

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Second Division

DHL GLOBAL FORWARDING
(PHILIPPINES), INC.,

Petitioner,

CTA CASE NO. 11336

Members:

- versus -

RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *II*.

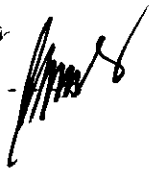
COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

Promulgated:
NOV 30 2023

4:00 pm

x- - - - -



RESOLUTION

On November 13, 2023, the subject “Petition for Review” was filed.

Upon perusal of the petition and its attachments, the Court notes that the “Verification and Certification against Forum Shopping” included a disclosure that the “Petitioner requested for the review by the Secretary of Finance the denial of its application for VAT Zero Rating for CY 2023 on 10 November 2023”.

Simply stated, a review of Respondent’s denial of Petitioner’s application for VAT Zero Rating for CY 2023 is currently pending with the Secretary of Finance.

Forum shopping is the act of a party litigant against whom an adverse judgment has been rendered in one forum seeking and possibly getting a favorable opinion in another forum, other than by appeal or the special civil action of *certiorari*, or the institution of two or more actions or proceedings grounded on the same cause or supposition that one or the other court would make a favorable disposition. Forum shopping happens when, in the two or more pending cases, there is identity of parties, identity of rights or causes of action, and identity of reliefs sought. Where the elements of *litis pendentia* are present, and where a final judgment in one case will amount to *res judicata* in the other, there is forum shopping. For *litis pendentia* to be a ground for the dismissal of an action, there must be: (a) identity of the parties or at

least such as to represent the same interest in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same acts; and (c) the identity in the two cases should be such that the judgment which may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other.¹

What is pivotal to the determination of whether forum shopping exists or not is the vexation caused to the courts and the party-litigants by a person who asks appellate courts and/or administrative entities to rule on the same related causes and/or to grant the same or substantially the same relief, in the process creating the possibility of conflicting decisions by the different courts or fora upon the same issues.²

To avoid the resultant confusion, this Court adheres strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of a case.³

In this case, there is clearly forum shopping where the same party, the Petitioner, filed two (2) pending cases with identical causes of action and identical reliefs sought before two (2) forums:

- 1) a Petition for Review with the Court of Tax Appeals praying for the annulment of the letters/notices denying/disallowing Petitioner's applications for VAT zero-rating in relation to the sale of its services to registered export enterprises for the taxable year 2023; and
- 2) a review/appeal to the Secretary of Finance of the denial of Petitioner's application for VAT Zero Rating for calendar year 2023.

Considering Petitioner's action in instituting the instant "Petition for Review" with this Court, when at the same time it has a pending review with the Secretary of Finance to review the denial by Respondent of its application for VAT Zero Rating for calendar year 2023, the Court finds Petitioner guilty of forum shopping.

WHEREFORE, in view of the foregoing, the instant petition is **DISMISSED** on the ground of forum shopping.

¹ In Re: Reconstitution Of Transfer Certificates of Title Nos. 303168 And 303169 and Issuance of Owner's Duplicate Certificates of Title in Lieu of Those Lost, Rolando Edward G. Lim, G.R. No. 156797, July 06, 2010.

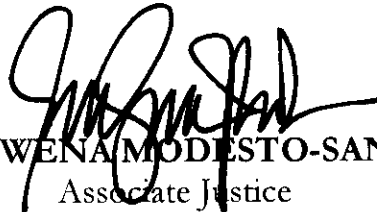
² Nelson P. Collantes v. Hon. Court of Appeals, Civil Service Commission and Department Of National Defense, G.R. No. 169604, March 06, 2007.

³ Gloria S. Dy v. Mandy Commodities Co., Inc., G.R. No. 171842, July 22, 2009.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)

CORAZON G. FERRER-FLORES
Associate Justice