REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

MISAMIS ORIENTAL II RURAL ELECTRIC SERVICE COOPERATIVE, INC. (MORESCO-II), Petitioner,	CTA Case No. **10145**
	Members:
- versus -	**BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 1 1 2023 10:40 Am

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is the "Motion for Partial Reconsideration Re: Decision dated 28 February 2023" (**MPR**) filed by respondent Commissioner of Internal Revenue (**respondent/CIR**) on 20 March 2023, without petitioner Misamis Oriental II Rural Electric Service Cooperative, Inc. (MORESCO II)'s (**petitioner**'s/**MORESCO II**'s) comment *per* Records Verification dated 20 April 2023. The MPR seeks the reversal of the Court's Decision dated 28 February 2023 (**assailed Decision**). The assailed Decision reads, thus:

> ...
>
> **WHEREFORE**, the above premises considered, the Petition for Review filed by petitioner Misamis Oriental II Rural Electric Service Cooperative, Inc. on 30 July 2019 is hereby **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ENJOINED** from collecting income tax and compromise penalties from petitioner pursuant to the Final Decision on Disputed Assessment dated 21 May 2019.
>
> **SO ORDERED.**
>
> ...

In the MPR, respondent reasserts his or her previous argument that petitioner's income tax exemption is dependent on its successful registration with the Cooperative Development Authority (**CDA**). Thus, respondent again thus cites the Supreme Court's Decisions in *Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA), et al. v. The Secretary, Department of Interior and Local Government, et al.*[1] (**PHILRECA**) and *City of Iriga v. Camarines Sur III Electric Cooperative, Inc.*[2] (**CASURECO III**) arguing that without proof that it registered with the CDA, petitioner cannot claim the income tax exemption under Republic Act (**RA**) No. 10531[3] in relation to Presidential Decree (**PD**) No. 269, otherwise known as "National Electrification Administration Decree".

Furthermore, respondent argues that the Court erred in enjoining respondent from collecting taxes contending that the tax collection cannot be suspended since petitioner has failed to prove a "clear legal right" to the relief sought.

The Court resolves below.

After a review of the records and the arguments put forth by respondent, the Court finds respondent's MPR bereft of merit.

For one, as stated earlier, the MPR contains a mere rehash of respondent's arguments already resolved in the assailed Decision. In affirming petitioner's tax exemption, the Court ruled:

> ...
>
> As regards respondent's reliance on the cases of *PHILRECA* and *CASURECO III*, We find the same misplaced. For one, both cases were promulgated prior to RA 10531's enactment. Second, We also find the issues raised therein not in all fours with the case at bar.
>
> A review of *PHILRECA* would reveal that the issues therein were about the difference in local tax treatment between ECs covered under PD 269 and those covered under RA 6938 since according to Section 193 of the Local Government Code (LGC) of 1991, previous exemptions enjoyed by various organization from payment of local taxes were withdrawn "except for (a) local water districts; (b)

---

1 G.R. No. 143076, 10 June 2003.
2 G.R. No. 192945, 05 September 2012.
3 National Electrification Administration Reform Act of 2013.

cooperatives duly registered under RA 6938; and, (c) non-stock and non-profit hospitals and educational institutions". In finding that there was no violation of the equal protection clause, the Supreme Court explained that the difference in treatment was proper since ECs registered with CDA were obliged to make capital contributions as with other similarly registered cooperatives. No such capital contribution is required of ECs registered under the provisions of PD 269.

Similarly, *CASURECO III* involved payment of local franchise taxes imposed by Section 137 of the LGC of 1991. Consistent with its ruling in *PHILRECA*, the Supreme Court ruled that Section 193 of the LGC of 1991 validly withdrew the local tax exemption of cooperatives which were not registered with the CDA such as ECs which remained registered under PD 269.

Unlike in *PHILRECA* and *CASURECO III*, the present case deals with an EC's exemption from payment of national income taxes. Notwithstanding the repeal of the local tax exemption of ECs under PD 269 by the LGC of 1991, the exemption from payment of national taxes will still be in force absent any express repeal as it is well-settled in our jurisdiction that repeals of statutes by implication are not favored.

...

The subsequent enactment of RA 10531 further reinforces the legislative intent to maintain the efficacy of the provisions of PD 269.

Considering that PD 269 remains in full effect, what thus remains for resolution is whether petitioner continues to enjoy the benefits that the decree affords. To reiterate, Section 39(a) of PD 269 provides for the following tax incentives:

> ...
> (a) Provided that it operates in conformity with the purposes and provisions of this Decree, cooperatives (1) **shall be permanently exempt from paying income taxes**, and (2) for a period ending on December 31; of the thirtieth full calendar year after the date of a cooperative's organization or conversion hereunder, or until it shall become completely free of indebtedness incurred by borrowing, whichever event first occurs, shall be exempt from the payment (a) of all National Government, local government and municipal taxes and fees, including franchise, filing, recordation, license or permit fees or taxes and any fees, charges, or costs involved in any court or administrative proceeding in which it may be a party, and (b) of all duties or imposts on foreign goods acquired for its operations, the period of such exemption for a new cooperative formed by consolidation, as provided for in Section 29, to begin from as of the date of the beginning

> of such period for the constituent consolidating cooperative which was most recently organized or converted under this Decree: *Provided*, That the Board of Administrators shall, after consultation with the Bureau of Internal Revenue, promulgate rules and regulations for the proper implementation of the tax exemptions provided for in this Decree.
>
> ...
>
> Respondent contends that assuming that petitioner is not required to register with the CDA, it would still not be entitled to a further exemption from payment of income taxes since thirty (30) years have already elapsed from the time it was organized or established in 1968.
>
> A cursory reading of the above provision clearly reveals that petitioner as an EC is provided two (2) types of benefits under PD 269. *First*, it is entitled to a permanent exemption from payment of income taxes during its existence. *Second*, it is exempted from payment of all national and local taxes, fees, charges, or costs involved in any court or administrative proceeding in which it may be a party, as well as duties or imposts on importation of materials for its operations for a period of ending on 31st day of December of the 30th year after the date of its organization or when it shall be completely free of indebtedness, whichever comes first.
>
> As petitioner argues, the first exemption is permanent in character while the second exemption is merely temporary. Petitioner's observations are accurate.
>
> The first exemption is not dependent on any condition other than an EC's legal existence hence, the exemption stands as long as petitioner legally operates. The word "permanent" in Section 39(a) of PD 269 must be understood in its regular usage. It is elementary in statutory construction that "words should be construed in their ordinary and usual meaning". Such rule of interpretation goes hand in hand with the principle of *generalia verba sunt generaliter intelligenda* or "what is generally spoken shall be generally understood".[4]
>
> ...

In sum, the Court already ruled on the inapplicability of the cases of *PHILRECA* and *CASURECO III* to the case at bar mainly since both cases deal with an Electric Cooperative's (EC's) exemption from payment of local taxes. The present case, however, deals with the

[4] Division Docket, pp. 282-288; Citations omitted and emphasis in the original text.

payment of national income tax which, according to Presidential Decree (**PD**) No. 269, an EC is permanently exempt from.

Considering that respondent's arguments on this issue is a mere rehash, the Court shall no longer belabor itself with another lengthy discussion on the matter, the same having been threshed out in detail in the assailed Decision.

Second, respondent's argument as regards the Court's lack of authority to enjoin the former from collection of taxes is not well-taken. Section 11 of RA No. 1125, as amended by RA No. 9282 reads:

> ...
> Sec. 11. Who may appeal; Mode of Appeal; Effect of Appeal. — ...
> ...
>
> No appeal taken to the CTA from the decision of the Commissioner of Internal Revenue or the Commissioner of Customs or the Regional Trial Court, provincial, city or municipal treasurer or the Secretary of Finance, the Secretary of Trade and Industry and Secretary of Agriculture, as the case may be shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law: Provided, however, That when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer the Court any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court.
> ...

In enjoining the collection of taxes, this Court needs only to determine whether the collection jeopardizes the interest of the Government and/or the taxpayer. The Court has already ruled on the case's merits and found petitioner to be permanently exempt from the payment of national income tax as long as it legally operates. To allow respondent to continue with the collection of income taxes despite a finding that petitioner is exempt therefrom is without a doubt prejudicial to latter's interests.

Contrary to respondent's insistence, petitioner has duly proven its clear and legal right under PD No. 256 (to be exempt from the payment of national income tax notwithstanding its non-registration with the

CDA). If the Court were not to enjoin respondent's future attempts to collect the taxes subject of this case, then the Court's assailed Decision would be left impotent and useless.

With the foregoing disquisitions, the Court thus finds no cogent reason to reverse the assailed Decision. As it stands, petitioner's income tax exemption remains in full force and effect, and any attempt from respondent to collect the same from petitioner will be unlawful.

WHEREFORE, the foregoing considered, respondent's "Motion for Partial Reconsideration Re: Decision dated 28 February 2023" filed on 20 March 2023 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice