REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SPECIAL THIRD DIVISION</u>

KEPWEALTH, INC., *Petitioner,*	**CTA CASE NO. 10353**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 09 2024 10:40 a.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Before this Court is respondent's **Motion for Reconsideration (Re: Decision 17 April 2024)** filed through an accredited licensed courier on May 23, 2024, and received by the Court on May 27, 2024, with petitioner's **Comment/Opposition (re Motion for Reconsideration dated May 23, 2024)** filed on June 10, 2024.

On April 17, 2024, the Court promulgated a Decision cancelling respondent's deficiency donor's tax assessment on petitioner's sale of common shares of stock in view of the Court's finding that there was no transfer for less than adequate and full consideration made in the said transaction, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review be **GRANTED**. Accordingly, the deficiency donor's tax assessment issued against petitioner for taxable year 2017, inclusive of surcharge, interest and compromise penalty, in the aggregate amount of ₱98,318,731.68, is **CANCELLED and SET ASIDE.**
>
> **SO ORDERED.**"

In his Motion, respondent primarily insists that Court has no jurisdiction over the present case as the deficiency tax assessment against petitioner has already attained finality due to petitioner's failure to file its *Petition for Review* within the prescribed period. Respondent expounds that since petitioner received the Final Decision on Disputed Assessment (FDDA) on August 5, 2020, petitioner had thirty (30) days therefrom or until September 5, 2020 within which to file a Petition for Review with this Court, however, the present *Petition for Review* was only filed on September 17, 2020. As such, respondent claims that an assessment that has already attained finality is already beyond the scope of judicial review.

Respondent further argues that the Supreme Court's (SC) Administrative Circular (AC) No. 43A-2020 dated August 3, 2020, which suspends the period for filing of petitions, appeals, and other court submissions due to Coronavirus Disease (COVID-19), applies only to those petitions or appeals governed by the Rules of Court in accordance with the SC's power to promulgate procedural rules. Respondent continues that the 30-day period within which to appeal to the FDDA to this Court is prescribed by law and not by the Rules of Court. Nonetheless, respondent submits that the said SC AC only ordered the Court's physical closure but the latter may still receive petitions or appeals by means of electronic filing.

Lastly, respondent maintains that he correctly applied the provisions of Revenue Regulations (RR) Nos. 6-2013 and 6-2008 in the assessing petitioner's donor's tax liability, which resulted on the findings that petitioner sold shares of stock for less than an adequate consideration pursuant to Section 100 of the National Internal Revenue Code (NIRC) of 1997, as amended.

On the other hand, in its Comment, petitioner asserts that the Court correctly acquired jurisdiction over the present *Petition for Review* and that the same was timely filed. Petitioner assails respondent's erroneous interpretation of AC No. 43A-2020, countering that the rule-making power of the Supreme Court as enshrined in the Philippine Constitution, extends to all courts including the Court of Tax Appeals (CTA). Petitioner also maintains that it is not liable for donor's tax as profoundly explained by the Court in the Decision since the computation of its shares of stock was properly made in reference to their fair market value (FMV).

After due consideration, the Court finds respondent's Motion for Reconsideration bereft of merit.

Notably, an examination of the issues raised by respondent in the instant Motion reveals that the same are mere rehashes of the basic issues that were raised in his *Memorandum* dated March 6, 2023,[1] which were already exhaustively

[1] Docket – Vol. 7, pp. 3775 to 3792.

passed upon, duly considered, and resolved by the Court not only in the assailed Decision but previously also in the Resolution dated March 12, 2021.[2]

Again, it bears restating that the Court has jurisdiction over the present *Petition for Review* considering that AC No. 43A-2020 suspended not just the filing due dates but, the reglementary period to file petitions, appeals, complaints, motions, pleadings and other court submissions as well. Simply stated, for the period August 4 to 18, 2020, the counting of the reglementary period to file petitions, appeals, complaints, motions, pleadings and other court submissions was suspended and resumed only on August 19, 2020.

Herein, at the time petitioner received the FDDA on August 5, 2020, the counting of the 30-day reglementary period to appeal the same before this Court was deemed suspended and did not run until August 19, 2020. As such, counting thirty (30) days from August 19, 2020, petitioner had until September 18, 2020 within which to file a petition before this Court. Consistently, the present *Petition for Review* filed on September 17, 2020, was well-within the adjusted reglementary period pursuant to AC No. 43A-2020, thereby giving the Court jurisdiction over the said *Petition for Review*.

Respondent also argues that AC No. 43A-2020, applies only to those petitions or appeals governed by the Rules of Court in accordance with the Supreme Court's power to promulgate procedural rules.

Unfortunately, the Court finds respondent's argument untenable.

Section 4 of the Revised Rules of the Court of Tax Appeals provides that an **appeal from a decision** or ruling or the inaction of the **Commissioner of Internal Revenue on disputed assessments** or claim for refund x x x, shall be taken to the Court **by filing before it a petition for review as provided in Rule 42 of the Rules of Court**.

Since the appeal to this Court from a decision or inaction of the Commissioner of Internal Revenue shall be governed by Rule 42 of the Rules of Court, it now becomes apparent that the matter falls within the "rule-making power" of the Supreme Court as explicitly provided under Section 5 (5), Article VIII of the 1987 Constitution, which states that the Supreme Court has the power to promulgate rules concerning **pleadings**, **practice** and **procedure** in all courts. Correspondingly, the power to make rules necessarily includes the power to suspend or relax its application; and, in proper cases, the rigidity of procedural rules may be relaxed or suspended in the interest of substantial justice. The power of the Court to except a particular case from its rules whenever the purposes of justice so require cannot be questioned.[3]

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[2] Docket – Vol. 2, pp. 665 to 674.
[3] *Holy Spirit Homeowners Association, Inc., et al., v. Secretary Michael Defensor, et al.*, G.R. No. 163980, August 3, 2006.

Moreover, this is also in line with the spirit and purpose of the *Bayanihan to Heal As One Act* and the *Bayanihan to Recover As One Act,*[4] whereby the legislature vested upon the president the power to move statutory deadlines and timeliness for the filing and submission of any document, the payment of taxes, fees and other charges required by law.[5] As a matter of fact, pursuant thereto, respondent likewise released various Bureau of Internal Revenue (BIR) issuances concerning the extension and/or suspension of deadlines for the filing of returns and payments of taxes.

At this point, it must be emphasized that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflect this principle.[6]

With regard to the computation of petitioner's donor's tax, the Court already ruled that the amendatory provisions of the RR No. 6-2013 dated April 11, 2014, specifically, Section 7 (c.2.2) should have been applied by respondent in the computation of the subject sale of petitioner's shares of stock. The Court reiterates that respondent erroneously applied the old provision of Section 2(v) in RR No. 6-2008 in the determination of the FMV of petitioner's shares of stock sold, notwithstanding the fact, that the sale transaction took place on October 27, 2017, wherein RR No. 6-2013 was already in full effect.

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on April 17, 2024.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Re: Decision 17 April 2024) is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[4] Republic Act No. 11469 and Republic Act No. 11491, respectively.
[5] Section 4, paragraph (z) of R.A. No 11469; Section 4, paragraph (tt) of R.A. No. 11491.
[6] *Arnold Ginete, et al., v. Hon. Court of Appeals, et. al.,* G.R. No. 127596, September 24, 1998.

We Concur:

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice