

SECOND DIVISION

[G.R. NO. 148512, June 26, 2006]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. CENTRAL LUZON DRUG CORPORATION, RESPONDENT.

DECISION

AZCUNA, J.:

This is a petition for review under Rule 45 of the Rules of Court seeking the nullification of the Decision, dated May 31, 2001, of the Court of Appeals (CA) in CA-G.R. SP No. 60057, entitled "Central Luzon Drug Corporation v. Commissioner of Internal Revenue," granting herein respondent Central Luzon Drug Corporation's claim for tax credit equal to the amount of the 20% discount that it extended to senior citizens on the latter's purchase of medicines pursuant to Section 4(a) of Republic Act (R.A.) No. 7432, entitled "An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for other Purposes" otherwise known as the Senior Citizens Act.

The antecedents are as follows:

Central Luzon Drug Corporation has been a retailer of medicines and other pharmaceutical products since December 19, 1994. In 1995, it opened three (3) drugstores as a franchisee under the business name and style of "Mercury Drug."

For the period January 1995 to December 1995, in conformity to the mandate of Sec. 4(a) of R.A. No. 7432, petitioner granted a 20% discount on the sale of medicines to qualified senior citizens amounting to P219,778.

Pursuant to Revenue Regulations No. 2-94^[1] implementing R.A. No. 7432, which states that the discount given to senior citizens shall be deducted by the establishment from its gross sales for value-added tax and other percentage tax purposes, respondent deducted the total amount of P219,778 from its gross income for the taxable year 1995. For said taxable period, respondent reported a net loss of P20,963 in its corporate income tax return. As a consequence, respondent did not pay income tax for 1995.

Subsequently, on December 27, 1996, claiming that according to Sec. 4(a) of R.A. No. 7432, the amount of P219,778 should be applied as a tax credit, respondent filed a claim for refund in the amount of P150,193, thus:

Net Sales	P 37,014,807.00
Add: Cost of 20% Discount to Senior	<u>219,778.00</u>

Citizens	
Gross Sales	P 37,234,585.00
Less: Cost of Sales	
Merchandise	P 1,232,740.00
Inventory, beg	
Purchases	41,145,138.00
Merchandise	<u>8,521,557.00</u>
Inventory, end	<u>33,856,621.00</u>
Gross Profit	P 3,377,964.00
Miscellaneous Income	<u>39,014.00</u>
Total Income	3,416,978.00
Operating Expenses	<u>3,199,230.00</u>
Net Income Before Tax	P 217,748.00
Income Tax (35%)	69,585.00
Less: Tax Credit	
(Cost of 20% Discount to Senior Citizens)	<u>219,778.00</u>
Income Tax Payable	(P 150,193.00)
Income Tax Actually Paid	-0-
Tax Refundable/Overpaid Income Tax	(P 150,193.00)

As shown above, the amount of P150,193 claimed as a refund represents the tax credit allegedly due to respondent under R.A. No. 7432. Since the Commissioner of Internal Revenue "was not able to decide the claim for refund on time,"^[2] respondent filed a Petition for Review with the Court of Tax Appeals (CTA) on March 18, 1998.

On April 24, 2000, the CTA dismissed the petition, declaring that even if the law treats the 20% sales discounts granted to senior citizens as a tax credit, the same cannot apply when there is no tax liability or the amount of the tax credit is greater than the tax due. In the latter case, the tax credit will only be to the extent of the tax liability.^[3] Also, no refund can be granted as no tax was erroneously, illegally and actually collected based on the provisions of Section 230, now Section 229, of the Tax Code. Furthermore, the law does not state that a refund can be claimed by the private establishment concerned as an alternative to the tax credit.

Thus, respondent filed with the CA a Petition for Review on August 3, 2000.

On May 31, 2001, the CA rendered a Decision stating that Section 229 of the Tax Code does not apply in this case. It concluded that the 20% discount given to senior citizens which is treated as a tax credit pursuant to Sec. 4(a) of R.A. No. 7432 is considered just compensation and, as such, may be carried over to the next taxable period if there is no current tax liability. In view of this, the CA held:

WHEREFORE, the instant petition is hereby GRANTED and the decision of the CTA dated 24 April 2000 and its resolution dated 06 July 2000 are SET ASIDE. A new one is entered granting petitioner's claim for tax credit