

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

COMMISSIONER OF INTERNAL
REVENUE

Petitioner,

-versus-

PILIPINAS SHELL PETROLEUM
CORPORATION,

Respondent.

CTA EB CASE No. 1066
(CTA CASE No. 7122)

Present:

DEL ROSARIO, P.J.,

CASTAÑEDA, JR.,

BAUTISTA,

UY,

CASANOVA,

FABON-VICTORINO,

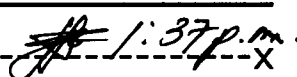
MINDARO-GRULLA,

COTANGCO-MANALASTAS, and

RINGPIS-LIBAN, JJ.

Promulgated:

APR 06 2015

X-----

RESOLUTION

MINDARO-GRULLA, J.:

Before the Court *En Banc* is a Motion for Reconsideration¹ filed by the Commissioner of Internal Revenue (CIR) seeking to set aside this Court's Decision promulgated on November 03, 2014,² the dispositive portion of which reads:

"WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the Resolutions, dated June 14, 2013 and September 03, 2013 are hereby **AFFIRMED**.

SO ORDERED."

¹ *En Banc* Docket, pp. 86-97.

² *En Banc* Docket, pp. 77-85.

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In her motion, CIR insists that the February 19, 2014 Supreme Court Resolution in G.R. No. 188497 (G.R. No. 188497 - 2014 SC Resolution), entitled *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, granting refund in favor of Pilipinas Shell Petroleum Corporation (PSPC) has not yet attained finality as there was yet no Entry of Judgment. That being the case, the reversal of the April 25, 2012 Supreme Court Decision in the same case (G.R. No. 188497 - 2012 SC Decision) via *G.R. No. 188497 - 2014 SC Resolution* is not yet final and executory, and therefore, *G.R. No. 188497 - 2012 SC Decision* is still applicable in the case at bar, which ruled that PSPC is not entitled to a refund of excise taxes it paid on petroleum products sold to international carriers. CIR points out that Supreme Court's Minute Resolution in G.R. No. 192524, entitled *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation* dated November 17, 2010 (G.R. No. 192524 - 2010 SC Minute Resolution), denying CIR's Petition for Review on *Certiorari*, is void as it runs counter with the ruling in *G.R. No. 188497 - 2012 SC Decision*. Likewise, CIR contends that the said Minute Resolution is erroneous since not all the elements for issuance of a minute resolution are present.

In its Comment,³ PSPC upholds its same arguments that *G.R. No. 192524 - 2010 Minute SC Resolution* is valid as it has already attained finality, thus, can no longer be altered, amended or modified and being in the form of a Minute Resolution does not make it void; and that *G.R. No. 188497 - 2014 SC Resolution* has also attained finality, thus, the ruling therein should be applied in the instant case.

The motion is bereft of merit.

The arguments proffered by CIR in this instant Motion are mere rehash of the arguments raised before the Court in Division and *En Banc*, which were thoroughly and exhaustively passed upon except on the argument that *G.R. No. 188497 - 2014 SC Resolution* has not yet attained finality as there was yet no Entry of Judgment.☞

³ *En Banc* Docket, pp. 102-110.

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Records disclose that *G.R. No. 188497 - 2014 SC Resolution*, on August 14, 2014, became final and executory and recorded in the Book of Entries of Judgments.

With the finality of *G.R. No. 188497 - 2014 SC Resolution*, CIR's arguments suffer persuasion and must necessarily fail.

In fact, if We follow CIR's argument that a Decision which was not yet recorded in the Book of Entries of Judgments does not hold water, the more that she cannot insist on applying the ruling in *G.R. No. 188497 - 2012 SC Decision*. Said Decision was not recorded in the Book of Entries of Judgments as it is not the final Decision of the Supreme Court, but more importantly, such was reversed by *G.R. No. 188497 - 2014 SC Resolution*.

As We have ruled in the assailed Decision, *G.R. No. 188497 - 2014 SC Resolution* already constitutes *res judicata*, and the issuance of Writ of Execution is consistent with the final Decision of the Supreme Court therein.

To note and repeat, regardless actually of the outcome of *G.R. No. 188497*, the case in *G.R. No. 192524* has long become final and executory, thus, the issuance of a Writ of Execution therein is proper. We reiterate:

"As properly observed by PSPC, the November 17, 2010 Resolution has long become final roughly a year and a half before the Supreme Court's 2012 Ruling in *G.R. No. 188497*. Once a judgment becomes immutable and unalterable by virtue of its finality, its execution should follow as a matter of course. A supervening event, to be sufficient to stay or stop the execution, must alter or modify the situation of the parties under the decision as to render the execution inequitable, impossible, or unfair. The supervening event in this instant case did not alter the situation of the parties herein, but rather, affirmed the decision that is precisely the subject of the writ of execution. A final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to

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be an erroneous conclusion of fact or law and regardless of what court, be it the highest Court of the land, rendered it. A final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land. xxx"⁴

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.


CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

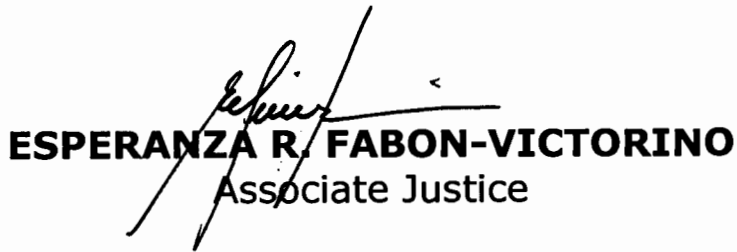

ROMAN G. DEL ROSARIO
Presiding Justice


JUANITO C. CASTAÑEDA, JR.
Associate Justice


LOVELL R. BAUTISTA
Associate Justice

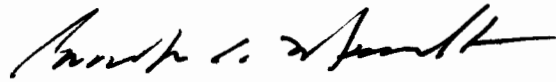

ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice

⁴ *Supra* note 2, citing *Abrigo vs. Flores*, G.R. No. 160786, June 17, 2013, *Equitable Banking Corp. v. Sadac*, GR No. 164772, 8 June 2006, 490 SCRA 380, 416-417, and *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, GR No. 164195, 12 October 2010.

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AMELIA R. COTANGCO-MANALASTAS

Associate Justice



MA. BELEN M. RINGPIS-LIBAN

Associate Justice