REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

FIRST MERIDIAN DEVELOPMENT, INC., Petitioner,	**CTA EB No. 1607** (CTA AC No. 159)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
CITY OF DAVAO and HON. RODRIGO S. RIOLA, in his capacity as the City Treasurer of Davao City, Respondent.	***Promulgated:*** OCT 24 2018 11:47a.m.

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RESOLUTION

UY, *J.*:

For resolution is respondents' **"MOTION FOR RECONSIDERATION"**[1] filed on July 23, 2018, with respondent's **"COMMENT (To Respondents' Motion for Reconsideration dated 23 July 2018)"**[2] filed on September 24, 2018. In the said Motion, petitioner prays for the reconsideration of the Court's Decision dated June 20, 2018, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED.** The Decision dated November 29, 2016 and the Resolution dated February 23, 2017 rendered by the Court in Division in CTA AC No. 159 are hereby **REVERSED AND SET ASIDE.**

[1] Docket, pp. 201 to 211.
[2] Docket, pp. 216 to 242.

Accordingly, respondents are hereby **ORDERED to REFUND or ISSUE a TAX CREDIT CERTIFICATE** to petitioner in the aggregate amount of ₱456,394.00, representing erroneously collected local business taxes for taxable year 2010.

SO ORDERED."

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

1. The 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 Court *En Banc* failed to appreciate that 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 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 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

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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:

ROMAN G. DEL ROSARIO
Presiding Justice

I reiterate my Concurring Opinion

I reiterate my Dissenting Opinion
Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice