REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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GOLDEN DONUTS, INC.,

Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

CTA Case No. 9676

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:

MAY 10 2018 : 2:58 pm

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RESOLUTION

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (of the Resolution dated January 24, 2018)** filed on February 14, 2018, with respondent's **"OPPOSITION (Re: Petitioner's Motion for Reconsideration dated)"** filed on March 9, 2018, seeking the reconsideration of this Court's Resolution dated January 24, 2018, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, respondent's *Motion to Dismiss* is **GRANTED**. Accordingly, the instant *Petition for Review* is **DISMISSED**.
>
> **SO ORDERED.**"

In the *Motion for Reconsideration*, petitioner argues that the doctrine in *Commissioner of Internal Revenue vs. Court of Tax Appeals (Second Division) and Petron Corporation* (the "*Petron* case")[1] is not applicable to this case; that the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.* (the "*Lancaster* case")[2] confirms that this Court has jurisdiction to hear this case; and that to allow petitioner to be subjected to another round of

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[1] G.R. No. 207843, July 15, 2015.
[2] G.R. No. 183408, July 12, 2017.

investigation and assessment by respondent would tolerate an injustice that is inconsistent with the mandate of this Court.

On the other hand, respondent, in his *Opposition*, avers that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction; that the relief sought by petitioner is clearly to prevent respondent from exercising its official mandate, and this is not among those actions under the jurisdiction of this Court. The decision contemplated in the law is one rendered on a disputed assessment, and thus, it is primordial that the assessment be disputed first; that in the instant case, there is even no assessment yet to begin with, and in fact, as alleged by petitioner, respondent is still about to commence an investigation with the issuance of a *Letter of Authority* and a *Subpoena Duces Tecum*. While respondent respects and recognizes that this Court has the power to suspend collection of taxes, this does not allegedly include the exercise of respondent's power to assess or conduct audit or investigation on whether proper taxes have been paid; and that being the government agency lawfully mandated by the National Internal Revenue Code to collect taxes and conduct the necessary investigation in order to fulfill such mandate, resort to this Court prior to the conclusion of an actual investigation is premature and speculative.

THE COURT'S RULING

The* Petron *case is applicable to the instant case.

Petitioner argues that the *Petron* case is **not** applicable to the instant case. According to petitioner, the restrictive application of the scope of the jurisdiction of this Court enunciated by the *Petron* case contradicts the more liberal interpretation adopted by the Supreme Court in the previously decided case of *Philippine American Life and General Insurance Company vs. Secretary of Finance and the Commissioner of Internal Revenue* (the "*Philam* case")[3]. Petitioner submits that the *Philam* case prevails over the *Petron* case since the Constitution provides that no doctrine or principle of law laid down by the Supreme Court *En Banc* or its Division may be modified or reversed except by the Supreme Court sitting *En Banc*.

Petitioner is gravely mistaken.

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[3] G.R. No. 210987, November 24, 2014.

The *Philam* case, which was rendered by the Third Division of the Supreme Court, and the *Petron* case, which was promulgated by the said Court's First Division, are not in conflict with one another, so as to warrant the determination which of the said cases should "prevail" over the other. The Supreme Court could not have issued two (2) conflicting decisions without due regard to Section 4(3), Article VIII of the 1987 Constitution, that *"no doctrine or principle of law laid down by the court in a decision rendered* en banc *or in division may be modified or reversed except by the court sitting* en banc*."*

To be clear, the said two (2) cases are not in conflict with each other. The doctrine laid down in the *Philam* case is different from the *Petron* case.

In the *Philam* case, the High Court held:

> "xxx. The issue that now arises is this—**where does one seek immediate recourse from the adverse ruling of the Secretary of Finance in its exercise of its power of review under Sec. 4**[4]?
>
> Admittedly, there is no provision in law that expressly provides where exactly the ruling of the Secretary of Finance under the adverted NIRC provision is appealable to. However, We find that Sec. 7(a)(1) of RA 1125, as amended, addresses <u>the seeming gap in the law</u> as it vests the CTA, albeit impliedly, with jurisdiction over the CA petition as 'other matters' arising under the NIRC or other laws administered by the BIR. As stated:
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> Sec. 7. Jurisdiction. – The CTA shall exercise:
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

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[4] SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals."

> 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters** arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue. (emphasis supplied)

Even though the provision suggests that it only covers ruling of the Commissioner, We hold that it is, nonetheless, sufficient enough to include appeals from the Secretary's review under Sec. 4 of the NIRC.

It is axiomatic that laws should be given a reasonable interpretation which does not defeat the very purpose for which they were passed. Courts should not follow the letter of a statute when to do so would depart from the true intent of the legislature or would otherwise yield conclusions inconsistent with the purpose of the act. This Court has, in many cases involving the construction of statutes, cautioned against narrowly interpreting a statute as to defeat the purpose of the legislator, and rejected the literal interpretation of statutes if to do so would lead to unjust or absurd results." *(Underscoring supplied)*

On the other hand, in the *Petron* case, the Supreme Court said:

"As the CIR aptly pointed out, **the phrase 'other matters arising under this Code,' as stated in the second paragraph of Section 4 of the NIRC, should be understood as pertaining to those matters directly related to the preceding phrases 'disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto' and must therefore not be taken in isolation to invoke the jurisdiction of the CTA.** In other words, the subject phrase should be used only in reference to cases that are, to begin with, subject to the exclusive appellate jurisdiction of the CTA, *i.e.*, those controversies over which the CIR had exercised her quasi-judicial functions or her power to decide disputed assessments, refunds or internal revenue taxes, fees or other charges, penalties imposed in relation thereto, not to those that involved the CIR's exercise of quasi-legislative powers."

A careful reading of the above jurisprudential pronouncements would reveal that the *Philam* case does not negate or contradict the *Petron* case, or vice versa.

Put succinctly, the *Philam* case gives the remedy for one who has received an adverse ruling **from the Secretary of Finance**; while the *Petron* case clarifies the remedy already available to a taxpayer with respect to an action **made by respondent**. In the *Philam* case, the Supreme Court *includes* the adverse ruling of the Secretary of Finance to be appealable to this Court; while in the *Petron* case, the High Court *qualifies* the actions by respondent which can be appealed to this Court.

The ruling, in the *Philam* case, that laws should be given a *"reasonable interpretation"*, not a narrow one, is premised on the observation that there is the *"seeming gap in the law"*. Parenthetically, the said observation is not present in the instant case.

As for the *Petron* case, the above-quoted ruling does not contemplate any gap in the law, and thus, the High Court did not caution against a narrow or strict interpretation thereto. In any event, the ruling in the *Petron* case is all-encompassing, *i.e.*, that *"the phrase 'other matters arising under this Code,' as stated in the second paragraph of Section 4 of the NIRC, should be understood as pertaining to those matters directly related to the preceding phrases 'disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto'"*, so as to cover any case, such as the present one, invoking the phrase *"other matters arising under this Code"* as basis for vesting this Court with jurisdiction to entertain the same.

Correspondingly, considering that the instant case has no direct relation with any disputed assessment or refund, this Court has no jurisdiction to entertain the same.

The* Lancaster *case is <u>not</u> applicable to the instant case.

Petitioner is of the view that the *Lancaster* case is applicable to the instant case.

We disagree.

Without doubt, in the *Lancaster* case, the issue delves into the authority of revenue officers to examine the books and records of any person. The Supreme Court ruled therein that this Court has exclusive and appellate jurisdiction to entertain the said issue.

However, unlike in the instant case, the *Lancaster* case already involved the issuance of a final assessment notice (FAN) against the concerned the taxpayer. In other words, in the *Lancaster* case, the audit and investigation of the Bureau of Internal Revenue has already reached its conclusion via the said issuance of a FAN. This is not so in the instant case. Notably, in the instant case, respondent is still about to commence an investigation with the issuance of a *Letter of Authority* and a *Subpoena Duces Tecum*.

Apropos, the ruling made by the High Court, in the *Lancaster* case, presupposes that a FAN has already been issued against the taxpayer. As a corollary, the *Lancaster* case bolster this Court's stand that petitioner's invocation of the jurisdiction of this Court was premature.

In fine, We find no convincing argument of petitioner to reverse or modify Our ruling that this Court has no jurisdiction to entertain the present case.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice