REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

MAKATI CITY AND THE CITY TREASURER OF MAKATI CITY, *Petitioners,*	**CTA EB NO. 1754** *(CTA AC Case No. 172)*
	Present:
	DEL ROSARIO, *PJ,* **CASTAÑEDA, JR.,** **UY,** **FABON-VICTORINO,** **MINDARO-GRULLA,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA, *and*** **MODESTO-SAN PEDRO, *JJ.***
- versus -	
METRO PACIFIC TOLLWAYS DEVELOPMENT CORPORATION, *Respondent.*	**Promulgated:**
	AUG 27 2019 11:36 a.m.

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DECISION

RINGPIS-LIBAN, *J.*:

Before the Court *en banc* is a Petition for Review[1] filed by petitioners Makati City and the City Treasurer of Makati City against the respondent Metro Pacific Tollways Development Corporation seeking the reversal of the Decision dated September 20, 2017[2] (Assailed Decision) rendered by the Second Division of this Court in CTA AC Case No. 172, as well as the Resolution dated December 1, 2017[3] (Assailed Resolution) denying its motion for reconsideration.

[1] *Rollo*, pp. 1-26, with Annexes "A" and "B", pp. 27-47.
[2] *Id.*, pp. 29-42.
[3] *Id.*, pp. 43-47.

The dispositive portion of the Assailed Decision which found no justification to disturb the conclusions reached in the Decision dated December 1, 2015[4] and the Resolution dated June 21, 2016[5] rendered by the Regional Trial Court (RTC) Branch 143 of Makati City reads, as follows:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **DENIED** for lack of jurisdiction.
>
> **SO ORDERED.**"[6]

The Assailed Resolution, on the other hand, in its dispositive portion, provides the following:

> "**WHEREFORE,** premises considered, petitioner's Motion for Reconsideration (of the Decision dated 20 September 2017) is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[7]

In effect, the Court in Division upheld the RTC Decision which cancelled the assessment for Local Business Tax (LBT) issued against respondent for taxable year (TY) 2010 and 2011 in the aggregate amount of ₱9,437,882.75.

The Parties

Petitioner Makati City is a duly created and existing local government unit, while, petitioner City Treasurer of Makati City is the duly appointed city official empowered to assess and collect local business taxes under the Revised Makati Revenue Code[8] (RMRC) and is impleaded in this case in her official capacity. Petitioners may be served with summons, notices and other court processes at the Makati City Hall, J.P. Rizal Street, Bgy. Poblacion, Makati City.

On the other hand, respondent Metro Pacific Tollways Development Corporation (MPTDC) is a corporation duly organized and existing under the laws of the Philippines with principal office address at the 10th Floor, MGO Building, Legaspi corner Dela Rosa Streets, Legaspi Village, Makati City. Respondent may be served with notices and other Court processes through its counsel, SYMECS Law, with office address at 3109 One Corporate Center, Julia

[4] RTC Records (Vol. II), pp. 79-82.
[5] *Ibid.*, pp. 117-118.
[6] *Id.* at Note 1, p. 41.
[7] *Id.*, p. 47.
[8] City Ordinance No. 2004-A-025 which took effect on January 1, 2006.

Vargas corner Meralco Avenue, Pasig City.

The Facts[9]

On March 12, 2013, Respondent received a Notice of Assessment, issued by Petitioners, assessing it for deficiency Local Business Tax (LBT) for taxable years 2010 and 2011 in the aggregate amount of ₱9,437,882.75, inclusive of interest and penalties, broken down as follows:

Taxable Year	Gross Sales per Audit	Tax Due	Surcharge and Interest	Total
2010	1,327,509,052.00	2,655.018.10	2,575,367.56	5,230,385.66
2011	1,278,272,886.00	2,377,117.00*	1,830,380.09	4,207,497.09
				₱9,437,882.75

**variance for partial payment of ₱179,428.77*

Petitioners assessed Respondent based on the dividend income received and reported in its Financial Statements for years ending December 31, 2009 and December 31, 2010, respectively.

Respondent filed an administrative protest with petitioner City Treasurer of Makati City on May 10, 2013. The protest was denied on July 5, 2013, in a letter which Respondent received on July 10, 2013.

On August 12, 2013, Respondent filed its judicial claim *via* a Complaint, docketed as Civil Case No. 13-982, which was raffled to the RTC-Branch 143 of Makati City.

During trial, the parties manifested that only legal issues were needed to be resolved by the RTC-Branch 143 of Makati City[10] as there were no serious issue of facts in the case.

On December 1, 2015, the RTC-Branch 143 of Makati City rendered a Decision[11] in favor of Respondent, finding that Petitioners erroneously imposed LBT on its dividend income, the *fallo* of said Decision reads:

> "**WHEREFORE,** in view of all the foregoing, judgment is hereby rendered in favor of *[respondent]* Metro Pacific Tollways Development Corporation. The *[petitioners]* City of Makati and the

[9] As found by the Second Division and as culled from the records of the case.
[10] See Order dated August 12, 2010, RTC Records (Vol. I), p. 194.
[11] *Supra*, Note 4.

City Treasurer of Makati City are ordered to **CANCEL** the Notice of Assessment of deficiency local business tax for the taxable years 2010 and 2011 in the aggregate amount of Nine Million Four Hundred Thirty-Seven Thousand Eight Hundred Eighty-Two Pesos and Seventy-Five Centavos (₱9,437,882.75).

SO ORDERED."

On December 16, 2015, Petitioners filed a Motion for Reconsideration (of the Decision dated 01 December 2015) praying that the above Decision be reversed and set aside. However, finding no new matter of substance which would warrant the modification or reversal of the foregoing Decision, the RTC-Branch 143 of Makati City issued a Resolution[12] denying Petitioners' Motion for Reconsideration.

Aggrieved, Petitioners elevated the matter on July 7, 2016, to the Court of Tax Appeals (CTA), *via* Petition for Review[13].

In the Resolution[14] dated July 14, 2016, the Court in Division directed Respondent to file a comment within ten (10) days from receipt thereof.

In compliance, respondent filed its Comment/Opposition (To: Petition for Review)[15] on July 28, 2016.

On August 2, 2016, the Court in Division issued a Resolution[16] giving the parties a period of thirty (30) days within which to file their respective memorandum. It also ordered the Branch Clerk of Court or the Officer- In-Charge of RTC-Branch 143 of Makati City to elevate the entire original records of the case.

In a letter[17] dated August 22, 2016, the Officer-In-Charge of RTC- Branch 143 of Makati City, Mr. Raymund Nazario G. Amican, transmitted the original records of the case which was noted in a Minute Resolution[18] dated September 8, 2016.

On September 7, 2016, Petitioners submitted their Memorandum (for the

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[12] *Supra*, Note 5.
[13] *Docket*, CTA AC Case No. 172, pp. 8-31.
[14] *Id.*, p. 123.
[15] *Id.*, pp. 124-139.
[16] *Id.*, p. 141.
[17] *Id.*, pp. 142-145.
[18] *Id.*, p. 152.

Petitioners)[19] while Respondent, on the other hand, submitted its Memorandum[20] on September 14, 2016.

On September 20, 2016, the case was submitted for decision[21] and on September 20, 2017, the Court in Division issued the assailed Decision[22].

On October 10, 2017, Petitioners filed their Motion for Reconsideration to which Respondent filed its Comment/Opposition on November 3, 2017.

In a Resolution dated December 1, 2017, the Court in Division issued the assailed Resolution which denied Petitioners' Motion for Reconsideration.[23]

On December 15, 2017, Petitioners filed their appeal by way of Petition for Review with the Court *en banc*[24], docketed as CTA EB No. 1754.

On January 25, 2018, Respondent was directed to file Comment thereto.[25]

On April 13, 2018, Respondent filed its Comment (Re: Petition for Review dated 15 December 2017).[26]

On May 9, 2018, the Court *en banc* issued a Resolution giving due course to the Petition for Review and ordering the parties to submit their respective memoranda.[27]

On July 6, 2018, Respondent submitted its Memorandum[28] while Petitioners submitted their Memorandum (for the Petitioners) on August 16, 2018.[29]

On September 7, 2018, the Court *en banc* resolved to submit the case for decision.

The Assignments of Errors

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[19] *Id., pp.*153-175.
[20] *Id.*, pp. 176-200.
[21] As per Resolution dated September 20, 2016, Docket, p. 202.
[22] *Id.* at Note 2.
[23] *Id.* at Note 3.
[24] *Id.* at Note 1.
[25] *Id.*, pp. 49-50.
[26] *Id.*, pp. 51-61.
[27] *Id.*, pp. 63-64.
[28] *Id.*, pp. 65-87.
[29] *Id.*, pp. 91-106.

In its Petition for Review, Petitioners erroneously designate "issues" as its "assignments of errors" of the assailed Decision and Resolution, thus:

A. Whether or not Respondent itself applied as, and declared under oath that it is, a holding company in Makati City

B. Whether or not Respondent was taxed under section 3A.02 (p) in relation to section 3A.02 (H) of the Revised Makati Revenue Code

C. Whether or not the provisions of section 3A.02(p) in relation to sections 3A.02(s) and 3A.02 (h) was never questioned in accordance with section 7B.14 (Taxpayers' Remedies) paragraph (d) of the Revised Makati Revenue Code, and therefore remains to be valid

D. Whether or not the CTA case of *Orleyte Company (Philippine Branch) vs. The City of Makati* (CTA Case No. 80, November 14, 2012) is applicable in the case at bar considering the taxable years involved in that *Orleyte* case were 2001-2002, 2002-2003 and 2003-2004, and therefore, are covered under the old Makati Revenue Code

E. Whether or not the Supreme Court has consistently ruled that tax assessments made by tax examiners are presumed correct and made in good faith. The taxpayer has the duty to prove otherwise.

In essence, Petitioners assign a lone error to the Court in Division's assailed Decision and Resolution - that the Court in Division erred in holding that Respondent is not liable for LBT on its dividend income.

<u>The Arguments of the Parties</u>

Petitioners argue that the RMRC taxes holding companies as a specific class of its own, without reference to it being a service contractor or an owner or operator of banks or other financial institution. Once classified as a holding company, it follows that the tax rate of 20% of 1% shall be imposed on the holding company's gross sales and/or receipts *sans* any other requirement. Petitioners further claim that that the term "gross receipts" includes dividend and/or interest income, by express provision of the RMRC, and that the Court in Division should not have limited its meaning to the broad and general definition of the Local Government Code of 1991 (LGC) and the RMRC.

Moreover, Section 3A.02(p) in relation to subsections (g) and (h) of the same Section of the RMRC was never questioned before the Secretary of Justice, in accordance with Section 7B.14(d) of the same Code which provides for the taxpayer's legal remedies. Consequently, the said Section is still a valid tax provision of the RMRC.

On the other hand, Respondent admits that it is a holding company, however, it should not be taxed as a financial institution under Section 3A.02 (h) of the RMRC, as Petitioners insist. The reference made to subsections (g) and (h) of Section 3A.02 merely pertains to the rate of LBT that may be imposed on a holding company's gross sales and/or receipts which, clearly, does not extend to the holding company's passive income. Respondent argues that the Local Government Code (LGC) of 1991, as amended, in Section 133 thereof, sets limitations on an LGU's power to tax. The LGC prohibits LGUs from levying income tax except in the case of banks and other financial institutions. Since Respondent's dividend income and interest are passive investment and not business income, it is subject only to income tax and Petitioners' imposition of LBT thereon is *ultra vires*.

The Ruling of the Court

We deny the Petition for lack of compelling ground to merit the reversal of the assailed Decision and Resolution.

The issues raised in the Petition are mere reiterations of the same issues which had already been duly considered, passed upon and extensively discussed by the Second Division in the assailed Decision and assailed Resolution. Nevertheless, for emphasis, we will discuss at length, once again, the demerits of Petitioners' arguments which may serve as a guidepost in deciding issues of similar nature in the future.

The City of Makati may not Impose Local Business Taxes on MPTDC's Dividend Income

Unlike the power to tax by the state which is inherent,[30] the power to tax of provinces, cities and municipalities is limited by the law that granted it, the 1991 LGC[31].

[30] *Pelizloy Realty Corporation v. The Province of Benguet*, G.R. No. 183137, April 10, 2013.
[31] Republic Act 7160.

Following this, the City of Makati's taxing power does not extend to the levy of income tax,[32] except when levied on banks and other financial institutions under Section 143(f) of the 1991 LGC.[33] The dividends[34] and interests[35] of Respondent in this case, which are considered part of its passive income, are therefore not subject to the city's taxing power, unless Respondent is a bank or other financial institution.

Section 131(e) of the 1991 LGC defines the term "banks and other financial institutions", as follows:

> "'Banks and other financial institutions' include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder."

Respondent has already judicially admitted[36] that it is a holding company. Petitioners relied on Section 3A.02(p) of the RMRC in considering the taxability of Respondent, to wit:

> "**SECTION 3A.02.** *Imposition of Tax.* - There is hereby levied an annual tax on the following businesses at rates prescribed therefore:
>
> *xxx*
>
> (p) On Holding Company shall be taxed at the rate prescribed either under subsection (g) or (h), of the gross sales and/or receipts during the preceding calendar year

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[32] Section 133(a) of the 1991 LGC provides:

SECTION 133. *Common Limitations on the Taxing Power of Local Government Units.* – Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:
(a) Income tax, except when levied on banks and financial institutions[.]

[33] Section 143(f) of the 1991 LGC provides:

SECTION 143. *Tax on Business.* - The municipality may impose taxes on the following businesses:
(f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.

[34] Section 32(A)(7) of the NIRC of 1997, as amended.

[35] Section 32(A)(4) of the NIRC of 1997, as amended.

[36] Page 2 of the Decision dated December 1, 2015, RTC Records (Vol. II), p. 80.

xxx"

In relation with the afore-quoted, Sections 3A.02(g) and 3A.02(h) provide the specific tax rate to be used on "holding companies", thus:

"**SECTION 3A.02.** *Imposition of Tax.* - *xxx*

xxx

(g) On Contractors and other independent contractors defined in SEC. 3A-01 (t) of chapter III of this Code; and on owners or operators of business establishments rendering or offering services such as; advertising agencies; rental of space of signs, signboards, billboard or advertisements; animal hospitals; assaying laboratories; belt and buckle shops; blacksmith shops; bookbinders; booking offices for film exchange; booking offices for transportation on commission basis; breeding of game cocks and other sporting animals belonging to others; business management services; collecting agencies; escort services; feasibility studies, consultancy services; garages; garbage disposal contractors; gold and silversmith shops; inspection services for incoming and outgoing cargoes; interior decorating services; janitorial services; job placements or recruitment agencies; landscaping contractors; lathe machine shops; management consultants not subject to professionals tax; medical and dental laboratories; mercantile agencies; messengerial services; operators of shoe shine stands; painting shops; perma press establishments; rent-a-plant services; polo players; school for and/or horse-back riding academy; real estate appraisers; real estate brokerages; photostatic; white/blue printing, photocopying, typing and mimeographing services; car rental, rental of heavy equipment, rental of bicycles and/or tricycles; furniture, shoes, watches, household appliances, boats, typewriters, etc.; roasting of pigs, fowls, etc.; shipping agencies; shipyard for repairing ships for others; shops for hearing animals; silkscreen or T-shirt printing shops; stables; travel agencies; vaciador shops; veterinary clinics; video rentals and/or coverage services; dancing school/speed reading/EDP; nursery, vocational and other schools not regulated by the Department of Education (DepEd), day care centers; etc.

With gross sales or receipts for the preceding calendar year in the amount of:

	Amount of Tax per Annum
less than P50,000.00	Exempt
P50,000.00 or more but less than 75,000.00	1,144.00
75,000.00 or more but less than 100,000.00	1,716.00
100,000.00 or more but less than 150,000.00	2,574.00
150,000.00 or more but less than200,000.00	3,432.00
200,000.00 or more but less than 250,000.00	4,719.00
250,000.00 or more but less than 300,000.00	6,006.00
300,000.00 or more but less than 400,000.00	8,008.00
400,000.00 or more but less than 500,000.00	10,725.00
500,000.00 or more but less than750,000.00	12,025.00
750,000.00 or more but less than 1,000,000.00	13,325.00
1,000,000.00 or more but less than 2,000,000.00	15,000.00
2,000,000.00 P15,000.00 plus seventy five percent (75%) of one percent (1%) over 2 million.	

For purposes of this Section, all general engineering, general building, and specialty contractors with principal offices located outside Makati but with multi-year projects located in the City of Makati, shall secure the required city business permit and shall be subject to pay the city taxes, fees and charges based the total contract price payable in annual or quarterly installments within the project term.

Upon completion of the project, the taxes shall be recomputed on the basis of the gross sales/receipts for the preceding calendar years and the deficiency tax, if there be any, shall be collected as provided in this Code, and shall retire the city business permits secured upon full completion of the projects undertaken in the City of Makati.

(h) On owners or operators of banks and other financial institutions which include offshore banking, non-bank, financial intermediaries, lending investors, finance and investment companies, investment house, pawnshops, money shops, insurance companies, stock markets, stock brokers, dealers in securities including pre-need companies, foreign exchange **shall be taxed at the rate of twenty percent (20%) of one percent (1%) of the gross receipts of the preceding calendar year** derived from interest, commissions, and discounts from lending activities, income from financial leasing, investments, dividends, insurance premium and profit from exchange or sale

> of property, provided, however, on gross sales/receipts derived from rental of property during the preceding calendar year shall be subject to the business tax at the rate prescribed under subsection (1) 1, as provided in this code." *(Emphasis supplied)*

Petitioners assessed Respondent for deficiency LBT at the tax rate of 20% of 1% of its gross receipts in accordance with Section 3A.02(h) thereby categorizing Respondent, as holding company, as an "owner or operator of banks and other financial institutions". Petitioners justify their assessment by arguing that Respondent's dividend income constitutes taxable gross receipts which may be subjected to LBT.

Can Petitioners' assessment pass the test of judicial scrutiny?

We answer in the negative.

Simply put, the RMRC does not and cannot exist in a vacuum. While it is true that an LGU has autonomy to impose taxes on any other businesses not otherwise specified under the LGC of 1991, as amended, which the *sanggunian* concerned may deem proper to tax,[37] this power is not limitless. There is, for one thing, the LGC of 1991 to consider.

The rule is that a statute should be so construed not only to be consistent with itself but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system.[38] The rule is expressed in the maxim, *interpretare et concordare legibus est optimus interpretandi*, or every statute must be construed and harmonized with other statutes as to form a uniform system of jurisprudence.[39] A construction of a statute which creates an inconsistency should be avoided when a reasonable interpretation can be adopted which will not do violence to the plain words of the act and will carry out the intention of Congress.

As pointed out by the Court in Division, this same issue has been previously discussed in the CTA *En Banc* case of *Michigan Holdings, Inc. vs. The City Treasurer of Makati City, Nelia A. Barlis*[40]. In that case, *We* held that dividend income is excluded from gross receipts for purposes of imposition of LBT, *viz*:

> **"Dividend Income Not Subject to Local Business Tax**

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[37] Section 143(h) of the LGC of 1991, as amended.
[38] *Valera v. Tuason*, 80 Phil. 823 (1948), *Corona v. Court of Appeals*, 214 SCRA 378 (1992), citing Agpalo, Statutory Construction, p. 210.
[39] *Id.*
[40] CTA EB Case No.1093 (CTA AC No. 99), June 17, 2015.

Section 133(a) of the Local Government Code expressly provides that the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of income tax, except when levied on banks and other financial institutions.

Section 131(e) of the LGC defines "banks and other financial institutions" to include "non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder." This enumeration appears to be exclusive of other entities. Nowhere in the entirety of Section 131 is a holding company mentioned. However, this, by itself, does not place holding companies beyond the reach of local taxation, except on their income.

Section 143 of the Local Government Code is the law on local business taxes. Subsection (f) thereof expressly allows local taxation on banks and other financial institutions on their income from dividends, based on gross receipts of the preceding calendar year. What Section 3A.02(h) of the Revised Makati Revenue Code did was to expand the taxpayer base to encompass "owners or operators of banks and other financial institutions which include offshore banking, non-bank, financial intermediaries, lending investors, finance and investment companies, investment house, pawnshops, moneyshops, insurance companies, stock markets, stock brokers, dealers in securities, including pre-need companies, foreign exchange." The Treasurer of Makati City, while invoking this Section 3A.02(h), made it applicable to holding companies, such as Michigan Holdings, by virtue of Section 3A.02(p), which provides that holding companies "shall be taxed at the rate prescribed either under subsection (g) or (h), of the gross sales and/or receipts during the preceding calendar year."

Section 3A.02(h) of the Revised Makati Revenue Code, which took effect on January 1, 2006, imposes a local business tax on the dividend income of certain taxable entities. Section 3A.02(p) makes holding companies liable for this business tax.

> 'Section 3A.02(p). On Holding Company shall be taxed at the rate prescribed either under subsection (g) or (h) of the gross sales and/or receipts during the preceding calendar year.'

Thus, Section 3A.02(p) in relation to Section 3A.02(h), both of the Revised Makati Revenue Code, violates the limit set by Section 133(a) of the Local Government Code.

Indeed, if the business of a holding company is in the same class as that of a bank or other financial institutions, the Makati City tax ordinance could simply have included holding companies in its Section 3A.02(h), instead of placing them all by themselves in Section 3A.02(p) and then making the tax rates in either Section 3A.02(h) or (g) applicable to them. That holding companies, exclusively, were placed in a separate section, shows that they comprise a category distinct from the class of 'banks and other financial institutions' as defined by Section 131(e) of the LGC. **That holding companies were subjected to a tax on dividend income which the LGU is not authorized and is in fact prohibited from levying on businesses other than banks and financial institutions, shows a deliberate intent to circumvent the prohibition laid down by Section 133(a) that the taxing powers of LGUs shall not extend to the levy of income tax, except on banks and other financial institutions.**

There is more.

Section 27(D) of the National Internal Revenue Code deals with rates of tax on certain passive incomes. Subsection (4) thereof, covering intercorporate dividends, states that 'Dividends received by a domestic corporation from another domestic corporation shall not be subject to tax' – meaning corporate income tax. Dividends are instead subject, under Section 27(D)(1), to 'a final tax at the rate of twenty percent (20%).'

> 'Under Section 27(D)(4) of the Tax Code, dividends received by a domestic corporation from another corporation are not subject to the corporate income tax. Such intracorporate dividends are some of the passive incomes that are subject to the 20% final tax, just like interest on bank deposits. Intracorporate dividends, being already subject to the final tax on income, no longer form part of the bank's gross income under Section 32 of the Tax Code for purposes of the corporate income tax.[41]'

[41] *China Banking Corporotion vs Court of Appeals, Court of Tox Appeals, and Commissioner of Internal Revenue*, G.R. No. 146749, June 10, 2003.

Thus, Section 3A.02(p) in relation to Section 3A.02(h), both of the Revised Makati Revenue Code, likewise violates Section 27(D)(4) of the National Internal Revenue Code.

Section 3A.02(p) of the Revised Makati Revenue Code is thus an *ultra vires* exercise of local taxing power, and cannot be given effect without violating the principle that an ordinance can neither amend nor repeal but must conform to a statute.[42]" *(Emphasis supplied)*

The above discussion corrects Petitioner's erroneous interpretation of Section 3A.02(p) in relation with 3A.02(g) and 3A.02(h) of the RMRC. The dictum is clear - dividend income is not subject to LBT. As the Court in Division aptly stated:

"While this Court is ever-mindful that the local government unit's power to tax is the most effective instrument to finance and support the myriad activities of local government units for the delivery of basic services essential to the promotion of the general welfare and enhancement of peace, progress, and prosperity of the people; still, adherence to the Local Government Code is needed being the enabling law for the local legislative body. As the maxim goes, *intentio inservire debet legibus, non leges intentioni.*[43]"

Accordingly, the Court *En Banc* finds no reversible error in the assailed Decision and Resolution.

WHEREFORE, premises considered, the Petition for Review is **DENIED**. The assailed Decision dated September 20, 2017 and the Resolution dated December 1, 2017 of the Second Division in CTA AC No. 172 are **AFFIRMED.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[42] See *Solicitor General, et al. vs Metropolitan Manila Authority and Municipality of Mandaluyang* (G.R. No. 102782, December 11, 1991, en banc.

[43] "Intentions ought to be subservient to the laws, not the laws to the intention".

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO- SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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 this Court.

ROMAN G. DEL ROSARIO
Presiding Justice