Supreme Court E-Library

Mere description by words of the general format of the two dating game shows is insufficient; the presentation of the master videotape in evidence was indispensable to the determination of the existence of probable cause. As aptly observed by respondent Secretary of Justice:

A television show includes more than mere words can describe because it involves a whole spectrum of visuals and effects, video and audio, such that no similarity or dissimilarity may be found by merely describing the general copyright/format of both dating game shows.[16]

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.

Puno, Quisumbing, and *Buena, JJ.,* concur.

Bellosillo, J. (Chairman), no part. Related to one of the parties.

SECOND DIVISION

[G.R. No. 112024. January 28, 1999]

PHILIPPINE BANK OF COMMUNICATIONS, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE, COURT OF TAX APPEALS and COURT OF APPEALS,** *respondents.*

SYNOPSIS

Petitioner, Philippine Bank of Communications, on August 7, 1987, requested the Commissioner of Internal Revenue (CIR) for a tax credit of ₱5,016,954.00 representing the overpayment of taxes in the first and second quarters of 1985. On July 25,

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[16] Comment of Public Respondent, p. 9; *Rollo*, p. 152.

Supreme Court E-Library

1988, it filed a claim for refund of creditable taxes withheld by their lessees from property rentals in 1985 for ₱282,795.50 and in 1986 for ₱234,077.69. Pending investigation by the CIR, petitioner instituted a petition for review on Nov. 18, 1988 before the Court of Tax Appeals (CTA). In 1993, the CTA rendered a decision denying the request for a tax refund or credit in the amount of ₱5,299,749.95 on the ground that it was filed beyond the two-year reglementary period. The petitioner's claim for refund in 1986 was likewise denied on the assumption that it was automatically credited by PBCom against its tax payment in the succeeding year. These pronouncements by the CTA were affirmed *in toto* by the CA. Hence, this petition. Petitioner argues that its claim for refund tax credits are not yet barred by prescription relying on the applicability of Revenue Memorandum Circular No. 7-85 stating that overpaid income taxes are not covered by the two-year prescriptive period under the Tax Code and that taxpayers may claim refund or tax credits within (ten) 10 years under Art. 1414 of the Civil Code.

The Supreme Court ruled that when the Acting Commissioner of Internal Revenue issued RMC 7-85, changing the prescriptive period of two years to ten years on claims of excess quarterly income tax payments, such circular created a clear inconsistency with the provision of Sec. 230 of the 1977 NIRC. In so doing, the BIR did not simply interpret the law; rather it legislated guidelines contrary to the statute passed by Congress. It bears repeating that Revenue memorandum-circulars are considered administrative rulings (in the sense of more specific and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous. Thus, courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement.

SYLLABUS

1. TAXATION; GENERAL PRINCIPLES; BASIS AND PURPOSE; TO GENERATE FUNDS FOR THE STATE TO FINANCE THE NEEDS OF THE CITIZENRY AND ADVANCE THE COMMON

Supreme Court E-Library

WEAL. — Basic is the principle that "taxes are the lifeblood of the nation." The primary purpose is to generate funds for the State to finance the needs of the citizenry and to advance the common weal. Due process of law under the Constitution does not require judicial proceedings in tax cases. This must necessarily be so because it is upon taxation that the government chiefly relies to obtain the means to carry on its operations and it is of utmost importance that the modes adopted to enforce the collection of taxes levied should be summary and interfered with as little as possible.

2. ID.; TAX REFUND; FOR CLAIMING REFUND ON OVERPAYMENT; PRESCRIPTIVE PERIOD THEREOF. — From the same perspective, claims for refund or tax credit should be exercised within the time fixed by law because the BIR being an administrative body enforced to collect taxes, its functions should not be unduly delayed or hampered by incidental matters. Section 230 of the National Internal Revenue Code (NIRC) of 1977 (now Sec. 229, NIRC of 1997) provides for the prescriptive period for filing a court proceeding for the recovery of tax erroneously or illegally collected. The rule states that the taxpayer may file a claim for refund or credit with the Commissioner of Internal Revenue, with two (2) years after payment of tax, before any suit in CTA is commenced. The two-year prescriptive period provided, should be computed from the time of filing the Adjustment Return and final payment of the tax for the year.

3. ADMINISTRATIVE LAW; ADMINISTRATIVE BODIES; CIRCULARS AND ISSUANCES; SHOULD NOT RUN AGAINST THE STATUTE PASSED BY CONGRESS. — When the Acting Commissioner of Internal Revenue issued RMC 7-85, changing the prescriptive period of two to ten years on claims of excess quarterly income tax payments, such circular created a clear inconsistency with the provision of Sec. 230 of 1977 NLRC. In so doing, the BIR did not simply interpret the law; rather it legislated guidelines contrary to the statute passed by Congress. It bears repeating that Revenue memorandum-circulars are considered administrative rulings which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be

Supreme Court E-Library

erroneous. Thus, courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement.

4. ID.; COMMISSIONER OF INTERNAL REVENUE; ERRORS IN ADMINISTRATIVE INTERPRETATION; CANNOT PUT THE STATE IN ESTOPPEL. — Fundamental is the rule that the State cannot be put in estoppel by the mistakes or errors of its officials or agents. As pointed out by the respondent courts, the nullification of RMC No. 7-85 issued by the Acting Commissioner of Internal Revenue is an administrative interpretation which is not in harmony with Sec. 230 of 1977 NIRC, for being contrary to the express provision of a statute. Hence, his interpretation could not be given weight for to do so would, in effect, amend the statute.

5. ID.; ADMINISTRATIVE BODIES; ADMINISTRATIVE DECISIONS; DO NOT FORM PART OF THE LEGAL SYSTEM. — Article 8 of the Civil Code recognizes judicial decisions, applying or interpreting statutes as part of the legal system of the country. But administrative decisions do not enjoy that level of recognition. A memorandum-circular of a bureau head could not operate to vest a taxpayer with a shield against judicial action. For there are no vested rights to speak of respecting a wrong construction of the law by the administrative officials and such wrong interpretation could not place the Government in estoppel to correct or overrule the same. Moreover, the non-retroactivity of rulings by the Commissioner of Internal Revenue is not applicable in this case because the nullity of RMC No. 7-85 was declared by respondent courts and not by the Commissioner of Internal Revenue.

6. TAXATION; TAX REFUND; CONSTRUED IN STRICTISSIMI JURIS AGAINST THE TAXPAYER. — As repeatedly held by this Court, a claim for refund is in the nature of a claim for exemption and should be construed in *strictissimi juris* against the taxpayer.

7. ID.; NATIONAL INTERNAL REVENUE CODE, INCOME TAX; EXCESS OF THE TOTAL QUARTERLY PAYMENTS THEREOF IS EITHER REFUNDED OR CREDITED AGAINST THE ESTIMATED QUARTERLY INCOME TAX LIABILITIES FOR THE SUCCEEDING TAXABLE YEAR. — Sec. 69 of the 1977 NIRC (now Sec. 76 of the 1997 NIRC) provides that any excess of the total quarterly payments over the actual income tax

Supreme Court E-Library

computed in the adjustment or final corporate income tax return, *shall either* (a) be refunded to the corporation, or (b) may be credited against the estimated quarterly income tax liabilities for the quarters of the succeeding taxable year.

8. ID.; ID.; ID.; ID.; REMEDIES ARE IN THE ALTERNATIVE AND THE CHOICE OF ONE PRECLUDES THE OTHER. — The corporation must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention, whether to request for a refund or claim for an automatic tax credit for the succeeding taxable year. To ease the administration of tax collection, these remedies are in the alternative, and the choice of one precludes the other.

9. REMEDIAL LAW; EVIDENCE; FINDINGS OF FACT OF QUASI-JUDICIAL BODIES; ACCORDED GREAT WEIGHT. — That the petitioner opted for an automatic tax credit in accordance with Sec. 69 of the 1977 NIRC, as specified in its 1986 Final Adjusted Income Tax Return, is a finding of fact which we must respect. Moreover, the 1987 annual corporate tax return of the petitioner was not offered as evidence to controvert said fact. Thus, we are bound by the findings of fact by respondent courts, there being no showing of gross error or abuse on their part to disturb out reliance thereon.

APPEARANCES OF COUNSEL

The Solicitor General for respondents.
Angara Abello Concepcio Regala for petitioner.

D E C I S I O N

QUISUMBING, *J.*:

This petition for review assails the Resolution[1] of the Court of Appeals dated September 22, 1993, *affirming* the Decision[2]

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[1] Penned by Associate Justice Isaali S. Isnani and concurred in by Associate Justice Nathanael P. De Pano, Jr. and Associate Justice Corona Ibay Somera; *rollo*, pp. 101-104.

[2] Penned by Ernesto D. Acosta, Presiding Judge, concurred in by Associate Judge Manuel K. Gruba and Associate Judge Ramon O. De Veyra; *rollo*, pp. 33-47.

Supreme Court E-Library

and Resolution[3] of the Court of Tax Appeals which denied the claims of the petitioner for tax refund and tax credits, and *disposing* as follows:

"*IN VIEW OF ALL THE FOREGOING*, the instant petition for review is DENIED due course. The Decision of the Court of Tax Appeals dated May 20, 1993 and its resolution dated July 20, 1993, are hereby AFFIRMED *in toto.*

SO ORDERED."[4]

The Court of Tax Appeals earlier ruled as follows:

"*WHEREFORE*, petitioner's claim for refund/tax credit of overpaid income tax for 1985 in the amount of P5,299,749.95 is hereby denied for having been filed beyond the reglementary period. The 1986 claim for refund amounting to P234,077.69 is likewise denied since petitioner has opted and in all likelihood automatically credited the same to the succeeding year. The petition for review is dismissed for lack of merit.

SO ORDERED."[5]

The facts on record show the antecedent circumstances pertinent to this case.

Petitioner, Philippine Bank of Communications (PBCom), a commercial banking corporation duly organized under Philippine laws, filed its quarterly income tax returns for the first and second quarters of 1985, reported profits, and paid the total income tax of ₱5,016,954.00. The taxes due were settled by applying PBCom's tax credit memos and accordingly, the Bureau of Internal Revenue (BIR) issued Tax Debit Memo Nos. 0746-85 and 0747-85 for ₱3,401,701.00 and ₱1,615,253.00, respectively.

Subsequently, however, PBCom suffered losses so that when it filed its Annual Income Tax Returns for the year-ended

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[3] *Rollo*, pp. 70-73.

[4] *Supra*, see note 1, at p. 103.

[5] *Supra*, see note 2, at p. 46.

Supreme Court E-Library

December 31, 1985, it declared a net loss of ₱25,317,228.00, thereby showing no income tax liability. For the succeeding year, ending December 31, 1986, the petitioner likewise reported a net loss of ₱14,129,602.00, and thus declared no tax payable for the year.

But during these two years, PBCom earned rental income from leased properties. The lessees withheld and remitted to the BIR withholding creditable taxes of ₱282,795.50 in 1985 and ₱234,077.69 in 1986.

On August 7, 1987, petitioner requested the Commissioner of Internal Revenue, among others, for a tax credit of ₱5,016,954.00 representing the overpayment of taxes in the first and second quarters of 1985.

Thereafter, on July 25, 1988, petitioner filed a claim for refund of creditable taxes withheld by their lessees from property rentals in 1985 for ₱282,795.50 and in 1986 for ₱234,077.69.

Pending the investigation of the respondent Commissioner of Internal Revenue, petitioner instituted a Petition for Review on November 18, 1988 before the Court of Tax Appeals (CTA). The petition was docketed as CTA Case No. 4309 entitled: "Philippine Bank of Communications *vs.* Commissioner of Internal Revenue."

The losses petitioner incurred as per the summary of petitioner's claims for refund and tax credit for 1985 and 1986, filed before the Court of Tax Appeals, are as follows:

	1985	1986
Net Income (Loss)	(₱25,317,228.00)	(₱14,129,602.00)
Tax Due	NIL	NIL
Quarterly tax Payments Made	5,016,954.00	—
Tax Withheld at Source	282,795.50	234,077.69
ExcessTaxPayments	₱5,299,749.50*	₱234,077.69

*CTA's decision reflects PBCom's 1985 tax claim as ₱5,299,749.95. A forty-five centavo difference was noted.

Supreme Court E-Library

On May 20, 1993, the CTA rendered a decision which, as stated on the outset, denied the request of petitioner for a tax refund or credit in the sum amount of ₱5,299,749.95, on the ground that it was filed beyond the two-year reglementary period provided for by law. The petitioner's claim for refund in 1986 amounting to ₱234,077.69 was likewise denied on the assumption that it was automatically credited by PBCom against its tax payment in the succeeding year.

On June 22, 1993, petitioner filed a Motion for Reconsideration of the CTA's decision but the same was denied due course for lack of merit.[6]

Thereafter, PBCom filed a petition for review of said decision and resolution of the CTA with the Court of Appeals. However on September 22, 1993, the Court of Appeals affirmed *in toto* the CTA's resolution dated July 20, 1993. Hence this petition now before us.

The issues raised by the petitioner are:

I. Whether taxpayer PBCom — which relied in good faith on the formal assurances of BIR in RMC No. 7-85 and did not immediately file with the CTA a petition for review asking for the refund/tax credit of its 1985-86 excess quarterly income tax payments — can be prejudiced by the subsequent BIR rejection, applied retroactively, of its assurances in RMC No. 7-85 that the prescriptive period for the refund/tax credit of excess quarterly income tax payments is not two years but ten (10).[7]

II. Whether the Court of Appeals seriously erred in affirming the CTA decision which denied PBCom's claim for the refund of ₱234,077.69 income tax overpaid in 1986 on the mere speculation, without proof, that there were taxes due in 1987 and that PBCom availed of tax-crediting that year.[8]

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[6] *Supra*, see note 3, at 73.

[7] Memorandum of petitioner, *rollo*, pp. 179-198, at p. 183.

[8] *Ibid.*, at p. 194.

Supreme Court E-Library

Simply stated, the main question is: Whether or not the Court of Appeals erred in denying the plea for tax refund or tax credits on the ground of prescription, despite petitioner's reliance on RMC No. 7-85, changing the prescriptive period of two years to ten years?

Petitioner argues that its claims for refund and tax credits are not yet barred by prescription relying on the applicability of Revenue Memorandum Circular No. 7-85 issued on April 1, 1985. The circular states that overpaid income taxes are not covered by the two-year prescriptive period under the tax Code and that taxpayers may claim refund or tax credits for the excess quarterly income tax with the BIR within ten (10) years under Article 1144 of the Civil Code. The pertinent portions of the circular reads:

"REVENUE MEMORANDUM CIRCULAR NO. 7-85

SUBJECT: PROCESSING OF REFUND OR TAX CREDIT OF EXCESS CORPORATE INCOME TAX RESULTING FROM THE FILING OF THE FINAL ADJUSTMENT RETURN

TO: All Internal Revenue Officers and Others Concerned

Sections 85 and 86 of the National Internal Revenue Code provide:

xxx xxx xxx

The foregoing provisions are implemented by Section 7 of Revenue Regulations Nos. 10-77 which provide:

xxx xxx xxx

It has been observed, however, that because of the excess tax payments, corporations file claims for recovery of overpaid income tax with the Court of Tax Appeals within the two-year period from the date of payment, in accordance with Sections 292 and 295 of the National Internal Revenue Code. It is obvious that the filing of the case in court is to preserve the judicial right of the corporation to claim the refund or tax credit.

It should be noted, however, that this is not a case of erroneously or illegally paid tax under the provisions of Sections 292 and 295 of the Tax Code.

Supreme Court E-Library

In the above provision of the Regulations the corporation may request for the refund of the overpaid income tax or claim for automatic tax credit. To insure prompt action on corporate annual income tax returns showing refundable amounts arising from overpaid quarterly income taxes, this Office has promulgated Revenue Memorandum Order No. 32-76 dated June 11, 1976, containing the procedure in processing said returns. Under these procedures, the returns are merely pre-audited which consist mainly of checking mathematical accuracy of the figures of the return. After which, the refund or tax credit is granted, and, this procedure was adopted to facilitate immediate action on cases like this.

In this regard, therefore, there is no need to file petitions for review in the Court of Tax Appeals in order to preserve the right to claim refund or tax credit within the two-year period. As already stated, actions hereon by the Bureau are immediate after only a cursory pre-audit of the income tax returns. Moreover, a taxpayer may recover from the Bureau of Internal Revenue excess income tax paid under the provisions of Section 86 of the Tax Code within 10 years from the date of payment considering that it is an obligation created by law (Article 1144 of the Civil Code).[9] (Italics supplied.)

Petitioner argues that the government is barred from asserting a position contrary to its declared circular if it would result to injustice to taxpayers. Citing *ABS-CBN Broadcasting Corporation vs. Court of Tax Appeals*[10] petitioner claims that rulings or circulars promulgated by the Commissioner of Internal Revenue have no retroactive effect if it would be prejudicial to taxpayers. In ABS-CBN case, the Court held that the government is precluded from adopting a position inconsistent with one previously taken where injustice would result therefrom or where there has been a misrepresentation to the taxpayer.

Petitioner contends that Sec. 246 of the National Internal Revenue Code explicitly provides for this rule as follows:

"Sec. 246. *Non-retroactivity of rulings*— Any revocation, modification or reversal of any of the rules and regulations

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[9] *Supra*, See note 2, pp. 37-38.

[10] 108 SCRA 142 (1981).

Supreme Court E-Library

promulgated in accordance with the preceding section or any of the rulings or circulars promulgated by the Commissioner shall not be given retroactive application if the revocation, modification, or reversal will be prejudicial to the taxpayers except in the following cases:

a) where the taxpayer deliberately misstates or omits material facts from his return or in any document required of him by the Bureau of Internal Revenue;

b) where the facts subsequently gathered by the Bureau of Internal Revenue are materially different from the facts on which the ruling is based;

c) where the taxpayer acted in bad faith."

Respondent Commissioner of Internal Revenue, through the Solicitor General, argues that the two-year prescriptive period for filing tax cases in court concerning income tax payments of Corporations is reckoned from the date of filing the Final Adjusted Income Tax Return, which is generally done on April 15 following the close of the calendar year. As precedents, respondent Commissioner cited cases which adhered to this principle, to wit: *ACCRA Investments Corp. vs. Court of Appeals, et al.*,[11] and *Commissioner of Internal Revenue vs. TMX Sales, Inc., et al.*.[12] Respondent Commissioner also states that since the Final Adjusted Income Tax Return of the petitioner for the taxable year 1985 was supposed to be filed on April 15, 1986, the latter had only until April 15, 1988 to seek relief from the court. Further, respondent Commissioner stresses that when the petitioner filed the case before the CTA on November 18, 1988, the same was filed beyond the time fixed by law, and such failure is fatal to petitioner's cause of action.

After a careful study of the records and applicable jurisprudence on the matter, we find that, contrary to the petitioner's contention, the relaxation of revenue regulations by RMC 7-85 is not warranted as it disregards the two-year prescriptive period set by law.

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[11] 204 SCRA 957 (1991).

[12] 205 SCRA 184 (1992).

Supreme Court E-Library

Basic is the principle that "taxes are the lifeblood of the nation." The primary purpose is to generate funds for the State to finance the needs of the citizenry and to advance the common weal.[13] Due process of law under the Constitution does not require judicial proceedings in tax cases. This must necessarily be so because it is upon taxation that the government chiefly relies to obtain the means to carry on its operations and it is of utmost importance that the modes adopted to enforce the collection of taxes levied should be summary and interfered with as little as possible.[14]

From the same perspective, claims for refund or tax credit should be exercised within the time fixed by law because the BIR being an administrative body enforced to collect taxes, its functions should not be unduly delayed or hampered by incidental matters.

Section 230 of the National Internal Revenue Code (NIRC) of 1977 (now Sec. 229, NIRC of 1997) provides for the prescriptive period for filing a court proceeding for the recovery of tax erroneously or illegally collected, *viz.*:

"Sec. 230. *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 excessive 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 begun after the expiration of two 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

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[13] *Napocor vs. Province of Albay*, 186 SCRA 198 (1990), at p. 207.

[14] Teodoro and de Leon, Law on Income Taxation, 1993 ed., at 485.

Supreme Court E-Library

upon which payment was made, such payment appears clearly to have been erroneously paid." (Italics supplied)

The rule states that the taxpayer may file a claim for refund or credit with the Commissioner of Internal Revenue, within two (2) years after payment of tax, before any suit in CTA is commenced. The two-year prescriptive period provided, should be computed from the time of filing the Adjustment Return and final payment of the tax for the year.

In *Commissioner of Internal Revenue vs. Philippine American Life Insurance Co.*,[15] this Court explained the application of Sec. 230 of 1977 NIRC, as follows:

"Clearly, the prescriptive period of two years should commence to run only from the time that the refund is ascertained, which can only be determined after a final adjustment return is accomplished. In the present case, this date is April 16, 1984, and two years from this date would be April 16, 1986. x x x As we have earlier said in the TMX Sales case, Sections 68,[16] 69,[17] and 70[18] on Quarterly Corporate Income Tax Payment and Section 321 should be considered in conjunction with it."[19]

When the Acting Commissioner of Internal Revenue issued RMC 7-85, changing the prescriptive period of two years to ten years on claims of excess quarterly income tax payments, such circular created a clear inconsistency with the provision of Sec. 230 of 1977 NIRC. In so doing, the BIR did not simply interpret the law; rather it legislated guidelines contrary to the statute passed by Congress.

It bears repeating that Revenue memorandum-circulars are considered administrative rulings (in the sense of more specific

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[15] 244 SCRA 446 (1995).

[16] Declaration of Corporate Quarterly Income Tax (now Sec. 75, 1997 NIRC).

[17] Final Adjustment Return (now Sec. 76, 1997 NIRC).

[18] Place of Filing (now Sec. 77, 1997 NIRC).

[19] *Supra*, see note 15, at p. 453.

Supreme Court E-Library

and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous.[20] Thus, courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement.[21]

In the case of *People vs. Lim*,[22] it was held that rules and regulations issued by administrative officials to implement a law cannot go beyond the terms and provisions of the latter.

"Appellant contends that Section 2 of FAO No. 37-1 is void because it is not only inconsistent with but is contrary to the provisions and spirit of Act. No. 4003 as amended, because whereas the prohibition prescribed in said Fisheries Act was for any single period of time not exceeding five years duration, FAO No. 37-1 fixed no period, that is to say, it establishes an absolute ban for all time. This discrepancy between Act No. 4003 and FAO No. 37-1 was probably due to an oversight on the part of Secretary of Agriculture and Natural Resources. Of course, in case of discrepancy, the basic Act prevails, for the reason that the regulation or rule issued to implement a law *cannot go beyond* the terms and provisions of the latter. x x x In this connection, the attention of the technical men in the offices of Department Heads who draft rules and regulation is called to the importance and necessity of closely following the terms and provisions of the law which they intended to implement, this to avoid any possible misunderstanding or confusion as in the present case."[23]

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[20] *People vs. Hernandez*, 59 Phil. 272 (1933) at p. 276; *Molina vs. Rafferty*, 37 Phil. 545 (1918) at p. 555.

[21] *Commissioner of Internal Revenue vs. Court of Appeals*, 240 SCRA 368 (1993) at p. 372.

[22] 108 Phil. 1091 (1960).

[23] *Ibid.*, at pp. 1093-1094.

Supreme Court E-Library

Further, fundamental is the rule that the State cannot be put in estoppel by the mistakes or errors of its officials or agents.[24] As pointed out by the respondent courts, the nullification of RMC No. 7-85 issued by the Acting Commissioner of Internal Revenue is an administrative interpretation which is not in harmony with Sec. 230 of 1977 NIRC, for being contrary to the express provision of a statute. Hence, his interpretation could not be given weight for to do so would, in effect, amend the statute.

As aptly stated by respondent Court of Appeals:

"It is likewise argued that the Commissioner of Internal Revenue, after promulgating RMC No. 7-85, is estopped by the principle of non-retroactivity of BIR rulings. Again We do not agree. The Memorandum Circular, stating that a taxpayer may recover the excess income tax paid within 10 years from date of payment because this is an obligation created by law, was issued by the Acting Commissioner of Internal Revenue. On the other hand, the decision, stating that the taxpayer should still file a claim for a refund or tax credit and the corresponding petition for review within the two-year prescription period, and that the lengthening of the period of limitation on refund from two to ten years would be adverse to public policy and run counter to the positive mandate of Sec. 230, NIRC,— was the ruling and judicial interpretation of the Court of Tax Appeals. Estoppel has no application in the case at bar because it was not the Commissioner of Internal Revenue who denied petitioner's claim of refund or tax credit. Rather, it was the Court of Tax Appeals who denied (albeit correctly) the claim and in effect, ruled that the RMC No. 7-85 issued by the Commissioner of Internal Revenue is an administrative interpretation which is out of harmony with or contrary to the express provision of a statute (specifically Sec. 230, NIRC),

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[24] *Republic vs. Intermediate Appellate Court*, 209 SCRA 90 (1992); *DBP vs. Commission on Audit*, 231 SCRA 202 (1994); *Sharp International Marketing vs. CA*, 201 SCRA 299 (1991); *GSIS vs. CA*, 218 SCRA 233 (1990 citing *Beronilla vs. GSIS*, 36 SCRA 44, 55 (1970); *Republic vs. PLDT*, 26 SCRA 620 (1969); *Pineda vs. CFI of Tayabas*, 52 Phil. 803 (1929); *Benguet Consolidated Mining Co vs. Pineda*, 98 Phil. 711 (1956); *Republic vs. Philippine Rabbit Bus Lines, Inc.*, 32 SCRA 211 (1970); *People vs. Castaneda*, 165 SCRA 327 (1988).

Supreme Court E-Library

hence, cannot be given weight for to do so would in effect amend the statute."[25]

Article 8 of the Civil Code[26] recognizes judicial decisions, applying or interpreting statutes as part of the legal system of the country. But administrative decisions do not enjoy that level of recognition. A memorandum-circular of a bureau head could not operate to vest a taxpayer with a shield against judicial action. For there are no vested rights to speak of respecting a wrong construction of the law by the administrative officials and such wrong interpretation could not place the Government in estoppel to correct or overrule the same.[27] Moreover, the non-retroactivity of rulings by the Commissioner of Internal Revenue is not applicable in this case because the nullity of RMC No. 7-85 was declared by respondent courts and not by the Commissioner of Internal Revenue. Lastly, it must be noted that, as repeatedly held by this Court, a claim for refund is in the nature of a claim for exemption and should be construed in *strictissimi juris* against the taxpayer.[28]

On the second issue, the petitioner alleges that the Court of Appeals seriously erred in affirming CTA's decision denying its claim for refund of ₱234,077.69 (tax overpaid in 1986), based on mere speculation, without proof, that PBCom availed of the automatic tax credit in 1987.

Sec. 69 of the 1977 NIRC[29] (now Sec. 76 of the 1997 NIRC) provides that any excess of the total quarterly payments over

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[25] *Supra*, see note 1, at p. 102.

[26] Sec. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

[27] *Tan Guan vs. Court of Tax Appeals*, 19 SCRA 903 (1967) at p. 907; *Compania General de Tabacos de Filipinas vs. City of Manila*, 8 SCRA, 367 (1963) at p. 372.

[28] *Commissioner of Internal Revenue vs. Tokyo shipping Co., Ltd.*, 244 SCRA 332, Province of Tarlac *vs.* Alcantara, 216 SCRA 790, *Philippine Petroleum Corp. vs. Municipality of Pililla Rizal*, 198 SCRA 82, *Commissioner of Internal Revenue vs. Mitsubishi Metal Corp.*, 181 SCRA 214.

[29] Sec. 69. *Final Adjustment Return*— Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total net

Supreme Court E-Library

the actual income tax computed in the adjustment or final corporate income tax return, *shall either* (a) be refunded to the corporation, or (b) may be credited against the estimated quarterly income tax liabilities for the quarters of the succeeding taxable year.

The corporation must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention, whether to request for a refund or claim for an automatic tax credit for the succeeding taxable year. To ease the administration of tax collection, these remedies are in the alternative, and the choice of one precludes the other.

As stated by respondent Court of Appeals:

"Finally, as to the claimed refund of income tax over-paid in 1986—the Court of Tax Appeals, after examining the adjusted final corporate annual income tax return for taxable year 1986, found out that petitioner opted to apply for automatic tax credit. This was the basis used (vis-avis the fact that the 1987 annual corporate tax return was not offered by the petitioner as evidence) by the CTA in concluding that petitioner had indeed availed of and applied the automatic tax credit to the succeeding year, hence it can no longer ask for refund, as to [sic] the two remedies of refund and tax credit are alternative."[30]

That the petitioner opted for an automatic tax credit in accordance with Sec. 69 of the 1977 NIRC, as specified in its 1986 Final Adjusted Income Tax Return, is a finding of fact which we must respect. Moreover, the 1987 annual corporate

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income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable net income of that year the corporation shall either:

a) Pay the excess tax still due; or

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

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

[30] *Supra*, see note 1, at p. 103.

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tax return of the petitioner was not offered as evidence to controvert said fact. Thus, we are bound by the findings of fact by respondent courts, there being no showing of gross error or abuse on their part to disturb our reliance thereon.[31]

WHEREFORE, the petition is hereby DENIED. The decision of the Court of Appeals appealed from is AFFIRMED, with COSTS against the petitioner.

SO ORDERED.

Bellosillo (Chairman), Puno, Mendoza, and *Buena, JJ.*, concur.

SECOND DIVISION

[G.R. No. 113787. January 28, 1999]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **CEFERINO GUILLERMO,** *accused-appellant.*

SYNOPSIS

Accused Ceferino Guillermo was convicted of the crime of murder with frustrated murder and was sentenced to suffer the penalty of *reclusion perpetua* by the Regional Trial Court of Alfonso Lista, Ifugao. The conviction was based on the testimonies of the prosecution witnesses, among them the victim in the frustrated murder case, Michael de la Cruz, who was eight years old at the time of the incident and ten years old when he testified in court. They testified that at around 8 o'clock in

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[31] *Philippine Refining Company vs. Court of Appeals*, 256 SCRA 667 (1996) at p. 676, citing: *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 236.