REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

SUN LIFE OF CANADA (PHILIPPINES), INC., THE PHILIPPINE AMERICAN LIFE AND GENERAL INSURANCE, COMPANY, PHILIPPINE AXA LIFE INSURANCE CORPORATION, THE INSULAR LIFE ASSURANCE CO., LTD., UNITED COCONUT PLANTERS LIFE ASSURANCE CORPORATION, PRU LIFE INSURANCE CORPORATION OF U.K., PHILAM EQUITABLE LIFE ASSURANCE COMPANY, INC., THE MANUFACTURERS LIFE INSURANCE CO. (PHILS.), INC. GREAT PACIFIC LIFE ASSURANCE CORPORATION and SHERIDAN GERARDINE S. CORALDE, Petitioners,	**C.T.A. CASE NO. 7833** Members: **CASTAÑEDA, JR.,***Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
- versus -	
THE COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JAN 1 2 2009 8:50 a.m.

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RESOLUTION

On September 22, 2008, petitioners filed the instant Petition for Review, seeking for the declaration of Revenue Memorandum Circular (RMC) No. 30-2008, as amended by RMC No. 59-2008, as null and void for allegedly being contrary to law.

128

Petitioners allege that they are members of the Philippine Life Assurance Corporation, Inc. (PLIA) which is the umbrella organization for Philippine life insurance industry; that on April 2, 2008, respondent sent PLIA a copy of the proposed subject RMC and requested PLIA to submit its comments thereto not later than April 4, 2008; that PLIA complied on behalf of its members and submitted its comments in a Letter dated April 4, 2008; that on April 10, 2008, respondent issued RMC No. 30-2008 entitled "Clarifying the Taxability of Insurance Companies for MCIT, Business Tax, and Documentary Stamp Tax Purposes", which was deposited with the National Administrative Register of the University of the Philippines Law Center and published in the Manila Bulletin on April 10, 2008, without considering the comments filed by PLIA.

As respondent did not allegedly consider its comments, PLIA appealed to the Secretary of Finance to recall RMC No. 30-08 for being invalid, illegal, and confiscatory, in accordance with the Secretary's power of review under Section 4 of the 1997 Tax Code. After exchanges of communications and the holding of conferences with respondent, the latter issued RMC No. 59-2008 on August 23, 2008, amending RMC No. 30-2008, which according to petitioners is respondent's final decision on the controversy. Hence, this petition for review praying that judgment be rendered declaring Revenue Memorandum Circular No. 30-2008, as amended, null and void for being contrary to law .

Summons was issued on September 24, 2008 directing respondent to file an Answer to the instant petition for review within fifteen (15) days from receipt thereof. The same was received by the Office of the Commissioner of

126

Internal Revenue, and the Office of the Solicitor General, together with their respective copy of the instant petition for review on September 25, 2008 and September 26, 2008, respectively, by way of personal service. To date, no answer has been filed by both offices despite the lapse of the given period.

On December 3, 2008, petitioner filed a "Motion to Declare Respondent in Default" due to the failure of respondent to file the required Answer, or any Motion for Extension of Time to File an Answer, within the period of fifteen (15) days from receipt of summons.

Upon careful scrutiny and evaluation of the allegations in the instant Petition for Review, the Court finds that petitioners are questioning the validity or legality of RMC No. 30-2008, entitled "Clarifying the Taxability of Insurance Companies for MCIT, Business Tax, and Documentary Stamp Tax Purposes", as amended by RMC No. 59-2008, entitled "Amending Certain Portions of Revenue Memorandum Circular No. 30-2008 on the Subject of Taxability of Insurance Companies for Minimum Corporation Income Tax (MCIT), Business Tax and Documentary Stamp Tax Purposes".

It is very clear that under Section 7(a)(1) and 7(a)(2) of Republic Act No. 1125, as amended by Republic Act No. 9282, the exclusive appellate jurisdiction of this Court, insofar as actions of the respondent Commissioner of Internal Revenue is concerned, is limited to the following specified instances only:

> **"Sec. 7. *Jurisdiction.* – The CTA shall exercise:**
>
> **a. Exclusive appellate jurisdiction to review by appeal, as herein provided:**
>
> 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal

127

> 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;
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> 2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;"

Thus, to properly invoke the jurisdiction of this Court, the "***decisions***" mentioned in the aforequoted legal provision, must pertain to decisions of the Commissioner of Internal Revenue 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; unless there has been inaction on the part of the Commissioner of Internal Revenue on aforesaid matters, within the specified period of action provided by the National Internal Revenue Code, in which case, the inaction shall be deemed a denial thereon. Clearly therefore, the decision of the Commissioner of Internal Revenue to issue RMC No. 59-2008 to amend RMC No. 30-2008, is not the decision contemplated in Section 7(a)(1) of R.A. 1125, as amended by R.A. 9282.

In the recent case of ***British American Tobacco vs. Jose Isidro N. Camacho, et al., G.R. No. 163583, August 20, 2008***,[1] the Highest Court defined the jurisdiction of this Court as declared under Section 7(a) of R.A. 1125, as amended by R.A. 9282, and explained in this wise:

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[1] Supreme Court *en banc* case.

128

> "While the above statute confers on the CTA jurisdiction to resolve tax disputes in general, this does not include cases where the constitutionality of a law or rule is challenged. **Where what is assailed is the validity or constitutionality of a law, or a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the constitution is within the jurisdiction of the regular courts. Indeed, the Constitution vests the power of judicial review or the power to declare a law, treaty, international or executive agreement, presidential decree, order, instruction, ordinance, or regulation in the courts, including the regional trial courts.** This is within the scope of judicial power, which includes the authority of the courts to determine in an appropriate action the validity of the acts of the political departments. Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.[2]" *(Emphasis Ours)*

Applying the foregoing jurisprudence and considering that the principal relief sought herein is to declare as null and void RMC No. 30-2008, as amended by RMC 59-2008, the same is definitely outside the jurisdictional parameters mentioned under Section 7 (a)(1) and 7 (a)(2) of R.A. 1125, as amended by R.A. 9282, and consequently beyond this Court's ambit. As a court of special appellate jurisdiction, it can only try cases permitted by statute.[3] The Court is thus left with no recourse but to dismiss the instant petition.

WHEREFORE, premises considered, the Petition for Review filed on September 22, 2008 is hereby **DISMISSED** for lack of jurisdiction.

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[2] Citing the case of Smart Communications, Inc. vs. National Telecommunications Commission, G.R. No. 151908, August 12, 2003.
[3] Moog Controls Corporation Philippine Branch vs. Commissioner of Internal Revenue, C.T.A EB No. 44. May 10, 2005 (C.T.A. Case No. 6700), with Entry of Judgment dated January 6, 2006.

Consequently, resolution of petitioner's Motion to Declare Respondent in Default is deemed moot.

SO ORDERED.

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

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

130