

Title: Deutsche Bank AG Manila Branch v. Commissioner of Internal Revenue

Facts:

Deutsche Bank AG Manila Branch (petitioner) remitted profits to its head office, Deutsche Bank Germany (DB Germany), and accordingly withheld and paid to the Bureau of Internal Revenue (BIR) a branch profit remittance tax (BPRT) of 15% amounting to PHP 67,688,553.51 for its 2002 and prior taxable years. Later, the petitioner, believing an overpayment had been made, requested a refund of PHP 22,562,851.17. The petitioner also sought confirmation for entitlement to the preferential tax rate of 10% under the Philippines-Germany Tax Treaty.

As the BIR did not act on the claim, the petitioner filed a Petition for Review with the Court of Tax Appeals (CTA) on October 18, 2005. The CTA Second Division denied the claim for a refund, citing noncompliance with the 15-day application rule set by Revenue Memorandum Order (RMO) No. 1-2000. On appeal, the CTA En Banc affirmed the decision, referencing the Supreme Court's denial of a similar petition (Mirant) for not having shown any reversible error, thereby indicating that the BIR ruling must be secured prior to the availment of a preferential tax rate under a tax treaty.

Issues:

1. Whether the failure to strictly comply with Revenue Memorandum Order (RMO) No. 1-2000 will deprive persons or corporations of the benefit of a tax treaty.
2. Whether the principle of *pacta sunt servanda* demands the performance in good faith of treaty obligations over administrative requirements.
3. Whether the CTA erred in denying the claim for a refund based solely on noncompliance with RMO No. 1-2000, an administrative issuance.

Court's Decision:

The Supreme Court granted the petition, reversing and setting aside the decision of the CTA En Banc. The ruling emphasized that treaties have the force and effect of law in the jurisdiction. The court highlighted that tax treaties aim to eliminate double taxation to encourage economic cooperation and that administrative requirements should not negate the availment of relief provided under such treaties.

The Court held that RMO No. 1-2000's intent to require prior application for treaty relief should not divest an entitled taxpayer's right to benefits retrospectively in refund cases. Because the bank paid the BPRT on the regular rate and not on the treaty rate, its later

request for confirmation from the ITAD constituted substantial compliance.

Doctrine:

Treaty obligations must be performed in good faith, with local statutes and administrative issuances aligning appropriately. Administrative requirements, such as a prior application for treaty relief, should not supersede treaty benefits, especially in cases where a taxpayer seeks a refund due to non-availment of a tax treaty relief. The principle of *pacta sunt servanda*, which demands that treaty obligations be performed in good faith, holds precedence over domestic administrative procedures.

Class Notes:

- *Pacta sunt servanda* is the principle that obligates states to adhere to their treaty commitments in good faith (Article 26, Vienna Convention on the Law of Treaties).
- RMO No. 1-2000 prescribes a 15-day prior application for tax treaty relief, which aims to prevent erroneous interpretation/application of treaty provisions and consequent tax disputes.
- Section 229 of the National Internal Revenue Code allows for the recovery of taxes erroneously or illegally collected within a two-year period after payment.

Historical Background:

This case reflects the tension between domestic administrative rules and international commitments under tax treaties. In the backdrop of globalization, countries engage in treaties to remove fiscal barriers, with the overarching goal of preventing double taxation and promoting economic exchanges. The Philippine Supreme Court's decision in this case underscores the importance of upholding the country's international obligations to foster a favorable investment climate and to maintain good international relations, affirming the supremacy of treaties over conflicting domestic administrative requirements in tax matters.