Agri output seen likely to expand in Q4 — DA

THE Department of Agriculture (DA) said farm output will likely post positive growth in the fourth quarter, citing preliminary estimates.

"Based on initial data that we are seeing, it is possible that (agri-sector growth in Q4) would go up, because we did not have major calamities. There have not been too many typhoons," Agriculture Spokesman Arnel V. de Mesa said in an appearance on PTV, the government broadcast network.

A positive growth outcome would reverse the 0.3% contraction reported by the Philippine Statistics Authority (PSA) in the third quarter.

"Crop production is good, we are (also) expecting growth in the livestock and poultry subsector," Mr. De Mesa said.

"Hopefully fisheries will recover, because in the third quarter this was the sector that saw the biggest decline" alongside the crops segment, he added.

Crop production, which accounts for 54% of farm production, dropped 0.4% in the third quarter.

Fisheries, meanwhile, declined 6.1% in the three months to September.

"We are hoping... (that by) early next year the agri sector will really recover," he said.

The PSA is due to release agricultural output data for the fourth quarter in January.

The DA set a target of 2.3%-2.5% for agricultural output growth for 2023.

Additionally, Mr. De Mesa said that the DA is currently monitoring commodity prices during the year-end holidays.

He added that well-milled rice prices have fallen to the P51 per kilogram (kg) level from P52 previously, while regular-milled rice prices remained steady.

"Most of the prevailing (prices) are ranging from P51 to P52 per kg," he said.

"As for supply, the harvest is almost 100% over. We are also expecting the rice imported from India amounting to 295,000 metric tons (MT)," he added.

The Indian government allocated a quota of 295,000 MT of non-basmati white rice for the Philippines, after having declared a freeze on such exports to safeguard its own domestic supply.

Separately, Bantay Bigas Spokesperson Cathy L. Estavillo said rice prices have not declined during the harvest.

"Prices have jumped to P52 per kg... It is not only in Metro Manila that prices are higher but in rice-producing provinces and municipalities (as well)," Ms. Estavillo said in an appearance on *One News*.

Mr. De Mesa said that the agricultural damage and losses brought about by shear line conditions in Southern Luzon and the Visayas, as well as the earthquake in Mindanao, have had little effect on agricultural prices.

"Those who were affected had just started planting and we have given them seed. So, there is no effect on the recent harvest," he said. — **Adrian H. Halili**

Well-milled rice averages P52.92/kg in mid-Nov.

THE national average retail price for well-milled rice in mid-November was P52.92 per kilogram (kg), according to the Philippine Statistics Authority (PSA).

Prices rose 1.26% in the Nov. 15-17 period, which the PSA refers to as the second phase of the month, compared with prices between Nov. 1 and 5, or the first phase.

The highest retail price was P56.19 per kg in the Bangsamoro Autonomous Region in Muslim Mindanao or BARMM.

On the low end was the Ilocos Region where rice was retailing for P48.71 per kg during the period.

The PSA reported that regular-milled rice averaged P47.42 per kg, up 2.38% compared to the first phase.

The highest price for regular-milled rice was also recorded in BARMM with an average of P51.75 per kg, while Cagayan Valley posted the lowest average price of P42.92 per kg.

During the second phase of November, the national average retail price for refined sugar was P91.59 per kg, down 0.37% from the first phase.

Prices in the Eastern Visayas were the highest at P103.58 per kg. The lowest price was reported in BARMM at P81.95 per kg.

Brown sugar averaged P80.85 per kg, a 0.4% decline from the previous phase.

The PSA reported that brown sugar prices were highest in Calabarzon at P88.86 per kg during the period.

The lowest average price was reported in the Zamboanga Peninsula at P73.7 per kg.

On Sunday, sugar producers urged the government to intervene due to the continued decline of raw sugar farmgate prices compared to market prices, according to Manuel R. Lamata, president of the United Sugar Producers Federation of the Philippines.

Mr. Lamata added that sugar prices have declined to P2,300-P2,500 per 50-kilo bag, which is below production cost levels.

The Sugar Regulatory Administration has said that it will be pushing for a suggested retail price for refined sugar of P85 per kg.

Meanwhile, the PSA reported that the average price for red onion rose 6.16% to P192.18 per kg compared with the previous phase of November.

Soccsksargen recorded the highest average retail price of P237.97 per kg, while the lowest was recorded in Central Luzon at P143.8 per kg. — **Adrian H. Halili**

DTI

TRADE Undersecretary Allan B. Gepty meets with Istvan Jakab, deputy speaker of the National Assembly of Hungary, in Budapest.

Trade dep't sees Hungary possibly investing in farming, water projects

THE Department of Trade and Industry (DTI) said it sees opportunities to tap Hungary's expertise in agriculture, information and communication, and water technologies, leading to possible investments in the Philippines.

"The Philippines and Hungary have established extraordinary friendship that transcends beyond diplomatic relations," Trade Undersecretary Allan B. Gepty said in a statement on Monday.

"We have established dynamic and productive economic relations over the last five years and are positioned to gain further, particularly in trade and investments," he added.

The DTI made the statement in the wake of the business forum held on the sidelines of the Philippines-Hungary Joint Commission on Economic Cooperation (JCEC), in which at least 60 Hungarian companies participated.

Investment opportunities could also arise for key Philippine industries such as renewable energy, green metals, electric vehicle manufacturing, and smart and high-tech light manufacturing.

The DTI also said Hungary plans to offer a tied aid loan of $33 million to the Philippines to finance social infrastructure projects related to water management.

The projects include the Philippine Multisectoral Nutrition Project under the Department of Social Welfare and Development, which aims to improve community access to clean and safe drinking water. — **Justine Irish D. Tabile**

FULL STORY

Read the full story by scanning the QR code with your smartphone or by typing the link <tinyurl.com/ym92lx29>

Creative industry growth seen at up to 8% in 2024

THE creative industry is expected to grow between 6% and 8% next year in terms of gross value added, with the Department of Trade and Industry (DTI) actively promote the sector's growth, an official said.

Rafaelita M. Aldaba, undersecretary for DTI's Competitiveness and Innovation Group, said the industry grew by double-digit levels in the third quarter, adding confidence to the 2024 forecast.

"We had 15.5% year-on-year growth in the third quarter so we are hoping that that will translate to around 6-8% for next year," Ms. Aldaba told reporters.

"For this year, we are hoping that it will still grow in the last quarter considering all these activities that we're undertaking," she said.

In the third quarter, the creative industry generated P52.8 billion in gross value added. It accounts for 7.3% of the Philippine economy or P1.6 trillion in 2022.

The Philippine Statistics Authority reported that the symbols, images and other related activities segment accounted for 32.9% or P528.35 billion of the creative economy last year.

Rounding up the top three contributors were advertising, research and development, and other artistic service activities (20.8%) and digital interactive goods and service activities (20.3%). The other segments are audio and audiovisual media activities; media publishing and printing; music, arts and entertainment; visual arts; traditional cultural expression; and art galleries, museums, ballrooms, conventions and trade shows.

The creative industry employed 6.98 million workers in 2022, mostly involved in traditional cultural activities.

In September, Ms. Aldaba said that the creative industry is projected to register double-digit growth in the next three years and achieve its goal of becoming among the top creative economies in ASEAN. — **Justine Irish D. Tabile**

OPINION

Prescriptive period on false returns

LET'S TALK TAX
EDWARD D. ROGUEL

Christmas is just around the corner, and people are busy buying gifts for their loved ones and godchildren, among others. Those who missed the 11.11 sales are probably looking forward to the 12.12 promo today, with avid online shoppers ready to press the "checkout" button on their favorite online store.

Since the pandemic, an increasing number of Filipinos have been using the internet for their shopping needs. Unfortunately, some people are also taking advantage of this season to boost their sales or income by resorting to false advertising, especially on social media. Hence, consumers should be vigilant when buying online.

Currently, we do not have a law that directly punishes social media companies for posts that contain false advertising. However, we have laws and issuances such as the Consumer Act of the Philippines and Joint Administrative Order (JAO) No. 22-01 issued by the Department of Trade and Industry and other agencies that could be used to penalize sellers for false advertising and unfair trade practices.

The same is true for tax returns. Filing a false return may also result in the taxpayer's paying deficiency taxes and penalties, and it may even be grounds for an extension of the prescriptive period if certain conditions are met.

Under the 1997 Tax Code, as amended, the BIR has three years from the filing of the return to issue an assessment against a taxpayer. This prescriptive period aims to protect the interests of taxpayers from unreasonable tax investigations. But there is an exception to this three-year general rule. Section 222(a) of the tax code provides that in the case of a false return or fraudulent return with intent to evade tax or of failure to file a return, the period may be extended to 10 years after the discovery of the falsity, fraud, or omission. Accordingly, the exception to the three-year prescriptive period may apply in three cases, i.e., if the taxpayer: (1) filed a false return; (2) filed a fraudulent return; and (3) failed to file a return.

The question now from some taxpayers is how Section 222(a) should be interpreted in the case of a false return. Would an unintentional or honest mistake in the figures reported in return render it a false return for purposes of applying the 10-year prescriptive period? What are the requisites, if any, in determining whether the same may fall under the exception?

In various cases, the Bureau of Internal Revenue (BIR) applied the 10-year prescriptive period in cases of false return with substantial under-declaration by invoking the old Supreme Court (SC) decision, Aznar vs. Court of Tax Appeals. In that case, a return is considered false if it deviates from the truth, whether such deviation was deliberate or inadvertent. Hence, it was interpreted that an honest mistake in a return may be construed as a false return to warrant the application of the extraordinary period to assess.

On the other hand, various SC cases (one of which is Commissioner of Internal Revenue vs. Philippine Daily Inquirer, Inc., G.R. No. 213943), which ruled that the entry of wrong information due to a mistake, carelessness, or ignorance, without intent to evade taxes, does not constitute a false return. Hence, there should be sufficient evidence to prove the intentional falsity on the part of the taxpayer in order for the 10-year prescriptive period to be applied.

Because of these diverging decisions, some BIR examiners are still invoking the extraordinary prescriptive period even if the misstatement or error is unintentional, especially if the three-year prescriptive period has lapsed. Taxpayers, on the other hand, are hoping for clear guidelines on the proper application of Section 222(a) to ensure that their rights are protected against unreasonable tax audits.

Fortunately, in the recent en banc decision of the SC in the case of McDonald's Philippines Realty Corp. vs. the CIR (G.R. No. 247737), this issue has finally been settled. The Court ruled that for purposes of invoking the extraordinary period under Section 222(a), the BIR must be able to prove that such misstatement or error is intentional and deliberate.

As clearly explained by the Court, the purpose of the examination of the taxpayer's books by the tax authorities is to determine the correct amount of taxes. Each audit will necessarily expose varying errors and/or irregularities in how the taxpayer computes its tax liabilities. If the BIR's position is followed (i.e., unintentional errors will be considered false returns under Section 222(a)), then all such inaccuracies committed by the taxpayer — including mere clerical or typographical errors or arithmetic calculations, no matter how trivial — render the return false and may be used as grounds to invoke the exceptional 10-year period. This creates an opportunity for the tax authorities to find errors at whim, renders the basic three-year assessment period under Section 203 of the Tax Code, as amended, superfluous and inoperative, and extends that assessment period virtually in all tax audits.

Accordingly, the SC specifically stated that the Court's ruling in the Aznar case, which applied the extraordinary 10-year assessment period under Section 222(a) to false return in general, i.e., regardless of whether the deviation is intentional or not, has been abandoned. The extraordinary period should apply to a false return when: (1) the return contains an error or misstatement, and (2) such error or misstatement was deliberate or willful. Both conditions should be complied with. Otherwise, the regular three-year prescriptive period applies.

Moreover, the SC pointed out that the BIR has the burden to establish the existence of the above-mentioned statutory requisites with clear and convincing evidence. The BIR, however, may be relieved from such burden of proof when there is prima facie evidence of falsity or fraud as defined under Section 248(B) of the Tax Code, as amended. There is prima facie evidence of false or fraudulent return if BIR is able to ascertain that there is substantial under-declaration of taxable sales, receipts, or income, or substantial overstatement of deductions of expense. The misstatement may be considered substantial if it exceeds 30% of the amount declared in the return.

Accordingly, the burden of proof is shifted to the taxpayer if there is prima facie evidence of falsity or fraud. If, however, the taxpayer was able to successfully overturn the presumption (e.g., he was able to demonstrate that the misstatement ascertained by the BIR had been inadvertent or attributable to an honest mistake or was not deliberate or willful), the tax authorities cannot rely on the presumption in proving the taxpayer's intent to evade taxes.

Moreover, the SC emphasized that the assessment notice issued to the taxpayer must clearly state that the extraordinary prescriptive period is being applied on the basis of the allegation of falsity or fraud. The BIR should also not have acted in a manner that is inconsistent with the invocation of the extraordinary period to assess or has misled the taxpayer that the basic period will be applied. All these due process requirements must be complied with. Otherwise, a regular three-year prescriptive shall be applied.

This recent decision of the SC hopefully clarifies and provides guidelines to both the tax authorities and taxpayers on what constitutes a false return for purposes of applying the 10-year prescriptive period. Nevertheless, it is still important that the taxpayer ensure that all items reported in a return are correct to avoid any issues as to whether or not such an error or omission constitutes a false return. Otherwise, such falsity may indeed result in severe consequences.

Christmas signifies the birth of our Lord and Savior, Jesus Christ, and serves as a wonderful time to celebrate. Let's take time this season to reflect on what we already have and be thankful. Christmas is best celebrated with our loved ones and friends if our hearts are full of joy, love, hope, and gratitude. May your Christmas be merry this year.

Let's Talk Tax is a weekly newspaper column of P&A Grant Thornton that aims to keep the public informed of various developments in taxation. This article is not intended to be a substitute for competent professional advice.

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