SECOND DIVISION

[G.R. No. 119286. October 13, 2004]

# PASEO REALTY & DEVELOPMENT CORPORATION, *petitioner, vs.* COURT OF APPEALS, COURT OF TAX APPEALS and COMMISSIONER OF INTERNAL REVENUE, *respondents.*

## D E C I S I O N

**TINGA, *J.*:**

The changes in the reportorial requirements and payment schedules of corporate income taxes from annual to quarterly have created problems, especially on the matter of tax refunds.[1] In this case, the Court is called to resolve the question of whether alleged excess taxes paid by a corporation during a taxable year should be refunded or credited against its tax liabilities for the succeeding year.

Paseo Realty and Development Corporation, a domestic corporation engaged in the lease of two (2) parcels of land at Paseo de Roxas in Makati City, seeks a review of the *Decision*[2] of the Court of Appeals dismissing its petition for review of the resolution[3] of the Court of Tax Appeals (CTA) which, in turn, denied its claim for refund.

The factual antecedents[4] are as follows:

On April 16, 1990, petitioner filed its Income Tax Return for the calendar year 1989 declaring a gross income of ₱1,855,000.00, deductions of ₱1,775,991.00, net income of ₱79,009.00, an income tax due thereon in the amount of ₱27,653.00, prior year's excess credit of ₱146,026.00, and creditable taxes withheld in 1989 of ₱54,104.00 or a total tax credit of ₱200,130.00 and credit balance of ₱172,477.00.

On November 14, 1991, petitioner filed with respondent a claim for "the refund of excess creditable withholding and income taxes for the years 1989 and 1990 in the aggregate amount of ₱147,036.15."

On December 27, 1991 alleging that the prescriptive period for refunds for 1989 would expire on December 30, 1991 and that it was necessary to interrupt the prescriptive period, petitioner filed with the respondent Court of Tax Appeals a petition for review praying for the refund of "₱54,104.00 representing creditable taxes withheld from income payments of petitioner for the calendar year ending December 31, 1989."

On February 25, 1992, respondent Commissioner filed an Answer and by way of special and/or affirmative defenses averred the following: a) the petition states no cause of action for failure to allege the dates when the taxes sought to be refunded were paid; b) petitioner's claim for refund is still under investigation by respondent Commissioner; c) the taxes claimed are deemed to have been paid and collected in accordance with law and existing pertinent rules and regulations; d) petitioner failed to allege that it is entitled to the refund or deductions claimed; e) petitioner's contention that it has available tax credit for the current and prior year is gratuitous and does not *ipso facto* warrant the refund; f) petitioner failed to show that it has complied with the provision of Section 230 in relation to Section 204 of the Tax

Code.

After trial, the respondent Court rendered a decision ordering respondent Commissioner "to refund in favor of petitioner the amount of ₱54,104.00, representing excess creditable withholding taxes paid for January to July1989."

Respondent Commissioner moved for reconsideration of the decision, alleging that the ₱54,104.00 ordered to be refunded "has already been included and is part and parcel of the ₱172,477.00 which petitioner automatically applied as tax credit for the succeeding taxable year 1990."

In a resolution dated October 21, 1993 Respondent Court reconsidered its decision of July 29, 1993 and dismissed the petition for review, stating that it has "overlooked the fact that the petitioner's 1989 Corporate Income Tax Return (Exh. "A") indicated that the amount of ₱54,104.00 subject of petitioner's claim for refund has already been included as part and parcel of the ₱172,477.00 which the petitioner automatically applied as tax credit for the succeeding taxable year 1990."

Petitioner filed a Motion for Reconsideration which was denied by respondent Court on March 10, 1994. [5]

Petitioner filed a *Petition for Review*[6] dated April 3, 1994 with the Court of Appeals. Resolving the twin issues of whether petitioner is entitled to a refund of ₱54,104.00 representing creditable taxes withheld in 1989 and whether petitioner applied such creditable taxes withheld to its 1990 income tax liability, the appellate court held that petitioner is not entitled to a refund because it had already elected to apply the total amount of ₱172,447.00, which includes the ₱54,104.00 refund claimed, against its income tax liability for 1990. The appellate court elucidated on the reason for its dismissal of petitioner's claim for refund, thus:

In the instant case, it appears that when petitioner filed its income tax return for the year 1989, it filled up the box stating that the total amount of ₱172,477.00 shall be applied against its income tax liabilities for the succeeding taxable year.

Petitioner did not specify in its return the amount to be refunded and the amount to be applied as tax credit to the succeeding taxable year, but merely marked an "x" to the box indicating "to be applied as tax credit to the succeeding taxable year." Unlike what petitioner had done when it filed its income tax return for the year 1988, it specifically stated that out of the ₱146,026.00 the entire refundable amount, only ₱64,623.00 will be made available as tax credit, while the amount of ₱81,403.00 will be refunded.

In its 1989 income tax return, petitioner filled up the box "to be applied as tax credit to succeeding taxable year," which signified that instead of refund, petitioner will apply the total amount of ₱172,447.00, which includes the amount of ₱54,104.00 sought to be refunded, as tax credit for its tax liabilities in 1990. Thus, there is really nothing left to be refunded to petitioner for the year 1989. To grant petitioner's claim for refund is tantamount to granting twice the refund herein sought to be refunded, to the prejudice of the Government.

The Court of Appeals denied petitioner's *Motion for Reconsideration*[7] dated November 8, 1994 in its *Resolution*[8] dated February 21, 1995 because the motion merely restated the grounds which have already been considered and passed upon in its *Decision.*[9]

Petitioner thus filed the instant *Petition for Review*[10] dated April 14, 1995 arguing that the evidence presented before the lower courts conclusively shows that it did not apply the ₱54,104.00 to its 1990 income tax liability; that the *Decision* subject of the instant petition is

inconsistent with a final decision[11] of the Sixteenth Division of the appellate court in C.A.-G.R. Sp. No. 32890 involving the same parties and subject matter; and that the affirmation of the questioned *Decision* would lead to absurd results in the manner of claiming refunds or in the application of prior years' excess tax credits.

The Office of the Solicitor General (OSG) filed a *Comment*[12] dated May 16, 1996 on behalf of respondents asserting that the claimed refund of ₱54,104.00 was, by petitioner's election in its Corporate Annual Income Tax Return for 1989, to be applied against its tax liability for 1990. Not having submitted its tax return for 1990 to show whether the said amount was indeed applied against its tax liability for 1990, petitioner's election in its tax return stands. The OSG also contends that petitioner's election to apply its overpaid income tax as tax credit against its tax liabilities for the succeeding taxable year is mandatory and irrevocable.

On September 2, 1997, petitioner filed a *Reply*[13] dated August 31, 1996 insisting that the issue in this case is not whether the amount of ₱54,104.00 was included as tax credit to be applied against its 1990 income tax liability but whether the same amount was actually applied as tax credit for 1990. Petitioner claims that there is no need to show that the amount of ₱54,104.00 had not been automatically applied against its 1990 income tax liability because the appellate court's decision in C.A.-G.R. Sp. No. 32890 clearly held that petitioner charged its 1990 income tax liability against its tax credit for 1988 and not 1989. Petitioner also disputes the OSG's assertion that the taxpayer's election as to the application of excess taxes is irrevocable averring that there is nothing in the law that prohibits a taxpayer from changing its mind especially if subsequent events leave the latter no choice but to change its election.

The OSG filed a *Rejoinder*[14] dated March 5, 1997 stating that petitioner's 1988 tax return shows a prior year's excess credit of ₱81,403.00, creditable tax withheld of ₱92,750.00 and tax due of ₱27,127.00. Petitioner indicated that the prior year's excess credit of ₱81,403.00 was to be refunded, while the remaining amount of ₱64,623.00 (₱92,750.00 - ₱27,127.00) shall be considered as tax credit for 1989. However, in its 1989 tax return, petitioner included the ₱81,403.00 which had already been segregated for refund in the computation of its excess credit, and specified that the full amount of ₱172,479.00* (₱81,403.00 + ₱64,623.00 + ₱54,104.00** - ₱27,653.00***) be considered as its tax credit for 1990. Considering that it had obtained a favorable ruling for the refund of its excess credit for 1988 in CA-G.R. SP. No. 32890, its remaining tax credit for 1989 should be the excess credit to be applied against its 1990 tax liability. In fine, the OSG argues that by its own election, petitioner can no longer ask for a refund of its creditable taxes withheld in 1989 as the same had been applied against its 1990 tax due.

In its *Resolution*[15] dated July 16, 1997, the Court gave due course to the petition and required the parties to simultaneously file their respective memoranda within 30 days from notice. In compliance with this directive, petitioner submitted its *Memorandum*[16] dated September 18, 1997 in due time, while the OSG filed its *Memorandum*[17] dated April 27, 1998 only on April 29, 1998 after several extensions.

The petition must be denied.

As a matter of principle, it is not advisable for this Court to set aside the conclusion reached by an agency such as the CTA which is, by the very nature of its functions, dedicated exclusively to the study and consideration of tax problems and has necessarily developed an expertise on the subject, unless there has been an abuse or improvident exercise of its authority.[18]

This interdiction finds particular application in this case since the CTA, after careful consideration of the merits of the Commissioner of Internal Revenue's motion for reconsideration, reconsidered its earlier decision which ordered the latter to refund the amount of ₱54,104.00 to petitioner. Its resolution cannot be successfully assailed based, as it is, on the pertinent laws as applied to the facts.

Petitioner's 1989 tax return indicates an aggregate creditable tax of ₱172,477.00, representing its 1988 excess credit of ₱146,026.00 and 1989 creditable tax of ₱54,104.00 less tax due for 1989, which it elected to apply as tax credit for the succeeding taxable year.[19] According to petitioner, it successively utilized this amount when it obtained refunds in CTA Case No. 4439 (C.A.-G.R. Sp. No. 32300) and CTA Case No. 4528 (C.A.-G.R. Sp. No. 32890), and applied its 1990 tax liability, leaving a balance of ₱54,104.00, the amount subject of the instant claim for refund.[20] Represented mathematically, petitioner accounts for its claim in this wise:

₱172,477.00 Amount indicated in petitioner's 1989 tax return to be applied as tax credit for the succeeding taxable year

- 25,623.00 Claim for refund in CTA Case No. 4439 (C.A.-G.R. Sp. No. 32300)

₱146,854.00 Balance as of April 16, 1990

- 59,510.00 Claim for refund in CTA Case No. 4528 (C.A.-G.R. Sp. No. 32890)

₱87,344.00 Balance as of January 2, 1991

- 33,240.00 Income tax liability for calendar year 1990 applied as of April 15, 1991

₱54,104.00 Balance as of April 15, 1991 now subject of the instant claim for refund[21]

Other than its own bare allegations, however, petitioner offers no proof to the effect that its creditable tax of ₱172,477.00 was applied as claimed above. Instead, it anchors its assertion of entitlement to refund on an alleged finding in C.A.-G.R. Sp. No. 32890[22] involving the same parties to the effect that petitioner charged its 1990 income tax liability to its tax credit for 1988 and not its 1989 tax credit. Hence, its excess creditable taxes withheld of ₱54,104.00 for 1989 was left untouched and may be refunded.

Note should be taken, however, that nowhere in the case referred to by petitioner did the Court of Appeals make a categorical determination that petitioner's tax liability for 1990 was applied against its 1988 tax credit. The statement adverted to by petitioner was actually presented in the appellate court's decision in CA-G.R. Sp No. 32890 as part of petitioner's own narration of facts. The pertinent portion of the decision reads:

It would appear from petitioner's submission as follows:

xxx since it has already applied to its prior year's excess credit of ₱81,403.00 (which petitioner wanted refunded when it filed its 1988 Income Tax Return on April 14, 1989) the income tax liability for 1988 of ₱28,127.00 and the income tax liability for 1989 of ₱27,653.00, leaving a balance refundable of ₱25,623.00 subject of C.T.A. Case No. 4439, the ₱92,750.00 (₱64,623.00 plus ₱28,127.00, since this second amount was already applied to the amount refundable of ₱81,403.00) should be the refundable amount. But since the taxpayer again used part of it to satisfy its income tax liability of ₱33,240.00 for 1990, the amount refundable was ₱59,510.00, which is the amount prayed for in the claim for refund and also in the petitioner (sic) for review.

That the present claim for refund already consolidates its claims for refund for 1988, 1989, and 1990, when it filed a claim for refund of ₱59,510.00 in this case (CTA Case No. 4528). Hence, the present claim should be resolved together with the previous claims.[23]

The confusion as to petitioner's entitlement to a refund could altogether have been avoided had it presented its tax return for 1990. Such return would have shown whether petitioner actually applied its 1989 tax credit of ₱172,477.00, which includes the ₱54,104.00 creditable taxes withheld for 1989 subject of the instant claim for refund, against its 1990 tax liability as it had elected in its 1989 return, or at least, whether petitioner's tax credit of ₱172,477.00 was applied to its approved refunds as it claims.

The return would also have shown whether there remained an excess credit refundable to petitioner after deducting its tax liability for 1990. As it is, we only have petitioner's allegation that its tax due for 1990 was ₱33,240.00 and that this was applied against its remaining tax credits using its own "first in, first out" method of computation.

It would have been different had petitioner not included the ₱54,104.00 creditable taxes for 1989 in the total amount it elected to apply against its 1990 tax liabilities. Then, all that would have been required of petitioner are: proof that it filed a claim for refund within the two (2)-year prescriptive period provided under Section 230 of the NIRC; evidence that the income upon which the taxes were withheld was included in its return; and to establish the fact of withholding by a copy of the statement (BIR Form No. 1743.1) issued by the payor[24] to the payee showing the amount paid and the amount of tax withheld therefrom. However, since petitioner opted to apply its aggregate excess credits as tax credit for 1990, it was incumbent upon it to present its tax return for 1990 to show that the claimed refund had not been automatically credited and applied to its 1990 tax liabilities.

The grant of a refund is founded on the assumption that the tax return is valid, *i.e.,* that the facts stated therein are true and correct.[25] Without the tax return, it is error to grant a refund since it would be virtually impossible to determine whether the proper taxes have been assessed and paid.

Why petitioner failed to present such a vital piece of evidence confounds the Court. Petitioner could very well have attached a copy of its final adjustment return for 1990 when it filed its claim for refund on November 13, 1991. Annex "B" of its *Petition for Review*[26] dated December 26, 1991 filed with the CTA, in fact, states that its annual tax return for 1990 was submitted in support of its claim. Yet, petitioner's tax return for 1990 is nowhere to be found in the records of this case.

Had petitioner presented its 1990 tax return in refutation of respondent Commissioner's allegation that it did not present evidence to prove that its claimed refund had already been automatically credited against its 1990 tax liability, the CTA would not have reconsidered its earlier *Decision*. As it is, the absence of petitioner's 1990 tax return was the principal basis of the CTA's *Resolution* reconsidering its earlier *Decision* to grant petitioner's claim for refund.

Petitioner could even still have attached a copy of its 1990 tax return to its petition for review before the Court of Appeals. The appellate court, being a trier of facts, is authorized to receive it in evidence and would likely have taken it into account in its disposition of the petition.

In *BPI-Family Savings Bank v. Court of Appeals*,[27] although petitioner failed to present its 1990 tax return, it presented other evidence to prove its claim that it did not apply and could not have applied the amount in dispute as tax credit. Importantly, petitioner therein attached a copy

of its final adjustment return for 1990 to its motion for reconsideration before the CTA buttressing its claim that it incurred a net loss and is thus entitled to refund. Considering this fact, the Court held that there is no reason for the BIR to withhold the tax refund.

In this case, petitioner's failure to present sufficient evidence to prove its claim for refund is fatal to its cause. After all, it is axiomatic that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund. Tax refunds, like tax exemptions, are construed strictly against the taxpayer.[28]

Section 69, Chapter IX, Title II of the National Internal Revenue Code of the Philippines (NIRC) provides:

Sec. 69. *Final Adjustment Return.*—Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total net income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable net income of that year the corporation shall either:

(a) Pay the excess tax still due; or

(b) Be refunded the excess amount paid, as the case may be.

**In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year.** [Emphasis supplied]

Revenue Regulation No. 10-77 of the Bureau of Internal Revenue clarifies:

SEC. 7. *Filing of final or adjustment return and final payment of income tax.* – A final or an adjustment return on B.I.R. Form No. 1702 covering the total taxable income of the corporation for the preceding calendar or fiscal year shall be filed on or before the 15$^{th}$ day of the fourth month following the close of the calendar or fiscal year. The return shall include all the items of gross income and deductions for the taxable year. The amount of income tax to be paid shall be the balance of the total income tax shown on the final or adjustment return after deducting therefrom the total quarterly income taxes paid during the preceding first three quarters of the same calendar or fiscal year.

Any excess of the total quarterly payments over the actual income tax computed and shown in the adjustment or final corporate income tax return shall either (a) be refunded to the corporation, or (b) may be credited against the estimated quarterly income tax liabilities for the quarters of the succeeding taxable year. **The corporation must signify in its annual corporate adjustment return its intention whether to request for refund of the overpaid income tax or claim for automatic credit to be applied against its income tax liabilities for the quarters of the succeeding taxable year by filling up the appropriate box on the corporate tax return** (B.I.R. Form No. 1702). [Emphasis supplied]

As clearly shown from the above-quoted provisions, in case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding year. The carrying forward of any excess or overpaid income tax for a given taxable year is limited to the succeeding taxable year only.

In the recent case of *AB Leasing and Finance Corporation v. Commissioner of Internal Revenue*,[29] where the Court declared that "[T]he carrying forward of any excess or overpaid

income tax for a given taxable year then is *limited to the succeeding taxable year only,*" we ruled that since the case involved a claim for refund of overpaid taxes for 1993, petitioner could only have applied the 1993 excess tax credits to its 1994 income tax liabilities. To further carry-over to 1995 the 1993 excess tax credits is violative of Section 69 of the NIRC.

In this case, petitioner included its 1988 excess credit of ₱146,026.00 in the computation of its total excess credit for 1989. It indicated this amount, plus the 1989 creditable taxes withheld of ₱54,104.00 or a total of ₱172,477.00, as its total excess credit to be applied as tax credit for 1990. By its own disclosure, petitioner effectively combined its 1988 and 1989 tax credits and applied its 1990 tax due of ₱33,240.00 against the total, and not against its creditable taxes for 1989 only as allowed by Section 69. This is a clear admission that petitioner's 1988 tax credit was incorrectly and illegally applied against its 1990 tax liabilities.

Parenthetically, while a taxpayer is given the choice whether to claim for refund or have its excess taxes applied as tax credit for the succeeding taxable year, such election is not final. Prior verification and approval by the Commissioner of Internal Revenue is required. The availment of the remedy of tax credit is not absolute and mandatory. It does not confer an absolute right on the taxpayer to avail of the tax credit scheme if it so chooses. Neither does it impose a duty on the part of the government to sit back and allow an important facet of tax collection to be at the sole control and discretion of the taxpayer.[30]

Contrary to petitioner's assertion however, the taxpayer's election, signified by the ticking of boxes in Item 10 of BIR Form No. 1702, is not a mere technical exercise. It aids in the proper management of claims for refund or tax credit by leading tax authorities to the direction they should take in addressing the claim.

The amendment of Section 69 by what is now Section 76 of Republic Act No. 8424[31] emphasizes that it is imperative to indicate in the tax return or the final adjustment return whether a tax credit or refund is sought by making the taxpayer's choice irrevocable. Section 76 provides:

SEC. 76. *Final Adjustment Return.*—Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

(A) Pay the balance of the tax still due; or

(B) Carry-over the excess credit; or

(C) Be credited or refunded with the excess amount paid, as the case may be.

In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. **Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefore.** [Emphasis supplied]

As clearly seen from this provision, the taxpayer is allowed three (3) options if the sum of its quarterly tax payments made during the taxable year is not equal to the total tax due for that year: (a) pay the balance of the tax still due; (b) carry-over the excess credit; or (c) be credited

or refunded the amount paid. If the taxpayer has paid excess quarterly income taxes, it may be entitled to a tax credit or refund as shown in its final adjustment return which may be carried over and applied against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. However, once the taxpayer has exercised the option to carry-over and to apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years, such option is irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed.

Had this provision been in effect when the present claim for refund was filed, petitioner's excess credits for 1988 could have been properly applied to its 1990 tax liabilities. Unfortunately for petitioner, this is not the case.

Taxation is a destructive power which interferes with the personal and property rights of the people and takes from them a portion of their property for the support of the government. And since taxes are what we pay for civilized society, or are the lifeblood of the nation, the law frowns against exemptions from taxation and statutes granting tax exemptions are thus construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. A claim of refund or exemption from tax payments must be clearly shown and be based on language in the law too plain to be mistaken. Elsewise stated, taxation is the rule, exemption therefrom is the exception.[32]

**WHEREFORE**, the instant petition is DENIED. The challenged decision of the Court of Appeals is hereby AFFIRMED. No pronouncement as to costs.

**SO ORDERED.**

*Puno, (Chairman), Austria-Martinez,* and *Callejo, Sr., JJ.,* concur.
*Chico-Nazario, J.,* on leave.

---

[1] The provision on the filing of corporate returns was first amended by P.D. 1158-A (June 3, 1977), which required the filing of quarterly income tax returns. The amendment was incorporated in the National Internal Revenue Code of 1977. P.D. 1705 (August 1, 1980) and P.D. 1773 (January 16, 1981) further amended the provision. The amendment was incorporated in subsequent tax codes up to the present Tax Reform Act of 1997.

[2] Dated October 14, 1994 penned by Associate Justice Consuelo Ynares-Santiago (now an Associate Justice of this Court) and concurred in by Associate Justices Emeterio C. Cui and Conchita Carpio Morales (now also an Associate Justice of this Court); Annex "B" of the instant Petition for Review; *Rollo*, pp. 37-40.

[3] Dated October 21, 1993; CTA Records, pp. 72-75.

[4] *Supra,* note 1.

[5] *Id.* at 37, pp. 1-2 of the Decision.

[6] *Id.* at 24-34, Annex "A" of the instant petition.

[7] *Id.* at 41-46, Annex "C" of the instant petition.

[8] *Id.* at 53, Annex "E" of the instant petition.

[9] *Ibid.*

[10] *Rollo*, pp. 10-64, with Annexes.

[11] Penned by Associate Justice Minerva P. Gonzaga-Reyes (now retired Associate Justice of this Court); Annex "F" of the instant petition, *Rollo*, pp. 55-64.

[12] *Id.* at 109-118.

[13] *Id.* at 123-131.

[14] *Id.* at 196-199.

* Should be ₱172,477.00.

** Representing the creditable taxes withheld at source for 1989.

*** Representing the tax due for 1989.

[15] *Id.* at 201.

[16] *Id.* at 206-216.

[17] *Id.* at 251-264.

[18] Sea-Land Service, Inc. *v.* Court of Appeals, G.R. No. 122605, April 30, 201, 357 SCRA 441; Reyes *v.* Commissioner of Internal Revenue, G.R. Nos. L-24020-21, July 29, 1968, 24 SCRA 198.

[19] *Supra,* note 3 at 3; Exh. "A" of the petition for review dated December 26, 1991.

[20] *Supra,* note 2 at 212-213, petitioner's Memorandum.

[21] *Ibid.*

[22] *Supra,* note 11.

[23] *Supra,* note 2 at 62-63.

[24] In this case, the lessee of petitioner's properties, Citibank.

[25] Commissioner of Internal Revenue *v*. Court of Tax Appeals, G.R. No. 106611, July 21, 1994, 234 SCRA 348.

[26] *Supra,* note 3 at 16.

[27] 386 Phil. 719 (2000).

[28] Citibank, N.A. *v*. Court of Appeals, 345 Phil. 695 (1997), 280 SCRA 459; Commissioner of Internal Revenue *v*. Tokyo Shipping Co., Ltd., 314 Phil. 220 (1995).

[29] G.R. No. 138342, July 8, 2003, 405 SCRA 380.

[30] San Carlos Milling Co. Inc. *v*. Commissioner of Internal Revenue, G.R. No. 103379, November 23, 1993.

[31] Tax Reform Act of 1997.

[32] Mactan Cebu International Airport Authority *v*. Marcos, 330 Phil. 392 (1996), *citations omitted; See also* Commissioner of Internal Revenue *v*. S.C. Johnson & Son, Inc., 368 Phil. 388 (1999).