REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

SAN MIGUEL PAPER PACKAGING CORPORATION, *Petitioner,*	**CTA *EB* NO. 2099** *(CTA Case No. 9288)*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	

x---x

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2102** *(CTA Case No. 9288)*
-versus-	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
SAN MIGUEL PAPER PACKAGING CORPORATION, *Respondent.*	Promulgated: MAR 1 5 2021

x -- x

RESOLUTION

MODESTO-SAN PEDRO, J.:

For resolution is the Commissioner of Internal Revenue's ("CIR") ***Motion for Reconsideration (Re: Decision promulgated 7 October 2020) (hereinafter referred to as "Motion")***, posted on 26 October 2020,[1] with San Miguel Paper Packaging Corporation's ("SMPPC") ***Comment on/Opposition***

[1] The CIR received the assailed Decision on 14 October 2020. Hence, the Motion was timely filed.

to "Motion for Reconsideration..." Dated October 19, 2020 of Commissioner of Internal Revenue" (hereinafter referred to as "Comment"), filed on 11 December 2020.

In his Motion, the CIR alleges that the Court erred in affirming the Decision of the Court in Division ordering him to refund the interest, surcharge, and penalty in favor of SMPPC on account of the latter's good faith reliance on ***BIR Ruling No. [DA (C-035) 127-08]***.

He explains that SMPPC was misplaced in relying on the said BIR Ruling since: (1) the same was not issued to SMPPC, (2) it was merely a delegated authority BIR Ruling; (3) as early as 15 July 1999, the CIR was already able to issue ***BIR Ruling 108-99***, which opined that inter-office memos evidencing lendings or borrowings extended by a corporation to its affiliates are akin to promissory notes, hence, subject to documentary stamp taxes ("DST").

He also cites the case of ***Commissioner of Internal Revenue v. Filinvest Development Corporation (hereinafter referred to as "Filinvest Case")***,[2] where the Supreme Court affirmed the imposition of surcharge, deficiency and delinquency interest, and compromise penalty on the deficiency DST assessment despite the allegation of the taxpayer that it relied on previous BIR Rulings that its transaction was not subject to DST.

Further, he stresses that the Tax Code did not provide for any exception to the imposition of interest. He also points out that SMPPC's obligation to pay the charged compromise penalty is valid pursuant to ***Revenue Memorandum Order No. 19-2007***.[3] Considering the said arguments, it asks the Court to reverse and set aside the assailed Decision.

In its Comment, SMPPC argues that the allegations raised by the CIR had already been addressed by the Court in the assailed Decision. It also emphasizes that the issues raised in the Motion had already been settled and resolved by the Court in Division with finality in the case of ***Brewery Properties Inc. v. Commissioner of Internal Revenue Case (hereinafter referred to as the "Brewery Case")***.[4]

After considering the arguments raised by both parties, the Court finds the contentions raised by the CIR bereft of merit.

---

[2] GR Nos. 163653 & 167689, 19 July 2011.
[3] The Consolidated Revised Schedule of Compromise Penalties for Violations of the National Internal Revenue Code, 8 August 2007.
[4] CTA Case No. 8892, 30 September 2016.

Fatal to its case is that the CIR failed to disprove the fact that SMPPC, in good faith, believed that it was not subject to DST on its advances from related parties. The CIR is reminded that ***BIR Ruling No. [DA (C-035) 127-08]*** is not the only issuance relied upon by SMPPC but also the cases of ***Commissioner of Internal Revenue v. APC Group, Inc.,***[5] and ***Commissioner of Internal Revenue v. Belle Corporation***,[6] which both overruled ***BIR Ruling 108-99.***

The Court also finds CIR's reliance on the ***Filinvest Case*** misplaced. A close reading of the same reveals that the issue as to the non-liability of the taxpayer to pay interests and penalties on account of its reliance in good faith on previous BIR Rulings and jurisprudence was not raised as an issue in the said case.

Meanwhile, various jurisprudence, including the cases of ***Antam Pawnshop Corporation v. CIR,***[7] ***Tambunting Pawnshop, Inc. v. CIR,***[8] ***CIR v. St. Luke's Medical Center, Inc.***,[9] and ***Michel J. Lhuillier Pawnshop, Inc. v. CIR,***[10] have already ruled that good faith and honest belief that a taxpayer is not subject to tax on the basis of previous interpretations of government agencies tasked to implement the tax law are sufficient justification to delete the imposition of surcharges and interest.

The aforestated rule, likewise, includes compromise penalty as ruled in ***CIR v. St. Luke's Medical Center, Inc.***,[11] which states:

> "As to whether SLMC is liable for compromise penalty under Section 248(A) of the 1997 NIRC for its alleged failure to file its quarterly income tax returns, this has also been resolved in G.R Nos. 195909 and 195960 (Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.), where the imposition of surcharges and interest under Sections 248 and 249 of the 1997 NIRC were deleted on the basis of good faith and honest belief on the part of SLMC that it is not subject to tax. Thus, following the ruling of the Court in the said case, SLMC is not liable to pay compromise penalty under Section 248(A) of the 1997 NIRC."

Moreover, the CIR cannot charge compromise penalty against SMPPC since, as discussed in the case of ***Wonder Mechanical Engineering Corporation vs. The Court of Tax Appeals, et. al***,[12] "compromise penalty cannot be imposed without an agreement or conformity of a taxpayer." In this case, the CIR failed to show proof that SMPPC agreed to pay any compromise

---

5 CA-GR No. 69869, 29 November 2002.
6 CTA EB Case No. 147, 13 October 2006.
7 G.R. No. 167962, 19 September 2008.
8 G.R. No. 179085, 21 January 2010.
9 G.R. No. 203514 13 February 2017.
10 G.R. No. 166786, 11 September 2006.
11 G.R. No. 203514 13 February 2017.
12 G.R. Nos. L-22805 & L-27858. 30 June 1975.

penalty as ruled by the Court in Division in the assailed Decision and Resolution.

WHEREFORE, premises considered, Commissioner of Internal Revenue's Motion for Reconsideration (Re: Decision promulgated 7 October 2020) is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

(On leave)
ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice