REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

METROPOLITAN NAGA WATER DISTRICT (MNWD),
Petitioner,

-versus-

THE PROVINCIAL GOVERNMENT OF CAMARINES SUR,
Respondent.

CTA EB NO. 1079
(CTA AC NO. 91)

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas,
and
Ringpis-Liban, *JJ.*

Promulgated:
FEB 18 2016 11:40a.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is petitioner's "Motion for Reconsideration" of the Decision promulgated on June 17, 2015 dismissing the present petition for lack of merit. Petitioner prays that the Court *En Banc* reverse and set aside the Decision and a new one be rendered granting and/or affirming Metropolitan Naga Water District's (MNWD) protest against Camarines Sur's assessment for the payment of alleged franchise tax liability of P1,039,100.10, and that MNWD be declared as exempt from payment of any local franchise tax.

On August 13, 2015, the Court *En Banc* issued a Resolution ordering respondent to file its Comment within ten (10) days from notice.

As per Records Verification Report of the Judicial Records Division of this Court, respondent failed to file its Comment.

Petitioner moves for reconsideration of the Decision on the following grounds: that the 5-year period for tax exemption privileges of local water districts granted under Section 1 of RA 7109 is limited only to national taxes; that RA No. 7109 does not include repeal of Section 46 of Presidential Decree 198, as amended, on local water district's exemption from local government taxes and fees; that the rule of strict implementation of statutory provisions granting tax exemptions does not apply to the claims of government agencies and; that in case of doubt between provincial ordinance and MNWD continuing exemption from local franchise tax, such doubt shall be construed against respondent and liberally in favor of MNWD.

After careful evaluation of petitioner's arguments, the Court *En Banc* finds no merit in the instant Motion for Reconsideration. Petitioner MNWD raised the same arguments in its Petition for Review, Memorandum and Motion for Reconsideration. The said arguments have already been considered and passed upon by this Court in the Assailed Decision.

In the Assailed Decision,[1] the Court *En Banc* unanimously ruled in this wise:

> "There is no showing whatsoever in Section 1 or elsewhere in the relatively short text of R.A. No. 7109 that the exemptions granted thereunder to LWD are limited to national taxes. Although income tax is a national internal revenue tax under Section 21 (a) of the National Internal Revenue Code of 1997 (R.A. No. 84124), it does not follow that the franchise taxes mentioned in Section 1 of R.A. No. 7109 are necessarily and exclusively also national taxes.
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> MNWD argued that the five-year limit set by R.A. No. 7109 pertained only to *national* franchise taxes, and did not extend to the local franchise taxes included in P.D. No. 198.
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> MNWD pointed out that R.A. No. 7109 "does not clearly state if it involves local tax;"[2] the Court agrees with this observation, but adds that neither does R.A. No. 7109 categorically limit its scope to national taxes.
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[1] *Rollo*, pp. 96-114.
[2] *Ibid.*, p. 8.

> Inasmuch as the Congress presumably knew that the exemptions under P.D. No. 198 covered both national and local franchise taxes, if the Congress in enacting R.A. No. 7160 intended to limit the exemption to only either one of them, it would have explicitly stated so; by not distinguishing between them, it exempted both. Thus, the Court deems the five-year limit fixed by R.A. No. 7109 for the enjoyment of this franchise tax exemption as applicable to both national and local franchise taxes. In line with the rule that "tax exemptions are never presumed and are strictly construed against the taxpayer and liberally in favor of the taxing authority,"[3] the five-year limit should apply to both.
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> It is clear from the language of Section 193 that it did not withdraw tax exemptions enjoyed by LWDs that were subsisting as of January 1, 1992. These tax exemptions, at that time, were those enumerated under R.A. No. 7109. But because R.A. No. 7109 limited the enjoyment of the tax exemptions to five (5) years, the privilege expired by operation of law on August 13, 1996, without need of repeal by Section 193 of the LGC.
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> Finally, going back to the question of whether or not Section 46 of P.D. No. 198 was revived thru the repeal by the LGC of R.A. No. 7109, the law that impliedly repealed it, the Court finds the answer to be in the negative. The LGC did not repeal R.A. No. 7109, but merely allowed its tax exemptions to expire by operation of the latter law's Section 3, at the end of the five-year period.

MNWD maintains that it is a government instrumentality. Hence, the rule on strict interpretation of statutes granting tax exemption does not apply to it. However, the Court *En Banc* ruled otherwise in view of the pronouncement in the case of *Engr. Ranulfo C. Feliciano, in his capacity as General Manager of the Leyte Metropolitan Water District, Tacloban City, vs Commission on Audit, et al.*[4] that local water districts are considered government–owned and controlled corporations.

In fine, the Court *En Banc* sees no cogent reason to deviate from its previous ruling that MNWD was properly assessed franchise tax by the Provincial Government of Camarines Sur.

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[3] *Smart Communications, Inc. vs City of Davao, et al.*, G.R. No. 155491, September 16, 2008, citing *Commissioner of Internal Revenue vs Visayan Electric Company*, 132 Phil. 203, 215 (1968).

[4] G.R. No. 147402, January 14, 2004, 464 Phil. 439; 419 SCRA 363.

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

(I maintain my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO – MANALASTAS
Associate Justice