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SECOND DIVISION

[G.R. No. 118794, May 08, 1996]

PHILIPPINE REFINING COMPANY (NOW KNOWN AS "UNILEVER PHILIPPINES

[PRC], INC."), PETITIONER, VS. COURT OF APPEALS, COURT OF TAX APPEALS, AND THE COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS.

D E C I S I O N

REGALADO, J.:

This is an appeal by certiorari from the decision of respondent Court of Appeals[1] affirming the decision of the Court of Tax Appeals which disallowed petitioner's claim for deduction as bad debts of several accounts in the total sum of P395,324.27, and imposing a 25% surcharge and 20% annual delinquency interest on the alleged deficiency income tax liability of petitioner.

Petitioner Philippine Refining Company (PRC) was assessed by respondent Commissioner of Internal Revenue (Commissioner) to pay a deficiency tax for the year 1985 in the amount of P1,892,584.00, computed as follows:

Deficiency Income Tax

Net Income per investigation	P197,502,568.00
Add: Disallowances	
Bad Debts P 713,070.93	P3.379.616.00
Interest Expense P2.666.545.49	
Net Taxable Income	P200.882.184.00
Tax Due Thereon	P 70,298,764.00
Less: Tax Paid	P 69,115,899.00
Deficiency Income Tax	P 1,182,865.00
Add: 20% Interest (60% max.)	P 709.719.00
Total Amount Due and	

Collectible	P 1.892.584.00[2]

The assessment was timely protested by petitioner on April 26, 1989, on the ground that it was based on the erroneous disallowances of "bad debts" and "interest expense" although the same are both allowable and legal deductions. Respondent Commissioner, however, issued a warrant of garnishment against the deposits of petitioner at a branch of City Trust Bank, in Makati, Metro Manila, which action the latter considered as a denial of its protest.

Petitioner accordingly filed a petition for review with the Court of Tax Appeals (CTA) on the same assignment of error, that is, that the "bad debts" and "interest expense" are legal and allowable deductions. In its decision[3] of February 3, 1993 in C.T.A. Case No. 4408, the CTA modified the findings of the Commissioner by reducing the deficiency income tax assessment to P237,381.26, with surcharge and interest incident to delinquency. In said decision, the Tax Court reversed and set aside the Commissioner's disallowance of the supposed interest expense of P2,666,545.19 but maintained the disallowance of the bad debts of thirteen (13) debtors in the total sum of P395,324.27.

Petitioner then elevated the case to respondent Court of Appeals which, as earlier stated, denied due course to the petition for review and dismissed the same on August 24, 1994 in CA-G.R. S.P. No. 31190,[4] on the following ratiocination:

> We agree with respondent Court of Tax Appeals:
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> Out of the sixteen (16) accounts alleged as bad debts, We find that only three (3) accounts have met the requirements of the worthlessness of the accounts, hence were properly written off as bad debts, namely:
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> | | |
> |---|---|
> | **1. Petronila Catap** | |
> | | P29,098.30 |
> | **(Pet Mini Grocery)** | |
> | **2. Esther Guinto** | |
> | | 254,375.54 |
> | **(Esther Sari-sari Store)** | |
> | **3. Manuel Orea** | |
> | | 34,272.82 |
> | **(Elman Gen. Mdsg.)** | |
> | **TOTAL** | P317,746.66 |
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> xxx xxx xxx
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> With regard to the other accounts, namely:

1.Remoblas Store	P 11,961.00
2.Tomas Store	16,842.79
3.AFPCES	13,833.62
4.CM Variety Store	10,895.82
5.U'Ren Mart Enterprise	10,487.08
6.Aboitiz Shipping Corp.	89,483.40
7.J. Ruiz Trucking	69,640.34
8.Renato Alejandro	13,550.00
9.Craig, Mostyn Pty. Ltd.	23,738.00
10.C. Itoh	19,272.22
11.Crocklaan B. V.	77,690.00
12.Enriched Food Corp.	24,158.00
13.Lucito Sta. Maria	13,772.00
TOTAL	P395,324.27

> We find that said accounts have not satisfied the requirements of the 'worthlessness of a debt.' Mere testimony of the Financial Accountant of the Petitioner explaining the worthlessness of said debts is seen by this Court as nothing more than a self-serving exercise which lacks probative value. There was no iota of documentary evidence (e. g., collection letters sent, report from investigating fieldmen, letter of referral to their legal department, police report/affidavit that the owners were bankrupt due to fire that engulfed their stores or that the owner has been murdered, etc.), to give support to the testimony of an employee of the Petitioner. Mere allegations cannot prove the worthlessness of such debts in 1985. Hence, the claim for deduction of these thirteen (13) debts should be rejected."[5]

1. This pronouncement of respondent Court of Appeals relied on the ruling of this Court in *Collector vs. Goodrich International Rubber Co.,*[6] which established the rule in determining the "worthlessness of a debt." In said case, we held that for debts to be considered as "worthless," and thereby qualify as "bad debts" making them deductible, the taxpayer should show that (1) there is a valid and subsisting debt; (2) the debt must be actually ascertained to be worthless and uncollectible during the taxable year; (3) the debt must be charged off during the taxable year; and (4) the debt must arise from the business or trade of the taxpayer. Additionally, before a debt can be considered worthless, the taxpayer must also show that it is indeed uncollectible even in the future.

Furthermore, there are steps outlined to be undertaken by the taxpayer to prove that he exerted diligent efforts to collect the debts, *viz:* (1) sending of statement of accounts; (2) sending of collection letters; (3) giving the account to a lawyer for

collection; and (4) filing a collection case in court.

On the foregoing considerations, respondent Court of Appeals held that petitioner did not satisfy the requirements of "worthlessness of a debt" as to the thirteen (13) accounts disallowed as deductions.

It appears that the only evidentiary support given by PRC for its aforesaid claimed deductions was the explanation or justification posited by its financial adviser or accountant. Guia D. Masagana. Her allegations were not supported by any documentary evidence, hence, both the Court of Appeals and the CTA ruled that said contentions per se cannot prove that the debts were indeed uncollectible and can be considered as bad debts as to make them deductible. That both lower courts are correct is shown by petitioner's own submission and the discussion thereof which we have taken time and patience to cull from the antecedent proceedings in this case, albeit bordering on factual settings.

The accounts of Remoblas Store in the amount of P11,961.00 and CM Variety Store in the amount of P10,895.82 are uncollectible, according to petitioner, since the stores were burned in November, 1984 and in early 1985, respectively, and there are no assets belonging to the debtors that can be garnished by PRC.[7] However, PRC failed to show any documentary evidence for said allegations. Not a single document was offered to show that the stores were burned, even just a police report or an affidavit attesting to such loss by fire. In fact, petitioner did not send even a single demand letter to the owners of said stores.

The account of Tomas Store in the amount of P16,842.79 is uncollectible, claims petitioner PRC, since the owner thereof was murdered and left no visible assets which could satisfy the debt. Withal, just like the accounts of the two other stores just mentioned, petitioner again failed to present proof of the efforts exerted to collect the debt, other than the aforestated asseverations of its financial adviser.

The accounts of Aboitiz Shipping Corporation and J. Ruiz Trucking in the amounts of P89,483.40 and P69,640.34, respectively, both of which allegedly arose from the hijacking of their cargo and for which they were given 30% rebates by PRC, are claimed to be uncollectible. Again, petitioner failed to present an iota of proof, not even a copy of the supposed policy regulation of PRC that it gives rebates to clients in case of loss arising from fortuitous events or force majeure, which rebates it now passes off as uncollectible debts.

As to the account of P13,550.00 representing the balance collectible from Renato Alejandro, a former employee who failed to pay the judgment against him, it is petitioner's theory that the same can no longer be collected since his whereabouts are unknown and he has no known property which can be garnished or levied upon. Once again, petitioner failed to prove the existence of the said case against that debtor or to submit any documentation to show that Alejandro was indeed bound to pay any

judgment obligation.

The amount of P13,772.00 corresponding to the debt of Lucito Sta. Maria is allegedly due to the loss of his stocks through robbery and the account is uncollectible due to his insolvency. Petitioner likewise failed to submit documentary evidence, not even the written reports of the alleged investigation conducted by its agents as testified to by its aforenamed financial adviser. Regarding the accounts of C. Itoh in the amount of P19,272.22, Crocklaan B.V. in the sum of P77,690.00, and Craig, Mostyn Pty. Ltd. with a balance of P23,738.00, petitioner contends that these debtors being foreign corporations, it can sue them only in their country of incorporation; and since this will entail expenses more than the amounts of the debts to be collected, petitioner did not file any collection suit but opted to write them off as bad debts. Petitioner was unable to show proof of its efforts to collect the debts, even by a single demand letter therefor. While it is not required to file suit, it is at least expected by the law to produce reasonable proof that the debts are uncollectible although diligent efforts were exerted to collect the same.

The account of Enriched Food Corporation in the amount of P24,158.00 remains unpaid, although petitioner claims that it sent several letters. This is not sufficient to sustain its position, even if true, but even smacks of insouciance on its part. On top of that, it was unable to show a single copy of the alleged demand letters sent to the said corporation or any of its corporate officers.

With regard to the account of AFPCES for unpaid supplies in the amount of P13,833.62, petitioner asserts that since the debtor is an agency of the government, PRC did not file a collection suit therefor. Yet, the mere fact that AFPCES is a government agency does not preclude PRC from filing suit since said agency, while discharging proprietary functions, does not enjoy immunity from suit. Such pretension of petitioner cannot pass judicial muster.

No explanation is offered by petitioner as to why the unpaid account of U'Ren Mart Enterprise in the amount of P10,487.08 was written off as a bad debt. However, the decision of the CTA includes this debtor in its findings on the lack of documentary evidence to justify the deductions claimed, since the worthlessness of the debts involved are sought to be established by the mere self-serving testimony of its financial consultant.

The contentions of PRC that nobody is in a better position to determine when an obligation becomes a bad debt than the creditor itself, and that its judgment should not be substituted by that of respondent court as it is PRC which has the facilities in ascertaining the collectibility or uncollectibility of these debts, are presumptuous and uncalled for. The Court of Tax Appeals is a highly specialized body specifically created for the purpose of reviewing tax cases. Through its expertise, it is undeniably competent to determine the issue of whether or not the debt is deductible through the evidence presented before it.[8]

Because of this recognized expertise, the findings of the CTA will not ordinarily be reviewed absent a showing of gross error or abuse on its part.[9] The findings of fact of the CTA are binding on this Court and in the absence of strong reasons for this Court to delve into facts, only questions of law are open for determination.[10] Were it not, therefore, due to the desire of this Court to satisfy petitioner's calls for clarification and to use this case as a vehicle for exemplification, this appeal could very well have been summarily dismissed.

The Court vehemently rejects the absurd thesis of petitioner that despite the supervening delay in the tax payment, nothing is lost on the part of the Government because in the event that these debts are collected, the same will be returned as taxes to it in the year of the recovery. This is an irresponsible statement which deliberately ignores the fact that while the Government may eventually recover revenues under that hypothesis, the delay caused by the non-payment of taxes under such a contingency will obviously have a disastrous effect on the revenue collections necessary for governmental operations during the period concerned.

2. We need not tarry at length on the second issue raised by petitioner. It argues that the imposition of the 25% surcharge and the 20% delinquency interest due to delay in its payment of the tax assessed is improper and unwarranted, considering that the assessment of the Commissioner was modified by the CTA and the decision of said court has not yet become final and executory.

> Regarding the 25% surcharge penalty, Section 248 of the Tax Code provides:
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> "SEC 248. *Civil Penalties.* " (a) There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:
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> xxx xxx xxx
>
> (3) Failure to pay the tax within the time prescribed for its payment."

With respect to the penalty of 20% interest, the relevant provision is found in Section 249 of the same Code, as follows:

> "SEC. 249. *Interest.* " (a) *In general.* " There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (20%) *per annum,* or such higher rate as may be prescribed by regulations, from the date prescribed for payment until the amount is fully

paid.

xxx xxx xxx

(c) *Delinquency interest.* " In case of failure to pay:

(1) The amount of the tax due on any return required to be filed, or

(2) The amount of the tax due for which no return is required, or

(3) *A deficiency tax, or any surcharge or interest thereon, on the due date appearing in the notice and demand of the Commissioner,*

there shall be assessed and collected, on the unpaid amount, interest at the rate prescribed in paragraph (a) hereof until the amount is fully paid, which interest shall form part of the tax." (Italics supplied)

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As correctly pointed out by the Solicitor General, the deficiency tax assessment in this case, which was the subject of the demand letter of respondent Commissioner dated April 11, 1989, should have been paid within thirty (30) days from receipt thereof. By reason of petitioner's default thereon, the delinquency penalties of 25% surcharge and interest of 20% accrued from April 11, 1989. The fact that petitioner appealed the assessment to the CTA and that the same was modified does not relieve petitioner of the penalties incident to delinquency. The reduced amount of P237,381.25 is but a part of the original assessment of P1,892,584.00.

Our attention has also been called to two of our previous rulings and these we set out here for the benefit of petitioner and whosoever may be minded to take the same stance it has adopted in this case. Tax laws imposing penalties for delinquencies, so we have long held, are intended to hasten tax payments by punishing evasions or neglect of duty in respect thereof. If penalties could be condoned for flimsy reasons, the law imposing penalties for delinquencies would be rendered nugatory, and the maintenance of the Government and its multifarious activities will be adversely affected.[11]

We have likewise explained that it is mandatory to collect penalty and interest at the stated rate in case of delinquency. The intention of the law is to discourage delay in the payment of taxes due the Government and, in this sense, the penalty and interest are not penal but compensatory for the concomitant use of the funds by the taxpayer beyond the date when he is supposed to have paid them to the Government.[12] Unquestionably, petitioner chose to turn a deaf ear to these injunctions.

ACCORDINGLY, the petition at bar is **DENIED** and the judgment of respondent Court of Appeals is hereby **AFFIRMED,** with treble costs against petitioner.

SO ORDERED.

Romero, Puno, Mendoza, and Torres, Jr., JJ., concur.

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[1] Justice Eduardo G. Montenegro, ponente, and Justices Minerva Gonzaga-Reyes and Conrado M. Vasquez, Jr., concurring.

[2] Rollo, 48.

[3] Ibid., 63; penned by Associate Judge Ramon O. de Veyra, with the concurrence of Presiding Judge Ernesto D. Acosta and Associate Judge Manuel K. Gruba.

[4] Ibid., 41-42.

[5] Rollo, 42-43.

[6] L-22265, December 26,1967,21 SCRA 1336.

[7] Rollo, 58.

[8] Commissioner of Internal Revenue vs. Wander Philippines, Inc., et al., G.R. No. 68375, April 15, 1988, 160 SCRA 573.

[9] The Coca-Cola Export Corporation vs. Commissioner of Internal Revenue, et al., L-23604, March 15, 1974, 56 SCRA 5; Nasiad, et al. vs. Court of Tax Appeals, L-29318, November 29,1974,61 SCRA 238.

[10] Commissioner of Internal Revenue vs. Tours Specialists, Inc., etal., G.R. No. 66416, March 21, 1990, 183 SCRA 402.

[11] Jamora, et al. vs. Meer, etc., et al., 74 Phil. 22 (1942).

[12] Republic vs Philippine Bank of Commerce, L-20951, July 31, 1970, 34 SCRA 361.