REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

EAGLE I LANDHOLDINGS, INC., Petitioner,	**CTA CASE NO. 9638**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **MINDARO-GRULLA,** and **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 09 2020 2:55 pm

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RESOLUTION

MINDARO-GRULLA, J.:

Before this Court are the following:

1. petitioner's **Motion for Reconsideration (Of the Decision dated 12 September 2019)**, filed through registered mail on September 30, 2019, without respondent's comment as per Records Verification Report dated November 12, 2019; and,

2. respondent's **Motion for Reconsideration**, filed through registered mail on October 1, 2019, with petitioner's Comment/Opposition (to Respondent's Motion for Reconsideration dated 29 September 2019).

On September 12, 2019, a Decision was promulgated by this Court partially granting petitioner's claim for refund. It was found therein that while petitioner is not entitled to refund the Documentary Stamp Tax (DST) payments for Advances made from Related Companies in the amount of ₱147, 213,092.40 for taxable years 2008, 2009, 2010 and 2011, it is however correct in arguing that respondent may only impose twenty-five percent (25%) surcharge since there was no showing of "willful neglect" on petitioner's part to warrant the imposition of a fifty percent (50%) surcharge. The dispositive portion of the said Decision reads as follows:

> "**WHEREFORE,** premises considered, the **Petition for Review** is **PARTIALLY GRANTED**. Accordingly, respondent CIR is **ORDERED TO REFUND** or **ISSUE TAX CREDIT CERTIFICATE** to petitioner in the reduced amount of **Php36,803,273.10,** representing the 25% surcharge erroneously overpaid by petitioner.

Basic DST Due	Php147, 213,092.40
(50% - 25%) Surcharge	**36,803,273.10**

> **SO ORDERED.**"

Undaunted, the parties seek reconsideration of the foregoing Decision.

I. Petitioner's Motion for Reconsideration

Petitioner anchors its plea for reconsideration based on the following grounds:

a. The 2011 case of *Commissioner of Internal Revenue vs. Filinvest Development Corporation*[1] (*"Filinvest case"*) cannot be applied retroactively to impose on the petitioner a deficiency assessment of DST for the years 2008 to 2011.

b. Petitioner's claim that the deficiency DST assessment was for Advances from Related Companies made in 2008 was firmly established in the Joint Stipulation of Facts and Issues of this case.

c. There being reliance in good faith on prevailing case law in 2008 that the Advances made from Related Companies were not subject to DST, there was no obligation to file

[1] G.R. Nos. 163653 & 167689, July 19, 2011.

DST returns and pay taxes thereon, the imposition of any interest and surcharge is unwarranted.

As to the first ground, petitioner maintains its position that the *Filinvest case* should be applied prospectively. Petitioner insists that at the time it made the Advances from Related Companies in 2008, there was no requirement under the law for petitioner to pay DST on such transaction. Relying on the case Filinvest Development Corporation, both decided by the Court of Tax Appeals and Court of Appeals, petitioner claims that it merely relied in good faith upon the prevailing case law at that time that inter-office memos are not loan agreements subject to DST.

With regard to the second ground, petitioner explains that contrary to this Court's finding that it failed to present evidence to prove that the deficiency DST assessment was for Advances from Related Companies made in 2008, petitioner claims that such fact was already firmly established in the parties' Joint Stipulation of Facts and Issues[2] (JSFI) dated November 10, 2017. Evidently, being undisputed by parties, such stipulation is sufficient proof of the fact that petitioner's claim for erroneously paid taxes pertains to "deficiency DST, interest, and fifty percent (50%) surcharge settled on 22 May 2015 for Advances from Related Companies in favor of petitioner during Taxable Years 2008, 2009, 2010, and 2011."

Lastly, petitioner maintains that it should not be made liable for interest as it was not allegedly required to pay DST in the first place.

After due consideration, this Court finds no merit in petitioner's Motion. Notably, the grounds proffered therein are reiterations of its previous arguments in its Petition for Review[3] dated July 31, 2017 and Memorandum[4] dated November 14, 2018, which have been duly considered and adequately discussed in the assailed Decision.

Again, when a doctrine enunciated by the Supreme Court is overruled and a different view is adopted, the new doctrine should be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith thereof.[5] In the *Filinvest case*, since no prior doctrine that was overruled, it may therefore be

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[2] Docket vol. I, pp. 378-385.
[3] *Id.*, pp. 10-33.
[4] Docket vol. II, pp. 595-621.
[5] People of the Philippines vs. Jose Jabinal *y* Carmen, G.R. No. L-30061, February 27, 1974.

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applied retroactively because the rule of prospective application applies only to decisions issued by the Supreme Court enunciating new doctrinal pronouncements.

More so, the cited case of *Filinvest Development Corporation,* which was decided by the Court of Appeals and of this Court, the same cannot be deemed to have enunciated a prior doctrine (allegedly prevailing at the time when the subject advances were extended) that was overruled by that of *Filinvest case* because only the decisions of the Supreme Court constitute binding precedents and form part of the Philippine legal system, pursuant to Article 8 of the Civil Code.[6] Judgments of lower courts and other collegiate courts bind only the parties to specific cases, unlike decisions of the Supreme Court which are universal in their scope and application as well as mandatory in character.[7]

As to petitioner's claim that it did not fail to present proof of the fact that deficiency DST assessment was for Advances from Related Companies in 2008 since such fact was firmly established in the case's JSFI, this Court finds the argument untenable.

Perusal of the JSFI would readily show that what the parties actually agreed or stipulated upon was the **date of filing of the administrative claim**, *viz.*:

> "x x x.
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> 12. **<u>On 19 May 2017, Petitioner filed an administrative claim</u>** for refund of tax or credit with the Revenue District Office (RDO) No. 52 of the BIR pursuant to Section 249(B) of the NIRC, seeking recovery of one installment payment for deficiency DST, interest, and fifty percent (50%) surcharge settled on 22 May 2015 for Advances made from Related Companies in favor of Petitioner during Taxable Years 2008, 2009, 2010, 2011."[8] *(Emphasis supplied)*

Further, the purpose of the above stipulation can be gleaned from the subsequent statement on the JSFI which asserts that the

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[6] Commissioner of Internal Revenue vs. San Roque Power Corporation, G.R. No. 187485, February 12, 2013.
[7] The Philippine Veteran Affairs Office vs. Segundo, G.R. No. L-51570, August 15, 1988.
[8] Par. 12, JSFI, docket vol. I, p. 380; Exhibit "P-13", docket vol. I, pp. 34-62.

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above filing of administrative claim was subsequently withdrawn by petitioner in a letter[9] dated July 13, 2017 and a new one was filed on July 27, 2017, to wit:

> "13. **On 27 July 2017, Petitioner filed its administrative claim for refund of tax or credit** with RDO No. 52 of the BIR pursuant to Section 249(B) of the NIRC, seeking recovery of deficiency DST, interest, and fifty percent (50%) surcharge paid on 31 July 2015 made from Related Companies in favor of Petitioner during Taxable Years 2008, 2009, 2010, 2011, amounting to Php403, 121,879.05."[10] *(Emphasis supplied)*

Evidently, the above stipulations aim to establish the fact that an administrative claim for refund was filed on July 27, 2017.

Accordingly, this Court maintains its ruling that petitioner is not entitled to a refund of DST. Consequently, the total amount of interest paid thereon by petitioner cannot also be the subject of the present claim for refund.

II. Respondent's Motion for Reconsideration

In his Motion, respondent moves for reconsideration of the assailed Decision based on the following grounds:

A. Petitioner failed to present Bureau of Internal Revenue (BIR) Certificate of Registration, hence, tax refund should be completely denied;

B. Petitioner should not be allowed to assail assessment that had already become final and executory;

C. Petitioner failed to prove good faith and filed corresponding DST Returns for Taxable years 2008 to 2011, hence, 50% surcharge must be imposed.

With regard to the first ground, respondent citing the case of *Nokia (Philippines), Inc. vs. CIR (CTA Case No. 8876, March 19,*

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[9] Exhibit "P-14", docket vol. I, pp. 63-93.
[10] Par. 13, JSFI, docket vol. I, pp. 380-381; Exhibit "P-15", docket vol. I, pp. 94-114.

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2018) contends that in case of tax refund, it is fundamental that the taxpayer must first prove that it is BIR registered taxpayer. However, in the present case, petitioner failed to present its BIR Certificate of Registration, which therefore result in the denial of its claim for tax refund.

As to his second ground, respondent claims that this case is an offshoot of the Formal Assessment Notice (FAN) No. ELA55300-12-14-1237 made against petitioner. By virtue of such, petitioner's proper remedy should be to protest the FAN not a judicial action for tax refund. Clearly, respondent claims that petitioner should not be allowed to assail assessment that had already become final and executory.

Lastly, respondent maintains that the imposition of a fifty percent (50%) surcharge is correct for failure of petitioner to prove good faith and also in presenting its DST Returns for taxable years 2008 to 2011.

On the other hand, in its comment/opposition, petitioner counters that there is no express rule requiring a taxpayer to first present the BIR Certificate of Registration to be entitled to refund erroneously paid tax pursuant to Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended.

Further, the case of *Nokia (Philippines) Inc.* cited by respondent is not applicable herein since the basis for the refund in the said case is Section 112(A) of the NIRC which pertains to value added tax (VAT), and not Section 229 which refers to erroneously paid tax. Also, in the *Nokia (Philippines) Inc.* case, the claim for VAT refund was denied for failure of the petitioner to prove that it is a VAT-registered entity.

As to respondent's contention that petitioner should not be allowed to assail assessment that had already become final and executory, petitioner avers that the present case is for refund under Section 229 of the NIRC, as amended. Therefore, it only need to comply with the conditions set forth under the said provision which are, *viz.*: (a) erroneous payment of the deficiency DST, surcharge and interest and (b) must file a claim for refund within the two (2) year prescriptive period.

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Finally, petitioner maintains its position that considering it is not liable to pay DST on the Advances from Related Companies, it is not also liable for surcharge and interest.

After due consideration, this court finds no merit in respondent's Motion.

Under Section 229 of the NIRC of 1997, as amended, a claim for the recovery of erroneously or illegally collected tax shall only prosper when the following requirements are complied with, to wit:

> (1) that the tax has been erroneously or illegally collected, or the penalty has been collected without authority, and/or any sum has been excessively or in any manner wrongfully collected;
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> (2) there must be a written claim stating a categorical demand for reimbursement filed by the taxpayer with the Commissioner of Internal Revenue (CIR); and,
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> (3) the claim for refund or tax credit must be filed, or the suit or proceeding therefor must be commenced in court within two (2) years from date of payment of the tax or penalty regardless of any supervening cause.

Based above, the presentation of the BIR Certificate of Registration is not one of the requirements needed to claim erroneously paid tax. As correctly pointed out by petitioner, the rationale for a claim for refund under Section 229 of the NIRC of 19997, as amended, is based on an erroneous payment or payment without any legal basis; while, the cited case of *Nokia (Philippine) Inc.* pertains to VAT refund under Section 112 of the same tax code. Incidentally, in VAT refunds, proof that the claimant is a VAT registered entity is one of the essential requisites that need to be proven, thus, a BIR Certificate of Registration must be presented. Conversely, such is *not* the case in the present petition.

As to respondent's assertion that petitioner should not be allowed to assail assessment that had already become final and executory, this Court agrees that the present case is a claim for refund of erroneously paid taxes. As such, for the claim to be given due course, it must only satisfy the requirements stated in Sections 204(C) and 229 of the NIRC of 1997, as amended.

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Finally, as to respondent's averment that a 50% surcharge must be imposed for failure of petitioner to prove good faith, this Court reiterates its ruling that that there was no wilful neglect on the part of petitioner to justify the imposition of 50% surcharge. Petitioner is only liable to pay 25% surcharge pursuant to Section 248(A)(1) of the NIRC of 1997, as amended.

Based on the foregoing, this Court finds no compelling reason to reverse or modify the Decision assailed by the parties.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Of the Decision dated 12 September 2019)**, and respondent's **Motion for Reconsideration** are both **DENIED** for lack of merit.

SO ORDERED.

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

We Concur:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice