent behind the provision to justify departure from the literal meaning but we all know this is prohibited. The only intent that must be given effect is the one expressed in the language of the statute. If a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. To depart from the meaning expressed by the words of the statute is to alter the statute and legislate, not to interpret. A statute which is plain, clear and free from doubt is not subject to construction; there is no need for interpretation, only application.

In enacting the Tax Reform Act, the legislature may have intended to develop the capital market and encourage savings in long-term investments but even under the restrictive interpretation that gains under the subject provision means gains from sale of bonds, debentures and other certificates of indebtedness, such legislative intent still finds full expression. Section 32(B)(7)(g) as written and as interpreted by the CTA is still an incentive to the development of the bond market because it excludes gains from sales from the computation of the gross income. This may not be as sweeping as Nippon would have wanted to but it is an incentive nonetheless, which is faithful to the legislative intent. Nippon's all or nothing stance on the exclusion of gains from bonds finds no support in either the language or intent of the law."

Furthermore,

"In interpreting this provision, the word 'gain' must be understood in its meaning in relation to words to which it was associated. Thus, gains must not be interpreted in its generic sense as that referred to under Section 32 (A) of the Tax Code but in the sense it was used under the specific provision of Section 32 (B) (7) (g) of the same Tax Code. Since gain was specifically referred to as gains from sale, it cannot be construed as to include gains derived in any other manner than by sale. The rule in statutory construction is that words employed in a statute are interpreted in connection with, and their meaning is ascertained by reference to the words and the phrases with which they are associated or related (*Ang Bagong Bayani-OFW Labor Party vs. COMELEC, 359 SCRA 698*).

Gain has a general meaning. However, where there is a particular or special provision in the statute and also a general one, the special provision prevails in the sense that the general provisions cannot derogate from the special. xxx (*Uy vs. Sandiganbayan, 354 SCRA 651*). Hence, the meaning of 'gain' as used in Section 32 (B) (7) (g) of the Tax Code shall prevail over that of Section 32 (A).

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We agree with the CTA that if the concept of gains from sale includes interest income, then the two terms should not have been treated separately in the enumeration of gross income under Section 32 (A). In this regard, it has been the long standing policy and practice to respect conclusions arrived at by quasi-judicial agencies, especially the Court of Tax Appeals which, by the nature of its functions, is dedicated exclusively to the study and consideration of tax problems, and which has thus developed an expertise on the subject, unless an abuse or improvident exercise of its authority is shown (*Commissioner of Internal Revenue vs. CA, 303 SCRA 508*)." (***Tokio Marine Malayan Insurance Company, Inc. [Formerly Pan Malayan Insurance Corporation] vs. Commissioner of Internal Revenue, CA-G.R. SP No. 77639, June 29, 2004***)

This ruling of the Court of Appeals has been affirmed by the Supreme Court in a resolution promulgated on November 19, 2003 in the case of ***Nippon Life Insurance Company of the Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 159612***."

WHEREFORE, premises considered, petitioner's Motion to Dismiss the above-entitled consolidated cases is hereby **GRANTED WITH PREJUDICE**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice