

SECOND DIVISION

[G.R. No. 173815, November 24, 2010]

**MILWAUKEE INDUSTRIES CORPORATION, PETITIONER, VS.
COURT OF TAX APPEALS AND COMMISSIONER OF INTERNAL
REVENUE, RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This resolves the petition for *certiorari*^[1] under Rule 65 of the 1997 Rules of Civil Procedure filed by petitioner Milwaukee Industries Corporation (*Milwaukee*) assailing the February 27, 2006 Verbal Order and the June 1, 2006 Resolution^[2] of the Court of Tax Appeals (CTA), in CTA Case No. 6202 entitled "Milwaukee Industries Corporation v. Commissioner of Internal Revenue."

The Facts

In a Letter of Authority,^[3] dated July 17, 1998, public respondent Commissioner of Internal Revenue (CIR) notified Milwaukee of its intent to examine their books of account and other accounting records for all internal revenue taxes for 1997 and other unverified prior years.

Milwaukee complied with the directive and submitted its documents to CIR.

Thereafter, CIR issued three undated assessment notices^[4] together with a demand letter and explanation of the deficiency tax assessments. Milwaukee allegedly owed a total of P173,063,711.58 corresponding to the deficiencies on income tax, expanded withholding and value-added taxes for the 1997 taxable year. The table shows the supposed deficiency taxes due against Milwaukee:^[5]

	Basic Tax	Interest	Compromise Penalty	Total
Deficiency Income Tax ST- Income- 97-0093- 2000	P43,114,980.66	P20,264,040.91	P25,000.00	P63,404,021.57
Deficiency expanded withholding tax ST- EWT-97- 0092-2000	19,438.95	9,284.23	1,000.00	29,723.18

Deficiency value-added tax ST-VAT-97-0091-2000	72,108,530.81	37,496,436.02	25,000.00	109,629,966.83
TOTALS	P15,242,950.42	P57,796,761.16	P51,000.00	P173,063,711.58

In a letter^[6] dated February 21, 2000, Milwaukee protested the assessments.

Due to CIR's inaction regarding its protest, on November 20, 2000, Milwaukee filed a petition for review before the CTA.^[7] This was docketed as CTA Case No. 6202.

After Milwaukee had presented its evidence-in-chief, CIR offered the testimony of Ms. Edralin Silario (*Silario*), the group supervisor of the BIR examiners, who conducted the examination of Milwaukee's books. She testified on the Final Report she prepared for the BIR and explained the grounds for the disallowance of the deductions being claimed by Milwaukee on the following: (1) foreign exchange losses classified as miscellaneous expenses; and (2) interest and bank charges paid in 1997.

Subsequently, Milwaukee manifested its intention to present documentary rebuttal evidence.^[8] By its Order of July 11, 2005, the CTA permitted Milwaukee to present rebuttal evidence starting September 5, 2005.^[9] Milwaukee, however, moved for resetting on the scheduled hearings, particularly on September 5, 2005 and October 26, 2005.^[10]

On January 16, 2006, Milwaukee was able to partially present its rebuttal evidence in a commissioner's hearing.^[11] The CTA scheduled another hearing on February 27, 2006.

On February 27, 2006, during the scheduled hearing, the CIR waived its right to cross-examine Milwaukee's witness.^[12] The CTA then asked Milwaukee to continue its presentation of rebuttal evidence. Not prepared, Milwaukee moved for the postponement of the pre-marking and presentation of its rebuttal evidence relative to the deductibility of some interests and bank charges from its corporate income tax for the year 1997 amounting to P18,128,498.26.

Immediately, the CTA issued a verbal order denying Milwaukee's motion to be allowed additional commissioner's hearing for further presentation of its rebuttal evidence. The CTA likewise gave Milwaukee ten (10) days within which to submit its Formal Offer of Rebuttal Evidence.^[13]

Consequently, Milwaukee moved for reconsideration of the CTA's verbal order. Milwaukee likewise moved to toll the running of the period for filing its formal offer of rebuttal evidence.^[14]

In its June 1, 2006 Resolution, the CTA denied Milwaukee's motion for reconsideration but allowed its motion to suspend the period for filing of formal offer

of rebuttal evidence.^[15] Specifically, the CTA stated:

This Court agrees with the respondent. The Court, upon motion, allowed petitioner to present rebuttal evidence. However, it was petitioner who asked for several postponements of trial and commissioner's hearing, which lead the Court to issue final warnings on October 26, 2005, January 16, 2006 and January 31, 2006.

It is worth stressing that the objective of the procedural rules is to secure a just, speedy and inexpensive disposition of every action to the benefit of all litigants. The Court will not countenance further delay of the proceedings. Thus, the Court hereby RESOLVES to DENY Petitioner's Motion for Reconsideration for lack of merit.

However, finding petitioner's Motion to Toll Running of the Period for Filing Formal Offer of Rebuttal Evidence to be in order, the Court hereby RESOLVES to GRANT the same.

WHEREFORE, petitioner is ordered to submit its Formal Offer of Rebuttal Evidence within the remaining period prescribed by this Court upon receipt of this Resolution. Respondent is given a period of 10 days to file his Comment thereto. Thereafter, petitioner's Formal Offer of Rebuttal Evidence shall be deemed submitted for resolution.

SO ORDERED.^[16]

On June 21, 2006, Milwaukee filed its Formal Offer of Rebuttal Evidence (ex *Abundanti ad Cautelam*) before the CTA.^[17]

Aggrieved by the denial of its motion for reconsideration of the verbal order, Milwaukee filed this petition.

In its Memorandum,^[18] Milwaukee submits the following

ISSUES

WHETHER OR NOT RESPONDENT CTA COMMITTED GRAVE ABUSE OF DISCRETION (AMOUNTING TO LACK OR EXCESS OF JURISDICTION) IN DENYING PETITIONER'S MOTION TO BE ALLOWED TO PRESENT REBUTTAL EVIDENCE, AND ITS SUBSEQUENT MOTION FOR RECONSIDERATION THEREON:

A. Whether or not petitioner unduly delayed the case;

B. Whether or not petitioner was denied due process by not being allowed to present its rebuttal evidence in relation to its disallowed interest and bank charges for the year 1997; and