REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2122** *(CTA Case No. 9166)* Present:
-versus-	**DEL ROSARIO, P.J.,** **CASTAÑEDA, JR.,** **UY,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** *and* **REYES-FAJARDO,** *JJ.*
PERPETUAL SUCCOUR HOSPITAL OF CEBU, INC., *Respondent.*	Promulgated: OCT 28 2021 11:30a.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

This is a Petition for Review[1] under ***Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals ("RRCTA")***,[2] asking the Court *En Banc* to partially reverse and set aside the Decision, promulgated on 11 December 2018, and the Resolution, dated 25 July 2019, of the Court of Tax Appeals ("CTA") Special Third Division ("Court in Division").

The assailed pronouncements cancelled the imposition of interest and compromise penalty against respondent in the amount of ₱9,272,472.67 and ₱50,000.00, respectively. Likewise, respondent was ordered to pay basic deficiency income tax for taxable year 2010 in the amount of ₱10,589,651.20.

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1 Petition for Review; Records, pp. 6-54, with annexes.
2 A.M. No. 05-11-07-CTA, 22 November 2005.

The Parties

Petitioner Commissioner of Internal Revenue ("CIR") is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") who has the power to decide on disputed assessments; act on and approve claims for refund of internal revenue taxes, fees or other charges, penalties imposed in relation thereto; or other matters arising under the National Internal Revenue Code of 1997, as amended, ("Tax Code") or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Meanwhile, respondent Perpetual Succour Hospital of Cebu, Inc. is incorporated as a religious, non-stock, non-profit, charitable institution governed by a Board of Trustees, owned by the Congregation of the Sisters of St. Paul De Chartres. Its registered address is at Gorordo Avenue, Camputhaw, Cebu City.

The Facts

On 7 September 2015, respondent received the Final Decision of petitioner finding it liable for deficiency income tax in the amount of ₱19,912,123.87. The said Decision was in response to the Motion for Reconsideration filed by respondent questioning the Final Decision on Disputed Assessment ("FDDA") where petitioner assessed the former for deficiency taxes for taxable year 2010.[3]

Aggrieved with the Final Decision, respondent filed the original Petition for Review with the Court in Division on 6 October 2015.[4]

On 11 December 2018, the Court in Division issued the assailed Decision partially upholding petitioner's Final Decision insofar as respondent was found liable for basic deficiency income tax in the amount of ₱10,589,651.20. However, the Court in Division cancelled the imposition of interest and compromise penalty amounting to ₱9,272,472.67 and ₱50,000.00, respectively.[5] The dispositive portion is hereby quoted, to wit:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. The decision of the Commissioner of Internal Revenue insofar as it holds petitioner liable for basic deficiency income tax is **UPHELD**, while the assessed interest and compromise penalty amounting to ₱9,272,472.67 and ₱50,000.00, respectively, are **CANCELLED**. Accordingly, petitioner is **ORDERED TO PAY** the basic deficiency income tax for taxable year 2010 in the amount of ₱10,589,651.20.

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[3] Decision, Annex "A" of the Petition for Review; Records, pp. 26-48.
[4] *Ibid.*
[5] *Ibid.*

SO ORDERED.”

In upholding the income tax assessment, the Court in Division ruled that respondent failed to controvert petitioner’s findings that it was not operated exclusively for a charitable purpose during its taxable year 2010. However, citing the case of ***CIR v. St. Luke’s Medical Center, Inc.***,[6] the Court in Division deemed it proper to remove the assessed interest and compromise penalty on the basis of respondent’s good faith and honest reliance on a previous CTA Case entitled ***Perpetual Succour Hospital, Inc., and the Sisters of St. Paul de Charters v. CIR*** **(hereinafter referred to as “Previous Perpetual Case”).**[7] In the said pronouncement, the CTA found respondent exempted from income tax under ***Section 30(E) of the Tax Code***. The same was affirmed by the Supreme Court in a Minute Resolution in G.R. No. 201905.[8]

Aggrieved, the parties filed their respective Motions for Reconsideration on 3 January 2019 for petitioner and 4 February 2019 for respondent.[9]

On 25 July 2019, the Court in Division issued the assailed Resolution denying both Motions for Reconsideration for lack of merit. Petitioner received the same on 30 July 2019.[10]

Undeterred, petitioner filed the instant Petition for Review on 29 August 2019,[11] which was within the extended period granted by the Court *En Banc*.[12] Respondent posted its Comment on 22 October 2019.[13]

On 2 December 2019, the Court *En Banc* referred the case for mediation pursuant to ***Section II of the Interim Guidelines for Implementing Mediation in the Court of Tax Appeals***.[14]

Considering respondent’s decision not to undergo mediation, the Philippine Mediation Center-CTA terminated the said proceedings and referred the case back to the Court *En Banc* on 20 October 2020.[15]

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[6] G.R. No. 203514, 13 February 2017.
[7] CTA Case No. 7304, 1 December 2010.
[8] Decision, Annex “A” of the Petition for Review; Records, pp. 26-48.
[9] Resolution Annex “B” of the Petition for Review; *id.*, pp. 49-54.
[10] *Ibid.*
[11] Petition for Review; *id.*, pp. 6-54, with annexes.
[12] Minute Resolution; *id.*, p. 5.
[13] Comment; *id.*, pp. 69-79.
[14] Resolution; *id.*, pp. 81-82; A.M. No. 11-1-5-SC-PHILJA; 18 January 2011.
[15] Back to Court; *id*, pp. 90-91.

Taking cue from the foregoing, the Court *En Banc* issued a Resolution on 4 November 2020 submitting the case for decision.[16] Hence, this Decision.

The Issue[17]

WHETHER THE COURT IN DIVISION ERRED IN RULING THAT RESPONDENT IS NOT LIABLE FOR INTEREST AND COMPROMISE PENALTY IN THE AMOUNT OF ₱9,272,472.67 AND ₱50,000.00, RESPECTIVELY, FOR TAXABLE YEAR 2010.

Arguments of the Parties

Petitioner's Arguments[18]

Petitioner argues that the Court in Division erred in ruling that respondent is not liable to pay interest and compromise penalty on the basis of its good faith reliance on the ***Previous Perpetual Case***. He states that the ***Previous Perpetual Case*** is not binding herein since both involve different taxable years.

He alleges that ***Sections 247 and 249 of the Tax Code*** do not admit of any exemption in the imposition of deficiency and delinquency interests in cases of non-payment of taxes. He insists that respondent cannot simply invoke good faith to escape liability from paying the same.

Likewise, petitioner posits that the imposition of compromise penalty against respondent is valid pursuant to ***Revenue Memorandum Order ("RMO") No. 19-2007***.[19] He stresses that the payment of the compromise penalty is not only for the settlement of criminal liability but also serves as a consequence for violating certain provisions under the ***Tax Code***, such as, the failure to pay the correct internal revenue taxes. Hence, he insists that the assessment of the compromise penalty against respondent is valid.

Respondent's Counter-Arguments[20]

Respondent counters that it is not subject to interest and compromise penalty on the ground that the assessment issued against it is void. It echoes the findings of the Court in Division cancelling the imposition of interest and

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[16] Resolution; *id.*, pp. 93-94.
[17] See Issues, Petition for Review, p. 4; *id.*, p. 9.
[18] Petition for Review; *id.*, pp. 6-54, with annexes.
[19] SUBJECT: The Consolidated Revised Schedule of Compromise Penalties for Violations of the National Internal Revenue Code, 8 August 2007.
[20] Comment; Records, pp. 69-78.

compromise penalty on the ground of its good faith reliance on the ***Previous Perpetual Case***. It points out that the arguments and legal bases relied upon by petitioner are off-tangent and inapplicable to the resolution of the above-captioned case.

The Ruling of the Court

After a careful review of the foregoing arguments, the Court *En Banc* finds petitioner's contention bereft of merit.

Good faith reliance is sufficient justification to cancel the imposition of interest and compromise penalty.

The issue as to the legality of cancelling the imposition of interest and surcharge against a taxpayer on the ground of its non-payment of tax due to its honest belief that it is not subject to the same having relied in good faith on previous interpretations made by government agencies is not novel and had already been settled by the Supreme Court in the case of ***Michel J. Lhuiller Pawnshop, Inc. v. CIR*** **(hereinafter referred to as "Lhuiller Case")**,[21] to wit:

> "Nevertheless, all is not lost for petitioner. **The settled rule is that good faith and honest belief that one is not subject to tax on the basis of previous interpretation of government agencies tasked to implement the tax law, are sufficient justification to delete the imposition of surcharges and interest.** In Connell Bros. Co. (Phil.) v. Collector of Internal Revenue, it was held that:
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> > We are convinced that appellant, in preparing its sales invoices as it did, **was not guilty of an intentional violation of the law**. It did not delay filing the returns for the sales taxes corresponding to the period in question, let alone did so purposely. **The delay was in the payment of the deficiency, which arose from a mistaken understanding of the regulations laid down by appellee. The ensuing controversy was, in our opinion, generated in good faith and should furnish no justification for the imposition of a penalty.**
> >
> > WHEREFORE, modified by eliminating the surcharge of 25% imposed upon appellant, the judgment appealed from is affirmed, without costs.
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> This ruling was subsequently reiterated in Tuason, Jr. v. Lingad, where **we deleted the order to pay interest and surcharges**, and in Commissioner of Internal Revenue v. Republic Cement Corporation, where

[21] G.R. No. 166786, 11 September 2006.

> **the same surcharge was dispensed with because of the taxpayer's good faith and the BIR's previous erroneous interpretation of the laws involved.** We see no reason not to apply the same doctrine in the instant case which settles the divergent rulings of the BIR on DST and establishes the foremost categorical pronouncement of the Court that pledge transactions entered into by pawnshops are subject to DST."
> (Emphasis and underscoring supplied)

Meanwhile, the High Court, in ***Tambunting Pawnshop, Inc., v. Commissioner of Internal Revenue***,[22] elaborated that issuances made by the BIR and the CTA are included in the term "previous interpretations" discussed in the ***Lhuiller Case***, to wit:

> "With respect to **petitioner's argument against liability for surcharges and interest** — that it was in good faith in not paying documentary stamp taxes, **it having relied on the rulings of respondent CIR and the CTA that pawn tickets are not subject to documentary stamp taxes — the Court finds the same meritorious.**
>
> **It is settled that good faith and honest belief that one is not subject to tax on the basis of previous interpretations of government agencies tasked to implement the tax law are sufficient justification to delete the imposition of surcharges and interest**."
> (Emphasis and underscoring supplied)

Succinctly, in ***CIR v. St. Luke's Medical Center, Inc.***,[23] the Supreme Court ruled that a taxpayer who, on the basis of a previous interpretation of a government agency stating that it is exempt from tax, did not pay the same but was found liable, thereafter, will also not be charged for compromise penalty, to wit:

> "As to whether SLMC is liable for compromise penalty under Section 248 (A) of the 1997 NIRC for its alleged failure to file its quarterly income tax returns, this has also been resolved in G.R. Nos. 195909 and 195960 (Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.), **where the imposition of surcharges and interest under Sections 248 and 249 of the 1997 NIRC were deleted on the basis of good faith and honest belief on the part of SLMC that it is not subject to tax. Thus, following the ruling of the Court in the said case, SLMC is not liable to pay compromise penalty under Section 248 (A) of the 1997 NIRC**."
> (Emphasis and underscoring supplied)

Based on the foregoing legal pronouncements, there is no doubt that respondent is not liable to pay interest and compromise penalty. As found by the Court in Division, respondent, in good faith, honestly believed that it was exempted from paying income tax relying on the ***Previous Perpetual Case*** which had attained finality through a Minute Resolution issued by the

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[22] G.R. No. 179085, 21 January 2010.
[23] G.R. No. 203514, 13 February 2017.

Supreme Court in G.R. No. 201905. These facts were not disproved nor denied by petitioner in this case.

The argument of petitioner that the ***Previous Perpetual Case*** is not binding herein as they involve different taxable periods is not on point. As clearly put by the foregoing cited cases, the cancellation of interest and compromise penalty is hinged on the fact that respondent did not have the intention to violate the ***Tax Code*** and merely relied in good faith on previous interpretations of the Court ruling that it is exempt from paying income tax.

Moreover, in ***Wonder Mechanical Engineering Corporation vs. The Court of Tax Appeals, et al.***,[24] it was ruled that "compromise penalty cannot be imposed without an agreement or conformity of a taxpayer." In this case, since petitioner failed to show proof that respondent agreed to pay the compromise penalty it cannot, therefore, be made liable to pay the same.

Hence, in view of the foregoing, the Court *En Banc* affirms the assailed Decision and Resolution finding respondent not liable for the assessed interest and compromise penalty.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Court in Division's Decision promulgated on 11 December 2018, and the Resolution, dated 25 July 2019, are both hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

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[24] G.R. Nos. L-22805 & L-27858, 30 June 1975; cited in Commissioner of Internal Revenue v. Batangas Electric I Cooperative I, C.T.A. EB Case No. 1939, 19 February 2021.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate 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.

ROMAN G. DEL ROSARIO
Presiding Justice