REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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TAMBUNTING PAWNSHOP, INC.,
Petitioner,

C.T.A. CASE NO. 6776

Members:

- versus -

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

OCT 05 2006, 8:45 AM

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DECISION

BAUTISTA, L., J.:

This is a Petition for Review seeking the cancellation of assessment notices all dated January 15, 2003, demanding payment from petitioner for alleged deficiency Value-Added Tax, Expanded Withholding Tax, Withholding Tax on Compensation and Documentary Stamp Tax in the aggregate amount of P3,550,582.14 covering the taxable year 1999.

Petitioner is a corporation, duly organized and existing under and by virtue of the laws of the Philippines, with principal office at 1008-A Pasay Road, San Lorenzo Village, Makati City.[1] It is engaged in the pawnshop business. On the other hand, respondent is the

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[1] *Paragraph 1 ,Summary of Stipulated Facts, page 67, Records*

Commissioner of Internal Revenue, the government official in-charged of the administration and enforcement of the internal revenue laws of the Philippines with office at the BIR National Office Building, East Triangle, Diliman, Quezon City.[2]

On January 22, 2003, petitioner received from respondent the formal assessment notices (FAN), all dated January 15, 2003, demanding payment for alleged deficiency Value-Added Tax (VAT), Expanded Withholding Tax (EWT), Withholding Tax on Compensation (WC) and Documentary Stamp Tax (DST) for the taxable year 1999 in the amounts of P3,055,564.34, P21,273.75, P67,201.55 and P406,092.50, respectively,[3] detailed as follows:

(ASSESSMENT NO. VT-32001-99-03-165)
Deficiency Value Added Tax:

Interest Income	P	14,198,924.50
Liquidation damages		1,742,308.00
Other Income		1,705.00
TOTAL	P	15,942,937.50
Multiply by		10/11
Gross Receipts	P	14,493,579.54
Deficiency Value Added Tax	P	1,449,357.95
Add: 50% Surcharge		724,678.98
20% Interest(1.26.00 to 2.10.03)		881,527.41
TOTAL AMOUNT DUE	P	**3,055,564.34**

(ASSESSMENT NO. WE-32001-99-03-165)
Deficiency Expanded Withholding Tax:

Tax withheld per Alpha list	P	75,997.43
Total tax remitted per BIR form 1601		62,373.43
Deficiency Expanded Withholding Tax	P	13,624.00
Add: 20% Interest(1.26.00 to 2.10.03)		8,099.75
TOTAL AMOUNT DUE	P	**21,723.75**

(ASSESSMENT NO. WC-32001-99-03-165)
Deficiency Withholding Tax on Compensation:

Tax withheld per Alpha list	P	261,590.52
Total tax remitted per BIR form 1601		219,445.22
Deficiency Withholding Tax on Compensation	P	42,145.30
Add: 20% Interest(1.26.00 to 2.10.03)		25,056.25
TOTAL AMOUNT DUE	P	**67,201.55**

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[2] *Paragraph 2, Summary of Stipulated Facts, page 67, Records*
[3] *Paragraph 3, Summary of Stipulated Facts, page 68, Records*

(ASSESSMENT NO. DS-32001-99-03-165)

Deficiency Documentary Stamp Tax:

Total Amount of Pledge loans granted for the year	P	95,918,250.00
Deficiency DST	P	191,850.00
Add: 50% Surcharge		95,935.00
20% Interest(1.11.00 to 02.10.03)		118,307.50
TOTAL AMOUNT DUE	P	**406,092.50**
GRAND TOTAL OF DEFICIENCY TAXES	P	**3,550,582.14**

Petitioner administratively protested the said assessments on February 21, 2003, on the ground that the same lack legal and factual bases and thus, requested for the cancellation thereof.[4]

The protest not having been acted upon by the respondent and before the lapse of time to file this petition, petitioner filed this Petition for Review on September 19, 2003.

In his Answer to the Petition filed on December 8, 2003, the respondent alleges, *inter alia*, that the petitioner is liable for VAT as imposed by Section 108 of the NIRC, as amended, in relation to Section 114 of the same Code. He further avers that in the case of Commissioner of Internal Revenue vs. Agencia Exquisite of Bohol, Inc.,[5] it was consistently ruled that pawnshops are liable to pay the 10% VAT of their gross receipts derived from the sale or exchange of services. Also, petitioner was assessed for deficiency Expanded Withholding Tax and Withholding Tax on Compensation because of its failure to withhold and remit the correct tax due as required by Revenue Regulations No. 2-98. Furthermore, petitioner "was assessed for deficiency Documentary Stamp Tax (DST) in the amount of P406,092.50 for the reason that it failed to file and pay the corresponding DST due on pledge loan issued from its pawnshop business as akin to lending investor's activity imposed under Section 195 of the NIRC."[6] Respondent likewise asserts that the assessments issued

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[4] *Paragraph 4, Summary of Stipulated Facts, page 68, Records*
[5] *C.A. G. R. SP No. 64117(Feb. 6,2003)*
[6] *Paragraph 11, Answer, pages 47-4, Records*

against petitioner for the taxable year 1999 were all made in accordance with law and regulations and that all presumptions are in favor of the correctness of tax assessments.

On January 25, 2006 the case was submitted for decision sans the memorandum of respondent.

The parties stipulated on the following issues for the resolution of the Court:

> 1. Whether or not pawnshops are subject to 10% value-added tax pursuant to Section 108 of the 1997 National Internal Revenue Code;
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> 2. Whether of not petitioner is liable for expanded withholding tax due on its rental, professional fees, ads, and promo and security services, imposed under Revenue Regulations No. 2-98;
>
> 3. Whether or not petitioner properly withheld and remitted the correct amount of expanded withholding taxes due on its rental, professional fees, ads and promo and security services; and
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> 4. Whether or not petitioner's pawn tickets are subject to documentary stamp tax on pledges under Section 195 of the National Internal Revenue Code.[7]

Anent the first issue, the crux of the controversy is the correct interpretation of Sections 105 and 108(A) of the 1997 National Internal Revenue Code which read as follows:

> "**SEC. 105. Persons Liable** — Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.
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> The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of effectivity of Republic Act No. 7166.
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> The phrase 'in the course of trade or business' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sell exclusively to members or their guests), or government entity."

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[7] *Page 69, Records*

> **"SEC. 108. Value Added Tax on Sale of Services and Use or Lease of Properties. —**
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> (A) **Rate and Base of Tax**. — There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties.
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> The phrase **'sale or exchange of services'** means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire and other domestic common carriers by land, air and water relative to their transport of goods or cargoes; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code; services of banks, non-bank financial intermediaries and finance companies; and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. xxx" *(Underscoring supplied.)*

From the foregoing provisions, any person who, in the course of trade or business, renders service, shall be subject to the value-added tax (VAT) imposed under Section 108 (A) of the 1997 Tax Code.

It is likewise significant to note that Section 3 of Presidential Decree No. 114, otherwise known as the "Pawnshop Regulation Act", defines a pawnshop as follows:

> "Pawnshop shall refer to a person or entity engaged in the business of lending money on personal property delivered as security for loans and shall be synonymous, and may be used interchangeably with, pawnbroker or pawnbrokerage."

The principal activity of a pawnshop is lending money at interest on personal property delivered as security for the loan. The "act of lending money at interest" constitutes the performance of a service for a fee, remuneration or consideration for such service. The liability of pawnshop operators to pay the VAT does not depend on the classification of their business, but on the services they render. The services they render are similar to those of lending investors in the above-enumerated definition under Section 108(A) of the 1997 National Internal Revenue Code. A lending investor also lends money at interest but differs with a pawnshop business in the manner of securing the loan. Thus, the pawnshop business will easily fall under the phrase "and similar services regardless of whether or not the performance thereof call for the exercise or use of the physical or mental faculties". This interpretation is based on the principle of *ejusdem generis* which states that when an enumeration of things is followed by the phrase "other similar", the phrase would necessarily refer to things that are similar or identical in nature to the preceding enumeration. The rule of *ejusdem generis* requires that words of general description following words of particular description be interpreted as applying to things of similar character.[8]

The listing provided for in Section 108(A) is intended merely to give examples of persons or businesses performing services for a fee, remuneration or consideration. The enumeration is not exclusive, which means that other persons performing similar services for a fee, remuneration or consideration, who are not expressly mentioned in the enumeration, are also subject to VAT. To limit its application to the enumeration would contradict the very clear meaning of the phrase "all kinds of services".

In addition, the phrase "including" should be construed merely as an enlargement and not of limitation.

> "The intention of an act will prevail over the literal sense of its terms. Thus, limited words in one part of an act may be expanded by general words in another part, if the general words more nearly express the legislative intent.
>
> A term whose statutory definition declares what 'includes' is more susceptible to extension of meaning by construction than where the definition declares what a term 'means'. Thus, it has been said that 'the word 'includes'

[8] *Words and Phrases, Volume 14, Perm. Ed., page 193*

> is usually a term of enlargement, and not of limitation... It, therefore, conveys the conclusion that there are other items includable, though not specifically enumerated..." [Sutherland, Statutory Construction, 4th Ed., Vol. 2A, p. 82, Sec. 47.07 citing United States Argosy Ltd, v. Hennigan, 404 F2d 14 (CA 5th, 1968); See United States v. Gertz, 249 F2d 662 (CA 9th, 1957); Federal Land Bank of St. Paul v. Bismarck Lumber Co., 314 US 95, 86 L Ed 65, 62 S Ct1 (1941)]. *(Underlining supplied.)*

Hence, the terms "includes" and "including" do not exclude items otherwise within the scope of the defined term.

> "The terms "includes" and "including" when used in the Code are not deemed to exclude items otherwise within the meaning of the term defined. Thus, where Section 1(e) applies to the taxable income of estates "including" and thereafter lists four types of income from trusts or estates that are taxable, other types of estates may also be subject to taxation under Section 1(e). To hold differently would, in effect, substitute the term "limited to" for "including". [Mertens, Law of Federal Income Taxation, 1995 Ed., Section 3.37, Chap. 3, pp. 55-56, citing In re Joplin, Jr., 882 F2d 1507 (CA10 1989), applying IRC & 7701(c)]."

Well settled is the jurisprudence that tax exemptions are strictly construed against the taxpayer.[9] In the absence of any clear provision of law exempting pawnshops from VAT, then, **pawnshops are subject to VAT on their gross receipts considering that they are clearly engaged in the performance of services for a fee, remuneration or consideration.**

Indubitably, petitioner is liable to 10% Value-Added Tax.

With respect to the deficiency EWT, petitioner claims that proper withholding and remittance of the said taxes were made while respondent maintains that no payment was made by petitioner and that no official receipts were submitted to prove the fact of withholding and remittance of withholding taxes for the months of September and November of taxable year 1999. Respondent relied mostly on the fact that no record was found in his Integrated Tax System (ITS) computer records. Thus, the respondent computed the deficiency EWT as follows:

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[9] *Cyamid Phils., Inc. vs. Court of Appeals, 322 SCRA 639*

Deficiency Expanded Withholding Tax:		
Tax withheld per Alpha list	P	75,997.43
Total tax remitted per BIR form 1601		62,373.43
Deficiency Expanded Withholding Tax	P	13,624.00
Add: 20% Interest(1.26.00 to 2.10.03)		8,099.75
TOTAL AMOUNT DUE	P	**21,723.75**

However, petitioner presented to this Court BIR Form No. 1601 for the month of September 1999[10] and November 1999[11] to prove that proper withholding and remittance were made.

After a close scrutiny of the said documents, this Court found the same to be in order. Both returns were machine validated, showing payments of P34,277.70 for the month of September 1999 and P12,768.57 for November 1999. Moreover, based on the Memorandum for the Revenue District Officer of RDO 47 dated July 7, 2003 signed by Revenue Officer Raul M. Aquino and noted by his Group Supervisor, Ms. Teresita S. Jacinto,[12] it was concluded that there is no more tax liability for this particular tax type, computed as follows:

Deficiency Expanded Withholding Tax:			
Tax withheld per Alpha list		P	75,997.43
Total tax remitted per BIR form 1601			62,373.43
Deficiency EWT per Original Investigation		P	13,704.00
Actual remittance in September	**6,852.00**		
& November	**6,852.00**		**13,704.00**
Balance		P	**- 0 -**

Now, considering that the FAN failed to disclose the amount pertaining to each income payments being subjected to withholding tax, thereby depriving the petitioner of its right to determine with particular certainty whether the income payments pertained to professional fees, rentals, etc., and considering further the above memorandum and proofs of withholding and remittance of the said taxes for the month of September 1999 and

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[10] Exhibits A, A-1, A-2
[11] Exhibits B, B-1, B-2
[12] Page 334-335, BIR Records

November 1999, the assessment for Expanded Withholding Tax for the subject period is hereby cancelled.

As to the deficiency Withholding Tax on Compensation, petitioner contends that the assessed Withholding Tax on Compensation in the amount of P14,398.38 was already paid. Respondent, in his Answer, nevertheless alleges that "petitioner was assessed for deficiency Withholding Tax on Compensation in the amount of P67,201.55 for the reason that it failed to withhold and remit the correct withholding tax due on compensation income of its employees as required under Section 24(A)(1)(c) and Section 80 of the NIRC, as implemented under Section 2.81 of Revenue Regulations No. 2-98. Said amount was derived after comparison of the amount of withholding tax per Alphabetical list of P261,590.52 as against payment made per ITS of P135,828.84 resulting to under-remittance of P125,761.65. Further, it failed to substantiate its remittance for the months of September and November, 1999 in the amounts of P27,425.70 and P5,916.57, respectively, and in addition thereto petitioner has unremitted withholding tax due on compensation per audit of P8,803.03. Such amount was noted after comparison of the amount withheld per Alphabetical List of P261,590.52 as against the amount remitted per monthly BIR Form 1601 of P252,787.49."[13] However, based on the Memorandum for the Revenue District Officer of RDO 47 dated July 7, 2003,[14] signed by Revenue Officer Raul M. Aquino and noted by Group Supervisor Teresita S. Jacinto, it was indicated that the amount still due of P14,398.38 was already paid by petitioner "to close this particular tax type from any deficiency", arrived at as follows:

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[13] *Paragraph 10, Answer, pages 47-48, Records*
[14] *Page 334-335, BIR Records*

Deficiency Withholding Tax on Compensation:			
Tax withheld per Alpha list		P	261,590.52
Total tax remitted per BIR form 1601			219,445.22
Deficiency EWT per Original Investigation		P	42,145.30
Actual remittance in September	**27,425.70**		
& November	**5,906.57**		**33,342.27**
Basic tax due			**8,803.03**
Interest			5,595.35
Amount still due		P	**14,398.38**

More importantly, the parties already stipulated that the "petitioner already paid the assessment for alleged deficiency withholding tax on compensation in the amount of P14,398.38 as evidenced by BIR Form 1605 (Payment Form) and Security Bank's BTR-BIR Deposit Slip, dated May 26, 2003.[15]

Considering the above premises, the Court agrees with petitioner that the assessment for deficiency Withholding Tax on Compensation should be cancelled.

As regards the fourth issue as to whether or not petitioner's pawn tickets are subject to documentary stamp tax, it is petitioner's posture that pawn tickets are not subject to documentary stamp tax. Petitioner argues that "it is the **document evidencing a pledge** of personal property, which is **made as security** for payment of a loan, which is subject to the DST. A pawn ticket is defined under Section 3 of PD No. 114 *(Pawnshop Regulation Act)* as the pawnbroker's **receipt** for a pawn. It is **neither a security nor a printed evidence of indebtedness**. Accordingly, since the document taxable under Section 195 must show the existence of a debt, a pawn ticket which is merely a receipt for a pawn, is not subject to DST."[16] In short, a pawn ticket, **being merely a receipt for a pawn** as defined in PD No. 114, is not subject to DST under Section 195.

The Court does not agree. Section 195 of the 1997 NIRC provides:

> "**Section 195. Stamp Tax on Mortgages, Pledges and Deeds of Trust.**— On every mortgage or pledge of lands, estate, or property, real or personal, heritable or movable, whatsoever, where the same shall be made

[15] *Paragraph 6, Summary of Stipulated Facts, page 69, Records*
[16] *Petitioner's Memorandum, page 132, Records*

as a security for the payment of any definite and certain sum of money lent at the time or previously due and owing or forborne to be paid, being payable, and on any conveyance of land, estate, or property whatsoever, in trust or to be sold, or otherwise converted into money which shall be and intended only as security, either by express stipulation or otherwise, there shall be collected a documentary stamp tax at the following rates; xxx"

Based on the foregoing, a documentary stamp tax is imposed on every pledge of personal property where the same shall be made as a security for the payment of any definite and certain sum of money lent.

In the more recent case of ***Michel J. Lhuillier Pawnshop, Inc. vs. Commissioner of Internal Revenue,***[17] the Supreme Court finally put to rest why all pledges such as the security offered to the pawner in satisfaction of the pawnee's indebtedness are subject to DST under Section 195 of the 1993 NIRC, as amended. To quote:

> "It is clear from the foregoing provisions that the subject of a DST is not limited to the document embodying the enumerated transactions.[18] A DST is an excise tax on the exercise of a right or privilege to transfer obligations, rights or properties incident thereto. *In Philippine Home Assurance Corporation vs. Court of Appeals*, it was held that:
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> > In general, documentary stamp taxes are levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments. Examples of such privileges, the exercise of which, as effected through the issuance of particular documents, are subject to the payment of documentary stamp taxes are leases of lands, mortgages, pledges and trusts, and conveyances of real property.
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> Pledge is among the privileges, the exercise of which is subject to DST. A pledge may be defined as an accessory, real and unilateral contract by virtue of which the debtor or a third person delivers to the creditor or to a third person movable property as security for the performance of the principal obligation, upon the fulfillment of which the thing pledged, with all its accessions and accessories, shall be returned to the debtor or to the third person. This is essentially the business of pawnshops which are defined under Section 3 of Presidential Decree No. 114, or the Pawnshop Regulation

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[17] *G.R. No. 166786, May 3,2006*
[18] *Of Section 195*

Act, as persons or entities engaged in lending money on personal property delivered as security for loans.

Section 12 of the Pawnshop Regulation Act and Section 21 of the Rules and Regulations for Pawnshops issued by the Central Bank to implement the Act, require every pawnshop or pawnbroker to issue, at the time of every such loan or pledge, a memorandum or ticket signed by the pawnbroker and containing the following details: (1) name and residence of the pawner; (2) date the loan is granted; (3) the amount of principal loan; (4) interest rate in percent; (5) period of maturity; (6) description of pawn; (7) signature of pawner or his authorized agent; (8) signature or thumb mark of pawner or his authorized agent; and (9) such other terms and conditions as may be agreed upon between the pawnbroker and the pawner. In addition, Central Bank Circular No. 445, prescribed a standard form of pawn tickets with entries for the required details on its face and the mandated terms and conditions of the pledge at the dorsal portion thereof.

Section 3 of the Pawnshop Regulation Act defines a pawn ticket as follows:

> "Pawn ticket" is the pawnbroker's receipt for a pawn. It is neither a security nor a printed evidence of indebtedness."

True, the law does not consider said ticket as an evidence of security or indebtedness. However, for the purposes of taxation, the same pawn ticket is proof of an exercise of a taxable privilege of concluding a contract of pledge. At any rate, it is not said ticket that creates the pawnshop's obligation to pay DST but the exercise of the privilege to enter into a contract of pledge. There is therefore no basis in petitioner's assertion that a DST is literally a tax on a document and that no tax may be imposed on a pawn ticket.

The settled rule is that tax laws must be construed in favor of the taxpayer and strictly against the government; and that a tax cannot be imposed without clear and express words for that purpose. Taking our bearing from the foregoing doctrines, we scrutinized Section 195 of the NIRC, but there is no way that said provision may be interpreted in favor of petitioner. Section 195 unqualifiedly subjects all pledges to DST. It states that "[o]*n every x x x pledge x x x there shall be collected a documentary stamp tax x x x*." It is clear, categorical, and needs no further interpretation or construction. The explicit tenor thereof requires hardly anything than a simple application.

The onus of proving that pawnshops are not subject to DST is thus shifted to petitioner. In establishing tax exemptions, it should be borne in mind that taxation is the rule, exemption is the exception. Accordingly, statutes granting tax exemptions must be construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. One who claims exemption from tax payments rests the burden of justifying the exemption by words too plain to be mistaken and too categorical to be misinterpreted.

> In the instant case, there is no law specifically and expressly exempting pledges entered into by pawnshops from the payment of DST. Section 199 of the NIRC enumerated certain documents which are not subject to stamp tax; but a pawnshop ticket is not one of them. Hence, petitioner's nebulous claim that it is not subject to DST is without merit. It cannot be overemphasized that tax exemption represents a loss of revenue to the government and must, therefore, not rest on vague inference. Exemption from taxation is never presumed. For tax exemption to be recognized, the grant must be clear and express; it cannot be made to rest on doubtful implications." *(Emphasis and underlining Ours.)*

Lastly, the Court notes the reliance of the petitioner on BIR Ruling No. 325-88, dated July 13, 1988, wherein the respondent held that DST is a tax on the document and since a pawn ticket is not an evidence of indebtedness, it cannot be subject to DST.

As held in the afore-quoted case of *M. J. Lhuillier*, this interpretation is not consistent with the provisions of Section 195 of the NIRC which categorically taxes the privilege to enter into a contract of pledge. Indeed, administrative issuances must not override, supplant or modify the law but must be consistent with the law they intend to carry out.[19]

In sum, petitioner is liable to Documentary Stamp Tax.

WHEREFORE, premises considered, the Petition for Review is **PARTIALLY GRANTED**. Respondent's assessments for deficiency Expanded Withholding Tax and Withholding Tax on Compensation for the taxable year 1999, in the amounts of **Twenty One Thousand Seven Hundred Twenty Three and 75/100 Pesos** (P21,723.75) and **Sixty Seven Thousand Two Hundred One and 55/100 Pesos** (P67,201.55), respectively, are hereby **CANCELLED** and **SET ASIDE**. However, the assessments for deficiency Value-Added Tax and Documentary Stamp Tax are hereby **AFFIRMED**.

Accordingly, petitioner is **ORDERED TO PAY** the respondent the amount of **Three Million Fifty Five Thousand Five Hundred Sixty Four and 34/100 Pesos** (P3,055,564.34) and **Four Hundred Six Thousand Ninety Two and 50/100 Pesos**

(P406,092.50) representing deficiency Value-Added Tax and Documentary Stamp Tax, respectively, for the taxable year 1999, plus 20% delinquency interest from February 18, 2003 up to the time such amount is fully paid pursuant to Section 249(C) of the 1997 NIRC.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division

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[19] *Commissioner of Internal Revenue vs. C.A.. 240 SCRA 368(1995)*