REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BANGKO SENTRAL NG PILIPINAS,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9478

Members:

CASTAÑEDA, JR., Chairperson,
MINDARO-GRULLA, and
BACORRO-VILLENA, *JJ.*

Promulgated:

JAN 16 2020 2:07 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution of this Court is petitioner's **Motion for Reconsideration**, with respondent's **Comment/Opposition (on Petitioner's Motion for Partial Reconsideration)** filed on November 8, 2019.

For easy reference, the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the instant Petition for Review is **DISMISSED**, for lack of jurisdiction.
>
> **SO ORDERED.**"

In the instant motion, petitioner asserts that the Credit Advices are sufficient proofs of payment of its taxes pursuant to RMC No. 31-04. Further, said Credit Advices are not hearsay evidence and, even assuming that these are hearsay evidence, they still have evidentiary value because respondent did not object to their admissibility. Finally, petitioner asserts that PD No. 242 is not applicable in this case.

On the other hand, respondent reiterates the reasoning of the Court in dismissing the subject Petition.

After considering the arguments raised by both parties, the Court resolves to deny the instant motion.

RMC No. 31-14 is not a substitute for the exercise of the Court's discretion in ascertaining what constitutes sufficient proof of payment

Petitioner asserts that the Court should have considered or should have taken judicial notice of RMC No. 31-04, where it is provided for that BSP credit advice shall be considered as sufficient proof of payment.

The Court is aware of the provisions of RMC No. 31-04, especially as to the provisions on credit advice. However, it is noteworthy that while the BIR may recognize the same as sufficient proof of payment pursuant to the said RMC, it cannot impale the power of the Court to exercise its discretion as to what constitutes sufficient proof of payment, without encroaching upon the exclusive rule making power of the Supreme Court.

In *Baguio Market Vendors Multi-Purpose Cooperative (BAMARVEMPCO) v. Hon. Iluminada Cabato-Cortes,*[1] the Supreme Court explained the nature of its rule making power, as follows:

> "The rule making power of this Court was expanded. This Court for the first time was given the power to promulgate rules concerning the protection and enforcement of constitutional rights. The Court was also

[1] G.R. No. 165922, February 26, 2010.

> granted for the first time the power to disapprove rules of procedure of special courts and quasi-judicial bodies. But most importantly, the 1987 Constitution took away the power of Congress to repeal, alter, or supplement rules concerning pleading, practice and procedure. **In fine, the power to promulgate rules of pleading, practice and procedure is no longer shared by this Court with Congress, more so with the Executive.**" *(Emphasis supplied)*

Here, RMC No. 31-04 provides what constitutes sufficient proof of payment, *i.e.*, credit advice. Clearly, the said provision is an evidentiary rule which may be binding upon the BIR for purposes of its internal management. However, the same cannot bind the Court as it encroaches upon the rule making power of the Supreme Court.

Thus, the Court cannot sustain petitioner's contention that its credit advices constitute sufficient proofs of payment. Otherwise, the Court would effectively be deprived of its right to exercise its lawful discretion and to appreciate the evidence presented before it.

Petitioner's Credit Advices are hearsay evidence

Petitioner asserts that the testimony of its witness, Ms. Carmela S. Ruego, is not hearsay.

To be clear, the Court did not declare the said witness' testimony as hearsay. Instead, the Court considered the subject Credit Advances as hearsay evidence, as follows:

> "In the instant case, none of the persons who prepared or issued the respective Credit Advices were presented before the Court, in violation of the hearsay evidence rule. As a consequence, these pieces of evidence cannot be given probative weight."

Verily, there is no dispute that petitioner's witness was able to identify the subject credit advices as evidence. In fact, the same was admitted by the Court. However, petitioner should not confuse admissibility of evidence as against weight of evidence. "[A] particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the Rules of Court."[2]

In relation thereto, the Court has previously discussed in the assailed Decision that:

> "In *Soledad Calicdan v. Silverio Cendaña,* the Supreme Court defined hearsay evidence as follows:
>
> > 'Hearsay evidence is defined as 'evidence not of what the witness knows himself but of what he has heard from others.' The hearsay rule bars the testimony of a witness who merely recites what someone else has told him, whether orally or in writing. In *San Vicente v. People,* we held that when evidence is based on what was supposedly told the witness, the same is without any evidentiary weight for being patently hearsay. Familiar and fundamental is the rule that hearsay testimony is inadmissible as evidence.'
>
> The consequence of presenting hearsay evidence in Court is explained in *Republic of the Philippines v. Carmen Santorio Galeno,*[3] as follows:
>
> 'xxx it should be borne in mind that 'hearsay evidence, whether objected to or not, has no probative value unless the proponent can show that the evidence falls within the exceptions to the hearsay evidence rule,' which do not, however, obtain in this case. Verily, while respondent's documentary evidence may have been admitted due to the opposing party's lack of objection, it does not, however, mean that they should be accorded any probative weight. The Court has explained that:
>
> > The general rule is that hearsay evidence is not admissible. However, the lack of objection to hearsay testimony may result in its being admitted as evidence. But one should not be misled into thinking that such declarations are thereby impressed with probative value. Admissibility of

[2] Dra. Leila A. Dela Llano v. Rebecca Biong, G.R. No. 182356, December 4, 2013.
[3] G.R. No. 215009, January 23, 2017.

> evidence should not be equated with weight of evidence. Hearsay evidence whether objected to or not cannot be given credence for it has no probative value."

Upon revisiting the witness' testimony, Ms. Carmela S. Ruego, the Court still finds that she has no participation in the preparation and execution of the subject credit advices.

While Ms. Ruego has the general function of facilitating the payment of taxes, among others, as Senior Management Specialist of petitioner's Asset Management Department, it appears that she only learned the alleged fact of payment <u>after</u> the credit advices were prepared and executed by their alleged respective signatories.

In other words, her testimony only involves the existence of these credit advices. However, she failed to testify as to her particular, or even slightest, participation in the preparation and execution thereof, *i.e.*, who, when, where and how these credit advices were issued. She likewise failed to testify whether the signatories to the credit advices were petitioner's responsible employees, or whether the signatures appearing thereto were their signatures. Thus, it is clear that the said pieces of evidence are hearsay and the Court committed no error in giving no credence to the same.

Meanwhile, the *Galeno* case categorically provides that while a party's documentary evidence may have been admitted due to the opposing party's lack of objection; it does not, however, mean that they should be accorded any probative weight. Here, while there was no objection interposed by respondent, the Court is not precluded in not according any probative weight to the subject pieces of evidence.

Considering the foregoing, the Court sees no reason to reconsider its previous findings.

PD 242 is applicable in this case

Finally, petitioner argues that PD 242 is not applicable in this case because, pursuant to a Resolution of the CTA 1st Division dated February 15, 2018, it was provided for that petitioner is an independent central monetary authority that enjoys fiscal administrative autonomy.

However, it was categorically declared by the Supreme Court in the case of *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*,[4] that:

> "The law is clear and covers ***'all disputes, claims and controversies solely*** **between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements.'** When the law says 'all disputes, claims and controversies solely' among government agencies, the law means **all**, *without exception*. Only those cases already pending in court at the time of the effectivity of PD 242 are not covered by the law."

Meanwhile, the above-ruling of the Supreme Court was reiterated in the case of *Commissioner of Internal Revenue v. The Secretary of Justice and Metropolitan Cebu Water District (MCWD)*.[5] Thus, whether petitioner enjoys fiscal administrative autonomy is immaterial because PD 242 made no qualification as to its applicability.

To conclude, petitioner failed to raise meritorious arguments to justify the reconsideration of the assailed Decision. Hence, the dismissal of the same is in order.

WHEREFORE, the instant Motion for Reconsideration is **DENIED**, for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

[4] G.R. No. 198146, August 8, 2017.
[5] G.R. No. 209289, July 9, 2018.

WE CONCUR:

(On Leave)	
CIELITO N. MINDARO-GRULLA	**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice	Associate Justice