REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

MARIA LORENA DINO, *ET AL.*,
Respondents.

CTA EB NO. 1976
(CTA Case No. 9083)

x - x

MARIA LORENA DINO, *ET AL.*,
Petitioners,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1978
(CTA Case No. 9083)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

FEB 10 2020
3:48 p.m.

x - x

RESOLUTION

DEL ROSARIO, P.J.:

Before the Court *En Banc* is Maria Lorena Dino, *et al.*'s (Dino, et al.) **Motion for Reconsideration**[1] filed on October 30, 2019, with the

[1] CTA EB No. 1976 Docket, pp. 153-159.

Commissioner of Internal Revenue's[2] (CIR) **Comment/Opposition to Respondents' Motion for Reconsideration dated October 30, 2019**[3] belatedly filed on December 16, 2019.

Dino, *et al.* replead their arguments in their Petition and prays that the Court *En Banc* reconsider its Decision dated October 9, 2019 and order the refund of their income tax payments made for the years 2012 and 2013 in the aggregate amount of ₱20,452,112.00. Allegedly: *(i)* while the general principles of taxation are embodied in the National Internal Revenue Code (NIRC), the fact remains that the Asian Development Bank (ADB) Charter granted tax exemptions to Filipino employees of ADB and required an enabling legislation so that the reservation of the right to tax them could be considered in effect; *(ii)* the NIRC did not trigger the reservation of the right to tax the Filipino employees of ADB and Senate Resolution No. 6 was not sufficient to reserve the right to tax them; *(iii)* despite the existence of the NIRC, confusion as to the tax treatment of Dino, *et al.*'s income still persisted, necessitating the issuance of Revenue Memorandum Circular (RMC) No. 31-2013 in 2013. Since the NIRC was ambiguous and open to various interpretations, the reckoning of the taxes on Dino, *et al.*'s salaries should begin from 2013 onwards upon the issuance of RMC No. 31-2013; and, *(iv)* the retroactive application of RMC No. 31-2013 violates the basic principles of justice and fair play.

The CIR presents similar reasoning as in its previous submissions, asserting that Dino, *et al.* are not entitled to the refund of their income tax payments for the years 2012 and 2013. He maintains that the NIRC of 1997, as amended, a subsequent legislation, is the law that enables the enforcement of the reservation clause in Senate Resolution No. 6 and Article 56 of the ADB Charter. While Section 23 (A) the NIRC of 1997, as amended, stated clearly that resident citizens are subject to tax on income derived from all sources within and without the Philippines, the taxability of the income they received from ADB is not dependent on the validity or invalidity of RMC No. 31-2013.

For the non-retroactive application rule under Section 246 of the NIRC of 1997, as amended to apply, the CIR insists that there must be certain rules and regulations, ruling or circular promulgated by the Bureau of Internal Revenue (BIR) that are being revoked. In this case, the CIR argues that there is no indication that any rules and regulations, rulings or circulars promulgated by the BIR are being reversed by RMC No. 31-2013.

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[2] The incumbent CIR is Hon. Caesar R. Dulay.

[3] CTA EB No. 1976 Docket, pp. 164-170.

Lastly, the CIR emphasizes that tax refunds are in the nature of tax exemptions which must be construed *strictissimi juris* against the taxpayer and liberally in favor of the government.

RULING OF THE COURT

Dino, *et al.*'s **Motion for Reconsideration** deserves scant consideration.

It is apparent that no new issues or arguments are raised in the Motion for Reconsideration. Dino, *et al.* merely replead their previous arguments, all of which have been considered and found without merit in the assailed Decision dated October 9, 2019. Consequently, there is no compelling reason for the Court to modify, much more, to reverse its assailed Decision dated October 9, 2019.

WHEREFORE, in light of the foregoing consideration, Maria Lorena Dino, *et al.*'s **Motion for Reconsideration** filed on October 30, 2019 is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

With due respect, I maintain my Concurring and Dissenting Opinion dated October 9, 2019

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice