REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Revenue Memorandum Order No. 9-2014
OT- 023-2024
APR 11 2024

M.C. HOLDINGS CORPORATION
17, Edades St., San Lorenzo Village
Makati

Attention: MA. LOURDES DOMOGALLA

Gentlemen:

This refers to your request on behalf of M.C. Holdings Corporation for reconsideration of a portion of BIR Ruling No. 1011-2018 dated June 13, 2018, particularly the portion which provides as follows:

> *"Thus, property dividends which constitute stocks in trade or properties primarily held for sale or lease, which shall be distributed by M.C. HOLDINGS CORPORATION to its stockholders and declared out of its retained earnings shall be subject to VAT based on the FMV or zonal valuation whichever is higher, at the time of distribution. (BIR Ruling No. 190-99 date November 29, 1999)"*

In your request for reconsideration, you stated that M.C. Holdings Corporation is a Non-VAT registered entity. Therefore, Section 106 (B) (2) (a) of the National Internal Revenue Code (Tax Code) of 1997, as amended, and Section 4.106-7(a)(2) of RR No. 16-2005, as amended, are not applicable.

In reply, please be advised that your request for exemption is denied.

Basic is the rule in taxation that a person claiming exemption is burdened to prove his or her claims to tax authorities with sufficient and competent evidence. In the case of National Power Corporation vs. Province of Isabela[1], the Supreme Court ruled:

> "Indeed, taxation is the rule and exemption is the exception. The burden of proof rests upon the party claiming exemption to prove that it is, in fact, covered by the exemption so claimed. Tax exemptions should be granted only by clear and unequivocal provision of law on the basis of language too plain to be mistaken. They cannot be extended by mere implication or inference."

In this instant case, unfortunately, you failed to satisfy this heavy burden. Being subject to VAT does not rest upon a taxpayer's registration. A person, whether VAT-registered or not,

[1] G.R. No. 165827, June 16, 2006.

may be liable for VAT. It is the Tax Code of 1997, as amended, that determines whether a person is liable for VAT. For instance, a person who earns beyond the VAT threshold becomes liable for VAT even if he is not VAT-registered. Another example would be for imports, where a person is liable for VAT on imports regardless of whether he is VAT-registered or not.

Lastly, please be informed that Revenue Memorandum Order (RMO) No. 9-2014[2] requires that documentary requirements to be submitted to the Bureau of Internal Revenue should be certified true copies and letter requests seeking tax exemptions should be under oath. In this case, none of the requirements mentioned were satisfied.

All these considered, this Office is constrained from issuing a tax ruling due to noncompliance with the requirements in RMO No. 9-2014 and denies your claim for lack of legal basis. This, however, is without prejudice to the filing of another request for ruling.

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

K-1-SLO

[2] Guidelines in the Processing of Requests for Ruling with the Law and Legislative Division