REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Sections 4 and 238 of the Tax Code of 1997, as amended; Revenue Memorandum Order No. 83-99, as amended.
BIR Ruling No. 573-17
OT- 002-2025
JAN 06 2025

SUN VALLEY RESIDENTIAL ESTATES HOMEOWNERS ASSOCIATION, INC. (SVREHAI)
Sun Valley Golf & Residential Estate
Inarawan, Antipolo City 1870

Attention: **Mr. Jose T. Sorreda**
President

Gentlemen:

This refers to your request on behalf of Sun Valley Residential Estates Homeowners' Association, Inc. (SVREHAI), representing SVREHAI Phases 1 and 2, for an appeal on letters dated February 22, 2022 and September 9, 2022 issued by the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 45 - Marikina City pertaining to the issuance of Authority to Print (ATP) to SVREHAI and invalidation of official receipts printed pursuant to said ATP.

Documents submitted show that SVREHAI, with Taxpayer Identification Number (TIN) is an association duly registered with the BIR with Certificate of Registration (COR) No. dated November 02, 2005. SVREHAI is also duly registered with the Department of Human Settlements and Urban Development (DHSUD) with Certificate of Registration No. .

Based on the records on file with the Housing and Land Use Regulatory Board (HLURB) Homeowner's Association (HOA) Franchising Unit, there are three valid, existing and duly registered homeowner's association within the Sun Valley Residential Estates (SVRE): COR No. issued to SVREHAI covering Phases 1 and 2 of the subdivision, COR No. issued to SVREHAI covering Phases 3 and 6, and COR No. issued to SVREHAI covering Phases 7 and 8[1].

Since its registration, SVREHAI has been issued with Authority to Print (ATP) for taxable year 2009, 2012, 2014, 2016 and 2021. Sometime in September 2021, when SVREHAI's ATP was about to expire, it applied for and was given an ATP by BIR RDO No. 45-Marikina City for Official Receipt (OR) Nos. .[2]

In November 2021, SVREHAI's Property Manager, Mr. Isidro Montalban, Jr. (Mr. Montalban) allegedly received a phone call from a Group Supervisor of BIR RDO No. 45-Marikina City regarding the complaint of some residents on the issuance of the ATP for OR Nos. to SVREHAI.

On November 17, 2021, Mr. Montalban went to BIR RDO. No. 45 – Marikina City to formally request a copy of the Notice and Complaint. It was then found out that the complaint was filed by Mrs. Helan Amante (Mrs. Amante) who persistently invoking that the legitimate officers of HOA of Sun Valley Residential Estates (SVRE) are indeed those elected officers of SVREHAI covering Phases 1-6, contending that in 2016, the old Board of Directors called for the amendment of the By-Laws of the

[1] Decision on case No. HLURB HOA-052819-3010
[2] Authority to Print of Sun Valley Residential Estate Homeowners Association dated September 7, 2021

association for the expansion of the jurisdiction from SVREHAI 1-2 to SVREHAI Phases 1-6, and that its legitimacy was clearly pronounced in the decision of the Court of Appeals dated May 14, 2019, which cancelled the COR of Phases 3-6. Perusal of the record shows, however, that in HLURB Case No. NCRHOA- dated September 15, 2017, a decision was rendered declaring the amendments to the Articles of Incorporation and By-laws of the Association invalid.

Based on the abovementioned complaint, Mr. Montalban was then directed to submit a letter pertaining to the intra-association dispute pending before the Supreme Court. On November 18, 2021, Mr. Jose Sorreda (Mr. Sorreda), President of SVREHAI Phases 1-2 submitted a letter explaining the status of the intra-association dispute of SVREHAI involving Sorreda Group and Amante Group which at that time was still pending resolution before the Supreme Court in view of the Motion for Reconsideration filed in the said case.[3]

Subsequently, the Supreme Court denied the Motion for Reconsideration but the DHSUD denied the Motion for the Writ of Execution in said case for being moot and academic, since it involved the term of office of the Amante Group in 2016-2017 which had already expired.

In February 2022, the DHSUD conducted a supervised election in SVREHAI pursuant to the Decision of Human Settlements Adjudication Commission (HSAC) dated February 13, 2020 in HOA Case No. [4] In the same case, Mrs. Amante's election as member of the BOD for the entire SVREHAI (Phases 1-6) on May 18, 2019 was declared null and void, and the court took judicial notice of the public registrations of the three association in the subdivision.

Meanwhile, in HSAC Case No. RIVA-HOA- , Mrs. Amante was the subject of a Temporary Restraining Order (TRO), restraining her from collecting association dues and from conducting an illegal election for the entire Phases 1-6 in violation of the supervised election conducted by the DHSUD. [5]

After the supervised election, the SVREHAI Board of Directors of Phases 1-2 was allowed to hold-over. [6]

Accordingly, you now raise the following issues to this Office for resolution:

I. WHETHER OR NOT THE SORREDA GROUP WAS DENIED DUE PROCESS WHEN THEY WERE REQUIRED TO EXPLAIN BASED ON VERBAL DISCUSSIONS OF BIR RDO NO. 45-MARIKINA CITY

II. WHETHER OR NOT THE BUREAU OF INTERNAL REVENUE HAS JURISDICTION TO RESOLVE INTRA-ASSOCIATION DISPUTES

III. WHETHER OR NOT THE ISSUE ON THE ISSUANCE OF THE ATP CAN BE RESOLVED INDEPENDENTLY OF THE INTRA-ASSOCIATION DISPUTE

IV. WHETHER OR NOT THE ATP OF THE AMANTE GROUP SHOULD BE REVOKED FOR BEING REDUNDANT AND DUPLICITOUS SINCE THE ATP OF SVREHAI HAS NOT BEEN LOST, CANCELLED OR REVOKED

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[3] Letter to Revenue District Office No. 45 (Answer to the alleged complaint against SVREHAI)
[4] Decision on case No. HLURB HOA
[5] Temporary Restraining Order against officers of SVREHAI 1-6 issued by Human Settlement Adjudication Commission, Regional Adjudication Commission
[6] Committee Resolution 015-2022 of SVREHAI declaring failure of election

V. WHETHER OR NOT THE RULING/LEGAL OPINION OF THE CHIEF, LEGAL DIVISION, REVENUE REGION NO. 7B-EAST NCR SHOULD BE DECLARED NULL AND VOID AS IT WAS ISSUED BASED ON MISLEADING FACTS AND MISREPRESENTATIONS OF THE COMPLAINANTS, AMANTE GROUP

At the outset, please be informed that Section 4 of the National Internal Revenue Code (Tax Code) of 1997, as amended, provides as follows:

> ***SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.*** *- The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.*
>
> *The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.*

Based on the above-cited provision, this Office can merely take cognizance of issues pertaining to matters under the jurisdiction of the Commissioner of Internal Revenue (CIR), which are related to the implementation of the provisions of the Tax Code of 1997, as amended, and other tax laws administered by the BIR.

The tax issue at bar is the validity of the issuance of ATP with Official Receipt No. issued in favor of SVREHAI and its subsequent invalidation.

Section 238 of the Tax Code of 1997, as amended, provides that an ATP is required before the printing of any receipts or sales or commercial invoices, which must be serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the CIR.

In the case at bar, SVREHAI was validly issued with an ATP by RDO No. 45 upon its application and submission of documents required therefor. The validity of the ATP and receipts printed pursuant to said ATP is now being questioned allegedly on the ground that: SVREHAI 1-6 is now the legitimate HOA of SVRE; that the registration of SVREHAI 3-6 was already cancelled; and that the registration of SVREHAI 1-2 and 3-6 were already consolidated when their by-laws were amended. However, as shown in the decision of HLURB in Case No. dated September 15, 2017 the amendments to the Articles of Incorporation and By-laws of the Association was declared invalid.

Revenue Memorandum Order (RMO) No. 83-99, as amended, provides that in the application of an ATP, the RDO having jurisdiction over the business establishment shall verify the taxpayer's existence in the registration database. It is when the application for an ATP is submitted, together with the necessary documentary requirements that the RDO can approve and issue the ATP. An ATP issued after compliance with the requirements therefor shall remain valid unless it is shown that the entity to which the ATP was issued cease to exist or its registration with the appropriate government agency, in this case, HLURB, has been validly revoked. In the same vein, any party seeking to apply for an ATP must show that it has valid certificate of incorporation or registration with the concerned government agency such as Securities and Exchange Commission, Department of Trade and Industry or HLURB, in case of a homeowner's association.

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In BIR Ruling No. 573-17, this Office had the occasion to rule that as long as an entity exists and is neither dissolved nor has ceased operations, such entity cannot be provided with a subsequent registration in case of change in its name or address with the BIR. Thus, a new ATP should not be allowed if a registered taxpayer is still existing. It cannot apply for a new ATP and what should be done is to update its registration in case of change in its name or address by using BIR Form No. 1905 which must be done at the RDO having jurisdiction of the taxpayer.

Premises considered, it is the opinion of this Office that since the ATP issued in favor of