IB

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AYALA LIFE ASSURANCE, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5104

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 07 1996

x - x

DECISION

This is a case involving a claim for refund in the amount of P346,843.08 as alleged unapplied creditable withholding taxes for taxable year ended December 31, 1991.

Petitioner, a domestic corporation duly organized and existing under the laws of the Philippines, filed its annual income tax return for the year ended December 31, 1991 which showed creditable withholding taxes in the amount of P346,843.08.

The aforesaid withholding tax was due to the fact that for taxable year ended December 31, 1991, Petitioner had a negative taxable income and that the amount of

P346,843.08 represented taxes withheld on rental income which were not applied to the succeeding taxable year.

On March 17, 1994, Petitioner filed a letter-claim for refund requesting "for a tax credit memo with reference to our Income Tax Refund claim for 1991 in the amount of P346,843.08." (Annex A). Said letter-claim for refund was not acted upon by the Respondent.

Hence, this Petition for Review filed on April 25, 1994.

It appears from the records of this case that Petitioner on March 16, 1995 asked for ten (10) days to file its formal offer of evidence (see CTA records p.58) but failed to do so (ibid., p.60). Hence, We cannot do otherwise but deny this petition for failure of the Petitioner to sustain its right to the refund.

Well-settled is the rule that evidence not formally offered although identified during the trial are of no value and cannot be considered by the Court. This has been our ruling in a number of cases, particularly, the case of **TMX Philippines vs. Commissioner of Internal Revenue** (CTA Case No. 4297, March 29, 1993) wherein, We ruled thus:

> The sales taxes paid through Treasure Island Industrial Corp., on the other hand, simply cannot be considered credited since the evidences particularly the sales invoices were not formally offered by the counsel of the

Petitioner for sheer neglect. Such evidences, therefore, although identified during the trial are of no value and cannot be considered by the Court. Section 35, Rule 132 of the Rules of Court is categorically clear on this matter thus:

> **Sec. 35.** *Offer of evidence* - The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified." (Emphasis supplied)

"Where the evidence consisting of documents were not formally offered at the hearing, even if they are material to the case, the court must exclude the same from the record; it has no authority to consider them". (Emphasis supplied; **Ayala de Roxas v. Valencia,** 5 Phil. 182).

WHEREFORE, in all the foregoing, Petitioner's claim for refund is hereby **DENIED** for lack of merit.

SO ORDERED.

MANUEL K. GRUBA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals