



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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**FEDERAL COURT AWARDS NEW YORK CITY
\$57.6 MILLION IN PROPERTY TAX CASE INVOLVING
INDIA, MONGOLIA AND THE PHILIPPINES**

***RULING FOLLOWS CITY'S VICTORY LAST YEAR IN THE U.S. SUPREME COURT
ESTABLISHING JURISDICTION FOR THE CASE TO BE HEARD BY U.S. COURTS***

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, media@law.nyc.gov

New York, March 18, 2008 – Judge Jed Rakoff of the U.S. District Court for the Southern District of New York ruled late yesterday that India, Mongolia and the Philippines owe New York City more than \$57.6 million in real property taxes and interest, granting the City every dollar that it had sought in its latest court submission – and every dollar that is owed by the foreign governments.

Following a U.S. Supreme Court ruling last year, which held that the Federal District Court had jurisdiction to hear the case, Judge Rakoff held in early February that the governments of India, Mongolia and the Philippines did in fact owe the taxes, which had been outstanding for decades. In his February ruling, Judge Rakoff asked the City to document the exact amount that was owed. Following the submission of legal papers, the judge yesterday awarded:

- \$42.4 million from India
- \$4.3 million from Mongolia
- \$10.9 million from the Philippines
- \$57.6 million TOTAL to New York City

Yesterday, in entering final judgment, the Court rejected the defendants' contentions that they did not have to pay the full amount of interest and that the City's calculations were in error. The monies the court ordered paid included interest through the end of February 2008.

"The Court granted *every* dollar that the City had sought in its latest submission – and every dollar that these countries owe," noted Corporation Counsel Michael A. Cardozo of the New York City Law Department.

"We are very pleased that the rule of law was upheld," he added. "Most countries are good neighbors to New York City. They pay what they owe, like all other New Yorkers who carry their share of the tax burden. However, this ruling sends a message to those trying to avert their obligations that New York City will be vigilant."

Marjorie B. Tiven, Commissioner of the NYC Commission for the United Nations, said: "The United Nations is very important to New York City, and the City welcomes all the foreign missions who own real estate in New York City. However, these countries must pay the taxes the law permits the City to impose,

just like other property owners must pay their taxes.”

She added, “The Courts have now ruled that the Philippines, India and Mongolia must pay taxes for the non-diplomatic uses of their properties. Until they pay, federal legislation passed last year requires the Department of State to withhold 110 percent of the amounts of the judgment from the foreign aid the United States otherwise pays to these countries. It’s time for all foreign governments using diplomatic properties for non-diplomatic purposes to pay their fair share like other New Yorkers.”

The City had taxed portions of Manhattan properties owned by India and Mongolia that were used to house staff of their United Nations missions and consular staff. In its February decision, the Court agreed with the City that under international treaties ratified by the U.S., the portions of foreign government-owned property devoted to such residential use are not exempt from taxation. The Court held that the Vienna Conventions on Consular and Diplomatic Relations limit the residential tax exemption to the residences of the consul general and the ambassador to the UN. Further, the Court rejected the argument by India and Mongolia that “customary international law” mandates a different result.

In the case of the Philippines, the Court also determined that the portion of a Philippines-owned building that was used to house a branch of the Philippines National Bank and the Philippines Airlines was subject to tax, but found in its February decision that a restaurant formerly operated on the property served consular purposes and was therefore tax exempt. There was no dispute that the remainder of the property that is used as the Philippines Mission to the UN and the Philippine Consulate is tax exempt.

Prior to the Federal District Court’s ruling in February, the City had prevailed in June 2007 in the U.S. Supreme Court on the question of whether U.S. courts even had jurisdiction to hear the merits of the City’s tax claims. In its 7-2 ruling – and over the opposition of the U.S. government – the Supreme Court found that the City’s claims could proceed, because they fell within an exception to sovereign immunity afforded to foreign countries under federal and international law. The case was argued before the U.S. Supreme Court by Corporation Counsel Cardozo himself on April 24, 2007.

Although international law prevents the City from seeking to foreclose on the properties to compel payment, the City anticipates that India, Mongolia and the Philippines will honor the judgment. Further, as noted by Commissioner Tiven, a U.S. statute allows the withholding of foreign aid in an amount equal to 110 percent of any outstanding judgment.

John Low-Ber and Brad Snyder of the New York City Law Department worked extensively on the case, joined by Norman Corenthal, on the appeal. Bradford E. Billet, Deputy Commissioner, NYC Commission for the United Nations, Consular Corps and Protocol, originally identified the issue and also worked on the case.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600’s, the Department has an active caseload of 90,000 matters and transactions in 17 legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department’s 690 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit nyc.gov/law.

New York City hosts the largest diplomatic community in the world – the United Nations, 192 permanent missions to the United Nations and 107 consulates. The New York City Commission for the United Nations, Consular Corps and Protocol is the City’s primary liaison to the United Nations, the missions, the consulates and the U.S. Department of State. The Commission, part of the Office of the Mayor, is the point of first contact for City officials with foreign governments and for diplomats on all City matters.

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