



MINISTÉRIO DA FAZENDA
PRIMEIRO CONSELHO DE CONTRIBUINTES

PROCESSO Nº 10.775/000.355/90-13

SESSÃO DE 16 DE JUNHO DE 1993

ACÓRDÃO Nº 105/93

RECURSO - 101.594 - I.R.R.J. - EX. DE 1987

RECORRENTE - EUROPA COMERCIO E REPRESENTAÇÕES LTDA.

RECORRIDA - D.R.F. EM NOVA JUAQUERO

N.S.J.

OMISSÃO DE RECEITA - SALDO PESSOAL DE FAIXA -
Para configuração do ilícito fiscal, em que
pese a presunção legal constante do Artigo
180 do RIR/80, cabe à fiscalização fazer a
prova do considerado ilícito.

Vistos, relatados e discutidos os presentes
autos de recurso interposto por EUROPA COMERCIO E REPRESENTAÇÕES
LTDA.

ACORDAM os Membros da Quinta Câmara do Primeiro
Conselho de Contribuintes, por unanimidade de votos, em
provimento ao recurso, nos termos do relatório e voto que passou
a integrar o presente julgado.

Sala das Sessões, em 16 de Junho de 1993

AFONSO FELIX MATEUS LOURENÇO

- VICE PRESIDENTE
E RELATOR

VISTO EM
SESSÃO DE: 16 SET 1993

RECORRENTE: EUROPA COMERCIO E REPRESENTAÇÕES LTDA.

RECORRIDA: D.R.F. EM NOVA JUAQUERO

Relatório e voto, anexos, do presente julgado, os seguintes
Conselheiros: MÁRCIO MÁRCIO CALDEIRA, VOTO DO RECORRENTE: DRS.
DOUTOR MÁRCIO, VOTO DO RECORRENTE: DOUTOR MÁRCIO, VOTO DO RECORRENTE:
MARCIO DE LIMA, Assento: 1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/1035/1036/1037/1038/1039/1040/1041/1042/1043/1044/1045/1046/1047/1048/1049/1050/1051/1052/1053/1054/1055/1056/1057/1058/1059/1060/1061/1062/1063/1064/1065/1066/1067/1068/1069/1070/1071/1072/1073/1074/1075/1076/1077/1078/1079/1080/1081/1082/1083/1084/1085/1086/1087/1088/1089/1090/1091/1092/1093/1094/1095/1096/1097/1098/1099/1100/1101/1102/1103/1104/1105/1106/1107/1108/1109/1110/1111/1112/1113/1114/1115/1116/1117/1118/1119/1120/1121/1122/1123/1124/1125/1126/1127/1128/1129/1130/1131/1132/1133/1134/1135/1136/1137/1138/1139/1140/1141/1142/1143/1144/1145/1146/1147/1148/1149/1150/1151/1152/1153/1154/1155/1156/1157/1158/1159/1160/1161/1162/1163/1164/1165/1166/1167/1168/1169/1170/1171/1172/1173/1174/1175/1176/1177/1178/1179/1180/1181/1182/1183/1184/1185/1186/1187/1188/1189/1190/1191/1192/1193/1194/1195/1196/1197/1198/1199/1200/1201/1202/1203/1204/1205/1206/1207/1208/1209/1210/1211/1212/1213/1214/1215/1216/1217/1218/1219/1220/1221/1222/1223/1224/1225/1226/1227/1228/1229/1230/1231/1232/1233/1234/1235/1236/1237/1238/1239/1240/1241/1242/1243/1244/1245/1246/1247/1248/1249/1250/1251/1252/1253/1254/1255/1256/1257/1258/1259/1260/1261/1262/1263/1264/1265/1266/1267/1268/1269/1270/1271/1272/1273/1274/1275/1276/1277/1278/1279/1280/1281/1282/1283/1284/1285/1286/1287/1288/1289/1290/1291/1292/1293/1294/1295/1296/1297/1298/1299/1300/1301/1302/1303/1304/1305/1306/1307/1308/1309/1310/1311/1312/1313/1314/1315/1316/1317/1318/1319/1320/1321/1322/1323/1324/1325/1326/1327/1328/1329/1330/1331/1332/1333/1334/1335/1336/1337/1338/1339/1340/1341/1342/1343/1344/1345/1346/1347/1348/1349/1350/1351/1352/1353/1354/1355/1356/1357/1358/1359/1360/1361/1362/1363/1364/1365/1366/1367/1368/1369/1370/1371/1372/1373/1374/1375/1376/1377/1378/1379/1380/1381/1382/1383/1384/1385/1386/1387/1388/1389/1390/1391/1392/1393/1394/1395/1396/1397/1398/1399/1400/1401/1402/1403/1404/1405/1406/1407/1408/1409/1410/1411/1412/1413/1414/1415/1416/1417/1418/1419/1420/1421/1422/1423/1424/1425/1426/1427/1428/1429/1430/1431/1432/1433/1434/1435/1436/1437/1438/1439/1440/1441/1442/1443/1444/1445/1446/1447/1448/1449/1450/1451/1452/1453/1454/1455/1456/1457/1458/1459/1460/1461/1462/1463/1464/1465/1466/1467/1468/1469/1470/1471/1472/1473/1474/1475/1476/1477/1478/1479/1480/1481/1482/1483/1484/1485/1486/1487/1488/1489/1490/1491/1492/1493/1494/1495/1496/1497/1498/1499/1500/1501/1502/1503/1504/1505/1506/1507/1508/1509/1510/1511/1512/1513/1514/1515/1516/1517/1518/1519/1520/1521/1522/1523/1524/1525/1526/1527/1528/1529/1530/1531/1532/1533/1534/1535/1536/1537/1538/1539/1540/1541/1542/1543/1544/1545/1546/1547/1548/1549/1550/1551/1552/1553/1554/1555/1556/1557/1558/1559/1560/1561/1562/1563/1564/1565/1566/1567/1568/1569/1570/1571/1572/1573/1574/1575/1576/1577/1578/1579/1580/1581/1582/1583/1584/1585/1586/1587/1588/1589/1590/1591/1592/1593/1594/1595/1596/1597/1598/1599/1600/1601/1602/1603/1604/1605/1606/1607/1608/1609/1610/1611/1612/1613/1614/1615/1616/1617/1618/1619/1620/1621/1622/1623/1624/1625/1626/1627/1628/1629/1630/1631/1632/1633/1634/1635/1636/1637/1638/1639/1640/1641/1642/1643/1644/1645/1646/1647/1648/1649/1650/1651/1652/1653/1654/1655/1656/1657/1658/1659/1660/1661/1662/1663/1664/1665/1666/1667/1668/1669/1670/1671/1672/1673/1674/1675/1676/1677/1678/1679/1680/1681/1682/1683/1684/1685/1686/1687/1688/1689/1690/1691/1692/1693/1694/1695/1696/1697/1698/1699/1700/1701/1702/1703/1704/1705/1706/1707/1708/1709/1710/1711/1712/1713/1714/1715/1716/1717/1718/1719/1720/1721/1722/1723/1724/1725/1726/1727/1728/1729/1730/1731/1732/1733/1734/1735/1736/1737/1738/1739/1740/1741/1742/1743/1744/1745/1746/1747/1748/1749/1750/1751/1752/1753/1754/1755/1756/1757/1758/1759/1760/1761/1762/1763/1764/1765/1766/1767/1768/1769/1770/1771/1772/1773/1774/1775/1776/1777/1778/1779/1780/1781/1782/1783/1784/1785/1786/1787/1788/1789/1790/1791/1792/1793/1794/1795/1796/1797/1798/1799/1800/1801/1802/1803/1804/1805/1806/1807/1808/1809/1810/1811/1812/1813/1814/1815/1816/1817/1818/1819/1820/1821/1822/1823/1824/1825/1826/1827/1828/1829/1830/1831/1832/1833/1834/1835/1836/1837/1838/1839/1840/1841/1842/1843/1844/1845/1846/1847/1848/1849/1850/1851/1852/1853/1854/1855/1856/1857/1858/1859/1860/1861/1862/1863/1864/1865/1866/1867/1868/1869/1870/1871/1872/1873/1874/1875/1876/1877/1878/1879/1880/1881/1882/1883/1884/1885/1886/1887/1888/1889/1890/1891/1892/1893/1894/1895/1896/1897/1898/1899/1900/1901/1902/1903/1904/1905/1906/1907/1908/1909/1910/1911/1912/1913/1914/1915/1916/1917/1918/1919/1920/1921/1922/1923/1924/1925/1926/1927/1928/1929/1930/1931/1932/1933/1934/1935/1936/1937/1938/1939/1940/1941/1942/1943/1944/1945/1946/1947/1948/1949/1950/1951/1952/1953/1954/1955/1956/1957/1958/1959/1960/1961/1962/1963/1964/1965/1966/1967/1968/1969/1970/1971/1972/1973/1974/1975/1976/1977/1978/1979/1980/1981/1982/1983/1984/1985/1986/1987/1988/1989/1990/1991/1992/1993/1994/1995/1996/1997/1998/1999/2000/2001/2002/2003/2004/2005/2006/2007/2008/2009/2010/2011/2012/2013/2014/2015/2016/2017/2018/2019/2020/2021/2022/2023/2024/2025/2026/2027/2028/2029/2030/2031/2032/2033/2034/2035/2036/2037/2038/2039/2040/2041/2042/2043/2044/2045/2046/2047/2048/2049/2050/2051/2052/2053/2054/2055/2056/2057/2058/2059/2060/2061/2062/2063/2064/2065/2066/2067/2068/2069/2070/2071/2072/2073/2074/2075/2076/2077/2078/2079/2080/2081/2082/2083/2084/2085/2086/2087/2088/2089/2090/2091/2092/2093/2094/2095/2096/2097/2098/2099/2100/2101/2102/2103/2104/2105/2106/2107/2108/2109/2110/2111/2112/2113/2114/2115/2116/2117/2118/2119/2120/2121/2122/2123/2124/2125/2126/2127/2128/2129/2130/2131/2132/2133/2134/2135/2136/2137/2138/2139/2140/2141/2142/2143/2144/2145/2146/2147/2148/2149/2150/2151/2152/2153/2154/2155/2156/2157/2158/2159/2160/2161/2162/2163/2164/2165/2166/2167/2168/2169/2170/2171/2172/2173/2174/2175/2176/2177/2178/2179/2180/2181/2182/2183/2184/2185/2186/2187/2188/2189/2190/2191/2192/2193/2194/2195/2196/2197/2198/2199/2200/2201/2202/2203/2204/2205/2206/2207/2208/2209/2210/2211/2212/2213/2214/2215/2216/2217/2218/2219/2220/2221/2222/2223/2224/2225/2226/2227/2228/2229/2230/2231/2232/2233/2234/2235/2236/2237/2238/2239/2240/2241/2242/2243/2244/2245/2246/2247/2248/2249/2250/2251/2252/2253/2254/2255/2256/2257/2258/2259/2260/2261/2262/2263/2264/2265/2266/2267/2268/2269/2270/2271/2272/2273/2274/2275/2276/2277/2278/2279/2280/2281/2282/2283/2284/2285/2286/2287/2288/2289/2290/2291/2292/2293/2294/2295/2296/2297/2298/2299/2300/2301/2302/2303/2304/2305/2306/2307/2308/2309/2310/2311/2312/2313/2314/2315/2316/2317/2318/2319/2320/2321/2322/2323/2324/2325/2326/2327/2328/2329/2330/2331/2332/2333/2334/2335/2336/2337/2338/2339/2340/2341/2342/2343/2344/2345/2346/2347/2348/2349/2350/2351/2352/2353/2354/2355/2356/2357/2358/2359/2360/2361/2362/2363/2364/2365/2366/2367/2368/2369/2370/2371/2372/2373/2374/2375/2376/2377/2378/2379/2380/2381/2382/2383/2384/2385/2386/2387/2388/2389/2390/2391/2392/2393/2394/2395/2396/2397/2398/2399/2400/2401/2402/2403/2404/2405/2406/2407/2408/2409/2410/2411/2412/2413/2414/2415/2416/2417/2418/2419/2420/2421/2422/2423/2424/2425/2426/2427/2428/2429/2430/2431/2432/2433/2434/2435/2436/2437/2438/2439/2440/2441/2442/2443/2444/2445/2446/2447/2448/2449/2450/2451/2452/2453/2454/2455/2456/2457/2458/2459/2460/2461/2462/2463/2464/2465/2466/2467/2468/2469/2470/2471/2472/2473/2474/2475/2476/2477/2478/2479/2480/2481/2482/2483/2484/2485/2486/2487/2488/2489/2490/2491/2492/2493/2494/2495/2496/2497/2498/2499/2500/2501/2502/2503/2504/2505/2506/2507/2508/2509/2510/2511/2512/2513/2514/2515/2516/2517/2518/2519/2520/2521/2522/2523/2524/2525/2526/2527/2528/2529/2530/2531/2532/2533/2534/2535/2536/2537/2538/2539/2540/2541/2542/2543/2544/2545/2546/2547/2548/2549/2550/2551/2552/2553/2554/2555/2556/2557/2558/2559/2560/2561/2562/2563/2564/2565/2566/2567/2568/2569/2570/2571/2572/2573/2574/2575/2576/2577/2578/2579/2580/2581/2582/2583/2584/2585/2586/2587/2588/2589/2590/2591/2592/2593/2594/2595/2596/2597/2598/2599/2600/2601/2602/2603/2604/2605/2606/2607/2608/2609/2610/2611/2612/2613/2614/2615/2616/2617/2618/2619/2620/2621/2622/2623/2624/2625/2626/2627/2628/2629/2630/2631/2632/2633/2634/2635/2636/2637/2638/2639/2640/2641/2642/2643/2644/2645/2646/2647/2648/2649/2650/2651/2652/2653/2654/2655/2656/2657/2658/2659/2660/2661/2662/2663/2664/2665/2666/2667/2668/2669/2670/2671/2672/2673/2674/2675/2676/2677/2678/2679/2680/2681/2682/2683/2684/2685/2686/2687/2688/2689/2690/2691/2692/2693/2694/2695/2696/2697/2698/2699/2700/2701/2702/2703/2704/2705/2706/2707/2708/2709/2710/2711/2712/2713/2714/2715/2716/2717/2718/2719/2720/2721/2722/2723/2724/2725/2726/2727/2728/2729/2730/2731/2732/2733/2734/2735/2736/2737/2738/2739/2740/2741/2742/2743/2744/2745/2746/2747/2748/2749/2750/2751/2752/2753/2754/2755/2756/2757/2758/2759/2760/2761/2762/2763/2764/2765/2766/2767/2768/2769/2770/2771/2772/2773/2774/2775/2776/2777/2778/2779/2780/2781/2782/2783/2784/2785/2786/2787/2788/2789/2790/2791/2792/2793/2794/2795/2796/2797/2798/2799/2800/2801/2802/2803/2804/2805/2806/2807/2808/2809/2810/2811/2812/2813/2814/2815/2816/2817/2818/2819/2820/2821/2822/2823/2824/2825/2826/2827/2828/2829/2830/2831/2832/2833/2834/2835/2836/2837/2838/2839/2840/2841/2842/2843/2844/2845/2846/2847/2848/2849/2850/2851/2852/2853/2854/2855/2856/2857/2858/2859/2860/2861/2862/2863/2864/2865/2866/2867/2868/2869/2870/2871/2872/2873/2874/2875/2876/2877/2878/2879/2880/2881/2882/2883/2884/2885/2886/2887/2888/2889/2890/2891/2892/2893/2894/2895/2896/2897/2898/2899/2900/2901/2902/2903/2904/2905/2906/2907/2908/2909/2910/2911/2912/2913/2914/2915/2916/2917/2918/2919/2920/2921/2922/2923/2924/2925/2926/2927/2928/2929/2930/2931/2932/2933/2934/2935/2936/2937/2938/2939/2940/2941/2942/2943/2944/2945/2946/2947/2948/2949/2950/2951/2952/2953/2954/2955/2956/2957/2958/2959/2960/2961/2962/2963/2964/2965/2966/2967/2968/2969/2970/2971/2972/2973/2974/2975/2976/2977/2978/2979/2980/2981/2982/2983/2984/2985/2986/2987/2988/2989/2990/2991/2992/2993/2994/2995/2996/2997/2998/2999/3000/3001/3002/3003/3004/3005/3006/3007/3008/3009/3010/3011/3012/3013/3014/3015/3016/3017/3018/3019/3020/3021/3022/3023/3024/3025/3026/3027/3028/3029/3030/3031/3032/3033/3034/3035/3036/3037/3038/3039/3040/3041/3042/3043/3044/3045/3046/3047/3048/3049/3050/3051/3052/3053/3054/3055/3056/3057/3058/3059/3060/3061/3062/3063/3064/3065/3066/3067/3068/3069/3070/3071/3072/3073/3074/3075/3076/3077/3078/3079/3080/3081/3082/3083/3084/3085/3086/3087/3088/3089/3090/3091/3092/3093/3094/3095/3096/3097/3098/3099/3100/3101/3102/3103/3104/3105/3106/3107/3108/3109/3110/3111/3112/3113/3114/3115/3116/3117/3118/3119/3120/3121/3122/3123/3124/3125/3126/3127/3128/3129/3130/3131/3132/3133/3134/3135/3136/3137/3138/3139/3140/3141/3142/3143/3144/3145/3146/3147/3148/3149/3150/3151/3152/3153/3154/3155/3156/3157/3158/3159/3160/3161/3162/3163/3164/3165/3166/3167/3168/3169/3170/3171/3172/3173/3174/3175/3176/3177/3178/3179/3180/3181/3182/3183/3184/3185/3186/3187/3188/3189/3190/3191/3192/3193/3194/3195/3196/3197/3198/3199/3200/3201/3202/3203/3204/3205/3206/3207/3208/3209/3210/3211/3212/3213/3214/3215/3216/3217/3218/3219/3220/3221/3222/3223/3224/3225/3226/3227/3228/3229/3230/3231/3232/3233/3234/3235/3236/3237/3238/3239/3240/3241/3242/3243/3244/3245/3246/3247/3248/3249/3250/3251/3252/3253/3254/3255/3256/3257/3258/3259/3260/3261/3



PROCESSO Nº: 10.735/002.355/90-13

RECURSO Nº: 101.594

ACÓRDAO Nº: 105-7.521

RECORRENTE: EUROPA COMÉRCIO E REPRESENTAÇÕES LTDA.

RELATÓRIO

EUROPA COMÉRCIO E REPRESENTAÇÕES LTDA,
contribuinte jurisdicionada à D.R.F. em Nova Iguaçu/RJ, recorre a
este Conselho pleiteando a reforma da decisão de primeiro grau.

Em consequência de ação fiscal iniciada em
18/06/90, foi lavrado o Auto de Infração de fls. 01, com data de
26/11/90, exigido um crédito tributário no montante de 8.214,74
BTNF, em virtude da não comprovação da destinação dos cheques
abaixo relacionados, cujos valores foram considerados pela
fiscalização como pagamentos não escriturados nos registros
regulares da fiscalizada em decorrência da insuficiência de saldo
na "CONTA CAIXA", caracterizando assim a omissão de receita
prevista no artigo 180 do RIR/80, a saber:

BANCO ITAÚ S/A

DOC. Nº 224391.....	CZ\$ 100.000,00
DOC. Nº 224215.....	CZ\$ 89.288,00
DOC. Nº 224230.....	CZ\$ 137.805,00
DOC. Nº 224238.....	CZ\$ 104.420,00
TOTAL.....	CZ\$ 431.513,00



PROCESSO Nº 10.735/002.355/90-13

ACÓRDÃO Nº 105-7.521

O Auto de Infração teve como fundamento legal os artigos 157 - par. 1º, 158, 180 e 387 - II do RIR/80.

Dentro do prazo a contribuinte apresentou a impugnação de fls. 27/28 alegando que o autuante não considerou válidos alguns documentos que traduzem operações comerciais da empresa e estão devidamente contabilizados no livro diário, como diz comprovar:

- cheque nº 224.391 - CZ\$ 100.000,00 do Banco Itaú S/A: refere-se ao pagamento do empréstimo feito ao Sr. Abdala Chelid Felipe, conforme se comprova pela declaração por ele firmada (fls. 31) e a cópia fotostática do cheque, de igual valor emitido pela empresa e por ele depositado em sua conta corrente, nº 100829 1, do Banco Real (fls. 32).

- cheque nº 224215 - CZ\$ 89.208,00 do Banco Real S/A: refere-se ao pagamento pela impugnação, à ENSO BRASIL FIRA DE PETROLIO S/A, da duplicata nº 420.46, de 10/12/89, devidamente contabilizado as fls. 37 do livro diário nº 06.1000 - fls. 33.

- cheque nº 224.100 - CZ\$ 212.805,00 do Banco Real S/A: refere-se ao pagamento à ENSO BRASIL FIRA DE PETROLIO S/A, da duplicata nº 472.179 de 17/12/89, contabilizado as fls. 37 do livro diário nº 06.1000 - fls. 34.

- cheque nº 226238 - CZ\$ 104.420,00 do Banco Real S/A: refere-se ao pagamento à ENSO BRASIL FIRA DE PETROLIO S/A,



MINISTÉRIO DA FAZENDA
PRIMEIRO CONSELHO DE CONTRIBUINTES

4

PROCESSO Nº 10.135/002.350/90-14

ACÓRDÃO Nº 105-7.521

da duplicata nº 4/3564 de 20/12/86, contabilizado es fls. 37 do livro diário nº 06 (doc. 7, fls. 35).

Requer, caso não sejam aceitos os documentos acima, a realização de perícia, a fim de comprovar a veracidade dos mesmos.

Contradita fiscal às fls. 37, constatando que 3 (três) dos cheques em questão, nos valores de Cr\$ 89.286,00, Cr\$ 137.805,00 e Cr\$ 104.420,00 tem sua destinação comprovada, conforme extrato bancário de fls. 17/18.

Conclui pela manutenção parcial do Auto de Infração, considerando como nova base de cálculo o valor de Cr\$ 100.000,00, referente ao documento 224391, não comprovado pelo contribuinte.

Decisão de primeiro grau às fls. 38/39 mantendo o lançamento em parte e excluindo da base de cálculo da exigência a importância de Cr\$ 331.513,00 e mantendo a atuação sobre a parte restante. A autoridade julgadora indeferiu o pedido de perícia, por desnecessária, afirmando que o presente processo permite a análise da questão.

Orienta em 31/03/91, o contribuinte interpor o recurso voluntário de fls. 43/44 protocolizado em 20/07/91. A recorrente reitera as argumentações expendidas na representação quanto ao valor excludo.

o relator.



MINISTÉRIO DA FAZENDA
PRIMEIRO CONSELHO DE CONTRIBUINTES

PROCESSO Nº 10.735/002.359/20-11

ACÓRDÃO Nº 100-7.521

V O T O

Conselheiro AFONSO CELSO MATTOS LOURENÇO, Relator:

Recurso tempestivo, dele tomado conhecimento.

Em análise evidência inerente à emissão de receitas, por uma considerada insuficiência de saldo na conta caixa, em razão da falta de justificativa satisfatória de pagamentos de cheques relacionados pela fiscalização.

O termo de verificação de fls. 9, em resumo, assim descreve o fato tido como ilícito: "Constatou a falta de justificativa satisfatória quanto à destinação dos cheques abaixo relacionados, cujos valores foram considerados pela fiscalização como pagamentos não escriturados nos registros regulares da fiscalizada, em decorrência da insuficiência de saldo na conta caixa, caracterizando assim a omissão de receita prevista no artigo 180 do RIR/98".

Após os esclarecimentos do contribuinte, constatou-se a sua falta de impugnação, e informando formalmente a decisão "Assim, sendo a favor da manutenção por este Conselho da infração, considerando como multa de cálculo o valor de R\$ 150.000, referente ao documento 234.391, não comprovado pelo contribuinte".



MINISTÉRIO DA FAZENDA
PRIMEIRO CONSELHO DE CONTRIBUINTES

PROCESSO Nº 10.735/002.355/90-14

ACÓRDÃO Nº 100-7.521

A decisão administrativa de 1ª instância, em singelos dois "considerandos" analisou a questão, mantendo a exigência na forma parcial sugerida pelo autuante, com base na seguinte consideração:

"Que a autuada não comprovou a destinação do cheque nº 224.491, no valor de CR\$ 100.000,".

Do exposto, depreende-se claramente que não restou devidamente descrito o fato considerado como ilícito fiscal, face às incipientes, resumidas e incompletas manifestações das autoridades fiscalizadoras.

No corpo do processo existe uma indicação quanto a uma eventual insuficiência de saldo na conta "caixa", sendo que o mesmo não restou em nenhum momento descrito, informado ou comprovado pelas autoridades fiscalizadoras.

Ademais, a partir do lançamento, a linha mestra da posição fiscal foi no sentido da comprovação dos pagamentos efetuados. Ora, comprovação de pagamento pelo simples questionamento no âmbito da verificação da necessidade, validade ou legitimidade de algum dispêndio, não importa com violação única e exclusiva à obrigação de receitas, mas ainda com o saldo credor de caixa. Neste ilícito, ou seja, o saldo credor de caixa, cabente a fiscalização, de forma alguma precisa e inegavelmente, demonstrar a efetiva insuficiência da conta caixa, o que não foi realizado nos presentes autos.



MINISTÉRIO DA FAZENDA
PRIMEIRO CONSELHO DE CONTRIBUINTES

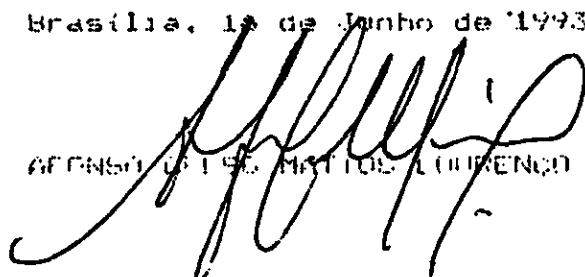
PROCESSO Nº 10.735/0-12.359/70-13

ACÓRDÃO Nº 108 2 521

Por todo o exposto, vota-se vencido o acórdão
proviniente ao recurso.

e o meu voto.

Brasília, 18 de Junho de 1993.


AFONSO CÉSAR MATTOS LOURENÇO

RELATOR