

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
Quezon City

THIRD DIVISION

INTERNATIONAL EXCHANGE
BANK (Now known as Union
Bank of the Philippines),
Petitioner,

-versus-

CTA Case No. 7848

Members:

BAUTISTA, Chairperson
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, JJ

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:

MAY 06 2010

X-----*OB Fernandez - 4:08 PM*-----X

DECISION

COTANGCO-MANALASTAS JJ:

This resolves the Petition for Review filed by petitioner on November 7, 2008, seeking the cancellation and setting aside of the assessment notices issued by respondent in relation to petitioner's deficiency documentary stamp taxes (DST) in the amounts of P38,151,921.30, P61,260,831.65, P50,915,537.25, P47,082,118.50, and P27,552,008.55 for the period covering taxable years 1998 to 2002.

Petitioner International Exchange Bank (now known as "Union Bank of the Philippines") is a commercial banking corporation duly organized and existing under Philippine laws, with principal office address at 21st Floor Union Bank Plaza, Meralco Avenue corner Onyx and Sapphire Streets, Ortigas Center, Pasig City.¹

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) empowered to perform the duties of said office including, among others, the power to issue deficiency tax assessments against taxpayers, and to decide assessment protests. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

The facts of the case as culled from the records, are as follows:

On April 18, 2007, Petitioner received from respondent Formal Letters of Demand and Assessment Notices (Assessment Notice Nos. FCDU-116-PM-98-00031, FCDU-116-PM-99-00002, FCDU-116-PM-00-00014, FCDU-116-PM-01-00014, FCDU-116-PM-02-00014, FCDU-116-DS-98-00031, FCDU-116-DS-99-00002, FCDU-116-DS-99-00014, FCDU-116-DS-01-00014 and FCDU-116-DS-02-00014) assessing petitioner deficiency gross receipts tax (GRT) in the total amount of P239,115,897.45 and deficiency documentary stamp tax on Foreign Currency Deposit Unit (FCDU) Loans, Deposits, and Bills Payable in the total amount of P203,595,176.69² for the taxable years 1998 to 2002.

On June 28, 2007, petitioner protested the foregoing assessments for being contrary to existing law and jurisprudence.³

On February 4, 2008, petitioner allegedly availed of the Tax Amnesty Program of the government pursuant to the provisions of Republic Act (R.A.) No.

¹ Exhibits "S" and "T"

² Exhibits "F", "G", "H", "I", and "J"

³ Exhibit "K"

9480, otherwise known as "An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2005 and Prior Years."⁴

In spite of the purported availment of the Tax Amnesty Program, petitioner received five (5) Final Decisions on Disputed Assessment⁵ from respondent, denying petitioner's protest for lack of factual and legal bases. The five Final Decisions on Disputed Assessment, which were received by petitioner on October 8, 2008, pertained only to petitioner's deficiency documentary stamp tax, requiring petitioner to pay the total amount of P224,962,417.25.⁶

Consequently, petitioner filed the instant Petition for Review on November 7, 2008.

In his Answer⁷, respondent raised the following counter-arguments:

- "6. In the case of *Allied Banking Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 7481, this Honorable Court has reiterated that Foreign Currency Deposit Unit (FCDU) income is now subject to all other applicable taxes. It ruled thus:

'Recently, this Court ruled in **Metropolitan Bank & Trust Company vs. Commissioner of Internal Revenue**, CTA Case No. 6504, 25 October 2006, that FCDU income is now subject to all other applicable taxes such as gross receipts tax. We quote:

'By the clear import of the above law, income derived by a depository bank under the foreign currency deposit system units from foreign currency transactions with local commercial banks shall be subject to a final tax of 10%. The phrase 'exempt from all taxes' has definitely been deleted by the legislators. The amendment by deletion of certain words or phrases in a statute indicates that the legislature

⁴ Exhibits "A", "B", "C", "D", and "E"

⁵ Exhibits "L", "M", "N", "O", and "P"

⁶ Par. 1.4, Admitted Facts, Joint Stipulation of Facts and Issues, docket p. 143

⁷ Docket, pp. 85-94

intended to change the meaning of the statute. Thus, by virtue of such deletion, Revenue Regulations No. 10-76, which implemented the old law is no longer applicable and the payment by petitioner of the 10% final tax on FCDU income does not exempt it from gross receipts tax or other taxes for that matter. As correctly argued by the respondent, there being no effective exemption to speak in this case, then all applicable taxes became due. It must be noted that the ten percent (10%) final tax levied on onshore income under Section 27(D)(3) of the 1997 NIRC pertains to income derived by a depository bank under the expanded foreign currency deposit system. It does not include the gross receipts tax which is a form of excise tax. Just as a documentary stamp tax is imposed upon the exercise of a privilege, in like manner, the gross receipts tax is imposable when a bank exercises the privilege in engaging in foreign currency transactions or business.

Petitioner would like this Court to consider that despite the plain provision of the present tax law, the phrase 'exempt from all taxes' still applies to its FCDU income. To reiterate, under the 1997 Tax Code, the phrase 'shall be exempt from all taxes' relative to FCDUs can no longer be found. Petitioner's insistence that it is still covered by the tax-exempt provision of the old law is quite absurd and contrary to sound reasoning. As this Court had already discussed, the NIRC of 1997 mandates payment of gross receipts taxes aside from the 10% final tax on onshore income.

Since taxes are the lifeblood of the nation, this court has always applied the doctrine strict interpretation in construing tax exemptions. Furthermore, a claim of statutory exemption from taxation should be manifest and unmistakable from the language of the law on which it is based. Hence, the claimed exemption 'must expressly be granted in a statute stated in a language too clear to be mistaken.'

In other cases involving FCDU income, this Court has similarly ruled that the payment of 10% final tax on FCDU

income does not exempt a bank from the payment of other taxes (ING Bank (Manila Branch) vs. Commissioner of Internal Revenue, CTA Case No. 6017, March 11, 2002; and ING Bank N.V. Manila Branch vs. Commissioner of Internal Revenue, CTA Case No. 6187, August 9, 2004).

Proceeding from the foregoing, petitioner's liability to pay GRT and DST on its FCDU income is based on Sections 121 and 180 of the Tax Code, respectively. Said sections read:

'SEC. 121. Tax on Banks and Non-Bank Financial Intermediaries. – There shall be collected a tax on gross receipts derived from sources within the Philippines by all banks and non-bank financial intermediaries in accordance with the following schedule:

(a) On interest, commissions and discounts from lending activities as well as income from financial leasing, on the basis of remaining maturities of instruments from which such receipts are derived:

Short-term maturity (not in excess of two (2) years- 5%

Medium-term maturity (over two (2) years but not exceeding four (4) years – 3%

Long term maturity -

(1) Over four (4) years but not exceeding seven (7) years – 1%

(2) Over seven (7) years – 0%

(b) On dividends – 0%

(c) On royalties, rentals of property, real or personal, profits from exchange and all other items treated as gross income under Section 32 of this Code – 5%

Provided, however, That in case the maturity period referred to in paragraph (a) is shortened thru pretermination, then the maturity period shall be reckoned to end as of the date of pretermination for purposes of

classifying the transaction as short, medium or long-term and the correct rate of tax shall be applied accordingly.

Nothing in this Code shall preclude the Commissioner from imposing the same tax herein provided on persons performing similar banking activities.'

'SEC. 180. Stamp Tax on All Bonds, Loan Agreements, Promissory Notes, Bills of Exchange, Drafts Instruments and Securities Issued by the Government or Any of its Instrumentalities, Deposit Substitute Debt Instruments, Certificates of Deposits Bearing Interest and Others Not Payable on Sight or Demand. – On all bonds, loan agreements, including those signed abroad, wherein the object of the contract is located or used in the Philippines, bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities, deposit substitute debt instruments, certificates of deposits drawing interest, orders for the payment of any sum of money otherwise than at sight or on demand, on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each Two hundred pesos (P200), or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: Provided, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan, whichever will yield a higher tax: Provided, however, That loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the

documentary stamp tax provided under this Section.'

In the instant case, this Honorable Court further ruled:

'Income derived by depository banks from FCDU transactions was formerly 'exempt from all taxes'. When the legislature deleted the phrase 'exempt from all taxes', it intended to subject such income not only to the 10% final tax, but to all other taxes as well. This conclusion is in accord with the rule of statutory construction that –

As a rule, the amendment by deletion of certain words or phrases in a statute indicates that the legislature intended to change the meaning of the statute, for the presumption is that the legislature would not have made the deletion had the intention been not in effect a change in its meaning. The amended statute should accordingly be given a conclusion different from that previous to its amendment.'

Moreover, tax exemptions cannot be created by mere implication, but must be clearly provided by law. In case of doubt, non-exemption is favored. Accordingly, he who claims an exemption from his share of the common burden of taxation must justify his claim by showing that the legislature intended to exempt him by words too plain to be mistaken. Thus, the imposition of the 10% final tax under Section 27(D)(3) cannot be construed to mean that income derived by depository banks from FCDU transactions is exempt from all other taxes (including DST). The exemption of such income from all other taxes must be clearly and categorically expressed in the law in order to avail of the same.

xxx'

7. Petitioner's DST liabilities are not covered by RA 9480 or the Tax Amnesty Law. Revenue Memorandum Circular No. 69-2007 clearly states that withholding taxes and taxes passed-on and already

collected from customers for remittance to the BIR are not covered by the Tax Amnesty Law since these are considered as funds held in trust for the government. DST, whether deducted from the proceeds of the loan or as an addition to the payable amount of the borrower are considered taxes/funds held in trust for the government.

8. All presumptions are in favor of the correctness of tax assessments. The good faith of tax assessors and the validity of their actions are presumed. They will be presumed to have taken into consideration all the facts to which their attention was called (*CIR vs. Construction Resources of Asia, Inc.*, 145 SCRA 671). It is incumbent upon the taxpayer to prove the contrary (*Mindanao Bus Company vs. CIR*, 1 SCRA 538; *CIR vs. Tuazon, Inc.*, 173 SCRA 397) and failure to do so shall vest legality on respondent's actions and assessments.
9. Failure to present proof of error in the assessment will justify judicial affirmation of said assessment (*Delta Motors Co. vs. Commissioner*, CTA Case No. 3782, 21 May 1986; *Commissioner of Internal Revenue vs. Court of Appeals, et. al.*, G.R. Nos. 104151 and 105563, 10 March 1995)."

On December 22, 2008, a Notice of Pre-Trial Conference was issued by this Court setting the case for Pre-Trial Conference on January 16, 2009 and requiring both parties to be present at the pre-trial and to file with the Court and serve on the adverse party their respective pre-trial briefs.⁸

Accordingly, respondent filed his Pre-trial brief⁹ on January 7, 2009; while petitioner filed its Pre-trial brief¹⁰ on January 12, 2009.

On February 5, 2009, the parties filed their Joint Stipulation of Facts and Issues¹¹ before this Court.

During trial, petitioner presented and formally offered its documentary and testimonial evidence; while respondent's counsel manifested that she is waiving respondent's right to present evidence.¹²

⁸ Docket, p. 109

⁹ Docket, pp. 101-107

¹⁰ Docket, pp. 116-128

¹¹ Docket, pp. 142-148

The parties were directed to submit their simultaneous Memoranda.

The case was submitted for decision on January 22, 2010, taking into consideration respondent's Memorandum filed on November 17, 2009 and petitioner's Memorandum filed on December 21, 2009.¹³

STATEMENT OF ISSUES

The parties submitted the following issues¹⁴ for this Court's disposition:

- "2.1 Whether or not Petitioner's availment of the Tax Amnesty Program under the Tax Amnesty Law, exempts it from liability to pay the alleged deficiency DST for the years 1998 to 2002, considering that DST is an internal revenue tax that is expressly covered under the said Tax Amnesty Program.
- 2.2 Whether or not the alleged DST liabilities of Petitioner are covered by RA 9480 or the Tax Amnesty Law in relation to Revenue Memorandum Circular No. 69-2007.
- 2.3 Whether or not Petitioner is liable for the taxes being assessed, in view of the categorical provisions of Revenue Regulation No. 10-76 and Presidential Decree No. ('PD') 1035 that exempt net income of FCDUs from all taxes.
 - 2.3.1 Whether or not the deletion of the phrase 'exempt from all taxes' under the NIRC of 1997 means that FCDUs are now subject to all taxes in addition to the 10% final tax.
 - 2.3.2 Whether PD 1035 and its implementing Revenue Regulations No. 10-76 have not been repealed.
 - 2.3.3 Whether Section 2 of PD 1035 can be harmonized with Section 27 (D) (3) of Republic Act No. 8424, and shall continue to govern Petitioner's exemption from all taxes."

The foregoing issues may be summarized into three, to wit:

1. Whether or not petitioner is liable to pay deficiency documentary stamp tax for taxable years 1998 to 2002 in view of the provisions

¹² Docket, p. 313

¹³ Resolution dated January 22, 2009, docket, p. 374

¹⁴ Docket, p. 146

of Revenue Regulations No. 10-76 and Presidential Decree No. 1035 that exempt net income of FCDUs from all taxes;

2. Whether or not with petitioner's availment of the Tax Amnesty Program under the Tax Amnesty Law, it may no longer be held liable to pay the alleged deficiency documentary stamp tax for taxable years 1998 to 2002; and
3. Whether or not petitioner is liable to pay deficiency documentary stamp tax in the amounts of P38,151,921.30, P61,260,831.65, P50,915,537.25, P47,082,118.50, and P27,552,008.55 for the period covering taxable years 1998 to 2002.

DISCUSSION/RULING

The issues will be addressed in *seriatim*.

Petitioner argues that a reading of the 1977 Tax Code and all subsequent amendments thereto, including the National Internal Revenue Code (NIRC) of 1997, shows that there was no express reference to Presidential Decree (P.D.) No. 1035 as one of the laws to be abrogated or repealed. It further avers that since there was no express repeal of P.D. No. 1035, the provisions thereof should be read in harmony with Section 27(D)(3) of the NIRC of 1997, since they are not repugnant to each other.

On the other hand, respondent contends that the deletion of the phrase "exempt from all taxes" under the NIRC of 1997 only means that FCDUs have become subject to all taxes in addition to the ten percent (10%) final tax; thus, petitioner is liable to pay documentary stamp tax.

The Court agrees with respondent.

The original law, R.A. No. 6426, otherwise known as the "Foreign Currency Deposit Act of the Philippines", as amended by P.D. Nos. 1035 and 1246, exempts from all taxes all foreign currency deposits made under the foreign currency

deposit system, including interest and all other income of such deposits, irrespective of whether or not these deposits were made by residents or non-residents. Section 6 of R.A. No. 6426, as amended, provides:

"Sec. 6. *Tax Exemptions.* - All foreign currency deposits made under this Act, as amended by Presidential Decree No. 1035, as well as foreign currency deposits authorized under Presidential Decree No. 1034, including interest and all other income or earnings of such deposits, are hereby exempted from any and all taxes whatsoever irrespective of whether or not these deposits are made by residents or non-residents so long as the deposits are eligible or allowed under aforementioned laws and, in the case of non-residents, irrespective of whether or not they are engaged in trade or business in the Philippines."

Thereafter, the National Internal Revenue Code of 1977 was enacted, which also granted tax exemption to FCDU's foreign currency transactions, but with certain exceptions. Section 25(a)(6)(B) of the 1977 Tax Code states:

"(B) *Income derived under the Expanded Foreign Currency Deposit System.* - Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with non-residents, offshore banking units in the Philippines, local commercial banks including branches of foreign banks that may be authorized by the Central Bank of the Philippines to transact business with foreign currency deposit system units and other depository banks under the expanded foreign currency deposit system **shall be exempt from all taxes**, except taxable income from such transactions as may be specified by the Secretary of Finance, upon recommendation of the Monetary Board to be subject to the usual income tax payable by banks: *Provided*, That interest income from foreign currency loans granted by such depository banks under said expanded system to residents (other than offshore banking units in the Philippines or other depository banks under the expanded system) shall be subject to a 10% tax.

Any income of non-residents from transactions with depository banks under the expanded system shall be exempt from income tax." (*Emphasis supplied*)

Subsequently, Republic Act No. 8424, otherwise known as the "Tax Reform Act of 1997", the applicable law in this case, was enacted on January 1, 1998,

deleting the phrase "exempt from all taxes" from the above-quoted provision.

Section 27(D)(3) of the said law reads:

"(3) *Tax on Income Derived under the Expanded Foreign Currency Deposit System.* – Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with local commercial banks, including branches of foreign banks that may be authorized by the Bangko Sentral ng Pilipinas (BSP) to transact business with foreign currency depository system units and other depository banks under the expanded foreign currency deposit system, including interest income from foreign currency loans granted by such depository banks under said expanded foreign currency deposit system to residents, shall be subject to a final income tax at the rate of ten percent (10%) of such income.

Any income of nonresidents, whether individuals or corporations, from transactions with depository banks under the expanded system shall be exempt from income tax."

From the foregoing, it is evident that the phrase "exempt from all taxes" had been deleted by the legislature. As a rule, the amendment by deletion of certain words or phrases in a statute indicates that the legislature intended to change the meaning of the statute, for the presumption is that the legislature would not have made the deletion had the intention been not in effect a change in its meaning. The amended statute should accordingly be given a construction different from that previous to its amendment.¹⁵ Thus, this Court treats such deletion as withdrawal of the exemption previously granted by the prior law.

Significantly, the same construction was made by this Court in the case of *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*¹⁶. In the said case, the Court made the following conclusions:

"(B)y virtue of such deletion, *R.A. No. 6264, as amended*, and its implementing *Revenue Regulations No. 10-76*, are no longer

¹⁵ Gloria vs. Court of Appeals, 306 SCRA 287

¹⁶ CTA Case No. 7446, July 27, 2007

applicable. In other words, the payment of the 10% final tax on FCDU income does not exempt petitioner from the payment of PT and DST.”

It is also noteworthy that in the case of *Philippine Veterans Bank vs. Commissioner of Internal Revenue*¹⁷, the Court *En Banc* ruled:

“Despite the insistence of petitioner that there was no mention of the amendment during the Joint Explanatory Statement as regards the ‘exemption from all taxes’ therefore it was the intention of the legislators to retain the said phrase, We rule that by the language used, **in deleting the phrase ‘shall be exempt from all taxes’, it should be taken that there is no construction to speak of in the first place and it shows the clear intention on the part of the legislature to remove the blanket exemption given by the NIRC of 1977, as amended, to FCDU income from all forms of taxes.**” (*Emphasis supplied*)

At this juncture, it must be stressed that the 10% final tax levied on onshore income under Section 27(D)(3) of the NIRC of 1997 pertains to income derived by a depository bank under the expanded foreign currency deposit system. It does not include DST, which is an excise tax. As such, DST is levied on the exercise of the privilege through the execution of specific instruments independent of the legal status of the transaction giving rise thereto. Here, DST is imposed upon petitioner’s exercise of the privilege of engaging in foreign currency transactions or business.¹⁸

The first and fundamental duty of the Court is to apply the law. When the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. When the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application. There can be no resort to extrinsic aids – like deliberations of Congress – if the

¹⁷ CTA EB No. 332, June 12, 2008

¹⁸ Bank of the Philippine Islands vs. Commissioner of Internal Revenue, *supra*

language of the law is plain, clear and unambiguous. Courts determine the intent of the law from the literal language of the law, within the law's four corners. If the language of the law is plain, clear and unambiguous, courts simply apply the law according to its express terms.

Applying the afore-mentioned provision, this Court rules that petitioner is not exempt from documentary stamp tax under the NIRC of 1997.

As regards the second and third issues, petitioner maintains that its availment of tax amnesty granted under R.A. No. 9480 or the Tax Amnesty Law would entitle it to the immunities and privileges provided in Section 6 thereof.

Respondent asserts that petitioner's documentary stamp tax liabilities are not covered by R.A. No. 9480, inasmuch as Revenue Memorandum Circular (RMC) No. 69-2007 clearly states that withholding taxes and taxes passed-on and already collected from customers for remittance to the BIR are not covered by the Tax Amnesty Law.

On these issues, this Court rules in favor of petitioner.

The applicable portions of RMC No. 69-2007 provide as follows:

"Q-1 What type of taxes and what taxable period/s are covered by the Tax Amnesty Program under RA 9480 as implemented by DO 29-07?"

A-1 The Tax Amnesty Program (TAP) covers all national internal revenue taxes such as income tax, estate tax, donor's tax and capital gains tax, value added tax, other percentage taxes, excise taxes and **documentary stamp taxes**, except withholding taxes and taxes passed-on and already collected from the customers for remittance to the BIR, these taxes/funds being considered as funds held in trust for the government. Moreover, the time-honored doctrine that *'No person shall unjustly enrich himself at the expense of another'* should always be observed." (*Emphasis supplied*)

It is evident from the above-quoted portions of RMC No. 69-2007 that documentary stamp tax is included in the coverage of the Tax Amnesty Program under Republic Act No. 9480.

Moreover, respondent failed to provide basis for his contention that petitioner was a withholding agent of the subject documentary stamp taxes. Respondent also did not substantiate his allegation that the documentary stamp taxes assessed against petitioner were merely passed-on and already collected from customers for remittance to the BIR.

It is significant to note that a tax amnesty is a general pardon or the intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of violation of a tax law. It partakes of an absolute waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate.¹⁹

Having ruled that documentary stamp tax is covered by the Tax Amnesty Program, this Court shall now determine whether petitioner has complied with the provisions of R.A. No. 9480, Department of Finance (DOF) Department Order No. 29-07, and Revenue Memorandum Circular No. 69-2007. The pertinent provisions of the said laws are as follows:

Sections 1, 6, and 8 of Republic Act No. 9480

"SECTION 1. *Coverage.* - There is hereby authorized and granted a tax amnesty which shall cover all national internal revenue taxes for the taxable year 2005 and prior years, with or without assessments duly issued therefor, that have remained unpaid as of December 31, 2005: *Provided, however,* That the amnesty hereby authorized and granted shall not cover persons or cases enumerated under Section 8 hereof.

¹⁹ Philippine Banking Corporation (Now: Global Business Bank, Inc.) vs. Commissioner of Internal Revenue, G.R. No. 170574, January 30, 2009

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SECTION 6. *Immunities and Privileges.* - Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

(a) The taxpayer shall be immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

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SECTION 8. *Exceptions.* - The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:

- (a) Withholding agents with respect to their withholding tax liabilities;
- (b) Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
- (c) Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;
- (d) Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
- (e) Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and
- (f) Tax cases subject of final and executory judgment by the courts."

DOF Department Order No. 29-07

"SEC. 6. *Method of Availment of Tax Amnesty.* -

1. *Forms/Documents to be filed.* - To avail of the general tax amnesty, concerned taxpayers shall file the following documents/requirements:

- a. Notice of Availment in such form as may be prescribed by the BIR.

b. Statements of Assets, Liabilities and Networth (SALN) as of December 31, 2005 in such form, as may be prescribed by the BIR.

c. Tax Amnesty Return in such form as may be prescribed by the BIR.

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The Acceptance of Payment Form, the Notice of Availment, the SALN, and the Tax Amnesty Return shall be submitted to the RDO, which shall be received only after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of RA 9480."

In order to substantiate its availment of the Tax Amnesty Program under Republic Act No. 9480, petitioner presented and formally offered to this Court the following pieces of evidence:

1. Development Bank of the Philippines (DBP) BIR-TA Payment Deposits Slip²⁰;
2. Tax Amnesty Payment Form (Acceptance of Payment Form) BIR Form No. 0617²¹;
3. Tax Amnesty Return (BIR Form No. 2116)²²;
4. Notice of Availment of Tax Amnesty²³; and
5. Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005.²⁴

An examination of the documents presented shows that petitioner sufficiently complied with the provisions of the Tax Amnesty Law. Consequently, petitioner should thereafter be immune from the payment of taxes, as well as the appurtenant civil, criminal or administrative penalties under the NIRC of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years, as held in the case of *Philippine Banking Corporation (Now: Global Business Bank, Inc.) vs. Commissioner of Internal*

²⁰ Exhibit "A"

²¹ Exhibit "B"

²² Exhibit "C"

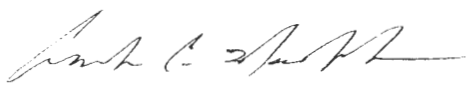
²³ Exhibit "D"

²⁴ Exhibit "E"

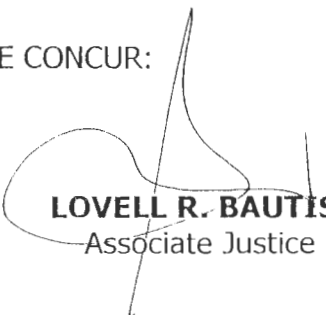
*Revenue*²⁵. Moreover, the one-year period provided under Section 4 of R.A. No. 9480 had already lapsed without anyone challenging the correctness of petitioner's SALN. Therefore, the same continues to bear the presumption of correctness as provided for under R.A. No. 9480. Considering all the foregoing, petitioner may now enjoy the immunities provided for by the said law.

WHEREFORE, the instant Petition for Review is hereby **GRANTED**. Accordingly, the Formal Letter of Demand and Assessment Notice Nos. FCDU-116-DS-98-00031, FCDU-116-DS-99-00002, FCDU-116-DS-99-00014, FCDU-116-DS-01-00014, and FCDU-116-DS-02-00014 assessing petitioner of deficiency documentary stamp tax in the amounts of P38,151,921.30, P61,260,831.65, P50,915,537.25, P47,082,118.50, and P27,552,008.55, respectively, for the period covering taxable years 1998 to 2002 are hereby **CANCELLED** and **SET ASIDE**, solely in view of petitioner's availment of the Tax Amnesty Program under Republic Act No. 9480.

SO ORDERED.


AMELIA COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

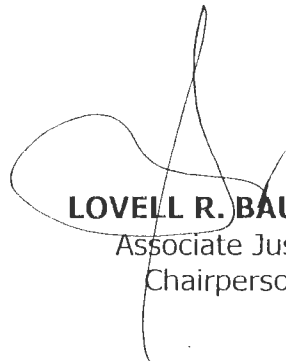

LOVELL R. BAUTISTA
Associate Justice


OLGA PALANCA-ENRIQUEZ
Associate Justice

²⁵ *Supra*

ATTESTATION

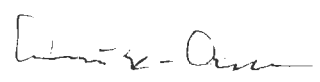
I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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