REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

ZUELLIG PHARMA ASIA PACIFIC LTD. PHILS. ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1915
(CTA Case No. 9025)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO, and
REYES-FAJARDO, JJ.

Promulgated:

OCT 14 2021 2:50 p.m.

x - x

RESOLUTION

UY, J.:

For resolution is respondent Commissioner of Internal Revenue's (CIR) ***MOTION FOR RECONSIDERATION***[1] filed on March 10, 2021, with petitioner Zuellig Pharma Asia Pacific Ltd. Phils. ROHQ's ***COMMENT/OPPOSITION (Re: Respondent's Motion for Reconsideration dated May 28, 2021***[2]***)***[3] filed on June 9, 2021, seeking the reconsideration and reversal of the Court *En Banc's* Amended Decision[4] dated February 10, 2021, the dispositive portion of which reads:

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[1] EB Docket (CTA EB No. 1915), pp. 163 to 168.
[2] Should be March 9, 2021.
[3] EB Docket (CTA EB No. 1915), pp. 174 to 181.
[4] EB Docket (CTA EB No. 1915), pp. 133 to 145.

> "**WHEREFORE,** in light of the foregoing considerations, petitioner's *Motion for Reconsideration* is **PARTIALLY GRANTED**. Let CTA Case No. 9025 be **REMANDED** to the CTA Second Division for the proper determination of the refundable or creditable amount due to petitioner, if any.
>
> **SO ORDERED.**"

Respondent's arguments:

In support of his *Motion*, respondent argues that the pronouncement of the Supreme Court in the case of *Zuellig-Pharma Asia Pacific, Ltd. Phils. ROHQ, vs Commissioner of Internal Revenue*[5] (or the "***2020 Zuellig case***") is not applicable to the instant case. Allegedly, the circumstances in the ***2020 Zuellig case*** are not on all fours with the case at bar.

It is respondent's position that the mere presentation of transmittal letters and documents allegedly submitted by petitioner cannot be taken to mean that BIR officers requested the documents stated therein; and that petitioner should have presented pieces of evidence showing that authorized BIR officers indeed requested the submission of additional documents.

Respondent further insists that the bare allegations of petitioner's witness that revenue officers requested additional supporting documents deserves scant consideration. Notwithstanding respondent's failure to controvert the testimony of petitioner's witness, the Court is still duty bound to scrutinize the substance of the subject testimony. Thus, the Court allegedly erred when it relied on the bare allegations of petitioner's witness.

Finally, respondent submits that the rule on estoppel cannot be invoked by any taxpayer in order to preclude collection of taxes that are rightfully due the government. Allegedly, the government is never estopped from collecting legitimated taxes because of errors committed by its agents.

Petitioner's counter-arguments:

Petitioner counter-argues that the revenue officers requested additional documents during the course of the processing of its

[5] G.R. No. 244154, July 15, 2020.

administrative claim for refund as confirmed by petitioner's Senior Accounting Manager and as proven by the series of transmittal letters which were duly received by the revenue officers.

Petitioner likewise asserts that the Supreme Court's pronouncement in the ***2020 Zuellig case*** is applicable to the instant case. Thus, petitioner's entitlement for refund or tax credit should not be impaired.

In addition, petitioner claims that it continuously dealt with respondent in good faith in complying with the repeated requests for additional supporting documents made by the revenue officers with the hope of resolving its claim for refund or issuance of TCC at the administrative level; and that respondent is now estopped from claiming that the verbal requests for additional supporting documents are not valid for purposes of determining when the 120-day period under Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, should run.

THE COURT *EN BANC'S* RULING

We deny the instant *Motion for Reconsideration.*

A perusal of the instant *Motion* shows that the grounds raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Amended Decision.

Contrary to respondent's contentions, the factual milieu in the present case is analogous to the ***2020 Zuellig case***. In both cases, the BIR officers made numerous written and verbal requests for additional supporting documents which were complied with by the taxpayer claimant as shown in the series of letters submitted to the BIR, with the last letter indicating that the taxpayer-claimant had submitted the complete documents in support of its application for refund. Further, both cases involve the same parties and issue, albeit referring to different taxable periods. Accordingly, the pronouncement in the ***2020 Zuellig case*** should apply to the instant case.

It bears reiterating that the doctrine of *stare decisis* enjoins judicial precedents. It requires courts in a country to follow the rule established in a decision of the Supreme Court thereof. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land.[6] Indeed, the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[7]

As regards respondent's contentions that the Court *En Banc* should not have relied on the bare allegations of petitioner's witness that revenue officers requested additional supporting documents, the same is without merit.

It must be stressed that aside from respondent's failure to controvert the said testimony of petitioner's witness, the requests for supporting documents are corroborated by the series of transmittal letters duly received and acknowledged by the BIR officers. Hence, respondent cannot now deny making the said requests for additional documents.

Indeed, while the Court recognizes the well-entrenched principle that estoppel does not apply to the government, especially on matters of taxation (as taxes are the nation's lifeblood through which government agencies continue to operate and with which the State discharges its functions for the welfare of its constituents), this principle does not apply if it would work injustice against an innocent party[8], such as petitioner in this case.

In sum, We find that petitioner has duly complied with the repeated requests by the BIR officers for additional documents during the course of the processing of its administrative claim. Thus, in light of the ruling in the ***2020 Zuellig case***, petitioner's entitlement for refund or tax credit should not be impaired since it merely relied on the BIR officers' representations that its compliance with the said requests would result to the resolution of its claim.

Accordingly, the Court *En Banc* finds no compelling reason to reconsider, modify or reverse the assailed Amended Decision.

[6] *Carmelo F. Lazatin, et al., vs. Hon. Aniano A. Desierto as Ombudsman, et al.*, G.R. No. 147097, June 5, 2009 citing *Fermin vs. People*, G.R. No. 157643, March 28, 2008, 550 SCRA 132.

[7] *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop. Inc.*, G.R. No. 150947, July 15, 2003.

[8] *Zuellig-Pharma Asia Pacific LTD. Phils. ROHQ vs Commissioner of Internal Revenue*, G.R. No. 244154, July 15, 2020.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice