REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

OFFICEMETRO PHILIPPINES, INC. (formerly REGUS CENTRES, INC.),
Respondent.

CTA EB NO. 1210
(CTA Case NO. 8382)

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OFFICEMETRO PHILIPPINES, INC. (formerly REGUS CENTRES, INC.)
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1213
(CTA Case NO. 8382)

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla, and
Ringpis-Liban, JJ.

Promulgated:

NOV 29 2016 3:46 p.m.

x--x

R E S O L U T I O N

For resolution of this Court is Officemetro Philippines, Inc.'s (Officemetro) **Motion for Partial Reconsideration** filed on August 2, 2016, *sans* Commissioner of Internal Revenue's (CIR) Comment.

In the instant motion, Officemetro prays for the Court *En Banc* to reconsider the Resolution dated July 1, 2016 and to recognize the dissolution order of Branch 66 of the Regional Trial Court (RTC) of Makati City and the Securities and Exchange Commission.

The instant motion stemmed from Officemetro's Comment/Opposition to the Motion for Reconsideration of the CIR.[1] Officemetro prayed that the CIR's motion be denied for being moot and academic, on the ground that there is already an order of dissolution by the RTC. In the Court *En Banc* Resolution[2] dated July 1, 2016, *We* pronounced that Officemetro's liquidation process has not yet attained finality because its liabilities, including its liabilities to the government, are yet to be settled pursuant to a Liquidation Order under Section 112 of the Financial Rehabilitation and Insolvency Act of 2010. Said pronouncement is the *crux* of the instant motion.

Verily, the Court *En Banc* recognizes the Order[3] dated August 5, 2013 of the RTC. However, the Court *En Banc* emphasizes that although Officemetro is declared insolvent and dissolved as contained in the said Order, it does not necessarily translate to the extinguishment of its liability to pay the subject taxes. In fact, the Order[4] dated May 28, 2015 and the subsequent Orders[5] of the RTC show that Officemetro's liquidation process is still in the approval stage of the Proposed Liquidation Plan. Thus, payment of the subject taxes is yet to be made by Officemetro and therefore, it could not have mooted the previously resolved motion for reconsideration[6] of the CIR.

To remove Officemetro's cloud of confusion as to whether the said Order of Dissolution extinguished its obligation to pay the subject taxes, Article 1231 of the Civil Code provides:

"Art. 1231. Obligations are extinguished:

(1) *By payment or performance*;

(2) By the loss of the thing due;

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[1] Court *En Banc* Docket, pp. 180-182.
[2] Court *En Banc* Docket, pp. 187-206.
[3] Annex "A" of the Motion for Partial Reconsideration, Court *En Banc* Docket, p. 212.
[4] Id., Annex "B", p. 213.
[5] Id., Annexes "C", "D" and "E", pp. 214-216.
[6] Court *En Banc* Docket, pp. 167-175.

(3) By the condonation or remission of the debt;

(4) By the confusion or merger of the rights of creditor and debtor;

(5) By compensation;

(6) By novation."

Based on Article 1231 of the Civil Code, dissolution is not one of the modes to extinguish an obligation. To finally effect its extinguishment, liquidation becomes a necessary process after a corporation's dissolution. In this regard, the Court *En Banc* reiterates the concept of liquidation as explained by the Supreme Court in the case of *Anthony S. Yu, et al. v. Joseph S. Yukayguan, et al.*,[7] *viz*:

"xxx Liquidation is a necessary consequence of the dissolution of a corporation. It is specifically governed by Section 122 of the Corporation Code, which reads:

SEC. 122. *Corporate liquidation.* Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three (3) years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, to dispose of and convey its property and to distribute its assets, but not for the purpose of continuing the business for which it was established.

At any time during said three (3) years, said corporation is authorized and empowered to convey all of its property to trustees for the benefit of stockholders, members, creditors, and other persons in interest. From and after any such conveyance by the corporation of its property in trust for the benefit of its stockholders, members, creditors and others in interest, all interest which the corporation had in the property terminates, the legal interest vests in the trustees, and the beneficial interest in the stockholders, members, creditors or other persons in interest.

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[7] G.R. No. 177549, June 18, 2009, 589 SCRA 588.

> Upon winding up of the corporate affairs, any asset distributable to any creditor or stockholder or member who is unknown or cannot be found shall be escheated to the city or municipality where such assets are located.
>
> Except by decrease of capital stock and as otherwise allowed by this Code, no corporation shall distribute any of its assets or property except upon lawful dissolution and after payment of all its debts and liabilities.

Following the voluntary or involuntary dissolution of a corporation, **liquidation is the process of settling the affairs of said corporation, which consists of adjusting the debts and claims, that is, of collecting all that is due the corporation, the settlement and adjustment of claims against it and the payment of its just debts.** More particularly, it entails the following:

Winding up the affairs of the corporation means the collection of all assets, the payment of all its creditors, and the distribution of the remaining assets, if any among the stockholders thereof in accordance with their contracts, or if there be no special contract, on the basis of their respective interests. The manner of liquidation or winding up may be provided for in the corporate by-laws and this would prevail unless it is inconsistent with law.

It may be undertaken by the corporation itself, through its Board of Directors; or by trustees to whom all corporate assets are conveyed for liquidation; or by a receiver appointed by the SEC upon its decree dissolving the corporation."[8] *(Emphasis supplied)*

To conclude, there is no question as to the dissolved status of Officemetro based on the Order dated August 5, 2013 of the RTC. However, the Court *En Banc* reiterates that unless the process of Officemetro's liquidation is completed and the subject taxes have been paid in accordance with an approved liquidation plan, Officemetro's obligation still subsists.

WHEREFORE, the instant Motion for Partial Reconsideration is **DENIED**, for lack of merit.

SO ORDERED.

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[8] Id., citing *China Banking Corp. v. M. Michelin & Cie,* 58 Phil 261, 266 (1933) and Campos, THE CORPORATION CODE: COMMENTS, NOTES AND SELECTED CASES (Vol. 2, 1990 ed.), pp. 415, 415-416.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice