REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

ASIA UNITED LEASING & FINANCE CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8735

Members:

DEL ROSARIO, *P.J., Chairperson,* *and*
UY, *JJ.*

Promulgated:

NOV 16 2020 9:00 am

x- x

RESOLUTION

This resolves respondent's **Motion for Reconsideration Re: [Amended] Decision dated 16 June 2020** posted on July 15, 2020, with petitioner's **Comment/Opposition (to Respondent CIR's Motion for Reconsideration Re: [Amended] Decision dated 16 June 2020)** filed on September 21, 2020.

The dispositive portion of the assailed Amended Decision[1] reads:

> "**WHEREFORE**, premises considered, respondent's Motion for Partial Reconsideration Re: Decision dated 12 February 2019 is **DENIED** for lack of merit. On the other hand, petitioner's Motion for Reconsideration (of the Decision dated 12 February 2019) is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of this Court's Decision dated February 12, 2019, is hereby amended to read as follows:
>
> > "**WHEREFORE**, premises considered, the Final Decision on Disputed Assessment dated September 16, 2013 assessing petitioner of deficiency DST for taxable year 2009 in the total amount of ₱7,097,894.36 is **CANCELLED AND WITHDRAWN**. Since the amount paid by petitioner exceeds its tax liability,

[1] CTA Docket, Vol. IV, pp 2889-2904.

respondent is **ORDERED TO REFUND** the overpaid amount of ₱8,023,612.65.

SO ORDERED."

SO ORDERED."

Respondent moves for reconsideration of the assailed Amended Decision on the ground that the Court erred when it cancelled and withdrew the Final Decision on Disputed Assessment. He raises the following arguments:

1. The assessment issued against petitioner has factual and legal bases;

   a. Finance lease is a debt instrument, and is subject to DST pursuant to Section 179 of the National Internal Revenue Code (NIRC) of 1997, as amended;
   b. There is no retroactive effect of the *CIR vs. Filinvest*[2] in this case. Section 179 of the NIRC of 1997, as amended is the prevailing law, hence, the advances from related parties are subject to DST; and,
   c. Pursuant to Sections 248(B) and 249(B) of the NIRC of 1997, as amended, petitioner is liable to pay surcharges and interests for filing a false or fraudulent return and for failure to pay taxes within the time prescribed by law;

2. The assessment issued against petitioner is valid and lawful. Assessments are presumed correct and made in good faith;

3. A claim for refund must first be filed with the CIR before filing a proceeding in court for recovery of the taxes collected;

4. Petitioner failed to comply with the requirements provided for under applicable laws and regulations on compromise; and,

5. Petitioner is not entitled to claim the alleged collection/s of the assessed deficiency DST for taxable year 2009, including the garnished amount. The Court may not consider and admit any document attached to the Supplemental Petition for Review, which has not been presented and identified before it.

Petitioner, on the other hand, raises the following arguments:

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

1. Respondent CIR's arguments on the validity and legality of the assessment are mere rehash, and were duly passed upon by the Court;

2. Assessments cannot be based on mere presumptions;

3. The Court has jurisdiction over the claim for refund of taxes erroneously collected by the BIR;

4. There was no failure to comply with the requirements for compromise; and,

5. Documents attached to the Supplemental Petition for Review were presented, offered and admitted in evidence.

Acting on respondent's Motion for Reconsideration, the Court notes that no new argument has been adduced to warrant the reconsideration sought. The arguments interposed by respondent are mere rehash of his previous arguments which have been duly considered and passed upon by the Court in the Decision dated February 12, 2019 and assailed Amended Decision.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration Re: [Amended] Decision dated 16 June 2020** is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice