REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special First Division

UNITED INTERNATIONAL PICTURES AKTIEBOLAG,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10033

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

SEP 22 2023 10:00AM

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AMENDED DECISION

MANAHAN, *J.*:

For resolution is petitioner's **Motion for Reconsideration**[1] of the Decision dated June 6, 2022[2] (Assailed Decision), incorporated in its "Omnibus Motion", posted and filed on July 6, 2022, with respondent's **Opposition (re: Petitioner Omnibus Motion dated 06 July 2022)**[3] filed on August 22, 2022.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the *Petition for Revival of Judgment* filed by petitioner UIPA on February 22, 2019 is hereby **DISMISSED** for lack of cause of action.
>
> **SO ORDERED**."

In petitioner's Motion for Reconsideration, it prays that the Court: (i) reconsider the Assailed Decision; (ii) revive the CTA Decision dated June 4, 2001 in CTA Case No. 6027; and, (iii) order respondent to refund or issue a tax credit certificate in the amount of Php6,285,892.05 in its favor.

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[1] Docket, CTA Case No. 10033, Vol. III, pp. 1274-1288 and 1447-1461.
[2] *Id.*, Vol. III, at pp. 1102-1110.
[3] *Id.*, Vol. III, at pp. 1623-1625.

Petitioner United International Pictures Aktiebolag (UIPA) argues that this Court may take judicial notice that petitioner in the instant case and petitioner United International Pictures AB (UIP AB) in CTA Case No. 6027 are one and the same entity, as shown by: (a) the records in CTA Case No. 6027; (b) a ruling issued by the Bureau of Internal Revenue; and, (c) publicly available literature.

In the same Omnibus Motion, petitioner also moved for Leave of Court to file and admit Judicial Affidavit and set the case for hearing, which was granted under the Court's Resolution dated November 7, 2022[4], and a hearing was set for the testimony of Renz Jeffrey A. Ruiz to prove that petitioner UIPA and UIP AB are one and the same. Also, in the said Resolution dated November 7, 2022, this Court admitted petitioner's **Exhibits "P-8"**[5] and **"P-9"**[6] which pertain to petitioner's Petition for Review in CTA Case No. 6027 with attached BIR Form No. 1702-Corporation/Partnership Annual Income Tax Return for the year ending December 31, 1997 and Letter-request for refund, and Formal Offer of Evidence in CTA Case No. 6027 with attached BIR Form No. 1702-Corporation/Partnership Annual Income Tax Return and Financial Statements, both for the year ending December 31, 1996, respectively.

After said hearing, petitioner filed its *Supplemental Formal Offer of Evidence*[7] which was resolved by the Court in the Resolution dated February 1, 2023.[8] The Court admitted the following evidence:

Exhibit	Particulars
P-21	Certified true copy of the Resolution dated October 27, 2000 of the Court of Tax Appeals in CTA Case No. 6027
P-22	Printout of International Tax Affairs Division (ITAD) Ruling No. 087-04 dated August 12, 2004 addressed to Lina Lavares Didulo Guiao & Leviste-Avellana Law Offices
P-23	Printout of https://www.encyclo.co.uk/meaning-of-Aktiebolag
P-24	Printout of https://www.wordsense.eu/aktiebolag/

[4] Docket, at pp. 1631-1637.
[5] *Id.*, pp. 1129-1142.
[6] *Id.*, pp. 1143-1177.
[7] *Id.*, at pp. 1646-1651.
[8] *Id.*, at pp. 1660-1661. *om*

P-25	Printout of https://bolagsverket.se/en/bus/business/limited/2.1147/business-name
P-26	Printout of https://www.dlapiperintelligence.com/goingglobal/corporate/index.html?t=01-form-of-entity&c=SE
P-27	Printout of https://www.skatteverket.se/foretag/drivaforetag/foretagsformer/aktiebolag.4.5c13cb6b1198121ee8580002546.html?q-aktiebolag
P-28	Printout of https://www.verksamt.se/web/international/starting/protect-your-intangible-assets/protect-your-company-name
P-29	Judicial Affidavit of Atty. Renz Jeffrey A. Ruiz dated June 15, 2022
P-29-a	Signature of Atty. Ruiz on the Judicial Affidavit of Atty. Renz Jeffrey A. Ruiz dated June 15, 2022

Petitioner insists that the Court may take judicial notice of the evidence and documents presented by UIP AB in CTA Case No. 6027 and the facts established by such documents, including, most particularly, the fact that the complete corporate name of UIP AB therein is United International Pictures Aktiebolag, hence, petitioner UIPA and UIP AB are one and the same corporation.

On the other hand, respondent, in his Opposition, asserts that this Court was correct in dismissing the instant case for lack of cause of action and that the alleged ITAD Ruling and publicly available literature are not proper object of judicial notice.

THE COURT'S RULING

This Court shall first determine whether the instant motion for reconsideration was filed on time. Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.* — **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution or order **of the Court** by filing a motion for reconsideration or new trial **within fifteen days from the date of receipt of notice of the decision,** au

resolution or order of the Court in question." (*Emphasis supplied*)

The records of the case reveal that petitioner's counsel received the Assailed Decision on June 21, 2022. In accordance with the abovementioned provision of the RRCTA, petitioner had fifteen (15) days from receipt of notice on June 21, 2022 or until July 6, 2022 within which to file its motion for reconsideration. Hence, petitioner's Motion for Reconsideration which is incorporated in its Omnibus Motion was timely filed on July 6, 2022.

On the substantive aspect of the motion, petitioner UIPA, in order to prove that UIP AB and itself are one and the same corporate entity, it presented, identified, and offered the abovementioned exhibits and were subsequently admitted by this Court.

Upon scrutiny and evaluation of said exhibits as well as the admission of Exhibits "P-8" and "P-9", the Court is constrained to reconsider the Assailed Decision.

In the comparative Statement of Income of UIPA for years ended December 31, 1996 and December 31, 1995 (**Exhibit "P-9"**), the gross profit in the amount Php33,711,344.00 for the year 1996 was the amount declared as gross income in UIP AB's BIR Form 1702-Corporation/Partnership Annual Income Tax Return (**Exhibit "P-9"**) for calendar year ended December 31, 1996.

In the comparative Statement of Income of UIPA for years ended December 31, 1997 and December 31, 1996 (**Exhibit "P-8"**), the gross profit and foreign exchange gain in the amount Php25,778,386.00 and Php195,813.00, respectively, for the year 1996 were declared as gross income in UIP AB's BIR Form 1702-Corporation/Partnership Annual Income Tax Return (**Exhibit "P-8"**) for calendar year ended December 31, 1997.

Petitioner also submitted the ITAD Ruling No. 087-04 dated August 12, 2004 (**Exhibit "P-22"**) in which respondent abbreviated the name of UIPA-Philippine Branch to UIP AB Philippine Branch, to wit:

> "This refers to your application for relief from double taxation dated May 26, 2004, on behalf of United International

> Pictures B.V. (UIP BV), requesting confirmation that: (1) the execution of the License Agreement between UP BV and Solar Entertainment Corporation (Solar) will not create a permanent establishment under the Philippines-Netherlands tax treaty; (2) the income generated by UIP BV on the exhibition of motion pictures in the Philippines relative to the License Agreement with Solar is subject to a fifteen percent (15%) preferential tax rate on royalty payments; and (3) the execution of a Service Agreement between UIP BV and **United International Pictures Aktiebolag-Philippine Branch (UIP AB Philippine Branch)** in the areas of management, accounting and administration, data gathering , advisory and marketing services will not create a permanent establishment in the Philippines." (*Emphasis and underscoring supplied*)

Further, verification of the websites cited by petitioner, the printouts of which were admitted in evidence, reveals that "Aktiebolag" is a Swedish term for "limited company" or "corporation." When used in company names, it is abbreviated "AB" or "Ab" (**Exhibit "P-23"**). It is "AB" in Sweden or "Ab" in Finland (**Exhibit "P-24"**). The *Skatteverket*[9] or Swedish Tax Agency defines " limited company" as:

> "A limited liability company is a legal entity that can sign contracts, have employees and own things. The limited company can be owned by one or more shareholders. The co-owners can be both natural and legal persons. Joint-stock company is abbreviated as AB."[10]

The Swedish Government requires all limited company to include in their company names the word "aktiebolag" or "AB" as there are special regulations for each different form of business with regard to what the company name must contain.[11]

Taking all these pieces of evidence into consideration, this Court concludes that petitioner UIPA and UIP AB are one and the same entity. Thus, petitioner UIPA is the real party in interest in the instant case

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[9] https://www.google.com/search?q=skatteverket&oq=Skatteverket&aqs=chrome.0.0i355i512j46i199i465i512j0i512l8.723054421j0j15&sourceid=chrome&ie=UTF-8. Last seen on August 8, 2023.
[10] Exhibit "P-27".
[11] Exhibit "P-28".

Petitioner has the burden to prove that it complied with all the requisites of revival of judgment.

Section 6, Rule 39 of the Rules of Court, as amended, governs the revival of the judgment by the court, to wit:

> "Sec. 6. *Execution by motion or by independent action.* - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations."

As shown above, the revival of judgment may be raised through a motion within five (5) years from the date of its entry. However, if no motion was filed within the period, the revival of judgment can only be done through an independent action as held in *Daniel A. Villareal, Jr. (On behalf of Orlando A. Villareal v. Metropolitan Waterworks and Sewerage System,*[12] to wit:

> "Execution by motion is only available if the enforcement of the judgment was sought within five (5) years from the date of its entry." This is a matter of right. **"On the other hand, execution by independent action is mandatory if the five-year prescriptive period for execution by motion had already elapsed." "[T]he said judgment is reduced to a right of action which must be enforced by the institution of a complaint in a regular court."** "[T]he action must be filed before it is barred by the statute of limitations which, under the Civil Code, is ten (10) years from the finality of the judgment." Corollary, "[a] final and executory judgment may be executed by motion within five years or by action for revival of judgment within ten years reckoned from the date of entry of judgment." The date of entry, in turn, is the same as the date of finality of judgment. (*Emphasis supplied*)

It is also required that the independent action for revival of judgment shall be made within the prescriptive period of ten (10) years from finality of the judgment pursuant to Section 1144(3) of Republic Act No. 386, otherwise known as the "Civil Code of the Philippines," to wit:

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[12] G.R. No. 232202, February 28, 2018. cm

"ARTICLE 1144. The following actions must be brought within ten years from the time the right of action accrues:

(1) xxx xxx;

(2) xxx xxxx;

(3) **Upon a judgment**." *(Emphasis supplied)*

In the instant case, petitioner submitted an Entry of Judgment from the Supreme Court's (SC) First Division under G.R. No. 169565 (**Exhibit "P-7"**)[13] which shows that the case has become final and executory on February 27, 2009 and was recorded in the Book of Entries of Judgments.

Applying the abovementioned provision and jurisprudence, petitioner had 10 years from February 27, 2009 or until February 27, 2019 to file an independent action for the revival of judgment.

The instant petition was filed on February 22, 2019. Thus, petitioner's filing of the instant petition as an independent action was proper and it was filed before the lapse of the prescriptive period.

Now the question is whether the judgment was executed or satisfied.

Petitioner submitted a Certification dated February 10, 2020 (**Exhibit "P-19"**)[14] from Jesus P. Inocando, Jr., Executive Clerk of Court, stating that UIP AB did not file any motion for issuance of writ of execution in CTA Case No. 6027 to enforce the Decision dated June 4, 2001, which became final and executory on February 27, 2009. Thus, the absence of the writ of execution on the said decision proves that said decision was not executed or satisfied.

In summary, petitioner was able to prove that: (*i*) it is a real party-in-interest in the present case and has material interest in reviving the judgment in CTA Case No. 6027; and, (*ii*) judgment has not yet been satisfied. Accordingly, the Court resolves to grant petitioner UIPA's Petition for Revival of Judgment.

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[13] Docket, Vol. I, p. 61.

[14] Docket, Vol. II, p. 971. *am*

WHEREFORE, in light of the foregoing, petitioner's "Motion for Reconsideration" incorporated in its "Omnibus Motion" is hereby **GRANTED**. The "Petition for Revival of Judgment" filed by petitioner UIPA on February 22, 2019 is **GRANTED**.

Accordingly, the Assailed Decision is **REVERSED** and **SET ASIDE**, the Decision rendered in CTA Case No. 6027 promulgated on June 4, 2001 is hereby **REVIVED** and the Commissioner of Internal Revenue is hereby **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner UIPA in the amount of Php6,285,892.05, representing excess creditable taxes withheld for the calendar year ended December 31, 1997. Let the corresponding Writ of Execution be issued.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
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 Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice