



DOF OPINION NO. 001.2024

MR. CHARLIE A. REGILME, ABPS, M.A.C.Ed. Juris Doctor
President

Baybreeze Executive Village Homeowners Association, Inc.
Block 25 Chicadee Curvem Baybreeze Executive Village
Hagonoy, Taguig City

**SUBJECT: LETTER OF APPEAL ON THE REQUEST FOR RECONSIDERATION
OF THE COMMISSIONER OF INTERNAL REVENUE (CIR)
DECISION DATED 17 AUGUST 2020**

Dear **Mr. Regilme**:

This resolves the Letter of Appeal on the Request for Reconsideration filed by Baybreeze Executive Village Homeowners Association, Inc. (BBEVHAI) before this Department on 14 October 2022 and 21 December 2023, requesting this Office to reverse and set aside the Decision of the Commissioner of Internal Revenue (CIR) dated 17 August 2020,¹ and to recall the Warrant of Dstraint and/or Levy (WDL)² and Warrant of Garnishment (WOG)³ issued in relation thereto.

The Tax Code provides:

“SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.”

The 1st paragraph of Sec. 4 is clear that the Secretary of Finance (SOF) has the

¹ A copy is attached as Annex “A”.

² Attached as Annex “B”.

³ Attached as Annex “C”.

authority to review the CIR's interpretation of the National Internal Revenue Code (NIRC) and other tax laws, while the 2nd paragraph clearly provides that disputed assessments, among others, are subject to the exclusive appellate jurisdiction of the Court of Tax Appeals (CTA).

Moreover, Section 7 of Republic Act (R.A.) No. 9282⁴ provides that the CTA shall exercise exclusive appellate jurisdiction to review, on appeal, decisions of the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the BIR.⁵

Since your Appeal involves a final decision of the CIR on a disputed assessment, this Department lacks jurisdiction to take cognizance thereof and thus, cannot rule on the merits of the case as the same falls under the exclusive appellate jurisdiction of the CTA pursuant to the NIRC and R.A. No. 9282.

Further, this Office emphasizes that BBEVHAI's reliance on this Department's ruling⁶ in favor of Dasmariñas Village Association Inc. (DVAI) is misplaced.

Assuming that BBEVHAI is similarly situated with DVAI under the premise that both are Homeowner Associations duly registered with Department of Human Settlements and Urban Development - Human Settlements Adjudication Commission, not receiving any assistance in whatever form, monetary or in kind from the local government, and are only collecting association dues and rentals as part of their capital, this Department stresses that DVAI requested for a confirmatory ruling with the BIR confirming that its association dues, membership fees and other assessments and charges collected by DVAI from its members are exempt from income tax and VAT.

BIR then issued BIR Ruling No. OT-206-2021⁷ denying DVAI's request for tax exemption, which was eventually appealed to this Department by way of request for review pursuant to 1st paragraph of Section 4 of the NIRC, and DOF Department Order (DO) No. 007-2002.⁸

This Department took cognizance of DVAI's appeal as it was within the power of review of the SOF under Section 4 of the NIRC. Again, such authority is limited to

⁴ AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

⁵ Section 7(a)(1) of R.A. No. 9282.

⁶ DOF Opinion No. 013-2022 dated 20 July 2022; copy is attached as Annex "H".

⁷ Dated 16 June 2021; attached as Annex "I".

⁸ Section 3 of DO No. 007-2002 provides in part that "a taxpayer who receives an adverse ruling from the CIR may seek its review by the SOF within 30 days from date of receipt of such ruling".

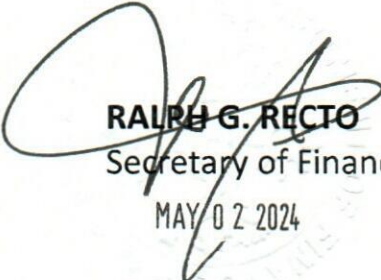
the interpretation of the provisions of the NIRC and other tax laws, and does not extend to decisions of the CIR rendered in assessment disputes as in this case.

In view of the foregoing, the Appeal is hereby DISMISSED for lack of merit and lack of jurisdiction over the subject matter.

We hope we have sufficiently addressed your concern.

Thank you.

Very truly yours,


RAUL G. RECTO
Secretary of Finance
MAY 02 2024



DEPARTMENT OF FINANCE
Republic of the Philippines



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