REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

IRISH FE N. AGUILAR and RUTH C. MANGROBANG, Petitioners,	**CTA EB NO. 2088** (CTA Case No. 9299)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 12 2021 4:25 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

Assailing the Special First Division's Decision dated 08 January 2019[1] and Resolution dated 31 May 2019[2], in CTA Case No. 9299, entitled *Irish Fe N. Aguilar, Ruth C. Mangrobang v. Honorable Kim S. Jacinto-Henares, in her capacity as Commissioner of Internal Revenue*, petitioners Irish Fe N. Aguilar (**Aguilar**) and Ruth C. Mangrobang (**Mangrobang**) (collectively referred to as **petitioners**) filed the

[1] Division Docket, pp. 419- 441; Penned by Associate Justice Erlinda P. Uy with Presiding Justice Roman G. Del Rosario and Associate Justice Cielito N. Mindaro-Grulla, concurring.

[2] Id., pp. 475-477.

present Petition for Review[3] on 11 July 2019, pursuant to Section 3(b)[4], Rule 8, in relation to Section 2(a)[5], Rule 4 of the Revised Rules of the Court of Tax Appeals[6] (**RRCTA**).

Petitioners are employees of Asian Development Bank (**ADB**), an international organization with principal office at 6 ADB Avenue, Mandaluyong City. Respondent is the Commissioner of Internal Revenue (**respondent/CIR**) presently in the person of Caesar R. Dulay (formerly, of Kim S. Jacinto-Henares) who holds office at the Bureau of Internal Revenue (**BIR**) National Office, Diliman, Quezon City.

FACTS OF THE CASE

On 12 April 2013, respondent issued Revenue Memorandum Circular (**RMC**) No. 31-2013 prescribing the 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.[7]

In compliance with RMC 31-2013, petitioners filed their Income Tax Returns (**ITR**) and paid their income taxes (**IT**) for taxable year (**TY**) 2013.[8] Specifically, petitioner Aguilar paid her IT in the amount of Four Hundred Fourteen Thousand Four Hundred Ninety-Five Pesos (₱414,495.00) on 19 March 2014[9], while petitioner Mangrobang paid her

---

3 *Rollo*, pp. 10-41.

4 **SEC. 3.** *Who may appeal; period to file petition.*

...

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

5 **SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

...

6 A.M. No. 05-11-07-CTA.

7 Joint Stipulations of Facts and Issues (JSFI), Division Docket, p. 228.

8 Id., p. 229.

9 Exhibits "P-1" and "P-2", id., pp. 308-312.

IT in the amount of One Hundred Sixty-Four Thousand Seven Hundred Two Pesos (₱164,702.00) with first installment on 08 April 2014 and second installment on 04 July 2014.[10]

Thereafter, some of petitioners' colleagues, namely, Erwin Salavera and Portia Gonzales, by themselves and as attorneys-in-fact of concerned Filipino employees of ADB, filed before Branch 213 of the Regional Trial Court of Mandaluyong City (**RTC Mandaluyong**), a petition to nullify Section 2(d)(1) of RMC 31-2013.[11]

On 30 September 2014, the RTC Mandaluyong issued a Decision[12] declaring Section 2(d)(1) of RMC 31-2013 as void (**RTC Mandaluyong Decision**).[13] The BIR appealed the said RTC Mandaluyong Decision to the Court of Appeals (**CA**) but the same was dismissed pursuant to its Resolution[14] dated 03 July 2015.[15]

Thus, on 17 March 2016, petitioners filed their respective Claims for Refund[16] before the Bureau of Internal Revenue (**BIR**) Revenue District Office (**RDO**) No. 41.

PROCEEDINGS BEFORE THE FIRST DIVISION

In view of the BIR's inaction, petitioners filed their judicial claim for refund, through their prior Petition for Review, on 18 March 2016.[17] Respondent filed her Answer[18] thereto on 16 May 2016. Following approval of the Joint Stipulation of Facts and Issues[19] (**JSFI**), the First Division issued a Pre-Trial Order[20] on 15 December 2016.

10 Exhibits "P-12", "P-11", "P-10", "P-9" and "P-8", id., pp. 356-363.
11 JSFI, id., p. 229.
12 Exhibit "P-4", id., pp. 316-347.
13 JSFI, id., p. 229.
14 Exhibit "P-7", id., pp. 364-370.
15 JSFI, id., p. 229.
16 Exhibits "P-6", "P-5" and "P-13", id., pp. 348-355.
17 Id., pp. 10-25.
18 Id., pp. 60-70.
19 Id., pp. 228-234.
20 Id., pp. 246-252.

After both petitioners were presented as witnesses[21], they filed their Formal Offer of Exhibits (**FOE**) on 29 June 2017[22], offering in evidence their Exhibits "P-1" to "P-13", inclusive of its sub-markings.

In a Resolution dated 15 December 2017[23], the First Division admitted all of petitioners' documentary evidence. In the same Resolution, the Court noted that respondent failed to file his comment[24] on the said FOE and to manifest whether he would present his countervailing evidence. Thereafter, the parties were directed to file their respective memoranda within thirty (30) days from receipt.

On 12 February 2018, petitioners filed their memorandum[25] while respondent failed to file his own[26], thus the Court submitted the case for decision on 15 February 2018.[27]

On 08 January 2019, the Special First Division[28] promulgated the now assailed Decision.[29] The dispositive portion thereof reads:

> ...
>
> **WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED.**[30]
>
> ...

Petitioners timely filed a Motion for Reconsideration[31] (**MR**) which the Special First Division later denied in its Resolution dated 31 May 2019.[32] According to the latter, petitioners' arguments in their MR are reiterations of issues which have already been extensively considered, weighed and resolved in the assailed Decision.

---

21 Order dated 14 June 2017, id., pp. 296-297.
22 Id., pp. 299-307.
23 Id., pp. 378-379.
24 *Per* Records Verification dated 16 August 2017, id., p. 371.
25 Id., pp. 380-410.
26 *Per* Records Verification dated 13 February 2018, id. p. 411.
27 Id., p. 415.
28 The First Division was reconstituted after the issuance of CTA Administrative Circular No. 02-18 dated 18 September 2018 entitled "Reorganizing the Three (3) Divisions of the Court."
29 Supra at note 1.
30 Emphasis and italics in the original text.
31 Division Docket, pp. 442-466.
32 Supra at note 2.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Disagreeing with the Special First Division's action on their MR, petitioners appealed and filed this present Petition for Review before the Court *En Banc*.[33]

Per Resolution of the Court *En Banc* dated 06 August 2019[34], the instant Petition for Review was initially dismissed as the Verification and Certification Against Forum Shopping was neither signed by the petitioners themselves nor accompanied by a requisite special power of attorney (**SPA**).

Petitioners filed an MR[35] on the above-mentioned Resolution, alleging that their counsel's failure to attach the SPA was not intentional and resulted only from mere inadvertence. They attached a copy of the SPA dated 19 June 2015[36] to their MR. In support of the MR, they invoked the liberal construction of the rules and moved that the 06 August 2019 Resolution be reversed and set aside.

On 24 September 2019, the Court *En Banc* issued a Resolution[37] granting the said MR and reversing its 06 August 2019 Resolution. Likewise, respondent was ordered to comment on the Petition for Review which he failed to do so[38], prompting the Court *En Banc* to submit the case for decision on 15 January 2020.[39]

In support of the instant Petition for Review, petitioners assign the following errors to the Special First Division's actions:

I.

THE SPECIAL FIRST DIVISION HAS NO JURISDICTION TO RULE ON THE VALIDITY OF SECTION 2(D)(1) OF REVENUE MEMORANDUM CIRCULAR NO. 31-2013 THUS IT ERRED IN DECLARING IT AS NOT UNCONSTITUTIONAL AND THAT THE DECISION OF THE REGIONAL TRIAL COURT (BRANCH 213,

---

33 Supra at note 3.
34 *Rollo*, pp. 124-128.
35 Id., pp. 129-138.
36 Id., pp. 139-142.
37 Id., pp. 144-146.
38 *Per* Records Verification dated 11 December 2019, id., p. 147.
39 Id., pp. 149-150.

MANDALUYONG CITY) IS A JUDGMENT RENDERED WITHOUT JURISDICTION.

II.

THE SPECIAL FIRST DIVISION DECIDED THE INSTANT CASE IN A WAY NOT IN ACCORD WITH LAW AND SETTLED DECISIONS OF THE HONORABLE SUPREME COURT THAT SOVEREIGNTY IS LIMITED BY INTERNATIONAL LAW AND TREATIES HENCE, THE PHILIPPINES, PURSUANT TO THE DOCTRINE OF *PACTA SUNT SERVANDA* IS BOUND TO COMPLY WITH ITS OBLIGATIONS UNDER THE ASIAN DEVELOPMENT BANK (ADB) CHARTER.

III.

THE SPECIAL FIRST DIVISION ERRED IN HOLDING THAT THE 1997 NATIONAL INTERNAL REVENUE CODE OF THE PHILIPPINES ("THE NIRC OF 1997") IS THE OPERATIVE ACT WHICH IMPOSED TAXABILITY ON THE INCOME OF PHILIPPINE NATIONALS WORKING IN ADB, CONSIDERING THAT:

i. THE NIRC OF 1997 IS IN ITSELF INSUFFICIENT TO MODIFY, AMEND OR REPEAL THE ADB CHARTER AS IT IS MERELY A GENERAL LAW WHICH DEALS ONLY WITH THE GENERAL TAXABILITY OF FILIPINO CITIZENS, WITHOUT PARTICULAR MENTION OF THE TAXABILITY OF FILIPINO CITIZENS IN ADB;

ii. THE TAX EXEMPTION PROVISION IN THE ADB CHARTER MUST STAND, IN THE ABSENCE OF A SPECIAL LAW SPECIFICALLY GRANTING THE GOVERNMENT THE AUTHORITY TO EXERCISE ITS RIGHT TO TAX, AS WELL AS, SPECIFICALLY ADDRESSING THE TAXABILITY OF PHILIPPINE NATIONALS WORKING IN THE ADB.

IV.

THE SPECIAL FIRST DIVISION ERRED WHEN IT RULED THAT IT CANNOT TAKE JUDICIAL NOTICE OF THE DECISION OF REGIONAL TRIAL COURT BRANCH 213 OF MANDALUYONG CITY.

RULING OF THE COURT *EN BANC*

After a thorough consideration of the arguments raised by petitioners *vis-à-vis* the pertinent laws, rules and regulations, the Court *En Banc* finds no merit in the instant Petition for Review.

THE COURT HAS THE POWER TO RULE ON THE VALIDITY OF REVENUE MEMORANDUM CIRCULAR NO. 31-2013.

Petitioners argue that the Special First Division has no jurisdiction to rule on the validity of RMC 31-2013 and thus erred in declaring Section 2(d)(1) thereof as not unconstitutional. In support thereof, petitioners cited *British American Tobacco v. Camacho, et al.*[40] (**British American Tobacco**) where the Supreme Court ruled that, while this Court has jurisdiction to resolve tax disputes in general, this does not include cases where the constitutionality of a law or rule is challenged. In the said case, the Supreme Court went on to rule that "[w]here what is assailed is the validity or constitutionality of a law, or a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same."

While it is true that in *British American Tobacco*, the Supreme Court ruled as such, petitioners are nonetheless mistaken in invoking the same since the Supreme Court has already reverted to its previous rulings upholding the jurisdiction of this Court to determine the constitutionality or validity of tax laws, rules and regulations, and other administrative issuances of the CIR. In *Banco de Oro, et al. v. Republic of the Philippines, et al.*[41], the Supreme Court declared:

> ...
>
> **We revert to the earlier rulings in *Rodriguez, Leal,* and *Asia International Auctioneers, Inc.* The Court of Tax Appeals has exclusive jurisdiction to determine the constitutionality or validity of tax laws, rules and regulations, and other administrative issuances of the Commissioner of Internal Revenue.**
>
> ...
>
> **The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund.** It is only in the lawful exercise of its power to pass upon all maters

---

40 G.R. No. 163583, 20 August 2008.
41 G.R. No. 198756, 16 August 2016; Emphasis supplied.

> brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.
>
> This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings).
>
> ...

Based on the foregoing, it is clear that this Court has jurisdiction to determine the constitutionality or validity of tax laws, rules and regulations, and other administrative issuances of respondent, including the instance where such law or rule is invoked by the taxpayer in claiming a refund, as in this case.

THERE IS NO VIOLATION OF THE ASIAN DEVELOPMENT BANK CHARTER.

Petitioners add that the Special First Division decided the case in a way not in accord with the Supreme Court decisions holding that sovereignty is limited by international laws and treaties. Thus, the Philippines is bound to comply with its obligations under the Agreement Establishing the Asian Development Bank (**ADB Charter**) pursuant to the doctrine of *pacta sunt servanda*.

Petitioners' contention is bereft of merit.

The time-honored international principle of *pacta sunt servanda* demands the performance in good faith of treaty obligations on the part of the states that enter into the agreement.[42] The rule of *pacta sunt servanda*, one of the oldest and most fundamental maxims of international law, requires the parties to a treaty to keep their agreement therein in good faith.[43]

---

[42] *Deutsche Bank AG Manila Branch v. Commissioner of Internal Revenue*, G.R. No. 188550, 19 August 2013.

[43] *Secretary of Justice v. Hon. Ralph Lantion, et al.*, G.R. No. 139465, 18 January 2000.

As would be shown hereunder, the imposition of IT upon the salaries of Filipino employees of ADB does not constitute a violation of its obligations under the ADB Charter, and consequently, the principle of *pacta sunt servanda.*

A closer examination of the laws relative to the establishment of ADB as well as our tax laws would reveal that the Philippines never relinquished, and in fact, retained, its right to impose taxes upon its citizens. Article 56 of the ADB Charter provides in part:

> ...
>
> 2. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, **except where a member deposits with its instrument of ratification or acceptance a declaration that such member retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member.**[44]
>
> ...

In the document where the said ADB Charter was ratified and confirmed, it is clear that the Philippines undoubtedly retained for itself the right the tax the salaries and emoluments paid by ADB to its Filipino employees. Specifically, Senate Resolution No. 6 dated 16 March 1966 provides:

> ...
>
> NOW THEREFORE, be it known that I, FERDINAND E. MARCOS, President of the Republic of the Philippines, having seen and considered the Agreement Establishing the Asian Development Bank done on December 4, 1965 at Manila, Philippines, do hereby in pursuance of the aforesaid concurrent of the Senate of the Philippines, ratify and confirm the said Agreement and every article and clause thereof, **subject to the reservation that the Philippines declares that it retains for itself and its political subdivision the right to tax salaries and emoluments paid by the Bank to citizens or nationals of the Philippines.**[45]
>
> ...

---

[44] Emphasis supplied.
[45] Emphasis supplied.

Such reservation to tax the salaries of ADB's Filipino employees is reiterated in Section 45, Article XII of the *Agreement Between the Asian Development Bank and the Government of the Republic of the Philippines Regarding the Headquarters of the Asian Development Bank* (**ADB Headquarters Agreement**) which reads as follows:

> ...
>
> **ARTICLE XII**
> **Privileges and Immunities of Governors and Other Representatives of Members, Directors, President, Vice-President and Others**
>
> ...
>
> Section 45
>
> Officers and staff of the Bank, including for the purposes of this Article experts and consultants performing missions for the Bank, shall enjoy the following privileges and immunities:
>
> (a) Immunity from legal process with respect to acts performed by them in their official capacity except when the Bank waives the immunity;
>
> (b) **Exemption from taxation on or in respect of the salaries and emoluments paid by the Bank subject to the power of the Government to tax its nationals[.]**[46]
>
> ...

Based on the foregoing, the Philippines indubitably reserved its right to impose taxes upon the salaries received by its citizens from ADB. Such reservation only finds more significance when taken in the light of the provisions of Commonwealth Act No. 466[47] (otherwise known as the NIRC of 1939) which then already imposes IT upon its citizens.[48] In other words, the Philippines made a reservation to retain its right to impose taxes upon its citizens because it was already then imposing IT upon their income.

---

46 Emphasis supplied.

47 AN ACT TO REVISE, AMEND AND CODIFY THE INTERNAL REVENUE LAWS OF THE PHILIPPINES.

48 SECTION 21. *Rates of Tax on Citizens or Residents.* — There shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding taxable year from all sources by every individual, a citizen or resident of the Philippines, a tax equal to the sum of the following:

...

Thus, contrary to petitioners' claim, there can be no violation of the ADB Charter as well as of the principle of *pacta sunt servanda* when, in the first place, the Philippines did not relinquish and instead, even unequivocally reserved its right to impose taxes upon its citizens (as it had been doing prior to the ADB Charter's execution).

THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, CLEARLY IMPOSES INCOME TAX UPON ITS RESIDENT CITIZENS.

Petitioners likewise contend that the NIRC of 1997, as amended, is not sufficient to modify, amend, or repeal the ADB Charter, as the former is a general law while the latter is a special law which specifically deals with the taxability of ADB's Filipinos employees.

We disagree.

In the first place, the NIRC of 1997, as amended, did not intend to modify, amend, or repeal the ADB Charter. In fact, the NIRC of 1997, as amended, (similar to NIRC of 1939 and 1977[49]) complements and reinforces the reservation made by the Philippines in its acceptance and confirmation of the ADB Charter (as shown as well in the ADB Headquarters Agreement).

To reiterate for emphasis, the Philippines aptly reserved its right to impose taxes on the salaries of its citizens when it accepted and ratified the ADB Charter (and as reiterated in the ADB Headquarters Agreement) because it was already then imposing IT upon its citizens. By the passage of the NIRC of 1977 and the present NIRC of 1997, as amended, the Philippines simply maintained its reservation when it continued to impose IT upon all its resident citizens.

---

[49] Presidential Decree No. 1158 entitled "A Decree to Consolidate and Codify All the Internal Revenue Laws of the Philippines".

Sections 23(A) and 24(A)(1)(a) of the NIRC of 1997, as amended, provide:

> ...
>
> **SEC. 23.** *General Principles of Income Taxation in the Philippines.* - Except when otherwise provided in this Code:
>
> (A) A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines;
>
> ...
>
> **SEC. 24.** *Income Tax Rates.* -
>
> (A) Rates of Income Tax on Individual Citizen and Individual Resident Alien of the Philippines.-
>
> (1) An income tax is hereby imposed:
>
> (a) On the taxable income defined in Section 31 of this Code, other than income subject to tax under Subsections (B), (C) and (D) of this Section, derived for each taxable year from all sources within and without the Philippines be every individual citizen of the Philippines residing therein[.]
>
> ...

Based on the foregoing provisions imposing IT upon all citizens of the Philippines and taken together with the reservation as manifested in the document of acceptance and ratification as well as in the ADB Headquarters Agreement, the Philippines certainly intended to tax its citizens working in ADB.

Moreover, a closer reading of the ADB Charter yields no support for petitioners' claim for exemption. The provision therein stating that "[n]o tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Directors, alternates, officers or employees of the Bank", would not apply if a member thereof retains such right to impose tax with respect to its citizens.

A tax exemption cannot arise from vague inference. Tax exemptions must be clear and unequivocal. A taxpayer claiming a tax exemption must point to a specific provision of law conferring on the taxpayer, in clear and plain terms, exemption from a common burden.

Any doubt whether a tax exemption exists is resolved against the taxpayer.[50]

THE DECISION OF THE REGIONAL TRIAL COURT OF MANDALUYONG CITY IS NOT BINDING UPON THIS COURT.

Petitioners also impute error on the Special First Division for holding that it could not take judicial notice of the RTC Mandaluyong Decision declaring Section 2(d)(1) of RMC 31-2013 as unconstitutional.

We do not agree.

Generally speaking, matters of judicial notice have three material requisites: (1) the matter must be one of common and general knowledge; (2) it must be well and authoritatively settled and not doubtful or uncertain; and, (3) it must be known to be within the limits of the jurisdiction of the court.[51]

In a plethora of cases[52], the Court *En Banc* consistently ruled that Filipino employees are not exempt from IT for the salaries they received from ADB considering that the Philippines unquestionably reserved the right to tax its citizens, contrary to the RTC Mandaluyong Decision.

As such, it is apparent that there are conflicting rulings between the RTC Mandaluyong Decision and this Court's decisions insofar as the said legal question is involved, making the same a matter which is not yet "well and authoritatively settled and not doubtful or

50 *The City of Iloilo, et al. v. SMART Communications, Inc. (SMART)*, G.R. No. 167260, 27 February 2009 citing *Digital Telecommunications, Inc. v. City Government of Batangas, et al.*, G.R. No. 156040, 11 December 2008.

51 *State Prosecutors v. Judge Manuel T. Muro*, A.M. No. RTJ-92-876, 19 September 1994.

52 *Princess O. Lubag v. Honorable Kim S. Jacinto-Henares*, CTA EB No. 2124, 01 December 2020; *Commissioner of Internal Revenue v. Cristeta May Galang, et al.*, CTA EB Nos. 1721 and 1868, 05 February 2020; *Commissioner of Internal Revenue v. Maria Lorena Dino, et al.*, CTA EB Nos. 1976 and 1978, 09 October 2019; *Commissioner of Internal Revenue v. Spouses De Los Reyes*, CTA EB No. 1788, 03 October 2019; *Commissioner of Internal Revenue v. Rowena Vicente, et al.*, CTA EB Nos. 1717 and 1718, 08 August 2019; *Commissioner of Internal Revenue v. Licel Calderon, et al.*, CTA EB Nos. 1876 and 1878, 02 July 2019.

uncertain". Thus, this Court is certainly not bound to take judicial notice of or adhere to the RTC Mandaluyong Decision.

It is also worth noting that the CA dismissed the BIR's appeal (from the RTC Mandaluyong Decision) for having been erroneously filed with it when it should have been raised by a petition for review on *certiorari* (under Rule 45 of the 1997 Rules of Court) before the Supreme Court (considering that only question of law is involved).[53]

In any case, the said RTC Mandaluyong Decision is not binding on this Court as only decisions of the Supreme Court constitute binding precedents, forming part of the Philippine legal system.[54]

As a final note. Tax refunds partake the nature of tax exemptions which are a derogation of the power of taxation of the State. They are construed strictly against a taxpayer and liberally in favor of the State such that he who claims a refund or exemption must justify it by words too plain to be mistaken and too categorical to be misinterpreted.[55] In the absence of a clear basis for the tax exemption, this Court could not grant the refund sought by petitioners as the tax they paid are not erroneously or illegally assessed or collected.

WHEREFORE, with the foregoing, this instant Petition for Review filed by petitioner Irish Fe N. Aguilar and Ruth C. Mangrobang is **DENIED** for lack of merit. Accordingly, the Decision dated 08 January 2019 and Resolution dated 31 May 2019, respectively, of the Special First Division in CTA Case No. 9299, entitled *Irish Fe N. Aguilar, Ruth C. Mangrobang v. Honorable Kim S. Jacinto-Henares, in her capacity as Commissioner of Internal Revenue,* are hereby **AFFIRMED.**

---

53 See Resolution of the Court of Appeals dated 03 July 2015; Exhibit "P-7", Division Docket, pp. 364-370.

54 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 196907, 13 March 2013.

55 *Gulf Air Company, Philippine Branch (GF) v. Commissioner of Internal Revenue*, G.R. No. 182045, 19 September 2012; Citation omitted.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

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

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice