REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

JO ANNA LEE O. SANTOS represented by JOSEFINO R. SANTOS,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE represented by REVENUE DISTRICT OFFICER, REVENUE DISTRICT OFFICE NO. 25B, Sta. Maria, Bulacan,
Respondent.

CTA Case No. 8214

Members:
BAUTISTA, Chairperson
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

MAR 2 2015
3:58 p.m.

X---X

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is the "Motion for Reconsideration" filed by respondent on December 18, 2014 seeking reconsideration of our Decision dated November 26, 2014 where the Court granted petitioner's Petition for Review, reversed the Letter-Decision dated November 24, 2010 rendered by the Revenue District Officer of RDO No. 25, and cancelled and withdrew the Notice of Tax Lien dated October 20, 2010 served at the Register of Deeds, Meycauayan, Bulacan for Transfer Certificate of Title No. T-369883.

As grounds for reconsideration, respondent argues that 1) petitioner should not be allowed to benefit from the rule on strict implementation of the Rules on Waiver of the Defense of Prescription; 2) the instant case should not be treated in accordance with the established general rule; 3) the attendant bad faith of the petitioner in denying that she executed a waiver when she, in fact, had knowingly, voluntarily, and freely executed the waiver justifies the non-application of the strict general rule.

On January 13, 2015, petitioner filed her "Comment and Opposition To Respondent's Motion for Reconsideration". Petitioner propounds that 1) she never signed nor read the waiver, neither did she appear before the notary public who notarized the same nor did she know anything about the contents of the document and its implication on her tax liability to the government; 2) this Court did not err in finding that the waiver is invalid for being defective and for failing to observe the rules for proper execution of waivers as governed by Revenue Memorandum Order (RMO) No. 20-90 and Revenue Delegation Authority Order (RDAO) No. 05-01 which implement Sections 203 and 222 of the National Internal Revenue Code (NIRC); 3) the failure to comply with RMO No. 20-90 and RDAO No. 05-01 resulted in a defective waiver that did not extend the three-year prescriptive period of assessment and renders the waiver void; and 4)since the Notices of Assessments were all issued after three (3) years and seven (7) months, such assessments are definitely time-barred.

The Motion for Reconsideration was thereafter submitted for resolution.

The issues raised by respondent in its Motion for Reconsideration have already been exhaustively studied and considered by this Court prior to rendering our Decision dated November 26, 2014.

In fact, one of the findings in our Decision is that the assailed Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code was duly executed by petitioner Jo Anna Lee Santos and respondent's revenue officers.

Despite that, we ruled that the failure of respondent to comply with the requirements of RMO No. 20-90 and RDAO No. 05-01 renders the waivers defective, and hence, void. Respondent's argument regarding petitioner's attendant bad faith has been previously considered and does not justify relaxation of the rules.

There have been various instances where the Supreme Court struck down waivers because of failures by the BIR to comply with the requirements of RMO No. 20-90. In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*[1], the Supreme Court reversed and set aside the holdings of the Court of Appeals that the requirements and procedures laid down in RMO No. 20-90 are only formal in nature and did not invalidate the waiver that was signed even if the requirements were not strictly observed.

Similarly, in *Commissioner of Internal Revenue vs. FMF Development Corporation*[2], the Supreme Court also invalidated the waiver despite contentions

[1] G.R. No. 162852, December 16, 2004.
[2] G.R. No. 167765, June 30, 2008.

by the CIR that the waiver was validly executed mainly because it complied with Section 222(b) of the NIRC; the waiver was in writing, signed by the taxpayer and the Commissioner, and executed within the three-year prescriptive period; the requirements in RMO No. 20-90 are merely directory, thus, the indication of the dates of execution and acceptance of the waiver, by the taxpayer and the BIR, respectively, are not required by law; there is no provision in RMO No. 20-90 stating that a waiver may be invalidated upon failure of the BIR to furnish the taxpayer a copy of the waiver; the respondent's execution of the waiver was a renunciation of its right to invoke prescription; and the government cannot be estopped by the mistakes committed by its revenue officer in the enforcement of RMO No. 20-90.

Finally, in *Commissioner of Internal Revenue vs. Kudos Metal Corporation*[3], even if CIR argued that the respondent was estopped from invoking prescription since by executing the waivers, it was respondent which asked for additional time to submit the required documents, the Supreme Court also upheld the invalidity of the waiver.

Jurisprudence is replete with instances where the Supreme Court consistently emphasized the need for strict compliance with the requirements of RMO No. 20-90. RMO No. 20-90 itself mandates that the procedure for execution of the waiver shall be strictly followed, and that any revenue official who fails to comply therewith, resulting in the prescription of the right to assess and collect, shall be administratively dealt with.[4]

The rule is that provisions on the statute of limitations on assessment and collection of taxes shall be construed and applied liberally in favor of the taxpayer and strictly against the Government.[5] Respondent's demand for liberality in her favor, while seeking strict enforcement of the rule against taxpayers, would result in a reversal of this rule without statutory basis.

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

SO ORDERED.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[3] G.R. No. 178087, May 5, 2010.
[4] *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*, G.R. No. 139736, October 17, 2005.
[5] *Ibid.*

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice