REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SAN MIGUEL BREWERY, INC.,
Petitioner,

CTA EB No. 2320
(CTA Case No. 9223)

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x---x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB No. 2327
(CTA Case No. 9223)

Present:

Del Rosario, *PJ*,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo, and
Cui-David, *JJ.*

- versus -

SAN MIGUEL BREWERY, INC.,
Respondent.

Promulgated:
JUN 0 6 2022 10:55 am

x---x

RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution of the Court *En Banc* is petitioner Commissioner of Internal Revenue's (CIR) Motion for Reconsideration (Re: Decision promulgated 21 February 2022) in CTA EB No. 2327, filed on March 8, 202, with respondent San Miguel Brewery, Inc.'s (SMBI) Comment on/Opposition to "Motion for Reconsideration..." dated March 3, 2022 of Commissioner of Internal Revenue, filed on April 21, 2022.

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

> "**WHEREFORE**, in view thereof, the instant Petitions for Review in CTA EB No. 2320 and CTA EB No. 2327 are **DENIED**, for lack of merit.
>
> **SO ORDERED**."[1]

In his motion, petitioner CIR observes that respondent SMBI primarily seeks to nullify the relevant provisions of Revenue Memorandum Circular No. 90-2012. Hence, he raises the issue that the Court of Tax Appeals (CTA) has no jurisdiction to determine the validity of the rules, regulations and other administrative issuances of the BIR.

On the other hand, respondent SMBI observes in its comment that petitioner CIR merely rehashed his arguments.

After careful consideration of the present issue, the Court *En Banc* resolves to deny the instant motion.

As clearly explained in the *Banco de Oro* case[2] as cited by the Court in Division:

> "The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund. It is only in the lawful exercise of its power to pass upon all matters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.
>
> This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings)." *gr*

---

[1] Court *En Banc* Docket, p. 172.
[2] G.R. No. 198756, August 16, 2016, 800 SCRA 392.

Thus, the Supreme Court categorically declared that the CTA has jurisdiction to rule upon the validity of a tax law or regulation when raised by the taxpayer as a defense in claiming a refund, as in this case.

Considering the foregoing, the Court *En Banc* finds petitioner's argument untenable and as such, the denial of the instant motion is in order.

WHEREFORE, petitioner Commissioner of Internal Revenue's Motion for Reconsideration (Re: Decision promulgated 21 February 2022) in CTA EB No. 2327 is **DENIED**, for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
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

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice