

Significant Supreme Court Decision December 2018

Injunctive relief before the RTC is not available as a remedy to assail the collection of a tax.

A taxpayer was assessed for Documentary Stamp Tax (DST) for taxable years 2011 to 2013. For the 2011 assessment, Preliminary Assessment Notice (PAN), and subsequently, Formal Letter of Demand (FLD) were issued by the BIR, which the taxpayer timely protested. The BIR denied the FLD and accordingly, issued a Final Decision on Disputed Assessment (FDDA). The taxpayer sought reconsideration of the FDDA. Thereafter, the taxpayer likewise commenced a Civil Case with the RTC for the judicial determination of the constitutionality of Section 108 and 184 of the Tax Code with respect to the taxes to be paid by non-life insurance companies, with prayer for the issuance of a temporary restraining order (TRO) or of a writ of preliminary injunction.

The Supreme Court ruled that the RTC has no jurisdiction over the case. The High Court said that injunctive relief before the RTC is not available as a remedy to assail the collection of a tax. Action for declaratory relief was procedurally improper as a remedy.

The Supreme Court noted that an action for declaratory relief is predicated on the attendance of several requisites, specifically: (1) the subject matter of the controversy must be a deed, will, contract or other written instrument, statute, executive order or regulation, or ordinance; (2) the terms of said documents and the validity thereof are doubtful and require judicial construction; (3) there must have been no breach of the documents in question; (4) there must be an actual justiciable controversy or the "ripening seeds" of one between persons whose interests are adverse; (5) the issue must be ripe for judicial determination; and (6) adequate relief is not available through other means or other forms of action or proceeding. In this case, the Supreme Court said that the third, fourth, fifth and sixth requisites were patently wanting. (*Commissioner of Internal Revenue vs. Standard Insurance Co., Inc.*, GR No. 219340, November 7, 2018).

Note: With this decision of the Supreme Court, it appears that declaratory relief is not a proper remedy on self-assessing provisions of the Tax Code. In *Commissioner of Internal Revenue v. Josefina Leal*¹, the Supreme Court held that the jurisdiction to review the rulings of the CIR pertains to the Court of Tax Appeals, not to the RTC, considering that BIR Rulings are actually rulings or opinions of the Commissioner implementing the Tax Code, which were issued pursuant to her powers under Section 245 of the Tax Code. Further, under RA No. 1125, as amended, such rulings of the CIR are appealable to the CTA as it involves "other matter arising under the National Internal Revenue Code or other laws or part of law administered by the Bureau of Internal Revenue".²

¹ G.R. No. 113459, November 18, 2002.

² Delta Air Lines, Inc. v. Secretary of Finance, CTA EB No. 1113, September 10, 2015, citing *Commissioner of Internal Revenue v. Josefina Leal*, G.R. No. 113459, November 18, 2002.