REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

JT INTERNATIONAL (PHILIPPINES), INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA SCA CASE NO. 0023

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

DEC 0 5 2024

9:00 a.m.

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RESOLUTION

Before the Court is a Petition for Mandamus, filed on July 19, 2024, praying that the Court issue a writ of mandamus ordering respondent Commissioner of Internal Revenue ("CIR") to refund the value of petitioner's spoiled excise tax stamps.

The Petition was filed in response to respondent's letter, dated June 19, 2024, denying petitioner's administrative claim for refund.

A petition for mandamus is not the correct remedy for this case.

Petitions for mandamus are defined under *Rule 65, Section 3 of the Rules of Court*:

> SEC. 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 pray the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

> The petition shall contain a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.
> (Italics supplied.)

This definition provides certain conditions for the proper filing of a petition for mandamus. Said conditions have been interpreted and clarified by the Supreme Court in numerous cases, such as in *Maguindanao del Norte v. Bureau of Local Government Finance*[1] ("*Maguindanao*"):

> To reiterate, for mandamus to lie, it is imperative that the following requisites be present: (1) the plaintiff has a clear legal right to the act demanded; (2) it must be the duty of the defendant to perform the act, because it is mandated by law; (3) the defendant unlawfully neglects the performance of the duty enjoined by law; (4) the act to be performed is ministerial, not discretionary; and (5) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.
> (Citations and italics omitted.)

The Court finds that, at minimum, conditions (2), (3), (4), and (5) are absent here.

There is no action mandated by law that respondent failed to perform

Petitioner claims that under *Section 204(c) of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"), when respondent is presented with spoiled stamps, he is *mandated* to either (a) redeem or change said unused stamps that have been rendered unfit for use; or (b) refund the value of the internal revenue stamps upon proof of destruction. Given that respondent denied its administrative claim for refund, he failed to perform either mandated action. Petitioner then uses this alleged neglect to argue for the presence of conditions (2), (3), and (4).

The Court is not convinced.

Section 204 of the NIRC gives the CIR the authority to perform certain actions without mandating that he do so

The relevant parts of *Section 204(c) of the NIRC* read as follows:

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1 G.R. No. 265373, November 13, 2023.

> SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. — *The Commissioner* ***may*** —
>
> . . . .
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided however, That a return filed showing an overpayment shall be considered a written claim for refund.
>
> . . . .
>
> (Emphasis and italics supplied.)

Across its arguments, petitioner tellingly refrains from quoting the opening of *Section 204* as a whole: "[t]he Commissioner may." Note that the operative verb here is not "must," "shall," or any other term conferring mandatory status upon some action. Rather, the law uses the word "may," which implies that the conditioned action is *not required*. As such, *Section 204(c) of the NIRC* simply states that the CIR *may* redeem or change unused spoiled stamps and refund their value upon proof of destruction. Consequently, respondent's denial of petitioner's administrative claim does not constitute neglecting to perform an allegedly mandated action. It is not the case that the CIR *must* or *shall* redeem, change, or refund spoiled stamps. He simply has the authority to do so and thus *may* do so.

Indeed, the wording of *Section 204(c) of the NIRC* belies petitioner's interpretation in a different way. Said interpretation frames "redeem or change unused stamps that have been rendered unfit for use" and "refund their value upon proof of destruction" as two mutually exclusive options. Such a framing would be plausible if the two phrases were separated by the conjunction "or." However, the two are separated by "and," implying that these actions are items on a list rather than distinct options. As such, and returning to *Section 204* as a whole, said phrases should be understood as items on a list of actions which the CIR has the authority to perform. He is allowed to and *may* exercise his authority by performing the actions enumerated by the provision, but he is *not* mandated to do so.

In short, *Section 204(c) of the NIRC* does not mandate the grant of claims for refund involving spoiled stamps.

The CIR is allowed to deny claims for refund involving spoiled stamps

The other fatal flaw of petitioner's theory is its claim that respondent is barred from denying claims for refund involving spoiled stamps, as he must choose between redeeming/changing said stamps or refunding their value only. However, consider a hypothetical scenario where the CIR discovers that the spoiled stamps presented by the claimant were stolen from a different taxpayer. Under petitioner's interpretation, the CIR would be prohibited from denying such a claim. He would be constrained to reward the stamp thief with either new stamps or a monetary amount equivalent to said stamps' value. A similar outcome would arise for claimants who deliberately damage or render their stamps unfit for use, to give another example.

This would be absurd. The Court cannot accept such a restrictive reading of the law that would easily allow such abuses. Consequently, We cannot agree with petitioner's interpretation of *Section 204(c) of the NIRC*.

From a more grounded view, the argument that respondent is barred from denying claims for refund involving spoiled stamps effectively nullifies the various rules and regulations governing the redemption, change, and refund of such stamps. The relevant example here would be *Revenue Regulations* ("*RR*") *No. 18-21,* which amended *RR No. 07-14.* Said issuance requires that spoiled stamps be surrendered to the Bureau of Internal Revenue ("BIR"), within either six months from the date of release by APO Production Unit, Inc.[2] ("APO") or within 10 months from receipt from APO, depending on whether said stamps were possessed by local manufacturers or importers of tobacco. Indeed, in its various letters to the BIR, petitioner has insisted that even if the subject stamps were surrendered beyond these periods, the CIR *cannot* deny a claim for refund based on such non-compliance. Consequently, even if a claim involving spoiled stamps fails to follow established rules and regulations, the CIR must still grant such claim.

Again, such a view cannot be sustained. Issuances such as *RR Nos. 07-14 and 18-21* were made pursuant to *Section 244 of the NIRC*:

> Sec. 244. Authority of Secretary of Finance to Promulgate Rules and Regulations. — The Secretary of Finance, upon recommendation of the Commissioner, shall promulgate all needful rules and regulations for the effective enforcement of the provisions of this Code.

As these rules and regulations were issued pursuant to the law, brushing aside such issuances would be tantamount to brushing aside the law.

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2 APO is the government entity that prints internal revenue stamps.

The argument that these rules can be ignored since they are not included in the *NIRC* misses the point entirely. These rules were promulgated precisely to *supplement* the law, to effectively enforce its provisions. If whatever that is not in the law does not count, then the promulgation of rules and regulations would be pointless, and *Section 244* should not have been included in the *NIRC*.

As such, given that petitioner's interpretation of *Section 204(c) of the NIRC* effectively contradicts *Section 244* of the same law, the Court rejects the same.

As respondent was not mandated to grant petitioner's claim, conditions (2), (3), and (4) are absent here

To review, following *Maguindanao*, conditions (2) to (4) for the propriety of a petition for mandamus are as follows:

(2) It must be the duty of the defendant to perform the act, because it is mandated by law;
(3) The defendant unlawfully neglects the performance of the duty enjoined by law; and
(4) The act to be performed is ministerial, not discretionary.

The discussions above show that none of these three conditions are present here.

For condition (2), the Court has already established that respondent is *not* mandated by law to redeem, change, or refund spoiled stamps. The CIR is allowed to deny such claims. Consequently, it is *not* his duty to perform the act sought.

For condition (3), as respondent was not mandated to redeem, change, or refund spoiled stamps, his refusal to do so does *not* constitute unlawfully neglecting to perform a duty mandated by law.

For condition (4), while respondent's action on a claim for refund involving spoiled stamps should obviously not be arbitrary or made on pure whims, neither does it involve automatically granting such claims as soon as they are raised. It involves the CIR exercising his quasi-judicial powers and adjudicating on the factual and legal issues brought before him. As such, it is *not* ministerial.

In sum, three of the five requisites for the filing of a petition for mandamus are absent here. This would be enough to conclude that mandamus is not the proper remedy for petitioner. However, as We shall discuss, even condition (5) is absent here.

Petitioner could have filed an ordinary Petition for Review

Rule 7 of the Revised Rules of the Court of Tax Appeals, as amended ("*RRCTA*"), allows for the suppletory application of *Rules 42, 43, 44, and 46 of the Rules of Court* in this Court. *Rule 43 of the Rules of Court*, in particular, allows for appeals from quasi-judicial agencies,[3] which is different from petitions for mandamus under *Rule 65 of the Rules of Court*. Finally, and as observed by petitioner, *Section 7 of Republic Act No. 1125, as amended*, grants this Court jurisdiction over decisions of the CIR involving, among other topics, the refund of internal revenue taxes and other matters arising from the *NIRC*.

Petitioner could thus have filed an ordinary petition for review before this Court to pray for the refund of the value of the subject stamps and to assail respondent's denial of its administrative claim. Such a petition would be equivalent to an appeal from the ruling of a quasi-judicial agency under *Rule 43 of the Rules of Court*. Concomitantly, an appeal that was not a petition for mandamus was available to petitioner upon respondent's denial of its claim. Condition (5) is thus absent.

A petition for mandamus is consequently *not* the proper remedy for the case at bar. Being an improper remedy, then, the instant Petition must be dismissed.

ACCORDINGLY, the instant Petition for Mandamus, filed on July 19, 2024, is hereby **DISMISSED** for being the wrong remedy.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[3] As an aside, this rule countenances appeals from the Court of Tax Appeals to the Court of Appeals, but this was effectively repealed by the *RRCTA*.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice