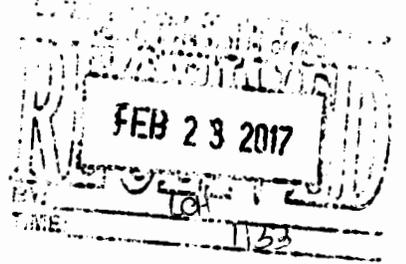




Republic of the Philippines
 Supreme Court
 Manila



FIRST DIVISION

COMMISSIONER OF INTERNAL
 REVENUE,

G.R. No. 203514

Petitioner,

Present:

- versus-

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

ST. LUKE'S MEDICAL CENTER,
 INC.,

Promulgated:
FEB 13 2017

Respondent.

X ----- X

DECISION

DEL CASTILLO, J.:

The doctrine of *stare decisis* dictates that “absent any powerful countervailing considerations, like cases ought to be decided alike.”¹

This Petition for Review on *Certiorari*² under Rule 45 of the Rules of Court assails the May 9, 2012 Decision³ and the September 17, 2012 Resolution⁴ of the Court of Tax Appeals (CTA) in CTA EB Case No. 716.

Factual Antecedents

On December 14, 2007, respondent St. Luke's Medical Center, Inc. (SLMC) received from the Large Taxpayers Service-Documents Processing and Quality Assurance Division of the Bureau of Internal Revenue (BIR) Audit

¹ *Ty v. Banco Filipino Savings & Mortgage Bank*, 511 Phil. 510, 520 (2005).

² *Rollo*, pp. 13-34.

³ Id. at 39-51; penned by Associate Justice Lovell R. Bautista and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castañeda, Jr., Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas; Associate Justice Erlinda P. Uy on leave.

⁴ Id. at 52-55; penned by Associate Justice Lovell R. Bautista and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castañeda, Jr., Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas; Associate Justice Erlinda P. Uy took no part.

Results/Assessment Notice Nos. QA-07-000096⁵ and QA-07-000097,⁶ assessing respondent SLMC deficiency income tax under Section 27(B)⁷ of the 1997 National Internal Revenue Code (NIRC), as amended, for taxable year 2005 in the amount of ₱78,617,434.54 and for taxable year 2006 in the amount of ₱57,119,867.33.

On January 14, 2008, SLMC filed with petitioner Commissioner of Internal Revenue (CIR) an administrative protest⁸ assailing the assessments. SLMC claimed that as a non-stock, non-profit charitable and social welfare organization under Section 30(E) and (G)⁹ of the 1997 NIRC, as amended, it is exempt from paying income tax.

On April 25, 2008, SLMC received petitioner CIR's Final Decision on the Disputed Assessment¹⁰ dated April 9, 2008 increasing the deficiency income for the taxable year 2005 tax to ₱82,419,522.21 and for the taxable year 2006 to ₱60,259,885.94, computed as follows:

For Taxable Year 2005:



⁵ CTA *rollo* (Division), pp. 32-33.

⁶ Id. at 34-35.

⁷ SEC. 27. *Rates of Income Tax on Domestic Corporations.* —
x x x x

(B) Proprietary Educational Institutions and Hospitals. — **Proprietary educational institutions and hospitals which are non-profit shall pay a tax of ten percent (10%) on their taxable income** except those covered by Subsection (D) hereof: *Provided*, That if the gross income from unrelated trade, business or other activity exceeds fifty percent (50%) of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed in Subsection (A) hereof shall be imposed on the entire taxable income. For purposes of this Subsection, the term 'unrelated trade, business or other activity' means any trade, business or other activity,' the conduct of which is not substantially related to the exercise or performance by such educational institution or hospital of its primary purpose or function. A 'proprietary educational institution' is any private school maintained and administered by private individuals or groups with an issued permit to operate from the Department of Education, Culture and Sports (DECS), or the Commission on Higher Education (CHED), or the Technical Education and Skills Development Authority (TESDA), as the case may be, in accordance with existing laws and regulations. (Emphasis supplied)

⁸ CTA *rollo* (Division), pp. 36-46.

⁹ SEC. 30. *Exemptions from Tax on Corporations.* — The following organizations shall not be taxed under this Title in respect to income received by them as such:

x x x x

(E) **Nonstock corporation** or association **organized and operated exclusively** for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, **no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;**

x x x x

(G) Civic league or organization not organized for profit but **operated exclusively** for the promotion of social welfare;

x x x x

Notwithstanding the provisions in the preceding paragraphs, **the income of whatever kind and character of the foregoing organizations** from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code. (Emphasis supplied)

¹⁰ CTA *rollo* (Division), pp. 47-50.

ASSESSMENT NO. QA-07-000096

PARTICULARS	AMOUNT
Sales/Revenues/Receipts/Fees	₱3,623,511,616.00
Less: Cost of Sales/Services	2,643,049,769.00
Gross Income From Operation	980,461,847.00
Add: Non-Operating & Other Income	-
Total Gross Income	980,461,847.00
Less: Deductions	481,266,883.00
Net Income Subject to Tax	499,194,964.00
X Tax Rate	10%
Tax Due	49,919,496.40
Less: Tax Credits	-
Deficiency Income Tax	49,919,496.40
Add: Increments	
25% Surcharge	12,479,874.10
20% Interest Per Annum (4/15/06-4/15/08)	19,995,151.71
Compromise Penalty for Late Payment	25,000.00
Total increments	32,500,025.81
Total Amount Due	₱82,419,522.21

For Taxable Year 2006:

ASSESSMENT NO. QA-07-000097

PARTICULARS	[AMOUNT]
Sales/Revenues/Receipts/Fees	₱3,815,922,240.00
Less: Cost of Sales/Services	2,760,518,437.00
Gross Income From Operation	1,055,403,803.00
Add: Non-Operating & Other Income	-
Total Gross Income	1,055,403,803.00
Less: Deductions	640,147,719.00
Net Income Subject to Tax	415,256,084.00
X Tax Rate	10%
Tax Due	41,525,608.40
Less: Tax Credits	-
Deficiency Income Tax	41,525,608.40
Add: Increments	-
25% Surcharge	10,381,402.10
20% Interest Per Annum (4/15/07-4/15/08)	8,327,875.44
Compromise Penalty for Late Payment	25,000.00
Total increments	18,734,277.54
Total Amount Due	₱60,259,885.94 ¹¹

Aggrieved, SLMC elevated the matter to the CTA *via* a Petition for Review,¹² docketed as CTA Case No. 7789.

Ruling of the Court of Tax Appeals Division

On August 26, 2010, the CTA Division rendered a Decision¹³ finding 

¹¹ Id. at 47-48.

¹² Id. at 1-31.

¹³ Id. at 1059-1079; penned by Associate Justice Cielito N. Mindaro-Grulla and concurred in by Associate Justices Juanito C. Castañeda, Jr. and Caesar A. Casanova.

SLMC not liable for deficiency income tax under Section 27(B) of the 1997 NIRC, as amended, since it is exempt from paying income tax under Section 30(E) and (G) of the same Code. Thus:

WHEREFORE, premises considered, the Petition for Review is hereby GRANTED. Accordingly, Audit Results/Assessment Notice Nos. QA-07-000096 and QA-07-000097, assessing petitioner for alleged deficiency income taxes for the taxable years 2005 and 2006, respectively, are hereby CANCELLED and SET ASIDE.

SO ORDERED.¹⁴

CIR moved for reconsideration but the CTA Division denied the same in its December 28, 2010 Resolution.¹⁵

This prompted CIR to file a Petition for Review¹⁶ before the CTA *En Banc*.

Ruling of the Court of Tax Appeals En Banc

On May 9, 2012, the CTA *En Banc* affirmed the cancellation and setting aside of the Audit Results/Assessment Notices issued against SLMC. It sustained the findings of the CTA Division that SLMC complies with all the requisites under Section 30(E) and (G) of the 1997 NIRC and thus, entitled to the tax exemption provided therein.¹⁷

On September 17, 2012, the CTA *En Banc* denied CIR's Motion for Reconsideration.

Issue

Hence, CIR filed the instant Petition under Rule 45 of the Rules of Court contending that the CTA erred in exempting SLMC from the payment of income tax.

Meanwhile, on September 26, 2012, the Court rendered a Decision in G.R. Nos. 195909 and 195960, entitled *Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*,¹⁸ finding SLMC not entitled to the tax exemption under Section 30(E) and (G) of the NIRC of 1997 as it does not operate exclusively for

¹⁴ Id. at 1079.

¹⁵ Id. at 1117-1125 (last page missing).

¹⁶ CTA *rollo (En Banc)*, pp. 1-8.

¹⁷ *Rollo*, pp. 47-49.

¹⁸ 695 Phil. 867 (2012).



charitable or social welfare purposes insofar as its revenues from paying patients are concerned. Thus, the Court disposed of the case in this manner:

WHEREFORE, the petition of the Commissioner of Internal Revenue in G.R. No. 195909 is PARTLY GRANTED. The Decision of the Court of Tax Appeals *En Banc* dated 19 November 2010 and its Resolution dated 1 March 2011 in CTA Case No. 6746 are MODIFIED. St. Luke's Medical Center, Inc. is ORDERED TO PAY the deficiency income tax in 1998 based on the 10% preferential income tax rate under Section 27(B) of the National Internal Revenue Code. However, it is not liable for surcharges and interest on such deficiency income tax under Sections 248 and 249 of the National Internal Revenue Code. All other parts of the Decision and Resolution of the Court of Tax Appeals are AFFIRMED.

The petition of St. Luke's Medical Center, Inc. in G.R. No. 195960 is DENIED for violating Section I, Rule 45 of the Rules of Court.

SO ORDERED.¹⁹

Considering the foregoing, SLMC then filed a Manifestation and Motion²⁰ informing the Court that on April 30, 2013, it paid the BIR the amount of basic taxes due for taxable years 1998, 2000-2002, and 2004-2007, as evidenced by the payment confirmation²¹ from the BIR, and that it did not pay any surcharge, interest, and compromise penalty in accordance with the above-mentioned Decision of the Court. In view of the payment it made, SLMC moved for the dismissal of the instant case on the ground of mootness.

CIR opposed the motion claiming that the payment confirmation submitted by SLMC is not a competent proof of payment as it is a mere photocopy and does not even indicate the quarter/s and/or year/s said payment covers.²²

In reply,²³ SLMC submitted a copy of the Certification²⁴ issued by the Large Taxpayers Service of the BIR dated May 27, 2013, certifying that, "[a]s far as the basic deficiency income tax for taxable years 2000, 2001, 2002, 2004, 2005, 2006, 2007 are concerned, this Office considers the cases closed due to the payment made on April 30, 2013." SLMC likewise submitted a letter²⁵ from the BIR dated November 26, 2013 with attached Certification of Payment²⁶ and application for abatement,²⁷ which it earlier submitted to the Court in a related

¹⁹ Id. at 895.

²⁰ *Rollo*, pp. 80-82.

²¹ Id. at 83.

²² Id. at 99-106.

²³ Id. at 112-116.

²⁴ Id. at 118.

²⁵ Id. at 119.

²⁶ Id. at 121.

²⁷ Id. at 123-129.

case, G.R. No. 200688, entitled *Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*²⁸

Thereafter, the parties submitted their respective memorandum.

CIR's Arguments

CIR argues that under the doctrine of *stare decisis* SLMC is subject to 10% income tax under Section 27(B) of the 1997 NIRC.²⁹ It likewise asserts that SLMC is liable to pay compromise penalty pursuant to Section 248(A)³⁰ of the 1997 NIRC for failing to file its quarterly income tax returns.³¹

As to the alleged payment of the basic tax, CIR contends that this does not render the instant case moot as the payment confirmation submitted by SLMC is not a competent proof of payment of its tax liabilities.³²

SLMC's Arguments

SLMC, on the other hand, begs the indulgence of the Court to revisit its ruling in G.R. Nos. 195909 and 195960 (*Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*)³³ positing that earning a profit by a charitable, benevolent hospital or educational institution does not result in the withdrawal of its tax exempt privilege.³⁴ SLMC further claims that the income it derives from operating a hospital is not income from "activities conducted for profit."³⁵ Also, it maintains that in accordance with the ruling of the Court in G.R. Nos. 195909 and 195960 (*Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*),³⁶ it is not liable for compromise penalties.³⁷ 

²⁸ G.R. No. 200688 (Notice), April 15, 2015.

²⁹ *Rollo*, pp. 186-193.

³⁰ Section 248. *Civil Penalties.* —

(A) There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:

(1) Failure to file any return and pay the tax due thereon as required under the provisions of this Code or rules and regulations on the date prescribed; or

(2) Unless otherwise authorized by the Commissioner, filing a return with an internal revenue officer other than those with whom the return is required to be filed; or

(3) Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment; or

(4) Failure to pay the full or part of the amount of tax shown on any return required to be filed under the provisions of this Code or rules and regulations, or the full amount of tax due for which no return is required to be filed, on or before the date prescribed for its payment.

x x x x

³¹ *Rollo*, p. 193.

³² *Id.* at 193-194.

³³ *Supra* note 19.

³⁴ *Rollo*, pp. 150-155.

³⁵ *Id.* at 155-156.

³⁶ *Supra* note 19.

³⁷ *Rollo*, pp. 158-160.

In any case, SLMC insists that the instant case should be dismissed in view of its payment of the basic taxes due for taxable years 1998, 2000-2002, and 2004-2007 to the BIR on April 30, 2013.³⁸

Our Ruling

SLMC is liable for income tax under Section 27(B) of the 1997 NIRC insofar as its revenues from paying patients are concerned.

The issue of whether SLMC is liable for income tax under Section 27(B) of the 1997 NIRC insofar as its revenues from paying patients are concerned has been settled in G.R. Nos. 195909 and 195960 (*Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*),³⁹ where the Court ruled that:

x x x We hold that Section 27(B) of the NIRC does not remove the income tax exemption of proprietary non-profit hospitals under Section 30(E) and (G). Section 27(B) on one hand, and Section 30(E) and (G) on the other hand, can be construed together without the removal of such tax exemption. The effect of the introduction of Section 27(B) is to subject the taxable income of two specific institutions, namely, proprietary non-profit educational institutions and proprietary non-profit hospitals, among the institutions covered by Section 30, to the 10% preferential rate under Section 27(B) instead of the ordinary 30% corporate rate under the last paragraph of Section 30 in relation to Section 27(A)(1).

Section 27(B) of the NIRC imposes a 10% preferential tax rate on the income of (1) proprietary non-profit educational institutions and (2) proprietary non-profit hospitals. The only qualifications for hospitals are that they must be proprietary and non-profit. 'Proprietary' means private, following the definition of a 'proprietary educational institution' as 'any private school maintained and administered by private individuals or groups' with a government permit. 'Non-profit' means no net income or asset accrues to or benefits any member or specific person, with all the net income or asset devoted to the institution's purposes and all its activities conducted not for profit.

'Non-profit' does not necessarily mean 'charitable.' In *Collector of Internal Revenue v. Club Filipino, Inc. de Cebu*, this Court considered as non-profit a sports club organized for recreation and entertainment of its stockholders and members. The club was primarily funded by membership fees and dues. If it had profits, they were used for overhead expenses and improving its golf course. The club was non-profit because of its purpose and there was no evidence that it was engaged in a profit-making enterprise.

The sports club in *Club Filipino, Inc. de Cebu* may be non-profit, but it was not charitable. The Court defined 'charity' in *Lung Center of the Philippines*

³⁸ Id. at 160-162.

³⁹ Supra note 19.



v. *Quezon City* as ‘a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds and hearts under the influence of education or religion, by assisting them to establish themselves in life or [by] otherwise lessening the burden of government.’ A non-profit club for the benefit of its members fails this test. An organization may be considered as non-profit if it does not distribute any part of its income to stockholders or members. However, despite its being a tax exempt institution, any income such institution earns from activities conducted for profit is taxable, as expressly provided in the last paragraph of Section 30.

To be a charitable institution, however, an organization must meet the substantive test of charity in *Lung Center*. The issue in *Lung Center* concerns exemption from real property tax and not income tax. However, it provides for the test of charity in our jurisdiction. Charity is essentially a gift to an indefinite number of persons which lessens the burden of government. In other words, charitable institutions provide for free goods and services to the public which would otherwise fall on the shoulders of government. Thus, as a matter of efficiency, the government forgoes taxes which should have been spent to address public needs, because certain private entities already assume a part of the burden. This is the rationale for the tax exemption of charitable institutions. The loss of taxes by the government is compensated by its relief from doing public works which would have been funded by appropriations from the Treasury.

Charitable institutions, however, are not *ipso facto* entitled to a tax exemption. The requirements for a tax exemption are specified by the law granting it. The power of Congress to tax implies the power to exempt from tax. Congress can create tax exemptions, subject to the constitutional provision that ‘[n]o law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of Congress.’ The requirements for a tax exemption are strictly construed against the taxpayer because an exemption restricts the collection of taxes necessary for the existence of the government.

The Court in *Lung Center* declared that the Lung Center of the Philippines is a charitable institution for the purpose of exemption from real property taxes. This ruling uses the same premise as *Hospital de San Juan* and *Jesus Sacred Heart College* which says that receiving income from paying patients does not destroy the charitable nature of a hospital.

As a general principle, a charitable institution does not lose its character as such and its exemption from taxes simply because it derives income from paying patients, whether out-patient, or confined in the hospital, or receives subsidies from the government, so long as the money received is devoted or used altogether to the charitable object which it is intended to achieve; and no money inures to the private benefit of the persons managing or operating the institution.

For real property taxes, the incidental generation of income is permissible because the test of exemption is the use of the property. The Constitution provides that ‘[c]haritable institutions, churches and personages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.’ The test of exemption is not strictly a requirement on the intrinsic nature or character of the institution. The test requires that the institution use the



property in a certain way, *i.e.*, for a charitable purpose. Thus, the Court held that the Lung Center of the Philippines did not lose its charitable character when it used a portion of its lot for commercial purposes. The effect of failing to meet the use requirement is simply to remove from the tax exemption that portion of the property not devoted to charity.

The Constitution exempts charitable institutions only from real property taxes. In the NIRC, Congress decided to extend the exemption to income taxes. However, the way Congress crafted Section 30(E) of the NIRC is materially different from Section 28(3), Article VI of the Constitution. Section 30(E) of the NIRC defines the corporation or association that is exempt from income tax. On the other hand, Section 28(3), Article VI of the Constitution does not define a charitable institution, but requires that the institution ‘actually, directly and exclusively’ use the property for a charitable purpose.

Section 30(E) of the NIRC provides that a charitable institution must be:

- (1) A non-stock corporation or association;
- (2) Organized exclusively for charitable purposes;
- (3) Operated exclusively for charitable purposes; and
- (4) No part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person.

Thus, both the organization and operations of the charitable institution must be devoted ‘exclusively’ for charitable purposes. The organization of the institution refers to its corporate form, as shown by its articles of incorporation, by-laws and other constitutive documents. Section 30(E) of the NIRC specifically requires that the corporation or association be non-stock, which is defined by the Corporation Code as ‘one where no part of its income is distributable as dividends to its members, trustees, or officers’ and that any profit ‘obtain[ed] as an incident to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized.’ However, under *Lung Center*, any profit by a charitable institution must not only be plowed back ‘whenever necessary or proper,’ but must be ‘devoted or used altogether to the charitable object which it is intended to achieve.’

The operations of the charitable institution generally refer to its regular activities. Section 30(E) of the NIRC requires that these operations be exclusive to charity. There is also a specific requirement that ‘no part of [the] net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person.’ The use of lands, buildings and improvements of the institution is but a part of its operations.

There is no dispute that St. Luke’s is organized as a non-stock and non-profit charitable institution. However, this does not automatically exempt St. Luke’s from paying taxes. This only refers to the organization of St. Luke’s. Even if St. Luke’s meets the test of charity, a charitable institution is not *ipso facto* tax exempt. To be exempt from real property taxes, Section 28(3), Article VI of the Constitution requires that a charitable institution use the property ‘actually, directly and exclusively’ for charitable purposes. To be exempt from income taxes, Section 30(E) of the NIRC requires that a charitable institution must be ‘organized and operated exclusively’ for charitable purposes. Likewise, to be exempt from income taxes, Section 30(G) of the NIRC requires that the institution be ‘operated exclusively’ for social welfare.



However, the last paragraph of Section 30 of the NIRC qualifies the words 'organized and operated exclusively' by providing that:

Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code.

In short, the last paragraph of Section 30 provides that if a tax exempt charitable institution conducts 'any' activity for profit, such activity is not tax exempt even as its not-for-profit activities remain tax exempt. This paragraph qualifies the requirements in Section 30(E) that the '[n]on-stock corporation or association [must be] organized and operated exclusively for . . . charitable . . . purposes' It likewise qualifies the requirement in Section 30(G) that the civic organization must be 'operated exclusively' for the promotion of social welfare.

Thus, even if the charitable institution must be 'organized and operated exclusively' for charitable purposes, it is nevertheless allowed to engage in 'activities conducted for profit' without losing its tax exempt status for its not-for-profit activities. The only consequence is that the 'income of whatever kind and character' of a charitable institution 'from any of its activities conducted for profit, regardless of the disposition made of such income, shall be subject to tax.' Prior to the introduction of Section 27(B), the tax rate on such income from for-profit activities was the ordinary corporate rate under Section 27(A). With the introduction of Section 27(B), the tax rate is now 10%.

In 1998, St. Luke's had total revenues of ₱1,730,367,965 from services to paying patients. It cannot be disputed that a hospital which receives approximately ₱1.73 billion from paying patients is not an institution 'operated exclusively' for charitable purposes. Clearly, revenues from paying patients are income received from 'activities conducted for profit.' Indeed, St. Luke's admits that it derived profits from its paying patients. St. Luke's declared ₱1,730,367,965 as 'Revenues from Services to Patients' in contrast to its 'Free Services' expenditure of ₱218,187,498. In its Comment in G.R. No. 195909, St. Luke's showed the following 'calculation' to support its claim that 65.20% of its 'income after expenses was allocated to free or charitable services' in 1998.

x x x x

In *Lung Center*, this Court declared:

'[e]xclusive' is defined as possessed and enjoyed to the exclusion of others; debarred from participation or enjoyment; and 'exclusively' is defined, 'in a manner to exclude; as enjoying a privilege exclusively.' . . . The words 'dominant use' or 'principal use' cannot be substituted for the words 'used exclusively' without doing violence to the Constitution and the law. Solely is synonymous with exclusively.

The Court cannot expand the meaning of the words 'operated exclusively' without violating the NIRC. Services to paying patients are



activities conducted for profit. They cannot be considered any other way. There is a 'purpose to make profit over and above the cost' of services. The ₱1.73 billion total revenues from paying patients is not even incidental to St. Luke's charity expenditure of ₱218,187,498 for non-paying patients.

St. Luke's claims that its charity expenditure of ₱218,187,498 is 65.20% of its operating income in 1998. However, if a part of the remaining 34.80% of the operating income is reinvested in property, equipment or facilities used for services to paying and non-paying patients, then it cannot be said that the income is 'devoted or used altogether to the charitable object which it is intended to achieve.' The income is plowed back to the corporation not entirely for charitable purposes, but for profit as well. In any case, the last paragraph of Section 30 of the NIRC expressly qualifies that income from activities for profit is taxable 'regardless of the disposition made of such income.'

Jesus Sacred Heart College declared that there is no official legislative record explaining the phrase 'any activity conducted for profit.' However, it quoted a deposition of Senator Mariano Jesus Cuenco, who was a member of the Committee of Conference for the Senate, which introduced the phrase 'or from any activity conducted for profit.'

P. Cuando ha hablado de la Universidad de Santo Tomas que tiene un hospital, no cree Vd. que es una actividad esencial dicho hospital para el funcionamiento del colegio de medicina de dicha universidad?

xxx xxx xxx

R. Si el hospital se limita a recibir enfermos pobres, mi contestación seria afirmativa; pero considerando que el hospital tiene cuartos de pago, y a los mismos generalmente van enfermos de buena posición social económica, lo que se paga por estos enfermos debe estar sujeto a 'income tax', y es una de las razones que hemos tenido para insertar las palabras o frase 'or from any activity conducted for profit.'

The question was whether having a hospital is essential to an educational institution like the College of Medicine of the University of Santo Tomas. Senator Cuenco answered that if the hospital has paid rooms generally occupied by people of good economic standing, then it should be subject to income tax. He said that this was one of the reasons Congress inserted the phrase 'or any activity conducted for profit.'

The question in *Jesus Sacred Heart College* involves an educational institution. However, it is applicable to charitable institutions because Senator Cuenco's response shows an intent to focus on the activities of charitable institutions. Activities for profit should not escape the reach of taxation. Being a non-stock and non-profit corporation does not, by this reason alone, completely exempt an institution from tax. An institution cannot use its corporate form to prevent its profitable activities from being taxed.

The Court finds that St. Luke's is a corporation that is not 'operated exclusively' for charitable or social welfare purposes insofar as its revenues from paying patients are concerned. This ruling is based not only on a strict interpretation of a provision granting tax exemption, but also on the clear and



plain text of Section 30(E) and (G). Section 30(E) and (G) of the NIRC requires that an institution be ‘operated exclusively’ for charitable or social welfare purposes to be completely exempt from income tax. An institution under Section 30(E) or (G) does not lose its tax exemption if it earns income from its for-profit activities. Such income from for-profit activities, under the last paragraph of Section 30, is merely subject to income tax, previously at the ordinary corporate rate but now at the preferential 10% rate pursuant to Section 27(B).

A tax exemption is effectively a social subsidy granted by the State because an exempt institution is spared from sharing in the expenses of government and yet benefits from them. Tax exemptions for charitable institutions should therefore be limited to institutions beneficial to the public and those which improve social welfare. A profit-making entity should not be allowed to exploit this subsidy to the detriment of the government and other taxpayers.

St. Luke’s fails to meet the requirements under Section 30(E) and (G) of the NIRC to be completely tax exempt from all its income. However, it remains a proprietary non-profit hospital under Section 27(B) of the NIRC as long as it does not distribute any of its profits to its members and such profits are reinvested pursuant to its corporate purposes. St. Luke’s, as a proprietary non-profit hospital, is entitled to the preferential tax rate of 10% on its net income from its for-profit activities.

St. Luke’s is therefore liable for deficiency income tax in 1998 under Section 27(B) of the NIRC. However, St. Luke’s has good reasons to rely on the letter dated 6 June 1990 by the BIR, which opined that St. Luke’s is ‘a corporation for *purely* charitable and social welfare purposes’ and thus exempt from income tax. In *Michael J. Lhuillier, Inc. v. Commissioner of Internal Revenue*, the Court said that ‘good faith and honest belief that one is not subject to tax on the basis of previous interpretation of government agencies tasked to implement the tax law, are sufficient justification to delete the imposition of surcharges and interest.’⁴⁰

A careful review of the pleadings reveals that there is no countervailing consideration for the Court to revisit its aforementioned ruling in G.R. Nos. 195909 and 195960 (*Commissioner of Internal Revenue v. St. Luke’s Medical Center, Inc.*). Thus, under the doctrine of stare decisis, which states that “[o]nce a case has been decided in one way, any other case involving exactly the same point at issue x x x should be decided in the same manner,”⁴¹ the Court finds that SLMC is subject to 10% income tax insofar as its revenues from paying patients are concerned.

To be clear, for an institution to be completely exempt from income tax, Section 30(E) and (G) of the 1997 NIRC requires said institution to operate exclusively for charitable or social welfare purpose. But in case an exempt institution under Section 30(E) or (G) of the said Code earns income from its for-

⁴⁰ Id. at 885-895.

⁴¹ *Chinese Young Men’s Christian Association of the Philippine Islands v. Remington Steel Corporation*, 573 Phil. 320, 337 (2008).

profit activities, it will not lose its tax exemption. However, its income from for-profit activities will be subject to income tax at the preferential 10% rate pursuant to Section 27(B) thereof.

SLMC is not liable for Compromise Penalty.

As to whether SLMC is liable for compromise penalty under Section 248(A) of the 1997 NIRC for its alleged failure to file its quarterly income tax returns, this has also been resolved in G.R. Nos. 195909 and 195960 (*Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*),⁴² where the imposition of surcharges and interest under Sections 248⁴³ and 249⁴⁴ of the 1997 NIRC were deleted on the basis of good faith and honest belief on the part of SLMC that it is not subject to tax. Thus, following the ruling of the Court in the



⁴² Supra note 19.

⁴³ Section 248. *Civil Penalties.* —

(A) There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:

(1) Failure to file any return and pay the tax due thereon as required under the provisions of this Code or rules and regulations on the date prescribed; or

(2) Unless otherwise authorized by the Commissioner, filing a return with an internal revenue officer other than those with whom the return is required to be filed; or

(3) Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment; or

(4) Failure to pay the full or part of the amount of tax shown on any return required to be filed under the provisions of this Code or rules and regulations, or the full amount of tax due for which no return is required to be filed, on or before the date prescribed for its payment.

(B) In case of willful neglect to file the return within the period prescribed by this Code or by rules and regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be fifty percent (50%) of the tax or of the deficiency tax, in case, any payment has been made on the basis of such return before the discovery of the falsity or fraud: Provided, That a substantial underdeclaration of taxable sales, receipts or income, or a substantial overstatement of deductions, as determined by the Commissioner pursuant to the rules and regulations to be promulgated by the Secretary of Finance, shall constitute *prima facie* evidence of a false or fraudulent return: Provided, further, That failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return, and a claim of deductions in an amount exceeding (30%) of actual deductions, shall render the taxpayer liable for substantial underdeclaration of sales, receipts or income or for overstatement of deductions, as mentioned herein.

⁴⁴ Section 249. *Interest.* —

(A) In General. — There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (20%) per annum, or such higher rate as may be prescribed by rules and regulations, from the date prescribed for payment until the amount is fully paid.

(B) Deficiency Interest. — Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof.

(C) Delinquency Interest. — In case of failure to pay:

(1) The amount of the tax due on any return to be filed, or

(2) The amount of the tax due for which no return is required, or

(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.

(D) Interest on Extended Payment. — If any person required to pay the tax is qualified and elects to pay the tax on installment under the provisions of this Code, but fails to pay the tax or any installment hereof, or any part of such amount or installment on or before the date prescribed for its payment, or where the Commissioner has authorized an extension of time within which to pay a tax or a deficiency tax or any part thereof, there shall be assessed and collected interest at the rate hereinabove prescribed on the tax or deficiency tax or any part thereof unpaid from the date of notice and demand until it is paid.

said case, SLMC is not liable to pay compromise penalty under Section 248(A) of the 1997 NIRC.

The Petition is rendered moot by the payment made by SLMC on April 30, 2013.

However, in view of the payment of the basic taxes made by SLMC on April 30, 2013, the instant Petition has become moot.

While the Court agrees with the CIR that the payment confirmation from the BIR presented by SLMC is not a competent proof of payment as it does not indicate the specific taxable period the said payment covers, the Court finds that the Certification issued by the Large Taxpayers Service of the BIR dated May 27, 2013, and the letter from the BIR dated November 26, 2013 with attached Certification of Payment and application for abatement are sufficient to prove payment especially since CIR never questioned the authenticity of these documents. In fact, in a related case, G.R. No. 200688, entitled *Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*,⁴⁵ the Court dismissed the petition based on a letter issued by CIR confirming SLMC's payment of taxes, which is the same letter submitted by SLMC in the instant case.

In fine, the Court resolves to dismiss the instant Petition as the same has been rendered moot by the payment made by SLMC of the basic taxes for the taxable years 2005 and 2006, in the amounts of ₱49,919,496.40 and ₱41,525,608.40, respectively.⁴⁶

WHEREFORE, the Petition is hereby **DISMISSED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

⁴⁵ Supra note 28.

⁴⁶ *Rollo*, p. 120.

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson



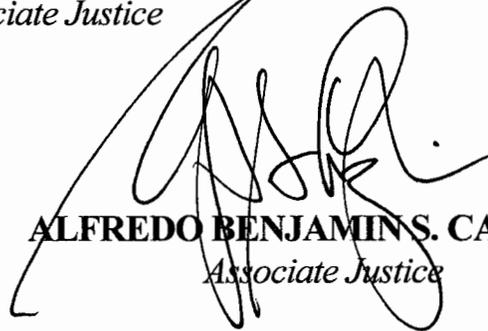
TERESITA J. LEONARDO-DE CASTRO

Associate Justice



ESTELA M. PERLAS-BERNABE

Associate Justice



ALFREDO BENJAMINS S. CAGUIOA

Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice



