

SECOND DIVISION

[G.R. No. 211449, January 16, 2019]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. TRANSFIELD PHILIPPINES, INC., RESPONDENT.

DECISION

REYES, J. JR., J.:

Assailed in this petition for review on *certiorari* are the August 5, 2013 Decision^[1] and the February 19, 2014 Resolution^[2] of the Court of Tax Appeals (CTA) *En Banc* in CTA EB Case No. 907 which affirmed the February 28, 2012 Amended Decision^[3] and the May 14, 2012 Resolution^[4] of the CTA First Division in CTA Case No. 7842.

The Antecedents

On May 30, 2007, respondent Transfield Philippines, Inc. (respondent) received copies of Final Assessment Notice (FAN) Nos. LTDO-122-IT-2002-00014, LTDO-122-WE-2002-00011, LTDO-122-VT-2002-00012, and LTDO-122-PEN-2002-00002 issued by petitioner Commissioner of Internal Revenue (CIR), through Nestor S. Valeroso, Officer-in-Charge, Assistant Commissioner for the Large Taxpayers Service.^[5] Respondent was assessed the total sum of P563,168,996.70 for deficiency income tax, Expanded Withholding Tax (EWT), and Value-Added Tax (VAT), inclusive of interest and compromise penalties for the Fiscal Year July 1, 2001 to June 30, 2002. The details of the assessments are as follows:

Kind of Tax	Basic	Interest	Compromise	Total
Income Tax	291,320,169.28	271,335,605.67	25,000.00	562,680,774.95
EWT	66,497.56	69,996.28	14,000.00	150,493.84
VAT	147,156.30	164,071.61	24,500.00	335,727.91
VAT penalty			2,000.00	2,000.00
Total	291,533,823.14	271,569,673.56	65,500.00	563,168,996.70

On June 5, 2007, respondent filed a protest with the Bureau of Internal Revenue (BIR).^[6] Without acting on respondent's protest, the BIR issued the First Collection Letter^[7] dated August 3, 2007, demanding immediate payment of the assessments. Respondent received a copy of the First Collection Letter on August 28, 2007.

Then, on January 17, 2008, petitioner constructively served a Final Notice Before Seizure^[8] dated December 20, 2007, to respondent's office.

On February 29, 2008, respondent availed of the benefits of Republic Act (R.A.) No. 9480 by submitting the following documents to the Development Bank of the Philippines (DBP), an authorized agent bank of the BIR: 1) Notice of Availment of Tax Amnesty; 2) Tax Amnesty Return (BIR Form No. 2116); 3) Statement of Assets, Liabilities and Net Worth (SALN) as of December 31, 2005; and 4) Tax Amnesty Payment Form (BIR Form No. 0617). On the same day, respondent paid the BIR, through DBP, an amnesty tax in the amount of P112,500.00. On April 23, 2008, respondent paid P2,000.00 to the BIR in relation to FAN No. LTDO-122-PEN-2002-00002 for compromise penalties on alleged failure to file summary of sales and purchase from the first and second quarters of 2002.

On May 5, 2008, respondent informed the BIR Large Taxpayers District Office (LTDO) of Makati City in a letter dated April 28, 2008, that it availed of the benefits of R.A. No. 9480 and furnished the LTDO with copies of the tax amnesty documents.

^[9] The said letter was received by the BIR LTDO of Makati City on the same day.

On July 10, 2008, petitioner wrote respondent, advising the latter that under Revenue Memorandum Circular (RMC) No. 19-2008, those "with delinquent accounts/accounts receivable considered as assets of the BIR/ Government, including self-assessed tax," are not allowed to avail of the benefits of R.A. No. 9480.^[10]

On September 8, 2008, petitioner issued a Warrant of Dstraint and/or Levy (WDAL) directing the seizure of respondent's goods, chattels or effects, and other personal properties, and/or levy of its real property and interest in/or rights to real property to the extent of P563,168,996.70.^[11] A copy of the WDAL was constructively served on respondent's offices on September 11, 2008. On the same day, the Bank of the Philippine Islands (BPI) informed respondent that the latter's account was being put on hold because of the WDAL.

The CTA First Division Ruling

In an Amended Decision^[12] dated February 28, 2012, the CTA First Division ruled that the CTA has jurisdiction not only over decisions or inactions of the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, but also over other matters arising under the National Internal Revenue Code (NIRC) or other laws administered by the BIR. It declared that petitioner is already barred from collecting from respondent the alleged tax liabilities because it is undisputed that respondent had complied with all the legal requirements pertaining to its application for tax amnesty by submitting to the BIR its Notice of Availment of Tax Amnesty, Tax Amnesty Return, SALN, and Tax Amnesty Payment Form together with the BIR Tax Payment Deposit Slip evidencing payment of amnesty tax amounting to P112,500.00. The CTA First Division added that when respondent complied with all the requirements of R.A. No. 9480, it is deemed to have settled in full all its tax liabilities for the years covered by the tax amnesty. It held that the July 10, 2008 Letter of petitioner is void as it disqualifies respondent from availing of the immunity from payment of tax liabilities under R.A.

No. 9480 on the ground that its account has been considered delinquent or receivable asset of the government, which reason is not in consonance with the provisions of R.A. No. 9480. The *falla* reads:

WHEREFORE, the Motion for Reconsideration (from the Decision dated 20 September 2011) dated October 11, 2011 filed by petitioner is hereby **GRANTED**.

Consequently, the Warrant of Dstraint and/or Levy dated September 08, 2008 is hereby declared **NULL and VOID** and of no legal effect. Respondent is now precluded from collecting the amount of P563,168,996.70, representing petitioner's tax liability for taxable year 2002, which is deemed settled.

SO ORDERED.^[13]

Petitioner moved for reconsideration, but the same was denied by the CTA First Division in a Resolution^[14] dated May 14, 2012. Aggrieved, petitioner filed a petition for review before the CTA *En Banc*.

The CTA En Banc Ruling

In a Decision^[15] dated August 5, 2013, the CTA *En Banc* opined that it has jurisdiction to rule on the petition because it is not an appeal of the disputed assessment which is subject to a reglementary period, but it is a case to determine whether the issuance of the WDAL is proper. It added that the issue to be addressed is not the timeliness of the protest, but rather, whether petitioner may validly collect taxes from respondent despite the latter having availed of the tax amnesty. The CTA *En Banc* concluded that respondent properly availed of the immunity from payment of taxes under R.A. No. 9480, and as such, the issuance of a WDAL was invalid, which justified the filing of a petition within 30 days from receipt of the warrant. It disposed the case in this wise:

WHEREFORE, the petition is **DENIED**. The Amended Decision dated February 28, 2012, rendered by the First Division of this Court in CTA Case No. 7842, and its Resolution dated May 14, 2012 are **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.^[16]

Petitioner moved for reconsideration, but the same was denied by the CTA *En Banc* on February 19, 2014. Hence, this petition for review on *certiorari*, wherein petitioner raises the following issues:

I. WHETHER THE CTA COMMITTED REVERSIBLE ERROR WHEN IT ASSUMED JURISDICTION OVER THE CASE.

II. WHETHER THE CTA COMMITTED REVERSIBLE ERROR WHEN IT RULED THAT RESPONDENT IS ENTITLED TO THE IMMUNITIES UNDER THE TAX AMNESTY PROGRAM PROVIDED IN REPUBLIC ACT NO. 9480.^[17]

Petitioner argues that Section 9 of R.A. No. 9282 provides that a party adversely affected by a decision, ruling or inaction of the CIR may file an appeal with the CTA within 30 days after the receipt of such decision or ruling; that the 30-day period for filing an appeal with the CTA should be reckoned from respondent's receipt of the Final Notice Before Seizure, or at the latest, its receipt of the Letter dated July 10, 2008; that it is erroneous to consider receipt of the WDAL as the date of reckoning the period to file an appeal to the CTA because the WDAL is merely a means, an instrument, or a mechanism to implement the Final Notice Before Seizure, or at the latest, the July 10, 2008 Letter; that whatever decision, action, or ruling petitioner had with respect to respondent's claims and/or defenses was set forth in the aforementioned issuances and not in the WDAL; and that in providing for the exception that delinquent accounts, or accounts receivable considered assets of the government are not eligible under the tax amnesty program, RMC No. 19-2008 merely supplied the gap in the law where assessments have become final and incontestable upon the lapse of the reglementary period for appeal.^[18]

In its Comment,^[19] respondent counters that the CTA is vested with jurisdiction to determine whether a taxpayer is immune from the payment of taxes insofar as it is given the exclusive appellate jurisdiction to review by appeal matters arising from the laws administered by the BIR such as tax amnesty statutes; that in *Pantoja v. David*,^[20] the Court ruled that petitions for the annulment of distraint orders of the BIR do not violate the prohibition against injunctions to restrain the collection of taxes because the proceedings were not directed against the right of the BIR to collect *per se*, but against the right of the BIR to do so by distraint and levy; that while it did not file any petition for review from its receipt of the Final Notice Before Seizure, or the July 10, 2008 Letter, it availed of the tax amnesty on February 29, 2008 by complying with the requirements of R.A. No. 9480; that in *CS Garment, Inc. v. Commissioner of Internal Revenue*,^[21] the Court ruled that a taxpayer immediately enjoys the immunities granted by R.A. No. 9480 as soon as the taxpayer complies with the conditions under the law and the BIR may not prevent or delay a taxpayer from immediately enjoying immunity from the payment of taxes by making the tax amnesty application contingent on the BIR's confirmation or agreement; that in *Union Bank of the Philippines v. Commissioner of Internal Revenue*,^[22] decided by the CTA, the latter held that Section 4 of R.A. No. 9480 limits petitioner's remedy to assailing the taxpayer's SALN within a period of one year from the date of filing; that after the one-year period mandated by R.A. No. 9480, the tax amnesty could no longer be disputed by the BIR; and that to allow petitioner to enforce collection of assessments covered by the amnesty availed by respondent through the perfunctory and summary issuance of a WDAL would sanction a disregard of the law, and to punish respondent for its compliance therewith.

In its Reply,^[23] petitioner contends that the July 10, 2008 Letter was the adverse decision or ruling appealable to the CTA and respondent's receipt of the letter is the proper reckoning point for filing a petition for review with the CTA; that respondent received the said letter on August 5, 2008, thus, it was already apprised of petitioner's adverse decision regarding its application for tax amnesty at that time; that respondent had until September 4, 2008 to appeal the decision, however, respondent's petition for review was filed with the CTA only on October 10, 2008; and that assessments which have become final and executory upon the taxpayer's failure to appeal therefrom are outside the coverage of R.A. No. 9480.

The Court's Ruling

I.

A tax amnesty operates as a general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law. It is an absolute forgiveness or waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate. A tax amnesty, much like a tax exemption, is never favored nor presumed in law. The grant of a tax amnesty is akin to a tax exemption; thus, it must be construed strictly against the taxpayer and liberally in favor of the taxing authority.^[24]

On May 24, 2007, R.A. No. 9480 took effect and authorized the grant of a tax amnesty to qualified taxpayers for all national internal revenue taxes for the taxable year 2005 and prior years, with or without assessments duly issued therefor, that have remained unpaid as of December 31, 2005.^[25] The pertinent provisions of R.A. No. 9480 are:

SEC. 1. *Coverage.* — There is hereby authorized and granted a tax amnesty which shall cover all national internal revenue taxes for the taxable year 2005 and prior years, **with or without assessments duly issued therefor**, That have remained unpaid as of December 31, 2005: *Provided, however*, that the amnesty hereby authorized and granted shall not cover persons or cases enumerated under Section 8 hereof.

x x x x

SEC. 6. *Immunities and Privileges.* — Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

(a) **The taxpayer shall be immune from the payment of taxes**, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years. (Emphases supplied)