REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

SAN MIGUEL HOLDINGS CORP.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1935
(CTA Case No. 9401)

x---x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

SAN MIGUEL HOLDINGS CORP.,
Respondent

CTA EB No. 1941
(CTA Case No. 9401)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, JJ.

Promulgated:
DEC 1 1 2020 11:50 am

x - x

RESOLUTION

UY, J.:

For resolution of the Court *En Banc* is the ***MOTION FOR RECONSIDERATION (Re: Decision promulgated 25 June 2020)*** filed by Commissioner of Internal Revenue (CIR), petitioner in CTA EB No. 1941, on July 10, 2020, with ***OPPOSITION TO THE COMMISSIONER OF INTERNAL REVENUE'S "MOTION FOR RECONSIDERATION..." DATED JULY 3, 2020*** filed by San Miguel Holdings Corp. (SMHC), respondent, on October 1, 2020.

In the said *Motion for Reconsideration,* the CIR seeks for the reconsideration of the Court *En Banc*'s Decision promulgated on June 25, 2020, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* in CTA EB No. 1935 filed by SMHC and the *Petition for Review* in CTA EB No. 1941 filed by the CIR are both **DENIED** for lack of merit.
>
> Accordingly, the Decision dated June 5, 2018 and Resolution dated September 3, 2018 rendered by the Court in Division in CTA Case No. 9401, are **AFFIRMED**.
>
> **SO ORDERED**."

<u>The CIR's Motion for Reconsideration</u>

The CIR reiterates its argument that the ruling, on the imposition of deficiency interest, surcharge and compromise penalty should be dispensed with since SMHC acted in good faith in relying on previous court decisions and BIR rulings, is utterly misplaced. The CIR argues that no such consideration was given to the *Filinvest*[1] case by the Supreme Court despite such allegation of previous reliance in good faith. As such, the imposition of interest, surcharge and compromise penalty has factual and legal basis under the NIRC of 1997 and as ruled by the Supreme Court in the *Filinvest* case. The principle of *stare decisis* enjoins adherence by lower courts to doctrinal rules established by the Supreme Court in its final decisions.

Moreover, according to the CIR, SMHC cannot simply invoke good faith in order to escape liability from deficiency interest. Section 247(a) in relation to Section 249(b) and 249 (c) of the NIRC of 1997 authorizes the imposition of deficiency and delinquency interest in all

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[1] *Commissioner of Internal Revenue vs. Filinvest Development Corporation*, G.R. No. 163653, 19 July 2011.

taxes and does not admit an exemption from the imposition of the deficiency and delinquency interest for non-payment of taxes.

SMHC's Counter-Arguments:

SMHC counters that the CIR is precluded from filing the instant Motion for Reconsideration. SMHC invokes CTA Case No. 8892 entitled *Brewery Properties Inc. vs. Commissioner of Internal Revenue,* a decision of the CTA First Division that is final and executory, which operates as a binding judicial precedent on the CIR in the instant Motion for Reconsideration.

Moreover, SMHC counter-argues that CTA Case No. 8892 may be taken judicial notice by the Court *En Banc* because the Decision and Resolution in the said case have a close connection with the instant cases.

Furthermore, SMHC asserts that it was justified in relying on relevant BIR Rulings which, like court decisions, may be cited as precedents or relied upon by taxpayers. According to SMHC, BIR Ruling [DA (C-035) 127-08] dated August 8, 2008, had not been revoked up until July 29, 2011 when the decision in the *Filinvest* case was promulgated by the Supreme Court.

SMHC also counters that the facts in the *Filinvest* case are different from the facts in the cases at hand. The issue of whether good faith on the part of the taxpayer as basis for the non-imposition of interest, surcharge and penalty was not an issue in the *Filinvest* case.

SMHC moreover argues that jurisprudence has established that a taxpayer will not be liable to pay surcharge, interest and penalty if it acted in good faith.

Lastly, SMHC submits that since SMHC disputed the assessment, compromise penalty cannot be imposed upon it as this penalty is by its nature mutual in essence.

THE COURT *EN BANC*'S RULING

The CIR's *Motion for Reconsideration* is bereft of merit.

An examination of the CIR's Motion for Reconsideration readily reveals that the arguments raised therein are a mere reiteration of matters raised in his Petition for Review, which have already been thoroughly considered, weighed and resolved in the assailed Decision.

Finding no compelling grounds to reconsider, modify or reverse Our Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, in light of foregoing consideration, the CIR's Motion for Reconsideration (Re: Decision promulgated 25 June 2020) is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice