REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

IRISH FE N. AGUILAR and RUTH C. MANGROBANG,
Petitioners,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2088
(CTA Case No. 9299)

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUL 11 2022 4:15 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioners Irish Fe N. Aguilar and Ruth C. Mangrobang's (**petitioners**') "Motion for Reconsideration (of the Decision dated 12 January 2021)"[1] (**MR**) filed on 09 February 2021, without comment[2] from respondent Commissioner of Internal Revenue (**respondent**).

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[1] *Rollo*, pp. 173-192.
[2] *Per* Records Verification dated 28 March 2022.

The MR seeks the reversal of the Court *En Banc*'s Decision promulgated on 12 January 2021[3] (**assailed Decision**). The dispositive portion of the assailed Decision reads:

> ...
>
> **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**.
>
> **SO ORDERED.**
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> ...

In the MR, petitioners contend that the Court *En Banc* committed a manifest error when it did not take judicial notice of the Decision[4] of the Regional Trial Court of Mandaluyong City - Branch 213 (**RTC Mandaluyong**) and instead affirmed the Court in Division's Decision dated 08 January 2019[5] and Resolution dated 31 May 2019[6] which ruled on the validity of Revenue Memorandum Circular (**RMC**) No. 31-2013.[7] As a result, petitioners argue that the Court in Division effectively exercised appellate jurisdiction over the RTC Mandaluyong's Decision.

Citing the case of *Commissioner of Internal Revenue v. Court of Tax Appeals (Second Division) and Petron Corporation*[8] (**Petron**), petitioners claim that the power to rule on the constitutionality of RMC No. 31-2013 rests on the regular courts and not the Court in Division.

Petitioners also argue that the Court *En Banc* committed a serious error when it ruled that the government retained (and not merely reserved) its right to impose tax on Filipino employees of Asian

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3 *Rollo*, pp. 152-167.
4 Exhibit "P-4", Division Docket, pp. 316-347.
5 Id., pp. 419- 441.
6 Id., pp. 475-477.
7 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.
8 G.R. No. 207843, 15 July 2015.

Development Bank (**ADB**), as the Agreement Establishing the Asian Development Bank (**ADB Charter**) expressly exempts their salaries and emoluments from taxation.

According to petitioners, the Congress has not enacted any statute withdrawing the tax-exempt status of ADB employees. As such, the ADB Charter, a valid tax treaty, remains in force. With that, treaty obligations must be accorded respect, complied with in good faith and have force and effect of law in our jurisdiction.

Lastly, petitioners maintain that the Court *En Banc* erred in holding that the National Internal Revenue Code (**NIRC**) of 1997, as amended, is a valid declaration of taxability of Filipino ADB employees.

Petitioners explain that the reserved taxing power under the ADB Charter can only be exercised by enacting an enabling law and not merely RMC No. 31-2013, as mere administrative issuance cannot be the basis for withdrawing their tax-exempt status.

Petitioners add that a simple reading of Sections 23[9] and 24[10] of the NIRC of 1997, as amended, would reveal that there is nothing therein that expressly and specifically modified, amended, or repealed paragraph 2[11], Article 56 of the ADB Charter.

We resolve.

At the outset, it must be emphasized that petitioners failed to raise any new argument or present novel matter which the Court, either in Division and *En Banc*, has not previously scrutinized, studied, and discussed.

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[9] **SEC. 23.** *General Principles of Income Taxation in the Philippines.* - ...

[10] **SEC. 24.** *Income Tax Rates.* -

[11] ...

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.

...

Except for the invocation of the case of *Petron* which petitioners used to support their contention that the Court in Division had no jurisdiction to pass upon the validity of RMC No. 31-2013, petitioners' MR contains the very identical arguments they earlier raised in their Petition for Review[12] before the Court *En Banc*.

In *Licomcen Incorporated v. Foundation Specialists, Inc.*[13], the Supreme Court, citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[14], held that:

> ...
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> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, x x x deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
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> ...

As to the newly-cited case of *Petron*, it may not be amiss to point out that the Supreme Court has already reversed its declaration therein in its Resolution dated 14 February 2018 where it was held that:

> ...
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> The apparent conflicting jurisprudence on the matter involving the Court's 2008 *En Banc* ruling in *British American Tobacco* and the Court's Third Division Ruling in *Philamlife* has been seemingly

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12 *Rollo*, pp. 10-41.

13 G.R. No. 167022, 31 August 2007.

14 G.R. No. 109645, 04 March 1996.

settled in the 2016 *En Banc* case of *Banco De Oro v. Republic of the Philippines (Banco De Oro)* wherein it was opined that:

> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.
>
> In other words, **within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems**. Petitions for writs of *certiorari* against the acts and omissions of the said quasi-judicial agencies should thus be filed before the Court of Tax Appeals.
>
> Republic Act No. 9282, a special and later law than *Batas Pambansa Blg.* 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals.
>
> Furthermore, with respect to administrative issuances (revenue orders, revenue memorandum circulars, or rulings), these are issued by the Commissioner under its power to make rulings or opinions in connection with the implementation of the provisions of internal revenue laws. Tax rulings, on the other hand, are official positions of the Bureau on inquiries of taxpayers who request clarification on certain provisions of the National Internal Revenue Code, other tax laws, or their implementing regulations. Hence, **the determination of the validity of these issuances clearly falls within the exclusive appellate jurisdiction of the Court of Tax Appeals under Section 7(1) of Republic Act No. 1125, as amended, subject to prior review by the Secretary of Finance, as required under Republic Act No. 8424**.

The *En Banc* ruling in *Banco De Oro* has since not been overturned and thus, stands as the prevailing jurisprudence on the matter.

> Accordingly, the Court is prompted to reconsider its ruling in this case with respect to the issue of jurisdiction.[15]
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> ...

In the more recent case of *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division), et al.*[16], the Supreme Court reinforced the above ruling in this wise:

> ...
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> It is relevant to note that during the pendency of the proceedings, the issue anent the *certiorari* jurisdiction of the CTA over direct challenges to the validity of tax issuances was not yet definitively settled. Accordingly, the parties cited conflicting jurisprudence in their numerous pleadings before the CTA and this Court.
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> However, on August 16, 2016, the Court En Banc promulgated *Banco De Oro v. Republic of the Philippines (Banco De Oro)*, wherein it was definitively settled that the CTA has jurisdiction over challenges to the validity of tax issuances. Notably, this overturned the previous doctrine in *British American Tobacco v. Camacho (British American Tobacco)*, which held that such jurisdiction lies in the regular courts, and not the CTA.
>
> To recount, in *Banco De Oro*, the Court held that the CTA's power to issue writs of *certiorari* in order to strike down tax issuances is inherent in the exercise of its appellate jurisdiction as derived from the CTA Law, which — being the special and later law — should take precedence over the general provisions of Batas Pambansa Bilang 129, *viz.*:
>
>> 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).
>>
>> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related

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15 Supra at note 8; Citations omitted, emphasis and italics in the original text.

16 G.R. No. 210501, 15 March 2021; Citations omitted, emphasis, underscoring and italics in the original text.

> problems must be brought exclusively to the Court of Tax Appeals.
>
> In other words, within the judicial system, **the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems. <u>Petitions for writs of certiorari against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals</u>.**
>
> Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, **actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals.**

In this case, PSPC, in its Amended Petition in CTA Case No. 8535, directly challenged the validity of Document No. M-059-2012, alleging, among others, that it lacked factual basis, violated its right to due process, as well as the rule on non-retroactivity of rulings. Thus, following the rule that jurisdiction is determined by the allegations of the initiatory pleading, this necessarily falls within the ambit of the CTA's *certiorari* jurisdiction as pronounced in the *Banco De Oro* ruling.

...

In sum, as petitioners merely recycled their previous submissions and arguments, the Court *En Banc* finds no cogent reason to disturb the assailed Decision.

WHEREFORE, with the foregoing, petitioners Irish Fe N. Aguilar and Ruth C. Mangrobang's "Motion for Reconsideration (of the Decision dated 12 January 2021)" filed on 09 February 2021 is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

Ma. Belen M. Ringpis-Liban
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice