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THIRD DIVISION

[G.R. No. 140944, April 30, 2008]

RAFAEL ARSENIO S. DIZON, IN HIS CAPACITY AS THE JUDICIAL ADMINISTRATOR OF THE ESTATE OF THE DECEASED JOSE P. FERNANDEZ, PETITIONER, VS. COURT OF TAX APPEALS AND COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS.

DECISION

NACHURA, J.:

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision[2] dated April 30, 1999 which affirmed the Decision[3] of the Court of Tax Appeals (CTA) dated June 17, 1997.[4]

The Facts

On November 7, 1987, Jose P. Fernandez (Jose) died. Thereafter, a petition for the probate of his will[5] was filed with Branch 51 of the Regional Trial Court (RTC) of Manila (probate court).[6] The probate court then appointed retired Supreme Court Justice Arsenio P. Dizon (Justice Dizon) and petitioner, Atty. Rafael Arsenio P. Dizon (petitioner) as Special and Assistant Special Administrator, respectively, of the Estate of Jose (Estate). In a letter[7] dated October 13, 1988, Justice Dizon informed respondent Commissioner of the Bureau of Internal Revenue (BIR) of the special proceedings for the Estate.

Petitioner alleged that several requests for extension of the period to file the required estate tax return were granted by the BIR since the assets of the estate, as well as the claims against it, had yet to be collated, determined and identified. Thus, in a letter[8] dated March 14, 1990, Justice Dizon authorized Atty. Jesus M. Gonzales (Atty. Gonzales) to sign and file on behalf of the Estate the required estate tax return and to represent the same in securing a Certificate of Tax Clearance. Eventually, on April 17, 1990, Atty. Gonzales wrote a letter[9] addressed to the BIR Regional Director for San Pablo City and filed the

estate tax return[10] with the same BIR Regional Office, showing therein a NIL estate tax liability, computed as follows:

COMPUTATION OF TAX

Conjugal Real Property (Sch. 1)	P10,855,020.00
Conjugal Personal Property (Sch.2)	3,460,591.34
Taxable Transfer (Sch. 3)	
Gross Conjugal Estate	14,315,611.34
Less: Deductions (Sch. 4)	187,822,576.06
Net Conjugal Estate	NIL
Less: Share of Surviving Spouse	NIL.
Net Share in Conjugal Estate	NIL
x x x	
Net Taxable Estate	NIL.
Estate Tax Due	NIL.[11]

On April 27, 1990, BIR Regional Director for San Pablo City, Osmundo G. Umali issued Certification Nos. 2052[12] and 2053[13] stating that the taxes due on the transfer of real and personal properties[14] of Jose had been fully paid and said properties may be transferred to his heirs. Sometime in August 1990, Justice Dizon passed away. Thus, on October 22, 1990, the probate court appointed petitioner as the administrator of the Estate.[15]

Petitioner requested the probate court's authority to sell several properties forming part of the Estate, for the purpose of paying its creditors, namely: Equitable Banking Corporation (P19,756,428.31), Banque de L'Indochine et. de Suez (US$4,828,905.90 as of January 31, 1988), Manila Banking Corporation (P84,199,160.46 as of February 28, 1989) and State Investment House, Inc. (P6,280,006.21). Petitioner manifested that Manila Bank, a major creditor of the Estate was not included, as it did not file a claim with the probate court since it had security over several real estate properties forming part of the Estate.[16]

However, on November 26, 1991, the Assistant Commissioner for Collection of the BIR, Themistocles Montalban, issued Estate Tax Assessment Notice No. FAS-E-87-91-003269,[17] demanding the payment of P66,973,985.40 as deficiency estate tax, itemized as follows:

Deficiency Estate Tax- 1987

Estate tax	P31,868,414.48
25% surcharge- late filing	7,967,103.62

	late payment	7,967,103.62
Interest		19,121,048.68
Compromise-non filing		25,000.00
	non payment	25,000.00
	no notice of death	15.00
	no CPA Certificate	300.00
Total amount due & collectible		P66,973,985.40[18]

In his letter[19] dated December 12, 1991, Atty. Gonzales moved for the reconsideration of the said estate tax assessment. However, in her letter[20] dated April 12, 1994, the BIR Commissioner denied the request and reiterated that the estate is liable for the payment of P66,973,985.40 as deficiency estate tax. On May 3, 1994, petitioner received the letter of denial. On June 2, 1994, petitioner filed a petition for review[21] before respondent CTA. Trial on the merits ensued.

As found by the CTA, the respective parties presented the following pieces of evidence, to wit:

> In the hearings conducted, petitioner did not present testimonial evidence but merely documentary evidence consisting of the following:
>
> | Nature of Document (sic) | Exhibits |
> |---|---|
> | 1. Letter dated October 13, 1988 from Arsenio P. Dizon addressed to the Commissioner of Internal Revenue informing the latter of the special proceedings for the settlement of the estate (p. 126, BIR records); | "A" |
> | 2. Petition for the probate of the will and issuance of letter of administration filed with the Regional Trial Court (RTC) of Manila, docketed as Sp. Proc. No. 87-42980 (pp. 107-108, BIR records); | "B" & "B-1" |
> | 3. Pleading entitled "Compliance" filed with the probate Court submitting the final inventory of all the properties of the deceased (p. 106, BIR | |

records);	"C"
4. Attachment to Exh. "C" which is the detailed and complete listing of the properties of the deceased (pp. 89-105, BIR rec.);	"C-1" to "C-17"
5. Claims against the estate filed by Equitable Banking Corp. with the probate Court in the amount of P19,756,428.31 as of March 31, 1988, together with the Annexes to the claim (pp. 64-88, BIR records);	"D" to "D-24"
6. Claim filed by Banque de L' Indochine et de Suez with the probate Court in the amount of US $4,828,905.90 as of January 31, 1988 (pp. 262-265, BIR records);	"E" to "E-3"
7. Claim of the Manila Banking Corporation (MBC) which as of November 7, 1987 amounts to P65,158,023.54, but recomputed as of February 28, 1989 at a total amount of P84,199,160.46; together with the demand letter from MBC's lawyer (pp. 194-197, BIR records);	"F" to "F-3"
8. Demand letter of Manila Banking Corporation prepared by Asedillo, Ramos and Associates Law Offices addressed to Fernandez Hermanos, Inc., represented by Jose P. Fernandez, as mortgagors, in the total amount of P240,479,693.17 as of February 28, 1989 (pp. 186-187, BIR records);	"G" & "G-1"
9. Claim of State Investment House, Inc. filed with the RTC, Branch VII of Manila, docketed as Civil Case No. 86-38599 entitled "State Investment House, Inc., Plaintiff, versus Maritime Company Overseas, Inc. and/or Jose P. Fernandez, Defendants," (pp. 200-215, BIR records);	"H" to "H-16"
10. Letter dated March 14, 1990 of Arsenio P.	

Dizon addressed to Atty. Jesus M. Gonzales, (p. 184, BIR records);	"I"
11. Letter dated April 17, 1990 from J.M. Gonzales addressed to the Regional Director of BIR in San Pablo City (p. 183, BIR records);	"J"
12. Estate Tax Return filed by the estate of the late Jose P. Fernandez through its authorized representative, Atty. Jesus M. Gonzales, for Arsenio P. Dizon, with attachments (pp. 177-182, BIR records);	"K" to "K-5"
13. Certified true copy of the Letter of Administration issued by RTC Manila, Branch 51, in Sp. Proc. No. 87-42980 appointing Atty. Rafael S. Dizon as Judicial Administrator of the estate of Jose P. Fernandez; (p. 102, CTA records) and	"L"
14. Certification of Payment of estate taxes Nos. 2052 and 2053, both dated April 27, 1990, issued by the Office of the Regional Director, Revenue Region No. 4-C, San Pablo City, with attachments (pp. 103-104, CTA records.).	"M" to "M-5"

Respondent's [BIR] counsel presented on June 26, 1995 one witness in the person of Alberto Enriquez, who was one of the revenue examiners who conducted the investigation on the estate tax case of the late Jose P. Fernandez. In the course of the direct examination of the witness, he identified the following:

Documents/Signatures	BIR Record
1. Estate Tax Return prepared by the BIR;	p. 138
2. Signatures of Ma. Anabella Abuloc and Alberto Enriquez, Jr. appearing at the lower Portion of Exh. "1";	-do-
3. Memorandum for the Commissioner, dated July 19, 1991, prepared by revenue examiners, Ma.	

Anabella A. Abuloc, Alberto S. Enriquez and Raymund S. Gallardo; Reviewed by Maximino V. Tagle	pp. 143-144
4. Signature of Alberto S. Enriquez appearing at the lower portion on p. 2 of Exh. "2";	-do-
5. Signature of Ma. Anabella A. Abuloc appearing at the lower portion on p. 2 of Exh. "2";	-do-
6. Signature of Raymund S. Gallardo appearing at the Lower portion on p. 2 of Exh. "2";	-do-
7. Signature of Maximino V. Tagle also appearing on p. 2 of Exh. "2";	-do-
8. Summary of revenue Enforcement Officers Audit Report, dated July 19, 1991;	p. 139
9. Signature of Alberto Enriquez at the lower portion of Exh. "3";	-do-
10. Signature of Ma. Anabella A. Abuloc at the lower portion of Exh. "3";	-do-
11. Signature of Raymond S. Gallardo at the lower portion of Exh. "3";	-do-
12. Signature of Maximino V. Tagle at the lower portion of Exh. "3";	-do-
13. Demand letter (FAS-E-87-91-00), signed by the Asst. Commissioner for Collection for the Commissioner of Internal Revenue, demanding payment of the amount of P66,973,985.40; and	p. 169
14. Assessment Notice FAS-E-87-91-00	pp. 169-170[22]

The CTA's Ruling

On June 17, 1997, the CTA denied the said petition for review. Citing this Court's ruling in *Vda. de Oñate v. Court of Appeals*,[23] the CTA opined that the aforementioned pieces of

evidence introduced by the BIR were admissible in evidence. The CTA ratiocinated:

> Although the above-mentioned documents were not formally offered as evidence for respondent, considering that respondent has been declared to have waived the presentation thereof during the hearing on March 20, 1996, still they could be considered as evidence for respondent since they were properly identified during the presentation of respondent's witness, whose testimony was duly recorded as part of the records of this case. Besides, the documents marked as respondent's exhibits formed part of the BIR records of the case.[24]

Nevertheless, the CTA did not fully adopt the assessment made by the BIR and it came up with its own computation of the deficiency estate tax, to wit:

Conjugal Real Property	P 5,062,016.00
Conjugal Personal Prop.	33,021,999.93
Gross Conjugal Estate	38,084,015.93
Less: Deductions	26,250,000.00
Net Conjugal Estate	P 11,834,015.93
Less: Share of Surviving Spouse	5,917,007.96
Net Share in Conjugal Estate	P 5,917,007.96
Add: Capital/Paraphernal Properties - P44,652,813.66	
Less: Capital/Paraphernal Deductions	44,652,813.66
Net Taxable Estate	P 50,569,821.62
Estate Tax Due P 29,935,342.97	
Add: 25% Surcharge for Late Filing	7,483,835.74
Add: Penalties for-No notice of death	15.00
No CPA certificate	300.00
Total deficiency estate tax	P 37,419,493.71

> exclusive of 20% interest from due date of its payment until full payment thereof [Sec. 283 (b), Tax Code of 1987].[25]

Thus, the CTA disposed of the case in this wise:

> **WHEREFORE**, viewed from all the foregoing, the Court finds the petition unmeritorious and denies the same. Petitioner and/or the heirs of Jose P. Fernandez are hereby ordered to pay to respondent the amount of P37,419,493.71 plus 20% interest from the due date of its payment until full payment thereof as estate tax liability of the estate of Jose P. Fernandez who

died on November 7, 1987.

SO ORDERED.[26]

Aggrieved, petitioner, on March 2, 1998, went to the CA via a petition for review.[27]

The CA's Ruling

On April 30, 1999, the CA affirmed the CTA's ruling. Adopting in full the CTA's findings, the CA ruled that the petitioner's act of filing an estate tax return with the BIR and the issuance of BIR Certification Nos. 2052 and 2053 did not deprive the BIR Commissioner of her authority to re-examine or re-assess the said return filed on behalf of the Estate.[28]

On May 31, 1999, petitioner filed a Motion for Reconsideration[29] which the CA denied in its Resolution[30] dated November 3, 1999.

Hence, the instant Petition raising the following issues:

1. Whether or not the admission of evidence which were not formally offered by the respondent BIR by the Court of Tax Appeals which was subsequently upheld by the Court of Appeals is contrary to the Rules of Court and rulings of this Honorable Court;

2. Whether or not the Court of Tax Appeals and the Court of Appeals erred in recognizing/considering the estate tax return prepared and filed by respondent BIR knowing that the probate court appointed administrator of the estate of Jose P. Fernandez had previously filed one as in fact, BIR Certification Clearance Nos. 2052 and 2053 had been issued in the estate's favor;

3. Whether or not the Court of Tax Appeals and the Court of Appeals erred in disallowing the valid and enforceable claims of creditors against the estate, as lawful deductions despite clear and convincing evidence thereof; and

4. Whether or not the Court of Tax Appeals and the Court of Appeals erred in validating erroneous double imputation of values on the very same estate properties in the estate tax return it prepared and filed which effectively bloated the estate's assets.[31]

The petitioner claims that in as much as the valid claims of creditors against the Estate are

in excess of the gross estate, no estate tax was due; that the lack of a formal offer of evidence is fatal to BIR's cause; that the doctrine laid down in *Vda. de Oñate* has already been abandoned in a long line of cases in which the Court held that evidence not formally offered is without any weight or value; that Section 34 of Rule 132 of the Rules on Evidence requiring a formal offer of evidence is mandatory in character; that, while BIR's witness Alberto Enriquez (Alberto) in his testimony before the CTA identified the pieces of evidence aforementioned such that the same were marked, BIR's failure to formally offer said pieces of evidence and depriving petitioner the opportunity to cross-examine Alberto, render the same inadmissible in evidence; that assuming *arguendo* that the ruling in *Vda. de Oñate* is still applicable, BIR failed to comply with the doctrine's requisites because the documents herein remained simply part of the BIR records and were not duly incorporated in the court records; that the BIR failed to consider that although the actual payments made to the Estate creditors were lower than their respective claims, such were compromise agreements reached long after the Estate's liability had been settled by the filing of its estate tax return and the issuance of BIR Certification Nos. 2052 and 2053; and that the reckoning date of the claims against the Estate and the settlement of the estate tax due should be at the time the estate tax return was filed by the judicial administrator and the issuance of said BIR Certifications and not at the time the aforementioned Compromise Agreements were entered into with the Estate's creditors.[32]

On the other hand, respondent counters that the documents, being part of the records of the case and duly identified in a duly recorded testimony are considered evidence even if the same were not formally offered; that the filing of the estate tax return by the Estate and the issuance of BIR Certification Nos. 2052 and 2053 did not deprive the BIR of its authority to examine the return and assess the estate tax; and that the factual findings of the CTA as affirmed by the CA may no longer be reviewed by this Court via a petition for review.[33]

The Issues

There are two ultimate issues which require resolution in this case:

First. Whether or not the CTA and the CA gravely erred in allowing the admission of the pieces of evidence which were not formally offered by the BIR; and

Second. Whether or not the CA erred in affirming the CTA in the latter's determination of the deficiency estate tax imposed against the Estate.

The Court's Ruling

The Petition is impressed with merit.

Under Section 8 of RA 1125, the CTA is categorically described as a court of record. As

cases filed before it are litigated *de novo*, party-litigants shall prove every minute aspect of their cases. Indubitably, no evidentiary value can be given the pieces of evidence submitted by the BIR, as the rules on documentary evidence require that these documents must be formally offered before the CTA.[34] Pertinent is Section 34, Rule 132 of the Revised Rules on Evidence which reads:

> **SEC. 34.** *Offer of evidence.* -- The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

The CTA and the CA rely solely on the case of *Vda. de Oñate*, which reiterated this Court's previous rulings in *People v. Napat-a*[35] and *People v. Mate*[36] on the admission and consideration of exhibits which were not formally offered during the trial. Although in a long line of cases many of which were decided after *Vda. de Oñate*, we held that courts cannot consider evidence which has not been formally offered,[37] nevertheless, petitioner cannot validly assume that the doctrine laid down in *Vda. de Oñate* has already been abandoned. Recently, in *Ramos v. Dizon*,[38] this Court, applying the said doctrine, ruled that the trial court judge therein committed no error when he admitted and considered the respondents' exhibits in the resolution of the case, notwithstanding the fact that the same were not formally offered. Likewise, in *Far East Bank & Trust Company v. Commissioner of Internal Revenue*,[39] the Court made reference to said doctrine in resolving the issues therein. Indubitably, the doctrine laid down in *Vda. De Oñate* still subsists in this jurisdiction. In *Vda. de Oñate*, we held that:

> From the foregoing provision, it is clear that for evidence to be considered, the same must be formally offered. Corollarily, the mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence of a party. In *Interpacific Transit, Inc. v. Aviles* [186 SCRA 385], we had the occasion to make a distinction between identification of documentary evidence and its formal offer as an exhibit. We said that the first is done in the course of the trial and is accompanied by the marking of the evidence as an exhibit while the second is done only when the party rests its case and not before. A party, therefore, may opt to formally offer his evidence if he believes that it will advance his cause or not to do so at all. In the event he chooses to do the latter, the trial court is not authorized by the Rules to consider the same.
>
> However, in *People v. Napat-a* [179 SCRA 403] citing *People v. Mate* [103 SCRA 484], **we relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court provided the following requirements are present, viz.: first, the same must have been**

> **duly identified by testimony duly recorded and, second, the same must have been incorporated in the records of the case**.[40]

From the foregoing declaration, however, it is clear that *Vda. de Oñate* is merely an exception to the general rule. Being an exception, it may be applied only when there is strict compliance with the requisites mentioned therein; otherwise, the general rule in Section 34 of Rule 132 of the Rules of Court should prevail.

In this case, we find that these requirements have not been satisfied. The assailed pieces of evidence were presented and marked during the trial particularly when Alberto took the witness stand. Alberto identified these pieces of evidence in his direct testimony.[41] He was also subjected to cross-examination and re-cross examination by petitioner.[42] But Alberto's account and the exchanges between Alberto and petitioner did not sufficiently describe the contents of the said pieces of evidence presented by the BIR. In fact, petitioner sought that the lead examiner, one Ma. Anabella A. Abuloc, be summoned to testify, inasmuch as Alberto was incompetent to answer questions relative to the working papers.[43] The lead examiner never testified. Moreover, while Alberto's testimony identifying the BIR's evidence was duly recorded, the BIR documents themselves were not incorporated in the records of the case.

A common fact threads through *Vda. de Oñate* and *Ramos* that does not exist at all in the instant case. In the aforementioned cases, the exhibits were marked at the pre-trial proceedings to warrant the pronouncement that the same were duly incorporated in the records of the case. Thus, we held in *Ramos*:

> In this case, we find and so rule that these requirements have been satisfied. **The exhibits in question were presented and marked during the pre-trial of the case thus, they have been incorporated into the records.** Further, Elpidio himself explained the contents of these exhibits when he was interrogated by respondents' counsel...
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> x x x x
>
> But what further defeats petitioner's cause on this issue is that respondents' exhibits were marked and admitted during the pre-trial stage as shown by the Pre-Trial Order quoted earlier.[44]

While the CTA is not governed strictly by technical rules of evidence,[45] as rules of procedure are not ends in themselves and are primarily intended as tools in the administration of justice, the presentation of the BIR's evidence is not a mere procedural technicality which may be disregarded considering that it is the only means by which the

CTA may ascertain and verify the truth of BIR's claims against the Estate.[46] The BIR's failure to formally offer these pieces of evidence, despite CTA's directives, is fatal to its cause.[47] Such failure is aggravated by the fact that not even a single reason was advanced by the BIR to justify such fatal omission. This, we take against the BIR.

Per the records of this case, the BIR was directed to present its evidence[48] in the hearing of February 21, 1996, but BIR's counsel failed to appear.[49] The CTA denied petitioner's motion to consider BIR's presentation of evidence as waived, with a warning to BIR that such presentation would be considered waived if BIR's evidence would not be presented at the next hearing. Again, in the hearing of March 20, 1996, BIR's counsel failed to appear.[50] Thus, in its Resolution[51] dated March 21, 1996, the CTA considered the BIR to have waived presentation of its evidence. In the same Resolution, the parties were directed to file their respective memorandum. Petitioner complied but BIR failed to do so.[52] In all of these proceedings, BIR was duly notified. Hence, in this case, we are constrained to apply our ruling in *Heirs of Pedro Pasag v. Parocha*.[53]

> A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. On the other hand, this allows opposing parties to examine the evidence and object to its admissibility. Moreover, it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court.
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> Strict adherence to the said rule is not a trivial matter. The Court in *Constantino v. Court of Appeals* ruled that **the formal offer of one's evidence is deemed waived after failing to submit it within a considerable period of time. It explained that the court cannot admit an offer of evidence made after a lapse of three (3) months because to do so would "condone an inexcusable laxity if not non-compliance with a court order which, in effect, would encourage needless delays and derail the speedy administration of justice**."
>
> Applying the aforementioned principle in this case, we find that the trial court had reasonable ground to consider that petitioners had waived their right to make a formal offer of documentary or object evidence. Despite several extensions of time to make their formal offer, petitioners failed to comply with their commitment and allowed almost five months to lapse before finally submitting it. **Petitioners' failure to comply with the rule on admissibility of evidence is anathema to the efficient, effective, and expeditious dispensation of justice.**

Having disposed of the foregoing procedural issue, we proceed to discuss the merits of the case.

Ordinarily, the CTA's findings, as affirmed by the CA, are entitled to the highest respect and will not be disturbed on appeal unless it is shown that the lower courts committed gross error in the appreciation of facts.[54] In this case, however, we find the decision of the CA affirming that of the CTA tainted with palpable error.

It is admitted that the claims of the Estate's aforementioned creditors have been condoned. As a mode of extinguishing an obligation,[55] condonation or remission of debt[56] is defined as:

> an act of liberality, by virtue of which, without receiving any equivalent, the creditor renounces the enforcement of the obligation, which is extinguished in its entirety or in that part or aspect of the same to which the remission refers. It is an essential characteristic of remission that it be gratuitous, that there is no equivalent received for the benefit given; once such equivalent exists, the nature of the act changes. It may become dation in payment when the creditor receives a thing different from that stipulated; or novation, when the object or principal conditions of the obligation should be changed; or compromise, when the matter renounced is in litigation or dispute and in exchange of some concession which the creditor receives.[57]

Verily, the second issue in this case involves the construction of Section 79[58] of the National Internal Revenue Code[59] (Tax Code) which provides for the allowable deductions from the gross estate of the decedent. The specific question is whether the actual claims of the aforementioned creditors may be fully allowed as deductions from the gross estate of Jose despite the fact that the said claims were reduced or condoned through compromise agreements entered into by the Estate with its creditors.

"Claims against the estate," as allowable deductions from the gross estate under Section 79 of the Tax Code, are basically a reproduction of the deductions allowed under Section 89 (a) (1) (C) and (E) of Commonwealth Act No. 466 (CA 466), otherwise known as the National Internal Revenue Code of 1939, and which was the first codification of Philippine tax laws. Philippine tax laws were, in turn, based on the federal tax laws of the United States. Thus, pursuant to established rules of statutory construction, the decisions of American courts construing the federal tax code are entitled to great weight in the interpretation of our own tax laws.[60]

It is noteworthy that even in the United States, there is some dispute as to whether the deductible amount for a claim against the estate is fixed as of the decedent's death which is

the general rule, or the same should be adjusted to reflect post-death developments, such as where a settlement between the parties results in the reduction of the amount actually paid.[61] On one hand, the U.S. court ruled that the appropriate deduction is the "value" that the claim had at the date of the decedent's death.[62] Also, as held in *Propstra v. U.S.*, [63] where a lien claimed against the estate was certain and enforceable on the date of the decedent's death, the fact that the claimant subsequently settled for lesser amount did not preclude the estate from deducting the entire amount of the claim for estate tax purposes. These pronouncements essentially confirm the general principle that post-death developments are not material in determining the amount of the deduction.

On the other hand, the Internal Revenue Service (Service) opines that post-death settlement should be taken into consideration and the claim should be allowed as a deduction only to the extent of the amount actually paid.[64] Recognizing the dispute, the Service released Proposed Regulations in 2007 mandating that the deduction would be limited to the actual amount paid.[65]

In announcing its agreement with *Propstra*,[66] the U.S. 5th Circuit Court of Appeals held:

> We are persuaded that the Ninth Circuit's decision...in *Propstra* correctly apply the *Ithaca Trust* date-of-death valuation principle to enforceable claims against the estate. As we interpret *Ithaca Trust*, when the Supreme Court announced the date-of-death valuation principle, it was making a judgment about the nature of the federal estate tax specifically, that it is a tax imposed on the act of transferring property by will or intestacy and, because the act on which the tax is levied occurs at a discrete time, *i.e.*, the instance of death, the net value of the property transferred should be ascertained, as nearly as possible, as of that time. This analysis supports broad application of the date-of-death valuation rule.[67]

We express our agreement with the date-of-death valuation rule, made pursuant to the ruling of the U.S. Supreme Court in *Ithaca Trust Co. v. United States*.[68] *First*. There is no law, nor do we discern any legislative intent in our tax laws, which disregards the date-of-death valuation principle and particularly provides that post-death developments must be considered in determining the net value of the estate. It bears emphasis that tax burdens are not to be imposed, nor presumed to be imposed, beyond what the statute expressly and clearly imports, tax statutes being construed *strictissimi juris* against the government.[69] Any doubt on whether a person, article or activity is taxable is generally resolved against taxation.[70] *Second*. Such construction finds relevance and consistency in our Rules on Special Proceedings wherein the term "claims" required to be presented against a decedent's estate is generally construed to mean debts or demands of a pecuniary nature which could have been enforced against the deceased in his lifetime, or liability contracted

by the deceased before his death.[71] Therefore, the claims existing at the time of death are significant to, and should be made the basis of, the determination of allowable deductions.

WHEREFORE, the instant Petition is **GRANTED**. Accordingly, the assailed Decision dated April 30, 1999 and the Resolution dated November 3, 1999 of the Court of Appeals in CA-G.R. S.P. No. 46947 are **REVERSED** and **SET ASIDE**. The Bureau of Internal Revenue's deficiency estate tax assessment against the Estate of Jose P. Fernandez is hereby **NULLIFIED**. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and *Reyes, JJ.*, concur.

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[1] Dated January 20, 2000, *rollo,* pp. 8-20.

[2] Particularly docketed as CA-G.R. SP No. 46947; penned by Associate Justice Marina L. Buzon, with Presiding Justice Jesus M. Elbinias (now retired) and Associate Justice Eugenio S. Labitoria (now retired), concurring; id. at 22-31.

[3] Particularly docketed as CTA Case No. 5116; penned by Associate Judge Ramon O. De Veyra and concurred in by Presiding Judge Ernesto D. Acosta and Associate Judge Amancio Q. Saga; id. at 33-61.

[4] This case was decided before the CTA was elevated by law to the same level as the CA by virtue of Republic Act (RA) No. 9282 otherwise known as "*An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, otherwise known as The Law Creating the Court of Tax Appeals, and for other purposes,*" which was approved on March 30, 2004. Hence, upon its effectivity, decisions of the CTA are now appealable directly to the Supreme Court.

[5] BIR Records, pp. 1-88.

[6] The said petition is entitled: In the Matter of the Petition to Approve the Will of Jose P. Fernandez, Carlos P. Fernandez, Petitioner, particularly docketed as Special Proceedings No. 87-42980; BIR Record, pp. 107-108.

[7] Id. at 126.

[8] Id. at 184.

[9] Id. at 183.

[10] Id. at 182.

[11] Id.

[12] *Rollo,* p. 68.

[13] Id. at 69.

[14] Lists of Personal and Real Properties of Jose; id. at 70-73.

[15] CTA Record, p. 102.

[16] *Rollo*, p. 10.

[17] BIR Records, p. 169.

[18] Id.

[19] Id. at 171.

[20] By then BIR Commissioner Liwayway Vinzons-Chato; id. at 277-278.

[21] CTA Records, pp. 1-7.

[22] *Rollo*, pp. 37-40 (Emphasis supplied).

[23] G.R. No. 116149, November 23, 1995, 250 SCRA 283, 287, citing *People v. Napat-a*, 179 SCRA 403 (1989) and *People v. Mate*, 103 SCRA 484 (1981).

[24] CTA Records, p. 148.

[25] Id. at 166-167.

[26] Id. at 167.

[27] CA *rollo*, pp. 3-17.

[28] Citing Section 16 of the 1993 National Internal Revenue Code.

[29] *Rollo*, pp. 22-31.

[30] Id. at 32.

[31] Id. at 114-115.

[32] Id.

[33] Respondent BIR's Memorandum dated October 16, 2000; id. at 140-144.

[34] *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005, 468 SCRA 571, 588-589.

[35] Supra note 23.

[36] Supra note 23.

[37] *Far East Bank & Trust Company v. Commissioner of Internal Revenue*, G.R. No. 149589, September 15, 2006, 502 SCRA 87; *Ala-Martin v. Sultan*, G.R. No. 117512, October 2, 2001, 366 SCRA 316, citing *Ong v. Court of Appeals*, 301 SCRA 391 (1999), which further cited *Candido v. Court of Appeals*, 253 SCRA 78, 82-83 (1996); *Republic v. Sandiganbayan*, 255 SCRA 438, 456 (1996); *People v. Peralta*, 237 SCRA 218, 226 (1994); *Vda. De Alvarez vs. Court of Appeals*, 231 SCRA 309, 317-318 (1994); and *People v. Cariño, et al.*, 165 SCRA 664, 671 (1988); See also *De los Reyes v. Intermediate Appellate Court*, G.R. No.74768, August 11, 1989, 176 SCRA 394, 401-402 (1989) and *People v. Mate*, supra note 23, at 493.

[38] G.R. No. 137247, August 7, 2006, 498 SCRA 17, 30-31.

[39] Supra note 29, at 91.

[40] Underscoring supplied.

[41] TSN, June 26, 1995.

[42] TSN, July 12, 1995.

[43] Id. at 42-49.

[44] Supra note 29, at 31 and 34, citing *Marmont Resort Hotel Enterprises v. Guiang*, 168 SCRA 373, 379-380 (1988).

[45] *Calamba Steel Center, Inc. (formerly JS Steel Corporation) v. Commissioner of Internal Revenue*, G.R. No. 151857, April 28, 2005, 457 SCRA 482, 494.

[46] *Commissioner of Internal Revenue v. Manila Mining Corporation*, supra note 28, at 593-594.

[47] *Far East Bank & Trust Company v. Commissioner of Internal Revenue,* supra note 29, at 90.

[48] CTA Resolution dated January 19, 1996; CTA Records, p. 113-114.

[49] CTA Records, p. 117.

[50] Id. at 119.

[51] Id. at 120.

[52] CTA Order dated June 17, 1996, CTA Records, p. 138.

[53] G.R. No. 155483, April 27, 2007, 522 SCRA 410, 416, citing *Constantino v. Court of Appeals*, G.R. No. 116018, November 13, 1996, 264 SCRA 59 (Other citations omitted; Emphasis supplied).

[54] *Filinvest Development Corporation v. Commissioner of Internal Revenue and Court of Tax Appeals*, G.R. No. 146941, August 9, 2007, 529 SCRA 605, 609-610, citing *Carrara Marble Philippines, Inc. v. Commissioner of Customs*, 372 Phil. 322, 333-334 (1999) and

Commissioner of Internal Revenue v. Court of Appeals, 358 Phil. 562, 584 (1998).

[55] Article 1231 of the Civil Code of the Philippines provides:

Art. 1231. Obligations are extinguished:

(1) By payment or performance;

(2) By the loss of the thing due;

(3) **By the condonation or remission of the debt**;

(4) By the confusion or merger of the rights of creditor and debtor;

(5) By compensation;

(6) By novation. (Emphasis ours.)

[56] Article 1270 of the Civil Code of the Philippines provides:

Art. 1270. Condonation or remission is essentially gratuitous, and requires the acceptance by the obligor. It may be made expressly or impliedly.

One and the other kind shall be subject to the rules which govern inofficious donations. Express condonation shall, furthermore, comply with the forms of donation.

[57] Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. IV, 1991 ed., p. 353, citing 8 Manresa 365.

[58] SEC. 79. *Computation of net estate and estate tax*. -- For the purpose of the tax imposed in this Chapter, the value of the net estate shall be determined:

(a) In the case of a citizen or resident of the Philippines, by deducting from the value of the gross estate --

(1) *Expenses, losses, indebtedness, and taxes*. -- Such amounts --

(A) For funeral expenses in an amount equal to five *per centum* of the gross estate but in no case to exceed P50,000.00;

(B) For judicial expenses of the testamentary or intestate proceedings;

(C) For claims against the estate; *Provided*, That at the time the indebtedness was incurred the debt instrument was duly notarized and, if the loan was contracted within three years before the death of the decedent, the administrator or executor shall submit a statement showing the disposition of the proceeds of the loan. (As amended by PD No. 1994)

(D) For claims of the deceased against insolvent persons where the value of decedent's interest therein is included in the value of the gross estate; and

(E) For unpaid mortgages upon, or any indebtedness in respect to property, where the value of decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate, but not including any income taxes upon income received after the death of the decedent, or property taxes not accrued before his death, or any estate tax. The deduction herein allowed in the case of claims against the estate, unpaid mortgages, or any indebtedness, shall when founded upon a promise or agreement, be limited to the extent that they were contracted *bona fide* and for an adequate and full reconsideration in money or money's worth. There shall also be deducted losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualties, or from robbery, theft, or embezzlement, when such losses are not compensated for by insurance or otherwise, and if at the time of the filing of the return such losses have not been claimed as a deduction for income tax purposes in an income tax return, and provided that such losses were incurred not later than last day for the payment of the estate tax as prescribed in subsection (a) of Section 84.

[59] This refers to the 1977 National Internal Revenue Code, as amended which was effective at the time of Jose's death on November 7, 1987.

[60] *Commissioner of Internal Revenue v. Court of Appeals*, G.R. No. 123206, March 22, 2000, 328 SCRA 666, 676-677 (citations omitted).

[61] 47B *Corpus Juris Secundum*, Internal Revenue § 533.

[62] *Smith v. C.I.R.*, 82 T.C.M. (CCH) 909 (2001), aff'd 54 Fed. Appx. 413.

[63] 680 F.2d 1248.

[64] 47B *Corpus Juris Secundum*, Internal Revenue § 524.

[65] Prop. Treas. Reg. §. 20.2053-1 (b) (1), published as REG-143316-03.

[66] Supra note 63.

[67] `Smith's Est. v. CIR, 198 F3d 515, 525 (5th Cir. 1999). See also O'Neal's Est. v. US, 228 F. Supp. 2d 1290 (ND Ala. 2002).

[68] 279 U.S. 151, 49 S. Ct. 291, 73 L.Ed. 647 (1929).

[69] *Commissioner of Internal Revenue v. The Court of Appeals, Central Vegetable Manufacturing Co., Inc., and the Court of Tax Appeals*, G.R. No. 107135, February 23, 1999, 303 SCRA 508, 516-517, citing *Province of Bulacan v. Court of Appeals,* 299 SCRA 442 (1998); *Republic v. IAC*, 196 SCRA 335 (1991); *CIR v. Firemen's Fund Ins. Co.*, 148 SCRA 315 (1987); and *CIR v. CA*, 204 SCRA 182 (1991).

[70] *Manila International Airport Authority v. Court of Appeals*, G.R. No. 155650, July 20, 2006, 495 SCRA 591, 619.

[71] *Quirino v. Grospe*, G.R. No. 58797, January 31, 1989, 169 SCRA 702, 704-705, citing *Gabin v. Melliza,* 84 Phil. 794, 796 (1949).
