REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

DAVAO CITY WATER DISTRICT,
Petitioner,

CTA *EB* NO. 1822
(CTA Case No. 8979)

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 25 2020 11:22am

x- x

R E S O L U T I O N

MANAHAN, J.:

This resolves the *Motion for Reconsideration* filed by petitioner Davao City Water District through registered mail on December 2, 2019, and received by the Court on December 11, 2019.

In its *Motion,* petitioner states that the factual antecedents of the *PSALM case*[1] are far different from the subject petition, thus, it should not be dismissed for lack of jurisdiction. If further states that the ruling in the *PSALM case* should apply only to intragovernmental disputes. In relation to this, petitioner states that the issue of whether a franchise tax may be assessed and imposed on the petitioner is not a mere intragovernmental dispute. Citing several cases, petitioner states that the Secretary of Justice has no jurisdiction to

[1] *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue,* G.R. No. 198146, August 8, 2017.

review disputed assessments despite the provisions of Presidential Decree No. (PD) 242.

On February 3, 2020, respondent filed his *Opposition (Re: Motion for Reconsideration)*, stating that petitioner is a government owned and controlled corporation, hence, it is clear from the *PSALM case* that it is the Department of Justice which has jurisdiction to act on the petition for review.

The *Motion* has no merit.

It is reiterated that in the *PSALM case*, the Supreme Court has emphasized that "**all controversies involving government offices, bureaus, agencies and instrumentalities, including GOCCs, fall within the initial jurisdiction of the DOJ -- such interpretation must be respected by all courts.**"[2] Unless and until modified by the Supreme Court *En Banc*, the interpretation of PD 242 in the *PSALM case* should be applied in determining the proper forum with jurisdiction to resolve disputes, claims and controversies solely between or among departments, bureaus, offices, agencies and instrumentalities of the National Government.[3]

In the instant case, petitioner Davao City Water District insists that it is a GOCC,[4] citing the case of *Davao City Water District, et al. v. CSC*,[5] where the Supreme Court ruled that local water districts are GOCCs with original charter.[6] The Supreme Court later reiterated that local water districts are GOCCs with special charter in *Mendoza v. Commission on Audit*.[7] On the other hand, respondent CIR represents the BIR, another government agency. Clearly, this is a dispute between two government entities, and as such, following the ruling in the PSALM case, this Court has no jurisdiction.

Petitioner points to several cases where the Supreme Court appears to recognize the jurisdiction of the CTA over controversies involving GOCCs and the BIR -- (1)

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[2] *Metropolitan Waterworks and Sewerage System (MWSS) v. Commissioner of Internal Revenue*, CTA Case No. 9599, February 22, 2018.
[3] *Id.*
[4] *Rollo*, Petition for Review, p. 16.
[5] G.R. No. 92237-38, September 13, 1991.
[6] *Rollo*, Petition for Review, p. 16.
[7] G.R. No. 195395, September 10, 2013 citing *Feliciano v. Commission on Audit, et al.*, G.R. No. 147402, January 14, 2004.

Commissioner of Internal Revenue v. Secretary of Justice, and Philippine Amusement and Gaming Corporation;[8] (2) *Philippine Amusement and Gaming Corporation v. Commissioner of Internal Revenue;*[9] and, (3) *Bases Conversion and Development Authority v. Commissioner of Internal Revenue.*[10]

However, these cases did not rule squarely on the jurisdiction of the CTA on *intragovernmental disputes* or the application of PD 242.

On the other hand, the ruling in *PSALM case* was squarely applied in *Commissioner of Internal Revenue v. Secretary of Justice,*[11] involving the Metropolitan Cebu Water District, *to wit*:

> Nevertheless, the SOJ's jurisdiction over tax disputes between the government and government-owned and controlled corporations has been finally settled by this Court in the recent case of *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*, to wit:
>
> xxx
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> Since this case is a dispute between the CIR and respondent, a local water district, which is a GOCC pursuant to P.D. No. 198, also known as the Provincial Water Utilities Act of 1973, clearly, the SOJ has jurisdiction to decide over the case.

Based on the foregoing, there is no reason to reverse nor modify the Decision dated October 28, 2019.

WHEREFORE, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

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[8] G.R. No. 177387, November 9, 2016.
[9] G.R. Nos. 210689-90, 210704 and 210725, November 22, 2017.
[10] G.R. No. 205925, June 20, 2018.
[11] G.R. No. 209289, July 9, 2018.

WE CONCUR:

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

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

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen

(I reiterate my Dissenting Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(I reiterate my Dissenting Opinion)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice