



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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COMMISSIONER OF INTERNAL
REVENUE,

G.R. No. 211449

Petitioner,

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
REYES, J. JR., and
HERNANDO, JJ.

TRANSFIELD
INC.,

PHILIPPINES,

Promulgated:

Respondent.

16 JAN 2019

X ----- X

DECISION

REYES, J. JR., J.:

Assailed in this petition for review on *certiorari* are the August 5, 2013 Decision¹ and the February 19, 2014 Resolution² of the Court of Tax Appeals (CTA) *En Banc* in CTA EB Case No. 907 which affirmed the February 28, 2012 Amended Decision³ and the May 14, 2012 Resolution⁴ of the CTA First Division in CTA Case No. 7842.

* Additional Member per S.O. No. 2630 dated December 18, 2018.

¹ Penned by Associate Justice Cielito N. Mindaro-Grulla, with Presiding Justice Roman G. Del Rosario, Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Amelia R. Cotangco-Manalastas and Ma. Belen M. Ringpis-Liban, concurring; *rollo*, pp. 48-58.

² Id. at 59-68.

³ Penned by Associate Justice Esperanza R. Fabon-Victorino, with Presiding Justice Ernesto D. Acosta and Associate Justice Erlinda P. Uy, concurring; id. at 243-261.

⁴ Id. at 280-286.

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The Antecedents

On May 30, 2007, respondent Transfield Philippines, Inc. (respondent) received copies of Final Assessment Notice (FAN) Nos. LTDO-122-IT-2002-00014, LTDO-122-WE-2002-00011, LTDO-122-VT-2002-00012, and LTDO-122-PEN-2002-00002 issued by petitioner Commissioner of Internal Revenue (CIR), through Nestor S. Valeroso, Officer-in-Charge, Assistant Commissioner for the Large Taxpayers Service.⁵ Respondent was assessed the total sum of ₱563,168,996.70 for deficiency income tax, Expanded Withholding Tax (EWT), and Value-Added Tax (VAT), inclusive of interest and compromise penalties for the Fiscal Year July 1, 2001 to June 30, 2002. The details of the assessments are as follows:

Kind of Tax	Basic	Interest	Compromise	Total
Income Tax	291,320,169.28	271,335,605.67	25,000.00	562,680,774.95
EWT	66,497.56	69,996.28	14,000.00	150,493.84
VAT	147,156.30	164,071.61	24,500.00	335,727.91
VAT penalty			2,000.00	2,000.00
Total	291,533,823.14	271,569,673.56	65,500.00	563,168,996.70

On June 5, 2007, respondent filed a protest with the Bureau of Internal Revenue (BIR).⁶ Without acting on respondent's protest, the BIR issued the First Collection Letter⁷ dated August 3, 2007, demanding immediate payment of the assessments. Respondent received a copy of the First Collection Letter on August 28, 2007.

Then, on January 17, 2008, petitioner constructively served a Final Notice Before Seizure⁸ dated December 20, 2007, to respondent's office.

On February 29, 2008, respondent availed of the benefits of Republic Act (R.A.) No. 9480 by submitting the following documents to the Development Bank of the Philippines (DBP), an authorized agent bank of the BIR: 1) Notice of Availment of Tax Amnesty; 2) Tax Amnesty Return (BIR Form No. 2116); 3) Statement of Assets, Liabilities and Net Worth (SALN) as of December 31, 2005; and 4) Tax Amnesty Payment Form (BIR Form No. 0617). On the same day, respondent paid the BIR, through DBP, an amnesty tax in the amount of ₱112,500.00. On April 23, 2008, respondent paid ₱2,000.00 to the BIR in relation to FAN No. LTDO-122-PEN-2002-

⁵ Id. at 113-116.

⁶ Id. at 117.

⁷ Id. at 118.

⁸ Id. at 119.

00002 for compromise penalties on alleged failure to file summary of sales and purchase from the first and second quarters of 2002.

On May 5, 2008, respondent informed the BIR Large Taxpayers District Office (LTDO) of Makati City in a letter dated April 28, 2008, that it availed of the benefits of R.A. No. 9480 and furnished the LTDO with copies of the tax amnesty documents.⁹ The said letter was received by the BIR LTDO of Makati City on the same day.

On July 10, 2008, petitioner wrote respondent, advising the latter that under Revenue Memorandum Circular (RMC) No. 19-2008, those “with delinquent accounts/accounts receivable considered as assets of the BIR/ Government, including self-assessed tax,” are not allowed to avail of the benefits of R.A. No. 9480.¹⁰

On September 8, 2008, petitioner issued a Warrant of Distrainment and/or Levy (WDAL) directing the seizure of respondent’s goods, chattels or effects, and other personal properties, and/or levy of its real property and interest in/or rights to real property to the extent of ₱563,168,996.70.¹¹ A copy of the WDAL was constructively served on respondent’s offices on September 11, 2008. On the same day, the Bank of the Philippine Islands (BPI) informed respondent that the latter’s account was being put on hold because of the WDAL.

The CTA First Division Ruling

In an Amended Decision¹² dated February 28, 2012, the CTA First Division ruled that the CTA has jurisdiction not only over decisions or inactions of the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, but also over other matters arising under the National Internal Revenue Code (NIRC) or other laws administered by the BIR. It declared that petitioner is already barred from collecting from respondent the alleged tax liabilities because it is undisputed that respondent had complied with all the legal requirements pertaining to its application for tax amnesty by submitting to the BIR its Notice of Availment of Tax Amnesty, Tax Amnesty Return, SALN, and Tax Amnesty Payment Form together with the BIR Tax Payment Deposit Slip evidencing payment of amnesty tax amounting to ₱112,500.00. The CTA First Division added that when respondent complied with all the requirements of R.A. No. 9480, it is deemed to have settled in full all its tax liabilities for the years covered by the tax amnesty. It held that the July 10, 2008 Letter of petitioner is void as it disqualifies respondent

⁹ Id. at 120-121.

¹⁰ Id. at 122.

¹¹ Id. at 123.

¹² Supra note 3.

from availing of the immunity from payment of tax liabilities under R.A. No. 9480 on the ground that its account has been considered delinquent or receivable asset of the government, which reason is not in consonance with the provisions of R.A. No. 9480. The *fallo* reads:

WHEREFORE, the Motion for Reconsideration (from the Decision dated 20 September 2011) dated October 11, 2011 filed by petitioner is hereby **GRANTED**.

Consequently, the Warrant of Distrain and/or Levy dated September 08, 2008 is hereby declared **NULL and VOID** and of no legal effect. Respondent is now precluded from collecting the amount of P563,168,996.70, representing petitioner's tax liability for taxable year 2002, which is deemed settled.

SO ORDERED.¹³

Petitioner moved for reconsideration, but the same was denied by the CTA First Division in a Resolution¹⁴ dated May 14, 2012. Aggrieved, petitioner filed a petition for review before the CTA *En Banc*.

The CTA En Banc Ruling

In a Decision¹⁵ dated August 5, 2013, the CTA *En Banc* opined that it has jurisdiction to rule on the petition because it is not an appeal of the disputed assessment which is subject to a reglementary period, but it is a case to determine whether the issuance of the WDAL is proper. It added that the issue to be addressed is not the timeliness of the protest, but rather, whether petitioner may validly collect taxes from respondent despite the latter having availed of the tax amnesty. The CTA *En Banc* concluded that respondent properly availed of the immunity from payment of taxes under R.A. No. 9480, and as such, the issuance of a WDAL was invalid, which justified the filing of a petition within 30 days from receipt of the warrant. It disposed the case in this wise:

WHEREFORE, the petition is **DENIED**. The Amended Decision dated February 28, 2012, rendered by the First Division of this Court in CTA Case No. 7842, and its Resolution dated May 14, 2012 are **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.¹⁶

¹³ Id. at 260.

¹⁴ Id. at 280-286.

¹⁵ Supra, note 1.

¹⁶ Id. at 56-57.

Petitioner moved for reconsideration, but the same was denied by the CTA *En Banc* on February 19, 2014. Hence, this petition for review on *certiorari*, wherein petitioner raises the following issues:

- I. WHETHER THE CTA COMMITTED REVERSIBLE ERROR WHEN IT ASSUMED JURISDICTION OVER THE CASE.
- II. WHETHER THE CTA COMMITTED REVERSIBLE ERROR WHEN IT RULED THAT RESPONDENT IS ENTITLED TO THE IMMUNITIES UNDER THE TAX AMNESTY PROGRAM PROVIDED IN REPUBLIC ACT NO. 9480.¹⁷

Petitioner argues that Section 9 of R.A. No. 9282 provides that a party adversely affected by a decision, ruling or inaction of the CIR may file an appeal with the CTA within 30 days after the receipt of such decision or ruling; that the 30-day period for filing an appeal with the CTA should be reckoned from respondent's receipt of the Final Notice Before Seizure, or at the latest, its receipt of the Letter dated July 10, 2008; that it is erroneous to consider receipt of the WDAL as the date of reckoning the period to file an appeal to the CTA because the WDAL is merely a means, an instrument, or a mechanism to implement the Final Notice Before Seizure, or at the latest, the July 10, 2008 Letter; that whatever decision, action, or ruling petitioner had with respect to respondent's claims and/or defenses was set forth in the aforementioned issuances and not in the WDAL; and that in providing for the exception that delinquent accounts, or accounts receivable considered assets of the government are not eligible under the tax amnesty program, RMC No. 19-2008 merely supplied the gap in the law where assessments have become final and incontestable upon the lapse of the reglementary period for appeal.¹⁸

In its Comment,¹⁹ respondent counters that the CTA is vested with jurisdiction to determine whether a taxpayer is immune from the payment of taxes insofar as it is given the exclusive appellate jurisdiction to review by appeal matters arising from the laws administered by the BIR such as tax amnesty statutes; that in *Pantoja v. David*,²⁰ the Court ruled that petitions for the annulment of distraint orders of the BIR do not violate the prohibition against injunctions to restrain the collection of taxes because the proceedings were not directed against the right of the BIR to collect *per se*, but against the right of the BIR to do so by distraint and levy; that while it did not file any petition for review from its receipt of the Final Notice Before Seizure, or the July 10, 2008 Letter, it availed of the tax amnesty on February 29, 2008 by complying with the requirements of R.A. No. 9480; that in *CS Garment*,

¹⁷ Id. at 28.

¹⁸ Id. at 22-42.

¹⁹ Id. at 297-327.

²⁰ 111 Phil. 197, 199-200 (1961).

Inc. v. Commissioner of Internal Revenue,²¹ the Court ruled that a taxpayer immediately enjoys the immunities granted by R.A. No. 9480 as soon as the taxpayer complies with the conditions under the law and the BIR may not prevent or delay a taxpayer from immediately enjoying immunity from the payment of taxes by making the tax amnesty application contingent on the BIR's confirmation or agreement; that in *Union Bank of the Philippines v. Commissioner of Internal Revenue*,²² decided by the CTA, the latter held that Section 4 of R.A. No. 9480 limits petitioner's remedy to assailing the taxpayer's SALN within a period of one year from the date of filing; that after the one-year period mandated by R.A. No. 9480, the tax amnesty could no longer be disputed by the BIR; and that to allow petitioner to enforce collection of assessments covered by the amnesty availed by respondent through the perfunctory and summary issuance of a WDAL would sanction a disregard of the law, and to punish respondent for its compliance therewith.

In its Reply,²³ petitioner contends that the July 10, 2008 Letter was the adverse decision or ruling appealable to the CTA and respondent's receipt of the letter is the proper reckoning point for filing a petition for review with the CTA; that respondent received the said letter on August 5, 2008, thus, it was already apprised of petitioner's adverse decision regarding its application for tax amnesty at that time; that respondent had until September 4, 2008 to appeal the decision, however, respondent's petition for review was filed with the CTA only on October 10, 2008; and that assessments which have become final and executory upon the taxpayer's failure to appeal therefrom are outside the coverage of R.A. No. 9480.

The Court's Ruling

I.

A tax amnesty operates as a general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law. It is an absolute forgiveness or waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate. A tax amnesty, much like a tax exemption, is never favored nor presumed in law. The grant of a tax amnesty is akin to a tax exemption; thus, it must be construed strictly against the taxpayer and liberally in favor of the taxing authority.²⁴

On May 24, 2007, R.A. No. 9480 took effect and authorized the grant of a tax amnesty to qualified taxpayers for all national internal revenue taxes

²¹ 729 Phil. 253 (2014).

²² CTA Case No. 7874, March 29, 2011; *rollo*, p. 315.

²³ *Rollo*, pp. 337-343.

²⁴ *Commissioner of Internal Revenue v. Marubeni Corporation*, 423 Phil. 862, 874 (2001).

for the taxable year 2005 and prior years, with or without assessments duly issued therefor, that have remained unpaid as of December 31, 2005.²⁵ The pertinent provisions of R.A. No. 9480 are:

SEC. 1. *Coverage.* — There is hereby authorized and granted a tax amnesty which shall cover all national internal revenue taxes for the taxable year 2005 and prior years, **with or without assessments duly issued therefor**, That have remained unpaid as of December 31, 2005: *Provided, however*, that the amnesty hereby authorized and granted shall not cover persons or cases enumerated under Section 8 hereof.

x x x x

SEC. 6. *Immunities and Privileges.* — Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

(a) **The taxpayer shall be immune from the payment of taxes**, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years. (Emphases supplied)

x x x x

To implement R.A. No. 9480, the Department of Finance (DOF) issued DOF Department Order No. 29-07 (DO 29-07). Section 6 thereof outlines the method for availing a tax amnesty under R.A. No. 9480, *viz.*:

SEC. 6. *Method of Availment of Tax Amnesty.*

1. *Forms/Documents to be filed.* — To avail of the general tax amnesty, concerned taxpayers shall file the following documents/requirements:

a. Notice of Availment in such form as may be prescribed by the BIR;

b. Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005 in such [form], as may be prescribed by the BIR;

c. Tax Amnesty Return in such form as may be prescribed by the BIR.

2. *Place of Filing of Amnesty Tax Return.* — The Tax Amnesty Return, together with the other documents stated in Sec. 6 (1) hereof, shall be filed as follows:

²⁵ Republic Act No. 9480, Sec. 1.

a. Residents shall file with the Revenue District Officer (RDO)/Large Taxpayer District Office of the BIR which has jurisdiction over the legal residence or principal place of business of the taxpayer, as the case may be.

b. Non-residents shall file with the office of the Commissioner of the BIR, or with the RDO.

c. At the option of the taxpayer, the RDO may assist the taxpayer in accomplishing the forms and computing the taxable base and the amnesty tax payable, but may not look into, question or examine the veracity of the entries contained in the Tax Amnesty Return, [SALN], or such other documents submitted by the taxpayer.

3. *Payment of Amnesty Tax and Full Compliance.* — Upon filing of the Tax Amnesty Return in accordance with Sec. 6 (2) hereof, the taxpayer shall pay the amnesty tax to the authorized agent bank or in the absence thereof, the Collection Agents or duly authorized Treasurer of the city or municipality in which such person has his legal residence or principal place of business.

The RDO shall issue sufficient Acceptance of Payment Forms, as may be prescribed by the BIR for the use of — or to be accomplished by — the bank, the collection agent or the Treasurer, showing the acceptance by the amnesty tax payment. In case of the authorized agent bank, the branch manager or the assistant branch manager shall sign the acceptance of payment form.

The Acceptance of Payment Form, the Notice of Availment, the SALN, and the Tax Amnesty Return shall be submitted to the RDO, which shall be received only after complete payment. **The completion of these requirements shall be deemed full compliance with the provisions of [R.A. No.] 9480. x x x (Emphasis supplied)**

In this case, it remains undisputed that respondent complied with all the requirements pertaining to its application for tax amnesty by submitting to the BIR a Notice of Availment of Tax Amnesty, Tax Amnesty Return, SALN as of December 31, 2005 and Tax Amnesty Payment Form. Further, it paid the corresponding amnesty taxes. Hence, respondent has successfully availed itself of the tax amnesty benefits granted under R.A. No. 9480 which include immunity from “the appurtenant civil, criminal, or administrative penalties under the NIRC of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.”

II.

The CIR, however, insists that respondent is still liable for deficiency taxes, contending that under RMC No. 19-2008, respondent is disqualified to

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avail of the tax amnesty because it falls under the exception of “delinquent accounts or accounts receivable considered as assets by the BIR or the Government, including self-assessed tax.” In *Commissioner of Internal Revenue v. Philippine Aluminum Wheels, Inc.*,²⁶ petitioner therein raised a similar argument which the Court did not sustain and instead ruled that “in case there is a discrepancy between the law and a regulation issued to implement the law, the law prevails because the rule or regulation cannot go beyond the terms and provisions of the law. x x x To give effect to the exception under RMC No. 19-2008 of delinquent accounts or accounts receivable by the BIR, as interpreted by the BIR, would unlawfully create a new exception for availing of the Tax Amnesty Program under [R.A. No.] 9480.”²⁷

Moreover, it must be noted that under Section 8 of R.A. No. 9480, only the following persons are disqualified from availing of the tax amnesty:

SEC. 8. *Exceptions.* — x x x

- (a) Withholding agents with respect to their withholding tax liabilities;
- (b) Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
- (c) Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;
- (d) Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
- (e) Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and
- (f) Tax cases subject of final and executory judgment by the courts.²⁸

It is a basic precept of statutory construction that the express mention of one person, thing, act, or consequence excludes all others as expressed in the maxim *expressio unius est exclusio alterius*. In implementing tax amnesty laws, the CIR cannot now insert an exception where there is none under the law. Indeed, a tax amnesty must be construed strictly against the taxpayer and liberally in favor of the taxing authority. However, the rule-making

²⁶ G.R. No. 216161, August 9, 2017, 836 SCRA 645.

²⁷ Id. at 656.

²⁸ Republic Act No. 9480, Section 8.

power of administrative agencies cannot be extended to amend or expand statutory requirements or to embrace matters not originally encompassed by the law. Administrative regulations should always be in accord with the provisions of the statute they seek to implement, and any resulting inconsistency shall be resolved in favor of the basic law.²⁹

III.

As regards the issue on the propriety and timeliness of the petition for review, suffice it to say that in this case, the reckoning point of the 30-day period to appeal the assessments is immaterial because the assessments have already been extinguished by respondent's compliance with the requirements for tax amnesty under R.A. No. 9480. To sustain petitioner's contention that respondent should have elevated an appeal to the CTA when it received the Final Notice Before Seizure, or at most, when it received the July 10, 2008 Letter of the BIR, would lead to an absurd and unjust situation wherein the taxpayer avails of the benefits of a tax amnesty law, yet the BIR still issues a WDAL simply because the taxpayer did not appeal the assessment to the CTA. The requirement of filing an appeal with the CTA even after the taxpayer has already complied with the requirements of the tax amnesty law negates the amnesty granted to the taxpayer and creates a condition which is not found in the law. It is worthy to note that respondent filed a protest to the assessments, but because of the passage of R.A. No. 9480, it no longer pursued its legal remedies against the assessments. Thus, respondent cannot be faulted for filing a petition for review with the CTA only upon receipt of the WDAL for it rightfully relied on the provision of R.A. No. 9480 that "those who availed themselves of the tax amnesty x x x, and have fully complied with all its conditions x x x shall be immune from the payment of taxes x x x." Finally, in *CS Garment, Inc. v. Commissioner of Internal Revenue*,³⁰ the Court pronounced that taxpayers may immediately enjoy the privileges and immunities under R.A. No. 9480 as soon as they fulfill the suspensive condition imposed therein, *i.e.*, submission of 1) Notice of Availment of Tax Amnesty Form; 2) Tax Amnesty Return Form (BIR Form No. 2116); 3) SALN as of December 31, 2005; and 4) Tax Amnesty Payment Form (Acceptance of Payment Form or BIR Form No. 0617). In fine, the deficiency taxes for Fiscal Year July 1, 2001 to June 30, 2002 are deemed settled in view of respondent's compliance with the requirements for tax amnesty under R.A. No. 9480.

²⁹ *CS Garment, Inc. v. Commissioner of Internal Revenue*, supra note 21, at 275.


³⁰ *Id.*

WHEREFORE, the petition is **DENIED**. The August 5, 2013 Decision and the February 19, 2014 Resolution of the Court of Tax Appeals in CTA EB Case No. 907 are **AFFIRMED**.

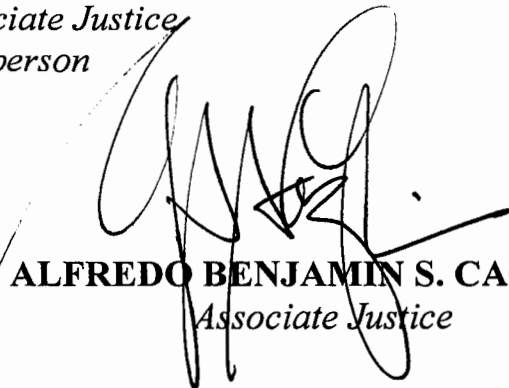
SO ORDERED.

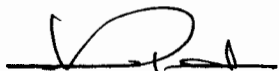

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice

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