REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

AP HOLDINGS, INC.,
Petitioner,

- versus -

CITY OF DAVAO and HON. RODRIGO S. RIOLA, in his capacity as the City Treasurer of Davao City,
Respondents.

CTA EB No. 1640
(CTA AC No. 156)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:

JAN 23 2019
3:33 p.m.

x - x

RESOLUTION

UY, *J.*:

For resolution is respondents' **"MOTION FOR RECONSIDERATION"**[1] filed on September 25, 2018, with petitioner's **"COMMENT (To Respondents' Motion for Reconsideration dated 25 July 2018)"**[2] filed on November 26, 2018. In the said Motion, respondents pray for the reconsideration of the Court's Decision dated August 20, 2018, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED.**

[1] Docket, pp. 221 to 232.
[2] Docket, pp. 237 to 263.

The Decision dated January 30, 2017 and the Resolution dated April 17, 2017, both rendered by the Court in Division in CTA AC No. 156, are hereby **REVERSED AND SET ASIDE.**

Accordingly, respondents are hereby **ORDERED to REFUND or ISSUE a TAX CREDIT CERTIFICATE** to petitioner in the amount of ₱723,531.50, representing erroneously collected local business taxes for taxable year 2010.

Petitioner's claim for legal interest, is however, **DENIED.**

SO ORDERED."

In support of their Motion, respondents raise the following arguments, to wit:

1. The Honorable Court *En Banc* erred in concluding that since there is no evidence in the court *a quo* showing that petitioner was authorized by the *Bangko Sentral ng Pilipinas* (BSP) to perform quasi-banking activities, petitioner cannot be treated as a non-bank financial intermediary.

2. The Honorable Court *En Banc* failed to appreciate that indeed the petitioner's primary purpose and business activities as stated in the Amended Articles of Incorporation are all within the purview of the functions of a non-bank financial intermediary.

3. The Honorable Court *En Banc* erred in concluding that petitioner's assets, being declared as owned by the government pursuant to the COCOFED Decision, is exempt from the imposition of local business tax.

In its Comment, petitioner counters that:

1. Petitioner is entitled to a refund of the 0.55% local business taxes collected by respondents for the first and second quarters of 2011 on the dividend and interest income for the taxable year 2010, based on the following grounds:

   a. Pursuant to Section 133 (A) of the Local Government

Code, it is erroneous and illegal for respondents to collect local business tax on the dividends and interest income of petitioner because it is not a non-bank financial intermediary or investment company.

b. Being a holding company, petitioner's dividend and interest income are not subject to local business tax.

c. Petitioner as well as the San Miguel Corporation shares it previously held and income derived therefrom are national government property, exempt from local business tax.

THE COURT *EN BANC'S* RULING

Respondents' Motion lacks merit.

After a careful examination and consideration of the respondents' Motion for Reconsideration, it is noted that the arguments raised in the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda Jr.
(I vote to affirm the Division Decision)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen R-L
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice