REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COCA-COLA BEVERAGES PHILIPPINES, INC., (formerly COCA-COLA FEMSA PHILIPPINES, INC./COCA-COLA BOTTLERS PHILIPPINES, INC.),
Petitioner,

CTA EB NO. 2173
(CBAA Case No. L-142-2018)
(LBAA Case No. 13-4258)

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro, and
Reyes-Fajardo, JJ.

- *versus* –

CITY TREASURER OF MANILA,
Respondent.

Promulgated:
NOV 0 8 2021 2:55pm

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RESOLUTION

CASTAÑEDA, JR., J.:

For resolution of the Court *En Banc* is petitioner Coca-Cola Beverages Philippines, Inc.'s *Motion for Reconsideration (Re: Decision dated May 19, 2021)*[1] filed on June 9, 2021. Petitioner's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on May 19, 2021,[2] (the "Assailed Decision") denying petitioner's Amended Petition for Review for lack of merit.

[1] Court *En Banc*'s Docket, Vol. II, pp. 601-610.
[2] *Id.*, pp. 575-600.

In praying for the reconsideration of the Assailed Decision, petitioner avers that: (1) a prior finding by the City Treasurer that the real property tax (RPT) assessment is either illegal or erroneous is not required for filing a claim for refund; (2) the City Treasurer's right to collect real property taxes has already prescribed; (3) the denial of petitioner's Amended Petition for Review only frustrates rather than advance substantial justice; and (4) petitioner is entitled to legal interest in the concept of actual or compensatory damages.[3]

On the other hand, respondent maintains that the five-year prescriptive period for the collection of taxes will set in only in cases when the "local treasurer concerned neglected to perform his mandated duties that he shall be faulted, giving rise to the prescriptive period under the law.[4] Otherwise, taxpayers may circumvent the law by not paying their taxes until the collection thereof prescribes.[5] Respondent asserts that petitioner submitted nothing to prove that it neglected its duty to collect real property taxes under the law.[6] Respondent also counters that the denial of the Amended Petition for Review did not amount to frustration of substantial justice but rather, it enforces the basic rule in taxation that statutes granting tax exemptions are considered as a derogation of the sovereign authority and are strictly construed against the person or entity claiming the exemption. The taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund.[7]

The Court *En Banc* resolves to deny petitioner's *Motion for Reconsideration* for lack of merit.

A closer evaluation of the case records and the arguments raised by petitioner in its *Motion for Reconsideration* reveals that the arguments relied upon are, indeed, mere rehash of the matters which had been thoroughly discussed and passed upon by the Court *En Banc* in the Assailed Decision. Petitioner utterly failed to raise any new or substantial matter let alone any compelling reason to warrant the modification much less reversal of the Court *En Banc*'s findings.

The Court *En Banc* stands by its ruling that the claim for refund under Section 253 is explicitly predicated on an erroneous or illegal assessment of RPT and/or other taxes levied under Title II, Book II of the LGC and, in the present case, there is yet no concrete finding that the RPT levied by the

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[3] *Id.*, p. 607.
[4] *Id.*, p. 656.
[5] *Id.*
[6] *Id.*
[7] *Id.*

respondent is either illegal or erroneous at the time the claim for refund was filed because petitioner's protest was then still pending. The Notice of Realty Tax Delinquency dated September 11, 2012 and Statement of Account dated September 18, 2012 issued by respondent assessing petitioner for RPT for the years 2000 to 2012 in the total amount of ₱14,414,611.84 still subsist at that time. Accordingly, there is no basis, factual or legal, for the grant of petitioner's claim for refund. The two-year period prescribed by Section 253 has not even commenced because it was never established that petitioner is entitled to the reduction or adjustment of the RPT it previously paid.

The Notice of Cancellation of Tax Declaration dated November 7, 2012 by the Department of Assessment of the City of Manila which effectively cancelled the tax declaration of the subject properties cannot be used as basis for petitioner's claim for refund because while the said document contains a statement that **"Taxes under the above[-]mentioned Tax Declaration ceases with the year 2012 – 4th QTR"**, the same does not mean that no RPT should have been paid for such quarter. It only signifies that it was the last quarter in which the subject properties will be liable for RPT. The cancellation of the tax declaration covering the subject properties was made on November 7, 2012. Considering that such reassessment of petitioner's properties due to the total destruction thereof falls within the 4th quarter of 2012, the same shall take effect only on the immediately succeeding quarter, *i.e.*, 1st quarter of 2013. It is therefore clear that petitioner has no basis to ask for a refund of RPT covering the 4th quarter of 2012. Given that there is no basis for the grant of petitioner's claim for refund, the award of interest is likewise unwarranted.

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Decision dated May 19, 2021)* is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

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

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

I continue to join the Concurring Opinion of the Presiding Justice
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I continue to join the Concurring Opinion of the Presiding Justice
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice