

Dumaguete Cathedral Credit Cooperative v. Commissioner of Internal Revenue, G.R. No. 182722, January 22, 2010

Facts: Dumaguete Cathedral Credit Cooperative (the Cooperative) was assessed by the Commissioner of Internal Revenue (CIR) on deficiency withholding taxes for taxable years 1999 and 2000 which it protested on July 23, 2002. Thereafter, on October 16, 2002, the Cooperative received two (2) other Pre-Assessment Notices for deficiency withholding taxes also for taxable years 1999 and 2000. The deficiency withholding taxes cover the payments of the honorarium of the Board of Directors, security and janitorial services, legal and professional fees, and interest on savings and time deposits of its members.

In another letter dated November 8, 2002, the Cooperative informed the CIR, that it would pay the withholding taxes due on the honorarium and *per diems* of the Board of Directors, security and janitorial services, commissions and legal and professional fees for the year 2000 excluding penalties and interest, and that it would avail of the Voluntary Assessment and Abatement Program (VAAP) of the BIR under Revenue Regulations No. 17-2002. On November 29, 2002, the Cooperative availed of the VAAP and paid the amounts corresponding to the withholding taxes on the payments for the compensation, honorarium of the Board of Directors, security and janitorial services, and legal and professional services, for the years 1999 and 2000. On April 24, 2003, the Cooperative received from the BIR Regional Director, Sonia L. Flores, Letters of Demand Nos. 00027-2003 and 00026-2003, with attached Transcripts of Assessment and Audit Results/Assessment Notices, ordering it to pay the deficiency withholding taxes, inclusive of penalties, for the years 1999 and 2000 in the amounts of P1,489,065.30 and P1,462,644.90, respectively.

On May 9, 2003, the Cooperative protested the Letters of Demand and Assessment Notices with the CIR. However, the latter failed to act on the protest within the prescribed 180-day period. Hence, on December 3, 2003, the Cooperative filed a Petition for Review before the CTA.

The Court of Tax Appeals First Division partially granted the petition and cancelled the deficiency assessment against the Cooperative for deficiency withholding taxes on the honorarium and *per diems* of the Cooperative's Board of Directors, security and janitorial services, commissions and legal and professional fees in view of its VAAP application. However, The CTA ordered the Cooperative to pay the amounts representing deficiency withholding taxes on interests from savings and time deposits of its members for the taxable years 1999 and 2000 plus the 20% delinquency interest from May 26, 2003 until the amount of deficiency withholding taxes are fully paid pursuant to Section 249 (C) of the Tax Code.

Aggrieved, the Cooperative filed an appeal before the CTA En Banc. However, the CTA En Banc denied its appeal.

The Cooperative elevated its case before the Supreme Court.

Issue: Is the Cooperative liable to pay the deficiency withholding taxes on interest from savings and time deposits of its members, as well as the delinquency interest of 20% per annum.

Held: The Supreme Court held that the Cooperative is not liable.

The Supreme Court found that the BIR has previously issued rulings dealing with the subject matter. In BIR Ruling No. 551-888, the BIR stated that cooperatives are not required to withhold taxes on interest from savings and time deposits of their members which ruling was reiterated in BIR Ruling [DA-591-2006] dated October 5, 2006. The Court found that both BIR Ruling No. 551-888 and BIR Ruling [DA-591-2006] are in perfect harmony with the Constitution and the laws they seek to implement.

Also, given that the Cooperative is duly registered with the Cooperative Development Authority (CDA), Section 24(B)(1) of the NIRC must be read together with RA 6938, as amended by RA 9520.

Under Article 2 of RA 6938, as amended by RA 9520, it is a declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice. Thus, to encourage the formation of cooperatives and to create an atmosphere conducive to their growth and development, the State extends all forms of assistance to them, one of which is providing cooperatives a preferential tax treatment.

The legislative intent to give cooperatives a preferential tax treatment is apparent in Articles 61 and 62 of RA 6938, which read:

ART. 61. *Tax Treatment of Cooperatives.* — Duly registered cooperatives under this Code which do not transact any business with non-members or the general public shall not be subject to any government taxes and fees imposed under the Internal Revenue Laws and other tax laws. Cooperatives not falling under this article shall be governed by the succeeding section.

ART. 62. *Tax and Other Exemptions.* — Cooperatives transacting business with both members and nonmembers shall not be subject to tax on their transactions to members. Notwithstanding the provision of any law or regulation to the contrary, such cooperatives dealing with nonmembers shall enjoy the following tax exemptions; x x x.

This exemption extends to members of cooperatives. It must be emphasized that cooperatives exist for the benefit of their members. In fact, the primary objective of every cooperative is to provide goods and services to its members to enable them to attain increased income, savings, investments, and productivity. Therefore, limiting the application of the tax exemption to cooperatives would go against the very purpose of a credit cooperative. Extending the exemption to members of cooperatives, on the other hand, would be consistent with the intent of the legislature. Thus, although the tax exemption only mentions cooperatives, this should be construed to include the members, pursuant to Article 126 of RA 6938, which provides:

ART. 126. *Interpretation and Construction.* — In case of doubt as to the meaning of any provision of this Code or the regulations issued in pursuance thereof, the same shall be resolved liberally in favor of the cooperatives and their members.

The Supreme Court likewise noted that the tax exemption in RA 6938 was retained in RA 9520. The only difference is that Article 61 of RA 9520 (formerly Section 62 of RA 6938) now expressly states that transactions of members with the cooperatives are not subject to any taxes and fees.

ART. 61. *Tax and Other Exemptions.* Cooperatives transacting business with both members and non-members shall not be subjected to tax on their transactions with members. In relation to this, the transactions of members with the cooperative shall not be subject to any taxes and fees, including but not limited to final taxes on members' deposits and documentary tax. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with nonmembers shall enjoy the following tax exemptions: (Underscoring Supplied)

This amendment in Article 61 of RA 9520, specifically providing that members of cooperatives are not subject to final taxes on their deposits, affirms the interpretation of the BIR that Section 24(B)(1) of the NIRC does not apply to cooperatives and confirms that such ruling carries out the legislative intent. Under the principle of legislative approval of administrative interpretation by reenactment, the reenactment of a statute substantially unchanged is persuasive indication of the adoption by Congress of a prior executive construction.

Moreover, no less than the Constitution guarantees the protection of cooperatives. Section 15, Article XII of the Constitution considers cooperatives as instruments for social justice and economic development. At the same time, Section 10 of Article II of the Constitution declares that it is a policy of the State to promote social justice in all phases of national development. In relation thereto, Section 2 of Article XIII of the Constitution states that the promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance. Bearing in mind the foregoing provisions, the Court found that an interpretation exempting the members of cooperatives from the imposition of the final tax under Section 24(B)(1) of the NIRC is more in keeping with the letter and spirit of the Constitution.

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