REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MAKATI CITY AND THE CITY TREASURER OF MAKATI CITY,
Petitioners,

- versus -

METRO PACIFIC RESOURCES, INC. *(formerly: Cypress Harbour Properties, Inc.)*,
Respondent.

CTA EB NO. 1814
(CTA AC No. 174)

Present:

Del Rosario, *PJ*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

Promulgated:

DEC 05 2019
3:48 p.m.

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RESOLUTION

CASTAÑEDA, JR., J.:

For resolution of the Court *En Banc* is petitioners' Motion for Reconsideration (Re: Decision dated 13 August 2019), with respondent's Comment/Opposition (Re: Motion for Reconsideration to the Decision dated August 13, 2019).

For easy reference, the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the instant Petition for Review is **DENIED**. Accordingly, the assailed Decision dated November

21, 2017 and the assailed Resolution dated February 19, 2018 are **AFFIRMED**.

SO ORDERED."[1]

In their motion, petitioners aver that respondent is subject to the provisions of Section 3A.02(p) in relation to Section 3A.02(h) of the Revised Makati Revenue Code (RMRC), it being a holding company. They likewise aver that assuming respondent is entitled to its claim, it may only be granted in the form of tax credit by express provision of law.

Respondent counters that while it is a holding company, it is neither a bank nor any other form of financial lending institution. It is a service company akin to a contractor. Further, Article 196 of the Local Government Code (LGC) provides that it may either claim for or refund or tax credit.

After considering the respective positions of the parties, the Court *En Banc* rules in favor of respondent.

The Court *En Banc* observes that petitioners merely rehashed their arguments which were already squarely addressed in the assailed Decision.

As to whether respondent is a bank or other financial lending institution, the Court *En Banc* found that:

> "In the instant case, petitioner failed to present evidence that respondent's income principally emanated from its dividend and interest income for taxable year 2010. Stated otherwise, while the records reveal that respondent earned dividend and interest income, there was no showing that respondent had no other activity other than receiving these kinds of income. Furthermore, petitioner also failed to present evidence that respondent's business is to principally engage in investment activities. Thus, the exclusivity or confinement of respondent's economic activity to purely NBFI activities was not proven by respondent. Hence, respondent is not liable under Section 3A.02(h) of the RMRC."[2]

Finally, As to whether respondent may claim for refund or tax credit, the Court *En Banc* also agrees with respondent. Indeed, Section 196 of the LGC provides alternative remedies for the recovery of any tax, fee, or charge erroneously or illegally collected, as follows:

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[1] Court *En Banc* Docket, pp. 153-154.
[2] Court *En Banc* Docket, p. 152.

> "**Section 196.** *Claim for Refund or Tax Credit.* - No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit."

Furthermore, the assailed Decision also addressed this issue as follows:

> "The Court *En Banc* agrees with the Court in Division. To reiterate, Section 7B.14(d) of the RMRC provides two (2) options for the taxpayer for the recovery of any tax, fee, or charge erroneously or illegally collected by respondent: to claim for refund or apply for a tax credit. Thus, there is no merit in petitioner's argument that respondent may only apply for tax credit."[3]

To end, petitioners did not raise any new matter that warrants the reconsideration of the assailed Decision. Hence, the denial of the same is in order.

WHEREFORE, the instant Motion for Reconsideration (Re: Decision dated 13 August 2019) is **DENIED**, for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

[3] Court *En Banc* Docket, p. 153.

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice