REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Third Division

DAVAO CITY WATER DISTRICT,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 9138, 9139, 9140, 9141, 9142 & 9143

Members:

UY, *Chairperson,*
RINGPIS-LIBAN, and
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
OCT 07 2022
2:30 p.m

x---x

RESOLUTION

RINGPIS-LIBAN, J.:

For resolution of the Court is petitioner Davao City Water District's *Motion for Reconsideration* filed via registered mail on July 7, 2022 and received by this Court on August 2, 2022.

On August 10, 2022, this Court issued a Resolution requiring respondent Commissioner of Internal Revenue to comment on petitioner's *Motion for Reconsideration* within five (5) days from notice. On September 16, 2022, however, this Court's Judicial Records Division submitted a Records Verification Report stating that, as of said date and as per records of the case, respondent failed to file the required comment.

Petitioner seeks reconsideration of the Decision of this Court promulgated on May 6, 2022, (the "Assailed Decision") which denied the consolidated Petitions for Review in CTA Case Nos. 9138, 9139, 9140, 9141, 9142 & 9143. The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the present consolidated Petitions for Review docketed as CTA Case Nos. 9138, 9139, 9140, 9141, 9142 and 9143, respectively, are **DENIED** for lack of merit.
>
> **SO ORDERED**."

In seeking reconsideration of the Assailed Decision, petitioner mainly posits that it is a government instrumentality endowed with corporate powers and forms part of the government machinery. Accordingly, it is not a franchisee and should not be subjected to franchise tax. Petitioner likewise theorizes that while it is a government-owned or controlled corporation (GOCC), it stands on the same footing as an agency or instrumentality of the national government by the nature of its creation, powers and functions. Particularly, petitioner contends that:

1. It is a government instrumentality as defined in Section 2(10) of EO 292 and in the light of the cases of *Manila International Airport Authority v. Court of Tax Appeals*[1] and *Republic v. City of Parañaque*.[2] In its charter, petitioner is not organized as a stock or non-stock corporation.

2. It cannot be considered a franchisee under the Constitution. Its creation through the enactment of PD 198, as amended, was not for economic or commercial activities and it need not compete in the marketplace. Thus, it is not required to meet the test of economic viability.

3. Water utilities referred to in Section 119 of the National Internal Revenue Code of 1997, as amended, are those formed under the Corporation Code.

4. Congress considered local water districts as quasi-public corporations when it enacted RA No. 7109. Pursuant to the case of *Davao City Water District v. Civil Service Commission*,[3] it is already a GOCC.

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[1] G.R. No. 155650, July 20, 2006.
[2] G.R. No. 191109, July 18, 2012.
[3] G.R. Nos. 922237-38, September 13, 1991.

5. The factual antecedents and issues in *NPC v. City of Cabanatuan*[4] and *Mactan Cebu International Airport v. Marcos*[5] are different from petitioner's case.

6. Strict interpretation on tax exemption statutes should not apply to petitioner.

After careful evaluation of the arguments raised by petitioner vis-à-vis the case records as well as the relevant statutory rules and jurisprudence, this Court resolves to deny the present *Motion for Reconsideration* for lack of merit.

This Court stands by its ruling that it has jurisdiction to take cognizance of the present case. This matter has been painstakingly discussed in the Assailed Decision and the same need not be repeated here.

This Court likewise maintains its position that petitioner is subject to franchise tax under Section 119 of the 1997 NIRC.

All told, petitioner failed to raise any compelling reason to warrant the modification much less reversal of this Court's findings.

WHEREFORE, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

With due respect, I reiterate my Dissenting Opinion
ERLINDA P. UY
Associate Justice

[4] G.R. No. 149110, April 9, 2003.
[5] G.R. No. 120082, September 11, 1996.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice