



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 23, 2021 which reads as follows:

“G.R. No. 250698 (*Commissioner of Internal Revenue, petitioner v. Yi Wine Club, Inc., respondent*).

Before the Court is a petition for review on *certiorari* filed by petitioner Commissioner of Internal Revenue (*CIR*) seeking the reversal and setting aside of the Resolutions dated October 7, 2019¹ and December 2, 2019² of the Court of Tax Appeals (*CTA*) *En Banc* in CTA EB No. 2127, which dismissed the *CIR*’s petition for *certiorari* for being the wrong remedy and denied the *CIR*’s motion for reconsideration, respectively.

The factual antecedents of the instant case are recounted below.

Pursuant to Letter of Authority No. 00003683 dated January 13, 2009, the Bureau of Internal Revenue (*BIR*) conducted an investigation and examination of the books of accounts and other accounting records for taxable year 2007 of respondent Yi Wine Club, Inc. (*YWCI*), a domestic corporation registered with the Clark Special Economic and Freeport Zone engaged in the restaurant business and sale of wines. In the course of the assessment process, the *BIR* had issued a Notice of Informal Conference dated August 2, 2010, a Preliminary Assessment Notice (*PAN*) dated November 9, 2010, and a Formal Letter of Demand (*FLD*) and Final Assessment Notice (*FAN*) No. 021A-07-084098200 dated December 16, 2010 against *YWCI*. According to

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¹ *Rollo*, pp. 40-46.

² *Id.* at 49-52.

the FLD/FAN, YWCI was liable for ₱1,629,528.00 deficiency income taxes; ₱97,489.00 deficiency expanded withholding taxes (*EWT*); and ₱20,000.00 compromise penalties for 2007. YWCI submitted a protest letter dated December 10, 2010 which the BIR denied in a Final Decision on Disputed Assessment (*FDDA*) dated September 6, 2011. YWCI then filed a petition for review before the CTA First Division, docketed as CTA Case No. 8809.

On August 4, 2017, the CTA First Division rendered its Decision³ in CTA Case No. 8809, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. The assessment issued by [the CIR] against [YWCI] for taxable year 2007 covering compromise penalties is **CANCELLED**. On the other hand, the deficiency income tax and EWT assessments are **AFFIRMED but with modifications**. Accordingly, [YWCI] is **ORDERED TO PAY** the amount **ONE HUNDRED FORTY-FIVE THOUSAND FIVE HUNDRED FORTY-SIX PESOS (₱145,546.00)** representing basic deficiency taxes, inclusive of the twenty-five percent (25%) surcharge imposed under Section 248(A)(3) of the [National Internal Revenue Code (NIRC)] of 1997, as amended:

Tax Type	Basic Tax	Surcharge	Total
Income Tax	₱ 61,769.80	₱ 15,442.45	₱ 77,212.25
Expanded Withholding Tax	54,667.00	13,666.75	68,333.75
TOTAL	₱116,436.80	₱ 29,109.20	₱145,546.00

In addition, [YWCI] is **ORDERED TO PAY**:

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax in the amount of ₱61,769.80 computed from April 15, 2008 and January 15, 2008, respectively, until full payment thereof pursuant to Section 249(B) of the NIRC of 1997, as amended; and

(b) Delinquency interest at the rate of 20% per annum on the total amount of ₱145,546.00 and on the 20% deficiency interest which have accrued as afore-stated in (a), computed from April 25, 2014 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended.

SO ORDERED.⁴

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³ Id. at 193-222; penned by Associate Justice Cielito N. Mindaro-Grulla, with Presiding Justice Roman G. Del Rosario and Associate Justice Erlinda P. Uy, concurring.

⁴ Id. at 221.

The substantial modification in the amount of deficiency income taxes assessed against YWCI was the result of the finding by the CTA First Division of lack of factual and legal bases for the BIR's imputation of interest on the non-interest bearing loans of YWCI to its affiliates. Per the audited balance sheet of YWCI, it extended non-interest bearing loans to its affiliates in 2007 amounting to ₱41,510,778.00. The BIR, invoking Section 50 of the NIRC of 1997,⁵ imputed and computed interest on the said loans at the rate of 6.85% based on the 2007 lending rate of the *Bangko Sentral ng Pilipinas (BSP)*. The CTA First Division gave credence to the explanation of YWCI that it extended the amount of ₱41,510,778.00 to its affiliates to fund a centralized payroll system as well as other operational expenses. Thus, the CTA First Division deemed the said amount as working capital contributions which YWCI advanced to its affiliates instead of actual loans. Additionally, citing Article 1956 of the Civil Code⁶ and the case of *Commissioner of Internal Revenue v. Filinvest Development Corporation*,⁷ the CTA First Division held that the CIR's powers of distribution, apportionment, and allocation of gross income and deductions under what is now Sec. 50 of the NIRC of 1997⁸ and Sec. 179 of Revenue Regulations No. 2 do not include the power to impute "theoretical interests" to the controlled taxpayer's transactions.

The CIR filed a motion for reconsideration of the foregoing judgment which was denied for lack of merit by the CTA First Division in a Resolution dated December 15, 2017.⁹ The latter stressed that there was no evidence on record showing any agreement between YWCI and its affiliates as to the interest on the loans or advances made by the former to the latter. Neither was the CIR able to show that YWCI received cash from the alleged interest, merely basing its assessment on nothing more than the account description and amount presented in the audited balance sheet of YWCI. Records show that the BIR Litigation Division received a copy of the Resolution denying the CIR's motion for reconsideration on December 21, 2017.

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⁵ SECTION 50. *Allocation of Income and Deductions.* – In the case of two or more organizations, trades or businesses (whether or not incorporated and whether or not organized in the Philippines) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion or allocate gross income or deductions between or among such organization, trade or business, if he determined that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organization, trade or business.

⁶ Article 1956. No interest shall be due unless it has been expressly stipulated in writing.

⁷ 669 Phil. 323 (2011).

⁸ Previously Section 43 of the NIRC of 1993.

⁹ *Rollo*, pp. 229-233; penned by Associate Justice Cielito N. Mindaro-Grulla, with Presiding Justice Roman G. Del Rosario and Associate Justice Erlinda P. Uy, concurring.

On January 5, 2018, the Decision dated August 4, 2017 in CTA Case No. 8809 became final and executory and, accordingly, an entry of judgment was made.

On October 31, 2018, the CIR filed a petition for relief from judgment in CTA Case No. 8809. The CIR justified its petition on two grounds, *viz.*: (a) There is a valid reason why the CIR failed to file a petition for review before the CTA *En Banc*; and (b) The CIR has a good and substantial cause of action.¹⁰

On the first ground, the CIR averred excusable negligence on the part of his counsel, Atty. Cristina P. Castillo-Lim (*Atty. Castillo-Lim*), based on the following allegations: (a) the case was one of the numerous cases reassigned to Atty. Castillo-Lim on top of the original cases assigned to her, following the resignations, transfers, and reassignments of the lawyers in the BIR Litigation Division; (b) after the transfer and hasty departure without notice of its Chief to another agency, the BIR Litigation Division functioned without a Chief, as well as Assistant Chief, from December 20, 2017 to February 2018; (c) Atty. Castillo-Lim was on leave from December 27 to 29, 2017, from January 3 to 4, 2018, and from January 8 to 11, 2018 due to her children's emergency health concerns that required her immediate attention; and (d) by reason of the unusually inordinate amount of Atty. Castillo-Lim's workload consisting of almost daily morning and afternoon court appearances, preparation of pleadings with overlapping deadlines and extreme pressure from other equally urgent cases, she was left with very little time to meticulously sort out all the notices, resolutions, decisions, pleadings and other documents she was receiving regularly. It was only when the current Chief of the BIR Litigation Division asked for the inventory of the cases assigned to her did Atty. Castillo-Lim learn about the Resolution dated December 15, 2017 in CTA Case No. 8809.¹¹ While sincerely apologizing for the oversight, the CIR maintained that there are meritorious arguments in support of his petition and that according to numerous jurisprudence, technicalities take a back seat to the interest of substantial justice.

The CIR, in support of the second ground for his petition for relief from judgment, further pointed out that there was absence of any evidence categorically establishing that the advances of YWCI

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¹⁰ Id. at 237-250.

¹¹ Id. at 242.

to its affiliates were operational and capital contributions, as found by the CTA First Division in its Decision dated August 4, 2017. Consequently, these transactions were covered by Revenue Memorandum Order No. 63-99, prescribing the policies and guidelines on inter-company loans or advances pursuant to Sec. 50 of the NIRC of 1997.¹² The CIR insisted that it is within his power under Sec. 50 to distribute, apportion, or allocate gross income or deductions between or among organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or to clearly reflect the income of any such organization, trade, or business.¹³

After YWCI filed its comment on the CIR's petition for relief from judgment, the CTA Special First Division issued its Resolution dated March 29, 2019¹⁴ in CTA Case No. 8809 dismissing the said petition. According to the CTA Special First Division, Rule 38, Sec. 3 of the Rules of Court requires that a petition for relief from judgment must be filed within: (a) 60 days from knowledge of judgment, order or other proceedings to be set aside; and (b) six (6) months from entry of such judgment, order, or other proceeding. These two periods must concur and both are not extendible and never interrupted. Strict compliance with these periods stems from the equitable character and nature of the petition for relief. A petition for relief is a "last chance" given by law to litigants to question a final judgment or order and is allowed only in exceptional cases as when there is no other available or adequate remedy. Failure to avail of such "last chance" within the grace period fixed by the Rules is fatal.¹⁵

Moreover, the CTA Special First Division held in the same resolution that Atty. Castillo-Lim's affidavit of merit failed to show that her omission to file an appeal was excusable, much less unavoidable. Despite the alleged hasty departure of the Chief of the BIR Litigation Division, several leaves of Atty. Castillo-Lim due to her children's emergency health concerns, and the volume of cases being handled by her, still, as with other offices, the BIR Litigation Division should have a system in place for monitoring the status of the cases handled by its lawyers.¹⁶ Hence, Atty. Castillo-Lim's

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¹² Id. at 248-249.

¹³ Id. at 249.

¹⁴ Id. at 295-301; signed by Presiding Justice Roman G. Del Rosario and Associate Justices Erlinda P. Uy and Cielito N. Mindaro-Grulla.

¹⁵ Id. at 298.

¹⁶ Id. at 299.

negligence could have been prevented using ordinary diligence and prudence. The CTA Special First Division also noted that this Court had already directed the BIR to adopt mechanisms, procedures, or measures that can effectively monitor the progress of cases being handled by its counsels to prevent similar disadvantageous incidents against the government in the future. Unfortunately, it seemed that the BIR still failed to adopt such mechanisms, procedures or measures. Accordingly, the special division of the tax court declared the CIR bound by Atty. Castillo-Lim's negligence in this case.¹⁷

Ultimately, the CTA Special First Division decreed that the “[CIR’s] **Petition for Relief from Judgment is DISMISSED** for being filed out of time.”¹⁸

In a Resolution dated June 27, 2019,¹⁹ the CTA Special First Division denied the CIR’s motion for reconsideration. It found the motion to be bereft of merit considering that the CIR’s arguments therein were a mere rehash of those in his previous pleadings. It also observed that the CIR did not even refute in his motion the finding of the CTA Special First Division that his petition for relief from judgment was filed out of time. The special division of the tax court emphasized that the double period under Rule 38, Sec. 3 of the Rules of Court is jurisdictional and should be strictly complied with. A petition for relief from judgment filed beyond the reglementary period will be dismissed outright.

The CIR sought recourse from the CTA *En Banc* by filing a petition for *certiorari*, docketed as CTA EB No. 2127.

The petition, however, was dismissed by the CTA *En Banc* in a Resolution dated October 7, 2019.²⁰ According to the tax court *En Banc*, it appears that the CIR resorted to *certiorari* because he failed to timely file an appeal. While first noting that the decision and resolution of the CTA First Division disposed of the case in its entirety, and no other issues were left to be further ruled upon, the CTA *En Banc* then proceeded to reason that:

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¹⁷ Id. at 299-300.

¹⁸ Id. at 300.

¹⁹ Id. at 315-318; signed by Associate Justices Erlinda P. Uy and Cielito N. Mindaro-Grulla, Presiding Justice Roman G. Del Rosario being on official business.

²⁰ *Supra* note 1.

Then, too, the questioned Resolutions, involving the dismissal of the Petition before the First Division, are not proper subjects of *Certiorari*. Indeed, “an order of dismissal, whether correct or not, is a final order. It is not interlocutory because the proceedings are terminated; it leaves nothing more to be done by the lower court. Therefore, the remedy of the petitioner is to appeal the order.”

All told, considering [the CIR’s] failure to timely resort to the available mode of appeal, his resort to *Certiorari* cannot be countenanced.²¹

The CIR filed a motion for reconsideration of the foregoing resolution averring that the assailed Resolutions dated March 29, 2019 and June 27, 2019 of the CTA Special First Division denying his petition for relief from judgment were not subject to appeal under Rule 41, Sec. 1 of the Rules of Court; that, accordingly, resort to *certiorari* is proper; and that the CTA Special First Division acted with grave abuse of discretion amounting to lack or excess of jurisdiction in its issuance of said Resolutions.

The CTA *En Banc*, in its Resolution dated December 2, 2019,²² found the CIR’s motion for reconsideration unmeritorious and denied the same. It ruled that Rule 41, Sec. 1 of the Rules of Court pertains to appeals from the Regional Trial Courts (*RTC*s) and are not applicable to appeals from CTA Divisions. It reiterated that the existence and availability of the right to appeal from a decision of a CTA Division to the CTA *En Banc* prohibits the resort to a petition for *certiorari* under Rule 65 of the Rules of Court.

Issue

The CIR now comes before this Court via the instant petition for review on *certiorari* alleging reversible error on the part of the CTA *En Banc* when it ruled that the Resolutions dated March 29, 2019 and June 27, 2019 of the CTA Special First Division were not the proper subjects of a petition for *certiorari* under Rule 65 of the Rules of Court.

The Court finds merit in the CIR’s arguments on the special civil action of *certiorari* being the proper remedy for the denial of a petition for relief from judgment. Nonetheless, it shall not reverse the

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²¹ *Rollo*, p. 45.

²² *Supra* note 2.

dismissal of the CIR's petition for *certiorari* in this case as the CTA Special First Division did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the CIR's petition for relief from judgment on the ground of prescription. Moreover, intervening events, *i.e.*, the grant of tax amnesty in favor of YWCI on its tax delinquencies for taxable year 2007, had rendered the CIR's petition for relief from judgment moot.

At the outset, the Court points out that the CIR's petition for *certiorari* before the CTA *En Banc* assails the resolutions dismissing his petition for relief from judgment. It does not directly challenge the merits of the final and executory Decision dated August 4, 2017 of the CTA First Division. Hence, the reference by the CTA *En Banc* to the cases of *Bureau of Internal Revenue v. Acosta*²³ and *Commissioner of Internal Revenue v. Court of Tax and Appeals*²⁴ in its Resolution dated October 7, 2019 to justify its dismissal of the CIR's petition for *certiorari* is misplaced. The factual backgrounds of said cases are not on all fours with the instant case because the cited cases involved petitions for *certiorari* assailing the decisions and resolutions of CTA Divisions which ruled on the merits of the subject cases and were therefore said to be improperly used by therein petitioners as substitutes for their lost remedy of appeal.

The Revised Rules of the Court of Tax Appeals (*RRCTA*),²⁵ as amended, do not provide for the remedy of petition for relief from judgment. However, Rule 1, Sec. 3 of the *RRCTA* also states that the Rules of Court shall apply suppletorily.

Under Rule 38, Sec. 1 of the Rules of Court, a party may file a petition for relief under the following circumstances:

Section 1. *Petition for relief from judgment, order, or other proceedings.* – When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

Rule 41, Sec. 1 of the Rules of Court, meanwhile, expressly states that an order denying a petition for relief is not appealable, but is the proper subject of a petition for *certiorari*:

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²³ 830 Phil. 496 (2018).

²⁴ G.R. No. 203403, November 14, 2018.

²⁵ A.M. No. 05-11-07-CTA, November 22, 2005.

Section 1. Subject of appeal. – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

- (a) An order denying a motion for new trial or reconsideration;
- (b) **An order denying a petition for relief or any similar motion seeking relief from judgment;**
- (c) An interlocutory order;
- (d) An order disallowing or dismissing an appeal;
- (e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
- (f) An order of execution;
- (g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
- (h) An order dismissing an action without prejudice.

In all the above instances **where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.** (emphases supplied)

The simple and categorical language of the aforementioned provision leaves no room for interpretation. Basic is the rule in statutory construction that where the words of the law or rule are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.²⁶ Therefore, the CIR availed himself of the proper remedy in filing a petition for *certiorari*, instead of an appeal, when his petition for relief from judgment was dismissed by the CTA Special First Division in its Resolutions dated March 29, 2019 and June 27, 2019.

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²⁶ *Crisologo v. Hao*, G.R. No. 216151, December 2, 2020.

The CTA *En Banc* failed to cite its basis for the pronouncement in its Resolution, dated December 2, 2019, that Rule 41, Sec. 1 of the Rules of Court applies only to the RTCs and not to CTA Divisions. Again, the RRCTA provide that the Rules of Court apply suppletorily. If the CTA had adopted the provisions of the Rules of Court on the filing of a petition for relief, then there is no logical reason why it would then refuse to apply the provisions of the same Rules on the proper remedy for the denial of such a petition.

In the interest of expeditious dispensation of justice, however, the Court will already resolve the instant case and no longer remand the same to the CTA *En Banc*, as prayed for by the CIR, when it is already evident from the records that the CIR's petition for relief from judgment was properly dismissed, not only for being filed out of time, but also for the reason that it had been rendered moot by intervening events.

Because the CTA *En Banc* dismissed outright the CIR's petition for *certiorari* for being the wrong remedy, it no longer considered the merits of the Resolutions dated March 29, 2019 and June 27, 2019 of the CTA Special First Division which, in turn, dismissed the CIR's petition for relief from judgment. The Court highlights that while the CTA Special First Division also discussed the allegations of excusable negligence of the CIR's counsel in its Resolution dated March 29, 2019, it expressly adjudged in the dispositive portion of said resolution that the CIR's petition for relief was dismissed for being filed out of time.

Rule 38, Sec. 3 of the Rules of Court provides for the time periods for filing a petition for relief from judgment:

Section 3. Time for filing petition; contents and verification. – A petition provided for in either of the preceding sections of this Rule must be verified, filed **within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken**, and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be. (emphasis supplied)

The Court expounded on the foregoing provision in *Quelnan v. VHF Philippines*²⁷ as follows:

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²⁷ G.R. No. 138500, 507 Phil. 75, 83 (2005).

Clear it is from the above that a petition for relief from judgment must be filed within: (a) 60 days from knowledge of judgment, order or other proceedings to be set aside; and (b) six (6) months from entry of such judgment, order or other proceeding. These two periods **must concur**. Both periods are also **not extendible and never interrupted**. **Strict compliance** with these periods stems from the equitable character and nature of the petition for relief. Indeed, relief is allowed only in exceptional cases as when there is no other available or adequate remedy. As it were, a petition for relief is actually the “last chance” given by law to litigants to question a final judgment or order. And **failure to avail of such “last chance” within the grace period fixed by the Rules is fatal**. (emphases supplied)

In *Lasam v. Philippine National Bank*,²⁸ the Court further emphasizes strict compliance with the reglementary periods for filing a petition for relief:

x x x [A]s an equitable remedy, strict compliance with the applicable reglementary periods for its filing must be satisfactorily shown because a petition for relief from judgment is a **final act of liberality on the part of the State, which remedy cannot be allowed to erode any further the fundamental principle that a judgment, order, or proceeding must, at some definite time, attain finality in order to put an end to litigation**. As such, it is incumbent upon the petitioner to show that the petition was filed within its reglementary periods, otherwise, the petition may be dismissed outright. (emphasis supplied)

The Court reiterates that the two time periods mentioned under Rule 38, Sec. 3 of the Rules of Court – to wit: (a) 60 days from knowledge of the judgment, order, or proceeding to be set aside and (b) six (6) months from entry of such judgment, order or other proceeding – must concur. The two time periods cannot be extended and interrupted. They are for strict compliance and failure to comply with either or both of them will be fatal to the petition for relief.

In this case, the CIR failed to show compliance with both time periods.

The CIR’s counsel, Atty. Castillo-Lim, merely alleged that she had found out about the Resolution dated December 15, 2017 of the CTA First Division denying the CIR’s motion for reconsideration of

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²⁸ G.R. No. 207433, December 5, 2018.

the Decision dated August 4, 2017 when the new Chief of the BIR Litigation Division requested for an inventory of the cases assigned to her. Yet Atty. Castillo-Lim did not state a specific date when she had acquired actual knowledge of the Resolution dated December 15, 2017 of the CTA First Division. This would have been the date from which the first time period, *i.e.*, 60 days from knowledge of the judgment, order, or proceeding, would have been reckoned. Without establishing the reckoning date for the 60-day time period, then the CIR could not assert compliance with the same.

Moreover, the undisputed facts show that the CIR's petition for relief from judgment was filed way beyond the second time period, that is, six (6) months from entry of judgment, order, or proceeding. Entry of judgment of the Decision dated August 4, 2017 of the CTA First Division was made on **January 5, 2018**. The CIR's petition for relief from judgment was filed on **October 31, 2018**, more than **nine (9) months** after the entry of judgment.

The CIR herein did not directly address in any of his pleadings before the CTA or this Court his noncompliance with the prescribed time periods for filing a petition for relief. In general, he asserted that substantive justice takes precedence over technical rules of procedure. However, the double period required under Rule 38, Sec. 3 of the Rules of Court must be strictly complied with because it is **jurisdictional**, not merely technical or procedural. A petition for relief filed beyond the reglementary periods is dismissed outright. This is because a petition for relief from judgment is an exception to the public policy of immutability of final judgments.²⁹

Furthermore, in its comment, YWCI alleged that it had applied for tax amnesty of its 2007 tax assessment, which is the subject of CTA Case No. 8809. BIR Revenue Region No. 4 already issued a Notice of Issuance of Authority to Cancel Assessment³⁰ (*NATCA*) dated January 6, 2020, the contents of which are reproduced below:

This is to inform you that the tax liabilities covered by the Tax Amnesty Return filed on December 13, 2019, for which a total of P85,551.90 tax amnesty payment have been made, have already been cancelled through the approved Authority to Cancel Assessment (ATCA), as follows:

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²⁹ *Madarang v. Spouses Morales*, 735 Phil. 632, 640 (2014).

³⁰ *Rollo*, p. 360.

Tax Liabilities Covered by Tax Amnesty					ATCA	
Taxable Year	Tax Types	Amount per FAN/FLD/FDDA	Amount Paid	Amount Cancelled	Date	Number
2007	IT & WE	145,546.00	85,551.90	59,994.10	12/18/2019	00029962

However, it is further informed that tax liabilities which are not covered by FAN/FLD/FDDA were not issued ATCA. For your information.

The Court, in *LG Electronics Philippines, Inc. v. Commissioner of Internal Revenue*,³¹ summed up the nature of a tax amnesty, thus:

In several cases, this court explained the nature of a tax amnesty. In *Metropolitan Bank and Trust Co. v. Commissioner of Internal Revenue*:

A tax amnesty is a general pardon or the intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of violation of a tax law. It partakes of an absolute 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 or 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.

This court in *Commissioner of Internal Revenue v. Gonzalez* further described the role of tax amnesties in the government's collection of taxes:

Tax amnesty is a general pardon to taxpayers who want to start a clean tax slate. It also gives the government a chance to collect uncollected tax from tax evaders without having to go through the tedious process of a tax case.

During the pendency of the instant case, Republic Act (R.A.) No. 11213, otherwise known as the *Tax Amnesty Act*, was enacted and signed into law on February 14, 2019 pursuant to the declared

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³¹ 749 Phil. 155, 173-174 (2014), citing *Metropolitan Bank and Trust Co. v. Commissioner of Internal Revenue*, 612 Phil. 544 (2009) and *Commissioner of Internal Revenue v. Gonzales*, 647 Phil. 462 (2010).

policy of the State to protect and enhance revenue administration and collection, and make the country's tax system more equitable, by simplifying the tax compliance requirements.³² Among the objectives of the said statute is to enhance revenue collection by providing a tax amnesty on delinquencies that will minimize administrative costs in pursuing tax cases and declog the dockets of the BIR and the courts.³³ It bears to stress that in deviation from previous tax amnesty laws and programs, the Tax Amnesty Act grants tax amnesty even for tax delinquencies.

Title IV, Sec. 17 of the Tax Amnesty Act defines the coverage of the Tax Amnesty on Delinquencies, to wit:

SECTION 17. *Coverage.* – There is hereby authorized and granted a tax amnesty herein called the Tax Amnesty on Delinquencies, which shall **cover all national internal revenue taxes** such as, but not limited to, income tax, withholding tax, capital gains tax, donor's tax, value-added tax, other percentage taxes, excise tax and documentary stamp tax collected by the Bureau of Internal Revenue, including value-added tax and excise taxes collected by the Bureau of Customs **for taxable year 2017 and prior years.**

For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:

- (a) Delinquencies and assessments, which have become final and executory, including delinquent tax account, where the application for compromise has been requested on the basis of: (1) doubtful validity of the assessment; or (2) financial incapacity of the taxpayer, but the same was denied by the Regional Evaluation Board or the National Evaluation Board, as the case may be, on or before the Implementing Rules and Regulations take effect;
- (b) Pending criminal cases with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with or without assessments duly issued;
- (c) **Tax cases subject of final and executory judgment by the courts on or before the Implementing Rules and Regulations take effect; and**

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³² Title I, Section 2 of Republic Act No. 11213, otherwise known as the Tax Amnesty Act.

³³ Section 2(c) of the Tax Amnesty Act.

- (d) Withholding tax agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue.
(emphasis supplied)

Revenue Regulations (RR) No. 4-2019 – the Implementing Rules and Regulations of R.A. No. 11213, Otherwise Known as the “Tax Amnesty Act,” Providing for the Guidelines on the Processing of Tax Amnesty Application on Tax Delinquencies – took effect on **April 24, 2019**.³⁴ The Decision dated August 4, 2017 of the CTA First Division in CTA Case No. 8809, which involved the tax delinquencies of YWCI, particularly, its income tax and EWT, for **taxable year 2007**, became final and executory on **January 5, 2018**, before the effectivity of RR No. 4-2019. Hence, YWCI in this case was qualified to avail itself of the tax amnesty on its delinquencies for taxable year 2007 under Title IV, Sec. 17 of the Tax Amnesty Act.

The NATCA issued to YWCI by BIR Revenue Region No. 4 on January 6, 2020, which was unrefuted by the CIR, establishes that YWCI filed an application for tax amnesty on its tax delinquencies for taxable year 2007; that YWCI had complied with the requirements for tax amnesty under the law and regulations as evaluated by BIR Revenue Region No. 4, including the payment of the amnesty tax; and that the tax delinquencies for 2007 of YWCI, as determined in the final and executory Decision dated August 4, 2017 of the CTA First Division in CTA Case No. 8809 and covered by its Tax Amnesty Return filed on December 13, 2019, were already cancelled.

By virtue of the NATCA issued in its favor, YWCI became entitled to the following immunities and privileges:

SECTION 20. Immunities and Privileges. – The **tax delinquency** of those who avail of the Tax Amnesty on Delinquencies and have fully complied with all the conditions set forth in this Act and upon payment of the amnesty tax **shall be considered settled** and the criminal case under Section 18 (c) and its corresponding civil or administrative case, if applicable, be terminated, and the **taxpayer shall be immune from all suits or actions, including the payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil, criminal, and administrative cases, and**

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³⁴ Per Section 9 of Revenue Regulations (RR) No. 4-2019, said Regulations shall take effect 15 days from date of its publication in the newspaper of general circulation or Official Gazette. RR No. 4-2019 was published in Malaya Business Insights on April 9, 2019, and the 15th day counting therefrom was April 24, 2019.

penalties under the National Internal Revenue Code of 1997, as amended, as such relate to the taxpayer's assets, liabilities, networth, and internal revenue taxes that are subject of the tax amnesty, and from such other investigations or suits insofar as they relate to the assets, liabilities, networth and internal revenue taxes that are subject of the tax amnesty: x x x.³⁵ (emphases supplied)

In line with the declared State policy and objectives of the Tax Amnesty Act, and the explicit provisions of relevant law and regulations extending immunities and privileges to qualified applicants of the tax amnesty on delinquencies, the Court deems the tax liabilities of YWCI, as decreed in the final and executory Decision dated August 4, 2017 of the CTA First Division in CTA Case No. 8809, already settled with the issuance by BIR Revenue Region No. 4 of the NATCA in favor of YWCI on January 6, 2020. Moreover, the NATCA renders YWCI immune from all suits or actions for the payment of the said liabilities as well as additions thereto; from all appurtenant civil, criminal, and administrative cases; and from penalties under the NIRC of 1997 related to the same.

By reason of the approved tax amnesty of YWCI, the CIR's petition for relief from judgment has become moot. With the tax amnesty, the government, through BIR Revenue Region No. 4, had granted general pardon and absolute waiver of its right to collect what was due it, hence, giving YWCI a chance to start with a clean slate. In other words, after the grant of the tax amnesty, YWCI has no more tax liabilities for 2007. To give due course to the CIR's petition for relief from judgment would subject YWCI anew to litigation of its tax delinquencies for 2007, which would clearly be contrary to the spirit, and in violation, of the express provisions of the Tax Amnesty Act.


For the foregoing reasons, the Court hereby **RESOLVES** to **DENY** the instant petition.

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³⁵ Tax Amnesty Act.

SO ORDERED.” Lopez, M., J., on official leave.

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
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by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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