Supreme Court E-Library

THIRD DIVISION

[G.R. No. 202792. February 27, 2019]

LA SALLIAN EDUCATIONAL INNOVATORS FOUNDATION (DE LA SALLE UNIVERSITY-COLLEGE OF ST. BENILDE) INC., *petitioner, vs.* **COMMISIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. TAXATION; TAX EXEMPTION; NON-STOCK, NON-PROFIT EDUCATIONAL INSTITUTIONS ARE NOT REQUIRED TO PAY TAXES ON ALL THEIR REVENUES AND ASSETS IF THEY ARE USED ACTUALLY, DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES. — No less than the 1987 Constitution expressly exempt all revenues and assets of non-stock, non-profit educational institutions from taxes provided that they are actually, directly and exclusively used for educational purposes, to wit: Section 4.(1) The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions. x x x (3) **All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties.** This constitutional exemption is reiterated in Section 30 (H) of the 1997 Tax Code, as amended. x x x Clearly, non-stock, non-profit educational institutions are not required to pay taxes on all their revenues and assets if they are used actually, directly and exclusively for educational purposes. x x x Based on jurisprudence and tax rulings, a taxpayer shall be granted with this tax exemption after proving that: **(1) it falls under the classification of non-stock, non-profit educational institution;** and **(2) the income it seeks to be exempted from taxation is used actually, directly and exclusively for educational purposes**.

2. ID.; ID.; ID.; MAKING PROFITS IS NOT MATERIAL SO LONG AS THE REVENUES AND INCOME ARE USED ACTUALLY, DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL

Supreme Court E-Library

PURPOSES. — [R]espondent claimed that petitioner Foundation is not a non-profit educational institution anymore due to its alleged enormous profits. x x x In several cases, this Court has ruled that a non-profit institution will not be considered profit driven simply because of generating profits. The reason behind this was explained by this Court in its earlier ruling in *Jesus Sacred Heart College v. Collector of Internal Revenue*, to wit: x x x Needless to say, **every responsible organization must be so run as to, at least insure its existence, by operating within the limits of its own resources, especially its regular income. In other words, it should always strive, whenever possible, to have a surplus**. x x x Furthermore, a simple reading of the Constitution would show that Article XIV, Section 4 (3) does not require that the revenues and income must have also been earned from educational activities or activities related to the purposes of an educational institution. The phrase *"all revenues*" is unqualified by any reference to the source of revenues. Thus, so long as the revenues and income are used actually, directly and exclusively for educational purposes, then said revenues and income shall be exempt from taxes and duties.

3. **REMEDIAL LAW; CIVIL PROCEDURE; REQUIRED PAYMENT OF DOCKET FEE AND OTHER LEGAL FEES WITHIN THE THIRTY (30) DAY REGLEMENTARY PERIOD TO APPEAL A TAX ASSESSMENT TO THE COURT OF TAX APPEALS (CTA) LIBERALLY CONSTRUED IF PROCEDURAL MISTAKE IS INCOMMENSURATE TO THE GRAVE INJUSTICE TO BE MADE. —** The tax exemption expressly granted by the 1987 Constitution, the supreme law of the land, cannot be set aside by any statute, especially by a mere technicality in procedure. While payment of docket fee and other legal fees within the thirty (30)-day reglementary period to appeal a tax assessment to the CTA is mandatory and jurisdictional, this Court will not hesitate to exercise its equity jurisdiction and allow a liberal interpretation of the rules of procedure if a rigid application will defeat substantial justice. x x x Here, a procedural controversy arose because the payment of the required docket and legal fees was done nine (9) days after the last day for filing the petition for review. x x x The question now is: should the late payment of the docket fees divest the CTA Division of jurisdiction over petitioner Foundation's petition for review making the VAT deficiency assessment of ₱122,414,521.70 against a tax-exempt entity final and executory? This Court

Supreme Court E-Library

answers in the negative. x x x To reiterate, petitioner Foundation was able to establish that it is a tax exempt entity under the 1987 Constitution. It has timely filed its Protest to the tax deficiency assessment. It was also able to actually pay the full amount of the required docket and legal fees in the amount of ₱861,178.34, but it was nine (9) days late. Evidently, petitioner Foundation immediately paid the docket and legal fees upon the CTA's assessment of the proper amount which showed petitioner's good faith. Furthermore, the Court finds petitioner Foundation's procedural mistake incommensurate to the grave injustice to be made in violation of the 1987 Constitution's mandate, and petitioner Foundation's payment of ₱122,414,521.70, representing the VAT deficiency.

APPEARANCES OF COUNSEL

Casey M. Barleta & Maricris E. Oronea for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

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

Before this Court is a Petition for Review on *Certiorari*[1] taken under Rule 16 of the Revised Rules of the Court of Tax Appeals, in relation to Rule 45 of the Rules of Court seeking to nullify the Decision[2] dated April 19, 2012 and Resolution[3] promulgated on July 17, 2012 of the Court of Tax Appeals (CTA) *En Banc*.

The Factual Antecedents

Petitioner La Sallian Educational Innovators Foundation, Inc. (De La Salle University-College of St. Benilde Foundation)/

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[1] *Rollo*, pp. 11-64.

[2] Penned by Associate Justice Esperanza R. Fabon-Victorino; *id.* at 69-111.

[3] Penned by Associate Justice Esperanza R. Fabon-Victorino; *id.* at 138-142.

Supreme Court E-Library

for brevity) is a non-stock, non-profit domestic corporation duly organized and existing under the laws of the Philippines.[4] Respondent is the Commissioner of Internal Revenue who has the power to decide, cancel, and abate tax liabilities pursuant to Section 204(B) of the Tax Code, as amended.[5]

On June 17, 2005, respondent issued two (2) Assessment Notices, both numbered 33-FY 05-31-02, for fiscal year ending May 31, 2002. The notices have demand letters against petitioner for deficiency income tax. The alleged deficiency income tax is in the amount of P122,414,521.70, inclusive of interest, computed as follows:[6]

Gross Income Per Return on Educational		₱ 618,449,079.00
Less: Expenses Per Return on Educational		459,848,867.00
Net Income Per Return		₱ 158,600,212.00
Add: Adjustments Per Investigation		
Interest Expense		
- Disallowed (Sec. 34 (B) NIRC)	₱ 21,827,506.66	
Provision For Retirement		
- Not Deductible (Sec. 34 NIRC)	27,059,453.34	
Provision For Doubtful Accounts		
- Not Deductible (Sec. 34 NIRC)	4,252,393.73	
Not Subject to Withholding Tax		
- Sec. 34 NIRC		
Rental	123,147.00	
Income Not Subjected to Income Tax		
- Depository Accounts		
(Sec. 32 NIRC)	575,702,650.00	
Unlocated/Unsupported Invoices		
& Vouchers (Sec. 34 NIRC)	2,150,270.66	631,170,895.82
Adjusted Taxable Income		₱789,771,107.82
Tax Due		₱ 78,977,110.78
Less: Tax due per return		-
Deficiency Income Tax (subject to increments)		₱ 78,977,110.78
Add: 25% surcharge (Sec. 248)		
20% interest from __ to 06-20-05 (Sec. 249)		₱ 43,437,410.92
Compromise Penalty (Sec. 254)		_____
TOTAL AMOUNT DUE & COLLECTIBLE		₱ 122,414,521.70

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[4] *Id*. at 397-398.

[5] *Id*. at 398.

[6] *Id*. at 398-399.

Supreme Court E-Library

The other Assessment Notice is for a deficiency value-added tax (VAT) in the amount of ₱2,752,228.54, inclusive of interest, computed as follows:

Taxable Income Subject to VAT			
ICC Revenue	P 24,830,069.00		
Auxiliary Service Income	637,280.35		
Concessionaire	606,726.00		
Mimeo/Xerox	425,489.60		
Book store-School Supplies	559,140.96		
Parking Fund	2,729,330.75		
Boarding House	2,513,338.02		
Locker Rental	309,172.00		32,610,546.68
VAT Output Tax Due - Sec. 106/08 NIRC			P 3,261,054.67
Less: Creditable Input Tax			
Carried Over from Previous Quarter	P 770,351.28		
Current Input Tax	943,242.91		
Total			
Less: Excess/To be Applied to Succeeding Year - Sec. 110 NIRC	P 121,991.53		
Unsupported - Sec. 110 NIRC	393,240.74		
Pro-rated between Hotel & School - Sec. 110, NIRC	309,956.13	825,188.40	888,405.79
VAT Due			P 2,372,648.88
Less: Payment			652,506.04
Deficiency VAT			P 1,720,142.84
Add: 25% surcharge (Sec. 248)			
20% interest from __ to 06-20-05 (Sec. 249)			1,032,085.70
Compromise Penalty (Sec. 254)			
TOTAL AMOUNT DUE & COLLECTIBLE			P 2,752,228.54[7]

On the same date, a separate demand letter was also sent by respondent to petitioner for a compromise penalty in deficiency VAT in the amount of ₱25,000.00.[8]

To contest the deficiency taxes assessed, petitioner Foundation filed a Protest or Request for Reconsideration to respondent

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[7] *Id*. at 399.

[8] *Id*.

Supreme Court E-Library

on July 20, 2005.[9] After the petitioner Foundation has submitted all the documents in support of its protest, and in view of respondent's inaction thereto, petitioner Foundation filed a Petition for Review before the Special First Division of the CTA Division. It was sent through registered mail on April 17, 2006, the last day of filing the appeal.[10] However, petitioner was only able to pay the docket and other legal fees nine days after or on April 26, 2006.[11]

Notably, petitioner Foundation executed an Agreement Form with the Bureau of Internal Revenue (BIR) on April 21, 2006, and paid the deficiency VAT liability of ₱601,487.70 on May 9, 2006.[12]

However, respondent alleged that the petitioner Foundation has already lost its tax-exempt status, malting it liable to deficiency income tax. The Details of Discrepancies issued by the BIR enumerated the following findings, to wit:[13]

a. The foundation may be a non-stock entity but it is definitely a profit-oriented organization wherein majority of its revenue-operating activities are generating huge amount of profit amounting to ₱643 million that earned from expensive tuition fees collected from its students, mostly belong to a [sic] upper class family.

b. The foundation's Cash in Bank in the amount of ₱775 million comprise of investing activities and has significant movement in relation to its charitable purposes, which mean that the foundation are [sic] not giving sufficient donations which is the main reasons [sic] for its qualification[s] [sic] for exemption. During the school year the foundations [sic] has a total cash receipts of approximately 1.222 Billion out of which only 77 Million goes to the revolving fund.

c. Based on the Cash Flow of the foundation activities the taxpayer has used 583 Million for operating activities, 54 Million interest/

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[9] *Id*. at 400.

[10] *Id*. at 83-84.

[11] *Id*. at 84.

[12] *Id*. at 388.

[13] *Id*. at 177-178.

Supreme Court E-Library

settlement of loan and 203 Million for investing activities or 70% of foundation's earnings goes to the administrative purposesand improvement of the school to increase number of its enrollees and increase further its profit and not to further its charitable purposes.

Pursuant to Section 30 of the NIRC, "Notwithstanding the provisions in the preceding Paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit [r]egardless of the disposition made by such income, shall be subject to tax imposed under this Code."

d. The taxpayer's Ruling for exemption from the BIR was obtained in 1988, hence, all Ruling issued before the implementations or RA No. 8424 or CTRP was repealed, thereby, requiring the taxpayer to apply for new Revenue Ruling for exemption taking consideration of its income earning activities.

On the other hand, petitioner Foundation consistently argued that it enjoys a tax-exempt status from all taxes as a non-stock, non-profit educational institution as expressly provided under Paragraph 4, Section 4, Article XIV of the 1987 Constitution, which reads:

ARTICLE XIV

EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS

EDUCATION

x x x x x x x x x

Section 4. x x x.

x x x x x x x x x

(3) All revenues and assets of non-stock, non-profit educational institution used actually, directly and exclusively for educational purposes shall be exempt from taxes and duties. x x x.

Moreover, petitioner Foundation denied the respondent's allegations that it engaged in disproportionate profit-earning activities contrary to its educational purpose. Contrary to the allegations, it explained that the sum of ₱643,279,148.00

Supreme Court E-Library

is not profit, but merely the gross receipts from school-year 2002.[14]

Bearing in mind that the total expenses of the Foundation is in the amount of ₱582,903,965.00, the net receipt of petitioner Foundation is only ₱60,375,183.[15] This was corroborated by the Foundation's Audited Financial Statement.[16] Remarkably, this amount is equivalent to just 9.38% of its total operating receipts.[17]

Furthermore, petitioner Foundation's claim that all the said income is actually, directly and exclusively used or earmarked for promoting its educational purpose and not a single centavo inure to the benefit of any of the Foundation's members, trustees and officers.[18] The Independent Certified Public Accountant, Mr. Edwin Ramos, also testified and explained that the administrative expenses of the Foundation would necessarily be lower than 27.35%.

Thereafter, respondent filed its Answer on June 15, 2006,[19] and petitioner Foundation filed its Reply on June 30, 2006[20] to the CTA Division.

Ruling of CTA Division

On July 16, 2010, the CTA Division promulgated a Decision[21] ruling in favor of petitioner Foundation, and cancelling Assessment Notice No. 33-FY 05-31-02 for fiscal year ending May 31, 2002, with demand letter. The dispositive portion reads:

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[14] *Id*. at 182-183.

[15] *Id*. at 183.

[16] *Id*.

[17] *Id*. at 410.

[18] *Id*.

[19] *Id*. at 400.

[20] *Id*. at 407.

[21] *Id*. at 397-419.

Supreme Court E-Library

WHEREFORE, the *Petition for Review* is hereby GRANTED. The Assessment Notice No. 33-FY 05-31-02 for fiscal year ending May 31, 2002, with demand letter, against petitioner for deficiency income tax in the amount of ONE HUNDRED TWENTY-TWO MILLION FOUR HUNDRED FOURTEEN THOUSAND FIVE HUNDRED TWENTY-ONE PESOS & 70/100 (₱122,414,521.70) is hereby CANCELLED.

SO ORDERED.[22]

The CTA Division also ruled that there's nothing in the Foundation's books that will show that it operated for profit or that any of its income inured to the benefit of its members or trustees.[23] The CTA Division found that (1) petitioner Foundation maintained its tax-exempt status under Section 4, Article XIV of the 1987 Constitution, and (2) the Final Assessment Notices issued by respondent against petitioner Foundation are not valid for failing to state their legal and factual basis hence, all other issues raised are moot and academic.[24]

Dissatisfied with CTA Division's decision, respondent filed a Motion for Reconsideration dated August 3, 2010,[25] which petitioner Foundation opposed by filing an Opposition to Motion for Reconsideration dated August 16, 2010.[26]

The CTA Division resolved it by promulgating a Resolution dated November 18, 2010 denying respondent's motion for reconsideration for lack of merit.[27] In the body of the resolution, the CTA Division agreed with petitioner Foundation that respondent's motion for reconsideration merely raised the same arguments which have been sufficiently addressed and passed by the CTA Division in the assailed decision.[28]

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[22] *Id*. at 418.

[23] *Id* at 412.

[24] *Id*. at 418.

[25] *Id*. at 420-431.

[26] *Id*. at 432-436.

[27] *Id*. at 438-442.

[28] *Id*. at 440.

Supreme Court E-Library

Thereafter, respondent filed a petition for review before the CTA *En Banc* dated December 21, 2010 against the resolution denying its Motion for Reconsideration,[29] to which petitioner Foundation filed its Comment on February 3, 2011.[30]

Ruling of the CTA *En Banc*

On April 19, 2012, the CTA *En Banc* promulgated a Decision[31] granting respondent's petition for review and reversing the decision of the CTA Division, to wit:

> WHEREFORE, the Petition for Review dated December 21, 2010, filed by the Commissioner of Internal Revenue, is hereby GRANTED. The Decision dated July 16, 2010 and the Resolution dated November 18, 2010 are REVERSED and SET ASIDE. Consequently, the Petition for Review dated April 17, 2006 filed before the Court in Division is DISMISSED, on jurisdictional grounds.
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> SO ORDERED.[32]

The CTA *En Banc* ruled that the CTA Division should not have given due course to petitioner Foundation's petition for review.[33] Payment of docket fees and other legal fees within the thirty (30)-day reglementary period to appeal is mandatory and jurisdictional. The late payment of docket fees prevented the CTA Division from acquiring jurisdiction.[34] Petitioner Foundation's appeal was allegedly not perfected because the payment of the docket fees was made only on April 26, 2006 or nine (9) days after April 17, 2006, the last day for filing the appeal.[35] As a result, the assailed assessment has allegedly become final and executory.[36]

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[29] *Id*. at 443-473.

[30] *Id*. at 474-490.

[31] *Id*. at 69-111.

[32] *Id*. at 110.

[33] *Id*. at 84.

[34] *Id*.

[35] *Id*.

[36] *Id*. at 109.

Supreme Court E-Library

Moreover, even assuming that the CTA Division had jurisdiction over the petition, the latter allegedly erred in cancelling the assessment notice because the presumption of its correctness has not been overturned. The CTA *En Banc*emphasized that petitioner Foundation's tax exempt status has been impliedly revoked due to its excessive profit-earning activities.[37]

Aggrieved, petitioner Foundation filed its Motion for Reconsideration[38] dated May 18, 2012, but it was likewise denied by the CTA *En Banc*.[39]

Hence, this petition for review on *certiorari*.[40]

The Issues

Although the parties raised a number of issues, this Court shall decide only the pivotal issues which we summarized as follows:[41]

I. WHETHER THE PETITIONER FOUNDATION HAS LOST ITS TAX-EXEMPT STATUS UNDER THE 1987 CONSTITUTION

II. WHETHER THE CTA EN BANC COMMITTED A REVERSIBLE ERROR WHEN IT REVERSED AND SET ASIDE THE DECISION OF THE CTA DIVISION DATED JULY 16, 2010 AND RESOLUTION DATED NOVEMBER 18, 2010

Ruling of the Court

The petition is meritorious.

No less than the 1987 Constitution expressly exempt all revenues and assets of non-stock, non-profit educational institutions from taxes provided that they are actually, directly and exclusively used for educational purposes, to wit:[42]

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[37] *Id*. at 85.

[38] *Id*. at 112-137.

[39] *Id*. at 138-142.

[40] *Id*. at 11-64.

[41] *Id*. at 19.

[42] 1987 Constitution, Article XIV, Section 4(3).

Supreme Court E-Library

Section 4.(1) The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.

x x x x x x x x x

(3) **All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties.** (Emphasis and underscoring supplied)

This constitutional exemption is reiterated in Section 30 (H) of the 1997 Tax Code, as amended, which provides as follows:

Sec. 30. Exemptions from Tax on Corporations. – The following organizations shall not be taxed under this Title in respect to income received by them as such:

x x x x x x x x x

(H) A non[-]stock and non[-]profit educational institution[.]

Clearly, non-stock, non-profit educational institutions are not required to pay taxes on all their revenues and assets if they are used actually, directly and exclusively for educational purposes. x x x

According to the BIR, petitioner Foundation has failed to comply with the constitutional requirements for being a profit-oriented educational institution. Hence, it is no longer a tax-exempt entity, and is subject to a 10% income tax rate as a taxable proprietary educational institution.[43]

The Court disagrees.

Petitioner Foundation has presented adequate legal and factual basis to prove that it remains as a tax exempt entity under Article XIV, Section 4, Paragraph 3 of the 1987 Constitution.

Based on jurisprudence and tax rulings, a taxpayer shall be granted with this tax exemption after proving that: **(1) it falls under the classification of non-stock, non-profit educational**

[43] *Id.* at 425.

Supreme Court E-Library

institution; and **(2) the income it seeks to be exempted from taxation is used actually, directly and exclusively for educational purposes**.[44]

Petitioner Foundation has fulfilled both of the abovementioned requirements.

For the first requirement, there is no contest as both the parties have stipulated that petitioner Foundation is a non-stock, non-profit educational institution.[45]

Nonetheless, the Petitioner Foundation's primary and secondary purposes in its Amended Articles of Incorporation clearly provide that it is a non-stock, non-profit educational entity, to wit:[46]

SECOND: That the purposes and objectives for which such corporation is incorporated are:

That the primary purpose for which said corporation is formed is to establish a school that will offer elementary, secondary, collegiate and post graduate courses of study, as well as technical, vocational and special courses under one campus with emphasis on its being innovative in its approach to undergraduate education through self-learning devices, kits, individually guided teaching, credit by equivalence, credited internships, and practicism, as the Board of Trustees may determine, the primary intention being to form the whole man through integration of a liberal Christian education with professional competence for participation in Philippine development.

AND IN THE FURTHERANCE OF THE FOREGOING, the institution shall:

x x x x x x x x x

8. Any profits derived from activities and undertakings described in paragraph 2, 3, 5 and 6 immediately preceding shall not inure to any of the members, trustees or officers but shall be used exclusively

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[44] *Commission of Internal Revenue v. De La Salle University Inc.*, 799 Phil. 141, 167 (2016); and Revenue Memorandum Order No. 20-2013.

[45] *Rollo*, p. 409.

[46] *Id*. at 36-37.

Supreme Court E-Library

for the maintenance of the Corporation.

Moreover, petitioner Foundation has no capital divided into shares.[47] No part of its income can be distributed as dividends to its members, trustees and officers.[48] The members of the Board of Trustees do not receive any compensation for the performance of their duties, including attendance in meetings.[49]

It is also important to mention that in BIR Ruling No. 176-88 dated August 23, 1988, the BIR already declared that petitioner Foundation is a non-stock, non-profit educational institution that is exempt from certain taxes.[50]

As pointed out by respondent, petitioner Foundation did not secure a new BIR Ruling on its claim for exemption after the Tax Code has been amended. However, this Court finds such fact insignificant. The application for a new BIR Ruling is unnecessary considering that the BIR Ruling was never revoked, and the primary purpose of petitioner Foundation remained the same. Notably, respondent also failed to mention any legal basis that will require petitioner Foundation to secure a new BIR Ruling to confirm its tax exempt status.

Furthermore, the respondent claimed that petitioner Foundation is not a non-profit educational institution anymore due to its alleged enormous profits. Respondent accused it of operating contrary to the nature of a non--profit educational institution by generating massive profits in the amount of ₱643,000,000.00 from tuition fees, and having cash worth ₱775,000,000 in its bank.[51]

However, these allegations were completely unsupported by facts and evidence.

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[47] *Id.* at 410.

[48] *Id.*

[49] *Id.* at 47, 80.

[50] *Id.* at 47-48.

[51] *Id.* at 47-48.

Supreme Court E-Library

Based on the evidence presented, the ₱643,000,000.00 is not petitioner Foundation's profit as it is just the gross receipt from school year 2002.[52] Unfortunately, respondent easily overlooked petitioner Foundation's administrative and non-administrative expenses amounting to ₱582,903,965.00.[53] This sum constituted the total operating expenses of petitioner Foundation for the fiscal year ended May 31, 2002.[54] Thus, the income of petitioner Foundation is only ₱60,375,183.00 or 9.38% of its operating receipts.[55] This is way below the average gross profit margin rate of 20% for most business enterprises.[56]

Furthermore, the alleged ₱775,000,000 cash of petitioner Foundation is in reality a part of its Cash and Cash Equivalents account. The amount of ₱575,700,000.00 therein constitutes Funds Held in Trust to finance capital improvements, scholarship, faculty development, retirement and for other restricted uses.[57] The rest of the account consists of highly liquidated debt instruments purchased with a short term maturity.[58] Clearly, there is nothing in the petitioner Foundation's books that will indicate that it is driven by profit or that its income is used for anything but in pursuit of its primary purpose.

In several cases, this Court has ruled that a non-profit institution will not be considered profit driven simply because of generating profits.[59] The reason behind this was explained by this Court

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[52] *Id.* at 410.

[53] *Id.* at 410.

[54] *Id.*

[55] *Id.*

[56] *Id.* at 410.

[57] *Id.* at 48.

[58] *Id.*

[59] *Commissioner of Internal Revenue v. St. Lukes Medical Center*, 805 Phil. 607, 619 (2017); *Commissioner of Internal Revenue v. St. Lukes Medical Center*, 695 Phil. 867, 885 (2012); and *Hospital De San Juan De Dios, Inc. v. Pasay City, et al.*, 123 Phil. 38, 42 (1966).

Supreme Court E-Library

in its earlier ruling in *Jesus Sacred Heart College v. Collector of Internal Revenue*,[60] to wit:

> To hold that an educational Institution is subject to income tax whenever it is so administered as to reasonably assure that it will not incur in deficit, is to nullify and defeat the aforementioned exemption. Indeed, the effect, in general, of the interpretation advocated by appellant would be to deny the exemption whenever there is net income, contrary to the tenor of said section 27(e) which positively exempts from taxation those corporations or associations which, otherwise, would be subject thereto, because of the existence of said net income.
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> Needless to say, **every responsible organization must be so run as to, at least insure its existence by operating within the limits of its own resources, especially its regular income. In other words, it should always strive, whenever possible, to have a surplus**.[61] (Emphasis and underscoring supplied)

Considering the clear explanation of the nature of the money involved, it is evident that all of petitioner Foundation's income is actually, directly and exclusively used or earmarked for promoting its educational purpose.[62] To reiterate, respondent never argued that the income of petitioner Foundation was used in any manner other than for promoting its purpose as a non-stock, non-profit educational institution, hi fact, there is not even a single argument or evidence presented to cast a doubt in the proper usage of petitioner Foundation's income.

Furthermore, a simple reading of the Constitution would show that Article XIV, Section 4 (3) does not require that the revenues and income must have also been earned from educational activities or activities related to the purposes of an educational institution. The phrase "*all revenues*" is unqualified by any reference to the source of revenues.[63] Thus, so long as the revenues and

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[60] 95 Phil. 16 (1954).

[61] *Id*. at 21.

[62] *Id*. at 89.

[63] *CIR v. De La Salle University*, 799 Phil. 141, 169 (2016).

Supreme Court E-Library

income are used actually, directly and exclusively for educational purposes, then said revenues and income shall be exempt from taxes and duties.[64]

In the instant case, petitioner Foundation firmly and adequately argued that none of its income inured to the benefit of any officer or entity. Instead, its income has been actually, exclusively and directly used for performing its purpose as an educational institution. Undoubtedly, petitioner Foundation has also proven this second requisite.

Thus, the tax exempt status of petitioner Foundation under the 1987 Constitution is clear.

It can be recalled that the questioned CTA *En Banc* decision only ruled on the procedural aspect of the case on the ground that it is jurisdictional and determinative of the validity of the whole process.[65] The late payment of docket fees allegedly divested the CTA Division of jurisdiction or authority to take cognizance of the petition for review filed before it.[66] As a result, the decision of the CTA Division was rendered without jurisdiction, and is totally null and void. Thus, the impugned tax deficiency assessment has become final and executory, and its correctness cannot be disputed anymore.[67]

This Court cannot agree.

The tax exemption expressly granted by the 1987 Constitution, the supreme law of the land, cannot be set aside by any statute, especially by a mere technicality in procedure. While payment of docket fee and other legal fees within the thirty (30)-day reglementary period to appeal a tax assessment to the CTA is mandatory and jurisdictional, this Court will not hesitate to exercise its equity jurisdiction and allow a liberal interpretation of the rules of procedure if a rigid application will defeat substantial justice.

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[64] *Id.*

[65] *Rollo*, pp. 100-101.

[66] *Id.* at 108.

[67] *Id.* at 108-109.

Supreme Court E-Library

This Court has ruled in the past that if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice and depending on the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest ill the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction.[68]

The Court's pronouncement in *Heirs of Amada Zaulda v. Zaulda*[69] is instructive on this matter, to wit:

> 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."** x x x
>
> **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 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*[70] (Emphasis and underscoring supplied; citation omitted)

Otherwise stated, procedural rules are important tools designed to facilitate the dispensation of justice, but legal technicalities

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[68] *Marlon Curammeng v Pablo v. People of the Philippines*, 799 Phil. 575, 581 (2016).

[69] 729 Phil. 639 (2014).

[70] *Id*. at 651-652.

Supreme Court E-Library

may be excused when strict adherence thereto will impede the achievement of justice it seeks to serve.

In the present case, petitioner Foundation timely opposed the tax deficiency assessments against it by filing a Protest or Request for Reconsideration, the proper remedy, before the BIR. Due to respondent's inaction, it filed a petition for review, also the proper remedy, within the reglementary period required by law. In addition, it completely paid the required docket and legal fees in the amount of ₱861,178.34.

However, a procedural controversy arose because the payment of the required docket and legal fees was done nine (9) days after the last day for filing the petition for review. To recall, petitioner Foundation's petition for review was filed through a registered mail on April 17, 2006, the last day of filing. It was not able to pay the docket and legal fees on the day of filing because the CTA received the petition and made a computation of the required fees only on April 26, 2006 or nine (9) days after.

The question now is: should the late payment of the docket fees divest the CTA Division of jurisdiction over petitioner Foundation's petition for review making the VAT deficiency assessment of ₱122,414,521.70 against a tax-exempt entity final and executory?

This Court answers in the negative.

Indeed, the general rule is that a petition for review is perfected by timely filing it and paying the requisite docket fees and other lawful fees. However, all general rules admit of certain exceptions.[71]

In *Mactan Cebu International Airport Authority v. Mangubat*[72] where the docket fees were paid six (6) days late, this Court said that where the party immediately paid the

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[71] *Tanenglian v. Lorenzo, et al.*, 573 Phil. 472, 484 (2008).

[72] 371 Phil. 393 (1999).

Supreme Court E-Library

required fees showing willingness to abide by the rules, and in view of the significance of the issues raised in the cask the same calls for judicial leniency, thus:

> In all, what emerges from all of the above is that the rules of procedure in the matter of paying the docket fees must be followed. However, there are exceptions to the stringent requirement as to call for a relaxation of the application of the rules, such as: (1) most persuasive and weighty reasons; (2) **to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure**; (3) **good faith of the defaulting party by immediately paying within a reasonable time from the time of the default**; (4) the existence of special or compelling circumstances; (5) **the merits of the case**; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Concomitant to a liberal interpretation of the rules of procedure should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules. Anyone seeking exemption from the application of the Rule has the burden of proving that exceptionally meritorious instances exist which warrant such departure.[73] (Emphasis and underscoring supplied)

In other words, while procedural rules are important in the administration of justice, they may be excused for the most persuasive and meritorious reasons in order to relieve a litigant of an injustice that is not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[74]

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[73] *KLT Fruits, Inc. v. WSR Fruits, Inc.*, 563 Phil. 1038, 1052-1053 (2007); and *Villena v. Rupisan*, 549 Phil. 146, 167 (2007).

[74] *Sps. Bergona, et al. v. Court of Appeals*, 680 Phil. 334, 343 (2012).

Supreme Court E-Library

To reiterate, petitioner Foundation was able to establish that it is a tax exempt entity under the 1987 Constitution. It has timely filed its Protest to the tax deficiency assessment. It was also able to actually pay the full amount of the required docket and legal fees in the amount of ₱861,178.34, but it was nine (9) days late. Evidently, petitioner Foundation immediately paid the docket and legal fees upon the CTA's assessment of the proper amount which showed petitioner's good faith.

Moreover, the issue involved in this case is no less than the tax assessment over a non-stock, non-profit educational institution, which the 1987 Constitution mandated to be tax exempt. Otherwise stated, what is at stake is the opportunity for the proper and just determination of petitioner Foundation's status as a tax-exempt entity under the 1987 Constitution, and a deprivation of a substantial amount of property.

Taking into account the importance of the issues raised in the petition filed before the CTA Division, and what petitioner stands to lose, the CTA *En Banc*should have considered the merits of said petition. By ruling for the denial of the said petition solely based on technicalities, the CTA *En Banc* absolutely foreclosed the resolution of the issues raised therein. Definitely, justice would have been better served if the CTA *En Banc* allowed the resolution of the issues that were raised in the petition.

This Court agrees with the decision of the CTA Division to give due course to the petition. Consequently, the CTA Division acquired jurisdiction to examine the assailed VAT deficiency assessment, and the latter did not become final and executory.

Furthermore, the Court finds petitioner Foundation's procedural mistake incommensurate to the grave injustice to be made in violation of the 1987 Constitution's mandate, and petitioner Foundation's payment of ₱122,414,521.70, representing the VAT deficiency.

It is worthy to note that this kind of lenient application of the rules of procedure for exceptionally persuasive and meritorious reasons is not novel. In fact, in the case of *Tanenglian v.*

Supreme Court E-Library

Lorenzo, et al.,[75] this Court gave due course to the appeal which was not only made through a wrong mode but was even filed beyond the reglementary period. This Court recognized the broader interest of justice and reasoned that:[76]

> We have not been oblivious to or unmindful of the extraordinary situations that merit liberal application of the Rules, allowing us, depending on the circumstances, to set aside technical infirmities and give due course to the appeal. In cases where we dispense with the technicalities, we do not mean to undermine the force and effectivity of the periods set by law. I those rare cases where we did not stringently apply the procedural rules, there always existed a clear need to prevent the commission of a grave injustice. **Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement o procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause.** x x x.
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> x x x x x x x x x
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> In *Sebastian v. Morales*, we ruled that rules of procedure must b faithfully followed except only when, **for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure**, thus:
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> x x x x x x x x x
>
> The Court has allowed some meritorious cases to proceed despite inherent procedural defects and lapses. This is in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. **It is a far better and more prudent cause o action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.** (Emphasis supplied; citation, omitted).

Finally, it is crucial to be reminded that the constitutionally mandated tax privilege granted to non-stock non-profit educational

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[75] *Supra* note 71.

[76] *Id*. at 485-489.

Supreme Court E-Library

institutions plays an important role in promoting quality and affordable education in the country. In the consolidated cases of *Commissioner of Internal Revenue v. De La Salle University Inc.*,[77] this Court discussed the important role of this tax privilege for educating the students, to wit:

> We find that the text demonstrates the policy of the 1987 Constitution, discernible from the records of the 1986 Constitutional Commission to provide **broader tax privilege to non-stock, non-profit educational institutions as recognition of their role in assisting the State provide a public good. The tax exemption was seen as beneficial to students who may otherwise be charged unreasonable tuition fees if not for the tax exemption extended to all revenues and assets of non-stock, non-profit educational institutions**. (Emphasis and underscoring supplied; citations omitted).

Evidently, petitioner Foundation, being a non-stock, non-profit educational institution, is not liable to the payment of VAT deficiency assessment, and the CTA *En Banc* erred in finding otherwise and in reversing the CTA Division.

WHEREFORE, premises considered, the petition is **GRANTED**. The assailed Decision dated April 19, 2012 and Resolution promulgated on July 17, 2012 of the Court of Tax Appeals *En Banc* in C.T.A. EB Case No. 703 are **ANULLED** and **SET ASIDE**. Assessment Notice No. 33-FY 05-31-02 for fiscal year ending May 31, 2002 against petitioner La Sallian Educational Innovators Foundation (De La Salle University-College of St. Benilde), Inc. for deficiency income tax in the amount of **ONE HUNDRED TWENTY-TWO MILLION FOUR HUNDRED FOURTEEN THOUSAND FIVE HUNDRED TENTY-ONE PESOS** & 70/100 (₱122,414,521.70) is hereby **CANCELLED**.

SO ORDERED.

Peralta (*Chairperson*), *Leonen, Hernando*, and *Carandang*,[*] *JJ.*, concur.

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[77] *Supra* note 44, at 168-169.

[*] Designated additional Member as per Special Order No. 2624, dated November 29, 2018.