REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

SWEDISH MATCH PHILIPPINES, INC.,
Petitioner,

-versus-

THE CITY TREASURER OF THE CITY OF MANILA,
Respondent.

CTA *EB* NO. 2043
(CTA AC No. 198)

Present:
DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAR 19 2021 10:30am

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is petitioner's ***Motion for Reconsideration Re: Decision dated 11 September 2020 (hereinafter referred to as "Motion")***,[1] posted on 6 October 2020, with respondent's ***Comment***, posted on 11 November 2020.

In its Motion, petitioner argues that the Court erred in relying on ***China Banking Corporation v. City Treasurer of Manila (hereinafter referred to as "Chinabank Case")***,[2] considering that the issue in the said case is not the same as the one contended herein.

Petitioner points out that in the ***Chinabank Case***, the issue in question was whether the Court was erroneous in not applying the principle of substantial justice and, in turn, refusing to assume jurisdiction over a refund claim for local business tax filed one (1) day beyond the reglementary period. Meanwhile, the issue under dispute here is whether it is the Regional Trial

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[1] The Motion was filed within 15 days from petitioner's receipt of the assailed Decision on 21 September 2020. Hence, this Motion was timely filed.

[2] G.R. No. 204117, 1 July 2015.

Court ("RTC") and not the Metropolitan Trial Court ("MeTC") which has jurisdiction over the contended local business tax refund claim amounting to ₱264,261.84.

Petitioner stresses that the portion of the Decision relied upon by the Court *En Banc* in the ***Chinabank Case***, specifically the ruling that the basis of determining which court has jurisdiction over refund claims for local business tax is dependent on the amount of the litigated claim (hereinafter referred to as "Contested Jurisdictional Issue") pursuant to ***Sections 19(8) and 33 of Batas Pambansa ("BP") Blg. 129, as amended***,[3] is only an *obiter dictum*. Therefore, it alleges that the Court *En Banc* erroneously relied on the same.

Petitioner opines that the Court *En Banc* should have taken into consideration its argument that local business tax refund claims fall under the general jurisdiction of the RTC by virtue of ***Section 19(1) of B.P. Blg. 129***, given the fact that no specific court was granted jurisdiction by any law to take cognizance of local business tax refund cases.

It also emphasizes that its claim is akin to a specific performance since it prays for a declaration that it is not liable to pay the subject tax. It opines that its prayer for refund is only a necessary consequence of its case.

Finally, petitioner insists that the Court *En Banc* disregarded the principle of "Law of the Case." It states that the Court *En Banc* is bound by the findings of the Supreme Court in ***Swedish Match Philippines, Inc. v. The Treasurer of the City of Manila ("First SMPI Case")***,[4] where the High Court granted petitioner's refund claim for local taxes, originally filed in the RTC, in the amount of ₱164,552.04.

As for respondent, it argues that petitioner's allegations are a mere rehash of its contentions in the Petition for Review. It insists that the ***Chinabank Case*** is applicable herein and that the Court *En Banc* made no error in affirming the Decision of the Court in Division.

After going through the arguments of both parties, the Court finds petitioner's contention bereft of merit.

Contrary to petitioner's claim, the portion relied upon by the Court *En Banc* in the ***Chinabank Case*** is not an *obiter dictum*. The concept of *obiter dictum* was discussed by the Supreme Court in the case of ***Saludo, Jr., v. Philippine National Bank***,[5] to wit:

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[3] The Judicial Reorganization Act of 1980, 14 August 1981, as amended by Republic Act No. 7691, 25 March 1994.

[4] G.R. No. 181277, 3 July 2013.

[5] G.R. No. 193138, 20 August 2018.

> "An *obiter dictum* is an **opinion of the court upon a question which was <u>not necessary to the decision of the case</u> before it.** It is an opinion uttered by the way, not upon the point or question pending, as if turning aside from the main topic of the case to collateral subjects, **<u>or an opinion that does not embody the court's determination and is made without argument or full consideration of the point. It is not a professed deliberate determination of the judge himself</u>**."[6]

As discussed, a ruling may be considered an *obiter dictum* if the same was only made in passing, is merely an unnecessary opinion in the decision, or was written without argument or not in full consideration of the issue. These conditions do not exist in the ***Chinabank Case.***

A thorough reading of the said jurisprudence proves that the discussion involving the Contested Jurisdictional Issue was not just made in passing. *Apropos,* the issue was disposed of with full consideration of all the relevant laws (e.g. Republic Act ("RA") No. 9282 and BP Blg. 129) in order to render a just and complete disposition of the case. This is evident with the conclusion made by the Supreme Court in the ***Chinabank Case***, to wit:

> "In all, **the Court finds that the claim of petitioner CBC for refund should be dismissed not only** for being filed out of time **<u>but also for not being filed before a court of competent jurisdiction</u>**."[7]

Moreover, even assuming that the Court *En Banc* disregards the pronouncement in the ***Chinabank Case***, the fact remains that petitioner's claim for local business tax refund is in the nature of a sum of money and, therefore, is considered capable of pecuniary estimation. As such, jurisdiction will still be determined based on the amount of the refund claim consistent with the pronouncement of the Supreme Court in the case of ***Philippine-Japan Active Carbon Corporation v. Habib Borgaily***,[8] to wit:

> "In order to determine whether the subject matter of an action is one which is capable of pecuniary estimation, the nature of the principal action or remedy sought must be considered. **<u>If it is primarily for recovery of a sum of money, then the claim is considered as capable of pecuniary estimation, and the jurisdiction lies with the municipal trial courts if the amount of the claim does not exceed P300,000.00 outside Metro Manila, and does not exceed P400,000.00 within Metro Manila</u>**. xxx"[9]

The Court *En Banc* cannot subscribe to petitioner's assertion that its claim is incapable of pecuniary estimation as it is an action for specific performance, considering its clear assertions in its pleadings that the primary relief it intends to receive from the Court *En Banc* is the right to claim refund or credit of its local business tax alleged to be erroneously assessed and

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[6] Emphasis supplied.
[7] Emphasis supplied.
[8] G.R. No. 197022, 15 January 2020.
[9] Emphasis supplied.

collected by respondent, which, to reiterate, is in the nature of a sum of money claim.

Finally, the Court *En Banc* does not agree with the assertion of petitioner that it is bound by the decision of the Supreme Court in the ***First SMPI Case.***

As exhaustively discussed in the assailed Decision, the ***First SMPI Case*** did not involve the issue of jurisdiction since the Petition, in that case, was filed before the effectivity of ***RA No. 9282.***[10] This fact is relevant since, as ruled in the ***Chinabank Case***, it was only during the effectivity of ***RA No. 9282*** that the jurisdiction of the RTC over refund cases of local business taxes became no longer original and exclusive.

All told, petitioner failed to present arguments that would merit the reconsideration of the assailed Decision. Hence, the Court *En Banc* is constrained to deny the instant Motion.

WHEREFORE, premises considered, the Motion for Reconsideration Re: Decision dated 11 September 2020 is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ON LEAVE

ROMAN G. DEL ROSARIO
Presiding Justice

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[10] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, otherwise known as the Law Creating the Court of Tax Appeals, and For Other Purposes, 30 March 2004.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice