CTA Form No. 8 (For DCC)

22-000179-0030

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA AC NO. 264

THE LOCAL GOVERNMENT UNIT OF CAMARINES SUR,
Petitioner,

- versus -

CAMARINES SUR II ELECTRIC COOPERATIVE, INC. (CASURECO II) AND THE LOCAL GOVERNMENT UNIT OF NAGA CITY,
Respondents.

NOTICE OF RESOLUTION

To:

ATTY. JANIS IAN B. REGASPI-CLEOFE
Counsel for Petitioner LGU Camarines Sur
OFFICE OF THE PROVINCIAL LEGAL OFFICER
Capitol Complex, Brgy. Cadlan, Pili
Camarines Sur

ATTY. MCGYVER GERARD S. ORBINA
Counsel for the Respondent - LGU Naga City
3/F LTFRB Building
City Hall Compound
J. Miranda Avenue, Naga City

TABORA LAW
Diversion Road, Concepcion Pequeña
Naga City

HON. PABLO CABILLAN FORMARAN III
Presiding Judge
Regional Trial Court
5th Judicial Region
Branch 21, City of Naga

GREETINGS:

You are hereby notified by these presents that on **May 6, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 7, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
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Respondents.

CTA AC No. 264

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

MAY 0 6 2024 8:35AM

x- -x

RESOLUTION

MANAHAN, *J.:*

This resolves petitioner's *Motion for Reconsideration* filed on January 19, 2024 and received by the Court on January 31, 2024,[1] with respondent's *Comment on/ Opposition to Petitioner's Motion for Reconsideration [From the Decision dated 19 December 2023]* ("*Comment/Opposition*") filed on February 26, 2024.[2]

In the *Decision* dated December 19, 2023, this Court affirmed the right of respondent Local Government Unit of Naga City ("Naga City") to the local franchise taxes due from respondent CASURECO II on gross receipts derived from nine (9) municipalities within the territorial jurisdiction of petitioner Local Government Unit of Camarines Sur ("Camarines Sur"). The dispositive portion thereof reads:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

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[1] Docket – Vol. III, pp. 317-320.
[2] Docket – Vol. III, pp. 341-346. Respondent's *Motion for Extension of Time (To File Opposition to the Petitioner's Motion for Reconsideration)* was deemed granted by the Court in its *Resolution* dated March 19, 2024.

> Accordingly, the assailed Decision dated September 17, 2021 and Order dated November 2, 2021, both rendered by RTC – Branch 21, in Special Civil Case No. RTC-2020-0105, are **AFFIRMED**.
>
> **SO ORDERED**.

Assailing the said *Decision*, petitioner argues in its *Motion for Reconsideration* that CASURECO II exercises its privileges under its franchise not only within the territorial limits of respondent Naga City, but also within that of petitioner. Thus, both Naga City and petitioner are entitled to franchise taxes realized from their respective territorial jurisdictions. Petitioner cites the case of *National Power Corporation v. City of Cabanatuan*[3] which laid down the following requisites for liability for local franchise tax: (1) that one has a "franchise" in the sense of a secondary or special franchise; and (2) that it is exercising its rights or privileges under this franchise *within the territory* of the pertinent local government unit.

In its *Comment/Opposition*, respondent asserts that petitioner's four (4)-page *Motion for Reconsideration* is a mere rehash of its *Petition for Review*. As already passed upon by the Court, Naga City has the sole authority to assess and collect the local franchise taxes on CASURECO II's entire area of coverage, being the local government unit having territorial jurisdiction over the principal office of CASURECO II.

We now resolve.

Indeed, petitioner's *Motion for Reconsideration* does not raise any matter that has not yet been thoroughly considered and discussed in the assailed *Decision*. To reiterate, Article 226 of the Implementing Rules and Regulations of Republic Act No. 7610, otherwise known as the Local Government Code, is clear: the province shall not impose franchise tax on "business enjoying franchise operating within the territorial jurisdiction of any city located within the province." Since franchise tax is a tax on business and not on person or property, its *situs* is the place where the privilege is exercised—*i.e.* where the taxpayer has its principal office and from where it operates—

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[3] G.R. No. 149110, April 9, 2023 [Per J. Puno, Third Division].

regardless of the place where its goods or services are delivered.[4]

While a motion for reconsideration may tend to dwell on issues already resolved, it is still incumbent upon the movant to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.[5] More importantly, it behooves the movant to specify the findings or conclusions in the judgment which are not supported by evidence or contrary to law, making express reference to the pertinent evidence or legal provisions, as required by Section 2, Rule 37 of the Rules of Court.[6] This petitioner failed to do.

ACCORDINGLY, petitioner's *Motion for Reconsideration* filed on January 19, 2024 is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(no part)
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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[4] *City of Iriga v. Camarines Sur III Electric Cooperative, Inc.*, G.R. No. 192945, September 5, 2012 [Per J. Perlas-Bernabe, Second Division].
[5] *Roque, Jr. v. Commission on Elections*, G.R. No. 188456 (Resolution), February 10, 2010 [Per J. Velasco, *En Banc*].
[6] *People v. Rodriguez*, G.R. No. 32657, September 1, 1992 [Per J. Nocon, Second Division].