

THIRD DIVISION

[G.R. No. 197151, October 22, 2012]

SM LAND, INC. (FORMERLY SHOEMART, INC.) AND WATSONS PERSONAL CARE STORES, PHILS., INC., PETITIONERS, VS. CITY OF MANILA, LIBERTY TOLEDO, IN HER OFFICIAL CAPACITY AS THE CITY TREASURER OF MANILA AND JOSEPH SANTIAGO, IN HIS OFFICIAL CAPACITY AS THE CHIEF OF LICENSE DIVISION OF THE CITY OF MANILA, RESPONDENTS.

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision^[1] and Resolution^[2] of the Court of Tax Appeals (CTA) *En Banc*, dated December 17, 2010 and May 27, 2011, respectively, in CTA EB No. 548. The assailed Decision affirmed the July 3, 2009 Decision^[3] and September 30, 2009 Resolution^[4] of the CTA Second Division in CTA AC No. 51, while the questioned Resolution denied herein petitioners' Motion for Reconsideration.

The factual and procedural antecedents of the case are as follows:

On the strength of the provisions of Tax Ordinance Nos. 7988 and 8011, which amended Ordinance No. 7794, also known as the *Revenue Code of Manila*, herein respondent City of Manila assessed herein petitioners, together with their other sister companies, increased rates of business taxes for the year 2003 and the first to third quarters of 2004.

Petitioners and their sister companies paid the additional taxes under protest.

Subsequently, petitioners and their sister companies claimed with herein respondent City Treasurer of Manila a credit or refund of the increased business taxes which they paid for the period abovementioned. However, the City Treasurer denied their claim.

Aggrieved, petitioners and their sister companies filed with the Regional Trial Court (RTC) of Pasay City a Complaint for Refund and/or Issuance of Tax Credit of Taxes Illegally Collected.^[5]

On July 10, 2007, the RTC rendered a summary judgment in favor of herein petitioners, disposing as follows:

WHEREFORE, this Court renders judgment in plaintiffs' favor and directs the defendants to grant a refund/tax credit:

(a) To Plaintiff SM Mart, Inc. –

i. The amount of P3,543,318.97 representing overpayment of increased local business taxes under Sections 15, 16, 17, 18, and 19, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P17,519,133.16 representing payment of the Section 21 tax;

(b) To Plaintiff SM Prime Holdings, Inc. –

i. The amount of P667,377.21 representing overpayment of increased local business taxes under Sections 15, 16, 17, 18, and 19, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P6,711,068.38 representing payment of the Section 21 tax;

(c) To Plaintiff Shoemart, Inc. –

i. The amount of P691,887.07 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P2,954,520.24 representing payment of the Section 21 tax;

(d) To Plaintiff Star Appliances Center –

i. The amount of P700,974.98 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P3,459,812.76 representing payment of the Section 21 tax;

(e) To Plaintiff Supervalu, Inc. –

i. The amount of P1,360,984.69 representing overpayment of increased local business taxes under Sections 17 and 18, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P2,774,859.82 representing payment of the Section 21 tax;

(f) To Plaintiff Ace Hardware Philippines, Inc. –

i. The amount of P202,175.67 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P988,347.16 representing payment of the Section 21 tax;

(g) To Plaintiff Watsons Personal Care Stores Philippines, Inc.–

i. The amount of P214,667.73 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P636,857.15 representing payment of the Section 21 tax;

(h) To Plaintiff Jollimart Phils., Corp. –

i. The amount of P98,223.61 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P296,178.13 representing payment of the Section 21 tax;

(i) To Plaintiff Surplus Marketing Corporation –

i. The amount of P84,494.76 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P399,942.81 representing payment of the Section 21 tax;

(j) To Plaintiff Signature Lines –

i. The amount of P49,566.91 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of P222,565.79 representing payment of the Section 21 tax.

No Costs.

SO ORDERED.^[6]

The RTC held that Tax Ordinance Nos. 7988 and 8011, which were the bases of the City of Manila in imposing the assailed additional business taxes on petitioners and their co-plaintiffs, had already been declared null and void by this Court in the case of *Coca-Cola Bottlers Philippines, Inc. v. City of Manila*.^[7] On this ground, the RTC ruled that respondents cannot use the assailed Ordinances in imposing additional

taxes on petitioners and their co-plaintiffs.

Respondents moved for reconsideration, but the RTC denied it in its Order dated December 14, 2007.

After the CTA granted their request for extension of time, herein respondents filed a petition for review with the tax court.^[8] The case was raffled to the Second Division of the said court.

On July 3, 2009, the CTA Second Division rendered its Decision, the dispositive portion of which reads, thus:

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. The appealed Order dated July 10, 2007 and Order dated December 14, 2007 of the Regional Trial Court of Pasay City, Branch 115, in Civil Case No. 05-0051-CFM are hereby **MODIFIED**. Accordingly, with the exception of Shoemart, Inc. and Watsons Personal Care Stores, Phils., petitioners are hereby **ORDERED to REFUND** the rest of the respondents, their erroneously paid local business taxes for taxable year 2003 and for the first to third quarters of taxable year 2004 in the aggregate amount of **THIRTY-NINE MILLION SEVENTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-EIGHT PESOS AND 81/100 (P39,078,988.81)**, detailed as follows:^[9]

The CTA Second Division sustained the ruling of the RTC that Ordinance Nos. 7988 and 8011 are null and void. Applying the doctrine of *stare decisis*, the CTA Second Division held that the ruling in the *Coca-Cola* case cited by the RTC is applicable in the present case as both cases involve substantially the same facts and issues. The CTA Second Division, nonetheless, held that herein petitioners' claims for tax refund should be denied because of their failure to comply with the provisions of the Rules of Court requiring verification and submission of a certificate of non-forum shopping. The CTA Second Division noted that petitioners failed to attach to the complaint filed with the RTC their respective Secretary's Certificates authorizing their supposed representative, a certain Atty. Rex Enrico V. Cruz III (Atty. Cruz), to file the said complaint in their behalf. The CTA also observed that in the Verification and Certification of Non-Forum Shopping attached to the complaint, petitioner SM Land, Inc. was not included in the list of corporations represented by the person who executed the said Verification and Certification.

Petitioners filed a Motion for Partial Reconsideration.^[10] Attached to the said Motion was the Verification and Certification executed by Atty. Cruz as the representative of petitioner SM Land, Inc. Also attached were petitioners' Secretary's Certificates authorizing Atty. Cruz as their representative. The CTA Second Division, however, denied the Motion for Partial Reconsideration in its Resolution^[11] dated September 30, 2009.

Aggrieved, petitioners filed a petition for review with the CTA *En Banc*, contending that: (1) the CTA Second Division erred in holding that the 30-day period provided by law within which to appeal decisions of the RTC to the CTA may be extended; and (2) the CTA Second Division committed error in denying herein petitioners' claim for

tax refund on the ground that they violated the rules on verification and certification of non-forum shopping.

On December 17, 2010, the CTA *En Banc* rendered its assailed Decision affirming in toto the judgment of the CTA Second Division.

Petitioners' Motion for Reconsideration was subsequently denied by the CTA *En Banc* in its Resolution dated May 27, 2011.

Hence, the present petition anchored on the following arguments:

A. SECTION 11, REPUBLIC ACT NO. 1125, AS AMENDED BY REPUBLIC ACT NO. 9282, CLEARLY DID NOT INTEND FOR THE THIRTY (30)-DAY PERIOD TO APPEAL DECISIONS OF THE REGIONAL TRIAL COURT TO THE CTA TO BE EXTENDIBLE; AND

B. ASSUMING HYPOTHETICALLY THAT THE CTA WAS CORRECT IN GRANTING RESPONDENTS AN EXTENSION, THERE WERE STILL COMPELLING REASONS TO JUSTIFY THE RELAXATION OF THE RULES REQUIRING VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING.^[12]

The Court finds the petition meritorious. Nonetheless, the Court does not fully agree with petitioners' contentions.

In the first argument raised, the Court is not persuaded by petitioners' insistence that the 30-day period to appeal decisions of the RTC to the CTA is non-extendible.

Petitioners cited cases decided by this Court wherein it was held that the 30-day period within which to file an appeal with the CTA is jurisdictional and non-extendible. However, these rulings had been superseded by this Court's decision in the case of *City of Manila v. Coca-Cola Bottlers, Philippines, Inc.*,^[13] as correctly cited by the CTA *En Banc*. Suffice it to say that this Court's ruling in the said case is instructive, to wit:

x x x x

The period to appeal the decision or ruling of the RTC to the CTA *via* a Petition for Review is specifically governed by Section 11 of Republic Act No. 9282, and Section 3 (a), Rule 8 of the Revised Rules of the CTA.

Section 11 of Republic Act No. 9282 provides:

SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the **Regional Trial Courts**