

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

FUTAMURA CHEMICAL CO. LTD., CTA CASE NO. 8906
Petitioner,

- versus -

Members:
BAUTISTA, Chairperson,
FABON-VICTORINO, and
RINGPIS-LIBAN, II.

COMMISSIONER OF INTERNAL REVENUE, Promulgated:
REVENUE,

Respondent.

MAY 15 2017

Cen 11:57 a.m.

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RESOLUTION

BAUTISTA, J:

For resolution is respondent's Motion for Reconsideration filed on February 21, 2017 with petitioner's Opposition with Motion for Entry of Judgement and Issuance of Writ of Execution filed on March 9, 2017. Respondent failed to file his comment or opposition to petitioner's Motion for Entry of Judgment and Issuance of Writ of Execution despite notice.

On January 30, 2017, the Court promulgated a Decision (the "Assailed Decision")¹ granting the Petition for Review and ordering the Commissioner of Internal Revenue ("CIR") to refund in favor of petitioner the amount of Php18,836,500.00, representing erroneously or illegally collected capital gains tax ("CGT") on the sale by petitioner of its shares of stock in Philippine-Japan Active Carbon Corporation. ("PJACC"). The dispositive portion of the Assailed Decision reads:

WHEREFORE, premises considered, the Petition for Review is hereby **GRAINTED**. Respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** in favor of

¹ Records, CTA Case No. 8906, Decision, pp. 1516-1528.

petitioner Futamura Chemical Co. Ltd. the amount of **EIGHTEEN MILLION EIGHT HUNDRED THIRTY-SIX THOUSAND FIVE HUNDRED PESOS (Php18,836,500.00)**, representing erroneously or illegally collected capital gains tax on the sale by petitioner of its shares of stock in Philippine-Japan Active Carbon Corporation.

SO ORDERED.

Respondent, in his Motion for Reconsideration, claims that petitioner failed to fully substantiate its claim for refund. According to respondent, petitioner failed to prove compliance with the documentary and legal requirements; hence, there was a failure on the part of the Revenue Officer/Examiner to determine petitioner's entitlement to the refund.

Petitioner, on the other hand, counters that respondent's Motion for Reconsideration was filed out of time. Aside from a typographical error indicating the date of respondent's receipt of the Assailed Decision on January 7, 2017, which petitioner concedes to have been received on February 7, 2017 due to the impossibility of respondent receiving the Assailed Decision prior to its promulgation on January 30, 2017, respondent filed the Motion for Reconsideration beyond the reglementary period. In addition, petitioner posits that respondent's Motion for Reconsideration failed to comply with the requisites of a valid motion as the same was served on petitioner on the same date of the notice for hearing. Finally, petitioner argues that respondent's Motion for Reconsideration was *pro forma* considering respondent's extremely general allegations which do not even attempt to cite portions of the Assailed Decision nor offer any explanation as to how petitioner failed to comply with the requirements of law. Thus, petitioner prayed that respondent's Motion for Reconsideration be denied; that the Assailed Decision be confirmed as having attained finality and enter the final decision in the book of entries of judgments; and a Writ of Execution be issued directing respondent to refund to petitioner the amount claimed for refund.

The Court resolves.

Procedurally, respondent's Motion for Reconsideration is infirm. *Section 1, Rule 15 of the Revised Rules of the Court of Appeals ("RRCTA")*²

² A.M. No. 05-11-07-CTA, November 22, 2005.

provides that a motion for reconsideration of a decision must be filed within fifteen (15) days from receipt of notice of said decision. In the present case, the records show that respondent received the Assailed Decision on February 3, 2017. Counting fifteen (15) days therefrom, respondent should have filed his motion for reconsideration of the Assailed Decision on February 18, 2017. However, respondent only filed his Motion for Reconsideration on February 21, 2017. Having filed the same out of time, the Assailed Decision has already attained finality. Consequently, it is already immutable and unalterable following the doctrine of immutability of judgment.

In *Apo Fruits Corporation v. Court of Appeals*³, the Supreme Court explained the purpose and rationale of the doctrine of immutability of judgment in this wise:

The main role of the courts of justice is to assist in the enforcement of the law and in the maintenance of peace and order by putting an end to judiciable controversies with finality. Nothing better serves this role than the long established doctrine of immutability of judgments. It is never a small matter to maintain that litigation must end and terminate sometime and somewhere, even at the risk of occasional errors. A judgment that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. The reason for the rule is that if, on the application of one party, the court could change its judgment to the prejudice of the other, it could thereafter, on application of the latter, again change the judgment and continue this practice indefinitely. The equity of a particular case must yield to the overmastering need of certainty and unalterability of judicial pronouncements.

The doctrine of immutability and inalterability of a final judgment has a two-fold purpose: (1) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business and (2) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist. Controversies cannot drag on indefinitely. The rights and obligations of every litigant must not hang in suspense for an indefinite period of time. The doctrine is not a mere technicality to be easily brushed aside, but a matter of public policy as well as time-honored principle

³ G.R. No. 164195, December 4, 2009, 607 SCRA 200.

of procedural law.

Meanwhile, considering that the Assailed Decision has attained finality, petitioner's Motion for Entry of Judgement and Issuance of Writ of Execution is proper following *Sections 6 and 7, Rule 14 of the RRCTA*. The relevant provisions state:

Sec. 6. *Entry of judgment and final resolution.* – If no appeal or motion for reconsideration or new trial is filed within the time provided in these Rules, the Clerk of Court shall forthwith enter the judgment or final resolution in the book of judgment. The date when the judgment or final resolution becomes executory shall be deemed the date of its entry. The entry shall contain the dispositive part of the judgment or final resolution and shall be signed by the Clerk of Court, with a certification that such judgment or resolution has become final and executory.

Sec. 7. *Execution of judgment.* – Upon the expiration of the period to appeal from a judgment or order that disposes of the action or proceeding and no appeal has been duly perfected, execution shall issue as a matter of right, on motion.

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Applying the foregoing to the present case, it thus becomes the Court's ministerial duty to issue the writ of execution as respondent's Motion for Reconsideration was filed out of time and petitioner moved for the execution of the judgment in the present case.⁴

WHEREFORE, premises considered, respondent's Motion for Reconsideration is **DENIED** for having been filed out of time. Meanwhile, petitioner's Motion for Entry of Judgement and Issuance of Writ of Execution is **GRANTED**. The case is hereby declared **CLOSED** and **TERMINATED**. No further pleadings or motions shall be entertained herein. Let entry of judgment be made in due course, and the corresponding Writ of Execution be issued.

⁴ *National Power Corporation v. Spouses Lorenzo L. Laohoo*, G.R. 151973, July 23, 2009, 593 SCRA 564.

SO ORDERED.


LOVELL R. BAUTISTA
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice