

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SMART
COMMUNICATIONS,
INC.,

Petitioner,

-versus-

HON. JUDGE AUGUSTO
JOSE Y. ARREZA, as
Acting Presiding Judge of
the Regional Trial Court,
Branch 133, Makati City,
HON. JESUSA E.
CUNETTA, in her capacity
as OIC City Treasurer of
Makati City, and CITY OF
MAKATI,

Respondents.

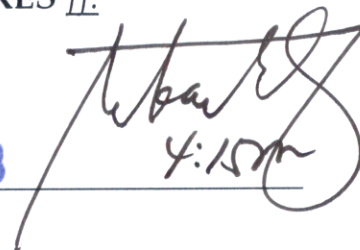
CTA EB No. 2386
(CTA AC No. 228)

Present:

DEL ROSARIO, P.L.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES II.

Promulgated:

FEB 01 2023



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RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution is petitioner's *Motion for Reconsideration (of the Decision dated 15 August 2022)*¹ ("Motion"), filed on August 31, 2022, with respondent's *Comment to the Motion for Reconsideration*² filed on November 2, 2022.

¹ *En Banc* (EB) Docket, Volume 4, pp. 1642 to 1713.

² *Id.*, pp. 1726 to 1760.



In the *Motion*, petitioner prays that the Court annul, reverse and set aside the Decision³ (“assailed Decision”), promulgated on August 15, 2022. The dispositive portion of the assailed Decision states:

WHEREFORE, the Petition for Review dated December 22, 2020, filed by Smart Communications, Inc. is **DENIED**. The challenged Decision dated February 5, 2020, and Resolution dated November 9, 2020, both rendered by the Court in Division in CTA AC No. 228 are **AFFIRMED**.

SO ORDERED.

The assailed Decision sustained the finding of the Court in Division that the Regional Trial Court, Branch 133 of Makati City (“RTC-Makati”) did not act with grave abuse of discretion in granting respondent Makati City’s Motion for Production or Inspection of Documents under Section 1, Rule 27 of the Rules of Court. It was ruled that the jurisdiction conferred to RTC-Makati in exercising the power of judicial review to dispose the case on the merits carries the power to issue all auxiliary writs, processes, and other means necessary to exercise its jurisdiction, including the issuance of a resolution allowing a party to avail of a mode of discovery. Rightly so, the issuance of the resolution granting the production or inspection of documents is well within the power and jurisdiction of RTC-Makati when all the requisites for filing said motion were satisfied by respondent. In requiring the production of documents, RTC-Makati, being the court of competent jurisdiction, is not making an assessment or conducting an audit; rather, it is exercising the power of judicial review as vested in Section 1 of Article VIII of the 1987 Constitution.

Aggrieved, petitioner moves for reconsideration on the following grounds:

- I. The Court erred when it found that the City Treasurer’s examination power justifies the production of the requested documents;
- II. RTC-Makati’s Order to produce the documents requested by respondent Makati City for the purpose of allowing RTC-Makati to look into the correctness of the city treasurer’s assessment of tax liabilities against petitioner is tantamount to the conduct of a separate and distinct assessment or audit of petitioner’s tax liabilities.

³ *Id.*, pp. 1614 to 1634.

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Thus, said audit is clearly beyond RTC Makati's exercise of its power of judicial review; and

- III. The Court erred when it found that all the requisites to grant the Motion for Production have been complied with.

On the other hand, respondent, counters that the production and inspection of documents is pursuant to Rule 27 of the Rules of Court and not an audit pursuant to Section 171 of Republic Act No. 7160 or the Local Government Code of 1991. It also echoes the findings in the assailed Decision that in reviewing the city treasurer's assessment, RTC-Makati has to make its determination of the taxpayer's tax liabilities, and may require the production of documents to aid its resolution of the issue petitioner itself submitted for determination of RTC-Makati.

The Motion is denied.

After a careful evaluation of the arguments presented by petitioner, it is clear that the grounds raised therein are mere reiterations of matters which have already been exhaustively considered, weighed and resolved in the assailed Decision. As such, the Court finds no compelling reason to reconsider, modify or even reverse the assailed Decision following the ruling in *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*⁴:

The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or

⁴ G. R. No. 109645, July 25, 1994.

modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

WHEREFORE, petitioner's *Motion for Reconsideration (of the Decision dated 15 August 2022)* is **DENIED** for lack of merit.

SO ORDERED.



(With due respect, I reiterate my Dissenting Opinion)

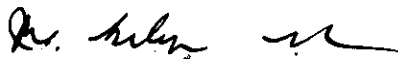
ROMAN G. DEL ROSARIO

Presiding Justice



ERLINDA P. UY

Associate Justice



MA. BELEN M. RINGPIS-LIBAN

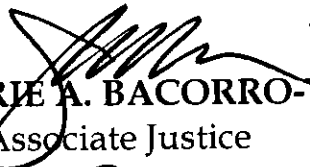
Associate Justice



CATHERINE T. MANAHAN

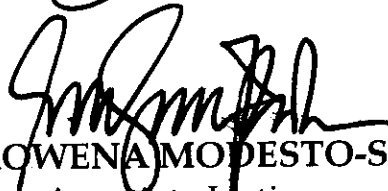
Associate Justice

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JEAN MARIE A. BACORRO-VILLENA

Associate Justice

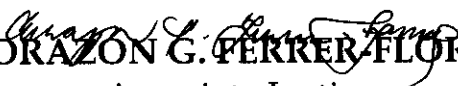


MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice