REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ONE NETWORK BANK, INC. (A RURAL BANK),
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8640

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, and
COTANGCO-MANALASTAS, *JJ.*

Promulgated: APR 11 2014
10:05 a.m.

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DECISION

CASTAÑEDA, JR., *J.*:

THE CASE

This is a Petition for Review filed on April 17, 2013 by One Network Bank, Inc. (A Rural Bank), pursuant to Section 4(a) of Rule 8 and Rule 4 of the Revised Rules of the Court of Tax Appeals, to appeal the inaction of the Commissioner of Internal Revenue over its administrative claim for tax refund in the amount of ONE HUNDRED FIFTY-TWO MILLION FIVE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED FORTY-SIX PESOS and 35/100 (P152,511,746.35), allegedly representing erroneous payment of gross receipts tax (GRT) for taxable year 2012.

THE FACTS

Petitioner One Network Bank, Inc. (A Rural Bank) is a domestic corporation duly organized and registered under the laws of the Republic of the Philippines, with office address at Km. 9, Sasa, Davao City.[1] It is registered with the Securities and Exchange Commission (SEC) on July 14, 2011 with Company Registration No. CS201109703.[2] Petitioner is also registered with the Bureau of Internal Revenue (BIR) as shown in its Certificate of Registration No. OCN8RC0000030265, with Tax Identification Number (TIN) 413-177-215-000.[3]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue vested by law with authority to decide, approve and grant claims for refund or tax credit of erroneously or excessively paid taxes. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On August 15, 2009, One Network Rural Bank, Inc. and Rural Bank of New Corella (Davao del Norte), Inc., two domestic banking corporations, executed a Plan of Consolidation[4] whereby said corporations shall consolidate, with One Network Bank, Inc. (A Rural Bank) as the name of the consolidated bank, the petitioner in this case. On August 24, 2009, the Agreement and Articles of Consolidation[5] was executed by the two constituent rural banks.

On July 14, 2011, the SEC approved the Plan of Consolidation dated August 15, 2009 and the Agreement and Articles of Consolidation and Supplemental to the Agreement and Articles of Consolidation executed on August 24, 2009.[6] As a result, the corporate existence of One Network Rural Bank, Inc. and Rural Bank of New Corella (Davao del Norte), Inc. ceased to exist and the entire assets and liabilities of the two constituent corporations were taken and deemed to be transferred to and vested in the consolidated bank known as One Network Bank, Inc. (A Rural Bank).

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[1] Par. 1, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), docket, p. 390; Exhibits "A" and "B", docket, pp. 421 to 428.
[2] Par. 4, Summary of Admitted Facts, JSFI, docket, p. 391; Exhibit "A", docket, p. 421.
[3] Par. 5, Summary of Admitted Facts, JSFI, docket, p. 391; Exhibit "F", docket, p. 482.
[4] Exhibit "E", docket, pp. 447 to 449.
[5] Exhibit "D", docket, p. 438.
[6] Exhibit "C", docket, p. 437.

According to its Articles of Incorporation, petitioner's purposes are "[T]o carry and engage in the business of extending rural credit to small farmers and tenants and to deserving rural industries; to do and perform all acts and to transact and conduct all business which may legally be had or done by rural banks under and in accordance with the Rural Banks Act, as it exists or may be amended; and to do all other things incident thereto and necessary and proper in connection with said purpose within such territory, as may be determined by the Monetary Board of the Bangko Sentral ng Pilipinas", and "[T]o carry and engage in the business of a Government Securities Eligible Dealer (GSED) under existing laws, rules and regulations subject however to approval by the Monetary Board of the Bangko Sentral ng Pilipinas".[7]

On August 17, 2011, petitioner was duly authorized to operate as a rural bank by the *Bangko Sentral ng Pilipinas* (BSP), pursuant to Republic Act No. 7353 (Rural Banks Act of 1992) and Monetary Board Resolution No. 1210 dated September 2, 2010.[8]

For taxable year 2012, petitioner filed its Monthly Percentage Tax Returns (BIR Form No. 2551M), through the BIR's Electronic Filing and Payment System (EFPS), as well as paid under protest gross receipts tax in the total amount of P152,511,746.36, broken down as follows:[9]

TAXABLE MONTH	DATE OF FILING OF MONTHLY PERCENTAGE TAX RETURN AND PAYMENT OF GRT	BASIC TAX	SURCHARGE	INTEREST	COMPROMISE	TOTAL
January	December 5, 2012	8,175,082.71	2,043,770.68	1,263,218.26	50,000.00	11,532,071.65
February	December 5, 2012	7,331,159.08	1,832,789.77	1,020,336.66	50,000.00	10,234,285.51
March	December 5, 2012	8,180,088.84	2,045,022.21	995,057.38	50,000.00	11,270,168.43
April	December 5, 2012	12,665,377.14	3,166,344.29	1,346,346.94	50,000.00	17,228,068.37
May	December 5, 2012	7,464,071.04	1,866,017.76	666,654.02	50,000.00	10,046,742.82
June	December 5, 2012	9,304,616.04	2,326,154.01	678,089.83	50,000.00	12,358,859.88
July	December 5, 2012	13,927,190.67	3,481,797.67	755,502.40	50,000.00	18,214,490.74
August	December 5, 2012	11,687,997.15	2,921,999.29	454,711.12	50,000.00	15,114,707.56
September	December 5,	11,724,690.95	2,931,172.74	263,404.02	50,000.00	14,969,267.71

[7] Exhibit "B", docket, p. 422.
[8] Exhibit "G", docket, p. 483.
[9] Exhibit "FF", docket, pp. 201 to 212; Exhibits "J" to "U-2", docket, pp. 500 to 558.

	2012					
October	November 23, 2012	12,024,344.36				12,024,344.36
November	December 19, 2012	9,377,884.51				9,377,884.51
December	January 24, 2013	10,140,854.82				10,140,854.82
Total		122,003,357.31	22,615,068.42	7,443,320.63	450,000.00	152,511,746.36

On March 13, 2013, petitioner filed an administrative claim for refund dated March 11, 2013 before BIR Revenue District Office (RDO) No. 123-Cebu City for the refund of the amount of P152,511,746.35, purportedly representing its gross receipts tax paid for taxable year ended December 31, 2012.[10]

Due to respondent's inaction and in order to suspend the running of the two-year prescriptive period on the said administrative claim for refund, petitioner filed the instant Petition for Review on April 17, 2013.

Respondent filed her Answer[11] on May 10, 2013, interposing the following Special and Affirmative Defenses:

> "4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau.
>
> 5. The amount of P152,511,746.35 allegedly representing erroneously paid Gross Receipts Tax for the calendar year 2012 was not properly documented.
>
> 6. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/ credit.
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> 7. Petitioner must show that it has complied with the provisions of Section 112 of the NIRC of 1997 on the prescriptive period for claiming tax refund/credit.

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[10] Exhibits "H" and "I", docket, pp. 484 to 498 and 499.
[11] Docket, pp. 81 to 89.

8. Revenue Memorandum Circular No. 66-2012 categorically provides that the tax exemption granted under Section 15 of Republic Act No. 7353 of the Rural Bank Act of 1992 may no longer be availed by consolidated rural banks for the following reasons: (a) the process of consolidation involve existing and operating rural banks that already cater to the public. For this reason, these processes do not significantly promote the policy enunciated in RA 7353. It merely prolongs the exemption beyond the period prescribed by law, thereby depriving the government of much-needed revenues; and (b) Section 80 of the Corporation Code sets forth the effects of consolidation which includes the following:

> i) The surviving or the consolidated corporation shall possess all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation under this Code;
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> ii) The surviving or the consolidated corporation shall thereupon and thereafter possess all the rights, privileges, immunities and franchises of each of the constituent corporations; and all property, real or personal, and all receivables due on whatever account, including subscriptions to shares and other choses in action, and all and every other interest of, belonging to, or due to each constituent corporation, shall be deemed transferred to and vested in such surviving or consolidated corporation without further act or deed; and
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> iii) The surviving or consolidated corporation shall be responsible and liable for all the liabilities and obligations of each of the constituent corporations in the same manner as if such surviving or consolidated corporation had itself incurred such liabilities or obligations; and any pending claim, action or proceeding brought by or against any of such constituent corporation may be prosecuted by or against the surviving or consolidated corporation, as

> the case may be. Neither the rights of creditors nor liens upon the property of any of such constituent corporations shall be impaired by such merger or consolidation.

9. Hence, rural banks formed through consolidation (consolidated rural banks) of existing rural banks (constituent rural banks) shall not be entitled to the tax exemption under Section 15 of RA 7353 in cases when the constituent rural banks previously availed of this exemption. However, should any or both the constituent rural banks not be able to enjoy the tax exemption for the entire five (5)-year period, then the consolidated rural bank shall be entitled to the exemption for the remaining period.

10. The BIR's interpretation of tax laws is entitled to great weight because of its recognized expertise on matters falling within its exclusive administrative domain. It is an elementary rule in administrative law that administrative regulations and policies enacted by administrative bodies to interpret the law which they are entrusted to enforce have the force of law and are entitled to great respect **(Español vs. Philippine Veterans Administration, 137 SCRA 314)**.

11. The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute.

12. In **Asturias Sugar Central, Inc. vs. Commissioner of Customs**, it was stressed that the executive officials are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the law, and to have formed an independent, conscientious and competent expert opinion thereon. The courts give much weight to contemporaneous construction because of the respect

due the government agency or officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they frequently are the drafters of the law they interpret **(Nestle Philippines vs. Court of Appeals, et al., 203 SCRA 504 citing Abejo, et al. vs. Hon. Dela Cruz, etc., et al., 149 SCRA 654); Asturias Sugar Central, Inc. vs. Commissioner of Customs, 29 SCRA 617; Ramos vs. Court of Industrial Relations, 21 SCRA 218 and Santiago vs. Deputy Executive Secretary, 192 SCRA 199).**

13. Thus, as the government agency charged with the enforcement of tax laws, the interpretation made by the Commissioner of Internal Revenue of Section 145 of the Tax Code of 1997 should be given great weight by this Honorable Court.

14. The BIR, as the administrative agency responsible for revenue collection and enforcement, is duty-bound to raise revenues through proper collection of taxes and, as such, it is given a special mandate to issue the necessary regulations in implementing the provisions of the Tax Code of 1997. The growth of society has ramified the government's activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems in present-day undertakings, the legislature may not have the competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be experts in the particular fields assigned to them **(Eastern Shipping Lines, Inc. vs. POEA, et al., 166 SCRA 533)**.

15. Notably, Section 244, in relation to Section 4, of the Tax Code of 1997 states:

> Section 244. Authority of Secretary of Finance to Promulgate Rules and Regulations - The Secretary of Finance, upon recommendation of the Commission, shall

promulgate all needful rules and regulations for the effective enforcement of the provision of this code.

Section 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. - The power to interpret the provisions of this Code and other laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

Correspondingly, Section 10 of the same Code also provides:

The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for effective implementation of this Act.

16. Thus, assuming *arguendo* that the BIR exercised administrative legislation, the same is not illegal *per se*. Administrative agencies in the exercise of their rule-making power can formulate rules and regulations in order to achieve the declared policies as laid down by Congress. In fact, **the latest in our jurisprudence indicates that delegation of legislative power has become the rule and its non-delegation the exception**. The reason is the increasing complexity of modern life and many technical fields of governmental functions as in matters pertaining to tax exemptions. This is coupled by the growing inability of the legislature to cope directly with the many problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present day undertakings, the legislature may not have the competence, let alone the interest and the time, to provide the required direct and efficacious, not to say

specific solutions *(pp. 82-83, Philippine Political Law, 1989 ed., Justice Isagani A. Cruz)*.

17. The power to tax is the most effective instrument to raise needed revenues to finance and support the myriad activities of the government for the delivery of basic services essential to the promotion of the general welfare and enhancement of peace, progress, and prosperity of the people ***(Mactan Cebu International Airport Authority vs. Marcos, 261 SCRA 667, 690)***. Consequently, any delay in implementing tax measures would be to the detriment of the public. It is for this reason that claims for refund are required to be done within certain time frames. In the instant petition, the failure of the petitioner to comply with such periods is fatal to its cause.

The claimant has the burden of proof to establish the factual basis of his claim for tax credit or refund. After all tax refunds, like tax exemptions, are construed strictly against the taxpayer **(Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue, 280 SCRA 459; Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332, both cited in Benguet Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5392 promulgated October 30, 1998).**

Partaking of the nature of exemptions, claims for refund are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language **(Sps. Aguilar vs. Commissioner of Internal Revenue, et al., CA G.R. SP No. 16432, March 30, 1999).** Being in the nature of tax exemptions, these claims are regarded as in derogation of sovereign authority and to be construed strictissimi juris against the claimant and liberally in favor of the taxing authority **(Commissioner of Internal Revenue vs. Procter and Gamble Philippines Manufacturing Corporation, 204 SCRA 377).**

Claims for refund are construed strictly against the claimant for the same partake the nature of exemption *gc*

> from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and such, they are looked upon with disfavor *(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211)*."

During trial, petitioner presented Atty. Jose M. Balingit, Jr., petitioner's Corporate Secretary[12], and Edwin M. Gupit, its Accounting Head[13], as witnesses. Thereafter, petitioner filed its Formal Offer of Evidence[14] on October 4, 2013, submitting Exhibits "A" to "FF", inclusive of sub-markings; which the Court admitted in the Resolution[15] dated October 29, 2013.

On the other hand, on September 18, 2013, respondent, through counsel, manifested that she has no witness to present.[16] Hence, this Court in the Resolution[17] dated October 29, 2013, granted the parties thirty (30) days from receipt of the same to file their respective Memorandum.

On January 22, 2014, the case was submitted for decision, taking into consideration petitioner's Memorandum filed on January 16, 2014 and respondent's Memorandum filed on December 3, 2013.[18]

THE ISSUES

The following are the parties' jointly stipulated issues[19] submitted for this Court's resolution:

> "A. Whether or not Petitioner is entitled to claim for refund in the amount of **One Hundred Fifty Two Million Five Hundred Eleven Thousand Seven Hundred Forty Six Pesos and 35/100 (Php152,511,746.35)**, representing Petitioner's alleged erroneous payment of gross receipts tax (GRT) for the calendar year 2012 based on Sections 204(C) and 229 of the Tax Code.

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[12] Minutes of Hearing dated August 28, 2013, docket, p. 406.
[13] Minutes of Hearing dated September 18, 2013, docket, p. 407.
[14] Docket, pp. 408 to 420.
[15] Docket, pp. 639 to 640.
[16] Minutes of Hearing dated September 18, 2013, docket, p. 407
[17] Docket, pp. 639 to 640.
[18] Resolution dated January 22, 2014, docket, p. 698.
[19] Docket, p. 391.

B. Whether or not RMC 66-2012 contravenes the provisions of Republic Act No. (RA) No. 7353, or the Rural Banks Act of 1992.

C. Whether or not the issuance of RMC 66-2012 is an encroachment of a legislative power and an exercise of an administrative legislation which is proscribed under the Philippine Constitution and existing jurisprudence.

D. Whether or not a consolidated corporation is a new corporation separate and distinct from the constituent corporations forming it.

E. Assuming RMC 66-2012 is valid and binding, whether or not it can be applied prospectively based on equitable estoppel."

The above-enumerated issues can be summarized as follows:

"Whether or not petitioner is entitled to a refund of the amount of P152,511,746.35, representing petitioner's alleged erroneous payment of GRT for taxable year 2012."

THE COURT'S RULING

Petitioner argues that it is not liable to pay the subject GRT because it is entitled to the privileges under Section 15 of RA No. 7353 or "The Rural Banks Act of 1992," as amended, which exempts newly formed rural banks from payment of pertinent taxes for a period of five (5) years from the date of commencement of operations.

Section 15 of RA No. 7353, as amended, reads:

"SECTION 15. **All rural banks created and organized under the provisions of this Act shall be exempt from the payment of all taxes, fees and charges of whatever nature and description, except the corporate income tax and local taxes,**

> **fees and charges, for a period of five (5) years from the date of commencement of operations.**
>
> All rural banks in operation as of the date of approval of this Act shall be exempt from the payment of all taxes, fees and charges of whatever nature and description, except the corporate income tax and local taxes, fees and charges, for a period of five (5) years from the approval of this Act." *(Emphasis supplied)*

Petitioner contends that it has been issued a Certificate of Filing of the Articles and Plan of Consolidation and the Agreement and Articles of Consolidation and Supplemental to the Agreement and Articles of Consolidation[20] by the SEC as a result of the consolidation of two constituent rural banks. As such, it has a new juridical personality separate from the constituent corporations and has the right to enjoy the privileges intended for it. Petitioner claims that it has been issued new TIN, new BIR Certificate of Registration, and new business permits.

Petitioner points out that while Section 80(5) of the Corporation Code provides that the consolidated corporation shall be responsible for the liabilities of the constituent corporations, the same cannot be made to apply in this case because Section 15 of RA No. 7353 does not speak of a liability. The liability contemplated under the Corporation Code refers to obligations of constituent corporations prior to the consolidation. Petitioner claims that there is nothing under Section 80(5) of the Corporation Code that restricts the consolidated corporations from enjoying the tax incentives granted to the constituent corporations. Petitioner asserts that it can therefore avail of the benefits under Section 15 of RA No. 7353, notwithstanding that it was formed through consolidation.

Petitioner also argues that assuming Revenue Memorandum Circular (RMC) No. 66-2012 is valid and binding, it must be applied prospectively based on equitable estoppel, citing Section 246 of the National Internal Revenue Code (NIRC) of 1997, as amended, and relevant jurisprudence. Petitioner avers that in BIR Ruling No. [DA-(C-117)352-09] dated July 6, 2009 and BIR Ruling No. [DA-420-04] dated August 4, 2004, the reckoning point of availing the tax exemption granted to rural banks must be the date of commencement of its operation, which shall be either the date of

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[20] Exhibits "C", "D", and "E", docket, pp. 437 to 449.

issuance of Certificate of Incorporation by the SEC or issuance of Certificate of Authority to Operate as a rural bank by the BSP, whichever is later.

Respondent counters, among others, that the allegations of petitioner point to a relief that entirely relies on the nullification of RMC No. 66-2012, and that RMC No. 66-2012 is presumed by law to be valid, with a collateral attack not being allowed; administrative agencies in the exercise of their rule-making power can formulate rules and regulations and that RMC No. 66-2012 provides that tax exemption granted under Section 15 of RA No. 7353 (Rural Banks Act of 1992) may no longer be availed by consolidated rural banks; and claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation and are looked upon with disfavor.

Revenue Memorandum Circular No. 66-2012 issued by respondent provides that *consolidated* rural banks may no longer avail of the tax exemption under RA No. 7353, observing that "certain existing rural banks, after having fully enjoyed the tax exemption under RA 7353, are able to extend their period of tax exemption beyond the prescribed five (5)-year period through the process of *consolidation*." It reads, in part:

> "Rural banks formed through *consolidation* ('consolidated rural banks') of existing rural banks ('constituent rural banks') shall not be entitled to the tax exemption under Section 15 of Republic Act No. 7353 in cases when the constituent rural banks previously availed of this exemption. However, should any or both the constituent rural banks not be able to enjoy the tax exemption for the entire five (5)-year period, then the consolidated rural bank shall be entitled to the exemption for the remaining period.
>
> All other issuances inconsistent herewith are hereby repealed or modified accordingly."

The tax exemption provided by Section 15 of RA No. 7353 does not cover situations arising from merger or consolidation of rural banks, as quoted below: Je

"SECTION 15. All rural banks created and organized under the provisions of this Act shall be exempt from the payment of all taxes, fees and charges of whatever nature and description, except the corporate income tax and local taxes, fees and charges, for a period of five (5) years from the date of commencement of operations. xxx"

Reading further, RA No. 7353 did not expressly provide for tax exemption in cases of consolidation of rural banks. The law neglected to include any tax incentive for mergers or consolidations of rural banks under Section 18 thereof, which reads:

"SECTION 18. To encourage consolidation and mergers of rural banks, if there are five (5) or more rural banks within the region that merge and consolidate within three (3) years from the enactment of this Act, **the merged or consolidated entity will be given the following incentives for a period of seven (7) years**:

(a) Its deposit liabilities shall be subjected to only one-third (1/3) of reserves normally required for rural banks;

(b) Its reserve requirement can all be maintained under interest-bearing government securities but kept unencumbered with government financial institutions or the Central Bank; and

(c) It shall have unrestricted branching right within the region, free from any assessment or surcharges required in setting up a branch but under coordination with the Central Bank which will have to assess that there are qualified personnel, control and procedures to operate the branch." *(Emphasis supplied)*

Based on the foregoing, although the law encourages consolidation and mergers of rural banks, it did not go as far as giving a fresh tax exemption to *consolidated* rural banks for another five (5) years of operation other than giving incentives on reserve requirement and branching right for a period of seven (7) years.

If Congress intended to provide such tax exemption, the same would have been easily inserted as part of the incentives enumerated under Section 18 of RA No. 7353. But the law, as it stands, is silent as to the tax incentive for *consolidated* rural banks, which, as pointed out by respondent, had its constituent rural banks already enjoying the benefits of RA No. 7353 when these were formed for the first time as rural banks.

It is a settled rule of statutory construction that the express mention of one person, thing, or consequence implies the exclusion of all others. The rule is expressed in the familiar maxim, *expressio unius est exclusio alterius*.[21]

In this case, petitioner presented in evidence the Plan of Consolidation dated August 15, 2009,[22] the Agreement and Articles of Consolidation dated August 24, 2009,[23] the SEC Certificate of Filing of the Articles and Plan of Consolidation and the Agreement and Articles of Consolidation and Supplemental to the Agreement and Articles of Consolidation dated July 14, 2011,[24] and the testimony of its witness Atty. Jose M. Balingit, Jr.[25]

It is not disputed that petitioner is the result of the consolidation of two rural banks, *i.e.*, One Network Rural Bank, Inc. and Rural Bank of New Corella (Davao del Norte), Inc. Since petitioner is a product of *consolidation*, then it does not have the incentive of tax exemption for another five years available under Section 15 of RA No. 7353. Its incentives are covered by Section 18 of RA No. 7353, which excluded tax exemption.

Anent petitioner's argument that RMC No. 66-2012 should be given prospective application, suffice it to say that this argument is misplaced given that the RMC was issued in October 2012, while petitioner made the actual payments of GRT on November 23, 2012, December 5, 2012, December 19, 2012, and January 24, 2013.

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[21] *Sario Malinias vs. The Commission On Elections, et al.*, G.R. No. 146943, October 4, 2002.
[22] Exhibit "E", docket, pp. 447 to 449.
[23] Exhibit "D", docket, p. 438.
[24] Exhibit "C", docket, p. 437.
[25] Exhibit "EE", docket , p. 113-119, TSN dated August 28, 2013.

Clearly, insofar as petitioner is concerned, RMC No. 66-2012 was issued ahead of petitioner's payments and was applied prospectively.

Petitioner's allegation that it relied on prior BIR Rulings declaring that the reckoning point of availing the tax exemption for a rural bank is the date of commencement of its operation is without merit. BIR Ruling No. [DA-(C-117)352-09] dated July 6, 2009 and BIR Ruling No. [DA-420-04] dated August 4, 2004, as cited by petitioner, were not addressed to petitioner, but to some other corporate entities, and that these rulings did not interpret petitioner's supposed entitlement to tax exemptions under RA No. 7353.

Respondent's interpretation of tax privileges of rural banks incorporated in RMC No. 66-2012 is entitled to great weight and respect. Under Section 4 of RA No. 8424, as amended, the power to interpret the provisions of the NIRC and other tax laws shall be under the exclusive and original jurisdiction of the BIR Commissioner, subject to review by the Secretary of Finance. As the government agency charged with the enforcement of the law, the opinion of the Commissioner of Internal Revenue, in the absence of any showing that it is plainly wrong, is entitled to great weight.[26]

The BIR is also not precluded from making a new interpretation of the law, especially when the old interpretation was flawed. It is a well-entrenched rule that erroneous application and enforcement of the law by public officers do not block subsequent correct application of the statute.[27]

Petitioner, as taxpayer claimant, has the burden of proof to show that it is entitled to the refund of the amount claimed as refundable because taxes are presumed to have been collected in accordance with laws and regulations on the matter. The burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund.[28] And tax exemptions should be granted only by clear and unequivocal provision of law on the basis of language too plain to be mistaken. They cannot be extended by mere implication or inference.[29]

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[26] *Misamis Oriental Association of Coco Traders, Inc. vs. Department of Finance Secretary, et al.*, G.R. No. 108524, November 10, 1994.
[27] *Manuel G. Abello, et al. vs. Commissioner of Internal Revenue, et al.*, G.R. No. 120721, February 23, 2005.
[28] *Philippine Geothermal, Inc. vs. The Commissioner of Internal Revenue,* G.R. No. 154028, July 29, 2005.
[29] *Philippine Long Distance Telephone Company, Inc. vs. City of Davao, et al.*, G.R. No. 143867, March 25, 2003.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinión of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice