Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

DE LA SALLE LIPA, INC.,
Respondent.

CTA EB No. 1424
(CTA Case No. 8363)

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

DE LA SALLE LIPA, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1430
(CTA Case No. 8363)

Present:
DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, JJ.

Promulgated:

JAN 04 2018 4:20 p.m.

x---x

RESOLUTION

CASANOVA, J.:

This resolves the Commissioner of Internal Revenue's (CIR) Motion for Reconsideration[1], filed on September 13, 2017, with De La Salle Lipa, Inc.'s (DLSLI) Comment/Opposition [To the Commissioner of

[1] CTA EB No. 1424, En Banc Rollo, pp. 209-215.

Internal Revenue's Motion for Reconsideration dated September 13, 2017][2], filed on October 23, 2017.

In the said Motion, the CIR assails the Decision[3] dated August 17, 2017, promulgated by the Court *En Banc,* denying the CIR's Petition for Review[4], filed on February 10, 2016, and DLSLI's Petition for Review[5], filed on February 29, 2016, for lack of merit. In the assailed Decision, the Court *En Banc* sustained the August 24, 2015 Decision[6] of the Court of Tax Appeals Third Division denying DLSLI's Petition for Review and affirming, with modification, the Formal Letter of Demand issued by Revenue Region No. 9, San Pablo City, covering the period June 1, 2004 to May 31, 2005. The fallo of the Court in Division's Decision is herein quoted for ready reference:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED**. Formal Letter of Demand issued by Revenue Region No. 9, San Pablo City, covering the period June 1, 2004 to May 31, 2005 is hereby **AFFIRMED with MODIFICATION**. The compromise penalties in the total amount of P90,000 are hereby **CANCELLED**. Accordingly, petitioner is **ORDERED to PAY** respondent the amount of Php6,966,280.73, inclusive of the 25% surcharge imposed under Section 248(A)(3) of the National Internal Revenue Code of 1997, as amended, broken down as follows:

TYPE OF TAX	**BASIC TAX**	**25% SURCHARGE**	**TOTAL**
Income Tax	Php3,539,420.73	Php884,855.18	Php4,424,275.92
Value-Added Tax	1,106,068.98	276,517.24	1,382,586.22
Expanded Withholding Tax	927,534.87	231,883.72	1,159,418.59
Total	**Php5,573,024.58** ==============	**Php1,393,256.15** ==============	**Php6,966,280.73** ===============

> In addition, petitioner shall be liable to pay:
>
> (a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax, value-added tax, and expanded withholding

[2] CTA EB No. 1424, En Banc Rollo, pp. 232-239.
[3] CTA EB No. 1424, En Banc Rollo, pp. 155-192.
[4] CIR's Petition for Review, CTA EB No. 1424, En Banc Rollo, pp. 1-19.
[5] CTA EB No. 1430, En Banc Rollo, pp. 1-26.
[6] Annex "A" to the CIR's Petition for Review, CTA EB No. 1424, En Banc Rollo, pp. 20-49.

tax computed from the dates indicated below until full payment thereof pursuant to Section 249 (B) of the NIRC of 1997, as amended;

Tax Type	Basic Tax	Deficiency Interest Computed from
Income Tax	Php3,539,420.73	September 15, 2005
Value-Added Tax	1,106,068.98	June 27, 2005
Expanded Withholding Tax	927,534.87	June 15, 2005

(b) Delinquency interest at the rate of 20% per annum on the total amount of Php6,966,280.73 and on the 20% deficiency interest which have accrued as afore-stated in (a), computed from October 13, 2011 until full payment thereof pursuant to Section 249 (C) of the NIRC of 1997, as amended.

SO ORDERED."

Here, the CIR filed the subject Motion on the sole ground that:

"THE HONORABLE COURT ERRED IN RULING THAT IT CANNOT SET ASIDE OR DECLARE INVALID THE DONATION SCHEDULE STATED IN THE SUBJECT CONTRACT SINCE NO EVIDENCE WAS PRESENTED BY RESPONDENT OTHER THAN HIS BARE ALLEGATION THAT THE CONTRACT WAS A SHAM AND SIMULATED DONATION".

The CIR argues that DLSLI's assertion that only 10% of the P14,660,000.00 every year was credited as its revenue was clearly unsubstantiated as there is no concrete and clear evidence to back up this claim.

The CIR, likewise, claims that the statement made by DLSLI's witness, Mr. Elpidio Cruz, belies the provision of the contract which states for a yearly donation.

On the other hand, DLSLI argues that its claim that only 10% of the P14,660,000.00 advance donation was credited as its revenue every year is duly supported by the evidence on record; and, that the Court did not err in giving credence to the donation schedule stated in the subject contract since no evidence was presented by the CIR other than his bare allegation that the contract was a sham and simulated donation.

It is evident that both parties merely lifted almost verbatim from their respective Petitions for Review the foregoing issues and arguments which have already been exhaustively discussed and passed upon in the assailed Decision. Thus, We find no merit in the CIR's Motion for Reconsideration.

We maintain and reiterate our ruling in the assailed Decision and find no cogent or compelling reason to reverse the same.

WHEREFORE, foregoing considered, the CIR's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(I maintain my Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I maintain my Concurring and Dissenting opinion)

CATHERINE T. MANAHAN
Associate Justice