Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

METRO MANILA SHOPPING MECCA CORP., SHOEMART, INC., SM PRIME HOLDINGS, INC., STAR APPLIANCES CENTER, SUPER VALUE, INC., ACE HARDWARE PHILIPPINES, INC., HEALTH AND BEAUTY, INC., JOLLIMART PHILS. CORP., and SURPLUS MARKETING CORPORATION,
Petitioners,

- versus -

MS. LIBERTY M. TOLEDO, in her official capacity as the City Treasurer of Manila, and THE CITY OF MANILA,
Respondents.

G.R. No. 190818

Present:
BRION, *J.*, Acting Chairperson,*
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE, and
LEONEN,** *JJ.*

Promulgated:
JUN 05 2013

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DECISION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] is the September 8, 2009 Decision[2] and January 4, 2010 Resolution[3] of the Court of Tax Appeals (CTA) *En Banc* in CTA E.B. No. 480 which affirmed the October 31, 2008

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* Designated Acting Chairperson in lieu of Justice Antonio T. Carpio per Special Order No. 1460 dated May 29, 2013.

** Designated Acting Member per Special Order No. 1461 dated May 29, 2013.

1 *Rollo*, pp. 13-110.

2 Id. at 113-134. Penned by Associate Justice Lovell R. Bautista, with Presiding Justice Ernesto D. Acosta, and Associate Justices Juanito C. Castañeda, Jr., Caesar A. Casanova, Erlinda P. Uy, and Olga Palanca-Enriquez, concurring.

3 Id. at 137-143.

Decision[4] of the CTA Second Division (CTA Division), denying petitioners Metro Manila Shopping Mecca Corp., Shoemart, Inc., SM Prime Holdings, Inc., Star Appliances Center, Super Value, Inc., Ace Hardware Philippines, Inc., Health and Beauty, Inc., Jollimart Phils. Corp., and Surplus Marketing Corporation's claim for refund of local business taxes.

The Facts

Sometime in October 2001, respondent Liberty M. Toledo, as Treasurer of respondent City of Manila (City), assessed petitioners for their fourth quarter local business taxes pursuant to Section 21 of City Ordinance No. 7794, as amended by City Ordinance Nos. 7807, 7988, and 8011, otherwise known as the "Revenue Code of the City of Manila" (Manila Revenue Code).[5] Consequently, on October 20, 2001, petitioners paid the total assessed amount of ₱5,104,281.26 under protest.[6]

In a letter[7] dated October 19, 2001, petitioners informed the Office of the City Treasurer of Manila of the nature of the foregoing payment, assailing as well the unconstitutionality of Section 21 of the Manila Revenue Code. Petitioners' protest was however denied[8] on October 25, 2001.

On October 20, 2003, petitioners filed a case with the Regional Trial Court of Manila (RTC) against respondents, reiterating their claim that Section 21 of the Manila Revenue Code is null and void. Accordingly, they sought the refund of the amount of local business taxes they previously paid to the City, plus interest. On November 14, 2003, petitioners filed an Amended Complaint which in essence, reprised their previous claims.[9]

For their part, respondents filed a Motion to Dismiss[10] dated November 6, 2003 (Motion to Dismiss). In an Order[11] dated December 10 2003, the RTC did not address the arguments raised in the aforesaid Motion to Dismiss but merely admitted petitioners' amended complaint. Consequently, respondents filed their Answer[12] on December 16, 2003 (Answer). Notably, in their Motion to Dismiss and Answer, respondents averred that petitioners failed to file any written claim for tax refund or credit with the Office of the City Treasurer of Manila.[13]

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4 Id. at 214-230. Penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justices Erlinda P. Uy and Olga Palanca-Enriquez, concurring.
5 Id. at 114-115.
6 Id. at 115.
7 Id. at 224-225.
8 Id. at 225-226.
9 Id. at 115.
10 Records, Vol. 1, pp. 186-195.
11 Id. at 220-221.
12 Id. at 234-243.
13 Id. at 189, 238.

On July 8, 2004, petitioners sent respondents a Request for Admissions & Interrogatories[14] dated July 7, 2004 (Request for Admission), which *inter alia* requested the admission of the fact that the former filed a written protest with the latter. Respondents did not respond to the said Request for Admission.

During pre-trial, the parties stipulated on the following issues: (1) whether petitioners were invalidly assessed local business taxes due to the unconstitutionality of Section 21 of the Manila Revenue Code; and (2) whether petitioners are entitled to a tax refund/credit in the amount of ₱5,104,281.26.

The Ruling of the RTC

In its Decision[15] dated December 7, 2006, the RTC held that respondents' assessment of local business tax under Section 21 of the Manila Revenue Code is null and void thereby, warranting the issuance of a tax refund, or tax credit in the alternative, in the amount of ₱5,104,281.26 in favor of petitioners.[16]

In arriving at the same, it noted the case of *Coca-Cola Bottlers Philippines, Inc. v. City of Manila* (*Coca-Cola Bottlers*)[17] where the Court declared the nullity of City Ordinance Nos. 7988 and 8011. Incidentally, these are the amendatory ordinances which made petitioners liable for local business taxes under the present Manila Revenue Code. Thus, the RTC opined that pursuant to the pronouncement in *Coca-Cola Bottlers*, it had no alternative but to declare the assessments made in the present case null and void as well.[18]

Respondents filed a Motion for Reconsideration[19] dated January 16, 2007 which the RTC, however, denied in its Order[20] dated April 17, 2007. Respondents received a copy of the said order on April 27, 2007. Thereafter, they filed two (2) Motions for Extension to File Petition for Review with the CTA, effectively requesting for a period of thirty (30) days from May 27, 2007, or until June 26, 2007, to file their petition for review.[21]

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14 *Rollo*, pp. 152-158.
15 Id. at 144-149. Penned by Presiding Judge Augusto T. Gutierrez.
16 Id. at 149.
17 526 Phil. 249, 260-261 (2006).
18 *Rollo*, p. 149.
19 Id. at 159-165.
20 Id. at 150-151.
21 Id. at 117.

On June 26, 2007, respondents filed their Petition for Review[22] dated June 22, 2007 via registered mail. On June 28, 2007, respondents likewise filed a Manifestation[23] dated June 27, 2007 via personal filing, alleging that they have previously filed their Petition for Review via registered mail on June 26, 2007 and that they are attaching another copy of the same in the Manifestation. In its Resolution dated July 6, 2007, the CTA Division granted respondents' Motions for Extension, noted their Manifestation, and admitted their Petition for Review.[24]

The Ruling of the CTA Division

In its Decision dated October 31, 2008, the CTA Division reversed and set aside the RTC's ruling and in effect, denied petitioners' request for tax refund/credit.[25]

It held that petitioners failed to contest the denial of their protest before a court of competent jurisdiction within the period provided for under Section 195[26] of Republic Act No. 7160, otherwise known as the "Local Government Code of 1991" (LGC), and thus, the assessment became conclusive and unappealable. In this regard, petitioners could no longer contest the validity of such assessment when they filed their Complaint and Amended Complaint on October 20, 2003 and November 14, 2003, respectively.[27]

It likewise ruled that petitioners failed to comply with Section 196[28] of the LGC, considering that their letter dated October 19, 2001 to respondents was a mere protest letter and as such, could not be treated as a written claim for refund.[29]

On November 19, 2008, petitioners moved for reconsideration, averring that respondents failed to file their Petition for Review within the

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22 Id. at 171-189.
23 Id. at 190-192.
24 Id. at 117.
25 Id. at 229.
26 Section 195 of the LGC provides:
> SEC. 195. *Protest of Assessment*. – x x x The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

27 *Rollo*, p. 226.
28 Section 196 of the LGC provides:
> SEC. 196. *Claim for Refund of Tax Credit*. – No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

29 *Rollo*, pp. 227-228.

reglementary period thus, making the RTC decision already final and executory. On March 16, 2009, the CTA Division issued a Resolution[30] denying petitioners' motion. Aggrieved, petitioners elevated the matter to the CTA *En Banc*.

The Ruling of the CTA *En Banc*

In its Decision dated September 8, 2009, the CTA *En Banc* upheld the CTA Division's ruling and found that: (1) respondents were able to file their Petition for Review within the reglementary period; (2) the assessment of local business taxes against petitioners had become conclusive and unappealable; and (3) petitioners' claim for refund should be denied for their failure to comply with the requisites provided for by law.[31]

On October 1, 2009, petitioners moved for reconsideration but the CTA *En Banc* denied the same in its Resolution[32] dated January 4, 2010.

Hence, this petition.

The Issues Before the Court

The following issues have been raised for the Court's resolution: (1) whether the CTA Division correctly gave due course to respondents' Petition for Review; and (2) whether petitioners are entitled to a tax refund/credit.

The Court's Ruling

The petition is bereft of merit.

A. Respondents' Petition for Review with the CTA Division

Petitioners argue that the CTA Division erred in extending the reglementary period within which respondents may file their Petition for

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30 Id. at 232-238.
31 Id. at 122-134.
32 Id. at 137-143.

Review, considering that Section 3, Rule 8[33] of the Revised Rules of the CTA (RRCTA) is silent on such matter. Further, even if it is assumed that an extension is allowed, the CTA Division should not have entertained respondents' Petition for Review for their failure to comply with the filing requisites set forth in Section 4, Rule 5[34] and Section 2, Rule 6[35] of the RRCTA.

Petitioners' arguments fail to persuade.

Although the RRCTA does not explicitly sanction extensions to file a petition for review with the CTA, Section 1, Rule 7[36] thereof reads that in the absence of any express provision in the RRCTA, Rules 42, 43, 44 and 46 of the Rules of Court may be applied in a suppletory manner. In particular, Section 9[37] of Republic Act No. 9282 makes reference to the procedure under Rule 42 of the Rules of Court. In this light, Section 1 of Rule 42[38] states that the period for filing a petition for review may be extended upon motion of the concerned party. Thus, in *City of Manila v. Coca-Cola*

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[33] Section 3, Rule 8 of the RRCTA provides:

> SEC. 3. *Who may appeal; period to file petition*. – (a) A party adversely affected by a decision, ruling or the inaction of x x x a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling x x x.

[34] Section 4, Rule 5 of the RRCTA provides:

> SEC. 4. *Number of copies*. – The parties shall file eleven signed copies of every paper for cases before the Court en banc and six signed copies for cases before a Division of the Court in addition to the signed original copy, except as otherwise directed by the Court. x x x.

[35] Section 2, Rule 6 of the RRCTA provides:

> SEC. 2. *Petition for review; contents*. – x x x A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition.

[36] Section 1, Rule 7 of the RRCTA provides:

> SEC. 1. Applicability of the Rules of the Court of Appeals, exception. – The procedure in the Court en banc or in Divisions in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules.

[37] Section 9 of Republic Act No. 9282 provides:

> SEC. 9. Sec. 11 of [Republic Act No. 1125] is hereby amended to read as follows:
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> SEC. 11. *Who may Appeal; Mode of Appeal; Effect of Appeal*. – Any party adversely affected by a decision, ruling or inaction of the x x x Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
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> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided x x x.

[38] Section 1, Rule 42 of the Rules of Court provides:

> SEC. 1. *How appeal taken; time for filing.* – x x x Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

Bottlers Philippines, Inc.,[39] the Court held that the original period for filing the petition for review may be extended for a period of fifteen (15) days, which for the most compelling reasons, may be extended for another period not exceeding fifteen (15) days.[40] In other words, the reglementary period provided under Section 3, Rule 8 of the RRCTA is extendible and as such, CTA Division's grant of respondents' motion for extension falls squarely within the law.

Neither did respondents' failure to comply with Section 4, Rule 5 and Section 2, Rule 6 of the RRCTA militate against giving due course to their Petition for Review. Respondents' submission of only one copy of the said petition and their failure to attach therewith a certified true copy of the RTC's decision constitute mere formal defects which may be relaxed in the interest of substantial justice. It is well-settled that dismissal of appeals based purely on technical grounds is frowned upon as every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities.[41] In this regard, the CTA Division did not overstep its boundaries when it admitted respondents' Petition for Review despite the aforementioned defects "in the broader interest of justice."

Having resolved the foregoing procedural matter, the Court proceeds to the main issue in this case.

B. Petitioners' claim for tax refund/credit

A perusal of **Section 196[42] of the LGC** reveals that in order to be entitled to a refund/credit of local taxes, the following procedural requirements must concur: ***first***, the taxpayer concerned must file a written claim for refund/credit with the local treasurer; and ***second***, the case or proceeding for refund has to be filed within two (2) years from the date of the payment of the tax, fee, or charge or from the date the taxpayer is entitled to a refund or credit.

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39 G.R. No. 181845, August 4, 2009, 595 SCRA 299.

40 Id. at 315.

41 See *Go v. Chaves*, G.R. No. 182341, April 23, 2010, 619 SCRA 333, 345; citing *Aguam v. CA*, 388 Phil. 587, 594 (2000).

42 Section 196 of the LGC provides:

> SEC. 196. *Claim for Refund of Tax Credit.* – No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

Records disclose that while the case or proceeding for refund was filed by petitioners within two (2) years from the time of payment,[43] they, however, failed to prove that they have filed a written claim for refund with the local treasurer considering that such fact – although subject of their Request for Admission which respondents did not reply to – had already been controverted by the latter in their Motion to Dismiss and Answer.

To elucidate, the scope of a request for admission filed pursuant to Rule 26 of the Rules of Court and a party's failure to comply with the same are respectively detailed in Sections 1 and 2 thereof, to wit:

> SEC. 1. *Request for admission*. – At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or **of the truth of any material and relevant matter of fact set forth in the request.** Copies of the documents shall be delivered with the request unless copies have already been furnished.
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> SEC. 2. *Implied admission.* – **Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than fifteen (15) days after service thereof, or within such further time as the court may allow on motion, the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters.**
>
> Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his sworn statement as contemplated in the preceding paragraph and his compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable. (Emphasis and underscoring supplied)

Based on the foregoing, once a party serves a request for admission regarding the truth of any material and relevant matter of fact, the party to whom such request is served is given a period of fifteen (15) days within which to file a sworn statement answering the same. Should the latter fail to file and serve such answer, each of the matters of which admission is requested shall be deemed admitted.[44]

The exception to this rule is when the party to whom such request for admission is served had already controverted the matters subject of such request in an earlier pleading. Otherwise stated, if the matters in a

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[43] Petitioners paid the local business taxes to the City on October 20, 2001 and thereafter, filed their judicial claim for refund on October 20, 2003.

[44] See *Marcelo v. Sandiganbayan*, G.R. No. 156605, August 28, 2007, 531 SCRA 385, 399; *Manzano v. Despabiladeras*, G.R. No. 148786, December 16, 2004, 447 SCRA 123, 134; *Motor Service Co., Inc. v. Yellow Taxicab Co., Inc.*, 96 Phil. 688, 691-692 (1955).

request for admission have already been admitted or denied in previous pleadings by the requested party, the latter cannot be compelled to admit or deny them anew. In turn, the requesting party cannot reasonably expect a response to the request and thereafter, assume or even demand the application of the implied admission rule in Section 2, Rule 26.[45] The rationale behind this exception had been discussed in the case of *CIR v. Manila Mining Corporation*,[46] citing *Concrete Aggregates Corporation v. CA*,[47] where the Court held as follows:

> As *Concrete Aggregates Corporation v. Court of Appeals* holds, **admissions by an adverse party as a mode of discovery contemplates of interrogatories that would clarify and tend to shed light on the truth or falsity of the allegations in a pleading, and does not refer to a mere reiteration of what has already been alleged in the pleadings; otherwise, it constitutes an utter redundancy and will be a useless, pointless process which petitioner should not be subjected to.**
>
> Petitioner controverted in its Answers the matters set forth in respondent's Petitions for Review before the CTA – **the requests for admission being mere reproductions of the matters already stated in the petitions. Thus, petitioner should not be required to make a second denial of those matters it already denied in its Answers**. (Emphasis and underscoring supplied; citations omitted)

Likewise, in the case of *Limos v. Odones*,[48] the Court explained:

> A request for admission is **not intended to merely reproduce or reiterate the allegations of the requesting party's pleading** but should set forth relevant evidentiary matters of fact described in the request, whose purpose is to establish said party's cause of action or defense. Unless it serves that purpose, it is pointless, useless and a mere redundancy. (Emphasis and underscoring supplied)

Records show that petitioners filed their Request for Admission with the RTC and also served the same on respondents, requesting that the fact that they filed a written claim for refund with the City Treasurer of Manila be admitted.[49] Respondents, however, did not – and in fact, need not – reply to the same considering that **they have already stated in their Motion to Dismiss and Answer that petitioners failed to file any written claim for tax refund or credit**.[50] In this regard, respondents are ***not*** deemed to have admitted the truth and veracity of petitioners' requested fact.

Indeed, it is hornbook principle that a claim for a tax refund/credit is in the nature of a claim for an exemption and the law is construed in *strictissimi juris* against the one claiming it and in favor of the taxing

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45 *Limos v. Odones*, G.R. No. 186979, August 11, 2010, 628 SCRA 288, 298.
46 G.R. No. 153204, August 31, 2005, 468 SCRA 571, 595.
47 334 Phil. 77 (1997).
48 *Limos v. Odones*, supra note 45, at 298.
49 Paragraphs 13 to 14, petitioners' Request for Admissions & Interrogatories dated July 7, 2004; *rollo*, pp. 152-158.
50 Records, Vol.1, pp. 189 and 238.

authority.[51] Consequently, as petitioners have failed to prove that they have complied with the procedural requisites stated under Section 196 of the LGC, their claim for local tax refund/credit must be denied.

WHEREFORE, the petition is **DENIED**. The September 8, 2009 Decision and January 4, 2010 Resolution of the Court of Tax Appeals *En Banc* in CTA E.B. No. 480 are hereby **AFFIRMED**.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

ARTURO D. BRION
Associate Justice
Acting Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest 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.

ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

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[51] See *KEPCO Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011, 641 SCRA 70, 86; *CIR v. Manila Mining Corporation*, supra note 46, at 596.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, 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