REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* –

PHILIPPINE TOBACCO FLUE-CURING AND REDRYING CORPORATION,
Respondent.

CTA EB No. 1218
(CTA Case No. 7991)

x--x

PHILIPPINE TOBACCO FLUE-CURING AND REDRYING CORPORATION,
Petitioner,

- *versus* –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1220
(CTA Case No. 7991)

Present:

Del Rosario, P.J.
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, JJ.

Promulgated:

AUG 15 2016 3:45 p.m.

x--x

RESOLUTION

CASTAÑEDA, JR., *J.*:

Submitted for resolution are the following:

1. Philippine Tobacco Flue-curing and Redrying Corporation's (PTFC) **Motion for Reconsideration** filed via registered mail on May 10, 2016 with Commissioner of Internal Revenue's (CIR) **Comment (Re: Motion for Reconsideration Dated 10 May 2016)** filed on June 24, 2016; and

2. CIR's **Motion for Reconsideration (Re: Decision Promulgated April 11, 2016)** filed on May 10, 2016 with PTFC's **Comment (on Commissioner of Internal Revenue's Motion for Reconsideration)** filed on July 12, 2016.

The aforementioned Motions seek reconsideration of the Decision of the Court *En Banc* promulgated on April 11, 2016, ("Assailed Decision")[1] affirming the judgment of the First Division ("Court in Division") of this Court in CTA Case No. 7991. The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, in view of the foregoing, the Petition for Review filed by the Commissioner of Internal Revenue docketed as CTA EB No. 1218 is hereby **DENIED** for lack of merit.
>
> On the other hand, the Petition for Review filed by PTFC docketed as CTA EB No. 1220 is hereby **PARTIALLY GRANTED**. The Resolution dated August 28, 2014 promulgated by the First Division of this Court in CTA Case No. 7991 is hereby **REVERSED AND SET ASIDE** insofar as it declared PTFC's Motion for Reconsideration filed on April 22, 2014 as a mere scrap of paper, and that the assailed Decision dated March 26, 2014, with respect to PTFC, as final and executory.
>
> Accordingly, the assailed Decision dated March 26, 2014 of the First Division of this Court in CTA Case No. 7991 is hereby **AFFIRMED.** *gr*

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[1] Court *En Banc*'s Docket, pp.183-223.

SO ORDERED."

PTFC raises the following grounds in its Motion for Reconsideration, to wit:

I.

THE COURT *EN BANC* COMMITTED A REVERSIBLE ERROR IN FINDING THAT PETITIONER IS LIABLE FOR EXPANDED WITHHOLDING TAX ON INCOME PAYMENTS IN THE AMOUNT OF PHP1,157,005.72.

II.

THE COURT *EN BANC* COMMITTED A REVERSIBLE ERROR IN FINDING THAT PETITIONER HAS UNDECLARED GROSS PROFIT ON SALE OF LEAF TOBACCO.

III.

PETITIONER RESPECTFULLY IMPLORES THE HONORABLE [COURT] *EN BANC* TO TAKE INTO CONSIDERATION THE PAYMENT MADE AS A COMPROMISE OFFER OF PHP2,442,230.02.

i.

AS FOUND BY THIS HONORABLE COURT, BUT SUBJECT TO THIS MOTION FOR RECONSIDERATION, PETITIONER IS LIABLE FOR BASIC DEFICIENCY TAX OF PHP1,789,857.55 AS OPPOSED TO THE AMOUNT ASSESSED BY RESPONDENT. HAD THE CIR PROPERLY ASSESSED PETITIONER IN 2009, THE COMPROMISE OFFER PAID IN THE AMOUNT OF PHP2,442,230.02 IS MORE THAN SUFFICIENT TO COVER THE BASIC DEFICIENCY TAX AS FOUND BY THIS HONORABLE COURT. THUS, THE HIGHER INTEREST OF SUBSTANTIAL JUSTICE DICTATES THAT THE PAYMENT MADE IN 2010 BE DEEMED TO HAVE COVERED THE BASIC DEFICIENCY TAX, AND THAT SURCHARGES AND INTEREST, DEFICIENCY OR DELINQUENT, IF ANY, SHOULD BE IMPOSED FROM 2005 UP TO 2010 ONLY.

On the other hand, CIR interposes in his Motion for Reconsideration the following arguments:

I.

THE DISALLOWED EXCESS CREDITS CARRIED OVER NEXT YEAR IS UNDISPUTED RENDERING IT FINAL AND UNAPPEALABLE.

II.

RESPONDENT FAILED TO RAISE THE ISSUE OF EXCESS CREDITS CARRIED OVER [THE] NEXT [TAXABLE] YEAR; THUS, IT IS ALREADY DEEMED WAIVED OR ABANDONED.

III.

TAX ASSESSMENTS ARE PRESUMED CORRECT; THE TAXPAYER HAS THE DUTY TO PROVE OTHERWISE.

IV.

THE DELETION OF THE EXCESS CREDITS CARRIED OVER [THE] NEXT [TAXABLE] YEAR AMOUNTING TO P3,998,497.29 RESULTED TO DOUBLE DEDUCTION AGAINST THE TAXES DUE BOTH FOR THE FISCAL YEARS ENDING AUGUST 2005 AND 2006.

The Court *En Banc* resolves to deny both Motions for lack of merit.

An examination of the Motions of the parties reveals that the arguments raised therein are mere reiterations of matters which have already been thoroughly considered and passed upon by the Court *En Banc* in the Assailed Decision. Both parties failed to raise any new or substantial matter or any compelling reason that will justify reversal or even modification of the Court *En Banc*'s findings. Nonetheless, the Court *En Banc* shall state below a few points, if only to reinforce the discussion in the Assailed Decision.

The Court *En Banc* does not find merit in PTFC's claim that the schedules of income payments that it presented should be given probative value by the Court as PTFC would not have presented the same if they were not accurate. This Court cannot just rely on such bare assertion. PTFC should have presented the source documents for these income payments such as the invoices or official receipts evidencing each payment. As stated in the Assailed Decision, the presentation of these source documents is required to enable the Court to verify the actual nature and accuracy of these income payments.

The Court likewise stands by its ruling in the Assailed Decision that the Court in Division correctly found that PTFC, considering the evidence it presented, failed to establish that the exported leaf tobacco belongs to Victoria Trading Center (VTC) and that it did not benefit from the exportation and sale thereof.

With respect to PTFC's alleged compromise payment, the Court *En Banc* reiterates its ruling in the Assailed Decision that such allegation cannot be given credence considering that the same was never raised during trial and that PTFC failed to present any evidence to prove the same.

As regards the CIR's contentions in connection with the disallowance of PTFC's excess tax credits in the amount of ₱3,998,497.29 carried over to FY 2006, the Court *En Banc* reiterates its ruling that it has authority to review unassigned errors (1) which are closely related to an error properly raised, or (2) upon which the determination of the error properly assigned is dependent, or (3) where the court finds that consideration of the same is necessary in arriving at a just decision of the case.[2] The issue on the correctness of the deficiency tax assessments in the total amount of ₱10,842,528.74 covers the issue on the propriety of the disallowance of the excess tax credits carried over to FY 2006 in the amount of ₱3,998,497.29 and that the same is borne by the records of the present case.

WHEREFORE, finding no reversible error in the Assailed Decision to warrant reconsideration thereof, PTFC's Motion for Reconsideration dated May 10, 2016 as well as CIR's Motion for Reconsideration (Re: Decision Promulgated April 11, 2016) dated May 6, 2016, are **DENIED** for lack of merit.

SO ORDERED.

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

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[2] *Sesbreño v. Central Board of Assessment Appeals et. al.*, G.R. No. 106588, March 24, 1997, 270 SCRA 360, 370; *Adelfa Demafelis v. Court of Appeals and Fernando Condez*, G.R. No. 152164, November 23, 2007, 538 SCRA 305, 311.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice