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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

JVC (PHILIPPINES), INC.
Respondent.

CTA EB NO. 1744
(CTA Case No. 8646)

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JVC (PHILIPPINES), INC.
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1746
(CTA Case No. 8646)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto San Pedro, *JJ.*

Promulgated:

JUN 26 2020
3:28 p.m.

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RESOLUTION

CASTAÑEDA, JR., J.:

This resolves the Motion for Partial Reconsideration filed by JVC (Philippines), Inc. (JVC) on October 29, 2019,[1] without a comment from the Commissioner of Internal Revenue (CIR) despite notice,[2] and the CIR's Motion for Partial Reconsideration [re: Decision dated October 14, 2019],[3]

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[1] *Rollo*, pp. 235-242.
[2] *Id.* at p. 271.
[3] *Id.* at pp. 244-255.

with JVC's Comment/Opposition (to the Commissioner of Internal Revenue's Motion for Partial Reconsideration) filed on November 28, 2019.[4]

JVC reiterates the argument that the case of *Commissioner of Internal Revenue v. Next Mobile, Inc.*[5] should *not* be applied in affirming the validity of the first waiver but the doctrine in *Commissioner of Internal Revenue v. Philippine Daily Inquirer, Inc.*[6] should instead prevail, in view of the facts of the case.[7]

On the other hand, the CIR insists that JVC is liable to pay the following:

- Deficiency income tax and value-added tax from the "unaccounted balance" of professional fees in the amount of ₱5,610,096.60;[8]

- Surcharge and interests for failure to pay the correct amount of final withholding tax;[9] and,

- Compromise penalty in the amount of ₱25,000.[10]

Both motions lack merit.

JVC's motion is merely a reiteration of the points raised before the Court *a quo* which had already been squarely passed upon and resolved under the *ponencia* of J. Erlinda P. Uy, thus:

> "Finally, petitioner contends that the case of *Commissioner of Internal Revenue vs. Philippine Daily Inquirer, Inc.* ("*Inquirer case*") should be applied to this case.
>
> We are not swayed.
>
> A review of the facts in this case shows that the application of the *Next Mobile* case, instead of the *Inquirer* case, is more appropriate in this case. In other words, the factual milieu in the *Inquirer* case is different from that of the *Next Mobile* case and so must be applied herein.
>
> In the instant case, the alleged infirmity of the First Waiver is that there is failure to indicate the date of acceptance by the concerned BIR official. This, in turn, is similar to in the *Next Mobile* case, since one of the infirmities raised therein is the lack of the said date of acceptance. In contrast, however, with the *Inquirer* case, the infirmity of the Waiver raised therein was the failure to execute three (3) copies of the waiver and the proper distribution of the said copies. Clearly, the application of the doctrine

[4] *Id.* at pp. 265-270.
[5] G.R. No. 212825, December 7, 2015.
[6] G.R. No. 213943, March 22, 2017.
[7] *Rollo*, pp. 236-238.
[8] *Id.* at pp. 246-247.
[9] *Id.* at pp. 247-248.
[10] *Id.* at pp. 248-253.

espoused in the *Next Mobile* is more fitting in this case, than that of the *Inquirer case*."[11]

Finally, the CIR's motion is asking the Court *En Banc* to review once again the factual findings of the Court *a quo* on the "unaccounted balance" of professional fees, the surcharge and interest and the compromise penalties. In this regard, the Court *En Banc*'s assailed decision noted:[12]

> "Finally, the CIR's grounds for the petition on the unaccounted balance on professional fees of ₱5,610,096.60, claimed losses of ₱1,238,543.69, FWT and the compromise penalty are only repetitions of those already declared in his Answer and his Memorandum. Petitioner CIR, by failing to file his Comment and his Memorandum, did not raise any new contentions, factual or otherwise, that could persuade the Court to overturn the assailed holding of the trial court." (*Citations omitted*)

The appreciation of evidence is the purview of trial courts. Thus, factual findings of trial courts are entitled to great weight and respect on appeal, especially when established by *unrebutted* testimonial and documentary evidence,[13] as in this case. The Court *En Banc*, therefore, sees no compelling reason to warrant departure from the factual findings of the Court *a quo*.

WHEREFORE, in light of the foregoing considerations, both JVC's Motion for Partial Reconsideration and the CIR's Motion for Partial Reconsideration [re: Decision dated October 14, 2019] are **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[11] November 2, 2017 Resolution, *Id.* at p. 94.
[12] *Id.* at p. 227.
[13] *Seven Brothers Shipping Corporation v. DMC-Construction Resources, Inc.*, G.R. No. 193914, November 26, 2014.

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice