REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

BANK OF THE PHILIPPINE ISLANDS,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9692

Members:

CASTAÑEDA, JR., *Chairperson, and*
MANAHAN, *JJ.*

Promulgated:

AUG 1 3 2019 1:07 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

This resolves petitioner's **Motion for Reconsideration (of Decision promulgated on 31 May 2019)**, filed on June 18, 2019, with respondent's **Comment (on Petitioner's Motion for Reconsideration)**, filed on July 11, 2019.

In its motion, petitioner seeks reconsideration of the Court's Decision promulgated on May 31, 2019 (assailed Decision), the dispositive portion of which reads:

> **WHEREFORE**, the present Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED**.

Petitioner relies on the following grounds to support its motion:

I. Documentary Stamp Tax (DST) on each of the loan transactions of petitioner with SN Aboitiz Power-Benguet, Inc. (SNAP-BI) and Hedcor Bukidnon, Inc. (Hedcor) may be imposed and collected only once. Thus, upon payment by SNAP-BI and Hedcor of the DST on their respective loan transactions with petitioner, petitioner's responsibility for the remittance of the DST on the same loan transactions has been discharged.

II. The DST payments made by petitioner for its loan transactions with SNAP-BI and Hedcor after it had ceased to be responsible for their remittance constitute tax erroneously or illegally collected by respondent.

III. Respondent, in receiving two DST payments pertaining to a single taxable transaction when the National Internal Revenue Code imposes merely a single taxable amount, is obliged to return what was erroneously paid.

Petitioner submits that the Court erred when it relied on Revenue Regulations (RR) No. 9-2000[1] in denying petitioner's claim for refund considering that:

i. petitioner paid DST on its loan transactions with Hedcor and SNAP-BI by mistake, after Hedcor and SNAP-BI had already paid the DST due on such loan transactions;

ii. respondent received the subject DST payment from petitioner when respondent had no right to demand it; and

iii. this Court has found that respondent received two payments of DST for one and the same transaction.

Petitioner also avers that during the hearing on its motion, it intends to present the Second Supplemental Judicial Affidavit of Ms.

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[1] Mode of Payment and/or Remittance of the Documentary Stamp Tax (DST) Under Certain Conditions.

Ma. Cecilia S. Nazario attached to its motion to identify the Certifications issued by respondent confirming that neither Hedcor nor SNAP-BI claimed a refund of the DST they paid on their respective loan transactions with petitioner within the two-year period.

In its comment, respondent counters that the payment and remittance of the DST is primarily the duty of the bank where the bank is a party to the transaction. According to respondent, since petitioner is duty-bound to pay and remit the taxes due on the subject transactions, there was no erroneous payment of taxes which it may be entitled to refund. As such, respondent maintains that *solutio indebiti* may not be applied to the instant case.

After carefully reviewing petitioner's arguments, the Court notes that the same are a mere rehash or amplifications of the same facts and issues which have already been passed upon and extensively discussed in the assailed Decision.

Contrary to the allegation of petitioner that the Court's reliance on RR No. 9-2000 in denying petitioner's refund claim is misplaced, the Supreme Court in *Metropolitan Bank and Trust Co. vs. Commissioner of Internal Revenue*[2] cited the very same issuance petitioner is assailing, to wit:

> xxx In contrast, it is clear from Section 3 of Revenue Regulations No. 9-2000 that a bank shall be responsible for the payment and remittance of the DST prescribed under Title VII of the NIRC; and unless it is exempt from said tax, then it shall remit the same only as a collecting agent of the CIR. The pertinent provisions of Revenue Regulations No. 9-2000 are quoted hereunder:
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> > SECTION 3. *Mode of Payment and Remittance of the Tax.* –
> >
> > (a) *In general.* – Unless otherwise provided in these Regulations, any of the aforesaid **parties to the taxable transaction shall pay and remit** the full

[2] G.R. No. 178797, August 4, 2009.

amount of the tax in accordance with the provisions of Section 200 of the Code.

(b) *Exceptions.* –

(1) If **one of the parties to the taxable transaction is exempt** from the tax, the other party who is not exempt shall be the one directly liable for the tax, in which case, the **tax shall be paid and remitted by the said non-exempt party**, unless otherwise provided in these Regulations.

(2) **If the said tax-exempt party is one of the persons enumerated in Section 3(c)(4) hereof, he shall be constituted as agent of the Commissioner for the collection of the tax**, in which case, he shall remit the tax so collected in the same manner and in accordance with the provisions of Section 200 of the Code: *Provided, however,* that if he fails to collect and remit the same as herein required, he shall be treated personally liable for the tax, in addition to the penalties prescribed under Title X of the Code for failure to pay the tax on time.

x x x x

(c) *Persons liable to remit the DST.* – In general, the full amount of the tax imposed under Title VII of the Code may be remitted by any of the party or parties to the taxable transaction, except in the following cases:

x x x x

(4) When one of the parties to the taxable document or transaction is included in any of the entities enumerated below, such **entity shall be responsible for the**

> **remittance of the stamp tax** prescribed under Title VII of the Code: *Provided, however,* that **if such entity is exempt** from the tax herein imposed, it shall **remit the tax as a collecting agent**, pursuant to the preceding paragraph Section 3(b)(2) hereof, any provision of these Regulations to the contrary notwithstanding:
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> (a) A **bank**, a quasi-bank or non-bank financial intermediary, a finance company, or an insurance, a surety, a fidelity, or annuity company. (Emphases ours.)
>
> There has never been any allegation made in this case that Metrobank is exempt from the DST on the UNISA and, thus, it is tasked to remit the said tax only as a collecting agent. The standing presumption, therefore, is that Metrobank is directly liable for the payment and remittance of the DST on the UNISA. (*Underscoring ours*)

Article 8 of the Civil Code declares that "[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." While decisions of the Court are not laws pursuant to the doctrine of separation of powers, they evidence the laws' meaning, breadth, and scope and, therefore, have the same binding force as the laws themselves.[3]

Moreover, administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law and are entitled to respect. Such rules and regulations partake of the nature of a statute and are just as binding as if they have been written in the statute itself. As such, they have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case by a competent court.[4]

We adhere to the cardinal rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. As has been our

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[3] *Philippine International Trading Corporation vs. Commission on Audit,* G.R. No. 205837, November 21, 2017.

[4] *Abakada Guro Party List vs. Purisima, et al.,* G.R. No. 166715, August 14, 2008.

consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.[5] RR No. 9-2000 is clear in this case: a bank is responsible for the remittance of the stamp tax prescribed under Title VII of the Tax Code, provided that if such entity is exempt from DST, it shall remit the tax as a collecting agent.

Accordingly, no erroneous collection was made by respondent when petitioner remitted the DST on its loan transactions with Hedcor and SNAP-BI.

As to petitioner's assertion that the only way to correct a situation where the government was able to collect taxes twice for the same transaction – resulting in unjust enrichment on the part of the government – is to grant the claim for refund because neither Hedcor nor SNAP-BI claimed a refund of the DST they paid on their respective loan transactions with petitioner within the two-year period, suffice it to say that the fundamental duty of the Court is to apply the law regardless of who may be affected.[6] It is well-settled that any of the parties to the transaction subject to DST shall pay and remit the full amount of the DST, but if one of the parties to the said transaction is a bank, *inter alia*, the remittance of the DST shall be the responsibility of such bank.

Clearly, there is no cogent reason to disturb the assailed Decision.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (of Decision promulgated on 31 May 2019)** is **DENIED** for lack of merit.

SO ORDERED.

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

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[5] *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares*, G.R. No. 212530, August 10, 2016.

[6] *Jesus Nepomuceno, et al. vs. Rehabilitation Finance Corporation (now Development Bank of the Philippines)*, G.R. No. L-14987, November 23, 1960.

I CONCUR:

CATHERINE T. MANAHAN
Associate Justice