






# BIR told to refund P63.25 M to Belle

By Elizabeth Marcelo (The Philippine Star) | Updated May 8, 2017 - 12:00am

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MANILA, Philippines - The Court of Tax Appeals (CTA) has ordered the Bureau of Internal Revenue (BIR) to refund P63.25 million to Belle Corp. which was unlawfully withheld from the firm's capital gains tax (CGT) in November 2012.

In a 15-page decision, the CTA Third Division said the withholding of the CGT has no legal basis and was in contravention to a previous Supreme Court ruling.

The case stemmed from the real properties Belle's affiliate Belle Bay City Corp. (BBCC) relinquished to the former by way of liquidating dividends.

Belle owned 852,455,306 common shares of stocks in BBCC.

Following BBCC's dissolution in 2005, it relinquished to Belle through a deed of conveyance executed on Nov. 12, 2012 its existing properties which included eight parcels of land located at Aseana Business Park in Parañaque City with an aggregate area of 42,166 square meters.

The BIR said the properties BBCC transferred to Belle must be subjected to six percent final withholding CGT prescribed under Section 27 (D) of the Tax Code.

Belle paid the P63.249 million CGT to BIR in 2012 but filed a petition for review before the CTA in 2014.

In its ruling, the CTA sided with Belle that the transfer of the properties was due to BBCC's dissolution and not by way of sale, thus it should not be covered by any gains tax.

"Capital gains tax is a tax on the gain from the sale of the taxpayer's property forming part of capital assets. It implies that in order to be liable for payment of capital gains tax, one has to profit or gain from the sale, exchange or disposition of the real property," the ruling penned by Associate Justice Ma. Belen Ringpis-Liban said.