



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 19, 2019, which reads as follows:

“G.R. No. 222956 (Commissioner of Internal Revenue, petitioner v. BPI-PHILAM Life Assurance Corporation [formerly Ayala Life Assurance, Inc.], respondent). - Considering the allegations, issues, and arguments adduced in this Petition for Review on *Certiorari*, the Court resolves to DENY the petition for failure to sufficiently show that the Court of Tax Appeals (CTA) *En Banc* (EB) committed any reversible error in its August 24, 2015 Decision¹ and February 11, 2016 Resolution² in CTA EB No. 1240 (formerly CTA Case No. 8240).

First, the issues concerning the filing of a false or fraudulent return and the prescriptive period in a particular case are factual in nature since they require a review of the probative value of the evidence presented before the CTA. Section 1, Rule 45 of the Rules of Court is explicit and categorical that a petition for review on *certiorari* shall raise only questions of law, which must be distinctly set forth. This Court is not a trier of facts and while there are recognized exceptions to the aforesaid rule, none exists in this case.³

Second, mere understatement of tax is not itself proof of fraud or falsity. While the filing of a fraudulent return necessarily implies that the act of the taxpayer was intentional and done with intent to evade the taxes due, the filing of a false return can be intentional or due to honest mistake. For instance, an entry of wrong information due to mistake, carelessness or ignorance, without intent to evade tax, does not constitute a false return.⁴ Here, the Court does not find enough evidence to prove fraud or intentional falsity on the part of respondent. The only time petitioner alleged falsity in respondent's Value Added Tax (VAT) return in its

¹ *Rollo*, pp. 233-253.

² *Id.* at 263-268.

³ *Commissioner of Internal Revenue vs. China State Philippines Construction Corporation*, G.R. 240674, January 28, 2019.

⁴ *Commissioner of Internal Revenue vs. Philippine Daily Inquirer, Inc.*, 807 Phil. 912, 937 (2017), citing *CIR vs. B.F. Goodrich Phils., Inc.*, 363 Phil. 169, 179 (1999).

Motion for Partial Reconsideration before the CTA Division was when it cited Section 222 (exceptions as to period of limitation of assessment and collection of taxes) of the National Internal Revenue Code (NIRC). Withal, such citation does not automatically convert itself as allegation and proof that respondent filed a false return.⁵ The Court will not sustain allegations of falsity upon circumstances which, at best, create only suspicion.⁶

In the end, since the case does not fall under the exceptions, the period of limitation upon assessment and collection as provided in Section 203 of the NIRC should apply.

Finally, given the nature of its business, investment of premiums and other funds received by the insurance company through the granting of mortgage and other loans was necessary to it and, as such, should not be taxed separately.⁷ When a company is already taxed on its main business, it is no longer taxable for engaging in an activity or work which is merely a part of, incidental to and is necessary to its main business.⁸

Revenue Memorandum Circular (RMC) No. 49-2010, issued on June 7, 2010, also states that the investment income earned by life insurance companies from investing the premiums received in marketable securities, bonds and other financial instruments is considered exempt from further imposition of business tax since the premium, which was the source of the funds invested, had already been subject to the imposition of the 5% premium tax.

IN VIEW OF THE FOREGOING, the Court resolves to **AFFIRM** the findings of fact and conclusions of law in the August 24, 2015 Decision and February 11, 2016 Resolution of the Court of Tax Appeal *En Banc* in CTA EB No. 1240 (formerly CTA Case No. 8240).

SO ORDERED.”

⁵ *Supra* note 1.

⁶ *Supra* note 4, at 935.

⁷ *Commissioner of Internal Revenue vs. The Phil. American Accident Insurance Company, Inc.*, 493 Phil. 785, 798 (2005).

⁸ *Id.* at 798-799, citing *Standard-Vacuum Oil Co. vs. Antigua, etc., et al.*, 96 Phil. 909, 913 (1955).

Very truly yours,

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