REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

UNIVERSITY OF SANTO TOMAS HOSPITAL, INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8292

Members:
BAUTISTA, *Chairperson*
FABON-VICTORINO, and
RINGPIS-LIBAN, *JJ.*

Promulgated:

JUN 11 2015
9:37 a.m.

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RESOLUTION

This resolves the "Motion for Reconsideration *(Re: Decision promulgated 02 March 2015),*" filed on March 27, 2015, with petitioner's "Comment/Opposition [Re Respondent Commissioner of Internal Revenue's Motion for Reconsideration dated 20 March 2015]," filed by registered mail on April 29, 2015.

On March 2, 2015, the Court promulgated a Decision, the dispositive portion of which states:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **GRANTED**. Accordingly, Assessment Notice Nos. 32-FY05/31/06-IT-0188 and 32-FY05/31/06-MC-0189 dated July 19, 2010 are hereby **CANCELLED** and **WITHDRAWN**.
>
> **SO ORDERED.**"

Respondent alleges that Letter of Authority ("LOA") No. 00052716, dated March 7, 2007 authorizing Group Supervisor Alemar M. Sani ("GS Sani") and Revenue Officer Abolais C. Ampa ("RO

Ampa") of Revenue District Office ("RDO") No. 32, Revenue Region ("RR") No. 6 of the Bureau of Internal Revenue ("BIR")-Manila, was issued when petitioner was still in the database of RDO No. 32. Hence, the tax assessments of petitioner were issued within the audit jurisdiction of RR No. 6.

Respondent further avers that petitioner voluntarily submitted to the jurisdiction of RDO No. 32 because of its active participation in the audit/investigation process, *i.e.*, filing a tax protest assailing the tax assessments and submitting the documents in support thereof, despite knowledge that it is already under the jurisdiction of the Large Taxpayers Service ("LTS").

Moreover, respondent maintains that when petitioner filed its Amended Income Tax Return for fiscal year ("FY") 2006 on February 27, 2007, it indicated that it was within the jurisdiction of RDO No. 32 despite knowledge that it is already under the jurisdiction of the LTS. Respondent insists that such acts of petitioner constitute estoppel by laches.

Lastly, respondent alleges that the LTS never conducted an audit of the books of accounts and other accounting records of petitioner for FY 2006, neither did the LTS issue a LOA for the purpose.

On the other hand, petitioner avers that the Motion for Reconsideration filed by respondent raises arguments/matters which have already been discussed in the Decision dated March 2, 2015.

Likewise, petitioner alleges that the audit jurisdiction of the revenue offices has been delineated in appropriate revenue issuances promulgated periodically by respondent through the Office of the Commissioner for the purpose of avoiding double or multiple examination of taxpayer's books and records for the year. RDO No. 32 failed to follow the appropriate issuances of respondent Commissioner of Internal Revenue ("CIR") containing the proper delineation of audit jurisdiction.

Lastly, petitioner maintains that LOA No. 00052716 dated March 7, 2007 was never even validated or reissued even after its 120-day validity period has lapsed, as well as an utter disregard of the strict directive from the CIR that any investigation by the revenue officers under regional offices of taxpayers falling under the jurisdiction of the LTS should be immediately discontinued.

The Ruling of the Court

The Court finds no merit in the Motion for Reconsideration.

A perusal of the Motion for Reconsideration shows that the grounds raised therein are mere reiterations of her Answer filed before the Court, which had already been comprehensively discussed and passed upon in the assailed Decision dated March 2, 2015.

To reiterate, Section 13 of the 1997 National Internal Revenue Code ("NIRC") provides as follows:

> "xxx a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself." *(underscoring ours)*

In other words, there must be a grant of authority before any revenue officer can conduct an examination or assessment of taxpayers within its jurisdiction.

In the instant case, petitioner was transferred to the LTS as early as January 2007. Hence, when LOA No. 00052716 dated March 7, 2007 was issued by RDO No. 32, the latter no longer has the authority to issue such LOA because petitioner was no longer under its jurisdiction at the time. The matter was settled by then

Commissioner Mario C. Buñag ("Com. Buñag"), in his letter to petitioner dated June 6, 2007[1], stating that "all Letters of Authority (LAs)/ Tax Verification Notices (TVNs) / Letter Notices (LNs) issued/to be issued after December 30, 2006 shall be issued by the LTS."

Clearly, LOA No. 00052716 dated March 7, 2007 was void from the beginning and have no force and effect because a void assessment bears no valid fruit.[2]

Moreover, we cannot agree with respondent's contention that petitioner voluntarily submitted to the audit jurisdiction of RDO No. 32 when it actively participated in the audit/investigation process; filed a tax protest assailing the tax assessments; and submitted the pertinent documents in support thereof despite knowledge that is already under the jurisdiction of the LTS. Basic is the rule that a void act cannot be validated or ratified.[3]

Lastly, estoppel by laches is not applicable in the instant case. The essence of estoppel and laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier; it is the negligence or omission to assert a right within a reasonable time warranting a presumption that the party entitled to assert it either has abandoned or declined to assert it, although there is no absolute rule as to what constitutes staleness of demand as each case is to be determined according to its particular circumstances.[4]

In the case at bar, petitioner was not remiss in asserting any of its rights, in fact, it questioned the authority of RDO No. 32 from the time it issued LOA No. 00052716 dated March 7, 2007, to the time it issued the Formal Letter of Demand and Assessment Notice Nos. 32-FY-05/31/06-IT-0188 and 32-FY-05/31/06-MC-0189 dated July 19, 2010. Hence, estoppel by laches is not applicable to it.

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[1] *Records,* Exhibit "E", p. 301.

[2] *Commissioner of Internal Revenue v. Azucena T. Reyes,* G.R. No. 159694; *Azucena T. Reyes v. Commissioner of Internal Revenue,* G.R. No. 163581, January 27, 2006, 480 SCRA 382 [396].

[3] *Spouses Reyes, et al., v. Court of Appeals and the Republic of the Philippines,* G.R. No. 94524, September 10, 1998, 295 SCRA 296.

[4] *Spouses Rayos and George Rayos v. Reyes, et al.,* G.R. No. 150913, February 20, 2003, 398 SCRA 24.

WHEREFORE, from the foregoing, the "Motion for Reconsideration *(Re: Decision promulgated 02 March 2015),*" is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

Ma. Belen SL

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice