REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

UNITED CHURCH OF CHRIST IN THE PHILIPPINES,
Respondent.

CTA *EB* NO. 2346
(CTA Case No. 9134)

Present:

DEL ROSARIO, *P.J.,*
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
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RESOLUTION

MANAHAN, J.:

On March 15, 2022, the Court *En Banc* rendered its Decision, disposing of the case, as follows:

> Taking these circumstances together, the Court finds no reason to reverse the CTA 3rd Division's Decision and Resolution. There is no sufficient justification to apply the ten-year prescriptive period, thus, the subject assessment having been issued beyond the ordinary three-year prescriptive period, the same has prescribed.
>
> **WHEREFORE**, the Petition for Review is **DENIED**. The Decision dated January 15, 2019 and Resolution dated July 29, 2020 in CTA Case No. 9134 are **AFFIRMED**.
>
> The CIR, his representatives, agents, or any person acting on his behalf are **ENJOINED** from collecting or taking any further action on the subject deficiency taxes.
>
> **SO ORDERED.**[1]

[1] EB Docket, pp. 74-75.

On March 28, 2022, petitioner Commissioner of Internal Revenue (CIR) filed his *Motion for Reconsideration (Re: Decision promulgated 15 March 2022)* praying that the Decision dated March 15, 2022 be reversed and set aside, and another be rendered ordering respondent United Church of Christ in the Philippines (UCCP) to pay the aggregate amount of Php7,118,236.53 for deficiency income tax for taxable year 2010, as well as 25% surcharge, compromise penalty, and 20% deficiency and delinquency interest.

In his *Motion*, the CIR states that a motion for reconsideration is not *pro forma* just because it reiterated the arguments earlier passed upon and rejected by the court. A movant may raise the same arguments precisely to convince the court that its ruling was erroneous. The CIR argues that the ten (10)-year prescriptive period applies because respondent UCCP filed a fraudulent return with intention to evade tax when it made it appear in its 2010 income tax return that Bethany Hospital is a tax exempt institution by indicating on its return the phrase "Tentative Exempt Organization." Petitioner states that Bethany Hospital is not a tax exempt institution but is subject to 10% preferential tax rate. Even assuming the return is not fraudulent, it is obviously false since there was a deviation from the truth.

Respondent UCCP, in its *Opposition to Motion for Reconsideration*,[2] states that all arguments raised by the CIR in the subject *Motion* have been considered in the decision. Respondent reiterates that it did not file a false or fraudulent return and that the mere stamping of "Tentative Exempt Organization" does not in itself prove intention to evade payment of taxes. Respondent also states that at any stage of the tax audit, including when the notices of assessment were sent, there was no finding that petitioner filed a false or fraudulent return. The CIR also did not impose the 50% surcharge in the computation of the alleged tax deficiency. Thus, the fact that the final assessment and demand was only made after three years from the subject tax period shows that the right of the CIR to assess has prescribed.

The CIR's *Motion for Reconsideration (Re: Decision promulgated 15 March 2022)* is denied.

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[2] EB Docket, pp. 95-100.

The arguments raised in the CIR's *Motion* have been squarely addressed in the assailed Decision dated March 15, 2022, as well as in the CTA Special Third Division's Decision[3] and Resolution[4].

As the records show, the Formal Letter of Demand and assessment notice (FLD/FAN) were issued beyond the three (3)-year prescriptive period. To recall, respondent UCCP filed its Bethany Hospital income tax return (ITR) for taxable year 2010 on April 14, 2011,[5] and an amended ITR on September 12, 2011.[6] Counting the 3-year prescriptive period[7] from September 12, 2011, the CIR had only until September 12, 2014 within which to assess deficiency taxes for taxable year 2010. The FLD/FAN issued on October 15, 2014 and received by UCCP on November 7, 2014 has clearly prescribed.

We are also not persuaded by the CIR's argument that the ten (10)-year prescriptive period should apply. To avail of the ten (10)-year prescriptive period provided in Section 222 of the 1997 National Internal Revenue Code (NIRC), as amended, the CIR should show that the facts upon which the fraud is based is communicated to the taxpayer.[8] However, records show that there is nothing in the FLD/FAN which would give notice to UCCP/Bethany Hospital that it is being assessed under the 10-year prescriptive period due to findings of fraud or falsity in its return.

It is also reiterated that the mere entry of wrong information in tax returns due to mistake, carelessness, or ignorance, without intent to evade tax, does not constitute a false return.[9] Thus, we find that the mere stamping of "Tentative Exempt Organization" on Bethany Hospital's ITR is not sufficient evidence to prove that UCCP/Bethany Hospital intended to evade tax.

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[3] Dated January 15, 2019.
[4] Dated July 29, 2020.
[5] Division Docket, Vol. I, Exhibits "P-4" and "P-4-1", pp. 32-33.
[6] Division Docket, Vol. I, Exhibits "P-5" and "P-5-1", pp. 34-35.
[7] 1997 NIRC, as amended

Sec. 203. *Period of Limitation Upon Assessment and Collection.* – Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, xxx *Provided,* That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. xxx

[8] *Commissioner of Internal Revenue v. Fitness By Design, Inc.*, G.R. No. 215957, November 9, 2016.
[9] *Commissioner of Internal Revenue v. Philippine Daily Inquirer,* G.R. No. 213943, March 22, 2017.

WHEREFORE, the *Motion for Reconsideration (Re: Decision promulgated 15 March 2022)* filed by the Commissioner of Internal Revenue is denied for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(On Leave)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice