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FIRST DIVISION

[G.R. No. 214430, March 09, 2016]

FELICITO M. MEJORADO, PETITIONER, VS. HON. FLORENCIO B. ABAD, IN HIS CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is a Petition for *Mandamus* with Prayer for Preliminary Prohibitory and Mandatory Injunction[1] filed by petitioner Felicito M. Mejorado (petitioner) seeking to compel respondent Honorable Florencio B. Abad (respondent), in his capacity as Secretary of the Department of Budget and Management (DBM), after due proceedings, to issue the Notice of Cash Allocation (NCA) covering the informer's reward claimed by petitioner.

The Facts

Sometime in December 1996 and the early part of 1997, petitioner documented 62 smuggled oil importations from 1991 to 1997 of Union Refinery Corporation (URC), OILINK Industrial Corporation (OILINK),[2] Union Global Trading (UGT), and Philippine Airlines (PAL). He provided confidential information detailing the illegal importations of the said companies to the now-defunct Economic Intelligence and Investigation Bureau of the Bureau of Customs (BOC).[3]

Based on the information petitioner furnished, the BOC investigated 23 out of the 62 smuggled oil importations he reported. The investigation resulted in the payment by the four (4) companies of millions in unpaid Value-Added Tax (VAT), excise, and *ad valorem* taxes from 1997 to 1998. Thus, petitioner filed his *first claim* for informer's reward with the BOC and the Department of Finance (DOF).[4]

Subsequently, the BOC investigated 30 additional smuggled oil importations out of the 62 that petitioner reported. From this investigation, it was able to collect deficiency taxes from URC, OILINK, and PAL, prompting petitioner to file his *second claim* for informer's fee on May 12, 2000.[5]

Records show that petitioner was able to receive the amount of P63,185,959.73 as informer's fee for the first claim on April 19, 2006.[6]

On April 19, 2005, in response to an inquiry from the DOF relative to informer's reward, the Department of Justice (DOJ), through then Secretary Raul M. Gonzalez (Secretary Gonzalez), rendered Opinion No. 18, series of 2005[7] (*2005 Opinion*) stating that there is no conflict between Section 3513 of the Tariff and Customs Code of the Philippines (TCCP),[8] as amended by Republic Act No. (RA) 4712,[9] a

special law, and Section 282 of RA 8424, otherwise known as the Tax Reform Act of 1997,[10] which amended the National Internal Revenue Code (NIRC), a general law.[11] Section 3513 of the TCCP states:

> Section 3513. *Reward to persons instrumental in the discovery and seizure of smuggled goods*. - To encourage the public and law enforcement personnel to extend full cooperation and do their utmost in stamping out smuggling, a cash reward [equivalent] to **twenty per centum** of the fair market value of the smuggled and confiscated goods shall be given to the officers and men and informers who are instrumental in the discovery and seizure of such goods in accordance with the rules and regulations to be issued by the Secretary of Finance. (Emphasis and underscoring supplied)

On the other hand, Section 282 of the NIRC, as amended, states:

> Section 282. ***Informer's Reward to Persons Instrumental in the Discovery of Violations of the National Internal Revenue Code and in the Discovery and Seizure of Smuggled Goods.*** -
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> (A) **For Violations of the National Internal Revenue Code.** Any person, except an internal revenue official or employee, or other public official or employee, or his relative within the sixth degree of consanguinity, who voluntarily gives definite and sworn information, not yet in the possession of the Bureau of Internal Revenue, leading to the discovery of frauds upon the internal revenue laws or violations of any of the provisions thereof, thereby resulting in the recovery of revenues, surcharges and fees and/or the conviction of the guilty party and/or the imposition of any of the fine or penalty, shall be rewarded in a sum equivalent to **ten percent (10%)** of the revenues, surcharges or fees recovered and/or fine or penalty imposed and collected or One Million Pesos (P1,000,000) per case, whichever is lower. The same amount of reward shall also be given to an informer where the offender has offered to compromise the violation of law committed by him and his offer has been accepted by the Commissioner and collected from the offender: *Provided*, That should no revenue, surcharges or fees be actually recovered or collected, such person shall not be entitled to a reward: *Provided, further*, That the information mentioned herein shall not refer to a case already pending or previously investigated or examined by the Commissioner or any of his deputies, agents or examiners, or the Secretary of Finance or any of his deputies or agents: *Provided, finally*, That the reward provided herein shall be paid under rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner.
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> (B) **For Discovery and Seizure of Smuggled Goods.** To encourage the public to extend full cooperation in eradicating smuggling, a cash reward equivalent to **ten percent (10%)** of the fair market value of the smuggled and confiscated goods or One Million Pesos (P1,000,000) per case, whichever is lower, shall be given to persons instrumental in the discovery and seizure of such smuggled goods.

x x x x (Emphases and underscoring supplied)

In its *2005 Opinion*, the DOJ opined that the provisions of the TCCP specifically cover tariff and customs duties, while the provisions of the NIRC govern all internal revenue taxes in general.[12] The Office of the President (OP) concurred in this pronouncement.[13]

Thus, on April 12, 2007, the DOF favorably indorsed[14] petitioner's *second claim* to the BOC amounting to **P272,064,996.55**, or twenty percent (20%) of the total deficiency assessed and collected from URC, OILINK, and PAL, based on Section 3513 of the TCCP.

Subsequently, on September 8, 2008, the OP directed[15] the DBM to issue an NCA covering the *second claim*[16] of petitioner.[17]

Apparently due to lack of response, on August 22, 2011, the BOC itself also requested from the DBM the issuance and release of the NCA pertaining to petitioner's *second claim*.[18]

On March 28, 2012, National Treasurer Roberto B. Tan certified that the amount pertaining to petitioner's *second claim* was still available and may be paid to the latter anytime.[19] Thus, on April 18, 2012, the BOC once again requested from the DBM, through respondent, the issuance of the NCA to cover the payment of petitioner's *second claim*.[20] Petitioner himself also wrote letters[21] to the DBM reiterating the request for the issuance of said NCA.

On June 8, 2012, in response to an inquiry from the DOF regarding the percentage of fees that should be given to informers, the DOJ, through former Secretary Leila M. De Lima (Secretary De Lima), issued Opinion No. 40, series of 2012[22] (*2012 Opinion*) superseding the *2005 Opinion* issued by then Secretary Gonzalez. In the *2012 Opinion*, the DOJ declared that Section 3513 of the TCCP has been impliedly repealed, or at the very least, amended or modified by Section 282 (B) of the NIRC, as amended, since they both refer to the same subject matter and contain inconsistent provisions.[23] As such, under Section 282 (B) of the NIRC, as amended - the controlling provision with respect to informer's reward for discovery and seizure of smuggled goods - the amount of the reward is only ten percent (10%) of the fair market value of the smuggled and confiscated goods or P1,000,000.00, whichever is lower.[24]

In a letter[25] dated December 16, 2013, the DOF sought clarification from the DOJ on the implication of the following statements: (1) the pronouncement in the *2012 Opinion* may be applied to claims for informer's rewards for discovery and seizure of smuggled goods filed even before the issuance of the *2012 Opinion*, as long as said claims were filed after the effectivity of the Tax Reform Act; (2) considering that Section 282 (B) of the NIRC, as amended, is the controlling provision with respect to the informer's reward for discovery and seizure of smuggled goods, the DOF may revise the awards it has made on the basis of Section 3513 of the TCCP and the DOJ's *2005 Opinion*; and (3) the Republic of the Philippines may, therefore, recover amounts erroneously awarded to a number of claimants on the basis of Section

3513 of the TCCP and the said *2005 Opinion*.[26]

In response thereto, the DOJ rendered Opinion No. 01, series of 2014[27] dated January 8, 2014 (*2014 Opinion*) stating that its opinions are not administrative issuances that interpret the law, but rather, are purely advisory in nature.[28] Thus, it maintained that it is not the DOJ, but the DOF and the BOC, which are primarily charged with the implementation, administration, and enforcement of the TCCP and the NIRC, that should issue administrative issuances interpreting said laws.[29]

Thereafter, in a letter[30] dated May 2, 2014, the DBM informed petitioner that it has yet to receive a favorable endorsement from the DOF on its request for re-evaluation of his claim. It also informed petitioner of the DOJ's *2012 Opinion* stating that under Section 282 (B) of the NIRC, only ten percent (10%) of the fair market value of the smuggled goods or P1,000,000.00, whichever is lower, is given as informer's fee.[31]

To date, the DBM has not issued any NCA pertaining to the amount of petitioner's *second claim* for informer's fee; hence, this petition for *mandamus* praying, *inter alia*, that respondent be directed to issue the NCA covering his *second claim* and that the amount thereof be released to him with interest at the legal rate.

In his Comment,[32] respondent, through the Office of the Solicitor General (OSG), maintained, *inter alia*, that: (1) Section 3513 of the TCCP has been repealed by the NIRC, as amended;[33] (2) mistaken acts of public officials, *i.e.*, the *2005 Opinion* of the DOJ, cannot validate a claim based on a repealed law;[34] and (3) petitioner is not entitled to legal interest on his informer's fee, for lack of legal basis.[35]

The Issue Before the Court

The sole issue to be resolved by the Court is whether or not respondent may be compelled by *mandamus* to issue the NCA corresponding to the amount of petitioner's *second claim* for informer's fee.

The Court's Ruling

The petition is bereft of merit.

It is settled that *mandamus* is employed to compel the performance, when refused, of a ministerial duty, but not to compel the performance of a discretionary duty. ***Mandamus will not issue to enforce a right which is in substantial dispute or to which a substantial doubt exists.***[36] In *Star Special Watchman and Detective Agency, Inc. v. Puerto Princesa City*,[37] a case cited at length by petitioner himself,[38] the Court elucidated on the propriety of the issuance of the writ of *mandamus* in this wise:

> *Mandamus* is a command issuing from a court of law of competent jurisdiction, in the name of the state or the sovereign, directed to some inferior court, tribunal, or board, or to some corporation or person requiring the performance of a particular duty therein specified, which