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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB No. 622
(CTA Case No. 7303)

Present:

Acosta, *P.J.*,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Palanca-Enriquez,
Fabon-Victorino,
Mindaro-Grulla, and
Cotangco-Manalastas, *JJ.:*

-versus-

DE LA SALLE UNIVERSITY, INC.,
Respondent.

Promulgated:
DEC 10 2010 1:10 p.m.

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DECISION

CASTAÑEDA, JR., J.:

Before Us is the Petition for Review, including the Supplemental Petition for Review under Section 11 of Republic Act No. 9282 assailing the Amended Decision dated July 29,

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2010, the Decision dated January 5, 2010 and the Resolution dated April 6, 2010 issued by the Court's Special First Division in the case entitled, "De La Salle University, Inc. vs. The Commissioner of Internal Revenue" docketed as CTA Case No. 7303.

THE FACTS

The Commissioner of Internal Revenue ("Commissioner") is a public official tasked to perform among others the refund of excessively or erroneously paid taxes under the 1997 National Internal Revenue Code ("NIRC"); while De La Salle University ("DLSU") is a non-stock and non-profit domestic educational institution organized and existing under and by virtue of the laws of the Republic of the Philippines.

The Bureau of Internal Revenue ("BIR") Special Large Taxpayers Task Force on educational institutions issued a Preliminary Assessment Notice ("PAN") dated May 19, 2004 which was received by DLSU on May 31, 2004.[1]

On October 12, 2004, DLSU received a Formal Letter of Demand dated August 18, 2004 from the Commissioner through then Officer-in-Charge, Large Taxpayer Service, Ms. Kim Jacinto-Henares assessing its alleged liabilities on income tax derived from rental income on restaurants and bookstores, value-added tax ("VAT") on business income and documentary stamp taxes ("DST") on its loan transactions and lease

[1] Docket, CTA Case No. 7303, Joint Stipulation of Facts and Issues, p. 286.

contracts in the cumulative amount of P17,303,001.12, inclusive of the applicable surcharge, interest and penalty for the fiscal years 2001, 2002 and 2003.[2]

In response to the Formal Letter of Demand, DLSU timely protested the Commissioner's assessment.[3]

DLSU submitted its documents on January 7, 2005 and February 8, 2005.[4]

The Commissioner's inaction on its protest prompted DLSU to file a Petition for Review docketed as CTA Case No. 7303 with the Court's Special First Division on August 3, 2005.

In the Decision dated January 5, 2010, the Court's Special First Division partially granted DLSU's Petition for Review. The Court in Division ordered the cancellation of DST assessment on loan transactions in the amount of P1,681,774.00 and payment by DLSU of income tax, VAT and DST deficiencies on its lease contracts, inclusive of 25% surcharge and 20% delinquency interest for fiscal years 2001, 2002 and 2003 in the total amount of P18,421,363.53, the dispositive portion of which reads:

> **WHEREFORE**, the Petition for Review is **PARTIALLY GRANTED**. The DST assessment on the loan transactions of petitioner in the amount of P 1,681,774.00 is hereby **CANCELLED**. However, petitioner is **ORDERED to PAY** deficiency income tax, VAT and DST on its lease contracts, plus 25% surcharge for the fiscal years 2001, 2002 and 2003 in the total amount of P18,421,363.53, computed as follows:

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[2] Docket, CTA Case No. 7303, Joint Stipulation of Facts and Issues, pp. 286, 45-48.
[3] Docket, CTA Case No. 7303, Joint Stipulation of Facts and Issues, p.287.
[4] Docket, CTA Case No. 7303, Joint Stipulation of Facts and Issues, p. 287.

	Income Tax	VAT	DST	TOTAL
Basic	P 9,248286.56	P 2,627,354.14	P 28,904.89	P 11,904,545.59
Surcharge(25%)	2,312,071.64	656,838.54	7,226.22	2,976,136.40
Interest	2,879,890.61	651,790.36	9,000.57	3,540,681.54
TOTAL	P 14,440;248.81	P 3,935,983.04	P 45,131.68	P 18,421,363.53

In addition, petitioner is hereby held liable to pay 20% delinquency interest on the total amount due computed from September 30, 2004 until full payment thereof pursuant to Section 249(C)(3) of the NIRC. Further, the compromise penalties imposed by respondent were excluded, there being no compromise agreement between the parties.

SO ORDERED.[5]

Dissatisfied, both the Commissioner and DLSU moved for the Court's Special First Division to partially reconsider its Decision dated January 5, 2010. In ruling against the Commissioner, the Court in Division issued a Resolution dated April 6, 2010 denying her Motion for Partial Reconsideration for lack of merit. However, DLSU's Motion for Partial for Reconsideration was held in abeyance. The case was set for the pre-marking and identification of DLSU's documents identified as Annexes "A" to "E" on April 13, 2010 and April 20, 2010.[6]

Unfazed, on May 13, 2010, the Commissioner now as the petitioner appealed to the Court *En Banc* by way of a Petition for Review.

On June 25, 2010, DLSU as the respondent filed its Comment to the Petition. Je

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[5] Penned by Presiding Justice Ernesto D. Acosta and concurred in by Associate Justices Lovell R. Bautista and Caesar A. Casanova constituting as the Special First Division. See Rollo, pp. 17-47.
[6] Rollo, pp. 49-57.

Meanwhile, the Court's Special First Division issued an Amended Decision dated July 29, 2010, partially granting DLSU's Motion for Partial Reconsideration. The Court in Division ordered DLSU to pay income tax, VAT and DST deficiencies plus 25% surcharge for the fiscal years 2001, 2002 and 2003 in the reduced total amount of P5,506,456.71, including 20% per annum deficiency interest on its basic deficiency taxes and 20% per annum delinquency interest.[7]

THE ISSUES

The Commissioner interposed the following errors committed by the Court's Special First Division:

> THE HONORABLE COURT DID NOT HAVE TO EXAMINE HOW RESPONDENT USED THE INCOME IT SOUGHT TO BE EXEMPTED.
>
> RESPONDENT DID NOT PROVE THE FACT OF REMITTANCE OF DOCUMENTARY STAMP TAX (DST) TO THE GOVERNMENT.[8]

On the basis of the Court's Special First Division Amended Decision dated July 29, 2010, the Commissioner filed a Motion for Leave of Court to File Supplement to the Petition for Review[9] which the Court *En Banc* granted in a Resolution dated September 14, 2010.[10] Accordingly, she filed her Supplemental Petition for Review and DLSU its

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[7] Rollo, pp.134-135.
[8] Rollo, pp.10 & 12.
[9] Rollo, pp. 96-99.
[10] Rollo, pp.102-106.

Comment thereto. In her Supplemental to the Petition for Review, the Commissioner ascribed another error by the Court's Special First Division:

> THE ADMISSION OF RESPONDENT'S ADDITIONAL EVIDENCE SHOULD NOT HAVE BEEN ALLOWED BY THE SPECIAL FIRST DIVISION OF THE HONORABLE CTA.[11]

After the submission of the Commissioner's Supplemental Petition for Review and the DLSU's Comment, the case was submitted for decision per Resolution dated October 21, 2010.[12]

THE COURT'S RULING

ON 2001, 2002 and 2003 INCOME TAX DEFICIENCIES

According to the Commissioner, DLSU's use of its assets for non-educational or commercial purposes immediately removed such assets from the exemption coverage under Article XIV, Section 4(3) of the 1987 Philippine Constitution. Although, she agrees with the result, it is unnecessary to examine the use of revenues.

The Commissioner anchors its claim in the Supreme Court case of *Abra Valley College, Inc. v. Aquino* [13] where the lease of a portion of the school building or lot for commercial purposes cannot be considered incidental to the purpose of education.

[11] Rollo, p.113.
[12] Rollo, p. 159.

DLSU on the other hand counters that the canteens and bookstores cater only to the university's students and faculty. DLSU exercises supervision over the quality of services or food being served, the quality of books being sold, as well as their respective prices.

The rental revenue from canteens and bookstores are specifically used to pay DLSU's promissory note to Philippine Trust Company, the loan used in the construction of the University Physical Education Sports Complex and repairs and renovation of the physical assets. It has a policy to obtain funding for all disbursements for educational purposes primarily from rental revenue earned from its lease contracts. In this situation, DLSU first exhausts its rental revenue earned from its lease agreements before it utilizes income from other sources.

The Commissioner's arguments lack merit.

Article XIV, Section (4)(3) of the 1987 Constitution recognizes the importance of education in nation building and provides incentives to non-stock and non-profit educational institutions engaged in educational purposes as follows:

> All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.

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[13] G.R.No. L-39086, June 15, 1988, 162 SCRA 106.

Incentives such as or in the form of income tax exemptions are afforded to non-stock and non-profit educational institutions pursuant to Section 30(H) of the 1997 NIRC:

> "SEC. 30. *Exemptions from Tax on Corporations.* – The following organizations shall not be taxed under this Title in respect to income received by them as such:
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> "(H) A nonstock and nonprofit educational institution; xxx

The case of *Commissioner of Internal Revenue v. Court of Appeals, et al.,*[14] synthesized the elements for an educational institution to be entitled to income tax exemption under the Constitution and the law, namely:

> As previously discussed, the laws allowing tax exemption are construed *strictissimi juris.* Hence, for the YMCA to be granted the exemption it claims under the aforecited provision, it must prove with substantial evidence that (1) it falls under the classification *non-stock, non-profit educational institution*; and (2) the income it seeks to be exempted from taxation is used *actually, directly*, and *exclusively* for *educational purposes.* However, the Court notes that not a scintilla of evidence was submitted by private respondent to prove it met the said requisites.[15]

Thus, in the very wordings of the Supreme Court, it is essential to ascertain how the taxpayer as a non-stock and non-profit educational institution utilizes income earned sought to be exempted. Revenues, howsoever, generated are covered by the

[14] G.R. No. 124043. October 14, 1998, 298 SCRA 83, 97.
[15] *Ibid.*

constitutional exemption provided they will be used for educational purposes or will be held in reserve for such purposes.[16]

As to the first requisite, the parties have stipulated in this case that indeed DLSU is a non-profit and non-stock educational institution.[17] DLSU's nature as non-profit and non-stock educational institution is reflected in its Amended Articles of Incorporation.[18]

In the Amended Decision, the Court in Division previously explained that DLSU derived income from its lease contracts for canteen and bookstore services with the concessionaires, namely: Alarey, Inc., Capri International, Inc., Zaide Food Corporation, La Casita Roja and MTO International Product Mobilizer, Inc. and DLSU further alleged that the rental income received from the foregoing concessionaires has been added to Depository Fund – PE Sports Complex Fund and to the Physical Plant Fund (PPF); and such income has been limitedly spent on the Current Fund – Capital Project Accounts (CF-CPA).[19]

Concerning the second requisite, the Court's Special First Division in its Amended Decision correctly made the following observation why DLSU is liable for the reduced amount of income tax deficiency of P4,167,867.12 covering the fiscal years 2001, 2002 and 2003 on the basis of the substantiation of rental income received from MTO-PE Sports Complex and La Casita:

[16] Joaquin G. Bernas, S.J., 1987 Constitution of the Republic of the Philippines: A Commentary, 2009 Edition, p. 1291.
[17] Docket, CTA Case No. 7303, p. 285.
[18] Docket, CTA Case No. 7303. Annex "E" as attached to the Petition for Review. p. 86.
[19] Amended Decision dated July 29, 2010, Rollo, p. 128.

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In the Assailed Decision, the Court found insufficient substantiation on the part of petitioner to prove that the proceeds of petitioner's loan from Philippine Trust Company (PTC) were duly accounted for or reported as an addition to the PE-Sport Complex Fund. Specifically, the Court found petitioner's Statement of Receipts, Disbursements and Fund Balance for the year 2001 unwarranted for failure to show a beginning balance, considering that the loans were made for fiscal years 1999 and 2000; xxx

In order to cure this defect, petitioner submitted its Statement of Receipts, Disbursements and Fund Balance for the fiscal year 2000 and Statement of Fund Charges as of May 31, 2000 to prove that proceeds of the PTC loan were included in the fund. Examination of the same documents showed "External Borrowing" as a source of fund in the amount of P93,860,675.40. Petitioner's controller testified that it pertains to the loan obtained from PTC less deductions for interest and other charges.

The Court now finds the foregoing substantiation of petitioner to be in order. Thus, the Court concludes that the petitioner's rental income from MTO-PE Sports Complex and La Casita which were transmitted and used for the payment of the PTC loan on the PE-Sports Complex were used actually, directly and exclusively used for educational purposes. xxx

Anent Petitioner's rental income from Alarey, Inc., Zaide Food Corp., Capri International and MTO Bookstore which were transmitted to the CF-CPA, petitioner again failed to fully account for and substantiate all the disbursements from the CF-CPA. The Court, again, cannot ascertain whether the rental income from the foregoing concessionaires was indeed used for educational purposes. xxx

According to ICPA's findings, the petitioner was able to show only the disbursements from the CF-CPA amounting to P7,305,104.71, P8,747,116.40 and P6,259,078.30 for the fiscal years 2001, 2002 and 2003, respectively. **Thus, only the portion of the rental income pertaining to the substantiated disbursements of the CF-CPA will be considered as used actually, directly and exclusively for educational purposes. For failure to sufficiently account for the unsubstantiated disbursements, however, the same must be subjected to income and value added tax.**

XXX XXX XXX

WHEREFORE, petitioner's Motion for Partial Reconsideration is hereby **PARTIALLY GRANTED**. Petitioner is hereby **ORDERED** to **PAY** for deficiency income tax, VAT and DST plus 25% surcharge for the fiscal years 2001, 2002 and 2003 in the total adjusted amount of P5,506,456.71, computed as follows:

		2001		**2002**		**2003**		**Total**
Income Tax								
Basic Tax	P	845,317.14	P	939,835.23	P	1,549,141.33	P	3,334,293.69
Surcharge		211,329.29		234,958.81		387,285.33		833,573.42
Subtotal	*P*	*1,056,646.43*	*P*	*1,174,794.03*	*P*	*1,936,426.66*	*P*	*4,167,867.12*
VAT								
Basic Tax	P	264,161.61	P	293,698.51	P	484,106.66	P	1,041,966.78
Surcharge		66,040.40		73,424.63		121,026.67		260,491.69
Subtotal	*P*	*330,202.01*	*P*	*367,123.14*	*P*	*605,133.33*	*P*	*1,302,458.47*
DST								
Basic Tax	P	8,644.71	P	9,647.80	P	10,612.38	P	28,904.89
Surcharge		2,161.18		2,411.95		2,653.10		7,226.23
Subtotal	*P*	*10,805.89*	*P*	*12,059.75*	*P*	*13,265.48*	*P*	*36,131.12*
Total Deficiency Tax	**P**	**1,397,654.32**	**P**	**1,553,976.92**	**P**	**2,554,825.47**	**P**	**5,506,456.71**

In addition, petitioner should be held liable to pay 20% per annum deficiency interest on the following basic deficiency taxes, computed from the dates indicated herein until full payment thereof pursuant to Section 249(B) of the NIRC of 1997, as amended:

		2001		**2002**		**2003**
Income Tax	P	845,317.14	P	939,835.23	P	1,549,141.33
Computed from		September 15, 2001		September 15, 2002		September 15, 2003
VAT	P	264,161.61	P	293,698.51	P	484,106.66
Computed from		June 25, 2001		June 25, 2002		June 25, 2003
DST	P	8,644.71	P	9,647.80	P	10,612.38
Computed from		June 10, 2001		June 10, 2002		June 10, 2003

Further, Petitioner is hereby held liable to pay 20% per annum delinquency interest on the deficiency taxes, surcharge and deficiency interest which have accrued as stated from September 30, 2004 until fully paid. Jr

SO ORDERED.[20]

(Emphasis supplied.)

Moreover, the Commissioner's reliance on the *Abra Valley* case is misplaced. The Supreme Court in the case of *Commissioner of Internal Revenue v. Court of Appeals* explained that the *Abra Valley College* case involves exemption from payment of real property tax, not income tax. Thus, the *Abra Valley* case is inapplicable to the instant case which basically pertains to deficiency income tax as among the internal revenue taxes subject of the assessment.

PROOF OF REMITTANCE OF DST ON DLSU's 2001, 2002 AND 2003 LOAN AND MORTGAGE TRANSACTIONS TO THE GOVERNMENT

The Commissioner further alleges that DLSU did not establish the fact of remittance of DST to the Government. Aside from its promissory notes, real estate mortgage deed and letters from the creditor-bank, there has been no proof of actual remittance of DST to the government. DLSU should have presented a certification from the proper government office. There was no direct evidence to show proof of actual remittance. Thus, DLSU was rightfully assessed of DST deficiency on its loan and mortgage transactions.

DLSU maintains that DST payments on loan documents have been remitted to the BIR through DST metering machine, thus, it is exempt from DST.

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[20] Amended Decision dated July 29, 2010, Rollo, pp. 128-135.

We are persuaded with DLSU's posture.

Actual payment and remittance of DST are generally made through the filing of a DST return, or also known as "constructive stamping of DST on the taxable document or facility evidencing the transaction or the receipt system".[21] Another mode of payment and remittance may be undertaken through the purchase of loose documentary stamps tax or imprinting of stamps through a documentary stamp tax metering machine under Section 200 (D) of the 1997 NIRC and Section 2 of Revenue Regulations ("R.R.") 15-2001:

Sec. 200. *Payment of Documentary Stamp Tax.* –

> "(A) In General. – The provisions of Presidential Decree No. 1045 notwithstanding, any person liable to pay documentary stamp tax upon any document subject to tax under Title VII of this Code shall file a tax return and pay the tax in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon the recommendation of the Commissioner.
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> xxx xxx xxx
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> (D) Exception. – In lieu of the foregoing provisions of this Section, the tax may be paid either through the **purchase and actual affixture, or by imprinting the stamps through a documentary stamp metering machine, on the taxable document**, in the manner as may be prescribed by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.
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SECTION 2. Manner of Payment of Documentary Stamp Tax (DST). –

[21] Hector S. De Leon and Hector M. De Leon, Jr., The National Internal Revenue Code Annotated, Volume 2, 2003 Edition, p. 329.

> **SEC. 2. MANNER OF PAYMENT OF DOCUMENTARY STAMP TAX (DST). –**
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> **2.1. In General. –** The payment of the documentary stamp tax due on any taxable document/transaction, irrespective of the amount thereof, shall be made by the filing of a tax return and the payment of the tax in accordance with the existing rules and regulations. xxx
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> This general manner of payment is commonly known as "constructive stamping of DST on the taxable document/facility evidencing the transaction" or the "receipt system" whereby constructive affixture is done by affixing to the taxable document/facility evidencing the transaction the duplicate copy or the certified true copy of the DST return/proof of payment of DST. x x x
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> **2.2. Exceptions** - In lieu of the constructive stamping, Section 200(D) of the Code, however, allows the payment of DST imposed in Title VII thereof either through the purchase and actual affixture of loose documentary stamps or **by imprinting of stamps through a documentary stamp metering machine (conventional electro-mechanical documentary stamp metering machine or on-line electronic DST imprinting machine)** of the proper value to the document or facility evidencing a transaction sought to be taxed, subject to the following conditions:
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> xxx xxx xxx
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> 2.2.2 **Imprinting/Affixture of DST through Documentary Stamp Metering Machine** – Purchase of documentary stamps for future applications not covered by Subsections 2.1 and 2.2.1 above shall be allowed only to persons authorized to use the conventional electro-mechanical BIR Registered Metering Machines under Revenue Regulations No. 7-92 (RR 7-92) and those classes of taxpayers which are mandated by Revenue Regulations No. 9-2000 (RR 9-2000) and subsequent regulations and orders to use the "on-line electronic DST imprinting machine" in the payment of their DST. (Emphasis supplied.)

Clearly, DLSU's payment and remittance of DST evidenced by United Coconut Planters Bank (UCPB's) imprinting of stamps through a DST metering machine exonerates it from the Commissioner's DST assessment on its loan and mortgage transactions for the fiscal years 2001, 2002 and 2003. Jz

ADMISSIBILITY OF DLSU's ADDITIONAL EVIDENCE

The Commissioner argues that DLSU was indirectly reopening the trial of the case because it sought to introduce additional documentary evidence and prayed for the setting of a hearing for the marking thereof. Despite the Commissioner's objections, presentation of additional documentary evidence was allowed. DLSU should have presented the questioned documentary pieces of evidence during the administrative proceedings and subsequently during presentation of its evidence-in-chief. In this case, the documentary pieces of evidence constitute as forgotten evidence not newly discovered evidence which were presented only after an unfavorable decision of the Court's Special First Division, specifically through a Motion for Reconsideration.

DLSU insists that there was no comment nor objection raised by the Commissioner when it formally offered the questioned documentary pieces evidence.

We disagree with the Commissioner's contention.

The questioned documentary pieces of evidence were eventually formally offered and are admissible even if the same were proffered through a Motion for Reconsideration. In the case of *BPI-Family Savings Bank, Inc. v. Court of Appeals,* [22]

[22] G.R. No. 122480, April 12, 2000, 330 SCRA 507.

the Supreme Court recognized the 1990 Final Adjustment Return of the taxpayer which was attached to the Motion for Reconsideration. The Highest Tribunal explained that:

> True, strict procedural rules generally frown upon the submission of the Return after the trial. The law creating the Court of Tax Appeals, however, specifically provides that proceedings before it "shall not be governed strictly by the technical rules of evidence." The paramount consideration remains the ascertainment of truth. Verily, the quest for orderly presentation of issues is not an absolute. It should not bar courts from considering undisputed facts to arrive at a just determination of a controversy.
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> **In the present case, the Return attached to the Motion for Reconsideration clearly showed that petitioner suffered a net loss in 1990. Contrary to the holding of the CA and the CTA, petitioner could not have applied the amount as a tax credit. In failing to consider the said Return, as well as the other documentary evidence presented during the trial, the appellate court committed a reversible error.**
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> It should be stressed that the rationale of the rules of procedure is to secure a just determination of every action. They are tools designed to facilitate the attainment of justice. But there can be no just determination of the present action if we ignore, on grounds of strict technicality, the Return submitted before the CTA and even before this Court. To repeat, the undisputed fact is that petitioner suffered a net loss in 1990; accordingly, it incurred no tax liability to which the tax credit could be applied. Consequently, there is no reason for the BIR and this Court to withhold the tax refund which rightfully belongs to the petitioner.
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> Public respondents maintain that what was attached to petitioner's Motion for Reconsideration was not the final adjustment Return, but petitioner's first two quarterly returns for 1990. This allegation is wrong. An examination of the records shows that the 1990 Final Adjustment Return was attached to the Motion for Reconsideration. On the other hand, the two quarterly returns for 1990 mentioned by respondent were in fact attached to the Petition for Review filed before the CTA. Indeed, to rebut respondents' specific contention, petitioner submitted before us its Surrejoinder, to which was attached the Motion for Reconsideration and Exhibit "A" thereof, the Final Adjustment Return for 1990.[23] (Emphasis supplied.)

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[23] *Ibid.*

The Supreme Court upheld the findings of the Court of Appeals in considering the 1998 Income Tax Return attached to the Motion for Reconsideration as ruled in the case of *Commissioner of Internal Revenue v. PERF Realty Corporation,* [24] citing *Filinvest Development Corporation v. Commissioner of Internal Revenue*[25]*:*

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> The CIR takes the view that the CA erred in considering the 1998 ITR of PERF. It was not formally offered in evidence. Section 34, Rule 132 of the Revised Rules of Court states that the court shall consider no evidence which has not been formally offered.
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> The reasoning is specious.
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> **PERF attached its 1998 ITR to its motion for reconsideration. The 1998 ITR is a part of the records of the case and clearly showed that income taxes in the amount of P1,280,504.00 were not claimed as tax credit in 1998.**
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> **In *Filinvest Development Corporation v. Commissioner of Internal Revenue,* the Court held that the 1997 ITR attached to the motion for reconsideration is part of the records of that case and cannot be simply ignored by the CTA. Moreover, technicalities should not be used to defeat substantive rights, especially those that have been held as a matter of right.** We quote:
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> In the proceedings before the CTA, petitioner presented in evidence its letter of claim for refund before the BIR to show that it was made within the two-year reglementary period; its Income Tax Returns for the years 1995 and 1996 to prove its total creditable withholding tax and the fact that the amounts were declared as part of its gross income; and several certificates of income tax gc

[24] G.R. No. 163345. July 4, 2008, 557 SCRA 165.
[25] G.R. No. 146941, August 9, 2007, 529 SCRA 605.

withheld at source corresponding to the period of claim to prove the total amount of the taxes erroneously withheld. More importantly, petitioner attached its 1997 Income Tax Return to its Motion for Reconsideration, making the same part of the records of the case. The CTA cannot simply ignore this document.

Thus, we hold that petitioner has complied with all the requirements to prove its claim for tax refund. The CA, therefore, erred in denying the petition for review of the CTA's denial of petitioner's claim for tax refund on the ground that it failed to present its 1997 Income Tax Return.

The CA's reliance on Rule 132, Section 34 26 of the Rules on Evidence is misplaced. This provision must be taken in the light of Republic Act No. 1125, as amended, the law creating the CTA, which provides that proceedings therein shall not be governed strictly by technical rules of evidence. Moreover, this Court has held time and again that technicalities should not be used to defeat substantive rights, especially those that have been established as a matter of fact.

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That no one shall unjustly enrich oneself at the expense of another is a long-standing principle prevailing in our legal system. This applies not only to individuals but to the State as well. In the field of taxation where the State exacts strict compliance upon its citizens, the State must likewise deal with taxpayers with fairness and honesty. The harsh power of taxation must be tempered with evenhandedness. Hence, under the principle of *solutio indebiti*, the Government has to restore to petitioner the sums representing erroneous payments of taxes.[26] (Emphasis supplied.)

The questioned documentary pieces of evidence which were eventually formally offered justify their admissibility because the Court of Tax Appeals is not governed strictly by technical rules of evidence.[27] gr

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[26] *Ibid.*

[27] *Calamba Steel Center, Inc. (formerly JS Steel Corporation) v. Commissioner of Internal Revenue, G.R. No. 151857,* April 28, 2005, 457 SCRA 482.

WHEREFORE, premises considered, the Petition is hereby **DISMISSED.**

SO ORDERED.

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

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
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.

ERNESTO D. ACOSTA
Presiding Justice