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Four Hundred Thirty-Two Thousand, Sixty-Three Pesos and 89/100 (₱52,432,063.89) as just compensation for the property covered by G.R. No. 173226, *Land Bank of the Philippines v. Manuel O. Gallego, Jr., et al*., with interests at twelve percent (12%) on the outstanding principal. In light of the initial payments of ₱1,179,027.00 (per the May 13, 2002 Regional Trial Court-Special Agrarian Court order), ₱2,000,000.00 (per the November 5, 2004 Court of Appeals resolution), and ₱26,359,793.38 (per the May 26, 2010 letter of the respondents' counsel), corresponding deductions should be made from the total principal due in reckoning the interests and the total amount still due as final payment under this Resolution. No costs.

SO ORDERED.

Velasco, Jr. (Chairperson), Abad, Perez, and *Perlas-Bernabe, JJ.,* concur.

FIRST DIVISION

[G.R. No. 173373. July 29, 2013]

H. TAMBUNTING PAWNSHOP, INC., *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. TAXATION; TAX DEDUCTIONS; STRICTLY CONSTRUED.— The rule that tax deductions, being in the nature of tax exemptions, are to be construed in *strictissimi juris* against the taxpayer is well settled. Corollary to this rule is the principle that when a taxpayer claims a deduction, he must point to some specific provision of the statute in which that deduction is authorized and must be able to prove that he

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is entitled to the deduction which the law allows. An item of expenditure, therefore, must fall squarely within the language of the law in order to be deductible. A mere averment that the taxpayer has incurred a loss does not automatically warrant a deduction from its gross income. x x x Tambunting did not discharge its burden of substantiating its claim for deduction due to the inadequacy of its documentary support of its claim. Its reliance on withholding tax returns, cash vouchers, lessor's certifications, and the contracts of lease was futile because such documents had scant probative value. As the CTA *En Banc* succinctly put it, the law required Tambunting to support its claim for deductions with the corresponding official receipts issued by the service providers concerned.

2. ID.; ID.; BUSINESS EXPENSES; REQUISITES.— The requisites for the deductibility of ordinary and necessary trade or business expenses, like those paid for security and janitorial services, management and professional fees, and rental expenses, are that: (*a*) the expenses must be ordinary and necessary; (*b*) they must have been paid or incurred during the taxable year; (*c*) they must have been paid or incurred in carrying on the trade or business of the taxpayer; and (*d*) they must be supported by receipts, records or other pertinent papers.

3. ID.; ID.; REVENUE REGULATIONS 12-77; TAX DEDUCTIONS DUE TO LOSSES FROM FIRE AND THEFT REQUIRES MANDATED SWORN DECLARATION OF LOSS.— In the context of the foregoing rules, the CTA *En Banc* aptly rejected Tambunting's claim for deductions due to losses from fire and theft. The documents it had submitted to support the claim, namely: (*a*) the certification from the Bureau of Fire Protection in Malolos; (*b*) the certification from the Police Station in Malolos; (*c*) the accounting entry for the losses; and (*d*) the list of properties lost, were not enough. What were required were for Tambunting to submit the sworn declaration of loss mandated by Revenue Regulations 12-77. Its failure to do so was prejudicial to the claim because the sworn declaration of loss was necessary to forewarn the BIR that it had suffered a loss whose extent it would be claiming as a deduction of its tax liability, and thus enable the BIR to conduct its own investigation of the incident leading to the loss. Indeed, the documents Tambunting submitted to the BIR

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could not serve the purpose of their submission without the sworn declaration of loss.

APPEARANCES OF COUNSEL

Siguion Reyna, Monticillo & Ongsiako for petitioner.
The Solicitor General for respondent.

D E C I S I O N

BERSAMIN, *J.*:

To be entitled to claim a tax deduction, the taxpayer must competently establish the factual and documentary bases of its claim.

Antecedents

H. Tambunting Pawnshop, Inc. (petitioner), a domestic corporation duly licensed and authorized to engage in the pawnshop business, appeals the adverse decision promulgated on April 24, 2006,[1] whereby the Court of Tax Appeals *En Banc* (CTA *En Banc*) affirmed the decision of the CTA First Division ordering it to pay deficiency income taxes in the amount of ₱4,536,687.15 for taxable year 1997, plus 20% delinquency interest computed from August 29, 2000 until full payment, but cancelling the compromise penalties for lack of basis.

On June 26, 2000, the Bureau of Internal Revenue (BIR), through then Acting Regional Director Lucien E. Sayuno of Revenue Region No. 6 in Manila, issued assessment notices and demand letters, all numbered 32-1-97, assessing Tambunting for deficiency percentage tax, income tax and compromise penalties for taxable year 1997,[2] as follows:

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[1] *Rollo,* pp. 70-88; penned by Associate Justice Lovell R. Bautista, and concurred in by Presiding Justice Ernesto D. Acosta, Associate Justice Juanito C. Castañeda, Jr., Associate Justice Erlinda P. Uy, Associate Justice Caesar A. Casanova (on leave), and Associate Justice Olga Palanca-Enriquez.

[2] *Id.* at 9-10.

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Deficiency Percentage Tax

Taxable Sales/Receipts		₱12,749,135.25
Percentage Tax due (5%)		₱ 637,456.76
Add: 20% Interest up to 7-26-00		320,513.24
Total Percentage Tax Due		₱ 957,970.00

Deficiency Income Tax

Taxable Net Income per Return		₱ 54,107.36
Adjustments per investigation Section 28		
Overstatement of gain/loss on auction sales		
Gain/Loss per F/S	₱ 4,914,967.50	
Gain/Loss per Audit	133,057.40	4,781,910.00
Unsupported Security/Janitorial Expenses		
Per F/S	2,183,573.02	
Per Audit	358,800.00	1,824,773.02
Unsupported Rent Expenses		
Per F/S	2,293,631.13	
Per Audit	434,406.77	1,859,224.35
Unsupported Interest Expenses		1,155,154.28
Unsupported Management & Professional Fees		96,761.00
Unsupported Repairs & Maintenance		348,074.68
Unsupported 13th Month Pay & Bonus		317,730.73
Disallowed Loss on Fire & Theft		906,560.00
Taxable Net Income per Investigation		₱ 11,344,295.43
Income Tax Due (35%)		₱ 3,970,503.40
Less Income Tax Paid		18,937.57

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Deficiency Income Tax	3,951,565.83
Add: 20% Interest to 7-26-00	1,799,938.23
Total Income Tax Due	5,751,504.06

Compromise Penalties

Late Payment of Income Tax	25,000.00
Late Payment of Percentage Tax	20,000.00
Failure to Pay Withholding Tax Return for the Months of April and May	24,000.00
	69,000.00

On July 26, 2000, Tambunting instituted an administrative protest against the assessment notices and demand letters with the Commissioner of Internal Revenue.[3]

On February 21, 2001, Tambunting brought a petition for review in the CTA, pursuant to Section 228 of the *National Internal Revenue Code of 1997*,[4] citing the inaction of the Commissioner of Internal Revenue on its protest within the 180-day period prescribed by law.

On October 8, 2004, the CTA First Division rendered a decision, the pertinent portion of which is hereunder quoted, to wit:

In view of all the foregoing verification, petitioner's allowable deductions are summarized below:

Particulars	Per Petitioner's Financial Statement	Per BIR's Examination	Per Court's Verification
Loss on Auction Sale	₱ 4,914,967.50	₱ 133,057.40	₱ 133,057.40

[3] *Id.* at 10.

[4] *Id.*

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Security & Janitorial Services	2,183,573.02	358,800.00	736,044.26
Rent Expense	2,293,631.13	434,406.77	642,619.10
Interest Expense	1,155,154.28	-	1,155,154.28
Professional & Management Fees	96,761.00	-	-
Repairs & Maintenance	348,074.68	-	329,399.18
13th Month pay & Bonuses	317,730.73	-	317,730.73
Loss on Fire	906,560.00	-	-
Total	₱ 12,216,452.34	₱ 926,264.17	₱ 3,314,004.95

Apparently, petitioner is still liable for deficiency income tax in the reduced amount of ₱4,536,687.15, computed as follows:

Net Income Per Return		₱ 54,107.36
Add: Overstatement of Gain/Loss on Auction Sales		
Gain/Loss on Auction Sales per F/S ₱4,914,967.50		
Gain/Loss on Auction Sales per Court's Verification	133,057.40	4,781,910.00
Unsupported Security/Janitorial Services		
Security, Janitorial Services per F/S ₱2,183,573.02		
Security, Janitorial Services per Court's Verification	736,044.26	1,447,528.76
Unsupported Rent Expenses		
Rent Expenses per F/S ₱2,293,631.13		
Rent Expenses per Court's Verification	642,619.10	1,651,012.03
Unsupported Management & Professional Fees		96,761.00
Unsupported Repairs & Maintenance (₱348,074.68 - ₱329,399.18)		18,675.50

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Disallowed Loss on Fire & Theft	906,560.00
Net Income	₱ 8,956,554.65
Income Tax Due Thereon	₱ 3,134,794.13
Less: Amount Paid	18,937.57
Balance	₱ 3,115,856.56
Add: 20% Interest until 7-26-00	1,420,830.59
TOTAL INCOME TAX DUE	₱ 4,536,687.15

WHEREFORE, petitioner is ORDERED to PAY the respondent the amount of ₱4,536,687.15 representing deficiency income tax for the year 1997, plus 20% delinquency interest computed from August 29, 2000 until full payment thereof pursuant to Section 249 (C) of the National Internal Revenue Code. However, the compromise penalties in the sum of ₱49,000.00 is hereby CANCELLED for lack of legal basis.

SO ORDERED.[5]

After its motion for reconsideration was denied for lack of merit on February 18, 2005,[6] Tambunting filed a petition for review in the CTA *En Banc*, arguing that the First Division erred in disallowing its deductions on the ground that it had not substantiated them by sufficient evidence.

On April 24, 2006, the CTA *En Banc* denied Tambunting's petition for review,[7] disposing:

WHEREFORE, the Court *en banc* finds no reversible error to warrant the reversal of the assailed Decision and Resolution promulgated on October 8, 2004 and February 11, 2005, respectively, the instant Petition for Review is hereby DISMISSED. Accordingly,

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[5] *Id.* at 10-12.

[6] *Id.* at 12.

[7] *Supra* note 1.

the aforesaid Decision and Resolution are hereby AFFIRMED *in toto*.

SO ORDERED.

On June 29, 2006, the CTA *En Banc* also denied Tambunting's motion for reconsideration for its lack of merit.[8]

Issues

Hence, this appeal by petition for review on *certiorari*.

Tambunting argues that the CTA should have allowed its deductions because it had been able to point out the provisions of law authorizing the deductions; that it proved its entitlement to the deductions through all the documentary and testimonial evidence presented in court;[9] that the provisions of Section 34 (A)(1)(b) of the 1997 *National Internal Revenue Code*, governing the types of evidence to prove a claim for deduction of expenses, were applicable because the law took effect during the pendency of the case in the CTA;[10] that the CTA had allowed deductions for ordinary and necessary expenses on the basis of cash vouchers issued by the taxpayer or certifications issued by the payees evidencing receipt of interest on loans as well as agreements relating to the imposition of interest;[11] that it had thus shown beyond doubt that it had incurred the losses in its auction sales;[12] and that it substantially complied with the requirements of Revenue Regulations No. 12-77 on the deductibility of its losses.[13]

On December 5, 2006, the Commissioner of Internal Revenue filed a comment,[14] stating that the conclusions of the CTA were

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[8] *Rollo*, pp. 27-30.

[9] *Id.* at 41.

[10] *Id.* at 42.

[11] *Id.* at 45-46.

[12] *Id.* at 51.

[13] *Id.* at 57-58.

[14] *Id.* at 116-128.

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entitled to respect,[15] due to its being a highly specialized body specifically created for the purpose of reviewing tax cases;[16] and that the petition involved factual and evidentiary matters not reviewable by the Court in an appeal by *certiorari.*[17]

On March 22, 2007, Tambunting reiterated its arguments in its reply.[18]

Ruling

The petition has no merit.

At the outset, the Court agrees with the CTA *En Banc* that because this case involved assessments relating to transactions incurred by Tambunting prior to the effectivity of Republic Act No. 8424 (*National Internal Revenue Code of 1997*, or NIRC of 1997), the provisions governing the propriety of the deductions was Presidential Decree 1158 (NIRC of 1977). In that regard, the pertinent provisions of Section 29 (d) (2) & (3)of the NIRC of 1977 state:

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(2) By corporation. — In the case of a corporation, all losses actually sustained and charged off within the taxable year and not compensated for by insurance or otherwise.

(3) Proof of loss. — In the case of a non-resident alien individual or foreign corporation, the losses deductible are those actually sustained during the year incurred in business or trade conducted within the Philippines, and losses actually sustained during the year in transactions entered into for profit in the Philippines although not connected with their business or trade, when such losses are not compensated for by insurance or otherwise. The Secretary of Finance, upon recommendation of the Commissioner of Internal Revenue, is hereby authorized to promulgate rules and regulations

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[15] *Id.* at 120.

[16] *Id.*

[17] *Id.*

[18] *Id.* at 131-145.

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prescribing, among other things, the time and manner by which the taxpayer shall submit a declaration of loss sustained from casualty or from robbery, theft, or embezzlement during the taxable year: Provided, That the time to be so prescribed in the regulations shall not be less than 30 days nor more than 90 days from the date of the occurrence of the casualty or robbery, theft, or embezzlement giving rise to the loss.

The CTA *En Banc* ruled thusly:

To prove the loss on auction sale, petitioner submitted in evidence its "*Rematado*" and "*Subasta*" books and the "Schedule of Losses on Auction Sale". The "*Rematado*" book contained a record of items foreclosed by the pawnshop while the "*Subasta*" book contained a record of the auction sale of pawned items foreclosed.

However, as elucidated by the petitioner, the gain or loss on auction sale represents the difference between the capital (the amount loaned to the pawnee, the unpaid interest and other expenses incurred in connection with such loan) and the price for which the pawned articles were sold, as reflected in the "*Subasta*" Book. Furthermore, it explained that the amounts appearing in the "*Rematado*" book do not reflect the total capital of petitioner as it merely reflected the amounts loaned to the pawnee. Likewise, the amounts appearing in the "*Subasta*" book, are not representative of the amount of sale made during the "*subastas*" since not all articles are eventually sold and disposed of by petitioner.

Petitioner submits that based on the evidence presented, it was able to show beyond doubt that it incurred the amount of losses on auction sale claimed as deduction from its gross income for the taxable year 1997. And that the documents/records submitted in evidence as well as the facts contained therein were neither contested nor controverted by the respondent, hence, admitted.

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In this case, petitioner's reliance on the entries made in the "*Subasta*" book were not sufficient to substantiate the claimed deduction of loss on auction sale. As admitted by the petitioner, the contents in the "*Rematado*" and "*Subasta*" books do not reflect the true amounts of the total capital and the auction sale, respectively. Be that as it may, petitioner still failed to adduce evidence to

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substantiate the other expenses alleged to have been incurred in connection with the sale of pawned items.

As correctly held by the Court's Division in the assailed decision, and We quote:

> x x x The remaining evidence is neither conclusive to sustain its claim of loss on auction sale in the aggregate amount of ₱4,915,967.50. While it appears that the basis of respondent is not strong, petitioner, nevertheless, should not rely on the weakness of such evidence but on the strength of its own documents. The facts essential for the proper disposition of the said controversy were available to the petitioner. Petitioner should have endeavored to make the facts clear to this court. Sad to say, it failed to dispute the same with clear and convincing proof. x x x[19]

We affirm the aforequoted ruling of the CTA *En Banc*.

The rule that tax deductions, being in the nature of tax exemptions, are to be construed *in strictissimi juris* against the taxpayer is well settled.[20] Corollary to this rule is the principle that when a taxpayer claims a deduction, he must point to some specific provision of the statute in which that deduction is authorized and must be able to prove that he is entitled to the deduction which the law allows.[21] An item of expenditure, therefore, must fall squarely within the language of the law in order to be deductible.[22] A mere averment that the taxpayer has incurred a loss does not automatically warrant a deduction from its gross income.

As the CTA *En Banc* held, Tambunting did not properly prove that it had incurred losses. The *subasta* books it presented

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[19] *Id.* at 16-18.

[20] *Commissioner of Internal Revenue v. General Foods, (Phils.) Inc*., G.R. No. 143672, April 24, 2003, 401 SCRA 545, 550.

[21] *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue,* No. L-26911, January 27, 1981, 102 SCRA 246, 253.

[22] *Id.*

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were not the proper evidence of such losses from the auctions because they did not reflect the true amounts of the proceeds of the auctions due to certain items having been left unsold after the auctions. The *rematado* books did not also prove the amounts of capital because the figures reflected therein were only the amounts given to the pawnees. It is interesting to note, too, that the amounts received by the pawnees were not the actual values of the pawned articles but were only fractions of the real values.

As to business expenses, Section 29 (a) (1) (A) of the NIRC of 1977 provides:

> (a) Expenses. — (1) Business expenses.— (A) In general. — All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses while away from home in the pursuit of a trade, profession or business, rentals or other payments required to be made as a condition to the continued use or possession, for the purpose of the trade, profession or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

The requisites for the deductibility of ordinary and necessary trade or business expenses, like those paid for security and janitorial services, management and professional fees, and rental expenses, are that: (*a*) the expenses must be ordinary and necessary; (*b*) they must have been paid or incurred during the taxable year; (*c*) they must have been paid or incurred in carrying on the trade or business of the taxpayer; and (d) they must be supported by receipts, records or other pertinent papers.[23]

In denying Tambunting's claim for deduction of its security and janitorial expenses, management and professional fees, and its rental expenses, the CTA *En Banc* explained:

> Contrary to petitioner's contention, the security/janitorial expenses paid to Pathfinder Investigation were not duly substantiated. The

[23] *Commissioner of Internal Revenue v. Isabela Cultural Corporation*, G.R. No. 172231, February 12, 2007, 515 SCRA 556, 563.

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certification issued by Mr. Balisado was not the proper document required by law to substantiate its expenses. Petitioner should have presented the official receipts or invoices to prove its claim as provided for under Section 238 of the National Internal Revenue Code of 1977, as amended, to wit:

> "SEC. 238. Issuance of receipts or sales or commercial invoices. — All persons subject to an internal revenue tax shall for each sale or transfer of merchandise or for services rendered valued at ₱25.00 or more, issue receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service; *Provided*, That in the case of sales, receipts or transfers in the amount of ₱100.00 or more, or, regardless of amount, where the sale or transfer is made by persons subject to value-added tax to other persons also subject to value-added tax; or, where the receipts is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer, or client. The original of each receipt or invoice shall be issued to the purchases, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of 3 years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

With regard to the misclassified items of expenses, petitioner's statements were self-serving, likewise it failed to substantiate its allegations by clear and convincing evidence as provided under the foregoing provision of law.

Bearing in mind the principle in taxation that deductions from gross income partake the nature of tax exemptions which are construed *in strictissimi juris* against the taxpayer, the Court *en banc* is not inclined to believe the self-serving statements of petitioner regarding the misclassified items of office supplies, advertising and rent expenses.

Among the expenses allegedly incurred, courts may consider only those supported by credible evidence and which appear to have been

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genuinely incurred in connection with the trade or business of the taxpayer.[24]

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As previously discussed, the proper substantiation requirement for an expense to be allowed is the official receipt or invoice. While the rental payments were subjected to the applicable expanded withholding taxes, such returns are not the documents required by law to substantiate the rental expense. Petitioner should have submitted official receipts to support its claim.

Moreover, the issue on the submission of cash vouchers as evidence to prove expenses incurred has been addressed by this Court in the assailed Resolution, to wit:

> "The trend then was to allow deductions based on cash vouchers which are signed by the payees. It bears to note that the cases cited by petitioner are pronouncements by this Court in 1980, 1982 and 1989.
>
> However, latest jurisprudence has deviated from such interpretation of the law. Thus, this Court held in the case of *Pilmico-Mauri Foods Corporation vs. Commissioner of Internal Revenue* C.T.A. Case No. 6151, December 15, 2004;
>
> [P]etitioner's contention that the NIRC of 1977 did not impose substantiation requirements on deductions from gross income is bereft of merit. Section 238 of the 1977 Tax Code [now Section 237] provides:
>
> x x x x x x x x x
>
> From the foregoing provision of law, a person who is subject to an internal revenue tax shall issue receipts, sales or commercial invoices, prepared at least in duplicate. The provision likewise imposed a responsibility upon the purchaser to keep and preserve the original copy of the invoice or receipt for a period of three years from the close of the taxable year in which the invoice or receipt was issued. The rationale behind the latter requirement is the duty of the taxpayer to keep adequate records of each and every transaction entered into in the conduct

[24] *Rollo*, pp. 20-21.

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> of its business. So that when their books of accounts are subjected to a tax audit examination, all entries therein could be shown as adequately supported and proven as legitimate business transactions. Hence, petitioner's claim that the NIRC of 1977 did not require substantiation requirements is erroneous."

In order that the cash vouchers may be given probative value, these must be validated with official receipts.[25]

x x x x x x x x x

Petitioner's management and professional fees were disallowed as these were supported merely by cash vouchers, which the Court's Division correctly found to have little probative value.[26]

Again, we affirm the foregoing holding of the CTA *En Banc* for the reasons therein stated. To reiterate, deductions for income tax purposes partake of the nature of tax exemptions and are strictly construed against the taxpayer, who must prove by convincing evidence that he is entitled to the deduction claimed.[27] Tambunting did not discharge its burden of substantiating its claim for deductions due to the inadequacy of its documentary support of its claim. Its reliance on withholding tax returns, cash vouchers, lessor's certifications, and the contracts of lease was futile because such documents had scant probative value. As the CTA *En Banc* succinctly put it, the law required Tambunting to support its claim for deductions with the corresponding official receipts issued by the service providers concerned.

Regarding proof of loss due to fire, the text of Section 29(d)(2) & (3) of P.D. 1158 (NIRC of 1977) then in effect, is clear enough, to wit:

> (2) By corporation. — In the case of a corporation, all losses actually sustained and charged off within the taxable year and not compensated for by insurance or otherwise.

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[25] *Id.* at 22-23.

[26] *Id.* at 23.

[27] *Philex Mining Corporation v. Commissioner of Internal Revenue,* G.R. No. 148187, April 16, 2008, 551 SCRA 428, 445.

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(3) Proof of loss. — In the case of a non-resident alien individual or foreign corporation, the losses deductible are those actually sustained during the year incurred in business or trade conducted within the Philippines, and losses actually sustained during the year in transactions entered into for profit in the Philippines although not connected with their business or trade, when such losses are not compensated for by insurance or otherwise. The Secretary of Finance, upon recommendation of the Commissioner of Internal Revenue, is hereby authorized to promulgate rules and regulations prescribing, among other things, the time and manner by which the taxpayer shall submit a declaration of loss sustained from casualty or from robbery, theft, or embezzlement during the taxable year: Provided, That the time to be so prescribed in the regulations shall not be less than 30 days nor more than 90 days from the date of the occurrence of the casualty or robbery, theft, or embezzlement giving rise to the loss.

The implementing rules for deductible losses are found in Revenue Regulations No. 12-77, as follows:

SECTION 1. **Nature of deductible losses**.— Any loss arising from fires, storms or other casualty, and from robbery, theft or embezzlement, is allowable as a deduction under Section 30 (d) for the taxable year in which the loss is sustained. The term "casualty" is the complete or partial destruction of property resulting from an identifiable event of a sudden, unexpected, or unusual nature. It denotes accident, some sudden invasion by hostile agency, and excludes progressive deterioration through steadily operating cause. Generally, theft is the criminal appropriation of another's property for the use of the taker. Embezzlement is the fraudulent appropriation of another's property by a person to whom it has been entrusted or into whose hands it has lawfully come.

SECTION 2. **Requirements of substantiation**. — The taxpayer bears the burden of proving and substantiating his claim for deduction for losses allowed under Section 30 (d) and should comply with the following substantiation requirements:

(a) A declaration of loss which must be filed with the Commissioner of Internal Revenue or his deputies within a certain period prescribed in these regulations after the occurrence of the casualty, robbery, theft or embezzlement.

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(b) Proof of the elements of the loss claimed, such as the actual nature and occurrence of the event and amount of the loss.

SECTION 3. **Declaration of loss**. — Within forty-five days after the date of the occurrence of casualty or robbery, theft or embezzlement, a taxpayer who sustained loss therefrom and who intends to claim the loss as a deduction for the taxable year in which the loss was sustained **shall file a sworn declaration of loss with the nearest Revenue District Officer.** The sworn declaration of loss shall contain, among other things, the following information:

(a) The nature of the event giving rise to the loss and the time of its occurrence;

(b) A description of the damaged property and its location;

(c) The items needed to compute the loss such as cost or other basis of the property; depreciation allowed or allowable if any; value of property before and after the event; cost of repair;

(d) Amount of insurance or other compensation received or receivable.

Evidence to support these items should be furnished, if available. Examples are purchase contracts and deeds, receipted bills for improvements, and pictures and competent appraisals of the property before and after the casualty.

SECTION 4. Proof of loss.— (a) In general. — The declaration of loss, being one of the essential requirements of substantiation of a claim for a loss deduction, is subject to verification and does not constitute sufficient proof of the loss that will justify its deductibility for income tax purposes. Therefore, the mere filing of a declaration of loss does not automatically entitle the taxpayer to deduct the alleged loss from gross income. **The failure, however, to submit the said declaration of loss within the period prescribed in these regulations will result in the disallowance of the casualty loss claimed in the taxpayer's income tax return. The taxpayer should therefore file a declaration of loss and should be prepared to support and substantiate the information reported in the said declaration with evidence which he should gather immediately or as soon as possible after the occurrence of the casualty or event causing the loss.**

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(b) Casualty loss. — Photographs of the property as it existed before it was damaged will be helpful in showing the condition and value of the property prior to the casualty. Photographs taken after the casualty which show the extent of damage will be helpful in establishing the condition and value of the property after it was damaged. Photographs showing the condition and value of the property after it was repaired, restored or replaced may also be helpful.

Furthermore, since the valuation of the property is of extreme importance in determining the amount of loss sustained, the taxpayer should be prepared to come forward with documentary proofs, such as cancelled checks, vouchers, receipts and other evidence of cost.

The foregoing evidence should be kept by the taxpayer as part of his tax records and be made available to a revenue examiner, upon audit of his income tax return and the declaration of loss.

(c) Robbery, theft or embezzlement losses. — To support the deduction for losses arising from robbery, theft or embezzlement, the taxpayer must prove by credible evidence all the elements of the loss, the amount of the loss, and the proper year of the deduction. The taxpayer bears the burden of proof, and no deduction will be allowed unless he shows the property was stolen, rather than misplaced or lost. A mere disappearance of property is not enough, nor is a mere error or shortage in accounts.

Failure to report theft or robbery to the police may be a factor against the taxpayer. On the other hand, a mere report of alleged theft or robbery to the police authorities is not a conclusive proof of the loss arising therefrom. (Bold underscoring supplied for emphasis)

In the context of the foregoing rules, the CTA *En Banc* aptly rejected Tambunting's claim for deductions due to losses from fire and theft. The documents it had submitted to support the claim, namely: (*a*) the certification from the Bureau of Fire Protection in Malolos; (*b*) the certification from the Police Station in Malolos; (*c*) the accounting entry for the losses; and (*d*) the list of properties lost, were not enough. What were required were for Tambunting to submit the sworn declaration of loss mandated by Revenue Regulations 12-77. Its failure to do so was prejudicial to the claim because the sworn declaration of loss was necessary to forewarn the BIR that it had suffered a

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loss whose extent it would be claiming as a deduction of its tax liability, and thus enable the BIR to conduct its own investigation of the incident leading to the loss. Indeed, the documents Tambunting submitted to the BIR could not serve the purpose of their submission without the sworn declaration of loss.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on April 24, 2006; and **ORDERS** petitioner to pay the costs of suit.

SO ORDERED.

Sereno, C.J., Leonardo-de Castro, Villarama, Jr., and *Reyes, JJ.,* concur.

SECOND DIVISION

[G.R. No. 175666. July 29, 2013]

MANILA BANKERS LIFE INSURANCE CORPORATION, *petitioner, vs.* **CRESENCIA P. ABAN,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; FINDING OF FACT OF BOTH THE TRIAL AND APPELLATE COURTS BINDS THE SUPREME COURT.— The Court will not depart from the trial and appellate courts' finding that it was Sotero who obtained the insurance for herself, designating respondent as her beneficiary. Both courts are in accord in this respect, and the Court is loath to disturb this. While petitioner insists that its independent investigation on the claim reveals that it was respondent, posing as Sotero, who obtained the insurance, this claim is no longer feasible in the wake of the courts' finding that it was Sotero who obtained the insurance for herself. This finding of fact binds the Court.