REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus-

EMMANUEL C. OÑATE,
Respondent.

CTA EB NO. 2370
(CTA CASE NO. 9498)

Present:

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

Promulgated:

JUN 09 2022 4:23 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution is the petitioner's Motion for Reconsideration (*Re: Decision dated 18 March 2022*) posted on April 7, 2022, with respondent's Comment/Opposition (*To Petitioner's Motion for Reconsideration dated 07 April 2022*) filed on May 2, 2022.

In the motion, the Commissioner of Internal Revenue (CIR) raised two (2) *new* issues before the Court. First, petitioner states that the interest income of respondent Oñate's trust accounts is subject to tax under Section 21(c)(1) of Presidential Decree No. 1158 or the National Internal Revenue Code of 1977 (1977 NIRC) since said accounts were opened with Land Bank of the

Philippines from 1978 to 1980.[1] Second, there is no evidence presented showing that the interest awarded by the Supreme Court are interest income exempt from tax under Section 24(B)(1) of the 1997 NIRC, as amended.[2] The third issue raised, which states that the interest awarded to respondent is not exempted and excluded from taxation, is merely a reiteration of the position found in the petition.[3]

It will be recalled that the CIR anchored its petition on the argument that under Sections 23(A), 31, 32(A), 32(B) of the 1997 NIRC[4] Oñate's interest income from his trust accounts is taxable because the assailed decision ruled that the income taxes subject of the refund claim were withheld from the taxpayer on November 28, 2014.[5] This is clearly inconsistent with the *novel* contentions that the same interest income is now taxable under the provisions of the *1977* NIRC because the trust accounts were opened from 1978 to 1980 *or* that the taxpayer failed to present evidence to prove that his trust accounts were long-term deposits or investments whose interest income earnings are exempt under Section 24(B)(1) of the 1997 NIRC, as amended.

Any issue raised for the first time on appeal is barred by *estoppel*. In *Commissioner of Internal Revenue v. Puregold Duty Free, Inc.*,[6] the Supreme Court prevented the CIR from raising a new issue on appeal to challenge the taxpayer's eligibility for the tax amnesty under Republic Act No. 9399 based on the same ground:

> "It is well settled that matters that were neither alleged in the pleadings nor raised during the proceedings below cannot be ventilated for the first time on appeal and are barred by *estoppel*. To allow the contrary would constitute a violation of the other party's right to due process, and is contrary to the principle of fair play. In *Ayala Land Incorporation v. Castillo*, this Court held that:
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> > 'It is well established that issues raised for the first time on appeal and not raised in the proceedings in the lower court are barred by estoppel. Points of law, theories, issues, and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. To consider the alleged facts and arguments belatedly raised would amount to trampling on the basic principles of fair play, justice, and due process.'" (*Citations omitted; underscoring supplied*)

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[1] *Rollo*, pp. 104-106.
[2] *Rollo*, pp. 106-112.
[3] *Rollo*, pp. 14-16.
[4] *Rollo*, pp. 13-15.
[5] *Rollo*, p. 29.
[6] G.R. No. 202789, June 22, 2015.

In view of the foregoing, there being no substantial issues raised by petitioner, the Court finds no compelling reason to reverse, amend, or modify the assailed decision.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
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

INHIBITED
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice