REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

EDZEN JOGIE B. GARCIA,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9075

Members:

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

Promulgated:

JUN 05 2017 ; 10:38 a.m.

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RESOLUTION

***DEL ROSARIO, P.J.*:**

For resolution is petitioner's **Motion for Reconsideration and Motion to Hold in Abeyance Resolution** filed on March 8, 2017, with respondent's **Comment (Petitioner's Motion for Reconsideration and Motion to Hold in Abeyance Resolution)** filed on March 28, 2017.

Petitioner prays that the Court's Decision promulgated on February 9, 2016 denying his Petition for Review be set aside; and that the resolution of his Motion for Reconsideration be held in abeyance in deference to the pending resolution of the Supreme Court on the same issues now pending before it, specifically the appeal filed by respondent in Civil Case No. MC14-8775.

Anent petitioner's Motion to Hold in Abeyance Resolution, petitioner claims that the issue on the validity or invalidity of Section 2(d)(1) of Revenue Memorandum Circular ("RMC") 31-2013 and the interpretation of Article 56 of the ADB Charter are now pending resolution of the Supreme Court; and that whatever is the ruling of the Supreme Court on the similar issues being resolved in this case, with similar facts though different parties, will affect the case in adherence to the principle of *stare decisis*.

The Court finds no merit in his contention. Parenthetically, the suspension of proceedings in the absence of an injunctive writ from the Supreme Court is procedurally inappropriate.

With respect to his Motion for Reconsideration, petitioner ascribes the following errors allegedly committed by this Court, *viz.*:

1. With all due respect, the Honorable Court erred in ruling that RTC Decision in Civil Case No.MC14-8775 declaring Section 2(d)(1) of RMC 31-2013 is not a binding precedent without taking cognizance the findings of the Court of Appeals and the pendency of the issue with the Supreme Court;

2. With all due respect, the Honorable Court erred in declaring that the RTC Decision in Civil Case MC14-8775 appears to be jurisdictionally infirm insofar as it declared that Section 2(d)(1) of RMC 31-2013 is a nullity;

3. With all due respect, the Honorable Court erred in declaring petitioner's income from ADB as taxable for just being a resident Filipino citizen ignoring the provisions of Sec. 32 (b)(5) of NIRC providing exclusions from gross income the compensation exempt under a treaty and Article 56 of the ADB Charter providing Tax Exemption;

4. With all due respect, the Honorable Court erred in ruling that the custom of non-taxability of petitioner's compensation from ADB should not be countenanced being contrary to law, public order and public policy;

5. With all due respect, the Honorable Court erred in ruling that statutes granting tax exemption are considered as a derogation of the sovereign authority and are strictly construed against the person claiming the exemption considering that taxes are the lifeblood of the government admits an exception;

6. With all due respect, the Honorable Court erred in ruling that the taxability of the income of petitioner from ADB is not dependent on the validity and invalidity of RMC 31-2013 and not finding that the public respondent has no power to interpret Article 56 of the ADB Charter and Article 45 of ADB's Headquarter Agreement; and

7. With all due respect, the Honorable Court erred in ruling that the Letter-Opinion of the Regional Director Ortega is without valid delegation of authority from the CIR.

We resolve to deny petitioner's Motion for Reconsideration.

The arguments posited by petitioner in his Motion for Reconsideration are a mere rehash or amplification of his previous arguments in his Petition for Review, which have been duly considered and adequately discussed in the assailed Decision. The Court need not belabor to address the errors ascribed by petitioner in his motion as the conclusions of law in the assailed Decision were reached after the Court made a judicious study of the parties' respective arguments and of the relevant laws and jurisprudence on the matter. In other words, the Court sees no cogent reason to disturb, much more, to reverse the assailed Decision.

WHEREFORE, premises considered, the **Motion for Reconsideration and Motion to Hold in Abeyance Resolution** filed by petitioner is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

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