REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PRIME INVESTMENT KOREA, INC., Petitioner,	**CTA CASE NO. 9573** Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* and **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 2 0 2019 9:05 Am

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RESOLUTION

CASTAÑEDA, JR., ***J.*:**

For resolution of this Court is petitioner's **Omnibus Motion I. For Reconsideration of the Decision dated May 31, 2019; and For Leave of Court to Present and Admit Additional Clarificatory Testimony**, filed on June 18, 2019, without respondent's comment per Records Verification dated July 11, 2019.

Petitioner seeks reconsideration of this Court's Decision dated May 31, 2019, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, petitioner's claim for refund or issuance of tax credit certificate is **DENIED** for lack of merit.
>
> **SO ORDERED**."

In the assailed Decision, the Court held that petitioner's argument that it is exempt from corporate income tax pursuant to Section 13 of Presidential Decree ("PD") No. 1869, insofar as its income from its junket gaming operations under the Junket Agreement and the Supplement to Junket Agreement both entered with PAGCOR is concerned, is without legal basis.

In its motion for reconsideration, petitioner argues that the Court sweepingly concluded that any income from junket gaming operations is subject to corporate income tax. According to petitioner, the Court's reliance on Revenue Memorandum Circular ("RMC") No. 13-2013 is misplaced and glaringly inconsistent with the provisions under Section 13(2)(a) and (b) of P.D. No. 1869 considering that:

i. The classification of the income of PAGCOR from junket operations under RMC No. 33-2013 should not apply to petitioner's income from junket operations as the portion of said issuance applies only to PAGCOR's income and not to its licensees/contractees, and the nature deriving their respective income from junket operations does not fall under the same income category;

ii. It is clearly settled in *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue*[1] that "like PAGCOR, its *contractees and licensees* remain exempted from the payment of corporate income tax and other taxes since the law is clear that exemption inures to their benefit."

Petitioner claims that the Supreme Court's discussion in the *Bloomberry Case* is more on point with the circumstances of PAGCOR contractees, such as petitioner. Moreover, petitioner argues that the Court should give scant consideration to RMC No. 33-2013 given its manifest inconsistencies with P.D. No. 1869, which it supposedly implements. Petitioner contends that the Court quite extensively delved on the two categories in RMC No. 33-2013, which are clearly applicable only to PAGCOR's income. According to petitioner, the Court mistakenly applied these same categories to the income of petitioner, who is definitely not PAGCOR and is clearly rather a PAGCOR contractee.

[1] G.R. No. 212530, August 10, 2016.

Petitioner also requests for an opportunity to present further evidence in the form of testimonial evidence to clarify the nature of petitioner's operations under its agreement with PAGCOR for a better understanding of petitioner's junket operations. Thus, petitioner requests for the setting of a hearing for its Motion for Reconsideration for the presentation of evidence in support of its Motion for Reconsideration.

Petitioner's motion is bereft of merit.

Curiously, *Bloomberry,* which petitioner cites as basis for maintaining that like PAGCOR, its contractees and licensees are likewise liable only to 5% franchise tax in lieu of all kinds of taxes, including corporate income tax, explicitly contradicts such position, to wit:

> For the same reasons that made us conclude in the 10 December 2014 Decision of the Court sitting En Banc in G.R. No. 215427 that <u>PAGCOR is subject to corporate income tax for "other related services"</u>, <u>we find it logical that its *contractees and licensees* shall likewise pay corporate income tax for income derived from such "related services."</u>
>
> Simply then, in this case, we adhere to the principle that since the statute is clear and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is the plain meaning rule or *verba legis,* as expressed in the maxim *index animi sermo* or speech is the index of intention.
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> xxx xxx xxx
>
> **WHEREFORE**, the petition is **GRANTED**. Accordingly, respondent Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares is hereby <u>**ORDERED** to **CEASE AND DESIST** from implementing Revenue Memorandum Circular No. 33-2013 insofar as it imposes corporate income tax on petitioner Bloomberry Resorts and Hotels, Inc.'s income derived from its gaming operations.</u>
>
> **SO ORDERED**. *[Underscoring supplied]*

As can be gleaned from the foregoing, there is no merit to petitioner's claim that RMC No. 33-2013 was already declared invalid by the Supreme Court in *Bloomberry*. The dispositive portion of *Bloomberry* clearly provides that respondent is ordered to cease and desist from implementing RMC No. 33-2013 insofar as it imposes corporate income tax on Bloomberry Resorts and Hotels, Inc.'s income derived from its gaming operations. Clearly, there is nothing in *Bloomberry* which states that respondent is also ordered to cease and desist from implementing the sections of RMC No. 33-2013 not pertaining to the imposition of corporate income tax on income derived from gaming operations. Accordingly, we maintain that, except for its imposition of corporate income tax on income derived from gaming operations, RMC No. 33-2013 is valid and is not in conflict with the provisions of P.D. No. 1869, as amended.

Administrative regulations and policies enacted by administrative bodies to interpret the law have the force of law and are entitled to great respect.[2] As a matter of policy, this Court accords great respect to the decisions and/or actions of administrative authorities not only because of the doctrine of separation of powers but also for their presumed knowledgeability and expertise in the enforcement of laws and regulations entrusted to their jurisdiction. The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to the accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute.[3]

Here, the assailed revenue memorandum was issued to clarify the income tax and franchise tax due from the Philippine Amusement and Gaming Corporation ("PAGCOR"), its contractees, and licensees. RMC No. No. 33-2013[4], which was cited by the Supreme Court in G.R. No. 215427[5], classifies the income of PAGCOR as follows: *fe*

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[2] *Rufino O. Eslao, in his capacity as President of Pangasinan State University vs. Commission on Audit*, G.R. No. 108310, September 1, 1994, citing *Warren Manufacturing Workers Union (WMWU) vs. The Bureau of Labor Relations, et al.*, G.R. No. 76185, March 30, 1988.

[3] *The Public Schools District Supervisors Association (PSDSA), et al. vs. Hon. De Jesus, et al.*, G.R. No. 157286, June 16, 2006.

[4] "Income Tax and Franchise Tax Due from the Philippine Amusement and Gaming Corporation (PAGCOR), Its Contractees and Licensees."

[5] *PAGCOR vs. The BIR, et al.*, December 10, 2014.

1. PAGCOR's income from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools, includes, among others:

   (a) Income from its casino operations;
   (b) Income from dollar pit operations;
   (c) Income from regular bingo operations; and
   (d) Income from mobile bingo operations operated by it, with agents on commission basis. Provided, however, that the agents' commission income shall be subject to regular income tax, and consequently, to withholding tax under existing regulations.

2. **Income from "other related operations**" includes, but is not limited to:

   (a) Income from licensed private casinos covered by authorities to operate issued to private operators;
   (b) Income from traditional bingo, electronic bingo and other bingo variations covered by authorities to operate issued to private operators;
   (c) Income from private internet casino gaming, internet sports betting and private mobile gaming operations;
   (d) Income from private poker operations;
   (e) **Income from junket operations**;
   (f) Income from SM demo units; and
   (g) Income from other necessary and related services, shows and entertainment. (*Emphasis supplied*).

Petitioner's argument that the Court mistakenly applied the two categories in RMC No. 33-2013 to petitioner is patently without merit in light of the categorical pronouncement in *Bloomberry* that PAGCOR's contractees and licensees shall likewise pay corporate income tax for income derived from such "related services."

Again, this Court adheres to the cardinal rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. As has been this Court's consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.[6]

To reiterate, petitioner's argument that it is exempt from corporate income tax pursuant to Section 13 of P.D. No. 1869, insofar as its income from its junket gaming operations under the Junket Agreement and the Supplement to Junket Agreement both entered into with PAGCOR is concerned, is without legal basis. It is without a doubt that, like PAGCOR, its contractees and licensees shall likewise pay corporate income tax for income derived from such "other related services", including income from junket operations, considering that Section 14(5) of P.D. No. 1869 is clear that any income that may be realized from these related services shall not be included as part of the income for the purpose of applying the franchise tax, but the same shall be considered as a separate income and shall be subject to income tax.

In sum, the Court finds that petitioner failed to raise a new or substantial matter, or compelling reason to justify the reversal or modification of the Court's findings in the assailed Decision.

WHEREFORE, premises considered, petitioner's **Omnibus Motion I. For Reconsideration of the Decision dated May 31, 2019; and II. For Leave of Court to Present and Admit Additional Clarificatory Testimony** is **DENIED** for lack of merit.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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[6] *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares,* G.R. No. 212530, August 10, 2016.