REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Section 196 and 106 (A)(1), NIRC		042-2017 2-7-2017

Permit to Contact: Chief, Law and Legislative Division
Tel Nos. : 926-5536/927-0369

December 10, 2016

MS. FELICISIMA E. ANGELES
Attorney-in-fact of Luningning Angeles-Blum

Madam:

This refers to your letter dated August 26, 2016 requesting for a reconsideration of the BIR Ruling No. 345-2016 dated June 30, 2016 issued by then Commissioner Kim S. Jacinto-Henares denying your claim for refund of an excess payment of **PESOS: SIX THOUSAND SEVEN HUNDRED EIGHTY-FIVE (₱6, 785.00)** from the payment of documentary stamp tax (DST) on the sale of a condominium unit by MEGAWORLD Corporation located at Unit 8LM, Manhattan Parkview Tower 3, Araneta Center, Cubao, Quezon City to your sister Luningning Angeles-Blum on October 2, 2015.

It is represented that Revenue District Office (RDO) No. 40 erred when it assessed and collected from Ms. Blum a DST in the amount of **PESOS: SIXTY-THREE THOUSAND TWO HUNDRED TEN (P63, 210.00)** based on the condominium unit's gross selling price of **PESOS: FOUR MILLION TWO HUNDRED THIRTEEN & 17/000 (₱4, 213, 017.00)** inclusive of value-added tax (VAT) instead of the property's net selling price of **PESOS: THREE MILLION SEVEN HUNDRED SIXTY ONE THOUSAND SIX HUNDRED TWENTY TWO AND 32/100 (₱3, 761, 622.32)**, hence, the filing of this request for refund from the excess payment of DST amounting to **PESOS: SIX THOUSAND SEVEN HUNDRED EIGHTY-FIVE (₱6, 785.00)**.

In reply, please be informed that the pertinent provision in Section 196 of the National Internal Revenue Code (NIRC) of 1997, as amended, states:

> SEC. 196. Stamp Tax on Deeds of Sale and Conveyances of Real Property. -- On all conveyances, deeds, instruments, or writings, other than grants, patents or original certificates of adjudication issued by the Government, whereby any land, tenement or other realty sold shall be granted, assigned, transferred or otherwise conveyed to the purchaser, or purchasers, or to any other person or persons designated by such purchaser or purchasers, there shall be collected a documentary stamp tax, at the rates herein below prescribed, based on the consideration contracted to be paid for such realty or on its fair market value determined in accordance with Section 6(E) of this Code, whichever is higher: Provided, That when one of the contracting parties is the Government, the tax herein imposed shall be based on the actual consideration:

(a) When the consideration, or value received or contracted to be paid for such realty, after making proper allowance of any encumbrance, does not exceed One thousand pesos (P1,000), Fifteen pesos (P15.00).

(b) For each additional One thousand pesos (P1,000), or fractional part thereof in excess of One thousand pesos (P1,000) of such consideration or value, Fifteen pesos (P15.00).

When it appears that the amount of the documentary stamp tax payable hereunder has been reduced by an incorrect statement of the consideration in any conveyance, deed, instrument or writing subject to such tax the Commissioner, provincial or city Treasurer, or other revenue officer shall, from the assessment rolls or other reliable source of information, assess the property of its true market value and collect the proper tax thereon. (Emphasis supplied)

The term "consideration contracted" or the "gross selling price" as defined in Section 106(A) of the NIRC of 1997, as amended, means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding VAT.

In this regard, the DST due on the subject document should be ₱56, 430.00, computed based on the purchase price of ₱3,761,622.32, net of VAT, hence, there was indeed an overpayment amounting to **PESOS: SIX THOUSAND SEVEN HUNDRED EIGHTY-FIVE (₱6, 785.00)**.

Such being the case, you request for the tax refund of the excess DST paid by your sister Luningning Angeles-Blum is **GRANTED** and the June 30, 2015 Ruling by then Commissioner Kim S. Jacinto-Henares is hereby **REVERSED** and **SET ASIDE**.

This ruling is being issued on the basis of the forgoing facts are represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and avoid.

CAESAR R. DULAY
Commissioner of Internal Revenue
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