REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MONETARY AUTHORITY OF SINGAPORE,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8973

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:

OCT 2 0 2017 2:31 pm

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RESOLUTION

CASANOVA, J.:

For the Court's resolution is respondent's **Motion for Reconsideration**, filed on June 6, 2017, with petitioner's **Comment/Opposition (to Respondent's Motion for Reconsideration dated 06 June 2017)**, filed on June 27, 2017.

Respondent moves for reconsideration of the Decision dated May 23, 2017, the dispositive portion of which reads:

> "**WHEREFORE**, in view of the foregoing, the instant Petition for Review is hereby **GRANTED**. Accordingly, respondent is **ORDERED** to refund or issue a TCC in favour of petitioner in the amount of ₱15,661,486.88 representing 20% FWT on the interest income derived from petitioner's investment in Philippine government securities for the period January 2013 to November 2013.

SO ORDERED."

Respondent raises the following arguments in his motion:

1. Petitioner failed to prove that it is a financing institution wholly-owned by the government of Singapore; and

2. Petitioner's alleged investments in fixed-rate treasury notes were done through its custodians and not by petitioner itself.

Respondent claims that petitioner did not adduce sufficient evidence that it is a financing institution wholly-owned by the government of Singapore. As the one claiming for refund, the burden of proof rests upon petitioner to show by clear and convincing evidence that it is, indeed, entitled to refund.

Respondent further claims that the purchases of Fixed-Rate Treasury Notes were actually made by petitioner's custodians, Street Bank and Trust Company, and its depositary, Euroclear; and Northern Trust Company, and its sub-custodian, Euroclear, thus, petitioner was not the one which invested in the Philippines in the form of Fixed-Rate Treasury Notes.

Respondent argues that Section 32(B)(7)(a) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides that investment in the Philippines in loans, stocks, bonds or other domestic securities must be done directly by foreign governments, financing institutions owned, controlled, or enjoying refinancing from foreign governments, and international or regional financial institutions established by foreign governments so that the income derived therefrom shall be exempt from taxation. Accordingly, the investment could not be done through a mere custodian or an intermediary.

Petitioner opposes the foregoing arguments and alleges that it has sufficiently established that it is the Central Bank of Singapore established under the Monetary Authority of Singapore Act (Chapter 186) and is a financial institution wholly-owned by the Government of Singapore.

Also, petitioner argues that its investments are in the form of Republic of the Philippines Government Bonds and Fixed-Rate Treasury Notes being held by primary purchasers or government securities eligible dealers, but are ultimately for the benefit of petitioner. Since it is a financial institution wholly-owned and controlled by the Singapore Government, any income derived by petitioner from investment in the Philippines, specifically in loan, stocks, bonds and other domestic securities is exempt from taxation under the Tax Code. Thus, petitioner concludes that the withholding by the Bureau of Treasury of the 20% Final Withholding Tax (FWT) and its consequent remittance to the Bureau of Internal Revenue constitute an erroneous or illegal collection of tax given the exemption expressly granted by the Tax Code to petitioner.

A scrutiny of the foregoing allegations shows that they had been substantially considered and addressed in the assailed Decision. In fact, the arguments in respondent's motion are the same as the averments interposed in his Memorandum[1] filed on May 16, 2016.

To reiterate, petitioner was able to submit a notarized and authenticated Certificates of Residence[2] - For the purpose of Claiming Benefit Under the Singapore-Philippines DTA for Years 2013 and 2014 certifying, among others, that petitioner is a resident of Singapore, a Statutory Board constituted by an Act of Parliament and is the Central Bank established by the Government of Singapore; and notarized and authenticated copy of Monetary Authority of Singapore Act (Chapter 186)[3] stating its functions, among others, to act as the central bank of Singapore, conduct monetary policy, issue currency, oversee payment systems, serve as banker to and financial agent of the Government of Singapore. Thus, petitioner was able to prove that it is, indeed, the Central Bank of the Government of Singapore.

Moreover, contrary to respondent's allegation, there is nothing in Section 32(B) of the NIRC of 1997, as amended, which would show that the investment should be done directly by the foreign government, and not through a mere custodian or an intermediary, for the income derived from the investment to be exempt from tax.

The Court again quotes Section 32(B)(7)(a)(ii) of the NIRC of 1997, as amended, as follows:

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[1] Docket (Vol. II) pp. 791-795.
[2] Exhibit "P-3".
[3] Exhibit "P-5".

"SEC. 32. *Gross Income.* –

xxx xxx xxx

(B) *Exclusions from Gross Income.* –The following items shall not be included in gross income and shall be exempt from taxation under this Title:

xxx xxx xxx

(7) *Miscellaneous Items.* –

(a) *Income Derived by Foreign Government.* – Income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by (i) foreign governments, (ii) financing institutions owned, controlled, or enjoying refinancing from foreign governments, and (iii) international or regional financial institutions established by foreign governments."

The foregoing provision clearly exempts financial institutions owned and controlled by foreign governments from payment of income tax on income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines.

Considering that petitioner has sufficiently established that it acquired from various primary purchasers/Government Securities Eligible Dealers several investments in the form of interest-bearing Fixed-Rate Treasury Notes issued by the Philippine government through the Bureau of Treasury, the Court correctly held that the interest income derived therefrom are exempt from FWT.

At this juncture, it must be emphasized that while it is true that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer[4], petitioner in this case was able to present sufficient evidence to substantiate its claim for refund. Thus, the Court finds the instant motion bereft of merit.

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[4] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue,* G.R. No. 159490, February 18, 2008.

WHEREFORE, finding no cogent reason to reverse the ruling in the assailed Decision, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CATHERINE T. MANAHAN
Associate Justice