REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

EMPRESS DENTAL LABORATORIES, INC.,
Respondent.

CTA *EB* NO. 2530
(CTA Case No. 10186)

Present:

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

Promulgated:
SEP 07 2022 11:??am

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a Petition for Review filed by the Commissioner of Internal Revenue[1] ("**Petitioner**"), under Section 3(b), Rule 8,[2] in relation to Section 2(a)(1), Rule 4[3] of the Revised Rules of the Court of Tax Appeals[4] ("**RRCTA**"), assailing

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[1] Dated 19 November 2021, received by the Court on 9 June 2021; *Rollo*, pp. 1-28.

[2] *Section 3. Who May Appeal; Period to File Petition.* — (a) x x

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

[3] *Section 2. Cases Within the Jurisdiction of the Court En Banc.* — The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture.

[4] A.M. No. 05-11-07-CTA.

the Decision dated 7 June 2021[5] ("**Assailed Decision**") and the Resolution dated 19 October 2021[6] ("**Assailed Resolution**") of the Court's Second Division ("**Court in Division**") in CTA Case No. 10186 entitled *Empress Dental Laboratories, Inc. vs. Commissioner of Internal Revenue.*

THE PARTIES

Petitioner is the Commissioner of Internal Revenue (CIR) who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code ("**NIRC**"), or other laws or portions thereof administered by the BIR.[7] She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City

Respondent Empress Dental Laboratories, Inc. is a corporation duly organized and existing under and by virtue of Philippine laws, with registered office address at Lot 2 Block 3, Ampere Street, Light Industry and Science Park 1, Barangay Diezmo, Cabuyao, Laguna 4025.[8] It is engaged in the manufacture, design, and repair of dental ceramic products, other dental products using other materials, and related appliances which are utilized by dentists or in dentistry.[9]

THE FACTS

The undisputed facts, as narrated in the Assailed Decision in CTA Case No. 10186, are as follows:[10]

> ANTECEDENTS (ADMINISTRATIVE LEVEL)
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> On October 13, 2017, [respondent] filed its *Monthly WTC Return*[11] via BIR Electronic Filing and Payment System (eFPS) in the total amount of P281,003.98 for the month of September 2017. During the course of electronic payment, [respondent] encountered several technical errors or difficulties. On the same day and on its third attempt, it was able to successfully process and pay its withholding tax on compensation for the said month

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[5] Rollo, pp. 37-49; penned by Associate Justice Juanito C. Castañeda, with Associate Justice Cielito N. Mindaro-Grulla and Associate Justice Jean Marie A. Bacorro -Villena, concurring.
[6] *Id.*, pp. 51-145.
[7] Section 4, NIRC, as amended.
[8] Par. 1, Stipulation of Facts, Compliance dated February 28, 2020, Division Docket, p. 168; Exhibits "P-2" and "P-3", Docket, pp. 120 to 126.
[9] Par. 1.1, Stipulation of Facts, Compliance dated February 28, 2020, Division Docket, p. 168.
[10] Annex "A", Petition for Review, pp. 24 to 27.
[11] Monthly Remittance Return of Income Tax Withheld on Compensation – BIR Form No 1601-C.

in the amount of P281,003.98, through the Bank of Philippine Islands (BPI) online tax payment facility.

The eFPS generated three (3) requests for confirmation of remittance for [respondent's] Monthly WTC Return for the September 2017 under Payment Transaction Nos. 179819153, 179819123, and 179819085, respectively, with an amount of P281,003.98 each.

On October 17, 2017, [respondent], through its Accounting Supervisor, approved all pending payment instructions lodged in its BPI ExpressLink online banking facility. As a result, the last two (2) of the three (3) transactions, under Transaction Nos. 179819153 and 179819085, have been successfully processed and paid in an amount of P281,003.98 each or in the total amount of P562,007.96.

Thereafter, on October 24, 2017, [respondent] filed the letter, on even date, signed by its General Manager, Ms. Andreas Giese, with the BIR Revenue District Office (RDO) No. 57, Biñan, Laguna, requesting for a tax credit in the amount of P562,007.98, for alleged erroneous payment made through eFPS and BPI online banking system on its Monthly WTC Return for the month of September 2017. [Respondent] claims that since there was an error in the system, its transaction was posted thrice in the BPI portal and was unknowingly approved on October 17, 2017.

On February 21, 2018, [respondent] filed with the same BIR RDO another letter dated January 30, 2018 for the issuance of a tax credit certificate, and an Application for Tax Credits/Refunds (BIR Form No. 1914), both signed by Ms. Andreas Giese, for alleged erroneously paid taxes in the amount of P562,007.98, on its Monthly WTC Return for the month of September 2017.

On May 7, 2018, the BIR issued the Letter of Authority (LOA) SN: eLA201200046984/LOA-057-2018-00000121 signed by Regional Director, Edgar B. Tolentino, authorizing Revenue Officer Amapola Jane San Juan under Group Supervisor Grace Mangubat of RDO No. 57, to examine its books of accounts and other accounting records for Withholding Tax – Compensation, for the period from September 1, 2017 to September 30, 2017, pursuant to Mandatory Audit – Claim for Tax Refund on Erroneous/Double Tax Payments.

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PROCEEDINGS BEFORE THE COURT IN DIVISION

Respondent filed a *Petition for Review*[12] before the Court in Division on 14 October 2019. Petitioner filed her Answer[13] on 16 December 2019.

Petitioner then transmitted to this Court the BIR Records of the case on 26 December 2019.[14]

The Pre-Trial Conference was held on 13 February 2020.[15] Respondent filed its *Pre-Trial Brief* on 7 February 2020,[16] while petitioner's *Pre-Trial Brief* was submitted on 6 February 2020.[17]

The parties filed their Joint Stipulation of Facts & Issues ("JSFI") on 28 February 2020 as embodied in their *Compliance.*[18] The said JSFI was approved by the Court in Division in its *Pre-Trial Order* dated 12 March 2020.[19]

Trial proceeded.

Respondent filed its *Formal Offer of Evidence ("FOE")*[20] on 8 June 2020 to which petitioner filed her *Comment/Opposition (to [Respondent's] Formal Offer of Evidence) and Motion* on 15 June 2020.[21] The Court admitted respondent's exhibits with a few exclusions in a *Resolution* dated 10 July 2020.[22]

After respondent filed its *Motion for Reconsideration* dated 10 September 2020,[23] the Court in Division admitted five (5) exhibits in a *Resolution* dated 28 September 2020.[24]

Petitioner's *Memorandum* was filed on 17 August 2020[25] while respondent's *Memorandum* was filed on 3 November 2020.[26]

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[12] Division Docket, pp. 6-16.
[13] Division Docket, pp. 42-47.
[14] Division Docket, pp. 51-54.
[15] Notice of Pre-Trial Conference dated 18 December 2019, Division Docket, pp. 49-50; Minutes of the hearing held on, and Order dated, 13 February 2020, Division Docket, pp. 165 and 167, respectively.
[16] Division Docket, pp. 103-118.
[17] *Id.*, 56-58.
[18] *Id.*, pp. 168-174.
[19] *Id.*, pp. 184-192.
[20] *Id.*, pp. 195-208.
[21] *Id.*, pp. 252-254.
[22] *Id.*, pp. 259-261.
[23] *Id.*, pp. 333-339.
[24] *Id.*, pp. 341-343.
[25] *Id.*, pp. 323-330.
[26] *Id.*, pp. 344-360.

The case before the Court in Division was considered submitted for decision on 10 November 2020.[27]

On 7 June 2021, the Court in Division ruled in favor of respondent.[28] The dispositive portion of the Assailed Decision, reads:

> **WHEREFORE**, in light of the foregoing considerations, the Petition for Review is **GRANTED**. Accordingly, [petitioner] is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of [respondent] in the amount of P562,007.96, representing its erroneously paid withholding taxes on compensation for the month of September 2017.
>
> **SO ORDERED.**

On 25 June 2021, petitioner filed her *Motion for Reconsideration (Re: Decision dated June 7, 2021).*[29] Respondent filed its *Comment/Opposition (To [Petitioner's] Motion for Reconsideration)* on 23 July 2021.[30]

On 19 October 2021, the Court in Division promulgated the Assailed Resolution,[31] with the following dispositive portion:

> **WHEREFORE**, premises considered, [petitioner's] Motion for Reconsideration (Re: Decision dated June 7, 2021) is **DENIED** for lack of merit.
>
> **SO ORDERED.**

PROCEEDINGS BEFORE THE COURT *EN BANC*

On 22 November 2021, petitioner filed her *Petition for Review*.[32] In a *Resolution* dated 22 February 2022,[33] the Court *En Banc* ordered respondent to file its comment. Respondent filed its *Comment* on 10 March 2022.[34]

On 8 April 2022, the Court *En Banc* issued a *Resolution* submitting the present Petition for decision.[35]

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[27] *Id.*, p. 361; Resolution dated 10 November 2020.
[28] *Id.*, pp. 365-377.
[29] *Id.*, pp. 378-385.
[30] *Id.*, pp. 389-397.
[31] *Id.*, pp. 400-406.
[32] Rollo, pp. 6-15.
[33] *Id.*, pp. 44-47.
[34] *Id.*, pp. 48-61.
[35] *Id.*, pp. 63.

ISSUES

Petitioner forwards the following issues to be resolved by the Court *En Banc*:

I.

WHETHER OR NOT THE HONORABLE COURT IN DIVISION ERRED IN ASSUMING JURISDICTION OVER THE ORIGINAL PETITION FOR REVIEW.

II.

WHETHER OR NOT THE HONORABLE COURT IN DIVISION ERRED IN RULING THAT RESPONDENT IS ENTITLED TO REFUND OR ISSUANCE OF TAX CREDIT CERTIFICATE IN THE AMOUNT OF P562,007.96, REPRESENTING ALLEGED ERRONEOUSLY PAID WITHHOLDING TAXES ON COMPENSATION FOR THE MONTH OF SEPTEMBER 2017.

PETITIONER'S ARGUMENTS

Petitioner claims that the Court in Division has no jurisdiction over the claim for refund considering that respondent failed to submit complete documents to substantiate its claim for refund at the administrative level, which makes it *proforma*.

Petitioner further claims that there is no proof confirming that respondent indeed made multiple payments of withholding tax on compensation for September 2017. Hence, the original Petition for Review should not be given merit.

RESPONDENT'S ARGUMENTS

Respondent counters that the instant petition has become moot and academic by virtue of petitioner's voluntary payment. Its claim for refund had already been granted and paid by BIR Revenue Region No. 9B in the amount of ₱562,007.96, which is the same amount ordered to be refunded in the Assailed Decision.

Respondent argues that the Court in Division validly obtained jurisdiction over its petition, considering that there is inaction on the part of petitioner. It further argues that the Court in Division was correct in not finding merit in petitioner's contention that there was no categorical statement nor a clear indication that respondent made multiple payments and the same refer to the same transaction.

RULING OF THE COURT *EN BANC*

We dismiss the instant Petition on the ground of mootness.

The Court *En Banc* has jurisdiction over the instant Petition.

Before we proceed, we shall first determine whether the Court *En Banc* has jurisdiction and whether the instant Petition was timely filed.

On 7 June 2021, the Court in Division promulgated its Decision granting respondent's Petition for Review.[36]

On 25 June 2021, petitioner filed a *Motion for Reconsideration*[37] against the Decision of the Court in Division within the period provided under Section 3(b), Rule 8[38] of RRCTA.

On 19 October 2021, the said *Motion for Reconsideration* was denied by the Court in Division through a *Resolution*,[39] a copy of which was received by petitioner on 22 October 2021.

As provided under Section 3(b), Rule 8[40] of RRCTA, petitioner had until 6 November 2021 to file her Petition for Review before the CTA *En Banc.*

Within the reglementary period, on 5 November 2021, petitioner filed a *Motion for Extension of Time to File Petition for Review*, which was granted in a Minute Resolution dated 11 November 2021. Accordingly, petitioner is granted a final and non-extendible period of fifteen (15) days from 6 November

[36] *Supra* at note 28.
[37] *Supra* at note 29.
[38] *Section 3. Who May Appeal; Period to File Petition.* — (a) x x
(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.
[39] *Supra* at note 31.
[40] *Supra* at note 38.

2021, or until 21 November 2021, to file her Petition for Review. Since 21 November 2021 fell on a Sunday, petitioner had until the next working day or on 22 November 2021, to file her Petition for Review.

On 22 November 2021, petitioner timely filed the instant Petition for Review.[41]

Having settled that the Petition was timely filed, we likewise rule that the CTA *En Banc* has jurisdiction to take cognizance of this Petition under Section 2(a)(1), Rule 4[42] of RRCTA.

The instant petition has been rendered moot and academic by the grant and actual payment of respondent's claim for refund.

One of the tenets of judicial review is that this Court will not rule on moot and academic cases because judicial power is grounded on actual controversies.[43] A moot and academic case is one that ceases to present a justiciable controversy by virtue of *supervening events* so that a declaration thereon will be of no practical use or value.[44]

Accordingly, if the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced, this Court will declare it moot and academic.[45] There is no actual substantial relief to which petitioner would be entitled and which would be negated by the dismissal of the petition.[46]

Respondent contends that the instant petition has become moot and academic. It points to the fact that its claim for refund had already been granted and paid by BIR Revenue Region No.

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[41] *Supra* at note 1.
[42] *Section 2. Cases Within the Jurisdiction of the Court En Banc.* — The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture.
[43] Alliance of Non-Life Insurance Workers of the Philippines vs. Mendoza, G.R. No. 206159, 26 August 2020.
[44] Commissioner of Internal Revenue vs. Pacific Plans, Inc., G.R. No. 191587 (Notice), 16 June 2021.
[45] Philippine Savings Bank vs. Senate Impeachment Court, G.R. No. 200238 (Resolution), 20 November 2012, 699 SCRA 34-37.
[46] Gancho-on vs. Secretary of Labor and Employment, G.R. No. 108033, 14 April 1997, 337 SCRA 654-658.

9B in the amount of ₱562,007.96, which is the same amount ordered to be refunded in the Assailed Decision.

In support, respondent attached to its *Comment* a copy of Landbank Check No. 0000171377,[47] dated June 4, 2021, and signed by Ray Anthony O. Geli, OIC – Assistant Regional Director, and Elizabeth T. Bello, Chief, Administrative and Human Resource Management Division, of Revenue Region No. 9B. The check is drawn from the account of DOF-Bureau of Internal Revenue Region 9.

To Our mind, petitioner's payment of respondent's claim for refund is a *supervening event* that rendered the instant Petition moot and academic. As the claim for refund has already been satisfied, there is no more claim for refund to speak of; it has already ceased to present a justiciable controversy.

The Court in Division has jurisdiction over respondent's Petition for Review.

In any event, even if We proceed on the merits, We shall still rule against the instant Petition.

At the onset, We note that petitioner's arguments and discussions therein are mere reiterations of her arguments in the Comment and Motion for Reconsideration she filed before the Court in Division, which have already been considered, weighed, and passed upon in the Assailed Decision.

Hence, with approval, We quote and adopt the pertinent discussion in the Assailed Decision:

> *The Court has jurisdiction over the instant Petition for Review.*
>
> Sections 204 (C) and 229 of the National Internal Revenue Code (NIRC) of 1997 pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty. However, Section 229 further states the condition that a judicial claim for refund may not be maintained until a claim for refund or credit has been duly filed with [petitioner].
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> ... ...

[47] Rollo, p. 61; Annex "A", Comment.

> Simply put, Section 229 of the NIRC of 1997 states that judicial claims must be filed within two (2) years from the date of payment of the tax or penalty, providing further that the same may not be maintained until a claim for refund or credit has been duly filed with [petitioner]. Thus, so long as the judicial claim was filed within two (2) years from the date of payment of the tax or penalty, and within such period, an administrative claim was filed before filing such judicial claim, this Court has jurisdiction to entertain the latter.
>
> In this case, records show that the alleged erroneous multiple payments or remittance by [respondent] in the total amount of P562,007.96 under Transaction Nos. 179819153 and 179819085 transpired on October 17, 2017, when [respondent's] Accounting Supervisor approved all pending payment instructions lodged in its BPI ExpressLink online banking facility.
>
> Counting two (2) years from October 17, 2017, [respondent] had until October 17, 2019, within which to file both its administrative and judicial claims for refund. Considering that [respondent] filed its letter-claim dated January 30, 2018 and Application for Tax Credits/Refunds (BIR Form No. 1914), for alleged erroneously paid taxes with the BIR on February 21, 2018, and that the instant Petition for Review was filed on October 14, 2019, this Court has jurisdiction to entertain the present appeal.

In addition, petitioner's argument that the administrative claim for refund is *proforma* because of "failure to submit complete documents" deserve scant consideration. Petitioner did not point out what was lacking, to begin with, and as respondent correctly observed, the term "complete documents" is so ambiguous, which fails to constitute a convincing argument.

Respondent was able to prove its erroneous remittances of withholding taxes.

About the issue of whether respondent was able to prove its erroneous multiple payments, We likewise quote and adopt the Assailed Decision:

> *The alleged erroneous multiple payments were proven by [respondent].*

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It is undisputed that on October 13, 2017, [respondent] filed its Monthly WTC Return via BIR eFPS in the total amount of P281,003.98 for the month of September 2017. During the course of electronic payment, however, [respondent] encountered several technical errors or difficulties. On the same day and on its third attempt, it was able to successfully processed and paid its tax in the amount of P281,003.98, through the BPI online tax payment facility, as shown in the eFPS Payment Details for [respondent's] Monthly WTC Return for September 2017 and BPI ExpressLink Statement of Transactions for [respondent's] Account No. 1921-1037-23 for the month of October 2017.

It is likewise established that the BIR eFPS generated three (3) requests for confirmation of remittance for [respondent's] Monthly WTC Return for the September 2017 under Payment Transaction Nos. 179819153, 179819123, and 179819085, respectively, with an amount of P281,003.98 for each of the said transactions.

Thereafter, on October 17, 2017, [respondent], through its Accounting Supervisor, approved all pending payment instructions lodged in its BPI ExpressLink online banking facility. Consequently, the last two (2) of the three (3) transactions, under Transaction Nos. 179819153 and 179819085, have been successfully processed and paid in an amount of P281,003.98 each, or in the total amount of P562,007.96.

... ...

[Petitioner's] contention that the documents presented by [respondent] do not necessarily prove its claim, as these are susceptible to different interpretations other than a case of multiple payment or multiple remittance and it could be that the second and third payment were for a different transaction, is bereft of merit.

While [petitioner] contends that [respondent] fell short of proving the veracity of its claim of alleged multiple payments of withholding tax on compensation for September 2017, [s]he, however, failed to present any evidence to prove such contention during trial. This is despite [her] facility and/or opportunity in checking the BIR's own records to verify or determine the veracity of [respondent's] claim.

It must be emphasized that after the claimant has successfully established a *prima facie* right to the refund by complying with the requirements laid down by law, the burden is shifted to the opposing party, i.e., the BIR, to disprove such claim. To rule otherwise would be to unduly burden the claimant with additional requirements which has no statutory nor jurisprudential basis.

Verily, respondent was able to present three eFPS payment confirmations and BPI ExpressLink Statement of Transactions showing payments of identical amounts for identical tax types pertaining to identical periods.

WHEREFORE, in light of the foregoing, the instant Petition for Review is **DISMISSED** for being moot and academic.

The judgment rendered in CTA Case No. 10186 is deemed **SATISFIED** and said case is considered **CLOSED AND TERMINATED.**

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

(On Official Business)
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

ON LEAVE
MARIAN IVY F. REYES-FAJARDO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice