CTA Form No. 8

22-000171-0044

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10841

BB INTERNATIONAL LEISURE AND RESORT DEVELOPMENT CORPORATION, HANN INTERNATIONAL LEISURE, INC. (formerly WIDUS INTERNATIONAL LEISURE, INC.) and **HANN PHILIPPINES, INC.** (formerly WIDUS PHILIPPINES, INC.,),
Petitioners,

- versus -

BUREAU OF INTERNAL REVENUE, HON. CAESAR R. DULAY, in his capactiy as the COMMISSIONER OF INTERNAL REVENUE, AND JOHN DOES AND JANE DOES, AS PERSONS ACTING FOR IN BEHALF, OR UNDER THE AUTHORITY OF THE BUREAU OF INTERNAL REVENUE AND THE COMMISSIONER OF INTERNAL REVENUE,
Respondents.

NOTICE OF AMENDED DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. CLARISSA J. VIRTUDES-BABARAN
ATTY. MARVEEN B. DE LA PAZ
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1785 SLD Building, E. Rodriguez Sr. Avenue
Brgy. Pinagkaisahan, 1111 Quezon City

GREETINGS:

You are hereby notified by these presents that on **March 26, 2024,** an Amended Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 27, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

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Petitioners,

-*versus*-

BUREAU OF INTERNAL REVENUE, HON. CAESAR R. DULAY, in his capacity as the COMMISSIONER OF INTERNAL REVENUE, AND JOHN DOES AND JANE DOES, AS PERSONS ACTING FOR IN BEHALF, OR UNDER THE AUTHORITY OF THE BUREAU OF INTERNAL REVENUE AND THE COMMISSIONER OF INTERNAL REVENUE,
Respondents.

CTA Case No. 10841

Members:

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

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Promulgated:

MAR 26 2024 1:15PM

x - x

AMENDED DECISION

MANAHAN, *J.:*

This resolves the following:

1. Petitioner Hann International Leisure, Inc. (HILI)'s **Partial Motion for Reconsideration (Re: Decision dated 27 October 2023)**[1] filed on November 28, 2023, seeking the partial reversal of the Court's *Decision* dated

[1] Docket, CTA Case No. 10841, Vol. III, pp. 1507-1513.

October 27, 2023 (Assailed Decision)[2] relative to its petition; and

2. Respondents' **Motion for Reconsideration (Re: Decision dated 27 October 2023)** posted on November 22, 2023 and received on November 30, 2023, praying for the partial reversal and setting aside of the Assailed Decision and the issuance of a new judgment dismissing the case for lack of jurisdiction or, in the alternative, for failure to exhaust administrative remedies and for utter lack of merit.

Petitioner HILI argues that this Court erred in the Assailed Decision by ruling that only petitioner BB International Leisure and Resort Development Corporation (BBI for brevity) has the cause of action to file the instant petition considering that by mere issuance of Revenue Memorandum Circular (RMC) No. 32-2022, it is already subjected to additional tax assessments and that the issuance of the Reminder Letter or Demand Letter from respondent Bureau of Internal Revenue (BIR) is immaterial as there was already a demand from BIR to pay and remit the alleged tax assessments.

On the other hand, respondents BIR, then Commissioner of Internal Revenue (CIR) Hon. Caesar R. Dulay, and John Does and Jane Does acting in behalf or under the authority of the BIR and the CIR, in their *Comment/Opposition (Re: Motion for Partial Reconsideration filed on 28 November 2023)*[3] filed on January 11, 2024, counter-argue that the Court has no jurisdiction to hear the case and if it has any jurisdiction at all on the same, the Court is correct in ruling that petitioner HILI has no cause of action.

They also contend that this Court has no jurisdiction over the instant case and that RMC No. 32-2022 is valid and not contrary to law.

Petitioners BBI and HILI, in their *Comment/Opposition [Re: Respondent's Motion for Reconsideration dated 22 November 2023]*[4] filed on December 11, 2023, reiterate that this court has

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[2] Docket, Vol. III, pp. 1475-1494.
[3] *Id.* at pp. 1539-1546.
[4] *Id.* at pp. 1526-1536.

jurisdiction to rule and resolve the instant petition and that RMC No. 32-2022 is void and contrary to law.

We resolve.

The Court has jurisdiction over the motions that were timely filed.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, provides:

> "SECTION 1. *Who may and when to file motion.* - **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

Based on the records of this case, petitioners' counsel received the Assailed Decision on November 13, 2023 while respondents received the same on November 7, 2023. The Office of the Solicitor General (OSG) received a copy of the Assailed Decision on November 14, 2023.

In accordance with the provision of the RRCTA, BBI and HILI had fifteen (15) days from receipt of said decision from November 13, 2023, or until November 28, 2023, within which to file their motion for reconsideration. Thus, the filing of petitioner HILI's *Partial Motion for Reconsideration (Re: Decision dated 27 October 2023)* on November 28, 2023 was on time.

On the other hand, respondents had fifteen (15) days from receipt of said decision from November 7, 2023, or until November 22, 2023, within which to file their motion for reconsideration. Thus, respondents' *Motion for Reconsideration (Re: Decision dated 27 October 2023)* on November 22, 2023 was likewise filed on time.

Petitioner HILI's Motion for Reconsideration is partially meritorious.

A "cause of action" is defined as "the act or omission by which a party violates a right of another."[5] The three (3) elements of a cause of action are:

1. A legal right accruing to the plaintiff;

2. A duty on the defendant's part to respect such right; and,

3. An act or omission by the defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff.[6]

A second look at the instant petition shows that all petitioners have a similar cause of action, and that all of the elements enumerated were met, *i.e.*, (1) that as PAGCOR-licensed gaming operators located in the Clark Special Economic Zone/Clark Freeport Zone (CSEZ/CFZ), they have the legal right of enjoying the tax exemptions provided for under Republic Act (RA) No. 7227, as amended by RA 9400, or the Bases Conversion and Development Act (BCD Act); (2) respondents have the correlative duty of respecting the tax exemption privileges enjoyed by petitioners; and (3) the issuance of RMC No. 32-2022 violates the tax exemption privileges of petitioner under the aforementioned laws.

Verily, it is not the issuance of the Reminder Letters which gave rise to the cause of action of petitioners, but the issuance of RMC No. 32-2022, which is the legal basis of the said Reminder Letters.

Accordingly, pursuant to Section 4, Rules 65 of the Rules of Court, as amended, petitioners have sixty (60) days from the issuance of RMC No. 32-2022 on March 29, 2022, or until May 28, 2022, within which to file before the Court the petition to question the validity of the said administrative issuance. Thus, petitioners timely filed the present petition on April 20, 2022.

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[5] Sec. 2, Rule 2, Rules of Court, as amended.
[6] *Tocoms Philippines, Inc. v. Philips Electronics and Lighting, Inc.*, G.R. No. 214046, February 5, 2020.

Respondents' Motion for Reconsideration is mere rehash.

The issue of jurisdiction and validity of RMC No. 32-2022 were already exhaustively discussed and passed upon in the Assailed Decision. Hence, there is no need for the Court to reiterate its ruling on such rehashed arguments. The wisdom of refraining from repetitious disquisition on similar issues is found in the case of *Social Justice Society (SJS), et al. v. Alfredo S. Lim, in his capacity as Mayor of the City of Manila,*[7] which held:

> "The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.
>
> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:
>
>> 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, as above stated, 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

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[7] G.R. Nos. 187836 and 187916, March 10, 2015.

> arguments in the motion are too unsubstantial to require consideration, etc."

WHEREFORE, petitioner HILI's *Partial Motion for Reconsideration (Re: Decision dated 27 October 2023)* is **GRANTED**, thereby confirming the existence of HILI's cause of action to file the present petition, while respondents' *Motion for Reconsideration (Re: Decision dated 27 October 2023)* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(I reiterate my Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
(I reiterate my Concurring and Dissenting Opinion)
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