REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

IRISH FE N. AGUILAR,
Petitioner,

CTA Case Nos. 9867

Members:

-versus-

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 03 2022 8:25 am

x- -x

R E S O L U T I O N

MANAHAN, *J.:*

For this Court's resolution is petitioner's *Motion for Reconsideration (of the Decision dated 30 September 2021)* filed on November 12, 2021, without respondent's comment.[1]

Petitioner seeks reconsideration of the Court's Decision promulgated on September 30, 2021 (Assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the Petition for Review filed by petitioner on July 2, 2018, is hereby **DENIED** for lack of legal basis.
>
> **SO ORDERED**."

Petitioner's disagreement with the assailed Decision is based on the following grounds, and we quote:

---

[1] Records Verification dated March 7, 2022.

"A

The Honorable Court erred when it ruled that the tax-exempt privileges of ADB employees under ADB Charter, albeit explicit, must yield to municipal laws or to the prerogative of the Philippine Government to tax its nationals.

B.

The Honorable Court erred when it held that the 1997 National Internal Revenue Code of the Philippines ("The NIRC of 1997") is the operative act which imposed taxability on the income of Philippine nationals working in the Asian Development Bank ("ADB"), considering that:

1. The NIRC of 1997 is in itself insufficient to modify, amend, or repeal the ADB Chapter *(sic)* as it is merely a general law which deals only with the general taxability of Filipino citizens, without particular mention of the taxability of Filipino citizens in ADB;

2. The tax exemption provision in the ADB Chapter *(sic)* must stand, in the absence of a special law specifically granting the Government the authority to exercise its right to tax, as well as specifically addressing the taxability of Philippine nationals working in the ADB.

C.

The Honorable Court erred in exercising appellate jurisdiction over the decision of the Regional Trial Court and holding that Section 2(D)(1) of Revenue Memorandum Circular (RMC) 31-2013 is in accord with the ADB Charter and the provisions of the 1997 NIRC, as amended."

Petitioner first lays down the premise that the Asian Development Bank (ADB) Charter expressly exempts its employees from the payment of income tax on compensation received and the Philippine Congress has yet to enact a law withdrawing such exemption. The mere reservation to tax its own citizens made by then President of the Philippines, Ferdinand E. Marcos (in said charter) refers to a future event that would need a positive act from the legislature for it to take effect as can be seen from the wordings of the portion of the said charter, to wit:

> "NOW THEREFORE, be it known that I, FERDINAND E. MARCOS, President of the Republic of the Philippines, having seen and considered the Agreement Establishing the Asian Development Bank done on December 4, 1965 at Manila, Philippines, do hereby, in pursuance of the aforesaid concurrence of the Senate of the Philippines, ratify and confirm the said Agreement and every article and clause thereof, subject to the reservation that the Philippines declares that it retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of the Philippines."

Petitioner repudiates the position of the Court that the enactment of the 1997 National Internal Revenue Code (NIRC), as amended, serves as the operative act which imposed taxability on the income of Philippine nationals working in ADB and proffered its theory that when a general law (1997 NIRC) is enacted later than the special law (ADB Charter), the latter will be construed as remaining an exception to its terms, unless repealed expressly or by necessary implication. As it stands now, petitioner maintains that the provisions of the ADB Charter should be followed under the principle of "pacta sunt servanda," i.e., that treaty obligations must be accorded respect and complied with in good faith.

Petitioner also challenges the jurisdiction of the Court to rule on the validity of Section 2(D)(1) of Revenue Memorandum Circular (RMC) 31-2013 as such determination properly belongs to the regular courts and not to the Court of Tax Appeals. Petitioner additionally avers that in the absence of the Court's jurisdiction to rule on the validity of RMC 31-2013, the decision of the Regional Trial Court (RTC) of Mandaluyong should prevail, thus, entitling petitioner to the refund of income taxes paid on her compensation income.

RULING OF THE COURT

The motion is denied.

Noticeable from a perusal of petitioner's motion for reconsideration is the reiteration of arguments already alleged in her Petition for Review and which have been considered, weighed and ruled upon in the assailed Decision. Nevertheless, it is worthy to stress the rulings of the Court on the matters raised by petitioner.

The allegation of petitioner of a lack of an enabling law or positive act of the Philippine Congress to give life to the reservation contained in ADB Charter to tax its own citizens, is bereft of merit as the Philippine government already enacted the 1997 NIRC, as amended, imposing the taxability of and the corresponding tax rates on the citizens of the Philippines, specifically Section 23 (A) in relation to Sections 24, 31 and 32 (A) (1), all quoted below for emphasis and clarity:

> "Section 23. **General Principles of Income Taxation in the Philippines.** – Except when otherwise provided in this Code:
>
> **A) A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines.**" (Emphasis supplied)
>
> "Section 24. **Income Tax Rates.** -
>
> *(A) Rates of Income Tax on Individual Citizen and Individual Resident Alien of the Philippines. –*
>
> (1) An income tax is hereby imposed:
>
> (a) On the taxable income defined in Section 31 of this Code, other than income subject to tax under subsections (B), (C) and (D) of this Section, derived for each taxable year from all sources within and without the Philippines **by every individual citizen of the Philippines residing therein:**" (Emphasis supplied)
>
> xxx xxx xxx
>
> "Section 31. **Taxable Income Defined.** – The term "taxable income" means the pertinent items of gross income specified in this Code, less the deductions and/or personal and additional exemptions, if any, authorized for such types of income by this Code or other special laws."
>
> "Section 32. **Gross Income.**-
>
> (A) *General Definition.* – Except when otherwise provided in this Title, gross income means all income derived from whatever source, including (but not limited to) the following items:
>
> (1) **Compensation for services in whatever form paid, including, but not limited to fees, salaries, wages,**

> **commissions, and similar items:**" (Emphasis supplied)

It is clear from the aforecited provisions that ADB employees who are resident citizens of the Philippines are liable to pay income tax on the compensation received by them.

The ADB Charter and the corresponding Agreement Between the Asian Development Bank and the Government of the Republic of the Philippines Regarding the Headquarters of the Asian Development Bank," (ADB Headquarters Agreement), were ratified in 1966 while the NIRC was enacted in 1997 which is the positive act of the Philippine Congress to tax its own citizens including ADB employees who may be resident citizens. In ruling thus, petitioner seems to have missed the point when it questioned the jurisdiction of the Court to rule on the validity of RMC 31-2013 because the tax obligation of ADB employees who are Philippine nationals does not emanate from said RMC but on the afore-cited provisions of the 1997 NIRC. Thus, when the Court ruled that the clarifications provided by RMC 31-2013 as to the taxability of the compensation received by ADB employees is in accord with the ADB Charter and the provisions of the 1997 NIRC, as amended, it did not rule on its validity but merely affirmed its correct interpretation of the applicable law. Nonetheless, it is hornbook doctrine that the Court of Tax Appeals has exclusive appellate jurisdiction to determine the validity or constitutionality of administrative issuances of respondent and the RTC has no jurisdiction to decide on the validity or constitutionality of the RMC. Consequently, such RTC decision is a nullity and does not have any legal and binding effect.[2]

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (of the Decision dated 30 September 2021),* is **DENIED** for lack of merit.

Accordingly, the Decision of the Court in the above-captioned case dated September 30, 2021, is hereby **AFFIRMED.**

---

[2] *De Sagun, Espina, et al. vs. CIR,* CTA Case No. 9084, March 1, 2020.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

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