

Title:

****ING Bank N.V. Manila Branch vs. Commissioner of Internal Revenue: A Legal Examination of Tax Amnesty Availment and Withholding Tax Liabilities****

Facts:

ING Bank N.V. Manila Branch (ING Bank), a branch of Internationale Nederlanden Bank N.V. incorporated in the Netherlands and operating in the Philippines, received a Final Assessment Notice on January 3, 2000, for deficiency taxes for taxable years 1996 and 1997. The bank contested ten deficiency tax assessments totaling P672,576,939.18 by filing a Petition for Review with the Court of Tax Appeals (C.T.A. Case No. 6187). While the case was on appeal, ING Bank availed itself of the tax amnesty program under Republic Act No. 9480 for certain liabilities.

Subsequent rulings partially favored ING Bank but still held it liable for (a) deficiency documentary stamp tax for 1996 and 1997, (b) deficiency onshore tax for 1996, and (c) deficiency withholding tax on compensation for 1996 and 1997. ING Bank's motion for reconsideration was denied, leading to an appeal with the Court of Tax Appeals En Banc, which similarly ruled against ING Bank. During its appeal before the Supreme Court, ING Bank filed a Manifestation and Motion, asserting its availment of the government's tax amnesty program.

Issues:

1. Can ING Bank validly avail itself of the tax amnesty granted by Republic Act No. 9480, particularly for its liabilities on deficiency documentary stamp taxes and deficiency tax on onshore interest income for certain years?
2. Is ING Bank liable for deficiency withholding tax on accrued bonuses for the taxable years 1996 and 1997?

Court's Decision:

1. ****Tax Amnesty Availment****: The Supreme Court held that qualified taxpayers with pending tax cases could avail themselves of the tax amnesty program under Republic Act No. 9480. The Court found BIR Revenue Memorandum Circular No. 19-2008, which excluded certain cases from the amnesty, to be invalid as it contravened the law. Thus, ING Bank was entitled to the immunities and privileges granted under the tax amnesty program.
2. ****Withholding Tax on Compensation****: The Court affirmed the liability of ING Bank for deficiency withholding tax on compensation for 1996 and 1997, emphasizing that the

obligation to withhold arises upon the accrual of the bonus, not its actual payment. The Court stated that the bonuses, having been accrued or recorded as an expense, necessitated the corresponding withholding tax liability at the time of accrual.

Doctrine:

1. Qualified taxpayers with pending tax cases can avail themselves of the tax amnesty program under Republic Act No. 9480.
2. The duty to withhold tax on compensation arises upon its accrual, not upon actual payment.

Class Notes:

- **Tax Amnesty**: A legal provision that allows taxpayers to settle outstanding tax liabilities, including penalties and interest, under specific conditions, without facing prosecution.
- **Withholding Tax on Compensation**: A mechanism where the employer deducts a certain amount from the employee's salary as an advance payment of the employee's income tax liability.
- **Accrual Basis**: A method of accounting where income and expenses are recorded when they are earned or incurred, regardless of when the payment is received or made.

Historical Background:

The case of *ING Bank N.V. Manila Branch vs. Commissioner of Internal Revenue* highlights the judiciary's role in interpreting tax laws and its interaction with administrative issuances by the Bureau of Internal Revenue (BIR). It underscores the importance of legislative clarity and administrative adherence to statutory provisions, especially concerning tax amnesty programs designed to encourage compliance and increase revenue collection without litigation.