



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

**QATAR AIRWAYS COMPANY  
WITH LIMITED LIABILITY,**  
Petitioner,

**G.R. No. 238914**

**Present:**

PERALTA, C.J., *Chairperson*,  
CAGUIOA, *Working Chairperson*,  
REYES, J. JR.,  
LAZARO-JAVIER, *and*  
LOPEZ, *JJ.*

- versus -

**COMMISSIONER OF INTERNAL  
REVENUE,**

Respondent.

**Promulgated:**

**JUN 08 2020**

X - - - - -

**DECISION**

**REYES, J. JR., J.:**

The Court subscribes to the time-honored doctrine that the findings and conclusions of the Court of Tax Appeals (CTA) are accorded with the highest respect given its expertise on the subject.<sup>1</sup> This case is no exception.

Assailed in this Petition for Review on *Certiorari*<sup>2</sup> filed under Rule 45 of the Rules of Court are the September 5, 2017 Decision<sup>3</sup> and the April 12, 2018 Resolution<sup>4</sup> of the CTA *En Banc* in CTA EB No. 1468.

<sup>1</sup> *Commissioner of Internal Revenue v. Liguigaz Philippines Corp.*, 784 Phil. 874, 898 (2016).

<sup>2</sup> *Rollo*, pp. 11-31.

<sup>3</sup> Penned by Associate Justice Esperanza R. Fabon-Victorino, with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Cielito N. Mindaro-Grulla and Catherine T. Manahan, concurring. Associate Justice Caesar A. Casanova, concurring and dissenting (*see* Concurring and Dissenting Opinion), joined by Associate Justice Ma. Belen M. Ringpis-Liban; *id.* at 32-48.

<sup>4</sup> *Id.* at 49-52.

### *The Facts*

On November 30, 2011, Qatar Airways Company with Limited Liability (petitioner) filed, through the Electronic Filing and Payment System (eFPS) of the Bureau of Internal Revenue (BIR), its 2<sup>nd</sup> Quarterly Income Tax Return (ITR) for the Fiscal Year ending March 31, 2012 and paid the corresponding tax due thereon in the amount of ₱29,540,836.00. The said filing was **one day late**. Thus, petitioner sent a Letter dated April 11, 2012 addressed to respondent Commissioner of Internal Revenue (CIR) requesting for the abatement of surcharge.<sup>5</sup>

On May 18, 2012, BIR issued Assessment Notice No. QA-12-000-135 informing petitioner of the following charges/fees: a) 25% surcharge in the amount of ₱7,385,209.00; b) interest amounting to ₱16,186.76 for late payment; and c) compromise penalty of ₱50,000.00.<sup>6</sup>

On July 3, 2012, *via* the eFPS,<sup>7</sup> petitioner paid a total of ₱66,186.76 to cover for the compromise penalty and the interest for late payment. As for the ₱7,385,209.00 surcharge, petitioner sent Letters dated July 4, 2012<sup>8</sup> and March 7, 2013<sup>9</sup> to the CIR requesting for its abatement or cancellation on the ground that its imposition was unjust and excessive considering that: 1) petitioner paid the tax due just one day after the deadline; 2) such belated filing was due to circumstances beyond petitioner's control; and 3) petitioner acted in good faith.

In a Letter<sup>10</sup> dated October 3, 2013 signed by the Legal Taxpayers Service Officer-in-Charge Assistant Commissioner Alfredo V. Misajon (OIC-ACIR Misajon), the BIR informed petitioner that its application for abatement has been **denied** and that its payment of ₱66,186.76 shall be deemed as partial payment of the total amount due (*i.e.* ₱7,451,395.76). The BIR also requested that the balance of ₱7,385,209.00 be paid within 10 days from receipt of the letter.

Petitioner sought reconsideration, but the BIR denied due course<sup>11</sup> thereon after finding that no new/additional justification was introduced as provided under Revenue Regulations (RR) No. 13-2001, and reiterated the request for payment of the balance within 10 days.

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<sup>5</sup> Id. at 151.

<sup>6</sup> Id.

<sup>7</sup> Id. at 78-81.

<sup>8</sup> Id. at 82.

<sup>9</sup> Id. at 73-77.

<sup>10</sup> Id. at 118.

<sup>11</sup> See Letter dated February 10, 2014; *id.* at 89.

Undeterred, petitioner appealed for another reconsideration, but in a Letter<sup>12</sup> dated April 3, 2014, the CIR denied petitioner's request for the last time, viz.:

03 April 2014

**Mr. Abdallah A. Okasha**  
Country Manager Philippines  
Qatar Airways Company with Limited Liability  
Units 803-804, One Global Place, 5<sup>th</sup> Ave., cor 25<sup>th</sup> St.  
Bonifacio Global City, Taguig City

**Dear Mr. Okasha:**

We refer to the letter dated 19 February 2014 of your counsel, Atty. Estrella V. Martinez, addressed to [OIC-ACIR Misajon] and forwarded to this Office, requesting another reconsideration of the earlier denial of your company's application for abatement of surcharge in the amount of [P]7,385,209.00, imposed for the late filing of the 2<sup>nd</sup> Quarterly Income Tax Return for the Fiscal Year 2012 (July 2011 to September 2011).

As may be recalled, in a letter dated 03 October 2013, OIC-ACIR Misajon informed you of the denial of [your] company's application for abatement of surcharge. Thereafter, you filed, [through] counsel, a request for reconsideration contending *inter-alia*, that the late filing of such return was due to circumstances beyond the company's control as it was due to a technical failure brought about by faulty internet connection at the company's office on 29 November 2011. In [a] letter dated 10 February 2014, OIC-ACIR Misajon informed you of the denial of such request for reconsideration as you did not introduce any new/additional justifiable reason as provided under [RR] No. 13-2001, as amended by RR [No.] 4-2012. Dissatisfied still, you filed, [through] counsel, the present letter, which, in effect, is a second request or motion for reconsideration.

Kindly be informed that there is no law, rules or regulations that allow a second request or motion for reconsideration of a decision on abatement cases. This is a prohibited pleading. Be that as it may, we find no cogent reason to depart from our earlier findings. There was no advice on eFPS Unavailability on 29 November 2011, which means that no technical problems were encountered in eFPS on that day. Also, if you claimed that you had log-in problems on the night of 29 November 2011, filing of the return should have been done on the first working hour of the following day. But as it [were], the return was filed and paid only on the following day, 30 November 2011, at 1:38 in the afternoon.

Further, you were given a period of sixty (60) days to file the return. You chose, however, to file it on the last day [when] you could have filed it any day before. An acceptable reason that may be advanced for failing to file the return on time is if there is a major natural catastrophe. This is not, however, the situation in the present case. To us, any other reasons could have been avoided if the filing was made earlier or before the deadline.

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<sup>12</sup> Id. at 66-67.

Based thereon, the instant request for reconsideration is hereby **denied**. This denial is **final**. No further request for reconsideration, or other letters or pleadings of similar import, shall be entertained.

Accordingly, we reiterate our request that the amount of **Seven Million Three Hundred Eighty[-]Five Thousand Two Hundred Nine Pesos Only (P7,385,209.00)** be paid within ten (10) days upon receipt of this notice, thru the [eFPS] to any Authorized Agent Bank (AAB) for large taxpayers. Otherwise, we shall be constrained to enforce the collection thereof [through the] administrative summary remedies provided by law, without further notice. (Emphases and underscoring in the original)

Very truly yours,

(sgd.)

**KIM S. JACINTO-HENARES**  
Commissioner of Internal Revenue

Hence, on May 8, 2014, petitioner filed a Petition for Review<sup>13</sup> before the CTA docketed as CTA Case No. 8816.

### *The Ruling of the CTA Division*

The 2<sup>nd</sup> Division of the CTA denied the petition for lack of jurisdiction. It held that the 30-day period to file a Petition for Review already commenced when petitioner received the February 10, 2014 letter of the BIR denying petitioner's request for reconsideration. It ratiocinated that since petitioner sought reconsideration for the second time and waited for the BIR's action thereon, it therefore had no jurisdiction over the petition for review belatedly filed on May 8, 2014. Thus, the dispositive portion of its Decision<sup>14</sup> dated January 22, 2016 reads:

WHEREFORE, premises considered, the Petition for Review filed by [petitioner] is hereby DENIED for lack of jurisdiction.

SO ORDERED.

Petitioner filed a Motion for Reconsideration,<sup>15</sup> but the same was denied in a Resolution<sup>16</sup> dated May 25, 2016.

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<sup>13</sup> Id. at 53-65.

<sup>14</sup> Id. at 150-165.

<sup>15</sup> Id. at 167-176.

<sup>16</sup> Id. at 178-185.



***The Ruling of the CTA En Banc***

Upon appeal, the CTA *En Banc* ruled that while the petition for review was seasonably filed, the surcharge imposed by the BIR was not unjust nor excessive pursuant to Section 248(A)(1)<sup>17</sup> of the 1997 National Internal Revenue Code (NIRC). The pertinent portion of the CTA *En Banc* Decision reads as follows:

WHEREFORE, the Petition for Review filed by [petitioner] on June 10, 2016 is hereby DENIED, for lack of merit.

SO ORDERED.

The Motion for Reconsideration filed by petitioner was denied by the CTA *En Banc* in a Resolution dated April 12, 2018.

Hence, this petition.

***The Court's Ruling***

The Court finds no merit in the present petition.

The authority of the CIR to abate or cancel a tax liability is enshrined in Section 204(B) of the 1997 NIRC, *viz.*:

SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* –

The Commissioner may –

x x x x

(B) Abate or cancel a tax liability, when:

(1) The tax or any portion thereof appears to be unjustly or excessively assessed; or

(2) The administration and collection costs involved do not justify the collection of the amount due.

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<sup>17</sup>

SEC. 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[.]

On September 27, 2001, the BIR issued Revenue Regulations (RR) No. 13-2001<sup>18</sup> prescribing the guidelines on the implementation of Section 204(B) regarding abatement or cancellation of internal revenue tax liabilities. Section 2 of RR No. 13-2001 is hereunder summarized, to wit:

SEC. 2. INSTANCES WHEN THE PENALTIES AND/OR INTEREST IMPOSED ON THE TAXPAYER MAY BE ABATED OR CANCELLED ON THE GROUND THAT THE IMPOSITION THEREOF IS UNJUST OR EXCESSIVE. –

- 2.1 When the filing of the return/payment of the tax is made at the wrong venue;
- 2.2 When [the] taxpayer's mistake in payment of his tax due is due to erroneous written official advice from a revenue officer;
- 2.3 When [the] taxpayer fails to file the return and pay the tax on time due to substantial losses from prolonged labor dispute, *force majeure*, legitimate business reverses such as in the following instances, provided, however, that the abatement shall only cover the surcharge and the compromise penalty and not the interest;

x x x x

- 2.4 When the assessment is brought about or the result of taxpayer's non-compliance with the law due to a difficult interpretation of said law;
- 2.5 When [the] taxpayer fails to file the return and pay the correct tax on time due to circumstances beyond his control provided, however, that abatement shall cover only the surcharge and the compromise penalty and not the interest; [and]
- 2.6 Late payment of the tax under meritorious circumstances.

Here, petitioner insists that the surcharge of ₱7,385,209.00 should be abated under RR No. 13-2001 for being unjust and excessive. Petitioner claims its belated filing of ITR was due to a technical problem beyond its control.

To recall, the CTA *En Banc*, citing the CIR's April 3, 2014 Letter, found that there was no advice on eFPS unavailability on November 29, 2011 and the delay could have been easily avoided had petitioner undertook to file its ITR earlier or before the deadline. Moreover, the CTA *En Banc* ruled that the surcharge was not unjust nor excessive.

<sup>18</sup> Under RR 4-2012 (March, 28, 2012), which amended RR No. 13-2001, the one (1) day late filing and remittance of tax due to failure to beat the bank cut-off time is no longer considered a meritorious circumstance in which penalties and/or interest imposed on late payment of the tax may be abated or cancelled.

The Court will not set aside lightly the conclusions reached by the CTA which, by the very nature of its functions, is dedicated exclusively to the resolution of tax problems and has, accordingly, developed an expertise on the subject, unless there has been an abuse or improvident exercise of authority.<sup>19</sup>

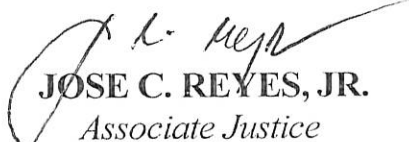
In the present case, the Court finds no abuse of authority on the part of the CTA. Verily, the findings of the CTA, supported as they are by logic and law, carry great weight in the proper interpretation of what constitutes as “circumstances beyond control.” Undeniably, a technical malfunction is not a situation too bleak so as to render petitioner completely without recourse. As correctly observed by the CTA, petitioner would not incur delay in the filing of its ITR if only it filed the same before the deadline and not at the 11<sup>th</sup> hour or on the last day of filing. On petitioner’s averment that it had difficulty in interpreting the correct Gross Philippine Billings Computation for income tax under the then newly-issued RR No. 11-2011, the CTA aptly stated that:

To avoid delay, petitioner could file a tentative quarterly income tax return if it was still unsure with the figures contained therein to avoid paying the [25%] surcharge for late filing. Thereafter, it could modify, change, or amend the tentative return already filed if warranted, pursuant to Section 6(A) of the 1997 NIRC.<sup>20</sup>

Further, the Court agrees that the surcharge imposed upon petitioner was not unjust or excessive pursuant to Section 248(A)(1) of the 1997 NIRC which provides for the imposition of a penalty equivalent to 25% of the amount due for failure to timely file any return and pay the tax due thereon. *Dura lex sed lex*. While the Court commiserates with the unfortunate plight of petitioner, the Court, like the CTA, is still bound to apply and give effect to the applicable law and rules.

**WHEREFORE**, premises considered, the Decision dated September 5, 2017 and Resolution dated April 12, 2018 of the Court of Tax Appeals *En Banc* in CTA EB No. 1468 are hereby **AFFIRMED**.

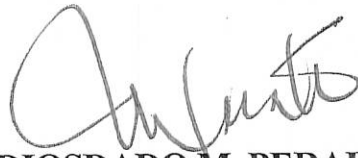
**SO ORDERED.**

  
**JOSE C. REYES, JR.**  
*Associate Justice*

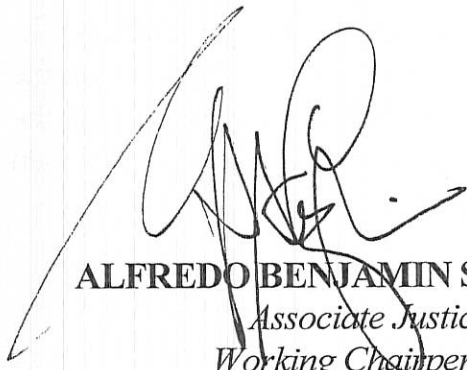
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<sup>19</sup> *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, 609 Phil. 695, 724 (2009).  
<sup>20</sup> *Rollo*, p. 43.

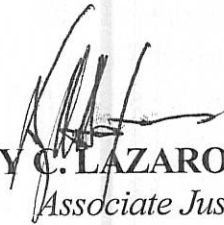
**WE CONCUR:**



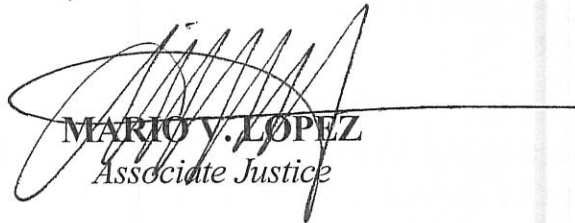
**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Working Chairperson*



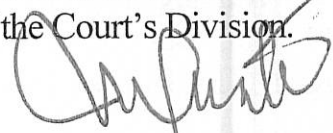
**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARIO V. LOPEZ**  
*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.



**DIOSDADO M. PERALTA**  
*Chief Justice*