

Title: ****Commissioner of Internal Revenue vs. East Asia Utilities Corporation****

Facts:

East Asia Utilities Corporation (EAUC), a company registered with the Philippine Economic Zone Authority (PEZA) located in the Mactan Economic Zone and West Cebu Industrial Park-Special Economic Zone, received a Preliminary Assessment Notice from the Commissioner of Internal Revenue (CIR) on July 17, 2009, for a deficiency tax amounting to P5,892,780.71 for the calendar year ending December 2006. Following correspondence and a Formal Letter of Demand, the EAUC paid the deficiency in Expanded Withholding Tax but protested the income tax assessment. On receiving the Final Decision on Disputed Assessment, EAUC filed a Petition for Review with the Court of Tax Appeals (CTA) Division. The CTA Division partially granted the petition, reducing the liability to P612,406.94.

After a series of motions for reconsideration between both parties, the CTA En Banc affirmed the Division's decision. The CIR, represented by different agencies through the process, eventually filed a Petition for Review on Certiorari with the Supreme Court, questioning the CTA En Banc's decision. Notably, procedural questions arose regarding the CIR's representation, forum shopping allegations, and docket number confusions in the Supreme Court filings.

Issues:

1. Whether the enumeration of direct costs deductible from a PEZA-registered enterprise's gross income, as stipulated by Revenue Regulations (RR) No. 11-2005, is exclusive.
2. Whether the expenses allowed as deductions by the CTA are directly related to the rendition of EAUC's PEZA-registered activities.

Court's Decision:

The Supreme Court denied the petition, affirming that the enumeration of direct costs under RR No. 11-2005 is not exclusive and is merely illustrative of the nature and type of expenses that may be deducted. The Court also addressed procedural issues, including allegations of forum shopping and errors in docket number usage, mostly defeating these procedural challenges.

Regarding the substantive tax issue, the Court concluded that the CTA En Banc did not err in its examination of the nature and type of each claimed expense by EAUC relative to its PEZA-registered activities when computing the 5% Gross Income Tax. Furthermore, the Court found the CIR's challenge on the factual correlation of allowed expenses with EAUC's

power generation services inappropriate for a Rule 45 petition where only legal questions are generally entertained.

Doctrine:

This case reaffirms the principle that the enumeration of allowable deductions in taxation regulations, when using the word “include” or similar terminology, signals a non-exclusive list. This case also illustrates the importance of procedural correctness in appellate review, including the proper representation by the Solicitor General in Supreme Court proceedings for governmental entities.

Class Notes:

- **Non-Exclusivity of Enumerations:** In legal interpretations, the usage of “include” or similar terms suggests that listed examples are not exhaustive unless expressly stated otherwise.
- **Proper Representation in Appeals:** For government entities in the Philippines, the Solicitor General is the proper representative before the Supreme Court, emphasizing the procedural aspect of appellate practice.
- **Rule 45 Petitions:** Emphasizes that the Supreme Court generally addresses only questions of law, not factual determinations, stressing the appellate restraint in re-analyzing evidence.

Historical Background:

The backdrop of this case highlights the ongoing complexities and disputes in tax assessments and entitlements of incentives within special economic zones like PEZA, reflecting the intricate balance between promoting economic growth through fiscal incentives and ensuring compliance with tax regulations.