



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COMMISSIONER OF INTERNAL
REVENUE,

Petitioner,

- versus -

PHILIPPINE ALUMINUM WHEELS,
INC.,

Respondent.

G.R. No. 216161

Present:

CARPIO, *J.*, Chairperson,
PERALTA,
MENDOZA,
LEONEN, and
MARTIRES, *JJ.*

Promulgated:

09 AUG 2017

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DECISION

CARPIO, *J.*:

The Case

Before the Court is a petition for review on certiorari¹ assailing the 19 May 2014 Decision² and the 5 January 2015 Resolution³ of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 994.

The CTA *En Banc* affirmed the Decision of the CTA First Division ordering the cancellation and withdrawal of the deficiency tax assessments issued by the Commissioner of Internal Revenue (CIR) against Philippine Aluminum Wheels, Inc. (respondent).

¹ *Rollo*, pp. 10-24. Under Rule 45 of the Rules of Court.

² *Id.* at 29-40. Penned by Associate Justice Ma. Belen M. Ringpis-Liban, with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda Jr., Lovell R. Bautista, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas concurring. Associate Justices Erlinda P. Uy and Caesar A. Casanova were on leave.

³ *Id.* at 41-43.

The Facts

Respondent is a corporation organized and existing under Philippine laws which engages in the manufacture, production, sale, and distribution of automotive parts and accessories. On 16 December 2003, the Bureau of Internal Revenue (BIR) issued a Preliminary Assessment Notice (PAN) against respondent covering deficiency taxes for the taxable year 2001.⁴ On 28 March 2004, the BIR issued a Final Assessment Notice (FAN) against respondent in the amount of ₱32,100,613.42.⁵ On 23 June 2004, respondent requested for reconsideration of the FAN issued by the BIR. On 8 November 2006, the BIR issued a Final Decision on Disputed Assessment (FDDA) and demanded full payment of the deficiency tax assessment from respondent.⁶ On 12 April 2007, the FDDA was served through registered mail.

On 19 July 2007, respondent filed with the BIR an application for the abatement of its tax liabilities under Revenue Regulations No. 13-2001 for the taxable year 2001.⁷ In a letter dated 12 September 2007,⁸ the BIR denied respondent's application for tax abatement on the ground that the FDDA was already issued by the BIR and that the FDDA had become final and executory due to the failure of the respondent to appeal the FDDA with the CTA. The BIR contended that the FDDA had been sent through registered mail on 12 April 2007 and that the FDDA had become final, executory, and demandable because of the failure of the respondent to appeal the FDDA with the CTA within thirty (30) days from receipt of the FDDA.

In a letter dated 19 September 2007,⁹ respondent informed the BIR that it already paid its tax deficiency on withholding tax amounting to ₱736,726.89 through the Electronic Filing and Payment System of the BIR and that it was also in the process of availing of the Tax Amnesty Program under Republic Act No. 9480 (RA 9480) as implemented by Revenue Memorandum Circular No. 55-2007 to settle its deficiency tax assessment for the taxable year 2001. On 21 September 2007, respondent complied with the requirements of RA 9480 which include: the filing of a Notice of Availment, Tax Amnesty Return and Payment Form, and remitting the tax payment. In a letter dated 29 January 2008, the BIR denied respondent's request and ordered respondent to pay the deficiency tax assessment amounting to ₱29,108,767.63.¹⁰

In a second letter dated 16 July 2008, the BIR reiterated that the FDDA had become final and executory for the failure of the respondent to appeal the FDDA with the CTA within the prescribed period of thirty (30)

⁴ Id. at 44-52.

⁵ Id. at 53-60.

⁶ Id. at 61-65.

⁷ Id. at 66.

⁸ Id. at 67.

⁹ Id. at 68.

¹⁰ Id. at 69.



days. The BIR demanded the full payment of the tax assessment and contended that the respondent's availment of the tax amnesty under RA 9480 had no effect on the assessment due to the finality of the FDDA prior to respondent's tax amnesty availment. On 1 August 2008, respondent filed a Petition for Review with the CTA assailing the letter of the BIR dated 16 July 2008.

The Decision of the CTA First Division

On 12 November 2012, the CTA granted respondent's Petition for Review and set aside the assessment in view of respondent's availment of a tax amnesty under RA 9480. The CTA First Division held that RA 9480 covers all national internal revenue taxes for the taxable year 2005 and prior years, with or without assessments duly issued, that have remained unpaid as of 31 December 2005.¹¹ The CTA First Division ruled that respondent complied with all the requirements of RA 9480 including the payment of the amnesty tax and submission of all relevant documents. Having complied with all the requirements of RA 9480, respondent is fully entitled to the immunities and privileges granted under RA 9480.¹²

The dispositive portion of the Decision states:

WHEREFORE, premises considered, the instant Petition for Review is GRANTED. The subject assessment in the present case against petitioner is hereby SET ASIDE solely in view of petitioner's availment of the Tax Amnesty Program under R.A. No. 9480; and accordingly, petitioner is hereby DECLARED ENTITLED to the immunities and privileges provided by the Tax Amnesty Law being a qualified tax amnesty applicant and for having complied with all the documentary requirements set by law.

SO ORDERED.¹³

The CIR filed a Motion for Reconsideration¹⁴ on 3 December 2012 which the CTA First Division denied on 1 March 2013.¹⁵

The Decision of the CTA *En Banc*

On 19 May 2014, the CTA *En Banc* held that a qualified tax amnesty applicant who has completed the requirements of RA 9480 shall be deemed to have fully complied with the Tax Amnesty Program. Upon compliance with the requirements of the law, the taxpayer shall, as mandated by law, be immune from the payment of taxes as well as appurtenant civil, criminal, or administrative penalties under the National Internal Revenue Code. The

¹¹ Id. at 137.

¹² Id. at 146.

¹³ Id. at 146-147.

¹⁴ Id. at 148-202.

¹⁵ Id. at 203-206.



CTA *En Banc* ruled that the finality of a tax assessment did not disqualify respondent from availing of a tax amnesty under RA 9480.

The dispositive portion of the Decision states:

WHEREFORE, premises considered, the Petition for Review filed by the Commissioner of Internal Revenue is DENIED, for lack of merit. The Decision of the First Division of this Court promulgated on November 12, 2012 in CTA Case No. 781[7], captioned *Philippine Aluminum Wheels, Inc. v. Commissioner of Internal Revenue*, and the Resolution of the said Division dated March 1, 2013, are AFFIRMED *in toto*.

SO ORDERED.¹⁶

The CIR filed a Motion for Reconsideration on 11 June 2014 which was denied on 5 January 2015.¹⁷

The Issue

Whether respondent is entitled to the benefits of the Tax Amnesty Program under RA 9480.

The Decision of this Court

This Court denies the petition in view of the respondent's avilment of the Tax Amnesty Program under RA 9480.

A tax amnesty is 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 partakes of 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, similar to a tax exemption, must be construed strictly against the taxpayer and liberally in favor of the taxing authority.¹⁸

On 24 May 2007, RA 9480, or "An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2005 and Prior Years," became law.

¹⁶ Id. at 39.

¹⁷ Id. at 43.

¹⁸ *Commissioner of Internal Revenue v. Marubeni Corporation*, 423 Phil. 862, 874 (2001).

The pertinent provisions of RA 9480 are:

Section 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

Section 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.

x x x x (Emphasis supplied)

The Department of Finance issued DOF Department Order No. 29-07 (DO 29-07).¹⁹ Section 6 of DO 29-07 provides for the method for availing a tax amnesty under RA 9480, to wit:

Section 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 forms as may be prescribed by the BIR;
- b. Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005 in such forms, as may be prescribed by the BIR;
- c. Tax Amnesty Return in such forms as may be prescribed by the BIR.

2. x x x.

3. x x x.

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 RA 9480.**

x x x x (Emphasis supplied)

¹⁹ Rules and Regulations to Implement Republic Act No. 9480. Issued on 15 August 2007.

In *Philippine Banking Corporation v. Commissioner of Internal Revenue*,²⁰ this Court held that the taxpayer's completion of the requirements under RA 9480, as implemented by DO 29-07, will extinguish the taxpayer's tax liability, additions and all appurtenant civil, criminal, or administrative penalties under the National Internal Revenue Code, to wit:

Considering that the completion of these requirements shall be deemed full compliance with the tax amnesty program, the law mandates that the taxpayer shall thereafter be immune from the payment of taxes, and additions thereto, as well as 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.²¹

Similarly, in *Metropolitan Bank and Trust Company (Metrobank) v. Commissioner of Internal Revenue*,²² this Court sustained the validity of Metrobank's tax amnesty upon full compliance with the requirements of RA 9480. This Court ruled: "Therefore, by virtue of the availment by Metrobank of the Tax Amnesty Program under Republic Act No. 9480, it is already immune from the payment of taxes, including DST on the UNISA for 1999, as well as the addition thereto."²³

On 19 September 2007, respondent availed of the Tax Amnesty Program under RA 9480, as implemented by DO 29-07. Respondent submitted its Notice of Availment, Tax Amnesty Return, Statement of Assets, Liabilities and Net Worth, and comparative financial statements for 2005 and 2006. Respondent paid the amnesty tax to the Development Bank of the Philippines, evidenced by its Tax Payment Deposit Slip dated 21 September 2007. Respondent's completion of the requirements of the Tax Amnesty Program under RA 9480 is sufficient to extinguish its tax liability under the FDDA of the BIR.

In *Asia International Auctioneers, Inc. v. Commissioner of Internal Revenue*,²⁴ this Court ruled that the tax liability of Asia International Auctioneers, Inc. was fully settled when it was able to avail of the Tax Amnesty Program under RA 9480 in February 2008 while its Petition for Review was pending before this Court. This Court declared the pending case involving the tax liability of Asia International Auctioneers, Inc. moot since the company's compliance with the Tax Amnesty Program under RA 9480 extinguished the company's outstanding deficiency taxes.

The CIR contends that respondent is disqualified to avail of the tax amnesty under RA 9480. The CIR asserts that the finality of its assessment, particularly its FDDA is equivalent to a final and executory judgment by the

²⁰ 597 Phil. 363 (2009).

²¹ Id. at 388.

²² 612 Phil. 544 (2009).

²³ Id. at 573.

²⁴ 695 Phil. 852 (2012).



courts, falling within the exceptions to the Tax Amnesty Program under Section 8 of RA 9480, which states:

Section 8. *Exceptions.* The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:

(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. (Emphasis supplied)

The CIR is wrong. Section 8(f) is clear: only persons with “tax cases subject of final and executory judgment by the courts” are disqualified to avail of the Tax Amnesty Program under RA 9480. There must be a judgment promulgated by a court and the judgment must have become final and executory. Obviously, there is none in this case. ***The FDDA issued by the BIR is not a tax case “subject to a final and executory judgment by the courts” as contemplated by Section 8(f) of RA 9480.*** The determination of the tax liability of respondent has not reached finality and is still not subject to an executory judgment by the courts as it is the issue pending before this Court. In fact, in *Metrobank*, this Court held that the FDDA issued by the BIR was not a final and executory judgment and did not prevent *Metrobank* from availing of the immunities and privileges granted under RA 9480, to wit:

x x x. As argued by Metrobank, the very fact that the instant case is still subject of the present proceedings is proof enough that it has not reached a final and executory stage as to be barred from the tax amnesty under Republic Act No. 9480.

The assertion of the CIR that deficiency DST is not covered by the Tax Amnesty Program under Republic Act No. 9480 is downright specious.²⁵

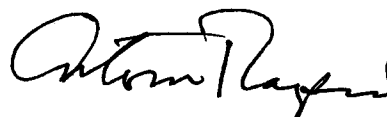
²⁵ *Metropolitan Bank and Trust Company v. Commissioner of Internal Revenue*, supra note 22, at 569.

The CIR alleges that respondent is disqualified to avail of the Tax Amnesty Program under Revenue Memorandum Circular No. 19-2008 (RMC No. 19-2008) dated 22 February 2008 issued by the BIR which includes “delinquent accounts or accounts receivable considered as assets by the BIR or the Government, including self-assessed tax” as disqualifications to avail of the Tax Amnesty Program under RA 9480. The exception of delinquent accounts or accounts receivable by the BIR under RMC No. 19-2008 cannot amend RA 9480. As a rule, executive issuances including implementing rules and regulations cannot amend a statute passed by Congress.

In *National Tobacco Administration v. Commission on Audit*,²⁶ this Court held 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, to wit: “[t]he Circular cannot extend the law or expand its coverage as the power to amend or repeal a statute is vested with the legislature.” 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 RA 9480.

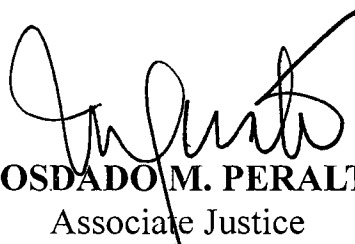
WHEREFORE, we **DENY** the petition. We **AFFIRM** the 19 May 2014 Decision and the 5 January 2015 Resolution of the Court of Tax Appeals *En Banc* in CTA EB No. 994.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

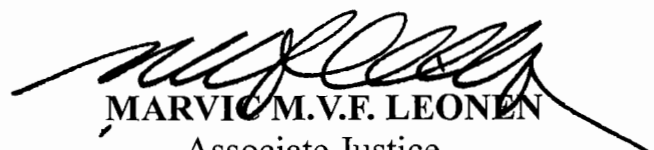
WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice

²⁶ 370 Phil. 793 (1999).



JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


SAMUEL R. MARTIRES
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
Associate Justice
Chairperson

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.


MARIA LOURDES P. A. SERENO
Chief Justice