Supreme Court E-Library

Respondent's continuous possession of the property even after the property was sold to Boteros does not automatically mean that the transaction was an equitable mortgage and not an absolute sale. In this case, Boteros merely tolerated respondent's continued possession of the property until Boteros sold the property and the new buyers, petitioners herein, demanded respondent to vacate the property.

Based on the records of the case, we hold that the transaction between Boteros and respondent and Manuel was a contract of absolute sale of real property and not merely an equitable mortgage. Boteros can therefore validly sell the property to petitioners. In view of the conclusion we have reached, it is unnecessary to pass upon the last two issues raised by petitioners.

WHEREFORE, we *GRANT* the petition. We *SET ASIDE* the Decision dated 30 October 2002 and the Resolution dated 8 May 2003 of the Court of Appeals in CA-G.R. CV No. 48949. We *REINSTATE* the Decision dated 1 March 1993 of the Regional Trial Court of Iloilo, Branch 36.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Azcuna, and *Leonardo-de Castro, JJ.,* concur.

FIRST DIVISION

[G.R. No. 159610. June 12, 2008]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **CENTRAL LUZON DRUG CORPORATION,** *respondent.*

SYLLABUS

1. TAXATION; TAX CREDIT; DEFINED AND CONSTRUED. — Tax credit is defined as a peso-for-peso reduction from a taxpayer's tax liability. It is a direct subtraction from the tax payable to the government. On the other hand, RR 2-94 treated the amount of senior citizens' discount as a tax deduction which is only a subtraction from gross income resulting to a lower taxable income. RR 2-94 treats the senior citizens' discount in the same manner as the allowable deductions provided in Section 34, Chapter VII of the National Internal Revenue Code. RR 2-94 affords merely a fractional reduction in the taxes payable to the government depending on the applicable tax rate. In *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, the Court ruled that petitioner's definition in RR 2-94 of a tax credit is clearly erroneous. To deny the tax credit, despite the plain mandate of the law, is indefensible. In *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, the Court declared, "When the law says that the cost of the discount may be claimed as a *tax credit*, it means that the amount — when claimed — shall be treated as a reduction from any tax liability, plain and simple." The Court further stated that the law cannot be amended by a mere regulation because "administrative agencies in issuing these regulations may not enlarge, alter or restrict the provisions of the law it administers; it cannot engraft additional requirements not contemplated by the legislature." Hence, there being a dichotomy in the law and the revenue regulation, the definition provided in Section 2(i) of RR 2-94 cannot be given effect.

2. ID.; ID.; TAX CREDIT MAY STILL BE DEDUCTIBLE FROM A FUTURE TAX LIABILITY; SUSTAINED. — In the petition filed before this Court, petitioner alleged that respondent incurred a net loss from its business operations in 1997; hence, it did not pay any income tax. Since no tax payment was made, it follows that no tax credit can also be claimed because tax credits are usually applied against a tax liability. In *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, the Court stressed that prior payment of tax liability is not a pre-condition before a taxable entity can avail of the tax credit. The Court declared, "Where there is no tax liability or where a private establishment reports a net loss

Supreme Court E-Library

for the period, the tax credit can be availed of and carried over to the next taxable year." It is irrefutable that under RA 7432, Congress has granted the tax credit benefit to all covered establishments without conditions. Therefore, neither a tax liability nor a prior tax payment is required for the existence or grant of a tax credit. The applicable law on this point is clear and without any qualifications. Hence, respondent is entitled to claim the amount of ₱2,376,805.63 as tax credit despite incurring net loss from business operations for the taxable year 1997.

3. ID.; ID.; SENIOR CITIZENS' DISCOUNT MAY BE CLAIMED AS TAX CREDIT BUT NOT A REFUND. — Section 4(a) of RA 7432 expressly provides that private establishments may claim the cost as a tax credit. A tax credit can only be utilized as payment for future internal revenue tax liabilities of the taxpayer while a tax refund, issued as a check or a warrant, can be encashed. A tax refund can be availed of immediately while a tax credit can only be utilized if the taxpayer has existing or future tax liabilities. If the words of the law are clear, plain, and free of ambiguity, it must be given its literal meaning and applied without any interpretation. Hence, the senior citizens' discount may be claimed as a tax credit and not as a refund.

4. ID.; ID.; EXPANDED SENIOR CITIZENS ACT OF 2003; SENIOR CITIZENS' DISCOUNT SHOULD BE TREATED AS A TAX DEDUCTION. — On 26 February 2004, RA 9257, otherwise known as the "Expanded Senior Citizens Act of 2003," was signed into law and became effective on 21 March 2004. x x x Contrary to the provision in RA 7432 where the senior citizens' discount granted by all covered establishments can be claimed as tax credit, RA 9257 now specifically provides that this discount should be treated as tax deduction. With the effectivity of RA 9257 on 21 March 2004, there is now a new tax treatment for senior citizens' discount granted by all covered establishments. This discount should be considered as a deductible expense from gross income and no longer as tax credit.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Joy Ann Marie G. Nolasco for respondent.

D E C I S I O N

CARPIO, *J.*:

The Case

This petition for review on *certiorari*[1] assails the 13 August 2003 Decision[2] of the Court of Appeals in CA-G.R. SP No. 70480. The Court of Appeals dismissed the appeal filed by the Commissioner of Internal Revenue (petitioner) questioning the 15 April 2002 Decision[3] of the Court of Tax Appeals (CTA) in CTA Case No. 6054 ordering petitioner to issue, in favor of Central Luzon Drug Corporation (respondent), a tax credit certificate in the amount of ₱2,376,805.63, arising from the alleged erroneous interpretation of the term "tax credit" used in Section 4(a) of Republic Act No. (RA) 7432.[4]

The Facts

Respondent is a domestic corporation engaged in the retail of medicines and other pharmaceutical products.[5] In 1997, it operated eight drugstores under the business name and style "Mercury Drug."[6]

Pursuant to the provisions of RA 7432 and Revenue Regulations No. (RR) 2-94[7] issued by the Bureau of Internal Revenue (BIR), respondent granted 20% sales discount to qualified senior citizens

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[1] Under Rule 45 of the Rules of Court.

[2] *Rollo*, pp. 33-39. Penned by Associate Justice Rebecca De Guia-Salvador, concurred in by Associate Justices Roberto A. Barrios and Arsenio J. Magpale.

[3] *Id.* at 40-61. Penned by Presiding Judge Ernesto D. Acosta and concurred in by Associate Judge Juanito C. Castañeda, Jr.

[4] RA 7432 is otherwise known as "An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes." The law was passed on 23 April 1992.

[5] *Rollo*, p. 10.

[6] *Id.* at 33, 63.

[7] RR 2-94 was issued on 23 August 1993.

Supreme Court E-Library

on their purchases of medicines covering the calendar year 1997. The sales discount granted to senior citizens totaled ₱2,798,508.00.

On 15 April 1998, respondent filed its 1997 Corporate Annual Income Tax Return reflecting a nil income tax liability due to net loss incurred from business operations of ₱2,405,140.00.[8] Respondent filed its 1997 Income Tax Return under protest.[9]

On 19 March 1999, respondent filed with the petitioner a claim for refund or credit of overpaid income tax for the taxable year 1997 in the amount of ₱2,660,829.00.[10] Respondent alleged that the overpaid tax was the result of the wrongful implementation of RA 7432. Respondent treated the 20% sales discount as a deduction from gross sales in compliance with RR 2-94 instead of treating it as a tax credit as provided under Section 4(a) of RA 7432.

On 6 April 2000, respondent filed a Petition for Review with the CTA in order to toll the running of the two-year statutory period within which to file a judicial claim. Respondent reasoned that RR 2-94, which is a mere implementing administrative regulation, cannot modify, alter or amend the clear mandate of RA 7432. Consequently, Section 2(i) of RR 2-94 is without force and effect for being inconsistent with the law it seeks to implement.[11]

In his Answer, petitioner stated that the construction given to a statute by a specialized administrative agency like the BIR is entitled to great respect and should be accorded great weight. When RA 7432 allowed senior citizens' discounts to be claimed as tax credit, it was silent as to the mechanics of availing the same. For clarification, the BIR issued RR 2-94 and defined the term "tax credit" as a deduction from the establishment's

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[8] CTA *rollo*, pp. 6-8.

[9] *Id*. at 10.

[10] *Id*. at 17-19.

[11] *Id*. at 1-5.

Supreme Court E-Library

gross income and not from its tax liability in order to avoid an absurdity that is not intended by the law.[12]

The Ruling of the Court of Tax Appeals

On 15 April 2002, the CTA rendered a Decision ordering petitioner to issue a tax credit certificate in the amount of ₱2,376,805.63 in favor of respondent.

The CTA stated that in a number of analogous cases, it has consistently ruled that the 20% senior citizens' discount should be treated as tax credit instead of a mere deduction from gross income.[13] In quoting its previous decisions, the CTA ruled that RR 2-94 engraved a new meaning to the phrase "tax credit" as deductible from gross income which is a deviation from the plain intendment of the law. An administrative regulation must not contravene but should conform to the standards that the law prescribes.[14]

The CTA also ruled that respondent has properly substantiated its claim for tax credit by documentary evidence. However, based on the examination conducted by the commissioned independent certified public accountant (CPA), there were some material discrepancies due to missing cash slips, lack of senior citizen's ID number, failure to include the cash slips in the summary report and vice versa. Therefore, between the Summary Report presented by respondent and the audited amount presented by the independent CPA, the CTA deemed it proper to consider the lesser of two amounts.

The re-computation of the overpaid income tax[15] for the year 1997 is as follows:

Sales, Net	₱176,742,607.00
Add: 20% Sales Discount to Senior Citizens	2,798,508.00
Sales, Gross	₱179,541,115.00

[12] *Id*. at 26-29.

[13] *Id*. at 275.

[14] *Id*. at 278.

[15] *Id*. at 281.

Supreme Court E-Library

Less: Cost of Sales		
Merchandise inventory, beg.	₱ 20,905,489.00	
Purchases	168,762,950.00	
Merchandise inventory, end	(27,281,439.00)	162,387,000.00
Gross Profit		₱ 17,154,115.00
Add: Miscellaneous income		402,124.00
Total Income		₱ 17,556,239.00
Less: Operating expenses		16,913,699.00
Net Income		₱ 642,540.00
Less: Income subjected to final tax (Interest Income[16])		249,172.00
Net Taxable Income		₱ 393,368.00
Income Tax Due (35%)		₱ 137,679.00
Less: Tax Credit (Cost of 20% discount as adjusted[17])		2,514,484.63
Income Tax Payable		(₱ 2,376,805.63)
Income Tax Actually Paid		0.00
Income Tax Refundable		(₱ 2,376,805.63)

Aggrieved by the CTA's decision, petitioner elevated the case before the Court of Appeals.

The Ruling of the Appellate Court

On 13 August 2003, the Court of Appeals affirmed the CTA's decision *in toto.*

The Court of Appeals disagreed with petitioner's contention that the CTA's decision applied a literal interpretation of the law. It reasoned that under the *verba legis* rule, if the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without interpretation. This principle

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[16] *Id.* at 15.

[17] *Id.* at 283-292.

rests on the presumption that the words used by the legislature in a statute correctly express its intent and preclude the court from construing it differently.[18]

The Court of Appeals distinguished "tax credit" as an amount subtracted from a taxpayer's total tax liability to arrive at the tax due while a "tax deduction" reduces the taxpayer's taxable income upon which the tax liability is computed. "A credit differs from deduction in that the former is subtracted from tax while the latter is subtracted from income before the tax is computed."[19]

The Court of Appeals found no legal basis to support petitioner's opinion that actual payment by the taxpayer or actual receipt by the government of the tax sought to be credited or refunded is a condition *sine qua non* for the availment of tax credit as enunciated in Section 229[20] of the Tax Code. The Court of Appeals stressed that Section 229 of the Tax Code pertains to illegally collected or erroneously paid taxes while RA 7432 is a special law which uses the method of tax credit in the context of just compensation. Further, RA 7432 does not require prior tax payment as a condition for claiming the cost of the sales discount as tax credit.

Hence, this petition.

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[18] CA *rollo*, p. 126.

[19] *Id*. at 126-127.

[20] Sec. 229. Recovery of Tax Erroneously or Illegally Collected. — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

Supreme Court E-Library

The Issues

Petitioner raises two issues[21] in this Petition:

1. Whether the appellate court erred in holding that respondent may claim the 20% senior citizens' sales discount as a tax credit deductible from future income tax liabilities instead of a mere deduction from gross income or gross sales; and

2. Whether the appellate court erred in holding that respondent is entitled to a refund.

The Ruling of the Court

The petition lacks merit.

The issues presented are not novel. In two similar cases involving the same parties where respondent lodged its claim for tax credit on the senior citizens' discount granted in 1995[22] and 1996,[23] this Court has squarely ruled that the 20% senior citizens' discount required by RA 7432 may be claimed as a tax credit and not merely a tax deduction from gross sales or gross income. Under RA 7432, Congress granted the tax credit benefit to all covered establishments without conditions. The net loss incurred in a taxable year does not preclude the grant of tax credit because by its nature, the tax credit may still be deducted from a future, not a present, tax liability. However, the senior citizens' discount granted as a tax credit cannot be refunded.

RA 7432 expressly allows private establishments to claim the amount of discounts they grant to senior citizens as tax credit.

Section 4(a) of RA 7432 states:

SECTION 4. *Privileges for the Senior Citizens*. — The senior citizens shall be entitled to the following:

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[21] *Rollo*, p. 12.

[22] *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, G.R. No. 148512, 26 June 2006, 492 SCRA 575.

[23] *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, G.R. No. 159647, 15 April 2005, 456 SCRA 414.

Supreme Court E-Library

a) **the grant of twenty percent (20%) discount from** all establishments relative to the utilization of transportation services, hotels and similar lodging establishments, restaurants and recreation centers and **purchase of medicines** anywhere in the country: Provided, That **private establishments may claim the cost as tax credit**; (Emphasis supplied)

However, RR 2-94 interpreted the tax credit provision of RA 7432 in this wise:

Sec. 2. DEFINITIONS. — For purposes of these regulations:

x x x x x x x x x

i. Tax Credit — refers to the **amount representing 20% discount granted to a qualified senior citizen** by all establishments relative to their utilization of transportation services, hotels and similar lodging establishments, restaurants, drugstores, recreation centers, theaters, cinema houses, concert halls, circuses, carnivals and other similar places of culture, leisure and amusement, which **discount shall be deducted by the said establishments from their gross income for income tax purposes** and from their gross sales for value-added tax or other percentage tax purposes. (Emphasis supplied).

x x x x x x x x x

Sec. 4. Recording/Bookkeeping Requirement for Private Establishments

x x x x x x x x x

The amount of 20% discount shall be deducted from the gross income for income tax purposes and from gross sales of the business enterprise concerned for purposes of the VAT and other percentage taxes. (Emphasis supplied)

Tax credit is defined as a peso-for-peso reduction from a taxpayer's tax liability. It is a direct subtraction from the tax payable to the government. On the other hand, RR 2-94 treated the amount of senior citizens' discount as a tax deduction which is only a subtraction from gross income resulting to a lower taxable income. RR 2-94 treats the senior citizens' discount in

Supreme Court E-Library

the same manner as the allowable deductions provided in Section 34, Chapter VII of the National Internal Revenue Code. RR 2-94 affords merely a fractional reduction in the taxes payable to the government depending on the applicable tax rate.

In *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*,[24] the Court ruled that petitioner's definition in RR 2-94 of a tax credit is clearly erroneous. To deny the tax credit, despite the plain mandate of the law, is indefensible. In *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, the Court declared, "When the law says that the cost of the discount may be claimed as a *tax credit*, it means that the amount — when claimed — shall be treated as a reduction from any tax liability, plain and simple." The Court further stated that the law cannot be amended by a mere regulation because "administrative agencies in issuing these regulations may not enlarge, alter or restrict the provisions of the law it administers; it cannot engraft additional requirements not contemplated by the legislature." Hence, there being a dichotomy in the law and the revenue regulation, the definition provided in Section 2(i) of RR 2-94 cannot be given effect.

The tax credit may still be deducted from a future, not a present, tax liability.

In the petition filed before this Court, petitioner alleged that respondent incurred a net loss from its business operations in 1997; hence, it did not pay any income tax. Since no tax payment was made, it follows that no tax credit can also be claimed because tax credits are usually applied against a tax liability.[25]

In *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*,[26] the Court stressed that prior payment of tax liability is not a pre-condition before a taxable entity can avail of the tax credit. The Court declared, "Where there is no tax

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[24] *Supra* note 23 at 434.

[25] *Rollo*, p. 23.

[26] *Supra* note 23 at 430.

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liability or where a private establishment reports a net loss for the period, the tax credit can be availed of and carried over to the next taxable year."[27] It is irrefutable that under RA 7432, Congress has granted the tax credit benefit to all covered establishments without conditions. Therefore, neither a tax liability nor a prior tax payment is required for the existence or grant of a tax credit.[28] The applicable law on this point is clear and without any qualifications.[29]

Hence, respondent is entitled to claim the amount of ₱2,376,805.63 as tax credit despite incurring net loss from business operations for the taxable year 1997.

The senior citizens' discount may be claimed as a tax credit and not a refund.

Section 4(a) of RA 7432 expressly provides that private establishments may claim the cost as a tax credit. A tax credit can only be utilized as payment for future internal revenue tax liabilities of the taxpayer while a tax refund, issued as a check or a warrant, can be encashed. A tax refund can be availed of immediately while a tax credit can only be utilized if the taxpayer has existing or future tax liabilities.

If the words of the law are clear, plain, and free of ambiguity, it must be given its literal meaning and applied without any interpretation. Hence, the senior citizens' discount may be claimed as a tax credit and not as a refund.[30]

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[27] *Supra* note 22 at 583.

[28] *Supra* note 23 at 429-430.

[29] *Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue*, G.R. No. 151413, 13 February 2008.

[30] *Bicolandia Drug Corporation (Formerly Elmas Drug Corporation) v. Commissioner of Internal Revenue*, G.R. No. 142299, 22 June 2006, 492 SCRA 159, 168.

Supreme Court E-Library

RA 9257 now specifically provides that all covered establishments may claim the senior citizens' discount as tax deduction.

On 26 February 2004, RA 9257, otherwise known as the "Expanded Senior Citizens Act of 2003," was signed into law and became effective on 21 March 2004.[31]

RA 9257 has amended RA 7432. Section 4(a) of RA 9257 reads:

"Sec. 4. *Privileges for the Senior Citizens*. — The senior citizens shall be entitled to the following:

(a) the grant of twenty percent (20%) discount from all establishments relative to the utilization of services in hotels and similar lodging establishments, restaurants and recreation centers, and **purchase of medicines** in all establishments for the exclusive use or enjoyment of senior citizens, including funeral and burial services for the death of senior citizens;

x x x x x x x x x

The establishment may claim the discounts granted under (a), (f), (g) and (h) as **tax deduction** based on the net cost of the goods sold or services rendered: *Provided*, That the cost of the discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted. *Provided*, *further*, That the total amount of the claimed tax deduction net of value added tax if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation and to the provisions of the National Internal Revenue Code, as amended." (Emphasis supplied)

Contrary to the provision in RA 7432 where the senior citizens' discount granted by all covered establishments can be claimed as tax credit, RA 9257 now specifically provides that this discount should be treated as tax deduction.

With the effectivity of RA 9257 on 21 March 2004, there is now a new tax treatment for senior citizens' discount granted

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[31] *Carlos Superdrug Corp. v. Department of Social Welfare and Development (DSWD)*, G.R. No.166494, 29 June 2007, 526 SCRA 130, 134-135.

Supreme Court E-Library

by all covered establishments. This discount should be considered as a deductible expense from gross income and no longer as tax credit.[32] The present case, however, covers the taxable year 1997 and is thus governed by the old law, RA 7432.

WHEREFORE, we *DENY* the petition. We *AFFIRM* the assailed Decision of the Court of Appeals dated 13 August 2003 in CA-G.R. SP No. 70480.

No pronouncement as to costs.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Azcuna, and *Leonardo-de Castro, JJ.,* concur.

FIRST DIVISION

[G.R. No. 167330. June 12, 2008]

PHILIPPINE HEALTH CARE PROVIDERS, INC., *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. TAXATION; DOCUMENTARY STAMP TAX; NATURE THEREOF, EXPLAINED. — The DST is 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. It is an excise upon the privilege, opportunity, or facility offered at exchanges for the transaction of the business. In particular, **the DST under**

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[32] *M.E. Holding Corporation v. Hon. Court of Appeals, Court of Tax Appeals and the Commissioner of Internal Revenue,* G.R. No. 160193, 3 March 2008.