

SPECIAL FIRST DIVISION

[G.R. No. 207843, February 14, 2018]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. COURT OF TAX APPEALS AND PETRON CORPORATION, RESPONDENT.

R E S O L U T I O N

PERLAS-BERNABE, J.:

For the Court's resolution is a motion for reconsideration^[1] filed by respondent Petron Corporation (Petron) on the Court's Decision^[2] dated July 15, 2015 which set aside the Resolutions dated February 13, 2013^[3] and May 8, 2013^[4] issued by the Court of Tax Appeals (CTA) in CTA Case No. 8544 and thereby, dismissed the petition for review^[5] before the court *a quo* for lack of jurisdiction and prematurity.

The Facts

On June 29, 2012, petitioner Commissioner of Internal Revenue (CIR) issued a Letter^[6] interpreting Section 148(e) of the National Internal Revenue Code^[7] (NIRC) and thereby, opining that "*alkylate, which is a product of distillation similar to naphtha, is subject to tax.*"^[8] In implementation thereof, the Commissioner of Customs (COC) issued Customs Memorandum Circular (CMC) No. 164-2012. Not long after, and in compliance with CMC No. 164-2012, the Collector of Customs assessed excise tax on Petron's importation of *alkylate*.^[9]

Petron filed a petition for review^[10] before the CTA, contesting the allegedly erroneous classification of *alkylate* and the resultant imposition of excise tax arising from the CIR's interpretation of Section 148(e) of the NIRC.

On February 13, 2013, the CTA issued the first assailed Resolution,^[11] reversing its initial dismissal of Petron's petition for review and giving due course thereto.^[12] It explained that the controversy was not essentially about the constitutionality or legality of CMC No. 164-2012 but a question on the propriety of the interpretation of Section 148(e) of the NIRC in reference to the tax treatment of Petron's *alkylate* importation, which is within the CTA's jurisdiction to review.^[13] The CTA also held that the substantial and grave damage and injury that would be suffered from the threatened collection of excise tax warranted the non-exhaustion of administrative remedies and justified Petron's immediate resort to judicial action.^[14]

The CIR filed a motion for reconsideration,^[15] which the CTA denied in the second assailed Resolution^[16] dated May 8, 2013. Subsequently, the CIR elevated the matter to the Court through a petition for *certiorari*,^[17] alleging that the CTA had no

jurisdiction to take cognizance of a case involving the CIR's exercise of interpretative or quasi-legislative functions and that there was yet no final decision by the COC that was properly appealable to the CTA.

In the July 15, 2015 Decision, the Court upheld the CIR's position that the CTA could not take cognizance of the case because the latter's jurisdiction to resolve tax disputes excluded the power to rule on the constitutionality or validity of a law, rule or regulation and that, in any case, it was premature to elevate a customs collector's assessment without a prior protest and an appeal to the COC.^[18] Accordingly, the Court ordered the dismissal of Petron's petition for review filed before the CTA.^[19]

Dissatisfied, Petron filed a motion for reconsideration^[20] dated October 5, 2015.

The Issue Before the Court

The sole issue in this case is whether or not the Court's July 15, 2015 Decision, which ordered the dismissal of Petron's petition for review before the CTA on the grounds of lack of jurisdiction and prematurity, should be reconsidered.

The Court's Ruling

At the onset, Petron insists that the CTA has jurisdiction to pass upon the validity of the CIR's interpretative ruling on *alkylate*, arguing that the CTA may rule on the validity of a revenue regulation, ruling, issuance or other matters arising under the NIRC and other tax laws administered by the Bureau of Internal Revenue (BIR). As basis, Petron cites for the first time in its motion for reconsideration the Court's ruling in *The Philippine American Life and General Insurance Company v. The Secretary of Finance and the Commissioner of Internal Revenue*^[21] (*Philamlife*).

Philamlife is a 2014 case decided by a Division of the Court, which controversy arose from an unfavorable ruling by the Secretary of Finance that affirmed, through its power of review under Section 4 of the NIRC, the CIR's denial of a request to be cleared of liability for donor's tax. Noting the absence of an express provision in the law concerning further appeals from the Secretary of Finance, the issue framed for resolution was — "*where does one seek immediate recourse from the adverse ruling of the Secretary of Finance in its exercise of its power of review under Sec. 4?*"^[22] Resolving this issue, the Court in *Philamlife* held that:

Admittedly, there is no provision of law that expressly provides where exactly the ruling of the Secretary of Finance under the adverted NIRC provision is appealable to. However, We find that Sec. 7(a)(I) of RA 1125, as amended, addresses the seeming gap in the law as it vests the CTA, albeit impliedly, with jurisdiction over the CA petition as "other matters" arising under the NIRC or other laws administered by the BIR. As stated:

Sec. 7. *Jurisdiction.* - The CTA shall exercise:

- a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue.
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Even though the provision suggests that it only covers rulings of the Commissioner, We hold that it is, nonetheless, sufficient enough to include appeals from the Secretary's review under Sec. 4 of the NIRC.^[23]

Corollary to this disposition, however, the Court's Third Division extended its discussion on the issue regarding the CTA's jurisdiction over the rulings of the CIR, *viz.*:

Evidently, *City of Manila* can be considered as a departure from *Ursal* in that in spite of there being no express grant in law, the CTA is deemed granted with powers of *certiorari* by implication. Moreover, *City of Manila* diametrically opposes *British American Tobacco* to the effect that it is now within the power of the CTA, through its power of *certiorari*, to rule on the validity of a particular administrative rule or regulation so long as it is within its appellate jurisdiction. Hence, it can now rule not only on the propriety of an assessment or tax treatment of a certain transaction, but also on the validity of the revenue regulation or revenue memorandum circular on which the said assessment is based.^[24]

The foregoing remarks appear to be in direct opposition to the ruling in *British American Tobacco v. Camacho, et al.*^[25] (*British American Tobacco*), which is a 2008 case decided by the Court *En Banc*, cited as basis by the Court in its July 15, 2015 Decision in this case regarding the issue of jurisdiction.

The apparent conflicting jurisprudence on the matter involving the Court's 2008 *En Banc* ruling in *British American Tobacco* and the Court's Third Division Ruling in *Philamlife* has been seemingly settled in the 2016 *En Banc* case of *Banco De Oro v. Republic of the Philippines*^[26] (*Banco De Oro*) wherein it was opined that:

Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.

In other words, **within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems.** Petitions for writs of *certiorari* against the acts and omissions of the said quasi-judicial agencies should thus be filed before the Court of Tax Appeals.

Republic Act No. 9282, a special and later law than *Batas Pambansa Blg. 129* provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax