



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**COMMISSIONER
CUSTOMS,**

OF

G.R. Nos. 203138-40

Petitioner,

Present:

LEONEN, J.,

Chairperson,

HERNANDO,

INTING,

DELOS SANTOS, and

LOPEZ, J. Y., JJ.

- versus -

**PTT PHILIPPINES TRADING
CORPORATION,**

Promulgated:

Respondent.

February 15, 2021

MisDCCBatt

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DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ assails the April 17, 2012² and July 13, 2012³ Resolutions of the Court of Tax Appeals En Banc (CTA-EB) in CTA EB Case Nos. 711, 714 and 719 which found in favor of respondent PTT Philippines Trading Corporation (PTTPTC).

Factual Antecedents:

A Special Audit Team (Audit Team) was formed pursuant to Mission

¹ *Rollo* pp. 57-124.

² *Id.* at 11-26.

³ *Id.* at 40-43.

Order No. 018-2006⁴ issued by the Bureau of Customs (BoC) to conduct an audit on the import shipments and inventory of all sale transactions of PTTPTC.⁵

In its Initial Audit Findings⁶ dated July 2, 2007, the Audit Team declared PTTPTC to have mislabeled some of its imported fuel to make it eligible to avail of special tax benefits. The Audit Team found the firm liable to pay Four Billion Two Hundred Thirty-Six Million, Five Hundred Thirty Thousand and One Hundred Ninety-Three Pesos (₱4,236,530,193.00) representing assessed Customs Duties, Value Added Tax and Penalties.

On July 31, 2007, then Commissioner Napoleon Morales (Commissioner Morales) of the BoC sent a demand letter to PTTPTC to settle its ₱4,236,530,193.00 outstanding obligation within seven (7) days from notice.⁷

On August 3, 2007, PTTPTC, through counsel, sent a letter to Commissioner Morales, asking for reconsideration or reinvestigation of the Audit Team's conclusion and recommendation.⁸

On October 1, 2007, PTTPTC tendered, under protest, to the BoC the amount of ₱117,681,394.00 as partial payment of its obligation.⁹

On November 7, 2007, a Demand Letter¹⁰ was sent to PTTPTC to settle its discrepancy assessment of basic duties and taxes amounting to ₱470,725,577.00 and its corresponding penalty in the amount of ₱3,765,804,616.00 until November 15, 2007.

On November 20, 2007, PTTPTC filed with the CTA Second Division a Petition for Review¹¹ docketed as **CTA Case No. 7707** assailing, among others, the validity of the ₱4,236,530,193.00 assessment and the final demand letter dated November 7, 2007.

It paid the BoC the amount of ₱176,522,091.50¹² on November 29, 2007 and another ₱176,522,091.50¹³ on December 18, 2007, with the total of both payments amounting to its assessment balance.

⁴ Id. at 184.

⁵ Formerly known as Subic Bay Fuels Company, Inc.

⁶ *Rollo* pp. 186-197.

⁷ Id. at 200-201.

⁸ Id. at 202-211.

⁹ Id. at 129.

¹⁰ Id. at 212.

¹¹ Id. at 213-257.

¹² Id. at 258.

¹³ Id.

On September 30, 2009, it filed **CTA Case No. 7981** praying for the refund of the ₱117,681,394.00 it paid under protest.¹⁴

On December 1, 2009, PTTPTC instituted **CTA Case No. 8002** before the CTA First Division asking for the refund of the ₱176,522,091.50 it paid on November 29, 2007.¹⁵

On January 8, 2010, petitioner moved to dismiss CTA Case No. 7707 on the ground of *litis pendentia* citing the pendency of CTA Case Nos. 7981 and 8002.¹⁶

On January 13, 2010, PTTPTC commenced another Petition for Review,¹⁷ docketed as **CTA Case No. 8023**, praying for the refund of the amount of ₱176,522,091.50 it paid on December 18, 2007. The same was raffled to the Third Division of the CTA.

On February 22, 2010, petitioner filed a Motion to Dismiss CTA Case No. 8002 on the ground of lack of jurisdiction. The Commissioner alleged that the November 7, 2007 demand letter on which the refund of the amount of ₱176,522,091.50 was based already attained finality since the petition for review was filed beyond 30-day period to file a protest under Section 11 of Republic Act No. 1125 (RA 1125), as amended by RA 9282.¹⁸ In addition, petitioner attributed forum shopping on the part of PTTPTC due to the pendency of CTA Case Nos. 7707, 7981 and 8023.¹⁹

On April 7, 2010, petitioner moved to dismiss CTA Case No. 8023 raising the same grounds it averred in CTA Case No. 8002.²⁰

On April 15, 2010, the CTA Second Division issued a Resolution in CTA Case No. 7707 which held that although *res judicata* may be present, CTA

¹⁴ Id. at 261-300.

¹⁵ Id. at 301-340.

¹⁶ Id. at 341-347.

¹⁷ Id. at 348-387.

¹⁸ 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 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.

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, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: Provided, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case en banc.

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¹⁹ *Rollo*, pp. 392-395.

²⁰ Id. at 398-405.

Case No. 7707 is the proper vehicle in litigating the case between the parties, being the first action filed questioning the deficiency assessment and the final demand letter. The Motion to Dismiss was therefore denied.²¹ Petitioner filed a Motion for Reconsideration reiterating that PTTPTC is guilty of forum shopping in filing four petitions for review questioning the same November 7, 2007 demand letter.

On July 13, 2010, the CTA First Division issued a Resolution in CTA Case No. 8002 granting the Motion to Dismiss filed by the petitioner based on lack of jurisdiction after finding that the period to file a protest had already lapsed.²² PTTPTC filed a Motion for Reconsideration.

On August 26, 2010, the CTA Second Division issued a Resolution in CTA Case No. 7707 granting the Motion for Reconsideration filed by the petitioner and dismissing the Petition for Review filed by PTTPTC on the ground of forum shopping.²³ PTTPTC likewise filed a Motion for Reconsideration thereon.

On August 31, 2010, the CTA Third Division resolved to grant the Motion to Dismiss in CTA Case No. 8023 on the ground of lack of jurisdiction and forum shopping.²⁴ PTTPTC also lodged a motion for reconsideration thereon.

On December 8, 2010, the CTA Second Division in CTA Case No. 7707 denied PTTPTC's Motion for Reconsideration.²⁵

On December 16, 2010, the CTA First Division in CTA Case No. 8002 denied PTTPTC's Motion for Reconsideration.²⁶

On January 10, 2011, CTA Third Division in CTA Case No. 8023 denied PTTPTC's Motion for Reconsideration.²⁷

For clarity, the petitions filed by PTTPTC are illustrated below as follows:

Case No.	CTA Division	Date Filed	Relief Prayed For	Grounds Raised in Motion to Dismiss
7707	Second	Nov. 20, 2007	Cancellation of the ₱4,236,530,193.00 Assessment	<i>Litis Pendentia</i> citing the pendency

²¹ Id. at 408-412.

²² Id. at 413-424.

²³ Id. at 425-429.

²⁴ Id. at 430-437.

²⁵ Id. at 438-440.

²⁶ Id. at 441-452.

²⁷ Id. at 453-456.

			contained in Demand Letter dated November 7, 2007 and Refund of ₱117,681,394.00 paid on October 1, 2007	of CTA Case Nos. 7981 and 8002.
7981		Sept. 30, 2009	Refund of ₱117,681,394.00 paid under protest on October 1, 2007	<i>Not Indicated on the Records</i>
8002	First	Dec. 1, 2009	Refund of ₱176,522,091.50 paid on November 29, 2007	Lack of Jurisdiction and Forum Shopping
8023	Third	Jan. 13, 2010	Refund of ₱176,522,091.50 paid on December 18, 2007	Lack of Jurisdiction and Forum Shopping

Case No.	CTA Ruling	MR Filed	Ruling on MR	MR Filed	Ruling on MR
7707	Motion to Dismiss Denied	Commissioner of Customs filed an MR	MR Granted. CTA Case No. 7707 dismissed based Forum Shopping	PTTPTC filed an MR	MR Denied
7981	xxx	xxx	xxx	xxx	xxx
8002	Motion to Dismiss Granted based on lack of jurisdiction	PTTPTC filed an MR	MR Denied	xxx	xxx
8023	Motion to Dismiss Granted based on lack of jurisdiction and forum shopping	PTTPTC filed a MR	MR Denied	xxx	xxx

PTTPTC filed three separate petitions for review before the CTA-EB docketed as CTA EB Case No. 711 (CTA Case No. 7707),²⁸ CTA EB Case No. 714 (CTA Case No. 8002)²⁹ and CTA EB Case No. 719 (CTA Case No. 8023).³⁰ In a Resolution dated July 20, 2011, the three petitions were consolidated.³¹

In a Resolution dated April 17, 2012, the CTA-EB reversed the questioned resolutions of its three divisions and reinstated CTA Case Nos. 7707, 8002 and 8023, the *fallo* of which states:

WHEREFORE, the Court En Banc hereby ORDERS for the REVERSAL and SETTING ASIDE of the following:

a. The Resolutions promulgated by the Second Division of the Court on August 26, 2010, and December 8, 2010 in CTA Case No. 7707;

²⁸ Id. at 457-484.

²⁹ Id. at 485-513.

³⁰ Id. at 517-554.

³¹ Records (GR. No. 203139), pp. 701-702.

b. The Resolutions promulgated by the First Division of the Court on July 13, 2010, and December 16, 2010 in CTA Case No. 8002;

c. The Resolutions promulgated by the Third Division of the Court on August 31, 2010, and January 10, 2011 in CTA Case No. 8023.

Accordingly, to REINSTATE the Petitions for Review in CTA Case No. 7707, CTA Case No. 8002, and CTA Case No. 8023. Therefore, the Court En Banc ORDERS for the REMAND of the said cases to the Third Division of this Court. CTA Case No, 7707, 8002 and 8023 are to be CONSOLIDATED and tried accordingly.

SO ORDERED.³²

Petitioner filed a Motion for Reconsideration but it was denied in a Resolution dated July 13, 2012.³³

Hence, this petition.

Issues

Petitioner raises the following issues, to wit:

I. The CTA has no jurisdiction over the CTA Case Nos. 8002 and 8023; hence, the CTA En Banc acted without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in reinstating and remanding subject petitions for review for further proceedings.

II. The CTA En Banc committed serious error and acted with grave abuse of discretion amounting to lack or excess of jurisdiction in reinstating and remanding CTA Case Nos. 7707, 8002 and 8023 despite respondent's glaring act of intentional forum shopping.³⁴

Petitioner argues that CTA Case Nos. 7707, 8002 and 8023 are dismissible on the ground of forum shopping since all three cases similarly assail the validity of the November 7, 2007 demand letter from the BoC. The petitioner alleges that the prayer for refund in CTA Case Nos. 8002 and 8023 did not alter the cause of action of PTTPTC since the issue of refund is dependent on the resolution of the legality of the November 7, 2007 demand letter.

Assuming *arguendo* that the filing of the three Petitions for Review cannot be considered as forum shopping, CTA Case Nos. 8002 and 8023

³² *Rollo*, pp. 11-26.

³³ *Id.* at 40 – 43.

³⁴ *Id.* at 88-89.

should still be dismissed for lack of jurisdiction of the CTA to hear both cases. Petitioner argues that CTA Case Nos. 8002 and 8023 were both filed beyond the 30-day period to protest the November 7, 2007 demand letter.

Even if both cases are to be treated as claims for refund of erroneously paid taxes and duties instead of a protest of assessment, they should be dismissed since the CTA has no jurisdiction over actions questioning the ruling of the Commissioner of Customs under RA 9262.

Our Ruling

The petition is without merit.

Forum shopping can be committed in three ways, to wit:

- (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (*litis pendentia*);
- (2) filing multiple cases based on the same cause of action and with the same prayer, the previous case having been finally resolved (*res judicata*); or
- (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).³⁵

Forum shopping exists when a party repeatedly avails himself of several judicial remedies in different courts, either simultaneously or successively, all of which are substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court.³⁶

Hence, to constitute forum shopping, the following elements must be present:

- (a) identity of parties, or at least such parties as represent the same interests in both actions;
- (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and
- (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amounts to *res judicata* in the action under consideration.³⁷

³⁵ *Commissioner of Customs v. Pilipinas Shell Petroleum Corporation*, 785 Phil. 537, 546 (2016).

³⁶ *Id.* at 547.

³⁷ *Grace Park International Corporation v. Eastwest Banking Corporation*, 791 Phil. 570, 577 (2016).

In finding that there was no forum shopping, the CTA-EB held that the causes of action of the three petitions differ. In CTA Case No. 7707, PTTPTC questioned the legality of the November 7, 2007 demand letter and prayed that it be nullified. CTA Case Nos. 8002 and 8023 have similar causes of action as both pray for the refund of the amount that PTTPTC paid representing erroneously paid taxes and custom duties. However, CTA Case Nos. 8002 and 8023 are mere supplemental petitions to CTA Case No. 7707.

We agree.

CTA Case No. 7707 is a protest to an alleged erroneous customs duties assessment. In this case, PTTPTC prayed for the nullification of the assessment as well as the November 7, 2007 demand letter ordering PTTPTC to settle the obligation. On the other hand, CTA Case Nos. 8002 and 8023 are claims for refund of the amount that respondent paid under protest to the BoC representing its assessment balance pursuant to the November 7, 2007 demand letter it was contesting in CTA Case No. 7707. Taking into consideration the prayer of PTTPTC in CTA Case No. 8002, on one hand, and CTA Case No. 8023, on the other hand, the logical conclusion is to regard both petitions as supplements to CTA Case No. 7707 despite being filed and docketed as separate petitions.

Rules of procedure should not be rigidly applied if it will tend to obstruct rather than serve the broader interests of justice. Depending on the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction.³⁸

*Heirs of Amada Zaulda vs. Zaulda*³⁹ is instructive on this matter:

The reduction in the number of pending cases is laudable, but if it would be attained by precipitate, if not preposterous, application of technicalities, justice would not be served. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "It is a more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not miscarriage of justice."

What should guide judicial action is the principle that a party-litigant should be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor, or property on technicalities. The rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which

³⁸ *La Sallian Educational Innovators Foundation, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 202792, February 27, 2019.

³⁹ 729 Phil. 639 (2014).

would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. At this juncture, the Court reminds all members of the bench and bar of the admonition in the often-cited case of *Alonso v. Villamar* [16 Phil. 315, 322 (1910)]:

Lawsuits, unlike duels, are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts. There should be no vested rights in technicalities.⁴⁰

Verily, the Court has relaxed on numerous occasions the observance of procedural rules to advance substantial justice. Legal technicalities may be excused when strict adherence thereto will impede the achievement of justice it seeks to serve. Ultimately, what should guide judicial action is that a party is given the fullest opportunity to establish the merits of his or her action or defense rather than for him or her to lose life, honor, or property on mere technicalities.⁴¹

In this present case, PTTPTC timely filed its protest against the assessment and the November 7, 2007 demand letter when it filed CTA Case No. 7707 on November 20, 2007. Pending resolution of its petition, PTTPTC paid its outstanding assessment obligation on November 29, 2007 and December 18, 2007. Having paid its outstanding assessment under protest, PTTPTC filed CTA Case Nos. 8002 and 8023 to pray for its refund. Hence, while CTA Case Nos. 8002 and 8023 were docketed as new petitions, there was no doubt that both were only supplemental petitions to CTA Case No. 7707.

Given that the issues raised and the reliefs prayed for in CTA Case Nos. 8002 and 8023 are closely related, if not intertwined, with those raised in CTA Case No. 7707, the CTA-EB properly ordered their consolidation. The parties must present and argue their divergent positions in the consolidated cases in order for the tax tribunal to arrive at a complete and just resolution of the case and avoid multiplicity of suits.


CTA Case Nos. 8002 and 8023 being supplemental petitions to CTA Case No. 7707, the jurisdictional issue of whether the CTA can act on the same is already rendered moot and need no longer be discussed.

WHEREFORE, the Petition is hereby **DENIED**. The April 17, 2012 and July 13, 2012 Resolutions of the Court of Tax Appeals in CTA EB Case Nos. 711, 714 and 719 are **AFFIRMED**. These cases are **REMANDED** to the Third Division of the Court of Tax Appeals for further proceedings.


⁴⁰ *Id.* at 651-652.

⁴¹ *Tan v. Dagpin*, G.R. No. 212111, January 15, 2020.

SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

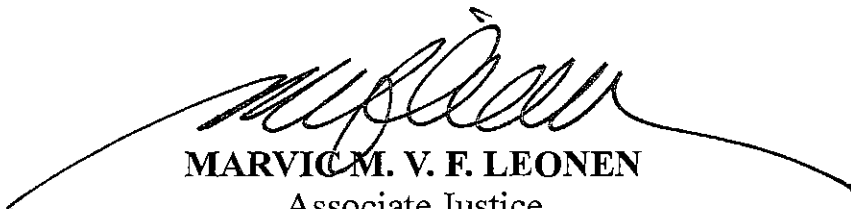

HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

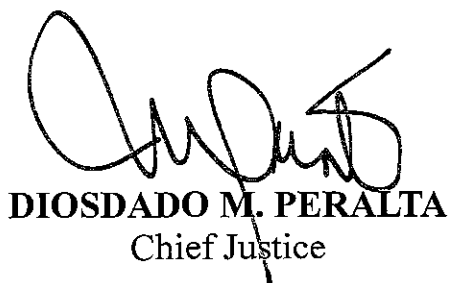
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.



DIOSDADO M. PERALTA
Chief Justice