REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

BPI-PHILAM LIFE ASSURANCE CORPORATION (formerly Ayala Life Assurance, Inc.),
Petitioner,

CTA CASE NO. 8240

-versus-

Members:

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

OCT 9 2014
1:55 p.m.

x---x

RESOLUTION

For resolution is the respondent's "Motion for Partial Reconsideration (RE: Decision dated 14 May 2014)" filed on June 4, 2014, the dispositive portion of which reads as follows:

> "**WHEREFORE** in the light of the foregoing, the petition is hereby **PARTIALLY GRANTED**.
>
> Assessment No. VT-2006-000-298 against petitioner for deficiency VAT but covering only the first, second and third quarter for the taxable year 2006, and assessment for deficiency premium tax for the same year, is hereby **CANCELLED**. On the other hand, petitioner is held liable for deficiency VAT covering the fourth quarter of the taxable year 2006.
>
> Accordingly, petitioner is **ORDERED** to **PAY** the respondent the amount of **ONE MILLION SEVEN HUNDRED THIRTY NINE THOUSAND SIX AND 60/100 PESOS (P1,739,006.60)** as deficiency VAT.

In addition, petitioner is **ORDERED** to **PAY** deficiency interest at the rate of twenty percent (20%) per annum which will be assessed and collected from October 18, 2010 until the full payment of the deficiency VAT.

SO ORDERED."

Respondent prays that the Decision dated 14 May 2014, be partially reconsidered in accordance with the representations made in the Answer and in the instant motion, deny the Petition for Review in its entirety and uphold the assessment issued by respondent.

On July 25, 2014, petitioner filed its "Comment to Respondent's Motion for Reconsideration."

Thus, the "Motion for Partial Reconsideration" is now submitted for resolution.

Respondent contends that petitioner filed a false VAT return for failure of petitioner to declare income which was supposed to be subjected to VAT. Hence, the ten year prescriptive period should apply in this case and not the three year period provided under Section 223 of the Tax Code; that petitioner benefited from the period within which the assessment was made; that the act of petitioner in paying the amount of P11,304,371.62 as partial settlement of the deficiency VAT assessment constitute an act which estopped petitioner form questioning the validity of respondent's VAT assessment; that respondent has the power to change the assessment from interest income on policy loans to premium tax since as provided in Section 6 of the Tax Code, respondent is empowered to assess and determine the correct tax due; that the assessment made by respondent is sufficiently informative to apprise petitioner of the legal basis of its tax liability.

On the other hand, petitioner counters that respondent did not make any allegation regarding false VAT returns filed by petitioner for calendar year 2006 both at the administrative and judicial level; that petitioner had invoked the defense of prescription in its Protest dated February 3, 2010; that said defense was not refuted by respondent in the Final Decision on Disputed Assessment, nor was there any assertion that the ten-year prescriptive period shall apply based on the alleged false returns filed by petitioner; that respondent; that the interest income on loans earned by petitioner is not subject to premium tax; that respondent did not contradict the Court's conclusion that the investment of premiums through the granting of mortgage and other loans by a life insurance company is necessary to the life business, hence, should not be taxed separately.

After a careful study of the arguments raised by the respondent, the Court finds no merit in the "Motion for Partial Reconsideration."

The issues raised by the respondent have already been extensively discussed in the Decision dated May 14, 2014. Respondent did not raise any new arguments that would merit reconsideration of the said Decision.

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice