REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

RIZAL COMMERCIAL BANKING CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 6228

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

DEC 04 2002

x - x

DECISION

This case involves a claim for refund or issuance of tax credit certificate in the total amount of P218,741,106.34 allegedly representing erroneously withheld final taxes on interest income derived by petitioner from its investments in long-term fixed rate treasury bonds covering the period from the fourth quarter of 1998 to the fourth quarter of 2000.

Petitioner is a corporation duly organized and existing under and by virtue of the Philippine Law, with principal office located at No. 333 Sen. Gil Puyat Avenue, Makati City. It is duly registered with the Securities and Exchange Commission and authorized by the Bangko Sentral ng Pilipinas to engage in general banking operations *(par. 1, Stipulation of Facts)*.

In the course of its regular business operations, petitioner invests in government securities, consisting of bonds and other evidences of debt of the Philippine Government, earning interest income therefrom.

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During the period beginning January 1, 1998 to December 31, 2000, petitioner realized interest income from its investments in long term fixed rate treasury bonds in the total amount of P1,231,885,087.40[1] which were subjected by the Bureau of Treasury to 20% final withholding taxes in the aggregate amount of P246,132,527.51[2]. However, petitioner did not include the amounts representing payments of 20% final withholding taxes on investments prior to October 26, 1998 because its right to claim for the refund thereof had allegedly prescribed[3]. Thus, the total amount subject of this claim is only P218,741,106.34 covering the period beginning from the fourth quarter of 1998 to the last quarter of 2000, detailed as follows:

(A) Fourth Quarter of 1998

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIBD051D114	23,823,697.57	4,764,739.51	19,058,958.06
T/B730300800	15,000.00	2,250.00	12,750.00
PIBD1007E030	3,468,750.00	693,750.00	2,775,000.00
PIBD0703E044	768,750.00	153,750.00	615,000.00
T/B830808100	60,000.00	9,000.00	51,000.00
PIBD0500F016	14,287,500.00	2,857,500.00	11,430,000.00
PIBD0503F184	1,848,000.00	369,600.00	1,478,400.00
Total	***44,271,697.57***	***8,850,589.51***	***35,421,108.06***

(B) First Quarter of 1999

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIBD0500G024	14,500,000.00	2,900,000.00	11,600,000.00
PIBD1007A025	7,839,375.00	1,567,875.00	6,271,500.00
T/B810605900	100,000.00	15,000.00	85,000.00
PIBD0501B081	14,458,687.50	2,891,737.50	11,566,950.00

[1] Exhibit B-8.
[2] Exhibit B-4; TSN, September 11, 2001, pages 19-21.
[3] TSN, August 9, 2001, pages 13 & 14.

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T/B820706000	440,600.00	66,090.00	374,510.00
T/B800505700	20,200.00	3,030.00	17,170.00
PIBD0501B090	17,842,500.00	3,568,500.00	14,274,000.00
PIBD0703B029	511,987.50	102,397.50	409,590.00
PIBD0704C080	14,493.34	2,898.67	11,594.67
PIBD1006I010	48,000.00	9,600.00	38,400.00
Total	***55,775,843.34***	***11,127,128.67***	***44,648,714.67***

(C) Second Quarter of 1999

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIBD0501D114	18,511,197.57	3,702,239.51	14,808,958.06
PIBD0705J124	918,750.00	183,750.00	735,000.00
T/B730300800	15,000.00	2,250.00	12,750.00
PIBD1007K042	2,650,068.75	530,013.75	2,120,055.00
PIBD0703E044	768,750.00	153,750.00	615,000.00
PIBD1007E030	3,468,750.00	693,750.00	2,775,000.00
T/B830808100	60,000.00	9,000.00	51,000.00
T/B750020A04	268,750.00	40,312.50	228,437.50
PIBD0503L200	8,465,625.00	1,693,125.00	6,772,500.00
PIBD0500F016	14,287,500.00	2,857,500.00	11,430,000.00
PIBD0503F184	1,848,000.00	369,600.00	1,478,400.00
Total	***51,262,391.32***	***10,235,290.76***	***41,027,100.56***

(D)Third Quarter of 1999

Particulars	Interest(Gross)	Taxes Withheld	Interest (Net of Tax)
PIBD0500G024	9,425,000.00	1,885,000.00	7,540,000.00
PIBD1007A025	7,839,375.00	1,567,875.00	6,271,500.00
T/B810605900	100,000.00	15,000.00	85,000.00
PBID0501B081	12,246,187.50	2,449,237.50	9,796,950.00
T/B820706000	440,600.00	66,090.00	374,510.00
T/B800505700	20,200.00	3,030.00	17,170.00
PIBD0501B090	17,842,500.00	3,568,500.00	14,274,000.00
PBID0703B029	511,987.50	102,397.50	409,590.00
PBID0704C080	14,493.34	2,898.67	11,594.67
PIBD0504C217	350,000.00	70,000.00	280,000.00
PIBD1006I010	48,000.00	9,600.00	38,400.00
TOTAL	**48,838,343.34**	**9,739,628.67**	**39,098,714.67**

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(E) Fourth Quarter of 1999

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIBD0501D114	18,511,197.57	3,702,239.51	14,808,958.06
PIBD0705J124	918,750.00	183,750.00	735,000.00
T/B730300800	15,000.00	2,250.00	12,750.00
PIBD1008K077	4,500,000.00	900,000.00	3,600,000.00
PIBD1007K042	1,272,993.75	254,598.75	1,018,395.00
PIBD1007E030	3,468,750.00	693,750.00	2,775,000.00
PIBD0703E044	768,750.00	153,750.00	615,000.00
T/B830808100	60,000.00	9,000.00	51,000.00
T/B750020A04	268,750.00	40,312.50	228,437.50
PIBD0503L200	2,821,875.00	564,375.00	2,257,500.00
PIBD0500F016	17,089,437.50	3,417,887.50	13,671,550.00
PIBD0503F184	1,848,000.00	369,600.00	1,478,400.00
TOTAL	**51,543,503.82**	**10,291,513.26**	**41,251,990.56**

(F) First Quarter of 2000

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIID0504F011	32,972,500.01	6,594,500.01	26,378,000.00
PIBD0703G051	3,035,812.50	607,162.50	2,428,650.00
PIBD0500G024	9,425,000.00	1,885,000.00	7,540,000.00
PIBD1007A025	7,839,375.00	1,567,875.00	6,271,500.00
T/B810605900	100,000.00	15,000.00	85,000.00
PIBD0501B081	12,246,187.50	2,449,237.50	9,796,950.00
T/B820706000	440,600.00	66,090.00	374,510.00
T/B800505700	20,200.00	3,030.00	17,170.00
PIBD0501B090	26,617,500.00	5,323,500.00	21,294,000.00
PIBD0502B150	9,375,000.00	1,875,000.00	7,500,000.00
PIBD0703B029	4,355,737.50	871,147.50	3,484,590.00
PIBD1009I103	1,500,000.00	300,000.00	1,200,000.00
PIBD0706I160	8,938,500.00	1,787,700.00	7,150,800.00
PIBD0704C080	6,764,493.34	1,352,898.67	5,411,594.67
PIB1009IA118	38,721,325.00	7,744,265.00	30,977,060.00
PIBD0503I197	6,000,000.00	1,200,000.00	4,800,000.00
PIBD0504C217	350,000.00	70,000.00	280,000.00
PIBD1006I010	48,000.00	9,600.00	38,400.00
TOTAL	**168,750,230.85**	**33,722,006.18**	**135,028,224.67**

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(G) Second Quarter of 2000

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIBD0706J177	5,591,725.00	1,118,345.00	4,473,380.00
PIID0504F011	36,106,250.01	7,221,250.01	28,885,000.00
PIBD0504J238	2,493,750.00	498,750.00	1,995,000.00
PIBD0703J067	1,859,375.00	371,875.00	1,487,500.00
PIBD0501D114	18,511,197.57	3,702,239.51	14,808,958.06
PIBD0500J058	1,475,000.00	295,000.00	1,180,000.00
PIBD0705J124	16,996,875.00	3,399,375.00	13,597,500.00
PIBD0704J092	13,568,750.00	2,713,750.00	10,855,000.00
PIBD0705D102	2,050,000.00	410,000.00	1,640,000.00
T/B730300800	15,000.00	2,250.00	12,750.00
PIBD0504K243	7,482,675.00	1,496,535.00	5,986,140.00
PIBD0706K184	1,462,500.00	292,500.00	1,170,000.00
PIBD1008K077	4,500,000.00	900,000.00	3,600,000.00
PIBD1007K042	1,272,993.75	254,598.75	1,018,395.00
PIBD1007E030	3,468,750.00	693,750.00	2,775,000.00
PIBD0703E044	4,612,500.00	922,500.00	3,690,000.00
T/B830808100	60,000.00	9,000.00	51,000.00
T/B750020A04	268,750.00	40,312.50	228,437.50
PIBD0504L253	3,425,312.50	685,062.50	2,740,250.00
PIBD0706L192	4,148,450.00	829,690.00	3,318,760.00
PIBD0703L073	10,500,000.00	2,100,000.00	8,400,000.00
PIBD0503L200	8,465,625.00	1,693,125.00	6,772,500.00
PIBD0500L073	3,075,000.00	615,000.00	2,460,000.00
PIBD0500F016	17,089,437.50	3,417,887.50	13,671,550.00
PIBD0503F184	1,848,000.00	369,600.00	1,478,400.00
TOTAL	***170,347,916.33***	***34,052,395.77***	***136,295,520.56***

(H) Third Quarter of 2000

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIID0504F011	36,392,375.01	7,278,475.01	29,113,900.00
PIBD0505A261	31,783,125.00	6,356,625.00	25,426,500.00
PIBD0703G051	3,035,812.50	607,162.50	2,428,650.00
PIBD0500G024	9,425,000.00	1,885,000.00	7,540,000.00
PIBD0707A209	13,557,500.00	2,711,500.00	10,846,000.00
PIBD0706A130	2,475,000.00	495,000.00	1,980,000.00
PIBD1007A025	9,802,750.00	1,960,550.00	7,842,200.00
PIBD0705G118	3,000,000.00	600,000.00	2,400,000.00
PIBD0504G222	6,812,500.00	1,362,500.00	5,450,000.00
T/B810605900	100,000.00	15,000.00	85,000.00
PIBD0501B081	2,289,937.50	457,987.50	1,831,950.00

PIBD1010B153	15,487,500.00	3,097,500.00	12,390,000.00
T/B820706000	440,600.00	66,090.00	374,510.00
T/B800505700	20,200.00	3,030.00	17,170.00
PIBD0505B279	18,225,000.00	3,645,000.00	14,580,000.00
PIBD0501B090	15,685,312.50	3,137,062.50	12,548,250.00
PIBD0502B150	18,337,812.50	3,667,562.50	14,670,250.00
PIBD0703B029	8,199,487.50	1,639,897.50	6,559,590.00
PIBD1010C161	3,656,250.00	731,250.00	2,925,000.00
PIBD1009I103	1,500,000.00	300,000.00	1,200,000.00
PIBD0505C287	16,142,625.00	3,228,525.00	12,914,100.00
PIBD0706I160	8,556,000.00	1,711,200.00	6,844,800.00
PIBD0704C080	10,139,493.34	2,027,898.67	8,111,594.67
PIBD0707C225	350,000.00	70,000.00	280,000.00
PIBD0503I197	15,500,000.00	3,100,000.00	12,400,000.00
PIBD0504C217	20,331,500.00	4,066,300.00	16,265,200.00
PIB1009IA118	29,293,450.00	5,858,690.00	23,434,760.00
PIBD0503C175	650,000.00	130,000.00	520,000.00
PIBD1006I010	48,000.00	9,600.00	38,400.00
TOTAL	***301,237,230.85***	***60,219,406.18***	***241,017,824.67***

(l) Fourth Quarter of 2000

Particulars	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PID1010CA170	4,856,250.00	971,250.00	3,885,000.00
PIBD0706J177	5,591,725.00	1,118,345.00	4,473,380.00
PIBD0505D295	6,121,275.00	1,224,255.00	4,897,020.00
PIID0504F011	36,392,375.00	7,278,475.00	29,113,900.00
PIBDO707D233	6,687,500.00	1,337,500.00	5,350,000.00
PIBD0504J238	2,493,750.00	498,750.00	1,995,000.00
PIBD0703J067	1,859,375.00	371,875.00	1,487,500.00
PIBD0501D114	14,636,197.57	2,927,239.52	11,708,958.05
PIBD0500J058	1,475,000.00	295,000.00	1,180,000.00
PIBD1010D188	6,937,500.00	1,387,500.00	5,550,000.00
PIBD0705J124	22,509,375.00	4,501,875.00	18,007,500.00
PIBD0704J092	16,804,375.00	3,360,875.00	13,443,500.00
PIBD0705D102	5,248,000.00	1,049,600.00	4,198,400.00
T/B730300800	15,000.00	2,250.00	12,750.00
PIBD0504K243	3,152,456.25	630,491.25	2,521,965.00
PIBD0505E301	7,950,000.00	1,590,000.00	6,360,000.00
PIBD0707E241	2,081,250.00	416,250.00	1,665,000.00
PIBD0706K184	1,462,500.00	292,500.00	1,170,000.00
PIBD1008K077	4,500,000.00	900,000.00	3,600,000.00
PIBD1007K042	129,243.75	25,848.75	103,395.00
PIID0505H016	6,534,257.82	1,306,851.57	5,227,406.25

PIBD1007E030	3,468,750.00	693,750.00	2,775,000.00
PIBD0703E044	4,612,500.00	922,500.00	3,690,000.00
T/B830808100	60,000.00	9,000.00	51,000.00
PIBD0505F319	1,300,000.00	260,000.00	1,040,000.00
PIBD0504L253	600,312.50	120,062.50	480,250.00
PIBD0706L192	4,148,450.00	829,690.00	3,318,760.00
PIBD0503L200	8,465,625.00	1,693,125.00	6,772,500.00
PIBD0703L073	10,500,000.00	2,100,000.00	8,400,000.00
PIBD0500L073	4,035,937.50	807,187.50	3,228,750.00
PIBD1010F202	6,057,506.25	1,211,501.25	4,846,005.00
PIBD0503F184	1,848,000.00	369,600.00	1,478,400.00
TOTAL	***202,534,486.64***	***40,503,147.34***	***162,031,339.30***

The total amount of taxes withheld for the period involved in this case is summarily computed hereunder:

Period	Amount of Tax Withheld
Fourth Quarter, 1998	8,850,589.51
First Quarter, 1999	11,127,128.67
Second Quarter, 1999	10,235,290.76
Third Quarter, 1999	9,739,628.67
Fourth Quarter, 1999	10,291,513.26
First Quarter, 2000	33,722,006.18
Second Quarter, 2000	34,052,395.77
Third Quarter, 2000	60,219,406.18
Fourth Quarter, 2000	40,503,147.34
TOTAL	***218,741,106.34***

Petitioner posits that the aforesaid amount of P218,741,106.34 was erroneously withheld and remitted to the BIR because interest income from long-term treasury bonds is not subject to income tax, and consequently, to final withholding tax, pursuant to Section 32(B)(7)(g) of the Tax Code of 1997. Petitioner likewise cited BIR Ruling No. 166-99 dated October 25, 1999 and BIR Ruling No. 016-2000, dated January 7, 2000, both of which ruled that the interest income, yield or gain derived from bonds, debentures

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or other certificates of indebtedness with maturity of more than five years are excluded from gross income and are thus exempt from the 20% final withholding tax. Hence, the withholding of the above amount of P218,741,106.34 as final tax from petitioner's interest income derived from treasury bonds with maturity of more than five years is erroneous.

Consequently, petitioner filed a letter-request with the Bureau of Internal Revenue for the refund of taxes alleged to be erroneously withheld from its interest income on long-term bonds on January 22, 2001[4]. To beat the two-year prescriptive period, petitioner filed the instant petition two days after or on January 24, 2001.

Respondent, for his part, raised the following Special and Affirmative Defenses, to wit:

a) Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by respondent's bureau;

b) Petitioner must prove that its interest income were derived from long term treasury bonds issued by the Government of the Philippines with maturities of more than five (5) years;

c) Taxes are presumed to have been collected in accordance with law;

d) In a claim for refund/credit, the burden of proof is on the taxpayer to establish its right to refund and failure to sustain the burden is fatal to the claim for refund/credit;

e) It is an elementary rule that claims for refund are construed in *strictissimi juris* against the taxpayer as they partake the nature of exemption from tax; and

f) Petitioner must show compliance with the provisions of Section 229 of the Tax Code of 1997.

[4] Exhibit A.

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To support its case, petitioner submitted the letter-request for refund *(Exhibit A)* and a certification from the Bureau of Treasury with attachments *(Exhibit B, B-1 to B-8)*. Respondent, however, submitted the case for decision based on the pleadings.[5]

The parties jointly stipulated that the issues to be resolved in this case are:

(1) Whether or not the gains or interest income derived by petitioner from its investment in long-term treasury bonds should be included in the gross income of the petitioner;

(2) Whether or not the long-term treasury bonds in which petitioner invested have a maturity of more than five(5) years;

(3) Whether or not the Bureau of Treasury withheld final taxes from the petitioner's interest income on its investment in the treasury bonds; and

(4) Whether or not petitioner is entitled to a refund and/or issuance of tax credit certificate in the amount of P218,741,106.34 representing final taxes withheld on its interest income from treasury bonds with a maturity of over five (5) years.

The focal issue in this case is whether or not interest income derived from investments on long-term treasury bonds with maturity of more than five years is exempt from the 20% final withholding tax. To reach this point, it is necessary to deal first on the second and third issues.

Anent the issue of whether or not the treasury bonds invested by the petitioner have a maturity of more than five years, we deem it sufficient evidence the Statement of Taxes Withheld on Treasury Bonds Investments prepared by the Payments Division of the Bureau of Treasury, more particularly Exhibits B-6 and B-7 thereof. As to whether or not these treasury bonds were subjected to 20% final tax by the Bureau of Treasury, a letter

[5] CTA records, page 103.

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certificate was issued by the Deputy Treasurer of the Philippines, dated January 15, 2001[6] with attachments, certifying to the fact that the total amount of P246,132,527.51 was withheld from petitioner's interest income on its investments on treasury bonds for the period January 1, 1998 to December 31, 2000. Likewise, we consider this enough proof of the withholding by the Bureau of Treasury of the 20% final tax on the subject interest income.

Having dispensed with the preliminary issues, we will now delve on the first issue of whether or not the interest income derived by petitioner from its investment on long-term treasury bonds should be included in its gross income.

Petitioner maintains that the interest income it derived from its investments in long-term treasury bonds is exempt from income tax pursuant to Section 32(B)(7)(g) which partly provides, *viz*:

> SEC. 32. *Gross Income*. –
>
> xxx xxx xxx
>
> (B) *Exclusions from Gross Income*. – The following items shall not be included in gross income and shall be exempt from taxation under this Title:
>
> xxx xxx xxx
>
> (7) *Miscellaneous Items*. –
>
> xxx xxx xxx
>
> (g) *Gains from the Sale of Bonds, Debentures or other Certificate of Indebtedness*. – Gains realized from the sale or exchange or retirement of bonds, debentures or other certificate of indebtedness with a maturity of more than five (5) years.

Corollary thereto, the BIR issued BIR Ruling No. 166-99 on October 25, 1999 which provided that interest income, yield or gain derived from bonds, debentures or

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[6] Exhibit B.

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certificates of indebtedness as deposit substitutes, which are ordinarily subject to 20% final tax under Section 27(D)(1) of the 1997 Tax Code, should exclude the interest income, yield or gain from the gross income if the bonds, debentures or the certificate of indebtedness have a maturity of more than five years. Conversely, only the income derived on these debt instruments with maturity of more than five years shall be excluded from the gross income.

On January 7, 2000, the BIR issued BIR Ruling No. 016-00 reiterating the previous ruling that if the maturity period of the bonds issued through the Bureau of Treasury will be more than five years, the gains that may be derived therefrom by the bondholders shall accordingly be exempt from the 20% final withholding tax. The BIR stated further that: "Since the law speaks of the exclusion from gross income of all gains derived from long-term investments, it follows that embraced thereunder are income, yield or interest, which are all synonymous with gains, whether discounted or at premium. Thus, the exemption applies to interest/coupon or profit from the principal of such long-term regular or SDT bonds complying with the statutory period."

According to the petitioner, the "gains" on the bond transaction contemplated in Section 32(B)(7)(g) must necessarily include "interest" on the long-term bond since the provision also referred to "gains from retirement of bonds, debentures or certificate of indebtedness."

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This is not a case of first impression. This matter had already been settled in the case of **Nippon Life Insurance Company of the Philippines, Inc. versus Commissioner of Internal Revenue**,[7] wherein we categorically declared that:

> "We take the view that "gains" as the term is used therein in Section 32(B)(7)(g) of the Tax Code cannot include interest since it clearly refers to *gains from the sale* of bonds, debentures and other certificates of indebtedness.
>
> Initially, it must be pointed out that whereas the term "gains" includes "interest" as a general rule, this rule cannot be applied to Section 32(B)(7)(g) of the Tax Code which particularly refers to *"Gains from the Sale of Bonds, Debentures or other Certificate of Indebtedness,"* in its title and "Gains realized from the sale or exchange or retirement of bonds, debentures and other certificate of indebtedness with a maturity of more than five (5) years in its body. Stated otherwise, Section 32(B)(7)(g) of the Tax Code specifically refers to *gains from the sale* of bonds, debentures and other certificates of indebtedness as contradistinguished from the term "gains" in its general sense, which is synonymous to income."
>
> In this regard, Section 32(A) of the Tax Code defines "gross income" as follows:
>
> Section 32. *Gross Income*. -
>
> (A) *General Definition.* – Except when otherwise provided in this Title, gross income means all income derived from whatever source, including (but not limited to) the following items:
>
> (1) Compensation for services in whatever form paid, including, but not limited to fees, salaries, wages, commissions and similar items;
> (2) Gross income derived from the conduct of trade or business or the exercise of profession;
> (3) Gains derived from dealings in property;
> (4) Interests;
> (5) Rents;
> (6) Royalties;
> (7) Dividends;
> (8) Annuities;
> (9) Prizes and winnings;

[7] CTA Case No. 6142, February 4, 2002.

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> (10) Pensions; and
> (11) Partner's distributive share from the net income of the general professional partnership.
>
> From the aforequoted Section 32(A) of the Tax Code, it is clear that there is a distinction between "gains derived from dealings in property" and "interests", which are separately classified as items of gross income. "Gains realized from the sale or exchange or retirement of bonds, debentures and other certificate of indebtedness" would fall under the category of "gains derived from dealings in property". On the other hand, "interests" would include interest from bonds, debentures and other certificate of indebtedness. Gain realized from the sale or exchange or retirement of bonds, debentures and other certificate of indebtedness and interest from bonds, debentures and other certificate of indebtedness fall under separate and distinct income categories."

Petitioner further asserts that the existence of provisions in the 1997 Tax Code that refer specifically to the exemption of interest derived from certain long-term deposit or investment by citizens, resident aliens and non-resident aliens engaged in trade or business within the Philippines from income tax [Sections 24(B)(1) and 25(A)(2)] does not in any way negate the exemption provided for corporations, domestic or foreign, of its gains and interest income from the sale or exchange or retirement of bonds, debentures or other certificates of indebtedness with a maturity of more than five (5) years. Quite the contrary, said provisions reinforce the interpretation that the 1997 Tax Code intended to give incentive as an encouragement for investments in long-term debt securities and for the development of a secondary market.

We do not agree.

Sections 24(B)(1) and 25(A)(2) of the Tax Code expressly exempt interest derived from certain long-term deposit or investment (covered by Bangko Sentral ng Pilipinas certificates and with maturity of five years or more) by citizens, resident aliens and nonresident aliens engaged in trade or business within the Philippines from income tax.

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However, there is no such exemption from income tax granted to corporations, domestic or foreign on their interest income from investments or deposit of long-term bonds, debentures or other certificate of indebtedness. The pertinent provisions of Section 27 which governs the taxability of domestic corporations are hereunder quoted for easy reference:

> SEC. 27. *Rates of Income Tax on Domestic Corporations.* –
>
> (A) *In General.* – Except as otherwise provided in this Code, an income tax of thirty-five percent (35%) is hereby imposed upon the taxable income derived during each taxable year from all sources within and without the Philippines by every corporation, as defined in Section 22(B) of this Code and taxable under this Title as a corporation, organized in, or existing under the laws of the Philippines: *Provided*, That effective January 1, 1998, the rate of income tax shall be thirty-four (34%); effective January 1, 1999, the rate shall be thirty-three percent (33%); and effective January 1, 2000 and thereafter, the rate shall be thirty-two percent (32%).
>
> xxx xxx xxx
>
> (D) *Rates of Tax on Certain Passive Income.* –
>
> (1) *Interest from Deposit and Yield or any other Monetary Benefit from Deposit Substitutes and from Trust Funds and Similar Arrangements, and Royalties.* – A final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest on current bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements received by domestic corporations, and royalties, derived from sources within the Philippines: *Provided, however*, That interest income derived by a domestic corporation from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax at the rate of seven and one-half percent (71/2%) of such interest income.

Section 28(A) which provides for rates of income tax on resident foreign corporations basically contains the same provision as Section 27(A) and Section 28(A)(7)(a) more or less embodied the same provision of Section 27(D)(1) above-cited. In other words, there is no law which exempt corporations, domestic or foreign, from

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20% final tax on interest income from investments on bonds, debentures or other certificates of indebtedness with a maturity of more than five years. A tax cannot be imposed unless it is supported by the clear and express language of a statute; on the other hand, once the tax is unquestionably imposed, a claim of exemption from tax payments must be clearly shown and based on language in the law too plain to be mistaken.[7a] Moreover, it is our considered opinion that if Congress intended to exempt *interest* from bonds, debentures and other certificates of indebtedness under Section 32(B)(7)(g) of the Tax Code, it would have done so in clear and specific terms.

This goes without saying then that BIR Ruling No. 166-99 and BIR Ruling No. 016-00, which were based on the mistaken belief that the term "gains" as used in Section 32(B)(7)(g) of the Tax Code includes interest, are erroneous. In fact, we already pronounced in the case of Nippon earlier cited, that:

> "Rulings issued by the Commissioner of Internal Revenue command respect and weight. However, such rulings are not conclusive upon the courts and will be ignored if found to be erroneous. Hence, in the case of **Philippine Bank of Communications vs. Commissioner of Internal Revenue, G.R. No. 112024, January 28, 1999,** our Supreme Court, in disregarding a Revenue Memorandum Circular issued by the Commissioner of Internal Revenue, held:
>
> > It bears repeating that Revenue memorandum-circulars are considered administrative rulings (in the sense of more specific and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous. Thus, courts will not countenance administrative issuances that override, instead of remaining consistent with, the law they seek to apply and implement."

[7a] Davao Gulf Lumber Corporation vs. Commissioner of Internal Revenue, 293 SCRA 76.

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To recapitulate, there is a plain distinction between interest from bonds and gain from the sale of bonds. As we already held, it is only the "Gains realized from the sale or exchange or retirement of bonds, debentures or other certificate of indebtedness with maturity of more than five (5) years" that are excluded from gross income and thus exempt from income tax under Section 32(B)(7)(g) of the Tax Code. Such gains from sale or exchange or retirement of bonds, debentures or other certificate of indebtedness fall within the general category of "Gains derived from dealings in property". On the other hand, interest from bonds, debentures or other certificate of indebtedness, fall within the general category of "Interests" under Section 32(A) of the Tax Code.

The same ruling has been adopted and reiterated in the cases of **Malayan Reinsurance Corporation (formerly Eastern General Reinsurance Corp.) versus Commissioner of Internal Revenue,**[8] **Malayan Zurich Insurance Company, Inc. versus Commissioner of Internal Revenue,**[9] and **First Nationwide Assurance Corporation versus Commissioner of Internal Revenue,**[10]

In view of the above discussion, the fourth and last issue is to be resolved against the petitioner. Petitioner is not entitled to a refund and/or issuance of tax credit certificate in the amount of P218,741,106.34 inasmuch as said interest income derived from its investments in long-term treasury bonds with a maturity of more than five years is not exempt from the 20% final withholding tax.

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[8] CTA Case No. 6252, July 24, 2002.
[9] CTA Case No. 6251, September 30, 2002.
[10] CTA Case No. 6253, October 03, 2002.

IN THE LIGHT OF ALL THE FOREGOING, the instant petition for review is hereby **DENIED** for lack of merit.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge

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