REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

PAMELA KRISTIE PUSPUS, ET. AL.,
Petitioners,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9095

Members:

UY, *Chairperson*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAY 20 2021
4:24 p.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Before this Court is Petitioners' "Motion for Reconsideration" filed on September 21, 2020, without Respondent's comment as per Records Verification Report dated December 28, 2020.

On July 30, 2020, the Court promulgated a Decision partially granting Petitioners' claim for refund of erroneously paid income tax on compensation for taxable year 2012 based on the finding that Revenue Memorandum Circular ("RMC") No. 31-2013[1] should be applied prospectively beginning taxable year 2013, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Respondent Commissioner of Internal Revenue is **ORDERED** to refund in favor of the following Petitioners the amount of Twelve Million Four Hundred Sixty-Six Thousand Two Hundred Sixteen Pesos and 61/100

[1] "SUBJECT: Guidelines on the Taxation of Compensation Income of Philippine Nationals and Alien Individuals Employed by Foreign Governments/Embassies/Diplomatic Missions and International Organizations Situated in the Philippines", dated April 12, 2013

(Php12,466,216.61), to be individually allocated based on the tabular summary provided below, representing their erroneously and illegally collected income tax on compensation income from the Asian Development Bank for taxable year 2012:

x x x x x x x x x

SO ORDERED."

In their motion, Petitioners insist on their income tax-exempt status. They claim that pursuant to the Asian Development Bank ("ADB") Charter, the non-taxation of their salary is the general rule and taxation is the exemption. As such, an exception to the general rule should be strictly construed. Moreover, Petitioners also assert that the exemption on taxation from compensation that are being enjoyed by the ADB employees for almost five (5) decades cannot be simply revoked by the issuance of RMC No. 31-2013 which dealt with the specific issue of taxability of the income of the Filipino ADB employees.

Accordingly, Petitioners' "Motion for Reconsideration" is bereft of merit.

At the outset, a simple peruse of the present motion shows that the arguments therein are reiteration of the issues and arguments which have already passed upon and resolved by the Court in the Decision it assails.

In the case *of Sea-Land Service, Inc. v. Court of Appeals and Commissioner of Internal Revenue*,[2] the Supreme Court had the opportunity to discuss the nature of exemption in the payment of income tax, to wit:

> "The question is whether Petitioner is exempted from the payment of income tax on its revenue earned from the transport or shipment of household goods and effects of US personnel assigned at Subic Naval Base.
>
> 'Laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power. **Taxation is the rule and exemption is the exception.**' The law 'does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.'
>
> x x x

[2] G.R. No. 122605, April 30, 2001.

> **The avowed purpose of tax exemption 'is some public benefit or interest, which the lawmaking body considers sufficient to offset the monetary loss entailed in the grant of the exemption.'** The hauling or transport of household goods and personal effects of U.S. military personnel would not directly contribute to the defense and security of the Philippines." *(Emphases supplied)*

Again, settled is the rule that exemptions from tax are strictly construed against the taxpayer and liberally construed in favor of the taxing authority. One who claims tax exemption must point to a specific provision of law conferring, in clear and plain terms, exemption from the common burden and prove, through substantial evidence, that it is, in fact, covered by the exemption so claimed.[3]

To reiterate, while the ADB Charter provides a tax exemption provision with respect to the salaries and emoluments paid by ADB to its officers and employees, the same also contains a proviso wherein a member-country, like the Philippines, may opt to retain its right to tax the salaries and emoluments paid by the ADB to its citizens or nationals. If the Philippine Government indeed intended to exempt the salaries or emoluments that its citizens or nationals would receive from ADB from income tax, a full ratification of the ADB could have been made, without retaining its right to tax its citizens or nationals.[4]

Lastly, it has already been pointed out in the assailed Decision that RMC No. 31-2013 is a mere interpretation of an already existing law. It was emphasized by the Court that the legal basis for the collection of income tax from Petitioner is the provisions of the National Internal Revenue Code of 1997, as amended, particularly Sections 23 and 24, and not RMC No. 31-2013. Since tax refunds partake of the nature of tax exemptions, which are construed *strictissimi juris* against the taxpayer, evidence in support of a claim must likewise be *strictissimi* scrutinized and duly proven.[5]

In view of the foregoing discussions, this Court finds that no new or substantial matter was raised in the present motion to justify the reversal or modification of the Decision assailed by Petitioners.

WHEREFORE, premises considered, Petitioners' "Motion for Reconsideration" is **DENIED** for lack of merit.

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[3] *Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), et al., v. Commissioner, Bureau of Internal Revenue, et al.*, G.R. No. 213446 & 213658, July 3, 2018.

[4] Decision, p. 14.

[5] *Commissioner of Internal Revenue v. Far East Bank & Trust Company (now Bank of the Philippine Islands)*, G.R. No. 173854, March 15, 2010.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

(With due respect, I reiterate my Concurring & Dissenting Opinion)
ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice