REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

TE DEUM RESOURCES, 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. 1692
(CTA AC No. 150)

Present:

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

Promulgated:

OCT 09 2018 2:51 p.m.

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RESOLUTION

This resolves respondents' **Motion for Reconsideration**[1] filed through registered mail on June 5, 2018, and received by the Court on June 18, 2018, with petitioner's **Comment (To Respondents' Motion for Reconsideration dated 05 June 2018)**[2] filed through registered mail on August 20, 2018, and received by the Court on September 4, 2018.

In their motion, respondents seek reconsideration of the Court's Decision promulgated on May 8, 2018 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed by petitioner Te Deum Resources, Inc. is **GRANTED**. The assailed February 10, 2017 Decision and July 19, 2017 Resolution of the Court in Division are hereby **REVERSED** and **SET ASIDE**. The assessment for

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[1] *En Banc* Docket, pp. 158-169.
[2] *En Banc* Docket, pp. 174-201.

local business tax for the first and second quarters of taxable year 2011 issued against petitioner are **CANCELLED** and **WITHDRAWN**.

Accordingly, respondents are **ORDERED** to refund or issue a tax credit certificate to petitioner in the amount of One Million Two Hundred Twenty Thousand Five Hundred Thirteen and 50/100 Pesos (₱1,220,513.50) representing the erroneously paid 0.55% local business tax for the first and second quarters of taxable year 2011.

SO ORDERED."

In support of their motion, respondents aver that the Court *En Banc* erred in concluding that: (i) petitioner's business operation does not fall within the definition of a non-bank financial intermediary; and (ii) a non-bank financial intermediary may not be considered as such unless it possesses all the requirements that qualify it to fall within its legal definition. Respondents also insist that the Court *En Banc* should have taken into account the factual findings of the Court in Division that petitioner is a non-bank financial intermediary.

On the other hand, petitioner, in its Comment contends that: (i) the arguments raised by respondents in their Motion for Reconsideration have already been thoroughly considered and passed upon by the Honorable Court *En Banc* in the Assailed Decision, and thus, said motion must perforce be denied for lack of merit; (ii) petitioner is entitled to a refund or credit 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; (iii) 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; (iv) being a holding company, petitioner's dividend and interest income are not subject to local business tax; and (v) 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.

After carefully reviewing the parties' respective arguments, the Court *En Banc* notes that respondents' arguments are reiterations or amplifications of those raised in their Comment[3] filed on October 19, 2017, all of which were duly considered and threshed out in the assailed Decision.

To be more specific, respondents' position that petitioner's business operation falls within the definition of a non-bank financial intermediary has been found by the Court *En Banc* to be patently without basis. Indeed, on pages 10 to 21 of the assailed Decision, the Court *En Banc* has extensively discussed that petitioner is not a non-bank financial intermediary nor an investment company subject to local business tax.

For respondents' failure to raise any new or substantial ground to justify the reconsideration sought, the Motion for Reconsideration must perforce be denied.

All told, the Court *En Banc* finds no justifiable reason to reverse or set aside the assailed Decision.

WHEREFORE, premises considered, respondents' **Motion for Reconsideration** is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I maintain my Dissenting Opinion
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[3] *En Banc* Docket, pp. 102-117.

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