REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

ANGLO VENTURES CORPORATION, Petitioner,	**CTA AC No. 155**
	Members:
- versus -	**DEL ROSARIO,** *Chairperson,* **UY,** *and* **MINDARO-GRULLA,** *JJ.*
CITY OF DAVAO and HON. RODRIGO S. RIOLA, in his official capacity as the City Treasurer of Davao City, Respondents.	Promulgated: NOV 16 2016 2:20 p.m.

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RESOLUTION

DEL ROSARIO, P.J.:

For resolution is respondents' **Motion for Reconsideration** posted on August 8, 2016, with petitioner Anglo Ventures Corporation's ("AVC") **Comment/Opposition To Respondent's Motion for Reconsideration (Re: Decision Promulgated 12 July 2016)** posted on September 13, 2016.

Respondents' Motion for Reconsideration prays that the Court's Decision promulgated on July 12, 2016 be reconsidered and that an order be issued affirming the appealed decision of the lower court. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. The Assailed Decision of the Regional Trial Court, Branch 16 of the City of Davao, dated June 22, 2015 and its Assailed Order dated September 11, 2015 in Case No. 34,847-13 are **REVERSED** and **SET ASIDE**. Accordingly, respondents are **ORDERED** to refund or credit in favor of petitioner

> AVC the amount of Four Hundred Fifty-Six Thousand Two Hundred Thirty Pesos and Twenty-Four Centavos (₱456,230.24), representing the erroneously paid 0.55% local business taxes for the first and second quarters of 2011."

In their Motion, respondents claim the following:

1. The Court erred in holding that petitioner AVC is not considered as a "Non-bank Financial Intermediary" falling under the category of a "Bank and Other Financial Institutions", hence exempt from the business tax imposition as provided under Section 143 (f) of R.A. 7160, otherwise known as "The Local Government Code"; and

2. The Court erred in classifying the petitioner as a "Holding Company", rather than a "Non-Bank Financial Intermediary", by inappropriately applying the case of *Michigan Holdings, Inc. vs. City Treasurer of Makati, Nelia A Barlis*, CTA EB Case No. 1093 (CTA AC Case No. 99, June 17, 2015).

On the other hand, petitioner AVC claims that it is not a "Non-Bank Financial Intermediary" because there is no regularity in its transactions. Petitioner AVC also asserts that its primary purpose, as embodied in its Articles of Incorporation, precludes it from being classified as a Non-Bank Financial Intermediary. Lastly, petitioner AVC also claims that the Court correctly held that petitioner is a "holding company" by applying the case of *Michigan Holdings vs. City Treasurer of Makati, Nelia A Barlis*.

We resolve to deny respondents' Motion for Reconsideration.

Records show that the first argument posited by respondents is a mere reiteration or amplification of that made in its Comment to petitioner AVC's Petition for Review and Memorandum, which have been exhaustively and thoroughly discussed in the assailed Decision.

To reiterate, non-bank financial intermediaries are defined as "persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others."[1] The person or entity must perform the aforementioned functions on a regular and recurring basis, and not on an isolated basis.

As discussed in the assailed Decision, there is nothing in petitioner AVC's Amended Articles of Incorporation that shows that such entity may perform the functions of a financial intermediary. The primary purpose for which petitioner AVC was incorporated is to "direct the operations of other corporations through the ownership of stock therein", and "to do every act and thing covered generally by the denomination **'holding company'**."[2] The receipt of dividend and interest income in this case is merely incidental. As a holding company, petitioner AVC, and the other holding companies funded by the coconut levy fund, were created to hold San Miguel Corporation shares of stock,[3] and not to engage in the business of lending or investing money or securities acquired by them or through them, on a regular basis.

Moreover, petitioner AVC is not required by the Securities and Exchange Commission to secure a secondary license from the *Bangko Sentral ng Pilipinas*. Petitioner AVC is also not regulated by the *Bangko Sentral ng Pilipinas* or the Insurance Commission, which should be the case if petitioner AVC were to be considered a financial institution.

In view of the abovementioned reasons, this Court maintains its position that petitioner AVC was properly classified as a "holding company" and not a "non-bank financial intermediary".

Respondents also aver that the Court inappropriately applied *Michigan Holdings, Inc. vs. City Treasurer of Makati, Nelia A Barlis* as said case involves the issue of the validity of a Makati Ordinance that imposed local business taxes on all holding companies based in Makati, while the issue in this case is whether petitioner AVC is a "non-bank financial intermediary", that could in turn fall under the purview of a "Bank and Other Financial Institution", which is taxable under Section 143 (f) of R.A. 7160.

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[1] Section 4101Q.1 of the Manual of Regulations for Non-Bank Financial Institutions of the *Bangko Sentral ng Pilipinas*.
[2] "Annex P-10", Petition for Review, CTA Docket, pp. 109-120, 111-112.
[3] COCOFED vs. Republic, G.R. Nos. 177857-58, January 24, 2012.

A perusal of the assailed Decision clearly shows, however, that the Court at the outset made a thorough discussion on why petitioner AVC should be categorized as a 'holding company'. Therefore, having concluded that petitioner AVC was a 'holding company', *Michigan Holdings, Inc. vs. City Treasurer of Makati, Nelia A Barlis* was properly cited to emphasize that dividend and interest income of holding companies are not subject to local business tax.

WHEREFORE, premises considered, respondents' Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice