REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

MEGA RICTON COMMERCIAL AND INDUSTRIAL CORPORATION, FAITH IN GOD RPM PROFESSIONAL AND TECHNICAL CORPORATION, AND MAYEL V. VILLACERAN, *Petitioners,*	**CTA Case No. 10398** Members: **DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.*
-*versus*-	
BUREAU OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 13 2022 9:36 a.m.

x- x

DECISION

MANAHAN, *J.:*

This is a *Petition for Mandamus*[1] filed by petitioners Mega Ricton Commercial and Industrial Corporation (MRCIC), Faith in God RPM Professional and Technical Corporation (FIGRPT), and Mayel V. Villaceran (Villaceran) on November 11, 2020 praying for this Court to mandate respondent to issue the Certificates of Tax Delinquencies (CTDs) and Acceptance Payment Forms (APFs) in favor of the petitioners.

THE PARTIES[2]

Petitioner MRCIC is an existing and duly organized corporation under Philippine laws with principal address at 513 Osmena cor. Zamora St., Zone 3, Atimonan, Quezon.

Petitioner FIGRPT is an existing and duly organized corporation under Philippine laws with principal address at 74 Pacita Avenue, Pacita Complex 1, San Pedro, Laguna.

[1] Docket, CTA Case No. 10398, pp. 6-15.
[2] *Id.*, The Parties, Petition for Mandamus, p. 7.

Petitioner Villaceran is of legal age, married, Filipino, and with postal address at DRT Highway, Sabang, Baliuag, Bulacan.

Respondent, on the other hand, is the government agency charged with, among other powers and duties, the responsibility of collecting all national internal revenue taxes, with postal address at Bureau of Internal Revenue (BIR) Road, Diliman, Quezon City.

THE FACTS

On October 4, 2019[3], respondent issued Letter of Authority (LOA) No. eLA201200012482 to petitioner MRCIC covering the period from January 1 to December 31, 2017. Similarly, respondent issued LOA Nos. eLA201200048788 dated April 2, 2019[4] and eLA201600021948 dated September 25, 2018[5] to petitioners FIRPT and Villaceran, respectively, both covering the period from January 1 to December 31, 2017. All the above-mentioned LOAs were signed by the Regional Directors (RDs) having jurisdiction on said taxpayers.

Respondent, through his Regional Directors, issued *Subpoena Duces Tecum* (SDT) No. RR-9B-3-2020-033 dated February 28, 2020[6] to petitioner MRCIC, SDT No. RR-9B-3-2019-201 dated October 29, 2019[7] to petitioner FIGRPT, and SDT No. RR5-3-2019-060 dated January 16, 2019[8] to petitioner Villaceran.

However, for failure to submit the required documents under the above-mentioned SDTs, criminal complaints were allegedly lodged against petitioners by the concerned Revenue Officers (ROs) in the above LOAs.[9]

On August 14, 2019, petitioner Villaceran filed a Request for Signature For the Urgent Action of President Rodrigo R. Duterte, ARTA Chief, PACC Chief, CSC Chairperson, DOF

---

[3] Docket, Annex "P-4", p. 21.
[4] *Id.*, Annex "P-5", p. 22.
[5] *Id.*, Annex "P-6", p. 23.
[6] *Id.*, Annex "P-7", p. 24.
[7] *Id.*, Annex "P-8", p. 25.
[8] *Id.*, Annex "P-9", p. 26.
[9] *Id.*, Annexes "P-10", "P-11", and "P-12", pp. 27-35.

Chief, BIR Chief, Ombudsman and To All Whom It May Concern.[10]

On January 28, 2020[11] and January 29, 2020[12], petitioner FIGRPT filed a Request for CTD-Release and Request for APF-Signature, respectively.

On July 20, 2020[13] and August 11, 2020[14], petitioner MRCIC filed a Request for CTD-Release and Request for APF-Signature, respectively.

Alleging inaction on respondent's part, petitioners filed before this Court the instant petition on November 10, 2020.

On December 21, 2020, respondent was ordered to file its comment.[15]

However, respondent failed to file a comment on the instant petition.[16] Thus, the case was submitted for decision.[17]

THE ISSUE

Whether or not petitioners are entitled to the issuance of CTDs and APFs by respondent.

Petitioners' Arguments[18]

Petitioners posit a common stand that they have a clear legal right to be issued their respective CTDs and APFs because Section 17(b) of Republic Act (RA) No. 11213, otherwise known as the "Tax Amnesty Act", qualifies them to avail of the tax amnesty even if there is no assessment.

Petitioners also argue that respondent has the imperative duty to issue a CTD and APF pursuant to Section 19 of RA No. 11213 which provides, to wit:

---

[10] *Id.*, Annex "P-17", p. 51-53.
[11] Docket, Annex "P-15", pp. 43-47.
[12] *Id.*, Annex "P-16", pp. 48-50.
[13] *Id.*, Annex "P-13", pp. 36-39.
[14] *Id.*, Annex "P-14", pp. 40-42.
[15] *Id.*, Resolution dated December 21, 2020, p. 56.
[16] *Id.*, Records Verification dated February 24, 2021, p. 57.
[17] *Id.*, Resolution dated May 19, 2021, p. 59.
[18] *Supra*, Note 37.

> Section 19. *Availment of the Tax Amnesty on Delinquencies; When and Where to File and Pay.* - Any person, natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall, within one (1) year from the effectivity of the Implementing Rules and Regulations of this Act, file with the appropriate office of the Bureau of Internal Revenue, which has jurisdiction over the residence or principal place of business of the taxpayer, a sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency. The payment of the amnesty tax shall be made at the time the Return is filed:
>
> *Provided*, That the Revenue District Officer shall issue and endorse an Acceptance Payment Form, in such form as may be prescribed in the Implementing Rules and Regulations of this Act authorizing the authorized agent bank, or in the absence thereof, the revenue collection agent or municipal treasurer concerned, to accept the amnesty tax payment:
>
> Provided, further, That the availment of the Tax Amnesty on Delinquencies and the issuance of the corresponding Acceptance Payment Form do not imply any admission of criminal, civil or administrative liability on the part of the availing taxpayer.

Respondent's Argument

Respondent, on the other hand, refuses to issue the CTDs and APFs since petitioners are not qualified to avail of the tax amnesty pursuant to Revenue Memorandum Circular (RMC) No. 57-2019 entitled "Clarifies Certain Issues on Tax Amnesty on Delinquencies under Revenue Regulations (RR) No. 4-2019 which Implemented Title IV of RA No. 11213 or the Tax Amnesty Act,"

RULING OF THE COURT

This Court has jurisdiction over the petition for mandamus.

Section 7(a)(1) of RA No. 1125, as amended by RA No. 9282 provides:

> "SECTION 7. *Jurisdiction.* – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided: *am*

> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or <u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;" (*Underscore ours*)

Similarly, Section 3(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals provides:

> "SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:
>
> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or <u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue; ..." (*Underscore ours*)

The subject matter of the petition involves a special tax law, RA No. 11213, which is administered by respondent, thus, the Court has jurisdiction over the case. More particularly, it partakes of a special civil action of mandamus under Rule 65 of the Rules of Court, as amended, over which this Court likewise exercises jurisdiction.

In the case of *Bureau of Customs v. The Honorable Agnes VST Devanadera, et al.*[19], the Supreme Court ruled that:

> "A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.

[19] G.R. No. 193253, September 08, 2015.

Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process.

In this regard, Section 1 of RA 9282 states that the CTA shall be of the same level as the CA and shall possess all the inherent powers of a court of justice.

Indeed, courts possess certain inherent powers which may be said to be implied from a general grant of jurisdiction, in addition to those expressly conferred on them. These inherent powers are such powers as are necessary for the ordinary and efficient exercise of jurisdiction; or are essential to the existence, dignity and functions of the courts, as well as to the due administration of justice; or are directly appropriate, convenient and suitable to the execution of their granted powers; and include the power to maintain the court's jurisdiction and render it effective in behalf of the litigants.

Thus, this Court has held that "while a court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and, subject to existing laws and constitutional provisions, every regularly constituted court has power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction and for the enforcement of its judgments and mandates." Hence, demands, matters or questions ancillary or incidental to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance.

xxx xxx xxx

Concededly, there is no clear statement under R.A. No. 1125, the amendatory R.A. No. 9282, let alone in the Constitution, that the CTA has original jurisdiction over a petition for *certiorari*. By virtue of Section 1, Article VIII of the 1987 Constitution, vesting judicial power in the Supreme Court and such lower courts as may be established by law, to determine whether or not there has been a grave abuse of discretion on the part of any branch or instrumentality of the Government, in relation to Section 5(5), Article VIII thereof, vesting upon it the power to promulgate rules concerning practice and procedure in all courts, the Court thus declares

> that the CA's original jurisdiction over a petition for *certiorari* assailing the DOJ resolution in a preliminary investigation involving tax and tariff offenses was necessarily transferred to the CTA pursuant to Section 7 of R.A. No. 9282, and that such petition shall be governed by Rule 65 of the Rules of Court, as amended. Accordingly, it is the CTA, not the CA, which has jurisdiction over the petition for *certiorari* assailing the DOJ resolution of dismissal of the BOC's complaint-affidavit against private respondents for violation of the TCCR."

Such inherent power of CTA's appellate jurisdiction was also reiterated in the case of *Banco de Oro, et al. v. Republic of the Philippines, et al.*[20], to wit:

> In this regard, Section 1 of RA 9282 states that the CTA shall be of the same level as the CA and shall possess all the inherent powers of a court of justice.
>
> Indeed, courts possess certain inherent powers which may be said to be implied from a general grant of jurisdiction, in addition to those expressly conferred on them. These inherent powers are such powers as are necessary for the ordinary and efficient exercise of jurisdiction; or are essential to the existence, dignity and functions of the courts, as well as to the due administration of justice; or are directly appropriate, convenient and suitable to the execution of their granted powers; and include the power to maintain the court's jurisdiction and render it effective in behalf of the litigants.
>
> Thus, this Court has held that "while a court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and, subject to existing laws and constitutional provisions, every regularly constituted court has power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction and for the enforcement of its judgments and mandates." Hence, demands, matters or questions ancillary or incidental to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance. (Citations omitted)

---

[20] G.R. No. 198756, August 16, 2016.

> Judicial power likewise authorizes lower courts to determine the constitutionality or validity of a law or regulation in the first instance. This is contemplated in the Constitution when it speaks of appellate review of final judgments of inferior courts in cases where such constitutionality is in issue.

Going now to the merits of the case, the petition has no legal leg to stand on.

Petitioners' alleged legal right to the issuance of CTDs and APFs depends on their compliance with the existing law, rules and regulations on Tax Amnesty.

Petitioners claim that they have a legal right to be issued their respective CTDs and APFs because they are qualified to avail of the tax amnesty under Section 17(b) of RA No. 11213 which provides:

> "Section 17. Coverage. - There is hereby authorized and granted a tax amnesty herein called the Tax Amnesty on Delinquencies, which shall cover all national internal revenue taxes such as, but not limited to, income tax, withholding tax, capital gains tax, donor's tax, value-added tax, other percentage taxes, excise tax and documentary stamp tax collected by the Bureau of Internal Revenue, including value-added tax and excise taxes collected by the Bureau of Customs for taxable year 2017 and prior years.
>
> For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:
>
> (a) xxx xxx xxx;
>
> (b) **Pending criminal cases with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with or without assessments duly issued**; ..." (*Emphasis supplied*)

However, respondent believes otherwise. Respondent refused to issue the subject CTDs and APFs because petitioners were not qualified under RMC No. 57-2019 particularly in Q10 and A10, which provides: *can*

> **"Q10. What would be the basis of the tax amnesty payment if the pending criminal charges of the taxpayer as of April 24, 2019 pertain to "failure to obey summon" but the legal complaint does not have assessment of unpaid basic tax?**
>
> > A10. When a criminal charge pertains to "failure to obey summon", the legal officer requires the examiner to issue an assessment based on best evidence obtainable. If an assessment has already been issued as of April 24, 2019, whether final or not, the basis of the tax amnesty would be the basic tax per such document. Otherwise, the taxpayer could not avail of the tax amnesty on delinquency."

Petitioners anchor their qualification to avail of the tax amnesty on Section 17(b) of RA No. 11213 which pertains to a pending case either in the Department of Justice (DOJ) or in the courts. However, a perusal of the evidence submitted together with the instant petition shows that there were no Letter-referral from the Commissioner of Internal Revenue (CIR) to the DOJ for preliminary investigation and filing of an Information against petitioners.

The only documents submitted that may prove pendency of a case in the DOJ were the Joint-Complaint Affidavits against petitioner MRCIC[21] and FIGRPT[22], and an Affidavit[23] against petitioner Villaceran. However, it is only the Joint-Complaint Affidavit against petitioner FIGRPT that has the certification of a prosecutor namely, Gamaliel G. Bello. The supposed subscribing officer in the certification part of the Joint-Complaint Affidavit against petitioner MRCIC cannot be identified while the certification part of the Affidavit[24] against petitioner Villaceran was subscribed only by the Chief of Legal Division of the Bureau of Internal Revenue (BIR). Hence, it would appear that only petitioner FIGRPT has a pending case before the DOJ which the other two petitioners fail otherwise.

Under Section 5(A) of Revenue Regulations (RR) No. 4-2019 dated April 5, 2019, which is the Implementing Rules and Regulations (IRR) of RA No. 11213, the documentary requirements that should be submitted by tax amnesty applicants, among others, are the following:

---

[21] Docket, Petition for Mandamus, Annex "P-10", pp. 27-29.
[22] *Id.*, Annex "P-11", pp. 30-31.
[23] *Id.*, Annex "P-12", pp. 32-35.
[24] *Id.*, Annex "P-12", pp. 32-35.

(1) Tax Amnesty Return (TAR) (BIR Form No.2118-DA) which should be completely and accurately accomplished and made under oath;

(2) Acceptance Payment Form (APF) (BIR Form No. 0621-DA) duly validated by the Authorized Agent Banks (AABs) or APF duly stamped "received" with accompanying bank deposit slip duly validated by the concerned AABs or Revenue Official Receipt (ROR) issued by the Revenue Collection Officers (RCOs); and

(3) Certificate of Tax Delinquencies/Tax Liabilities issued by concerned BIR offices.

So contrary to petitioners' claim that they are qualified to avail of the TA, no TARs were presented as evidence in the instant case, while the remaining documentary requirements, i.e., CTDs and APFs, are precisely the subject matter of this petition. Thus, petitioner failed in all fours to comply with the aforementioned TA requirements.

The issuance of the subject CTD and APF is a discretionary function of respondent and not a ministerial one.

Section 3, Rule 65 of the Rules of Court, as amended, provides:

> "Section 3. *Petition for mandamus.* — **When any** tribunal, corporation, board, **officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office**, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and **there is no other plain, speedy and adequate remedy in the ordinary course of law**, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.
>
> The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46." (*Emphasis supplied*)

Mandamus may be defined as a command issuing from a court of law of competent jurisdiction, in the name of the state or sovereign, directed to some inferior court, tribunal, or board, or to some corporation or person, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed, or from operation of law.[25] It is a remedy available to compel the doing of an act specifically enjoined by law as a duty.[26]

Petitioners must be aware that mandamus may only be issued if petitioners have a clear legal right to the performance of the act sought to be compelled and the respondent has an imperative duty to perform the same and has **actually neglected** to perform it. This act pertains to a ministerial duty and not a discretionary one as held in *Danilo A. Lihaylihay v. The Treasurer of the Philippines Roberto C. Tan, et al.*[27] (*Lihaylihay* case), to wit:

> A writ of mandamus may issue in either of two (2) situations: first, "when any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station"; second, "when any tribunal, corporation, board, officer or person . . . unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled."
>
> The first situation demands a concurrence between a clear legal right accruing to petitioner and a correlative duty incumbent upon respondents to perform an act, this duty being imposed upon them by law.
>
> **Petitioner's legal right must have already been clearly established. It cannot be a prospective entitlement that is yet to be settled**. In *Lim Tay v. Court of Appeals*, this Court emphasized that "[m]andamus will not issue to establish a right, but only to enforce one that is already established." In *Peñanco v. Moral*, this Court underscored that a writ of mandamus "never issues in doubtful cases."
>
> Respondents must also be shown to have actually neglected to perform the act mandated by law. Clear in the text of Rule 65, Section 3 is the requirement that respondents "unlawfully neglect" the performance of a duty.

---

[25] Am. Jur. Mandamus, Sec. 2, as cited in Noche, Civil Procedure Explained, 2021, p. 585.
[26] *Rolando D. Layug v. Commission on Election, et al.*, G.R. No. 192984, February 28, 2012.
[27] G.R. No. 192223, July 23, 2018.

The mere existence of a legally mandated duty or the pendency of its performance does not suffice.

The duty subject of mandamus must be ministerial rather than discretionary. A court cannot subvert legally vested authority for a body or officer to exercise discretion. In *Sy Ha v. Galang*:

> [M]andamus will not issue to control the exercise of discretion of a public officer where the law imposes upon him the duty to exercise his judgment in reference to any matter in which he is required to act, because it is his judgment that is to be exercised and not that of the court.

This Court distinguished discretionary functions from ministerial duties, and related the exercise of discretion to judicial and quasi-judicial powers. In *Sanson v. Barrios*:

> Discretion, when applied to public functionaries, means a power or right conferred upon them by law of acting officially, under certain circumstances, according to the dictates of their own judgments and consciences, uncontrolled by the judgments or consciences of others. A purely ministerial act or duty, in contradistinction to a discretional act, is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his own judgment, upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer, and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion nor judgment. . . . Mandamus will not lie to control the exercise of discretion of an inferior tribunal. . ., when the act complained of is either judicial or quasi-judicial. . . . It is the proper remedy when the case presented is outside of the exercise of judicial discretion. (Citations omitted)

Mandamus, too, will not issue unless it, is shown that "there is no other plain, speedy and adequate remedy in the ordinary course of law." This is a requirement basic to all remedies under Rule 65, i.e., certiorari, prohibition, and mandamus. (*Emphases supplied*)

Pursuant to RA No. 11213, respondent promulgated RR No. 4-2019 dated April 5, 2019 which is the implementing rules and regulations of said law. On May 22, 2019, respondent issued RMC No. 57-2019 which clarifies certain issues relative to the availment of said tax amnesty.

Among the clarification made in RMC No. 57-2019 is when a taxpayer has a pending tax examination, to wit:

> "Q7. **Can a taxpayer avail of the tax amnesty for 2017 tax liabilities which are currently under investigation pursuant to a Letter of Authority (LOA)**?
>
> > A7. Since the investigation pursuant to the letter of authority is still on-going, the tax liability, if any, is not yet considered delinquent account and therefore cannot be the subject of tax amnesty on delinquencies.
> >
> > The requirement that tax liabilities must be delinquent accounts prior to effectivity of RR No. 4-2019, however, does not apply to tax liabilities of withholding agents pertaining to failure to remit withheld taxes for taxable year 2017 and prior years which may be the subject of tax amnesty on delinquencies at any stage/time of investigation for as long the amount of tax liabilities are properly determined by the BIR."

The factual antecedents of the case, as admitted by petitioners in their petition,[28] reveal that the tax examination/investigation is ongoing pending submission of documents required in the SDTs. However, due to the failure of the petitioners to submit the documents, petitioners alleged that respondent filed a criminal complaint against them for failure to obey summons under Section 266 of the 1997 National Internal Revenue Code (NIRC), as amended.

The determination of who are qualified to avail of the tax amnesty involves respondent's discretionary duties and not merely a ministerial one. In the said *Lihaylihay* case[29], the Supreme Court defines *discretionary* as "when applied to public functionaries, means a power or right conferred upon them by law of acting officially, under certain circumstances, according to the dictates of their own judgments and consciences, uncontrolled by the judgments or consciences of others."

---

[28] Docket, Petition for Mandamus, Facts of the Case, Paragraphs 7 & 8, pp. 7-8.
[29] Supra, Note 27. *am*

However, such discretion is guided by the provisions of the law, rules, and regulations. In the instant case, the provisions are found in RA No. 11213, RR No. 4-2019, and RMC No. 57-2019.

As the facts of the case will illustrate, petitioners' MRCIC and Villaceran failed to substantiate their claim of a pending DOJ case, while petitioner FIGRPT has yet to present more convincing evidence on the status of the alleged Joint Complaint-Affidavit filed before the prosecutor.

Furthermore, the party availing of mandamus must have no other plain, speedy and adequate remedy in the ordinary course of law before any tribunal, corporation, board, officer or person.

Based on the paucity of evidence presented, it appears that the petitioners have still the option to submit the necessary documents for the conduct of tax examination by the respective ROs which could preclude the filing of the case in court and determine if indeed there will be any deficiency tax liabilities on their part. Hence, petitioners have other plain, speedy and adequate remedy. Mandamus, therefore, is not applicable.

It may also be worthy to note that a "no-payment tax amnesty application" stand[30] of petitioners is devoid of any legal basis and goes against the very nature of a tax amnesty. As to petitioners' allegation that the provisions of RMC No. 57-2019 are null and void for being contradictory of RA No. 11213, this Court rules that RMC No. 57-2019 enjoys the presumption of regularity as it was done in the performance of respondent's official duties.[31] In the absence of any contrary evidence, as in this case, such presumption prevails.

WHEREFORE, in light of the foregoing, the instant *Petition for Mandamus* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

---

[30] Docket, Annex "P-13", Paragraph 14, p. 37; Annex "P-17", Paragraph 17, p. 52.
[31] Section 3(m), Rule 131, Rules of Court, as amended.

WE CONCUR:

(With Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

MARIAN IVY F. REYES-FAJARDO
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

MEGA RICTON COMMERCIAL AND INDUSTRIAL CORPORATION, FAITH IN GOD RPM PROFESSIONAL AND TECHNICAL CORPORATION, AND MAYEL V. VILLACERAN,
Petitioners,

- versus -

BUREAU OF INTERNAL REVENUE,
Accused.

CTA CASE NO. 10398

Members:

DEL ROSARIO, *P.J.*, *Chairperson*,
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:

APR 13 2022 9:36am

x - x

SEPARATE OPINION

DEL ROSARIO, P.J.:

I concur in the Decision that the *Petition for Mandamus* should be denied, but on the ground that this case is now moot and academic.

It must be noted that the instant *Petition for Mandamus* filed on November 10, 2020, seeks to compel respondent to issue the Certificate of Tax Delinquency and Acceptance Payment Form, which are only preparatory documents necessary for the availment of the Tax Amnesty on Delinquencies.

Section 19 of Republic Act (RA) No. 11213 or the Tax Amnesty Act provides for the period within which a taxpayer may avail of the Tax Amnesty on Delinquencies, *viz.*:

> Section 19. *Availment of the Tax Amnesty on Delinquencies; When and Where to File and Pay.* - Any person, natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall, **within one (1) year from the effectivity of the Implementing Rules and Regulations of this Act**, file with the appropriate office of the Bureau of Internal Revenue, which has jurisdiction over the residence or principal place of business of the taxpayer, a sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency. The payment of the amnesty tax shall be made at the time the Return is filed: x x x." (*Boldfacing supplied*)

Pursuant to the Tax Amnesty Act, the Secretary of Finance issued, with the recommending approval of the Commissioner of Internal Revenue, Revenue Regulations (RR) No. 4-2019 or the Implementing Rules and Regulations of the Tax Amnesty Act, on April 5, 2019. Section 9 of RR No. 4-2019 provides for its effectivity clause, thus:

> "**SECTION 9**. **EFFECTIVITY**. These Regulations shall take effect fifteen (15) days from date of its publication in the newspaper of general circulation or Official Gazette."

On March 16, 2020, RR No. 5-2020 was issued, thereby amending RR No. 4-2019, and explicitly providing that the period for the availment of the Tax Amnesty on Delinquencies is until April 23, 2020.

Under Revenue Memorandum Circular (RMC) No. 33-2020 issued on March 24, 2020, the deadline to avail the Tax Amnesty on Delinquencies was moved to May 23, 2020.

In RMC No. 38-2020 issued on April 7, 2020, the deadline to avail the Tax Amnesty on Delinquencies was again moved to June 8, 2020.

Pursuant to Section 4(z) of RA No. 11469, or the *Bayanihan to Heal as One* Act, the Secretary of Finance issued RR No. 11-2020 dated April 29, 2020, which extended the deadline to avail the Tax Amnesty on Delinquencies to June 22, 2020.

RR No. 15-2020 dated June 19, 2020 and RMC No. 61-2020 dated June 9, 2020 extended the deadline for availment of the Tax Amnesty on Delinquencies to December 31, 2020.

Finally, RR No. 32-2020 dated December 17, 2020 extended the deadline for availment of the Tax Amnesty on Delinquencies to June 30, 2021. No further extension of the deadline was thereafter issued.

In *Stradcom Corporation vs. Hon. Hilario L. Laqui as Acting Presiding Judge of the Regional Trial Court of Quezon City, Branch 97 and DTech Management, Inc.*,[1] the Supreme Court elucidated when a case becomes moot, *viz.*:

> "Where a case has become moot and academic, there is no more justiciable controversy, so that a declaration thereon would be of no practical value. **A case becomes moot and academic when, by virtue of supervening events, there is no more actual controversy between the parties and no useful purpose can be served in passing upon the merits.** Since they are constituted to pass upon substantial rights, courts of justice will not consider questions where no actual interests are involved. As a rule, courts decline jurisdiction over such cases or dismiss them on the ground of mootness." (*Boldfacing supplied*)

In the instant case, availment of the Tax Amnesty on Delinquencies has expired since the lapse of the deadline for its availment on June 30, 2021. The expiration of the period for the availment of the Tax Amnesty on Delinquencies is a supervening event that has rendered the present case moot.

In fine, if the Court grants the present petition, such would be of no practical use since the period to avail the Tax Amnesty on Delinquencies has already expired. Thus, there is no actual substantial relief that can be granted to the petitioners as the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.[2]

ALL TOLD, I **VOTE** to **DENY** the present *Petition for Mandamus* for being moot and academic.

ROMAN G. DEL ROSARIO
Presiding Justice

---

[1] G.R. No. 172712, March 21, 2012.
[2] *Peñafrancia Sugar Mill, Inc. vs. Sugar Regulatory Administration*, G.R. No. 208660, March 5, 2014.