REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NATIONAL TRANSMISSION CORPORATION (TRANSCO),
Petitioner,

- versus -

CITY OF DIGOS, represented by its CITY TREASURER, MR. JESUS B. UY, JR.,
Respondent.

CTA AC NO. 220

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ.*

Promulgated:
MAR 08 2021
9:30 a.m.

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is a Motion for Reconsideration[1] (**MR**) filed by respondent City of Digos, represented by its City Treasurer, Mr. Jesus B. Uy, Jr. (**respondent City**) with the "Comment/Opposition (on Respondent's Motion for Reconsideration)"[2] of petitioner National Transmission Corporation (**petitioner/TRANSCO**). The instant motion seeks the reversal of this Court's Decision[3] in the above-captioned case dated 04 November 2020. The dispositive portion of which reads:

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1 Filed on 26 November 2020, Docket, pp. 106-116.
2 Filed on 22 Demeber 2020, *id.*, pp. 120-127.
3 Dated 04 November 2020, Id., pp. 96-105.

> ...
>
> **WHEREFORE**, the foregoing considered, petitioner National Transmission Corporation's Petition for Review filed on 30 April 2019 is **GRANTED**. Accordingly, the 12 November 2018 Decision of the Regional Trial Court, Branch 18 of Digos City in Civil Case No. 5007, entitled *National Transmission Corporation (TRANSCO) v. City of Digos, represented by its City Treasurer, Mr. Jesus Uy, Jr.*, is **REVERSED** and **SET ASIDE**. Consequently, the assessment dated 11 November 2009 against petitioner is hereby declared **NULL** and **VOID**.
>
> **SO ORDERED.**
>
> ...

A review of the assailed Decision would show that the Court granted petitioner's Petition for Review on the ground that respondent City had no authority to impose franchise taxes on TRANSCO's sale of energy in bulk to Davao Del Sur Electric Cooperative, Inc. (**DASURECO**). In this regard, the Court made the following observations, to wit:

> ...
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> The fact that petitioner has no branch or sales outlet in respondent City is not in question. Clearly, petitioner supplies energy in bulk to DASURECO while DASURECO, in turn, delivers the same to its end-users.
>
> The next relevant query is whether petitioner exercised its franchise inside respondent City when it supplied power to DASURECO. The RTC answered this question in the affirmative when it applied the above-quoted provision of the LGC.
>
> In the above particular respect, the Court finds the Supreme Court's disquisition in the case of *City of Iriga v. Camarines Sur III Electric Cooperative, Inc. (Casureco III)*[4] (**Casureco III**) enlightening.
>
> In *Casureco III*, the Supreme Court applied the principles laid down in *Cabanatuan* and found Casureco III liable for payment of local franchise taxes to the City of Iriga (where it had its principal office) based on its gross receipts within Iriga as well as the Rinconada area of Camarines Sur. Thus, the Supreme Court held:
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> > ...
> >
> > It should be stressed that what the petitioner seeks to collect from CASURECO III is a franchise tax, which as defined, is a tax on the exercise of a *privilege*. As Section 137

4 G.R. No. 192945, 05 September 2012.

> of the LGC provides, franchise tax shall be based on gross receipts precisely because it is a tax on *business*, rather than on persons or property. **Since it partakes of the nature of an excise tax[,] the *situs* of taxation is the place where the privilege is exercised, in this case in the City of Iriga, where CASURECO III has its principal office and from where it operates, regardless of the place where its services or products are delivered. Hence, franchise tax covers all gross receipts from Iriga City and the Rinconada area.**[5]
>
> ....

In *Casureco III*, the Supreme Court disregarded where the respondent therein delivered its service while fixing the latter's tax *situs* where it held its principal place of business. Following this principle, it becomes clear that petitioner cannot be held liable for local franchise taxes by respondent City even if it caters its services within the latter's territory.[6]

...

A perusal of respondent's MR reveals that it raises no new issues. It merely presents a rehash of its arguments previously passed upon by the Court. In sum, respondent City simply reiterates its position that it has authority to impose franchise taxes on TRANSCO.

We now resolve.

In *Philippine National Bank v. Hon. Jose G. Paneda, et al.*,[7] the Supreme Court enumerated the circumstances where a motion for reconsideration was found to be *pro forma*, to wit:

> ...
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> ... (1) it was a second motion for reconsideration, or (2) it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence, or (3) it failed to substantiate the alleged errors, or (4) it merely alleged that the decision in question was contrary to law, or (5) the adverse party was not given notice thereof.
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> ...

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[5] Citations omitted, italics in the original text, emphasis and underscoring supplied.
[6] Supra at note 3.
[7] G.R. No. 149236, 14 February 2007.

It is the Court's conclusion that respondent City has not adequately substantiated the alleged errors it attributes to the assailed Decision. Respondent merely wants the Court to substitute its interpretation of the cases of *National Power Corporation v. City of Cabanatuan* and *Casureco III* with that of its own. Respondent on this note must be reminded that petitioner's susceptibility to the imposition of local franchise taxes is not in question. TRANSCO's taxability is a fact. The question is whether respondent City is the proper taxing authority in so far as petitioner's operations are concerned. As explained in the assailed Decision, Sec. 150 of the Local Government Code provides:

> ...
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> Sec. 150. *Situs of the Tax.* –
>
> (a) For purposes of collection of the taxes under Section 143 of this Code, manufacturers, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, contractors, banks and other financial institutions, and other businesses, maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality.
>
> ...

As previously cited, the Court has found no proof that TRANSCO operates a branch or sales outlet within the jurisdiction of respondent City.

Respondent's further argument that petitioner has not submitted proof of payment of local franchise taxes to the city where its principal office is located will not work to bend the rules on the *situs* of taxation in respondent's favor. For one, petitioner's franchise tax payments to other jurisdictions is not in issue in the present case. Second, TRANSCO's theoretical payment or non-payment of franchise taxes in other jurisdiction could not negate the fact that petitioner remains to have no branch or sales outlet in respondent City.

WHEREFORE, the foregoing considered, respondent City of Digos' Motion for Reconsideration filed on 26 November 2020 is **DENIED**. Accordingly, the Court's Decision dated 04 Novemeber 2020 in *CTA AC No. 220* entitled *National Transmission Corporation (TRANSCO) v. City of Digos, represented by its City Treasurer, Mr. Jesus B. Uy* is hereby **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice