REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

PUREGOLD DUTY FREE, INC., Petitioner,	**CTA CASE NO. 7812**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **CASANOVA,** *and* **MINDARO-GRULLA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JAN 20 2011 9:06 a.m.

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RESOLUTION

This resolves respondent's **"Motion for Reconsideration (Re: Resolution Promulgated November 25 2010)"** filed on December 10, 2010, praying the reconsideration of the Resolution promulgated on November 25, 2010, the dispositive portion thereof reads:

> "**WHEREFORE**, premises considered, the instant Motion for Reconsideration is hereby **GRANTED**. The Resolution of this Court promulgated on June 3, 2010 is hereby set aside. Respondent's assessment against petitioner for deficiency VAT and excise tax for the importation of alcohol and tobacco products covering the period January 1998 to May 2004 is hereby **CANCELLED** and **SET ASIDE** solely in view of petitioner's availment of Tax Amnesty under Republic Act No. 9399. Accordingly, the instant Petition for Review is hereby deemed **WITHDRAWN** and the case is considered **CLOSED** and **TERMINATED**."

Respondent avers that the national and local impositions mentioned in Republic Act (RA) No. 9399 do not cover the deficiency taxes being assessed against petitioner because the provisions of Republic Act (RA) No. 8240, which was incorporated in the provision of the third paragraph of Section 131 (A) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides as follows:

> "xxx The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits and wines into the Philippines, even if destined for tax and duty free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon xxx."

Respondent states that the same provisions are also incorporated and maintained in the provisions of Republic Act (R.A.) No. 9334, which now includes fermented liquors and which took effect in January 1, 2005; and that the said law withdrew the incentives on articles made into duly chartered or legislated free ports, which were formerly granted by Republic Act (R.A.) No. 8420. Thus, it is respondent's opinion that if the tax-incentives on the importation of articles are withdrawn from business enterprises located within the freeports, with more reason that the tax-incentives on importation of these articles into special economic zones should also be considered withdrawn. Respondent concludes that petitioner's importations of wines and cigarettes for the years January 1998 to May 2004 are subject to Value-Added Tax (VAT) and excise taxes.

Petitioner filed its ***"Reply (To Respondent's Motion for Reconsideration dated 09 December 2010)"*** on December 22, 2010, contending that the taxes, subject of the assessment, are not excluded from the coverage of R.A. No. 9399. Further, petitioner maintains that this Court had already ruled that petitioner is covered by the amnesty granted under R.A. No. 9399 in its Resolution dated July 13, 2009 and to which respondent did not interpose any objection by respondent.

After a close scrutiny of the arguments raised by respondent, this Court finds that the same contentions were already raised in her "*Comment (Re: Petitioner's Manifestation of Compliance)*" filed on November 15, 2010 and which have already been sufficiently addressed in the assailed Resolution dated November 25, 2010.

To reiterate, liability for VAT and excise taxes on importations of alcohol and cigars under Section 131 of the NIRC of 1997, as amended, is contemplated under R.A. No. 9399 when it provides that "*registered business enterprises operating prior to the effectivity of this Act within the special economic zones and freeports created pursuant to Section 15 of Republic Act No. 7227, as amended, such as the Clark Special Economic Zone created under Proclamation No. 163. series of 1993, xxx, may avail themselves of the benefits of remedial tax amnesty herein granted on* ***all applicable tax and duty liabilities, inclusive of fines, penalties, interest and other additions thereto****, incurred by them or that might have accrued to them due to the rulings of the Supreme Court in the cases of* ***John Hay People's Coalition vs. Lim, et. al., G.R. No. 119775 dated 23 October 2003 and Coconut Oil Refiners Association, Inc. vs. Torres, e.t al. G.R. No. 132527 dated 29 July 2005***".[1]

[1] Section 1, RA No. 9399.

Petitioner incurred liability for the assessed deficiency VAT, excise taxes and inspection fees when its tax incentive was in effect removed by the Supreme Court when it ruled in the case of *Coconut Oil Refiners Association, Inc., vs. Torres*[2], that the incentives provided under R.A. No. 7227 extends only to business enterprises registered within the Subic Special Economic Zone (SSEZ). Since, petitioner's tax liabilities accrued because of the said ruling, it is clear that petitioner's tax liabilities fall within the coverage of R.A. No. 9399.

WHEREFORE, premises considered, the instant ***Motion for Reconsideration*** is hereby **DENIED** for lack of merit.

SO ORDERED.

(On Leave)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[2] G.R. No. 132527, July 29, 2005.