



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 June 2021** which reads as follows:*

“**G.R. No. 255382 (Commissioner of Internal Revenue v. MCC Transport Singapore PTE. LTD.)**. - The Court **NOTES** the manifestation and compliance¹ dated May 6, 2021 by the Office of the Solicitor General with the Resolution² dated March 3, 2021, stating that the petition was served and filed through registered mail along with the postal money order (PMO) in the amount of ₱1,000.00 as payment for the sheriff’s trust fund, per the attached copy of the remitter’s receipt of said PMO.

After a judicious study of the case, the Court resolves to **DENY** the instant petition³ and **AFFIRM** the Court of Tax Appeals *En Banc*’s (CTA *EB*) Decision⁴ dated July 14, 2020 and Resolution⁵ dated January 19, 2021 in CTA *EB* No. 1961 for failure of petitioner Commissioner of Internal Revenue (petitioner) to show that the CTA *EB* committed any reversible error in cancelling the deficiency value-added tax (VAT) assessment against respondent MCC Transport Singapore Pte. Ltd. (respondent) for taxable year 2009.

As correctly ruled by the CTA *EB*, petitioner cannot insist on the applicability of Revenue Memorandum Order (RMO) No. 13-2012⁶ to justify the use of unverified third-party information as basis for its assessment in this case. The transitory provision of RMO No. 13-2012 clearly provides that it can only be retroactively applied for the 2009 and 2010 Letter Notices. The Letter Notice in this case was issued on May 24, 2011, and thus, outside of the coverage of the RMO. Even assuming that the said RMO is applicable, the same likewise provides that the

¹ *Rollo*, pp. 33-35.

² *Id.* at 32.

³ *Id.* at 43-57.

⁴ *Id.* at 9-20. Penned by Associate Justice Maria Rowena Modesto-San Pedro with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Esperanza R. Fabon-Victorino, Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Jean Marie A. Bacorro-Villena, concurring.

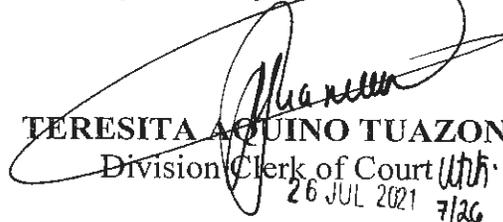
⁵ *Id.* at 22-28. Penned by Associate Justice Maria Rowena Modesto-San Pedro with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Jean Marie A. Bacorro-Villena, concurring.

⁶ Entitled, ‘REVISED GUIDELINES AND PROCEDURES IN HANDLING LETTER NOTICES GENERATED THROUGH THIRD-PARTY INFORMATION DATA MATCHING WITH TAX RETURNS,’ effective on March 29, 2012.

Confirmation Requests sent out to third parties by registered mail must be supported by registered return cards, which were not submitted as evidence in this case. Consequently, the CTA *EB* was correct in not relying on the third-party information since unverified data cannot be considered as proper factual bases for the assessment against respondent. In order to be valid, an assessment must be based on actual facts supported by credible evidence.⁷ Related thereto, the CTA *EB* was also correct in finding that petitioner failed to prove that respondent filed false or fraudulent returns. Necessarily, the extraordinary period under Section 222(a) of Republic Act No. 8424⁸ cannot apply in this case, and the prescriptive period must be counted three (3) years from the filing of the VAT returns. Undoubtedly, the Formal Assessment Notice received by respondent on January 22, 2014 was already beyond this three (3)-year period. It is settled that the CTA's findings can only be disturbed on appeal if they are not supported by substantial evidence, or there is a showing of gross error or abuse on the part of the Tax Court. In the absence of any clear and convincing proof to the contrary, the Court must presume that the CTA rendered a decision which is valid in every respect,⁹ as in this case. Therefore, the deficiency VAT assessment against respondent must be cancelled and set aside.

SO ORDERED." (Lopez, J., J., designated additional member per Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:


TERESITA AGUIÑO TUAZON
 Division Clerk of Court
 26 JUL 2021 7/26

OFFICE OF THE SOLICITOR GENERAL (reg)
 134 Amorsolo Street
 1229 Legaspi Village
 Makati City

ROMULO MABANTA BUENAVENTURA
 SAYOC
 & DE LOS ANGELES (reg)
 Counsel for Respondent
 21st Floor, Philamlife Tower
 8767 Paseo de Roxas
 1226 Makati City

JUDGMENT DIVISION (x)
 Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
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OFFICE OF THE CHIEF ATTORNEY (x)
 OFFICE OF THE REPORTER (x)
 PHILIPPINE JUDICIAL ACADEMY (x)
 Supreme Court, Manila

COURT OF TAX APPEALS (reg)
 National Government Center
 Agham Road, 1104 Diliman
 Quezon City
 CTA EB No. 1961
 C.T.A Case No. 9045

Please notify the Court of any change in your address.
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⁷ *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, 494 Phil. 306, 335-336 (2005).

⁸ Entitled "AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES," approved on December 11, 1997.

⁹ *Commissioner of Internal Revenue v. GJM Philippines Manufacturing, Inc.*, 781 Phil. 816, 825 (2016).