Supreme Court E-Library



has earnestly pursued the VAT imposition against tollway operators. The executive exercises exclusive discretion in matters pertaining to the implementation and execution of tax laws. Consequently, the executive is more properly suited to deal with the immediate and practical consequences of the VAT imposition.

**WHEREFORE,** the Court *DENIES* respondents Secretary of Finance and Commissioner of Internal Revenue's motion for reconsideration of its August 24, 2010 resolution, *DISMISSES* the petitioners Renato V. Diaz and Aurora Ma. F. Timbol's petition for lack of merit, and *SETS ASIDE* the Court's temporary restraining order dated August 13, 2010.

**SO ORDERED.**

*Corona, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, del Castillo, Villarama Jr., Perez,* and *Mendoza, JJ.,* concur.

*Bersamin, J.,* on leave.

*Sereno, J.,* on official leave.

---

**SECOND DIVISION**

[G.R. No. 164050. July 20, 2011]

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

**SYLLABUS**

**1. TAXATION; TAX CREDIT; THE TWENTY PERCENT (20%) DISCOUNTS GRANTED TO THE SENIOR CITIZENS ON THE PURCHASE OF MEDICINES SHALL BE CLAIMED BY THE PRIVATE ESTABLISHMENT AS A TAX CREDIT AND NOT MERELY AS A TAX DEDUCTION FROM GROSS SALES OR GROSS INCOME.—** [R]epublic Act No. 7432 is a piece of social legislation aimed to grant benefits and privileges to senior citizens. Among the highlights of this Act is the grant of sales discounts on the purchase of medicines to senior citizens. Section 4(a) of Republic Act No. 7432 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 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; The burden imposed on private establishments amounts to the taking of private property for public use with just compensation in the form of a tax credit. The foregoing *proviso* specifically allows the 20% senior citizens' discount to be claimed by the private establishment as a tax credit and not merely as a tax deduction from gross sales or gross income. The law however is silent as to how the "cost of the discount" as tax credit should be construed.

**2. ID.; ID.; ID.; THE "COST OF THE DISCOUNT" IS THE ACTUAL 20% SALES DISCOUNT GRANTED TO QUALIFIED SENIOR CITIZENS; APPLICATION.—** The most recent case in point is *M.E. Holding Corporation* which bears a strikingly similar set of facts and issues with the case at bar. x x x. The Court of Tax Appeals in *M.E. Holding* concedes that the 20% sales discount granted to qualified senior citizens should be treated as tax credit but it placed reliance on the Court of Appeals' decision in *Commissioner of Internal Revenue v. Elmas Drug Corporation* where the term "cost of the discount" was interpreted to mean only the direct acquisition cost, excluding administrative and other incremental costs. This was the very same case relied upon by the Court of Appeals in the present case. We finally affirmed in *M.E. Holding* that

Supreme Court E-Library



the tax credit should be equivalent to the actual 20% sales discount granted to qualified senior citizens. x x x. Based on the foregoing, we sustain petitioner's argument that the cost of discount should be computed on the actual amount of the discount extended to senior citizens. However, we give full accord to the factual findings of the Court of Tax Appeals with respect to the actual amount of the 20% sales discount, *i.e.*, the sum of ₱3,522,123.25 for the year 1993 and ₱34,211,769.45 for the year 1994. Therefore, petitioner is entitled to a tax credit equivalent to the actual amounts of the 20% sales discount as determined by the Court of Tax Appeals.

**3. ID.; ID.; ID.; REPUBLIC ACT NO. 7432 (THE SENIOR CITIZEN'S ACT OF 1992) APPLIES TO THE CASE AT BAR.—** It is worthy to mention that Republic Act No. 7432 had undergone two (2) amendments; first in 2003 by Republic Act No. 9257 and most recently in 2010 by Republic Act No. 9994. The 20% sales discount granted by establishments to qualified senior citizens is now treated as tax deduction and not as tax credit. As we have likewise declared in *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, this case covers the taxable years 1993 and 1994, thus, Republic Act No. 7432 applies.

**APPEARANCES OF COUNSEL**

*Romulo Mabanta Buenaventura Sayoc & Delos Angeles* for petitioner.

*The Solicitor General* for respondent.

**D E C I S I O N**

**PEREZ, *J.*:**

This petition for review on *certiorari* calls for an interpretation of the term "cost" as used in Section 4(a) of Republic Act No. 7432, otherwise known as "*An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and For Other Purposes*."

A rundown of the pertinent facts is presented below.

Supreme Court E-Library



Pursuant to Republic Act No. 7432, petitioner Mercury Drug Corporation (petitioner), a retailer of pharmaceutical products, granted a 20% sales discount to qualified senior citizens on their purchases of medicines. For the taxable year April to December 1993 and January to December 1994, the amounts representing the 20% sales discount totalled ₱3,719,287.68[1] and ₱35,500,593.44[2] respectively, which petitioner claimed as deductions from its gross income.

Realizing that Republic Act No. 7432 allows a tax credit for sales discounts granted to senior citizens, petitioner filed with the Commissioner of Internal Revenue (CIR) claims for refund in the amount of ₱2,417,536.00 for the year 1993 and ₱23,075,386.00 for the year 1994. Petitioner presented a computation[3] of its overpayment of income tax, thus:

**TAXABLE YEAR 1993**

| | | |
|---|---|---|
| SALES, Net | | ₱10,228,518,335.00 |
| Add: Cost of 20% Discount to Senior Citizen | | 3,719,288.00 |
| SALES, Gross | | ₱10,232,237,623.00 |
| COST OF SALES | | |
| Merchandise Inventory, Beg. | ₱ 2,427,972,150.00 | |
| Purchases | 8,717,393,710.00 | |
| Goods Available for Sales | ₱11,145,365,860.00 | |
| Merchandise Inventory, End | 2,458,743,127.00 | 8,686,622,733.00 |
| GROSS PROFIT | | ₱1,545,614,890.00 |
| Add: Miscellaneous Income | | 58,247,973.00 |
| TOTAL INCOME | | ₱1,603,862,863.00 |
| OPERATING EXPENSES | | 1,226,816,343.00 |
| NET INCOME BEFORE TAX | | ₱ 377,046,520.00 |
| Less: Income subjected to final income tax | | 20,966,602.00 |
| NET TAXABLE INCOME | ₱ 356,079,918.00 | |
| INCOME TAX PAYABLE | ₱ 124,627,972.00 | |

[1] The amount was rounded off to read as ₱3,719,288.00.

[2] The amount was rounded off to read as ₱35,500,594.00.

[3] *Rollo*, pp. 51-52.

Supreme Court E-Library



| | | |
|---|---|---|
| LESS: TAX CREDIT (20% Sales Discount to Senior Citizens) | ₱ 3,719,288.00 | |
| TAX ACTUALLY PAID | 123,326,220.00 | 127,045,508.00 |
| TAX REFUNDABLE | | ₱ 2,417,536.00 |

xxx xxx xxx

**TAXABLE YEAR 1994**

| | | |
|---|---|---|
| SALES, Net | ₱ 11,671,366,402.00 | |
| Add: Cost of 20% Sales Discount to Senior Citizens | 35,500,594.00 | |
| SALES, Gross | ₱ 11,706,866,996.00 | |
| COST OF SALES | | |
| Merchandise Inventory, Beg. | ₱ 2,458,743,127.00 | |
| Purchases | 10,316,941,308.00 | |
| Goods Available for Sales | ₱ 12,775,684,435.00 | |
| Less: Merchandise Inventory, End | 2,928,397,228.00 | 9,847,287,207.00 |
| GROSS PROFIT | | ₱1,859,579,789.00 |
| Add: Miscellaneous Income | | 68,809,864.00 |
| TOTAL INCOME | | ₱1,928,389,653.00 |
| OPERATING EXPENSES | | 1,499,422,645.00 |
| NET INCOME BEFORE TAX | | 428,967,008.00 |
| Less: Income subjected to final Income tax | | 25,591,586.00 |
| NET TAXABLE INCOME | | ₱ 403,375,422.00 |
| INCOME TAX PAYABLE | | ₱ 141,181,398.00 |
| LESS: TAX CREDIT (Cost of 20% Discount to Senior Citizens) | ₱ 35,500,594.00 | |
| TAX ACTUALLY PAID | 128,756,190.00 | 164,256,784.00 |
| TAX REFUNDABLE | | ₱ 23,075,386.00 |

When the CIR failed to act upon petitioner's claims, the latter filed a petition for review with the Court of Tax Appeals. On 6 September 2000, the Court of Tax Appeals rendered the following judgment:[4]

[4] Penned by Associate Justice Ramon O. De Veyra with Associate Justices Ernesto D. Acosta and Amancio Q. Saga, concurring. *Id.* at 49-62.

Supreme Court E-Library



WHEREFORE, in view of the foregoing, the instant Petition for Review is hereby PARTIALLY GRANTED. Accordingly, Revenue Regulations No. 2-94 of the Respondent is declared null and void insofar as it treats the 20% discount given by private establishments as a deduction from gross sales. Respondent is hereby ORDERED to GRANT A REFUND OR ISSUE A TAX CREDIT CERTIFICATE to Petitioner in the reduced amount of ₱1,688,178.43 representing the latter's overpaid income tax for the taxable year 1993. However, the claim for refund for taxable year 1994 is denied for lack of merit.[5]

The Court of Tax Appeals favored petitioner by declaring that the 20% sales discount should be treated as tax credit rather than a mere deduction from gross income. The Court of Tax Appeals however found some discrepancies and irregularities in the cash slips submitted by petitioner as basis for the tax refund. Hence, it disallowed the claim for taxable year 1994 and some portion of the amount claimed for 1993 by petitioner, *viz*:

So, contrary to the allegation of Petitioner that it granted 20% sales discounts to senior citizens in the total amount of ₱3,719,888.00 for taxable year 1993 and ₱35,500,554.00 for taxable year 1994, this Court's study and evaluation of the evidence show that for taxable year 1993 only the amounts of ₱3,522,123.25 and for 1994, the amount of ₱8,789,792.27 were properly substantiated. The amount of ₱3,522,123.25 corresponding to 1993 will be further reduced to ₱2,989,930.43 as this Court's computation is based on the cost of the 20% discount and not on the total amount of the 20% discount based on the decision of the Court of Appeals in *Commissioner of Internal Revenue v. Elmas Drug Corporation*, CA-SP No. 49946 promulgated on October 19, 1999, where it ruled:

> "Thus the cost of the 20% discount represents the actual amount spent by drug corporations in complying with the mandate of RA 7432. Working on this premise, it could not have been the intention of the lawmakers to grant these companies the full amount of the 20% discount as this could be extending to them more than what they actually sacrificed when they gave the 20% discount to senior citizens." (Underscoring supplied).

[5] *Id.* at 61-62.

Supreme Court E-Library



Similarly the amount of ₱8,789,792.27 corresponding to taxable year 1994 will be reduced to ₱7,393,094.28 based on the aforequoted Court of Appeals decision. These reductions are illustrated as follows:

**TAXABLE YEAR 1993**

| | |
|---|---|
| Cost of Sales | ₱ 8,686,622,733.00 |
| Divided by Gross Sales | 10,232,237,623.00 |
| Cost of Sales Percentage | 84.89% |
| Adjusted Amount of 20% Discount given to Senior Citizens | 3,522,123.25 |
| Multiply by | 84.89% |
| Allowable Tax Credit | ₱ 2,989,930.43 |

**TAXABLE YEAR 1994**

| | |
|---|---|
| Cost of Sales | ₱ 9,847,287,207.00 |
| Divided by Gross Sales | 11,706,866,996.00 |
| Cost of Sales Percentage | 84.11% |
| Adjusted Amount of 20% Discount given to Senior Citizens | ₱ 8,789,792.27 |
| Multiply by | 84.11% |
| Allowable Tax Credit | ₱ 7,393,094.28 |

With the foregoing changes in the amount of discounts granted by Petitioner in 1993 and 1994, it necessarily follows that adjustments have to be made in the computation of the refundable amount which is entirely different from the computation presented by the Petitioner. This Court's conclusion is that Petitioner is only entitled to a tax credit of ₱1,688,178.43 for taxable year 1993 detailed as follows:

**TAXABLE YEAR 1993**

| | | |
|---|---|---|
| Sales, Net | ₱10,228,518,335.00 | |
| Add: Cost of 20% Discount given to Senior Citizens | 3,719,288.00 | |
| SALES, Gross | ₱10,232,237,623.00 | |
| COST OF SALES | | |
| Merchandise Inventory, Beg. | ₱2,427,972,150.00 | |
| Add: Purchases | 8,717,393,710.00 | |
| Total goods available for sale | ₱1,145,365,860.00 | |
| Less: Merchandise Inventory, End | 2,458,743,127.00 | 8,686,622,733.00 |

Supreme Court E-Library



| | |
|---|---|
| GROSS PROFIT | ₱ 1,545,614,890.00 |
| Add: Miscellaneous Income | 58,247,973.00 |
| TOTAL INCOME | ₱ 1,603,862,863.00 |
| OPERATING EXPENSES | 1,226,816,343.00 |
| NET INCOME BEFORE TAX | ₱ 377,046,520.00 |
| Less: Income subjected to final income tax | 20,966,602.00 |
| NET TAXABLE INCOME | ₱ 356,079,918.00 |
| INCOME TAX PAYABLE | ₱ 124,627,972.00 |
| LESS: TAX CREDIT (20% Sales Discount given to Senior Citizens) ₱ 2,989,930.43 | |
| TAX ACTUALLY PAID | 123,326,220.00 126,316,150.43 |
| TAX REFUNDABLE | ₱ 1,688,178.43 |

and no refund or tax credit for taxable year 1994 as the computation below shows that Petitioner, instead of having a tax credit of ₱23,075,386.00 as claimed in the Petition, still has a tax due of ₱5,032,113.72 detailed as follows:

**TAXABLE YEAR 1994**

| | | |
|---|---|---|
| SALES, Net | | ₱11,671,366,402.00 |
| Add: Cost of 20% Sales Discount given to Senior Citizens | | 35,500,594.00 |
| SALES, Gross | 11,706,866,996.00 | |
| COST OF SALES | | |
| Merchandise Inventory, Beg. | ₱2,458,743,127.00 | |
| Add: Purchases | 10,316,941,308.00 | |
| Total goods available for sale | 12,775,684,435.00 | |
| Less: Merchandise Inventory, End | 2,928,397,228.00 | 9,847,287,207.00 |
| GROSS PROFIT | ₱ 1,859,579,789.00 | |
| Add: Miscellaneous Income | 68,809,864.00 | |
| TOTAL INCOME | ₱ 1,928,389,653.00 | |
| OPERATING EXPENSES | 1,499,422,645.00 | |
| NET INCOME BEFORE TAX | ₱ 428,967,008.00 | |
| Less: Income subjected to final income Tax | 25,591,586.00 | |

Supreme Court E-Library



| | | |
|---|---|---|
| NET TAXABLE INCOME | | ₱ 403,375,422.00 |
| INCOME TAX PAYABLE | ₱ 141,181,398.00 | |
| LESS: TAX CREDIT (Cost of 20% Discount given to Senior Citizens) | ₱7,393,094.28 | |
| TAX ACTUALLY PAID | 128,756,190.00 | 136,149,284.28 |
| TAX STILL DUE | | ₱ 5,032,113.72 |

The conclusion of tax liability instead of tax overpayment pertaining to taxable year 1994 has the effect of negating the tax refund of Petitioner because the basis of such refund is the fact that there is tax credit. Under the circumstances, instead to tax credit, Petitioner has a tax liability of ₱5,032,113.72, hence the refund for the period must fail.[6]

Moreover, the Court of Tax Appeals stated that the claim for tax credit must be based on the actual cost of the medicine and not the whole amount of the 20% senior citizens discount. It applied the formula: cost of sales/gross sales x amount of 20% sales discount.

Petitioner moved for partial reconsideration. In a Resolution dated 20 December 2000, the Court of Tax Appeals modified its earlier ruling by increasing the creditable tax amount to ₱18,038,489.71, inclusive of the taxable years 1993 and 1994. The Court of Tax Appeals finally granted the claim for refund for the taxable year 1994 on the basis of the cash slips submitted by petitioner, in the sum of ₱16,350,311.28, thus:

**TAXABLE YEAR 1994**

a) Computation of adjusted amount of 20% discount given to senior citizens:

| | | |
|---|---|---|
| Sales discount to be considered as basis for disallowance | | ₱35,414,211.68 |
| Less: Disallowances | | |
| a) Sales discount without supporting documents | ₱224,269.15 | |
| b) Sales discounts twice recorded | 7,462.66 | |
| c) Overstatement of sales discount | 648,988.28 | 880,720.09 |
| Adjusted amount of 20% sales discount | | ₱34,211,769.45 |

[6] *Id.* at 59-61.

Supreme Court E-Library



b) Computation of the allowable tax credit on the 20% sales discount:

| | |
|---|---|
| Cost of Sales | ₱ 9,847,287,207.00 |
| Divided by Gross Sales | 11,706,866,996.00 |
| Cost of Sales Percentage | 84.11% |
| Adjusted Amount of 20% discount given to Senior Citizens | ₱34,211,769.45 |
| Multiply by | 84.11% |
| | ₱28,775,519.28 |

c) Computation of the refundable amount:

| | | |
|---|---|---|
| SALES, Net | | ₱11,671,366,402.00 |
| Add: Cost of 20% Sales discount given to Senior Citizens | | 35,500,594.00 |
| SALES, Gross | | ₱11,706,866,996.00 |
| COST OF SALES | | 9,847,287,207.00 |
| GROSS PROFIT | | ₱ 1,859,579,789.00 |
| Add: Miscellaneous Income | | 68,809,864.00 |
| TOTAL INCOME | | ₱ 1,928,389,653.00 |
| OPERATING EXPENSES | | 1,499,422,645.00 |
| NET INCOME BEFORE TAX | | 428,967,008.00 |
| Less: Income subjected to final income tax | | 25,591,586.00 |
| NET TAXABLE INCOME | | ₱ 403,375,422.00 |
| INCOME TAX PAYABLE | | ₱ 141,181,398.00 |
| LESS: TAX CREDIT (Cost of 20% Discount given to Senior Citizens) | ₱ 28,775,519.28 | |
| TAX ACTUALLY PAID | 128,756,190.00 | 157,531,709.28 |
| AMOUNT REFUNDABLE FOR TAXABLE YEAR 1994 | | ₱ 16,350,311.28[7] |

Petitioner elevated the case to the Court of Appeals *via* a Petition for Review under Rule 43. Petitioner sought a partial modification of the above resolution raising as legal issue the basis of the computation of tax credit. Petitioner contended

[7] *Id.* at 91-92.

Supreme Court E-Library



that the actual discount granted to the senior citizens, rather than the acquisition cost of the item availed by senior citizens, should be the basis for computation of tax credit.

On 20 October 2003, the Court of Appeals rendered a Decision[8] sustaining the Court of Tax Appeals and dismissing the petition. Citing the Court of Appeals cases of *Commissioner of Internal Revenue v. Elmas Drug Corporation* and *Trinity Franchising and Management Corp. v. Commissioner of Internal Revenue*, the appellate court interpreted the term "cost" as used in Section 4(a) of Republic Act No. 7432 to mean the acquisition cost of the medicines sold to senior citizens. Therefore, it upheld the computation provided by the Court of Tax Appeals in its 20 December 2000 Resolution.

Petitioner filed a motion for partial reconsideration which the Court of Appeals denied in a Resolution[9] dated 23 June 2004. This prompted petitioner to file the instant petition for review. Petitioner raises the following legal grounds for the allowance of its petition:

I.

LIMITING THE TAX CREDIT ON THE ACQUISITION COST OF THE MEDICINES SOLD AMOUNTS TO A TAKING OF PROPERTY FOR PUBLIC USE WITHOUT JUST COMPENSATION.

II.

FORCING PETITIONER TO GRANT 20% DISCOUNT ON SALE OF MEDICINE TO SENIOR CITIZENS WITHOUT FULLY REIMBURSING IT FOR THE AMOUNT OF DISCOUNT GRANTED VIOLATES THE DUE PROCESS CLAUSE FOR BEING OPPRESSIVE, UNREASONABLE, CONFISCATORY, AND AN UNDUE RESTRAINT OF TRADE.

---

[8] Penned by Associate Justice Rosmari D. Carandang with Associate Justices Eugenio S. Labitoria and Mercedes Gozo-Dadole, concurring. *Id.* at 128-136.

[9] *Id.* at 153-154.

Supreme Court E-Library



III.

EVEN THE COURT OF APPEALS HAD AN INTERPRETATION OF THE TERM "COST" THAT IS DIFFERENT FROM, AND BROADER THAN THE INTERPRETATION OF THE COURT OF TAX APPEALS. YET, THE COURT OF APPEALS AFFIRMED *IN TOTO* THE COURT OF TAX APPEALS' DECISION.

IV.

THE COURT MAY CONSIDER THE SPIRIT AND REASON OF THE LAW WHERE A LITERAL MEANING WOULD LEAD TO INJUSTICE OR DEFEAT THE CLEAR INTENT OF THE LAWMAKERS.

V.

RESPONDENT MUST ACCORD PETITIONER THE SAME TREATMENT AS MAR-TESS DRUG IN ACCORDANCE WITH THE PRINCIPLE OF EQUAL PROTECTION OF LAWS.[10]

Petitioner adopts a two-tiered approach towards defending its thesis. *First*, petitioner explains that in addition to the direct expenses incurred in acquiring the medicine intended for re-sale to senior citizens, operating expenses or administrative overhead are likewise incurred. Limiting the tax credit on the acquisition cost of the medicines sold amounts to a taking of property for public use without just compensation, petitioner argues. Moreover, petitioner contends that to compel it to grant 20% discount on sale of medicine to senior citizens without fully reimbursing it for the amount of discount granted violates the due process clause for being oppressive, unreasonable, confiscatory and an undue restraint of trade. In the *second* tier, petitioner maintains that the term "cost" should at least include all business expenses directly incurred to produce the merchandise and to bring them to their present location and use. Petitioner alleges that while the Court of Appeals subscribes to the above interpretation, it nevertheless affirmed *in toto* the Court of Tax Appeals' erroneous decision.

---

[10] *Id.* at 16-31.

Supreme Court E-Library



In lieu of its Comment, the Office of the Solicitor General (OSG) filed a Manifestation and Motion supporting petitioner's theory that the amount of tax credit should be computed based on sales discounts properly substantiated by petitioner. The OSG adverted to the case of *Bicolandia Drug Corporation (Formerly Elmas Drug Corporation) v. Commissioner of Internal Revenue*[11] wherein we held that the term "cost" refers to the amount of the 20% discount extended by a private establishment to senior citizens in their purchase of medicines, which amount should be applied as a tax credit. The OSG opines that the allowance of claim for additional tax credits should be based on sales discounts properly substantiated before the Court of Appeals.

The main thrust of the petition is to determine whether the claim for tax credit should be based on the full amount of the 20% senior citizens' discount or the acquisition cost of the merchandise sold.

Preliminarily, Republic Act No. 7432 is a piece of social legislation aimed to grant benefits and privileges to senior citizens. Among the highlights of this Act is the grant of sales discounts on the purchase of medicines to senior citizens. Section 4(a) of Republic Act No. 7432 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 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;

The burden imposed on private establishments amounts to the taking of private property for public use with just compensation in the form of a tax credit.[12]

---

[11] G.R. No. 142299, 22 June 2006, 492 SCRA 159.

[12] See *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, G.R. No. 159647, 15 April 2005, 456 SCRA 414, 443-444; *City of Cebu v. Spouses Dedam*o, 431 Phil. 524, 532 (2002).

Supreme Court E-Library



The foregoing *proviso* specifically allows the 20% senior citizens' discount to be claimed by the private establishment as a tax credit and not merely as a tax deduction from gross sales or gross income. The law however is silent as to how the "cost of the discount" as tax credit should be construed.

Indeed, there is nothing novel in the issues raised in this petition. Our rulings in *Bicolandia Drug Corporation (Formerly Elmas Drug Corporation) v. Commissioner of Internal Revenue*,[13] *Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue*,[14] and *M.E. Holding Corporation v. Court of Appeals*[15] operate as *stare decisis*[16] with respect to this legal question.

In *Bicolandia*, we construed the term "cost" as referring to the amount of the 20% discount extended by a private establishment to senior citizens in their purchase of medicines.[17] The Court of Appeals' decision in *Commissioner of Internal Revenue v. Elmas Drug Corporation* dated 19 October 1999 was relied upon by the Court of Appeals as basis for its interpretation of the term "cost" when it decided the instant case in 20 October 2003. As correctly pointed out by the OSG, said case had been elevated to this Court and had been eventually resolved with finality on 22 June 2006 in the case entitled *Bicolandia Drug Corporation v. Commissioner of Internal Revenue.*

We reiterated this ruling in the 2008 case of *Cagayan Valley Drug* by holding that petitioner therein is entitled to a tax credit for the full 20% sales discounts it extended to qualified senior

---

[13] *Supra* note 11.

[14] G.R. No. 151413, 13 February 2008, 545 SCRA 10.

[15] G.R. No. 160193, 3 March 2008, 547 SCRA 389.

[16] Once a case has been decided one way, the rule is settled that any other case involving exactly the same point at issue should be decided in the same manner under the principle *stare decisis et non quieta movere*. See *Petron Corporation v. Commissioner of Internal Revenue*, G.R. No. 180385, 28 July 2010, 626 SCRA 100, 122 citing *Commissioner of Internal Revenue v. Trustworthy Pawnshop, Inc.*, G.R. No. 149834, 2 May 2006, 488 SCRA 538, 545.

[17] *Supra* note 11 at 168.

Supreme Court E-Library



citizens. This holds true despite the fact that petitioner suffered a net loss for that taxable year.[18]

The most recent case in point is *M.E. Holding Corporation* which bears a strikingly similar set of facts and issues with the case at bar. Both petitioners filed their respective income tax return initially treating the 20% sales discount to senior citizens as deductions from its gross income. When advised that the discount should be treated as tax credit, they both filed a claim for overpayment. The Bureau of Internal Revenue on both occasions failed to act timely on the claims, hence they appealed before the Court of Tax Appeals. The Court of Tax Appeals in *M.E. Holding* concedes that the 20% sales discount granted to qualified senior citizens should be treated as tax credit but it placed reliance on the Court of Appeals' decision in *Commissioner of Internal Revenue v. Elmas Drug Corporation* where the term "cost of the discount" was interpreted to mean only the direct acquisition cost, excluding administrative and other incremental costs. This was the very same case relied upon by the Court of Appeals in the present case. We finally affirmed in *M.E. Holding* that the tax credit should be equivalent to the actual 20% sales discount granted to qualified senior citizens.

It is worthy to mention that Republic Act No. 7432 had undergone two (2) amendments; first in 2003 by Republic Act No. 9257 and most recently in 2010 by Republic Act No. 9994. The 20% sales discount granted by establishments to qualified senior citizens is now treated as tax deduction and not as tax credit. As we have likewise declared in *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*,[19] this case covers the taxable years 1993 and 1994, thus, Republic Act No. 7432 applies.

Based on the foregoing, we sustain petitioner's argument that the cost of discount should be computed on the actual amount of the discount extended to senior citizens. However, we give full accord to the factual findings of the Court of Tax Appeals

---

[18] *Supra* note 14 at 21-22.

[19] G.R. No. 159647, 15 April 2005, 456 SCRA 414.

Supreme Court E-Library



with respect to the actual amount of the 20% sales discount, *i.e.*, the sum of ₱3,522,123.25 for the year 1993 and ₱34,211,769.45 for the year 1994. Therefore, petitioner is entitled to a tax credit equivalent to the actual amounts of the 20% sales discount as determined by the Court of Tax Appeals. A new computation for tax refund is in order, to wit:

**TAXABLE YEAR 1993**

| | | |
|---|---|---|
| SALES, Net | | ₱10,228,518,335.00 |
| Add: Cost of 20% Discount to Senior Citizens | | 3,522,123.25 |
| SALES, Gross | | ₱10,232,040,458.25 |
| COST OF SALES | | |
| Merchandise Inventory, Beg. | ₱ 2,427,972,150.00 | |
| Purchases | 8,717,393,710.00 | |
| Goods Available for Sales | ₱11,145,365,860.00 | |
| Merchandise Inventory, End | 2,458,743,127.00 | 8,686,622,733.00 |
| GROSS PROFIT | | ₱1,545,417,725.25 |
| Add: Miscellaneous Income | | 58,247,973.00 |
| TOTAL INCOME | | ₱1,603,665,698.25 |
| OPERATING EXPENSES | | 1,226,816,343.00 |
| NET INCOME BEFORE TAX | | ₱ 376,849,349.25 |
| Less: Income subjected to final income tax | | 20,966,602.00 |
| NET TAXABLE INCOME | | ₱ 355,882,747.25 |
| INCOME TAX PAYABLE | | ₱ 124,558,961.54 |
| LESS: TAX CREDIT (20% Sales Discount to Senior Citizens) | ₱ 3,522,123.25 | |
| TAX ACTUALLY PAID | 123,326,220.00 | 126,848,343.25 |
| **TAX REFUNDABLE** | | **₱ 2,289,381.71** |

**TAXABLE YEAR 1994**

| | | |
|---|---|---|
| SALES, Net | | ₱ 11,671,366,402.00 |
| Add: Cost of 20% Sales Discount to Senior Citizens | | 34,211,769.45 |
| SALES, Gross | | ₱11,705,578,171.45 |

Supreme Court E-Library



| | | |
|---|---|---|
| COST OF SALES | | |
| Merchandise Inventory, Beg. | ₱ 2,458,743,127.00 | |
| Purchases | 10,316,941,308.00 | |
| Goods Available for Sales | ₱12,775,684,435.00 | |
| Less: Merchandise Inventory, End | 2,928,397,228.00 | 9,847,287,207.00 |
| GROSS PROFIT | | ₱1,858,290,964.45 |
| Add: Miscellaneous Income | | 68,809,864.00 |
| TOTAL INCOME | | ₱1,927,100,828.45 |
| OPERATING EXPENSES | | 1,499,422,645.00 |
| NET INCOME BEFORE TAX | | 427,678,183.45 |
| Less: Income subjected to final Income tax | | 25,591,586.00 |
| NET TAXABLE INCOME | | ₱ 402,086,597.45 |
| INCOME TAX PAYABLE | | ₱ 140,730,309.11 |
| LESS: TAX CREDIT (Cost of 20% Discount to Senior Citizens) | ₱ 34,211,769.45 | |
| TAX ACTUALLY PAID | 128,756,190.00 | 162,967,959.45 |
| **TAX REFUNDABLE** | | **₱ 22,237,650.34** |

**WHEREFORE,** the petition is *GRANTED*. The assailed Decision and Resolution of the Court of Appeals are *REVERSED* and *SET ASIDE*. Respondent Commissioner of Internal Revenue is *ORDERED* to issue tax credit certificates in favor of petitioner in the amounts of ₱2,289,381.71 and ₱22,237,650.34.

**SO ORDERED.**

*Carpio (Chairperson), Leonardo-de Castro,*[*] *Brion,* and *Peralta,*[**] *JJ.,* concur.

---

[*] Per Special Order No. 1006.

[**] Per Special Order No. 1040.