REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

PERPETUAL SUCCOUR HOSPITAL OF CEBU, INC.,
Respondent.

CTA EB NO. 1819
(CTA Case No. 8912)

x-------------------------------------x

PERPETUAL SUCCOUR HOSPITAL OF CEBU, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1841
(CTA Case No. 8912)

Present:

DEL ROSARIO, PJ
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, JJ.

Promulgated:

JUL 13 2020 4:04 p.m.

x - x

RESOLUTION

Fabon-Victorino, J.:

This resolves:

1. Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration (Re: Decision dated 10 October 2019)* filed on October 23, 2019, with Perpetual

Succour Hospital of Cebu, Inc.'s (PSH) *Opposition* posted on December 10, 2019; and

2. PSH's *Motion for Reconsideration* posted on November 12, 2019, with CIR's *Opposition* thereto filed on March 13, 2020.

Both parties seek reconsideration of the Decision promulgated on October 10, 2019, the dispositive portion of which reads:

> **WHEREFORE**, the *Petitions for Review* filed on April 13, 2018 and May 10, 2018 by the Commissioner of Internal Revenue and Perpetual Succour Hospital of Cebu, Inc., respectively, are hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated July 25, 2017 and May 13, 2018, respectively, are **AFFIRMED**.
>
> **SO ORDERED.**

CIR anchors his *Motion for Reconsideration* solely on the ground that:

> THE HONORABLE COURT EN BANC ERRED IN RULING THAT [PSH] IS NOT LIABLE FOR INTEREST AND COMPROMISE PENALTY IN THE AMOUNT OF P7,329,848.06 AND P25,000.00, RESPECTIVELY, FOR ATXABLE YEAR 2009.

According to CIR, the Court *En Banc* erred in holding that PSH is not liable for interest and compromise penalty having relied in good faith on the previous findings of the Court in CTA Case No. 7304. For CIR, PSH cannot simply invoke good faith in order to escape liability from deficiency interest as Section 247(a) in relation to Section 249(B) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, authorizes the imposition of deficiency and delinquency interests on all taxes under the NIRC. In addition, the imposition of compromise penalty amounting to

P25,000.00 is valid pursuant to Revenue Memorandum Order (RMO) No. 19-2007.

In rejecting CIR's *motion*, PSH merely reiterated the ruling of the Court in the Decision dated October 10, 2019 that *"the assessment for interest and compromise penalty should be deleted on the basis of good faith and honest belief on the part of PSH that it is not subject to [income tax]."*

On the other hand, in its *Motion for Reconsideration*, PSH submits that:

1. THE HONORABLE COURT ERRED IN SUSTAINING THE CIR's FINDING THAT PSH IS NO LONGER "OPERATING EXCLUSIVELY FOR CHARITABLE PURPOSE."

2. IT IS ERRONEOUS TO DISREGARD THE RULINGS [*i.e.*, October 2001 Ruling, and the Decisions in CTA Case No. 7304 and CTA EB Case No. 781 (the latter affirmed in G.R. No. 201905)] WHICH PRONOUNCED THAT PSH IS EXEMPT FROM TAX ON INCOME SINCE IT POSSESSES, AND CONTINUES TO POSSESS, THE PRESCRIBED QUALIFICATIONS UNDER SECTION 30(E).

By way of an *Opposition*, CIR counters that PSH's contentions lack basis. According to CIR, there might be identity of the parties between the previous case and the case at hand, but the subject matter and the cause of action are not similar. The decision of the Court in CTA Case No. 7304 reveals that it involves an assessment for income tax for the taxable year 2001, while the assessment subject of the instant case is taxable year 2009.

For CIR, tax exemption must be continually satisfied by the taxpayer in order to enjoy immunity from taxation. Thus, he is not precluded from conducting an investigation in order to ensure that the taxpayer continuously meets the criteria for exemption for each taxable year.

After a thorough study of the parties' respective *Motion for Reconsideration*, the Court finds that all the basic issues raised in the said *motions* have been determined and passed upon, first by the Court in Division and subsequently on appeal by the Court *En Banc*. There are no substantial arguments raised to warrant the reversal of the assailed Decision of October 10, 2019. Both the CIR and PSH merely reiterated if not rephrased those contained in their previously filed pleadings.

WHEREFORE, the *Motions for Reconsideration* separately filed by the Commissioner of Internal Revenue and Perpetual Succour Hospital of Cebu, Inc. are hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice