

### Title: Association of International Shipping Lines, Inc. v. Secretary of Finance and Commissioner of Internal Revenue

### Facts:

The case originates from the challenging of Revenue Memorandum Circular No. 31-2008 (RMC 31-2008) by the petitioners - Association of International Shipping Lines, Inc. (AISL), APL Co. PTE LTD., and Maersk-Filipinas, Inc. - which was issued by the then Commissioner of Internal Revenue Lilian Hefti following the amendments of Republic Act No. 9337 to the National Internal Revenue Code (NIRC) of 1997. The petitioners argued against the imposition of a 12% VAT on demurrage and detention fees collected by international shipping carriers, deeming it contrary to the provisions of the NIRC.

This led to a petition for declaratory relief filed with the RTC-Branch 98, Quezon City, which ruled in favor of the petitioners by declaring the portions of RMC 31-2008 invalid, as it imposed taxes not sanctioned by the NIRC. The order became final and executory on June 16, 2012.

Subsequently, Republic Act No. 10378 (RA 10378) was enacted, amending Section 28(A)(3)(a) of the NIRC, which led to the issuance of Revenue Regulation No. 15-2013 (RR 15-2013) by the Secretary of Finance - now the focus of the petitioners' challenge. The petitioners argued that RR 15-2013 invalidly subjected demurrage and detention fees to the regular corporate income tax rate, which had previously been declared invalid in relation to RMC 31-2008.

### Issues:

1. Whether res judicata applies in this case.
2. Whether a petition for declaratory relief is proper for invalidating RR No. 15-2013.
3. Whether RR 15-2013 is a valid revenue regulation.

### Court's Decision:

The Supreme Court denied the petition, holding that:

- Res judicata does not apply since there is no substantial identity of parties and subject matter between the previous case and the present case.
- Petition for declaratory relief is not the proper remedy for challenging RR 15-2013, but the Court treated the case as one for prohibition, noting its significant implications.
- RR 15-2013 is a valid issuance as it was issued as an interpretative rule and in accordance with the Secretary of Finance's authority under the NIRC and RA 10378, clarifying the tax

implications on demurrage and detention fees, which do not form part of the Gross Philippine Billings.

**### Doctrine:**

The doctrine established in this case reiterates that interpretative regulations issued by administrative agencies, aimed at clarifying statutory provisions that the agencies are tasked to enforce, do not require public hearing or filing with the University of the Philippines Law Center for their effectivity.

**### Class Notes:**

- **Revenue Memorandum Circular vs. Revenue Regulation**: RMCs are issued by the Commissioner of Internal Revenue to clarify provisions of tax laws, while RR are issued by the Secretary of Finance to implement tax laws, both having different scopes and bases of authority.
- **Res Judicata**: Applies when there is (1) a final judgment; (2) on the merits; (3) rendered by a court with jurisdiction; and (4) there is identity of parties, subject matter, and causes of action between the first and second actions.
- **Declaratory Relief**: Sought before there is a breach or violation of a law, to clarify legal rights or status; not applicable when challenging tax liabilities.

**### Historical Background:**

This case illustrates the ongoing legal challenges and interpretations concerning the tax treatment of international shipping activities in the Philippines, evolving with changes in legislation and administrative regulations. It highlights the interaction between legislative amendments, administrative issuances, and judicial review in the ever-evolving landscape of tax law.