REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

UNITED CHURCH OF CHRIST IN THE PHILIPPINES, Petitioner,	CTA Case No. 9134
	Members:
- versus -	FABON-VICTORINO, and RINGPIS-LIBAN, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 29 2020 9:00 a.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

On January 15, 2019, the Court promulgated a Decision[1] the dispositive portion of which reads:

> **WHEREFORE**, the Petition for Review filed by the United Church of Christ in the Philippines is hereby **GRANTED**. Accordingly, the Audit Results/Assessment Notice bearing Assessment No. 014-088-IT-2010-109-14 and the Letter of Demand dated October 15, 2014 are hereby **CANCELLED** and **WITHDRAWN**.
>
> **SO ORDERED**.

[1] Docket, pp. 526-543.

Aggrieved, respondent filed this *Motion for Reconsideration (Re: Decision dated 15 January 2019)*,[2] anchored on the sole ground that:

> RESPONDENT'S RIGHT TO ASSESS PETITIONER FOR DEFICIENCY INCOME TAX FOR TAXABLE YEAR 2010 HAS NOT YET PRESCRIBED. THE THREE-YEAR LIMITATION WITHIN WHICH TO MAKE ASSESSMENT FINDS NO APPLICATION TO THE INSTANT CASE.

Respondent avers that in the assailed Decision of January 15, 2019, the Court found that "*no attending circumstances were cited to justify [his] failure to issue the required assessment within the period prescribed by law.*" The Court ruled that his invocation of fraud or falsity in petitioner's 2010 Income Tax Return (ITR) was just an afterthought to rationalize his belated issuance of the FAN and consequent application of the ten-year prescriptive period to assess under Section 222(a)[3] of the National Internal Revenue Code (NIRC) of 1997, as amended.

However, respondent maintains that Section 222(a) NIRC of 1997, as amended, should be applied in the determination of the period of limitation of his right to assess in the present case citing the case of *Samar-I Electric Cooperative vs. Commissioner of Internal Revenue*,[4] wherein the Supreme Court defined "false return" as deviation from the truth, whether intentional or not, and "fraudulent return" as intentional or deceitful entry with intent to evade the taxes due. Following the foregoing pronouncement, the 10-year assessment period is applicable in this since petitioner filed a fraudulent return with the intention to evade tax.

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[2] Docket, pp. 544-552.

[3] SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* —

(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof. *xxx*

[4] G.R. No. 193100, December 10, 2014.

Respondent claims that petitioner made it appear in its 2010 ITR that Bethany Hospital is a tax-exempt institution by indicating on its return the phrase "TENTATIVE EXEMPT ORGANIZATION", when in truth and in fact, Bethany Hospital is not a tax-exempt institution but one subject to 10% preferential tax rate. According to respondent, petitioner's intention to evade payment of its tax due is apparent from the details of payment of its return which indicates the amount of "Php0.00".

Even assuming that the subject return was not fraudulent, it was obviously false since there was deviation from the truth when Bethany Hospital was declared as an exempt entity in its ITRs when it was not as clearly shown in its Certificate of Registration. On this account, Section 222(a) of the NIRC of 1997, as amended, could be invoked.

In rejecting respondent's *motion*, petitioner counters that it did not file a false or fraudulent return. According to petitioner, the mere stamping of "Tentative Exempt Organization" in itself does not prove intention to evade payment of taxes. Further, respondent failed to prove through the testimony of his lone witness that there was deliberate intent on its part to file a false or fraudulent return.

Further, the stamping of "Tentative Exempt Organization" could be considered as an error, an honest mistake, or a misappreciation of fact. Petitioner states that the entry of wrong information due to mistake, carelessness, or ignorance, without intent to evade tax, does not constitute a false return following the ruling of the Supreme Court in *Commissioner of Internal Revenue vs. B.F. Goodrich Phils., Inc.*[5] Also in the recent case of *Commissioner of Internal Revenue vs. Philippine Daily Inquirer*,[6] the Supreme Court ruled that in the absence of sufficient evidence to establish fraud or intentional falsity on the part of the taxpayer, the 10-year prescriptive period does not apply.

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[5] G.R. No. 104171, February 24, 1999.
[6] G.R. No. 213943, March 22, 2017.

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Finally, petitioner argues that during the tax audit (including the time when the Notices of Assessment were sent up to the time when the Final Assessment Notice was issued), there was no finding that it filed a false or fraudulent return. For petitioner, this explains why respondent did not impose the 50% surcharge in his computation of the alleged tax deficiency in accordance with Section 248 of the Tax Code. If indeed there was fraud or false return, it should have been so indicated in the notice of assessment to allow it the opportunity to intelligently respond or assail the same. To assert such findings at this stage is to deprive it of its right to due process.

Respondent's *motion* must fail.

A meticulous evaluation of the arguments raised by respondent in his *Motion for Reconsideration* reveals that no sufficient and cogent reason to disturb the Court's finding and conclusion in the assailed Decision of January 15, 2019. The arguments stated in the *motion* have already been thoroughly discussed and passed upon by the Court in pages 11-17 of the assailed Decision. To restate the discussion is a waste of time and resources of the Court.

WHEREFORE, there being no new matters and issues advanced that will merit reconsideration, let alone modification of the assailed Decision of January 15, 2019, respondent's *Motion for Reconsideration (Re: Decision dated 15 January 2019)* is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice