REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

ZAMBALES ELECTRIC COOPERATIVE I, INC. (ZAMECO I) represented by Sharon Q. Domacena and Mary Grace R. Arandez, *Petitioner,*	**CTA Case No. 10165**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
BUREAU OF INTERNAL REVENUE, REVENUE REGION NO. 4, represented by Edgar B. Tolentino, Regional Director, *Respondent.*	Promulgated: DEC 13 2023, 3:00PM

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RESOLUTION

MANAHAN, *J.:*

This resolves the *Motion for Reconsideration,*[1] filed *via* email on August 18, 2023 and posted via registered mail on the same date. The actual copies were received by the Court on August 30, 2023.

Petitioner assails the Court's Decision, dated August 1, 2023, which upheld the assessments against petitioner, as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.
>
> Accordingly, petitioner is **ORDERED TO PAY** the total amount of **P8,596,586.41** for taxable year 2016, inclusive of surcharge and deficiency interest imposed under Sections 248(A) and 249(B) of the NIRC of 1997, as amended, computed as follows:

[1] Docket, Vol. II, pp. 737-748, and 749-760.

	Amount
Basic income tax due	₱ 5,627,551.77
Add: 25% Surcharge	1,406,887.94
20% Deficiency Interest from April 16, 2017 to December 31, 2017 *[₱5,627,551.77 x 20% x 260/365 days]*	801,733.40
12% Deficiency Interest from January 1, 2018 to February 15, 2019 *[₱5,627,551.77 x 12% x 411/365 days]*	760,413.30
Total Amount Due, February 15, 2019	**₱8,596,586.41**

In addition, petitioner should be **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) per annum on the unpaid deficiency taxes due as of February 15, 2019 in the amount of P8,596,586.41, or equivalent to P2,826.27 per day, computed from February 16, 2019 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963, also known as Tax Reform for Acceleration and Inclusion, as implemented by RR No. 21-2018.

Lastly, pursuant to Section 13 of RA No. 9282, this Court authorizes respondent to seize and distraint any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property, and/or to levy the real property, of petitioner, in sufficient quantity to satisfy the taxes herein ordered to be paid, and the increments thereto incident to delinquency.

SO ORDERED.[2]

In its *Motion*, petitioner states that while Republic Act (RA) No. 10531, otherwise known as the National Electrification Administration Reform Act of 2013, did not expressly restore the income tax exemption of electric cooperatives under Section 39 of Presidential Decree (PD) No. 269, RA No. 10531 likewise did not expressly repeal the said Section 39 of PD No. 269.

Petitioner also states that Fiscal Incentive Revenue Board (FIRB) Resolution No. 24-87 should not be used as basis to justify the removal of income tax exemptions from electric cooperatives. Petitioner states that FIRB Resolution No. 24-87 is deemed repealed since it is inconsistent with PD No. 269 as amended by RA No. 10531. According to petitioner, RA No. 10531 amended and added certain provisions to PD No. 269, however, Section 39 of PD No. 269, which granted the

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[2] Docket, Vol. II, pp. 733-734. *am*

permanent income tax exemption to electric cooperatives, was retained. There is nothing in RA No. 10531 which expressly stated that Section 39 of PD No. 269 has been repealed.

Petitioner also states that Section 39 of PD No. 269 gives electric cooperatives permanent income tax exemption.

Aside from the foregoing, petitioner adds that respondent's witness was not privy to the examination of petitioner's books.

In his *Comment/Opposition (to Petitioner's Motion for Reconsideration),*[3] filed on September 19, 2023, respondent states that petitioner is not exempt from income tax. Respondent states that the income tax exemptions granted to electric cooperatives under PD No. 269 was withdrawn by PD No. 1955 and Executive Order (EO) No. 93. FIRB Resolution No. 24-87, on the other hand, clearly stated that income of electric cooperatives from electric service operations and other sources including the interest income from bank deposits and yield or any other monetary benefit from bank deposits and yield or any other similar arrangements shall remain taxable.

Respondent also counters that his witness, Revenue Officer (RO) Jovelle V. Ignacio, had personal knowledge of the factual and legal basis of the assessment.

The *Motion* is denied.

To recall, Presidential Decree (PD) No. 1955[4] withdrew all tax exemptions from or any preferential treatment in the payment of duties, taxes, fees, imposts and other charges granted to private business enterprises *except* those enjoyed by certain entities, transactions, and industries. Tax exemptions were again withdrawn by EO No. 93,[5] except those enjoyed by certain entities, transactions and industries. In both these issuances, electric cooperatives were not listed as

[3] Docket, Vol. II, pp. 765-769.
[4] WITHDRAWING, SUBJECT TO CERTAIN CONDITIONS, THE DUTY AND TAX PRIVILEGES GRANTED TO PRIVATE BUSINESS ENTERPRISES AND/OR PERSONS ENGAGED IN ANY ECONOMIC ACTIVITY, AND FOR OTHER PURPOSES, October 10, 1984.
[5] WITHDRAWING ALL TAX AND DUTY INCENTIVES, SUBJECT TO CERTAIN EXCEPTIONS, EXPANDING THE POWERS OF THE FISCAL INCENTIVES REVIEW BOARD AND FOR OTHER PURPOSES, December 17, 1986.

part of the entities not covered by the withdrawal of tax exemptions or preferential treatment.

The tax exemption privileges of electric cooperatives were restored effective July 1, 1987 by FIRB No. 24-87, however, said FIRB resolution specifically stated that "income from their electric service operations and other sources...shall remain taxable."

As it stood, the tax exemption privileges of electric cooperatives were restored subject to certain conditions. It was in this milieu that RA No. 10531 was enacted.

A perusal of RA No. 10531 shows that the amendments to PD No. 269 relate to the functions and powers of the National Electrification Administration (NEA) and electric cooperatives, but do not address the tax exemption privileges provided under Section 39 of PD No. 269, as conditionally restored by FIRB Resolution No. 24-87.

Noteworthy is the fact that Section 13 of RA No. 10531 inserts Section 32-A in PD No. 269 stating the incentives of electric cooperatives but does not expressly include, modify, or affirm the tax exemption privileges provided in Section 39 of PD No. 269.

Inasmuch as RA No. 10531 is silent with respect to Section 39 of PD No. 269, this Court rules that said Section 39 of PD No. 269 has not been repealed, expressly or impliedly by RA No. 10531. Rather, the tax exemption privileges granted in Section 39 of PD No. 269 subsists, subject to the conditions set forth in FIRB Resolution No. 24-87.

Had it been the intent of Congress to fully restore the tax exemption privileges or to fully repeal the same, an appropriate provision could have been made in RA No. 10531. The legislature is presumed to know all the existing laws on the subject.[6]

Thus, Revenue Memorandum Circular (RMC) No. 74-2013, issued by the BIR, reiterated that **an electric cooperative established under PD No. 269 is entitled to tax**

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[6] *Leynes v. Commission on Audit*, G.R. No. 143596, December 11, 2003.

exemption privileges subject to the conditions stated in the FIRB Resolution No. 24-87.

Based on the foregoing, we find no reason to reverse nor modify the assailed Decision.

To reiterate, petitioner failed to show any evidence that not all of its gross receipts for taxable year 2016 should be subjected to income tax. Petitioner's "sample electric bill" purportedly issued to one of its clients does not suffice since it covers a different taxable period, and does not account for, nor explain, petitioner's argument that not all of its gross receipts should be subjected to income tax.

Without any clear and convincing evidence showing that respondent's determination of petitioner's taxable income was erroneous, the subject income tax assessment must be sustained.

WHEREFORE, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(On Leave)
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice