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The authority to hire is likewise covered and protected by its management prerogative – the right of an employer to regulate all aspects of employment, such as hiring, the freedom to prescribe work assignments, working methods, process to be followed, regulation regarding transfer of employees, supervision of their work, lay-off and discipline, and dismissal and recall of workers.[56]

WHEREFORE, the Petition for Review dated November 18, 2005 of petitioners St. Paul College, Quezon City, *et al*. is hereby *GRANTED* and the Decision dated July 8, 2005 of the Court of Appeals and its Resolution dated September 29, 2005 are hereby *REVERSED* and *SET ASIDE*. Consequently, the Decision dated February 28, 2003 of the National Labor Relations Commission and the Decision dated November 20, 2000 of the Labor Arbiter are hereby *REINSTATED*.

SO ORDERED.

Velasco, Jr. (Chairperson), Abad, Villarama, Jr.,[*] and *Mendoza, JJ.,* concur.

THIRD DIVISION

[G.R. No. 170257. September 7, 2011]

RIZAL COMMERCIAL BANKING CORPORATION, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

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[56] *Id*., citing *Baybay Water District v. COA*, 425 Phil. 326, 343-344 (2002); see also *Consolidated Food Corporation v. NLRC*, 373 Phil. 751, 762 (1999).

[*] Designated additional member in lieu of Associate Justice Maria Lourdes P.A. Sereno, per Special Order No. 1076 dated September 6, 2011.

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SYLLABUS

1. **CIVIL LAW; CIVIL CODE; OBLIGATIONS AND CONTRACTS; ESTOPPEL; AN ADMISSION OR REPRESENTATION IS RENDERED CONCLUSIVE UPON THE PERSON MAKING IT, AND CANNOT BE DENIED OR DISPROVED AS AGAINST THE PERSON RELYING THEREON.**— Under Article 1431 of the Civil Code, the doctrine of estoppel is anchored on the rule that "an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon." A party is precluded from denying his own acts, admissions or representations to the prejudice of the other party in order to prevent fraud and falsehood.

2. **ID.; ID.; ID.; ID.; ID.; RCBC IMPLIEDLY ADMITTED VALIDITY OF QUESTIONED WAIVERS THROUGH ITS PARTIAL PAYMENT OF THE REVISED ASSESSMENTS ISSUED WITHIN THE EXTENDED PERIOD AS PROVIDED THEREIN; CASE AT BAR.**— Estoppel is clearly applicable to the case at bench. RCBC, through its partial payment of the revised assessments issued within the extended period as provided for in the questioned waivers, impliedly admitted the validity of those waivers. Had petitioner truly believed that the waivers were invalid and that the assessments were issued beyond the prescriptive period, then it should not have paid the reduced amount of taxes in the revised assessment. RCBC's subsequent action effectively belies its insistence that the waivers are invalid. The records show that on December 6, 2000, upon receipt of the revised assessment, RCBC immediately made payment on the uncontested taxes. Thus, RCBC is estopped from questioning the validity of the waivers. To hold otherwise and allow a party to gainsay its own act or deny rights which it had previously recognized would run counter to the principle of equity which this institution holds dear.

3. **TAXATION; NATIONAL INTERNAL REVENUE CODE; FINAL WITHHOLDING TAX; FOREIGN CURRENCY DEPOSITS; REVENUE REGULATIONS NO. 2-98 INAPPLICABLE IN THE CASE AT BAR.**— Before any further discussion, it should be pointed out that RCBC erred in citing the abovementioned Revenue Regulations No. 2-98 because the same governs collection at source on income paid only on or after January 1, 1998. The deficiency withholding tax subject of this petition was supposed to have been withheld on income paid during

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the taxable years of 1994 and 1995. Hence, Revenue Regulations No. 2-98 obviously does not apply in this case.

4. ID.; ID.; ID.; UNDER THE WITHHOLDING TAX SYSTEM, THE PAYOR IS THE TAXPAYER UPON WHOM THE TAX IS IMPOSED, WHILE THE WITHHOLDING AGENT SIMPLY ACTS AS AN AGENT OR A COLLECTOR OF THE GOVERNMENT TO ENSURE THE COLLECTION OF TAXES. —In *Chamber of Real Estate and Builders' Associations, Inc. v. The Executive Secretary* , the Court has explained that the purpose of the withholding tax system is three-fold: (1) to provide the taxpayer with a convenient way of paying his tax liability; (2) to ensure the collection of tax, and (3) to improve the government's cashflow. Under the withholding tax system, the payor is the taxpayer upon whom the tax is imposed, while the withholding agent simply acts as an agent or a collector of the government to ensure the collection of taxes.

5. ID.; ID.; ID.; ID.; A WITHHOLDING AGENT CANNOT BE MADE LIABLE FOR THE TAX DUE, BUT ONLY INSOFAR AS HE FAILED TO PERFORM HIS DUTY TO WITHHOLD THE TAX AND REMIT THE SAME TO THE GOVERNMENT.—It is, therefore, indisputable that the withholding agent is merely a tax collector and not a taxpayer, as elucidated by this Court in the case of *Commissioner of Internal Revenue v. Court of Appeals*. x x x Based on the foregoing, the liability of the withholding agent is independent from that of the taxpayer. The former cannot be made liable for the tax due because it is the latter who earned the income subject to withholding tax. The withholding agent is liable only insofar as he failed to perform his duty to withhold the tax and remit the same to the government. The liability for the tax, however, remains with the taxpayer because the gain was realized and received by him.

6. ID.; ID.; ID.; FOREIGN CURRENCY LOANS; IN THE CASE AT BAR, RCBC IS LIABLE FOR PAYMENT OF DEFICIENCY ONSHORE TAX ON INTEREST INCOME DERIVED FROM FOREIGN CURRENCY LOANS.— While the payor-borrower can be held accountable for its negligence in performing its duty to withhold the amount of tax due on the transaction, RCBC, as the taxpayer and the one which earned income on the transaction, remains liable for the payment of tax as the taxpayer shares the responsibility of making certain that the

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tax is properly withheld by the withholding agent, so as to avoid any penalty that may arise from the non-payment of the withholding tax due. RCBC cannot evade its liability for FCDU Onshore Tax by shifting the blame on the payor-borrower as the withholding agent. As such, it is liable for payment of deficiency onshore tax on interest income derived from foreign currency loans, pursuant to Section 24(e)(3) of the National Internal Revenue Code of 1993.

7. **REMEDIAL LAW; CIVIL PROCEDURE; APPEAL FROM THE COURT OF TAX APPEALS (CTA) TO THE SUPREME COURT; FINDINGS AND CONCLUSIONS OF THE CTA SHALL BE ACCORDED THE HIGHEST RESPECT AND SHALL BE PRESUMED VALID, IN THE ABSENCE OF ANY CLEAR AND CONVINCING PROOF TO THE CONTRARY.**— As a final note, this Court has consistently held that findings and conclusions of the CTA shall be accorded the highest respect and shall be presumed valid, in the absence of any clear and convincing proof to the contrary. The CTA, as a specialized court dedicated exclusively to the study and resolution of tax problems, has developed an expertise on the subject of taxation. As such, its decisions shall not be lightly set aside on appeal, unless this Court finds that the questioned decision is not supported by substantial evidence or there is a showing of abuse or improvident exercise of authority on the part of the Tax Court.

APPEARANCES OF COUNSEL

Lapuz-Ureta Ramos Arches Cruz & Manlangit Law Offices for petitioner.

The Solicitor General for respondent.

D E C I S I O N

MENDOZA, *J.*:

This is a petition for review on *certiorari* under Rule 45 seeking to set aside the July 27, 2005 Decision[1] and October

[1] Penned by Associate Justice Olga Palanca-Enriquez and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C.

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26, 2005 Resolution[2] of the Court of Tax Appeals *En Banc (CTA-En Banc*) in C.T.A. E.B. No. 83 entitled *"Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue."*

THE FACTS

Petitioner Rizal Commercial Banking Corporation *(RCBC)* is a corporation engaged in general banking operations. It seasonably filed its Corporation Annual Income Tax Returns for Foreign Currency Deposit Unit for the calendar years 1994 and 1995.[3]

On August 15, 1996, RCBC received Letter of Authority No. 133959 issued by then Commissioner of Internal Revenue *(CIR)* Liwayway Vinzons-Chato, authorizing a special audit team to examine the books of accounts and other accounting records for all internal revenue taxes from January 1, 1994 to December 31, 1995.[4]

On January 23, 1997, RCBC executed two Waivers of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code covering the internal revenue taxes due for the years 1994 and 1995, effectively extending the period of the Bureau of Internal Revenue (BIR) to assess up to December 31, 2000.[5]

Subsequently, on January 27, 2000, RCBC received a Formal Letter of Demand together with Assessment Notices from the BIR for the following deficiency tax assessments:[6]

Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy and Caesar A. Casanova; *rollo*, pp. 44-66.

[2] *Id.* at 67-68.

[3] *Id.* at 69-70.

[4] *Id.*

[5] *Id.*

[6] *Id.* at 70-71.

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Particulars	Basic Tax	Interest	Compromise Penalties	Total
Deficiency Income Tax				
1995 (ST-INC-95-0199-2000)	₱252,150,988.01	₱191,496,585.96	₱25,000.00	₱443,672,573.97
1994 (ST-INC-94-0200-2000)	₱216,478,397.90	₱207,819,261.99	₱25,000.00	₱424,322,659.89
Deficiency Gross Receipts Tax				
1995 (ST-GRT-95-0201-2000)	₱13,697,083.68	₱12,428,696.21	₱2,819,745.52	₱28,945,525.41
1994 (ST-GRT-94-0202-2000)	₱ 2,488,462.38	₱2,755,716.42	₱25,000.00	₱5,269,178.80
Deficiency Final Withholding Tax				
1995 (ST-EWT-95-0203-2000)	₱64,365,610.12	₱58,757,866.78	₱25,000.00	₱123,148,477.15
1994 (ST-EWT-94-0204-2000)	₱53,058,075.25	₱59,047,096.34	₱25,000.00	₱112,130,171.59
Deficiency Final Tax on FCDU Onshore Income				
1995 (ST-OT-95-0205-2000)	₱81,508,718.20	₱61,901,963.52	₱25,000.00	₱143,435,681.72
1994 (ST-OT-94-0206-2000)	₱34,429,503.10	₱33,052,322.98	₱25,000.00	₱67,506,826.08
Deficiency Expanded Withholding Tax				
1995 (ST-EWT-95-0207-2000)	₱5,051,415.22	₱4,583,640.33	₱113,000.00	₱9,748,055.55
1994 (ST-EWT-94-0208-2000)	₱4,482,740.35	₱4,067,626.31	₱78,200.00	₱8,628,566.66
Deficiency Documentary Stamp Tax				

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1995 (ST-DST1-95-0209-2000)	₱351,900,539.39	₱315,804,946.26	₱250,000.00	₱667,955,485.65
1995 (ST-DST2-95-0210-2000)	₱367,207,105.29	₱331,535,844.68	₱300,000.00	₱699,042,949.97
1994 (ST-DST3-94-0211-2000)	₱460,370,640.05	₱512,193,460.02	₱300,000.00	₱972,864,100.07
1994 (ST-DST4-94-0212-2000)	₱223,037,675.89	₱240,050,706.09	₱300,000.00	₱463,388,381.98
TOTALS	₱2,130,226,954.83	₱2,035,495,733.89	₱4,335,945.52	₱4,170,058,634.49

Disagreeing with the said deficiency tax assessment, RCBC filed a protest on February 24, 2000 and later submitted the relevant documentary evidence to support it. Much later on November 20, 2000, it filed a petition for review before the CTA, pursuant to Section 228 of the 1997 Tax Code.[7]

On December 6, 2000, RCBC received another Formal Letter of Demand with Assessment Notices dated October 20, 2000, following the reinvestigation it requested, which drastically reduced the original amount of deficiency taxes to the following:[8]

Particulars	Basic Tax	Interest	Surcharge &/ Compromise	Total
Deficiency Income Tax				
1995 (INC-95-000003)	₱374,348.45	₱346,656.92		₱721,005.37
1994 (INC-94-000002)	₱1,392,366.28	₱1,568,605.52		₱2,960,971.80
Deficiency Gross Receipts Tax				
1995 (GRT-95-000004)	₱2,000,926.96	₱3,322,589.63	₱1,367,222.04	₱6,690,738.63
1994 (GRT-94-000003)	₱138,368.61	₱161,872.32		₱300,240.93

[7] *Id.* at 71-72.

[8] *Id.* at 72.

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Deficiency Final Withholding Tax				
1995 (FT-95-000005)	₱362,203.47	₱351,287.75		₱713,491.22
1994 (FT-94-000004)	₱188,746.43	₱220,807.47		₱409,553.90
Deficiency Final Tax on FCDU Onshore Income				
1995 (OT-95-000006)	₱81,508,718.20	₱79,052,291.08		₱160,561,009.28
1994 (OT-94-000005)	₱34,429,503.10	₱40,277,802.26		₱74,707,305.36
Deficiency Expanded Withholding Tax				
1995 (EWT-95-000004)	₱520,869.72	₱505,171.80	₱25,000.00	₱1,051,041.03
1994 (EWT-94-000003)	₱297,949.95	₱348,560.63	₱25,000.00	₱671,510.58
Deficiency Documentary Stamp Tax				
1995 (DST-95-000006)	₱599,890.72		₱149,972.68	₱749,863.40
1995 (DST2-95-000002)	₱24,953,842.46	₱126,155,645.38	₱6,238,460.62	₱31,192,303.08
1994 (DST-94-000005)	₱905,064.74		₱226,266.18	₱1,131,330.92
1994 (DST2-94-000001)	₱17,040,104.84		₱4,260,026.21	₱21,300,131.05
TOTALS	₱164,712,903.44		₱12,291,947.73	₱303,160,496.55

On the same day, RCBC paid the following deficiency taxes as assessed by the BIR:[9]

Particulars	1994	1995	Total
Deficiency Income Tax	₱2,965,549.44	₱722,236.11	₱3,687,785.55

[9] *Id.* at 73.

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Deficiency Gross Receipts Tax	300,695.84	6,701,893.17	7,002,589.01
Deficiency Final Withholding Tax	410,174.44	714,682.02	1,124,856.46
Deficiency Expanded Withholding Tax	672,490.14	1,052,753.48	1,725,243.62
Deficiency Documentary Stamp Tax	1,131,330.92	749,863.40	1,881,194.32
TOTALS	₱5,480,240.78	₱9,941,428.18	₱15,421,668.96

RCBC, however, refused to pay the following assessments for deficiency onshore tax and documentary stamp tax which remained to be the subjects of its petition for review:[10]

Particulars	1994	1995	Total
Deficiency Final Tax on FCDU Onshore Income			
Basic	₱34,429,503.10	₱81,508,718.20	₱115,938,221.30
Interest	40,277,802.26	79,052,291.08	119,330,093.34
Sub Total	₱74,707,305.36	₱160,561,009.28	₱235,268,314.64
Deficiency Documentary Stamp Tax			
Basic	₱17,040,104.84	₱24,953,842.46	₱41,993,947.30
Surcharge	4,260,026.21	6,238,460.62	10,498,486.83
Sub Total	21,300,131.05	31,192,303.08	52,492,434.13
TOTALS	₱96,007,436.41	₱191,753,312.36	₱287,760,748.77

RCBC argued that the waivers of the Statute of Limitations which it executed on January 23, 1997 were not valid because the same were not signed or conformed to by the respondent CIR as required under Section 222(b) of the Tax Code.[11] As regards the deficiency FCDU onshore tax, RCBC contended that because the onshore tax was collected in the form of a final withholding tax, it was the borrower, constituted by law

[10] *Id.*

[11] *Id.* at 100.

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as the withholding agent, that was primarily liable for the remittance of the said tax.[12]

On December 15, 2004, the First Division of the Court of Tax Appeals *(CTA-First Division)* promulgated its Decision[13] which partially granted the petition for review. It considered as closed and terminated the assessments for deficiency income tax, deficiency gross receipts tax, deficiency final withholding tax, deficiency expanded withholding tax, and deficiency documentary stamp tax (not an industry issue) for 1994 and 1995.[14] It, however, upheld the assessment for deficiency final tax on FCDU onshore income and deficiency documentary stamp tax for 1994 and 1995 and ordered RCBC to pay the following amounts plus 20% delinquency tax:[15]

Particulars	1994	1995	Total
Deficiency Final Tax on FCDU Onshore Income			
Basic	22,356,324.43	16,067,952.86	115,938,
Interest	26,153,837.08	15,583,713.19	221.30
Sub Total	48,510,161.51	31,651,666.05	119,330,093.34
Deficiency Documentary Stamp Tax (Industry Issue)			119,330,093.34
Basic	17,040,104.84	24,953,842.46	
Surcharge	4,260,026.21	6,238,460.62	41,993,947.30
Sub Total	21,300,131.05	31,192,303.08	10,498,486.83
TOTALS	69,810,292.56	62,843,969.13	52,492,434.13
			171,822,527.47

Unsatisfied, RCBC filed its Motion for Reconsideration on January 21, 2005, arguing that: (1) the CTA erred in its addition of the total amount of deficiency taxes and the correct amount should only be ₱132,654,261.69 and not ₱171,822,527.47; (2) the CTA erred in holding that RCBC was estopped from questioning

[12] *Id.* at 104.

[13] *Id.* at 69-87. Penned by Presiding Justice Ernesto D. Acosta and concurred in by Associate Justices Lovell R. Bautista and Caesar A. Casanova.

[14] *Id.* at 86.

[15] *Id.*

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the validity of the waivers; (3) it was the payor-borrower as withholding tax agent, and not RCBC, who was liable to pay the final tax on FCDU, and (4) RCBC's special savings account was not subject to documentary stamp tax.[16]

In its Resolution[17] dated April 11, 2005, the CTA-First Division substantially upheld its earlier ruling, except for its inadvertence in the addition of the total amount of deficiency taxes. As such, it modified its earlier decision and ordered RCBC to pay the amount of ₱132,654,261.69 plus 20% delinquency tax.[18]

RCBC elevated the case to the CTA-*En Banc* where it raised the following issues:

I.

Whether or not the right of the respondent to assess deficiency onshore tax and documentary stamp tax for taxable year 1994 and 1995 had already prescribed when it issued the formal letter of demand and assessment notices for the said taxable years.

II.

Whether or not petitioner is liable for deficiency onshore tax for taxable year 1994 and 1995.

III.

Whether or not petitioner's special savings account is subject to documentary stamp tax under then Section 180 of the 1993 Tax Code.[19]

The CTA-*En Banc*, in its assailed Decision, denied the petition for lack of merit. It ruled that by receiving, accepting and paying portions of the reduced assessment, RCBC bound itself to the new assessment, implying that it recognized the validity of the waivers.[20] RCBC could not assail the validity of the waivers after it had received and accepted certain benefits as

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[16] *Id.* at 89.

[17] *Id.* at 88-94.

[18] *Id.* at 94.

[19] *Id.* at 50-51.

[20] *Id.* at 55.

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a result of the execution of the said waivers.[21] As to the deficiency onshore tax, it held that because the payor-borrower was merely designated by law to withhold and remit the said tax, it would then follow that the tax should be imposed on RCBC as the payee-bank.[22] Finally, in relation to the assessment of the deficiency documentary stamp tax on petitioner's special savings account, it held that petitioner's special savings account was a certificate of deposit and, as such, was subject to documentary stamp tax.[23]

Hence, this petition.

While awaiting the decision of this Court, RCBC filed its Manifestation dated July 22, 2009, informing the Court that this petition, relative to the DST deficiency assessment, had been rendered moot and academic by its payment of the tax deficiencies on Documentary Stamp Tax *(DST)* on Special Savings Account *(SSA)* for taxable years 1994 and 1995 after the BIR approved its applications for tax abatement.[24]

In its November 17, 2009 Comment to the Manifestation, the CIR pointed out that the only remaining issues raised in the present petition were those pertaining to RCBC's deficiency tax on FCDU Onshore Income for taxable years 1994 and 1995 in the aggregate amount of 80,161,827.56 plus 20% delinquency interest per annum. The CIR prayed that RCBC be considered to have withdrawn its appeal with respect to the CTA-*En Banc* ruling on its DST on SSA deficiency for taxable years 1994 and 1995 and that the questioned CTA decision regarding RCBC's deficiency tax on FCDU Onshore Income for the same period be affirmed.[25]

THE ISSUES

Thus, only the following issues remain to be resolved by this Court:

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[21] *Id.*

[22] *Id.* at 59.

[23] *Id.* at 65.

[24] *Id.* at 218-220.

[25] *Id.* at 233-235.

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Whether petitioner, by paying the other tax assessment covered by the waivers of the statute of limitations, is rendered estopped from questioning the validity of the said waivers with respect to the assessment of deficiency onshore tax.[26]

and

Whether petitioner, as payee-bank, can be held liable for deficiency onshore tax, which is mandated by law to be collected at source in the form of a final withholding tax.[27]

THE COURT'S RULING

Petitioner is estopped from questioning the validity of the waivers

RCBC assails the validity of the waivers of the statute of limitations on the ground that the said waivers were merely attested to by Sixto Esquivias, then Coordinator for the CIR, and that he failed to indicate acceptance or agreement of the CIR, as required under Section 223 (b) of the 1977 Tax Code.[28] RCBC further argues that the principle of estoppel cannot be applied against it because its payment of the other tax assessments does not signify a clear intention on its part to give up its right to question the validity of the waivers.[29]

The Court disagrees.

Under Article 1431 of the Civil Code, the doctrine of estoppel is anchored on the rule that "an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon." A party is precluded from denying his own acts, admissions or representations to the prejudice of the other party in order to prevent fraud and falsehood.[30]

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[26] *Id.* at 15.

[27] *Id.*

[28] *Id.* at 173.

[29] *Id.* at 176.

[30] Tolentino, Arturo M. *Commentaries and Jurisprudence on the Civil Code of the Philippines,* Vol. 4, p. 660.

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Estoppel is clearly applicable to the case at bench. RCBC, through its partial payment of the revised assessments issued within the extended period as provided for in the questioned waivers, impliedly admitted the validity of those waivers. Had petitioner truly believed that the waivers were invalid and that the assessments were issued beyond the prescriptive period, then it should not have paid the reduced amount of taxes in the revised assessment. RCBC's subsequent action effectively belies its insistence that the waivers are invalid. The records show that on December 6, 2000, upon receipt of the revised assessment, RCBC immediately made payment on the uncontested taxes. Thus, RCBC is estopped from questioning the validity of the waivers. To hold otherwise and allow a party to gainsay its own act or deny rights which it had previously recognized would run counter to the principle of equity which this institution holds dear.[31]

Liability for Deficiency Onshore Withholding Tax

RCBC is convinced that it is the payor-borrower, as withholding agent, who is directly liable for the payment of onshore tax, citing Section 2.57(A) of Revenue Regulations No. 2-98 which states:

> (A) Final Withholding Tax. — Under the final withholding tax system the amount of income tax withheld by the withholding agent is constituted as a full and final payment of the income tax due from the payee on the said income. **The liability for payment of the tax rests primarily on the payor as a withholding agent. Thus, in case of his failure to withhold the tax or in case of under withholding, the deficiency tax shall be collected from the payor/withholding agent.** The payee is not required to file an income tax return for the particular income. (Emphasis supplied)

The petitioner is mistaken.

Before any further discussion, it should be pointed out that RCBC erred in citing the abovementioned Revenue Regulations No. 2-98 because the same governs collection at source on income paid only on or after January 1, 1998. The deficiency withholding tax subject of this petition was supposed to have been withheld on income paid during the taxable years of 1994

[31] *Id.*

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and 1995. Hence, Revenue Regulations No. 2-98 obviously does not apply in this case.

In *Chamber of Real Estate and Builders' Associations, Inc. v. The Executive Secretary*,[32] the Court has explained that the purpose of the withholding tax system is three-fold: (1) to provide the taxpayer with a convenient way of paying his tax liability; (2) to ensure the collection of tax, and (3) to improve the government's cashflow. Under the withholding tax system, the payor is the taxpayer upon whom the tax is imposed, while the withholding agent simply acts as an agent or a collector of the government to ensure the collection of taxes.[33]

It is, therefore, indisputable that the withholding agent is merely a tax collector and not a taxpayer, as elucidated by this Court in the case of *Commissioner of Internal Revenue v. Court of Appeals*,[34] to wit:

> In the operation of the withholding tax system, the withholding agent is the payor, a separate entity acting no more than an agent of the government for the collection of the tax in order to ensure its payments; the payer is the taxpayer – he is the person subject to tax imposed by law; and the payee is the taxing authority. In other words, the withholding agent is merely a tax collector, not a taxpayer. Under the withholding system, however, the agent-payor becomes a payee by fiction of law. **His (agent) liability is direct and independent from the taxpayer, because the income tax is still imposed on and due from the latter. The agent is not liable for the tax as no wealth flowed into him – he earned no income.** The Tax Code only makes the agent personally liable for the tax arising from the breach of its legal duty to withhold as distinguished from its duty to pay tax since:
>
> "**the government's cause of action against the withholding agent is not for the collection of income tax, but for the enforcement of the withholding provision of Section 53 of the Tax Code**, compliance with which is imposed on the withholding agent and not upon the taxpayer."[35] (Emphases supplied)

[32] G.R. No. 160756, March 9, 2010, 614 SCRA 605, 632-633.

[33] *Bank of America NT & SA v. Court of Appeals*, G.R. Nos. 103092 and 103106, July 21, 1994, 234 SCRA 302, 310.

[34] 361 Phil. 103 (1999).

[35] *Commissioner of Internal Revenue v. Court of Appeals*, 361 Phil.

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Based on the foregoing, the liability of the withholding agent is independent from that of the taxpayer. The former cannot be made liable for the tax due because it is the latter who earned the income subject to withholding tax. The withholding agent is liable only insofar as he failed to perform his duty to withhold the tax and remit the same to the government. The liability for the tax, however, remains with the taxpayer because the gain was realized and received by him.

While the payor-borrower can be held accountable for its negligence in performing its duty to withhold the amount of tax due on the transaction, RCBC, as the taxpayer and the one which earned income on the transaction, remains liable for the payment of tax as the taxpayer shares the responsibility of making certain that the tax is properly withheld by the withholding agent, so as to avoid any penalty that may arise from the non-payment of the withholding tax due.

RCBC cannot evade its liability for FCDU Onshore Tax by shifting the blame on the payor-borrower as the withholding agent. As such, it is liable for payment of deficiency onshore tax on interest income derived from foreign currency loans, pursuant to Section 24(e)(3) of the National Internal Revenue Code of 1993:

Sec. 24. Rates of tax on domestic corporations.

x x x x x x x x x

(e) Tax on certain incomes derived by domestic corporations

x x x x x x x x x

(3) Tax on income derived under the Expanded Foreign Currency Deposit System. – Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with nonresidents, offshore banking units in the Philippines, local commercial banks including branches of foreign banks that may be authorized by the Central Bank to transact business with foreign currency depository system units and other depository banks under the expanded foreign currency deposit system shall be exempt from all taxes, except taxable income from such transactions

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103, 117-118 (1999), citing *Commissioner of Internal Revenue v. Malayan Insurance*, 129 Phil. 165, 170 (1967), citing *Jai Alai v. Republic*, L-17462, May 29, 1967; 1967B PHILD 460.

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as may be specified by the Secretary of Finance, upon recommendation of the Monetary Board to be subject to the usual income tax payable by banks: Provided, **That interest income from foreign currency loans granted by such depository banks under said expanded system to residents (other than offshore banking units in the Philippines or other depository banks under the expanded system) shall be subject to a 10% tax.** (Emphasis supplied)

As a final note, this Court has consistently held that findings and conclusions of the CTA shall be accorded the highest respect and shall be presumed valid, in the absence of any clear and convincing proof to the contrary.[36] The CTA, as a specialized court dedicated exclusively to the study and resolution of tax problems, has developed an expertise on the subject of taxation.[37] As such, its decisions shall not be lightly set aside on appeal, unless this Court finds that the questioned decision is not supported by substantial evidence or there is a showing of abuse or improvident exercise of authority on the part of the Tax Court.[38]

WHEREFORE, the petition is *DENIED*.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Abad, and *Villarama, Jr.,*[*] *JJ.,* concur.

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[36] *Panasonic Communications Imaging Corporation of the Philippines (formerly Matsushita Business Machine Corporation of the Philippines) v. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010, 612 SCRA 28, 38, citing *Commissioner of Internal Revenue v. Cebu Toyo Corporation*, 491 Phil. 625,640 (2005); *Commissioner of Internal Revenue v. Court of Appeals, Atlas Consolidated Mining and Development Corporation*, 312 Phil. 337 (1995), citing *Luzon Stevedoring Corporation v. Court of Tax Appeals, et al.*, 246 Phil. 666 (1988).

[37] *Commissioner of Internal Revenue v. Court of Appeals*, 363 Phil. 239, 246 (1999), citing *Commissioner of Internal Revenue v. Wander Philippines, Inc.*, 243 Phil. 717 (1988).

[38] *Toshiba Information Equipment (Phils.), Inc. v. Commissioner of Internal Revenue*, G.R. No. 157594, March 9, 2010, 614 SCRA 526, 561-562, citing *Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue*, G.R. No. 150764, August 7, 2006, 498 SCRA 126,135-136 and *Commissioner of Internal Revenue v. Cebu Toyo Corporation*, 491 Phil. 625,640 (2005).

[*] Designated as additional member in lieu of Associate Justice Maria Lourdes P.A. Sereno, per Special Order No. 1076 dated September 6, 2011.