

**\*\*Title:\*\*** \*Bureau of Internal Revenue v. First E-Bank Tower Condominium Corp.: The Taxability of Association Dues and Membership Fees Collected by Condominium Corporations\*

**\*\*Facts:\*\***

The case commenced when First E-Bank Tower Condominium Corporation (First E-Bank) filed a petition for declaratory relief against BIR Revenue Memorandum Circular No. 65-2012 (RMC No. 65-2012), which imposed Value-Added Tax (VAT) and income tax on association dues, membership fees, and other charges collected by condominium corporations. This RMC was challenged for being allegedly oppressive, confiscatory, and having been issued without due process. The BIR defended the RMC, arguing that declaratory relief was no longer an appropriate remedy since the circular had already taken effect. The Regional Trial Court of Makati ruled in favor of First E-Bank, declaring RMC No. 65-2012 as invalid for expanding the tax laws beyond the scope intended by legislation and for being issued without proper notice and hearing. Both parties appealed the RTC decision, but the Court of Appeals dismissed the appeals, citing lack of jurisdiction and pointing out that the Court of Tax Appeals should have exclusive jurisdiction over the case. This led to both parties separately elevating their grievances to the Supreme Court.

**\*\*Issues:\*\***

1. Whether a petition for declaratory relief was appropriate for challenging the validity of RMC No. 65-2012;
2. Whether the Court of Appeals erred in dismissing the appeals for lack of jurisdiction;
3. The validity of RMC No. 65-2012, specifically if:
  - a. A condominium corporation is engaged in trade or business;
  - b. Association dues, membership fees, and other assessments/charges are subject to income tax, VAT, and withholding tax;
4. Whether First E-Bank is entitled to recover judicially consigned tax payments.

**\*\*Court's Decision:\*\***

The Supreme Court ruled:

1. Certiorari, not declaratory relief, should have been the proper remedy for challenging the validity of RMC No. 65-2012. However, considering the public interest and the delay already incurred, the Court proceeded to address the substantive issues.
2. The Court of Appeals erred in dismissing the appeals based on jurisdiction; the regular courts should have taken cognizance of the appeals in line with then-prevailing jurisprudence.

3. RMC No. 65-2012 is invalid as it expanded tax laws beyond the scope intended by legislation and was issued without proper notice and hearing. The Court held that association dues and other charges collected by condominium corporations are not subject to income tax, VAT, and withholding tax as they are not income but contributions for maintenance and do not arise from the sale of goods or services.

4. The question of First E-Bank's entitlement to recover consigned amounts was to be determined through a separate action, as factual determinations about the compliance with the requirements for judicial consignment were needed.

**\*\*Doctrine:\*\***

The ruling reiterated the principle that administrative issuances cannot expand, alter, or modify the law but must remain consistent with the law they seek to implement. It underscored that taxes must not be presumed to extend beyond the clear provisions of the law, and tax laws must be construed strictly against the government and in favor of the taxpayer.

**\*\*Class Notes:\*\***

- Declaratory relief versus certiorari as legal remedies.
- Jurisdiction of the Court of Appeals versus the Court of Tax Appeals in tax matters.
- The principles guiding the taxability of association dues, membership fees, and other charges by condominium corporations.
- The invalidity of administrative issuances that expand beyond the legislative intent of tax laws.
- Requirements and procedure for judicial consignment.

**\*\*Historical Background:\*\***

This case highlights the legal complexities surrounding the taxability of condominium association dues in the Philippines and showcases the evolving jurisprudence in administrative law and tax regulation. It underscores the challenge of balancing government revenue measures against the rights and interests of taxpayers, and the importance of adhering to due process requirements in issuing tax regulations.