

THIRD DIVISION

[G.R. No. 194561, September 14, 2016]

DRUGSTORES ASSOCIATION OF THE PHILIPPINES, INC. AND NORTHERN LUZON DRUG CORPORATION, PETITIONERS, VS. NATIONAL COUNCIL ON DISABILITY AFFAIRS; DEPARTMENT OF HEALTH; DEPARTMENT OF FINANCE; BUREAU OF INTERNAL REVENUE; DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT; AND DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

Before us is a Petition for Review on *Certiorari*^[1] with a Prayer for a Temporary Restraining Order and/or Writ of Preliminary Injunction which seeks to annul and set aside the Decision^[2] dated July 26, 2010, and the Resolution^[3] dated November 19, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 109903. The CA dismissed petitioners' Petition for Prohibition^[4] and upheld the constitutionality of the mandatory twenty percent (20%) discount on the purchase of medicine by persons with disability (*PWD*).

The antecedents are as follows:

On March 24, 1992, Republic Act (*R.A.*) No. 7277, entitled "An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes," otherwise known as the "Magna Carta for Disabled Persons," was passed into law.^[5] The law defines "*disabled persons*", "*impairment*" and "*disability*" as follows:

SECTION 4. *Definition of Terms.* - For purposes of this Act, these terms are defined as follows:

(a) *Disabled Persons* are those suffering from restriction of different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being;

(b) *Impairment* is any loss, diminution or aberration of psychological, physiological, or anatomical structure of function;

(c) *Disability* shall mean (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment.^[6]

On April 30, 2007, Republic Act No. 9442^[7] was enacted amending R.A. No. 7277. The Title of R.A. No. 7277 was amended to read as "*Magna Carta for Persons with Disability*" and all references on the law to "*disabled persons*" were amended to read as "*persons with disability*" (*PWD*).^[8] Specifically, R.A. No. 9442 granted the PWDs a twenty (20) percent discount on the purchase of medicine, and a tax deduction scheme was adopted wherein covered establishments may deduct the discount granted from gross income based on the net cost of goods sold or services rendered:

CHAPTER 8. Other Privileges and Incentives. SEC. 32. Persons with disability shall be entitled to the following:

x x x x

(d) At least twenty percent (20%) discount for the purchase of medicines in all drugstores for the exclusive use or enjoyment of persons with disability;

x x x x

The abovementioned privileges are available only to persons with disability who are Filipino citizens upon submission of any of the following as proof of his/her entitlement thereto:

- (i) An identification card issued by the city or municipal mayor or the barangay captain of the place where the person with disability resides;
- (ii) The passport of the person with disability concerned; or
- (ii) Transportation discount fare Identification Card (ID) issued by the National Council for the Welfare of Disabled Persons (NCWDP).

x x x x

The establishments may claim the discounts granted in subsections (a), (b), (c), (f) and (g) as tax deductions based on the net cost of the goods sold or services rendered: *Provided, however,* That the cost of the discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted: *Provided, further,* That the total amount of the claimed tax deduction net of value-added tax if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation and to the provisions of the National Internal Revenue Code (*NIRC*), as amended.^[9]

The Implementing Rules and Regulations (*IRR*) of R.A. No. 9442^[10] was jointly promulgated by the Department of Social Welfare and Development (*DSWD*), Department of Education, Department of Finance (*DOF*), Department of Tourism, Department of Transportation and Communication, Department of the Interior and Local Government (*DILG*) and Department of Agriculture. Insofar as pertinent to this petition, the salient portions of the *IRR* are hereunder quoted:^[11]

RULE III. DEFINITION OF TERMS

Section 5. *Definition of Terms.* For purposes of these Rules and Regulations, these terms are defined as follows:

5.1. *Persons with Disability* - are those individuals defined under Section 4 of RA 7277 "An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Persons with Disability as amended and their integration into the Mainstream of Society and for Other Purposes". This is defined as a person suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in a manner or within the range considered normal for human being. Disability shall mean (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment.

x x x x

RULE IV. PRIVILEGES AND INCENTIVES FOR THE PERSONS WITH DISABILITY

Section 6. *Other Privileges and Incentives.* Persons with disability shall be entitled to the following:

x x x x

6.1.d. *Purchase of Medicine* - at least twenty percent (20%) discount on the purchase of medicine for the exclusive use and enjoyment of persons with disability. All drugstores, hospital, pharmacies, clinics and other similar establishments selling medicines are required to provide at least twenty percent (20%) discount subject to the guidelines issued by DOH and PHILHEALTH.^[12]

x x x x

6.11 The abovementioned privileges are available only to persons with disability who are Filipino citizens upon submission of any of the following as proof of his/her entitlement thereto subject to the guidelines issued by the NCWDP in coordination with DSWD, DOH and DILG.

6.11.1 An identification card issued by the city or municipal mayor or the barangay captain of the place where the person with disability resides;

6.11.2 The passport of the persons with disability concerned;
or

6.11.3 Transportation discount fare Identification Card (ID) issued by the National Council for the Welfare of Disabled Persons (NCWDP). However, upon effectivity of this

Implementing Rules and Regulations, NCWDP will already adopt the Identification Card issued by the Local Government Unit for purposes of uniformity in the implementation. NCWDP will provide the design and specification of the identification card that will be issued by the Local Government Units.^[13]

6.14. *Availment of Tax Deductions by Establishment Granting Twenty Percent. 20% Discount* - The establishments may claim the discounts granted in sub-sections (6.1), (6.2), (6.4), (6.5) and (6.6) as tax deductions based on the net cost of the goods sold or services rendered: Provided, however, that the cost of the discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted: Provided, further, That the total amount of the claimed tax deduction net of value-added tax if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation and to the provisions of the National Internal Revenue Code, as amended.

On April 23, 2008, the National Council on Disability Affairs (NCDA)^[14] issued Administrative Order (A.O.) No. 1, Series of 2008,^[15] prescribing guidelines which should serve as a mechanism for the issuance of a PWD Identification Card (IDC) which shall be the basis for providing privileges and discounts to *bona fide* PWDs in accordance with R.A. 9442:

IV. INSTITUTIONAL ARRANGEMENTS

A. The Local Government Unit of the City or Municipal Office shall implement these guidelines in the issuance of the PWD-IDC

x x x x

D. Issuance of the appropriate document to confirm the medical condition of the applicant is as follows:

| Disability | Document | Issuing Entity |
|-------------------------|---------------------------|---|
| Apparent Disability | Medical Certificate | Licensed Private or Government Physician |
| | School Assessment | Licensed Teacher duly signed by the School Principal |
| | Certificate of Disability | Head of the Business Establishment or Head of Non-Government Organization |
| Non-Apparent Disability | Medical Certificate | Licensed Private or Government Physician |

E. PWD Registration Forms and ID Cards shall be issued and signed by the City or Municipal Mayor, or Barangay Captain.

x x x x

V. IMPLEMENTING GUIDELINES AND PROCEDURES

Any *bonafide* person with permanent disability can apply for the issuance of the PWD-IDC. His/her caregiver can assist in the application process. Procedures for the issuance of the ID Cards are as follows:

A. Completion of the Requirements. Complete and/or make available the following requirements:

1. Two "1x1" recent ID pictures with the names, and signatures or thumbmarks at the back of the picture
2. One (1) Valid ID
3. Document to confirm the medical or disability condition (See Section IV, D for the required document).

On December 9, 2008, the DOF issued Revenue Regulations No. 1-2009^[16] prescribing rules and regulations to implement R.A. 9442 relative to the tax privileges of PWDs and tax incentives for establishments granting the discount. Section 4 of Revenue Regulations No. 001-09 states that drugstores can only deduct the 20% discount from their gross income subject to some conditions.^[17]

On May 20, 2009, the DOH issued A.O. No. 2009-0011^[18] specifically stating that the grant of 20% discount shall be provided in the purchase of branded medicines and unbranded generic medicines from all establishments dispensing medicines for the exclusive use of the PWDs.^[19] It also detailed the guidelines for the provision of medical and related discounts and special privileges to PWDs pursuant to R.A. 9442.^[20]

On July 28, 2009, petitioners filed a Petition for Prohibition with application for a Temporary Restraining Order and/or a Writ of Preliminary Injunction^[21] before the Court of Appeals to annul and enjoin the implementation of the following laws:

- 1) Section 32 of R.A. No. 7277 as amended by R.A. No. 9442;
- 2) Section 6, Rule IV of the Implementing Rules and Regulations of R.A. No. 9442;
- 3) NCDA A.O. No. 1;
- 4) DOF Revenue Regulation No. 1-2009;
- 5) DOH A.O. No. 2009-0011.

On July 26, 2010, the CA rendered a Decision upholding the constitutionality of R.A. 7277 as amended, as well as the assailed administrative issuances. However, the CA suspended the effectivity of NCDA A.O. No. 1 pending proof of respondent NCDA's compliance with filing of said administrative order with the Office of the National