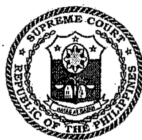

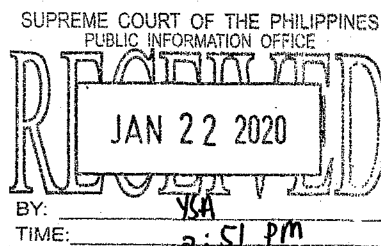

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **December 10, 2019** *which reads as follows:*

"G.R. No. 247662 – HON. KIM S. JACINTO-HENARES, COMMISSIONER OF INTERNAL REVENUE, *petitioner, **versus*** **PHILIPPINE PLAZA HOLDINGS, INC.,** *respondent.*

After a judicious review of the submission of the parties, the Court **RESOLVES TO DENY** the *certiorari* petition[1] for failure of the petitioner Commissioner of Internal Revenue (CIR) to show that the Court of Tax Appeals *en banc* (CTA *EB*) committed a reversible error in the assailed Decision[2] dated August 3, 2018 and Resolution[3] dated June 10, 2019, which affirmed the CTA Division's finding that respondent Philippine Plaza Holdings, Inc. (PPHI) is entitled to a refund in the amount of ₱807,951.22.

In the present petition, the CIR insists that (1) the CTA Division has no jurisdiction to take cognizance of the Amended Petition because PPHI failed to exhaust administrative remedies; and (2) even assuming that the CTA *EB* has jurisdiction, PPHI failed to support its request for abatement under Revenue Regulations (RR) No. 13-2001.[4]

- over – five (5) pages ...

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1 *Rollo*, pp. 51-73.

2 Id. at 13-36. Penned by Associate Justice Cielito N. Mindaro-Grulla with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino and Ma. Belen M. Ringpis-Liban, concurring; Associate Justice Catherine T. Manahan, dissenting; and Associate Justice Lovell R. Bautista, on leave.

3 Id. at 42-48. Penned by Associate Justice Cielito N. Mindaro-Grulla with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Esperanza R. Fabon-Victorino, concurring; Associate Justice Catherine T. Manahan, dissenting; and Ma. Belen M. Ringpis-Liban, on leave.

4 Implementing Section 204(B), in Relation to Section 290 of the Tax Code of 1997, Regarding Abatement or Cancellation of Internal Revenue Tax Liabilities, September 27, 2001.

The Petition lacks merit.

The CTA *EB* correctly ruled that, under the circumstances of the case, an administrative claim for refund is not necessary before the CTA Division may take cognizance of PPHI's Amended Petition for Review claiming for a refund of the erroneously paid Value-Added Tax (VAT) surcharge.

In *Vda. de San Agustin v. Commissioner of Internal Revenue*,[5] where the taxpayer paid under protest the deficiency assessment issued by the CIR and then filed a petition for review with the CTA praying for the refund of the said amount, the Court allowed the refund case to prosper even without a prior administrative claim. The Court, reiterating its ruling in *Roman Catholic Archbishop of Cebu v. Collector of Internal Revenue*,[6] held:

> "We agree with petitioner that Section 7 of Republic Act No. 1125, creating the Court of Tax Appeals, in providing for appeals from —
>
> > '(1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of the law administered by the Bureau of Internal Revenue —
>
> allows an appeal from a decision of the Collector in cases involving 'disputed assessments' as distinguished from cases involving 'refunds of internal revenue taxes, fees or other charges, x x x'; that the present action involves a disputed assessment'; because from the time petitioner received assessments Nos. 17-EC-00301-55 and 17-AC-600107-56 disallowing certain deductions claimed by him in his income tax returns for the years 1955 and 1956, he already protested and refused to pay the same, questioning the correctness and legality of such assessments; and that the petitioner paid the disputed assessments under protest before filing his petition for review with the Court *a quo*, only to forestall the sale of his properties that had been placed under distraint by the respondent Collector since December 4, 1957. To hold that the taxpayer has now lost the right to appeal from the ruling on the disputed assessment but must prosecute his appeal under Section 306 of the Tax Code, which requires a taxpayer to file a claim for refund of the taxes paid as a condition precedent to his right to appeal, would in effect require of him to go through a

[5] 417 Phil. 292 (2001).
[6] 114 Phil. 219, 222-223 (1962).

useless and needless ceremony that would only delay the disposition of the case, for the Collector (now Commissioner) would certainly disallow the claim for refund in the same way as he disallowed the protest against the assessment. The law should not be interpreted as to result in absurdities."

> The Court sees no cogent reason to abandon the above *dictum* and to require a useless formality that can serve the interest of neither the government nor the taxpayer. The tax court has aptly acted in taking cognizance of the taxpayer's appeal to it.[7] (Underscoring supplied)

Thus, applying the foregoing jurisprudence, the CTA Division aptly took cognizance of PPHI's Amended Petition.

Moreover, it is incorrect for the CIR to insist on the doctrine of exhaustion of administrative remedies. To be sure, the doctrine of exhaustion of administrative remedies is not an iron-clad rule but recognizes certain exceptions, including, among others, *when the requirement thereof would be unreasonable.*[8] As correctly pointed out by the CTA *EB*, the filing of an administrative claim in this case would be an exercise in futility because the same office where the said administrative claim will be filed is the very same office which denied PPHI's application for abatement. Hence, a favorable ruling for PPHI is not to be expected.

Anent PPHI's entitlement to the refund claim, the Court sustains the findings of the CTA *EB*. The CTA *EB* found that PPHI has sufficiently proved that the late filing of its VAT return for the 2nd quarter of 2011 and payment of the corresponding tax therein can be attributed to the system error in the Electronic Filing and Payment System (EFPS) facility of the Bureau of Internal Revenue (BIR), a circumstance beyond PPHI's control. Thus, the penalties and/or interest incurred by PPHI for said late filing and payment should be abated or cancelled pursuant to Section 2[9] of RR No. 13-2001.

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[7] *Vda. de San Agustin v. Commissioner of Internal Revenue*, supra note 5, at 299-300.

[8] *Maglalang v. Philippine Amusement and Gaming Corp.*, 723 Phil. 546, 557 (2013); see also *Land Bank of the Phils. v. Dumlao*, 592 Phil. 486, 514 (2008).

[9] **SEC. 2. INSTANCES WHEN THE PENALTIES AND/OR INTEREST IMPOSED ON THE TAXPAYER MAY BE ABATED OR CANCELLED ON THE GROUND THAT THE IMPOSITION THEREOF IS UNJUST OR EXCESSIVE. —**

x x x x

2.5. When taxpayer fails to file the return and pay the correct tax on time due to circumstances beyond his control, provided, however, that abatement shall cover only the surcharge and the compromise penalty and not the interest;

2.6 Late payment of the tax under meritorious circumstances such as those provided hereunder:

2.6.1 One day late filing and remittance due to failure to beat bank cut-off time;

x x x x

2.7 Other cases similar or synonymous thereto.

It is well settled that factual findings of the CTA when supported by substantial evidence, will not be disturbed on appeal. Due to the nature of its functions, the tax court dedicates itself to the study and consideration of tax problems and necessarily develops expertise thereon. Unless there has been an abuse of discretion on its part, which is not present in this case, the Court accords the highest respect to the factual findings of the CTA.[10]

Lastly, the Court notes that in the Memorandum issued by the Large Taxpayers Service Sub-Technical Working Committee of the BIR, the system error in the EFPS and the diligent efforts exerted by PPHI to timely file its tax return were acknowledged, prompting the latter to unanimously recommend the approval of PPHI's request for abatement. Indeed, while tax refunds are strictly construed against the taxpayer, the Government should not resort to technicalities and legalisms, much less frivolous appeals, to keep the money it is not entitled to at the expense of the taxpayers.[11] In *BPI-Family Savings Bank, Inc. v. Court of Appeals*,[12] the Court noted:

> Substantial justice, equity and fair play are on the side of [respondent]. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.[13]

WHEREFORE, the assailed Court of Tax Appeals *en banc*'s Decision dated August 3, 2018 and Resolution dated June 10, 2019 in CTA EB No. 1571 are hereby **AFFIRMED.**

SO ORDERED."

Very truly yours,

LIBRADA C. BUENA
Division Clerk of Court

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[10] *Team Sual Corp. (formerly Mirant Sual Corporation) v. Commissioner of Internal Revenue*, G.R. Nos. 201225-26, 201132 & 201133, April 18, 2018, 861 SCRA 605,623-624.

[11] See *Commissioner of Internal Revenue v. Ironcon Builders and Development Corp.*, 625 Phil. 644, 651 (2010).

[12] 386 Phil. 719 (2000).

[13] Id. at 729.

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(CTA EB No. 1571)
(CTA Case No. 8609)

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