REPUBLIC OF THE PHILIPPINES
Court Of Tax Appeals
QUEZON CITY

THIRD DIVISION

YAMAN LAHI FOUNDATION, INC. – EMILIO AGUINALDO COLLEGE,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7655

Members:

BAUTISTA, Chairperson,
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, JJ.

Promulgated:

APR 4 2011
4:15 p.m.

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D E C I S I O N

PALANCA-ENRIQUEZ, J.:

THE CASE

This is a Petition for Review filed by Yaman Lahi Foundation, Inc. – Emilio Aguinaldo College (hereafter "petitioner"), under *Section 7 of RA 1125, as amended by RA 9282,* on the inaction of the Commissioner of Internal Revenue (hereafter "respondent") on petitioner's Letter Protest filed on October 11, 2006, assailing respondent's assessments dated September 14, 2006 for deficiency income tax, value added tax, final tax on interest income and documentary stamp tax in the aggregate amount of

P24,585,953.54, inclusive of interest and penalty for the fiscal year ended May 31, 2003.

THE PARTIES

Petitioner is a non-stock, non-profit educational institution duly incorporated and existing under Philippine laws, with business address at 1113-1117 San Marcelino, corner Gonzales Street, Paco, Manila.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue, vested with authority to act as such, including, among others, the power to decide disputed assessments of internal revenue taxes and penalties imposed in relation thereto, with office address at the 5th Floor, Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City, where she may be served with summons and other legal processes.

THE FACTS

The antecedent facts of the case are, as follows:

Petitioner is a non-stock, non-profit educational institution, which operates the Emilio Aguinaldo College.

Being a non-stock, non-profit educational institution, petitioner is not subject to taxes and duties on all its revenues and assets, which are used actually, directly and exclusively for educational purposes, as provided under Article XIV, Section 4(3) of the 1987 Philippine Constitution.

On September 14, 2006, petitioner received the Preliminary Assessment Notice (PAN), and was given fifteen (15) days therefrom, or until September 27, 2006, to file a protest.

On September 27, 2006, petitioner filed its protest to the PAN. However, before the lapse of the 15- day period, on September 14, 2006, the BIR issued the formal letters of demand with assessment notices.

On September 18, 2006, petitioner received Final Assessment Notice No. 34FY05/31/2003 for deficiency income tax, value-added tax, final tax on interest income and documentary stamp tax in connection with the investigation conducted, pursuant to a Letter of Authority No. 00086788 dated April 5, 2005. The Final Assessment Notice was revalidated on October 14, 2005.

Pursuant to the FAN, petitioner was assessed deficiency taxes in the aggregate amount of P24,585,953.54.

On October 11, 2006, petitioner, through its representative, SGV & Co., protested said assessments by filing a letter-protest, dated October 10, 2006 with respondent CIR.

On October 17, 2006, the Regional Director issued a reply to the Protest letter informing petitioner that he will be forwarding the case to RDO 34 for reinvestigation.

On December 8, 2006, petitioner, through SGV & Co., filed a Supplement to the Protest.

Respondent failed to render a decision on petitioner's protest, within the 180-day period prescribed in *Section 228 of the NIRC of 1997, as amended;* thus, on July 10, 2007, petitioner filed the instant Petition for Review.

In her answer, respondent raised special and affirmative defenses.

Petitioner presented Julieta M. Masilungan and Decena Requino as witnesses, and documentary evidence, marked as *Exhibits "A" to "MM",* inclusive of their submarkings, which were admitted by the Court in a Resolution dated May 21, 2008.

On July 29, 2008, petitioner filed an "Omnibus Motion for Confirmation of Petitioner's Rights and Immunities under the Tax Amnesty Act of 2007; Cancellation of Assessments; and Withdrawal of Petition for Review," alleging that the assessments against petitioner should be cancelled since it has already availed of the tax amnesty under *RA 9480.*

On August 13, 2008, respondent CIR filed her "Comment (To Omnibus Motion for Confirmation of Petitioner's Rights and Immunities under the Tax Amnesty Act of 2007; Cancellation of Assessments; and Withdrawal of Petition for Review)", in compliance with the Resolution dated July 30, 2008.

On September 2, 2008, petitioner filed a "Motion for Leave to File Reply (to Respondent's Comment)" with attached "Reply (to Respondent's Comment)".

On September 30, 2008, the Court issued a resolution granting petitioner's motion and considered the present Petition for Review as withdrawn in so far as petitioner's deficiency taxes on income tax, value-added tax and documentary tax are concerned. Thus, the remaining deficiency pertains to the final withholding tax.

On October 14, 2008, petitioner filed a "Motion for Clarification and/or Partial Reconsideration of the Resolution" dated September 30, 2008.

On November 4, 2008, respondent CIR filed her "Comment (To Motion for Clarification and/or Partial Reconsideration)", in compliance with the Resolution dated October 21, 2008. On November 26, 2008, petitioner filed its "Reply (to Respondent's Comment)".

On February 25, 2009, the Court denied petitioner's "Motion for Clarification and/or Partial Reconsideration" for lack for merit and set the initial presentation of evidence for petitioner with regard to the remaining issue on petitioner's deficiency final withholding tax.

On March 26, 2009, petitioner filed an "Omnibus Motion" praying for re-confirmation of petitioner's rights, privileges, and immunities under *RA 9480* and reconsideration of the Resolution dated February 25, 2009.

On April 17, 2009, respondent CIR filed her "Comment (To petitioner's Omnibus Motion)", in compliance with the Resolution of the Court dated March 30, 2009. On April 28, 2009, petitioner filed its "Reply (to Respondent's Comment)".

Thus, on May 29, 2009, the Court partly granted petitioner's "Omnibus Motion" setting aside petitioner's deficiency assessments on income tax, value-added tax and documentary stamp tax solely in view of petitioner's availment of the Tax Amnesty under *RA 9480.*

On June 8, 2009, petitioner filed a "Manifestation and Motion" praying that the proceedings in the instant case be held in abeyance until the Petition for Review to be filed by petitioner is acted upon and

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resolved by the CTA *En Banc*. On June 22, 2009, respondent filed her "Comment/Opposition (To petitioner's Manifestation and Motion)".

Thereafter, on July 1, 2009, petitioner filed a "Supplemental Manifestation" and a "Motion to Admit Attached Reply (to Respondent's Comment/Opposition dated 19 June 2009)".

Thus, on July 29, 2009, in view of the pending Petition for Review with the Court *En Banc*, the Former Second Division granted petitioner's motion dated June 8, 2009 and held in abeyance the proceedings of this case until further orders from the Court.

In the meantime, the initial presentation of the evidence for the respondent was set on January 25, 2010.

At the scheduled hearing on January 25, 2010, respondent presented Jocelyn C. Quevedo, Evelyn A. Valenzona, Julieta M. Masilungan, as her witnesses, and documentary evidence marked as *Exhibits "1" to "19"*, inclusive of their submarkings, which were admitted by the Court in a Resolution dated July 7, 2010, except for *Exhibits "7" to "9"*, for failure of respondent to state their purpose and to identify the same during the hearing.

On rebuttal, petitioner, presented Julieta M. Masilungan, as rebuttal witness, and documentary evidence marked as *Exhibit "NN-Rebuttal"*, including its submarkings, which were admitted by the Court in a Resolution dated November 4, 2010.

Thereafter, both parties were ordered to file their simultaneous memoranda, within thirty (30) days from notice.

Both parties having complied thereto, this case was deemed submitted for decision on January 6, 2011.

Meanwhile, on June 30, 2009, petitioner filed a Petition for Review with the Court *En Banc,* docketed as CTA EB No. 497, assailing the Resolutions dated September 30, 2008, February 25, 2009 and May 29, 2009 of the Former Second Division in this instant case, as regards the remaining issue on deficiency assessments pertaining to final withholding taxes.

On August 26, 2010, the Court *En Banc* rendered its decision dismissing the Petition for Review for lack of merit.

On September 16, 2010, petitioner filed a "Motion for Reconsideration (Re: Decision dated 26 August 2010)" with the Court *En Banc.*

On October 29, 2010, respondent CIR filed her "Comment (To petitioner's Motion for Reconsideration)", in compliance with the Resolution of the Court *En Banc* dated October 4, 2010.

On February 7, 2011, the Court *En Banc* rendered an Amended Decision granting petitioner's "Motion for Reconsideration" and setting aside the assailed Resolutions dated September 30, 2008, February 25, 2009 and May 29, 2009 issued by the Former Second Division in CTA Case No. 7655 and considered the Petition for Review in C.T.A. Case No. 7655, as withdrawn solely in view of petitioner's availment of the Tax Amnesty Law of 1997.

WHEREFORE, in view of the Amended Decision dated February 7, 2011 rendered by the CTA *En Banc* in CTA EB No. 497, considering the Petition For Review filed in C.T.A. Case No. 7655 as withdrawn solely in view of petitioner's availment of the Tax Amnesty Law of 1997, the above-captioned case is now considered **CLOSED and TERMINATED**.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

I attest 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's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ERNESTO D. ACOSTA
Presiding Justice