REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

TRAVELLERS INTERNATIONAL HOTEL GROUP, INC. Petitioner,	CTA Case No. 9275 Members:
- versus -	FABON-VICTORINO, and RINGPIS-LIBAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 09 2019 1:32 p.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

On March 12, 2019, the Court promulgated a Decision[1], the decretal portion of which reads:

> **WHEREFORE**, the Petition for Review filed by Travellers International Hotel Group, Inc. on February 24, 2016, is hereby **GRANTED**. The Final Decision dated January 22, 2016, issued by respondent Commissioner of Internal Revenue is hereby **REVERSED.** Accordingly, the deficiency Income Tax assessment issued against petitioner for calendar year 2011 in the aggregate amount of Two Billion Nine Hundred Twenty-Three Million One Hundred Ninety Thousand Nine Hundred Sixty Pesos and Thirty-Three Centavos (₱2,923,190,960.33), inclusive of interest, is **CANCELLED** and **SET ASIDE**.

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[1] Docket, pp. 1260-1280.

SO ORDERED.

On April 5, 2019, respondent Commissioner of Internal Revenue filed a *Motion for Reconsideration (Re: Decision dated 12 March 2019)* praying for the reversal and setting aside of the cited Decision.

In compliance with the Court Resolution of April 15, 2019, petitioner filed a *Manifestation with Motion* on April 29, 2019 stating that it could not possibly filed the required pleading as it was yet to receive a copy of respondent's Motion for Reconsideration. Hence, it requested that (a) it be personally furnished with a copy of petitioner Motion for Reconsideration; and (b) it be given fifteen (15) days from receipt thereof to file its comment/opposition.

On May 15, 2019, petitioner filed the required *Comment (Re: Motion for Reconsideration dated April 2, 2019).*

In his bid for a reconsideration, respondent claims that the Court erred in ruling that petitioner, being a licensee of Philippine Amusement and Gaming Corporation (*PAGCOR*), is exempt from income tax on its gaming operations. Allegedly, the income tax exemption provided in Section 13(2)(b) of Presidential Decree (PD) No. 1869 (the *PAGCOR Charter*) inures only to the benefit of *PAGCOR*, as franchise holder, and does not extend to its licensees in consonance with the original provisions and intent of PD No. 1869, as embodied in Section 4(2)(b) of PD No. 1399. Further, there is nothing in PD No. 1869 which literally includes petitioner as beneficiary of PAGCOR'S tax exemption. Petitioner is not included in the enumeration of entities under Section 13(2)(b) of PD No. 1869 which perform essential and technical services to PAGCOR *in relation* to the latter's casino operations, respondent argues.

In rejecting respondent's *Motion for Reconsideration*, petitioner submits that the arguments raised by respondent in his *Motion* have already been exhaustively considered and addressed in the assailed Decision of March 12, 2019.

Nevertheless, petitioner sides with the Court claiming that it committed no error in holding that petitioner, being a licensee of PAGCOR, is exempt from income tax on its gaming operations.

Respondent's *Motion* must fail.

In the recent case of *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue*,[2] the Supreme Court declared in no uncertain terms that the **tax benefit being enjoyed by PAGCOR extends to its contractees and licensees**, thus:

> As the PAGCOR Charter states in unequivocal terms that exemptions granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, **shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the PAGCOR or operator <u>has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise, so it must be that all contractees and licensees of PAGCOR</u>**, upon payment of the 5% franchise tax, shall likewise be exempted from all other taxes, including corporate income tax realized from the operation of casinos.
>
> 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 PAGCOR is subject to corporate income tax for 'other related services,' we find it logical that its contractees and licensees shall likewise pay corporate income

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

> tax for income derived from such 'related services'. (*Emphases supplied*)

Undeniably, petitioner is authorized by PAGCOR to establish and operate casinos **within the latter's regulatory and licensing authority under PD No. 1869, as amended**. In fact, the Provisional License issued by PAGCOR to petitioner on June 2, 2008, confirmed that the income tax exemption provided under PD No. 1869, or the PAGCOR Charter, shall apply to the activities of petitioner under the Provisional License.

Following the pronouncement of the Supreme Court in *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue*, petitioner's income from its provisional gaming license is subject only to the 5% franchise tax, and **shall be exempted from the 30% corporate income tax under Section 27 (C) of the NIRC of 1997, as amended**.

It is elementary that the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justifiable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[3] Hence, the Court cannot decide on the matter in any other way.

WHEREFORE, finding no cogent reason to reverse the ruling in the assailed Decision of March 12, 2019, respondent's *Motion for Reconsideration (Re: Decision dated 12 March 2019)* is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

[3] *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

I concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice