REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SAN MIGUEL BREWERY INC., A Subsidiary of SAN MIGUEL CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8591

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For this Court's resolution is respondent's **Motion for Reconsideration (Re: Decision Promulgated 23 December 2014)** filed through registered mail on January 20, 2015, with petitioner's **Opposition to Respondent's "Motion for Reconsideration (Re: Decision promulgated on 23 December 2014)" dated January 20, 2015** filed on February 26, 2015.

Petitioner moves for the reconsideration of the Decision promulgated on December 23, 2014, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT**

CERTIFICATE in favor of petitioner in the reduced amount of **₱740,294,926.62** representing overpayment of its excise taxes for the period covering January 1, 2011 to December 31, 2011.

SO ORDERED."

In challenging the Court's decision, respondent submits the following arguments:

1. The Letter of San Miguel Corporation (SMC) dated 19 October 1999 did not specifically request for the registration of a new brand;

2. The surrogate ad of San Mig Light Pale Pilsen (SML) readily reveals that it is indeed a variant of San Miguel Pale Pilsen; and

3. Legislative intent is part and parcel of the law.

Petitioner, on the other hand, contends that the letter dated October 19, 1999 is actually a request for the registration of "San Mig Light" as a "new brand" since its tax rate is mentioned, and implicitly, its corresponding suggested net retail price. It argues that it is only with respect to new brands that a net retail price is suggested in accordance with Sec. 5[B] of BIR Revenue Regulations No. 2-97[1].

Petitioner likewise contends that respondent has already raised the second and third arguments in her Memorandum dated March 20, 2014 as well as in her Answer to the Petition for Review. It avers that the same have already been considered by the Court in its Decision dated December 23, 2014.

We DENY respondent's Motion for Reconsideration.

In paragraph 2.01 of the Stipulation of Facts, Documents, Issues, and Other Matters[2], the parties stipulated that on October 19,

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[1] Revenue Regulations Governing Excise Taxation on Distilled Spirits, Wines and Fermented Liquors.
[2] Docket (Vol. II), pp. 905-913.

1999, petitioner requested for the registration of "San Mig Light", as a new brand, to wit:

> "2.01 On October 19, 1999, Mr. Virgilio S. de Guzman, then Assistant Vice President, SMBP Finance, of San Miguel Corporation, wrote Assistant Commissioner Leonardo B. Albar, Excise Tax Services, of the BIR, requesting for the registration of, and authority to manufacture 'San Mig Light', as a new brand, to be taxed at ₱12.15 per liter (*Petition, par. 4.01*)."

This judicial admission binds the respondent and she can no longer controvert the same by claiming that the October 19, 1999 letter did not explicitly state that SMC is requesting for the registration of a new brand.

The Supreme Court, in the case of *Oscar Constantino, Maxima Constantino and Casimira Maturingan vs. Heirs of Pedro Constantino, Jr., Represented by Asuncion Laquindanum*[3], ruled that:

> "Judicial admissions are legally binding on the party making the admissions. Pre-trial admission in civil cases is one of the instances of judicial admissions explicitly provided for under Section 7, Rule 18 of the Rules of Court, which mandates that the contents of the pre-trial order shall control the subsequent course of the action, thereby, defining and limiting the issues to be tried. In *Bayas, et. al. v. Sandiganbayan, et. al.*, this Court emphasized that:
>
> > Once the stipulations are reduced into writing and signed by the parties and their counsels, they become binding on the parties who made them. They become judicial admissions of the fact or facts stipulated. Even if placed at a disadvantageous position, a party may not be allowed to rescind them unilaterally, it must assume the consequences of the disadvantage.
>
> Moreover, in *Alfelor v. Halasan*, this Court declared that:

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[3] G.R. No. 181508, October 2, 2013, 706 SCRA 580.

A party who judicially admits a fact cannot later challenge the fact as judicial admissions are a waiver of proof; production of evidence is dispensed with. A judicial admission also removes an admitted fact from the field of controversy. Consequently, an admission made in the pleadings cannot be controverted by the party making such admission and are conclusive as to such party, and all proofs to the contrary or inconsistent therewith should be ignored, whether objection is interposed by the party or not. The allegations, statements or admissions contained in a pleading are conclusive as against the pleader. A party cannot subsequently take a position contrary of or inconsistent with what was pleaded. (Citations omitted)"[4] *(Underscoring ours)*

Meanwhile, respondent's second argument is the same argument she raised in her previous pleadings which has already been considered by the Court in resolving whether or not San Mig Light is a variant of San Miguel Pale Pilsen (RPT in a can) or a new brand, to wit:

"***Whether San Mig Light is a variant of an existing brand or a new brand***

The issue as to whether San Mig Light is a variant of petitioner's existing brand or a new brand is not a novel issue. In fact, in several decisions issued by the Court *en banc*, it has been consistently ruled that San Mig Light is a new brand and not a variant.

In the case of *Commissioner of Internal Revenue v. San Miguel Corporation*, the Court *en banc* ruled:

In addition, in a similar case promulgated by the First Division involving the same parties and the same issue, it was ruled that 'San Mig Light' is a new brand. The pertinent portion of the said decision provides:

The fact that 'San Mig Light' is a 'new brand' and not merely a variant of an existing brand is bolstered by the fact that Annexes 'C-1' and 'C-2' of

[4] *Ibid.*

RA No. 8240, which enumerated the fermented liquors registered with the BIR do not include the brand name 'San Mig Light'. Instead, what were listed, as existing brands of petitioner, as of the effectivity of RA No. 8240, were as follows: 'Pale Pilsen 320 ml.', 'Super Dry 355 ml.', 'Grande 1000 ml.', 'RPT in cans 330 ml.', 'Premium Bottles 355 ml.' and 'Premium Can 330 ml.' Even in Section 4 of RR No. 2-97 which provides for the classification and manner of taxation of existing brands, new brands and variants of existing brands, the list of existing brands of fermented liquors of petitioner does not include the brand 'San Mig Light', but merely 'RPT in cans 330 ml.', 'Premium Bottles 355 ml.', and 'Premium Bottle Can 330 ml.' for high priced brands; and 'Super Dry 355 ml.', 'Pale Pilsen 320 ml.', and 'Grande' for medium-priced brands.

Thus, it is clear that when the product 'San Mig Light' was introduced in 1999, it was considered as an entirely new product and a 'new brand' of petitioner's fermented liquor, there being no root name of 'San Miguel' or 'San Mig' in its existing brand names. The existing registered and classified brand name of petitioner at that time was 'Pale Pilsen'. Therefore, the word 'Light' cannot be considered as a mere suffix to the word 'San Miguel', but it is part and parcel of an entirely new brand name, 'San Mig Light'. Evidently, as correctly pointed out by petitioner, 'San Mig Light' is not merely a variant of an existing brand, but an entirely 'new brand'.

Anent the second type of 'variant brand', *i.e.*, when a different brand carries the same logo or design of an existing brand, records show that there are marked differences in the designs of the existing brand 'Pale Pilsen' and the new brand 'San Mig Light':

a) as to 'Pale Pilsen' and 'San Mig Light' in bottles:

1. the size, shape and color of the respective bottles are different. Each brand has a distinct design in its packaging. 'Pale Pilsen' is in a steiny bottle, while 'San Mig Light' is packed in a tall and slim transparent bottle;

2. the design and color of the inscription on the bottles are different from each other. 'Pale Pilsen' has its label encrypted or embossed on the bottle itself, while 'San Mig Light' has a silver and blue label of distinctive

design that is printed on paper pasted on the bottle; and

3. the color of the letters in the 'Pale Pilsen' brand is white against the color of the bottle, while that of the words 'San Mig' is white against a blue background and the word 'Light' is blue against a silver background.

b) as to 'Pale Pilsen' and 'San Mig Light' in cans:

1. the words 'Pale Pilsen' are in ordinary font printed horizontally in black on the can against a diagonally striped light yellow gold background, while the words 'San Mig' are in Gothic font printed diagonally on the can against a blue background and the word 'Light' in ordinary font printed diagonally against a diagonally striped silver background; and

2. the general color scheme of 'Pale Pilsen' is light yellow gold, while that of 'San Mig Light' is silver.

Though the 'escudo' logo appears on both 'Pale Pilsen' bottle and can, and 'San Mig Light' bottle and can, the same cannot be considered as an indication that 'San Mig Light' is merely a variant of the brand 'Pale Pilsen', since the said 'escudo' insignia is the corporate logo of petitioner. It merely identifies the products as having been manufactured by petitioner, but does not form part of its brand. In fact, it appears not only in petitioner's beer products, but even in its non-beer products.

Thus, 'San Mig Light' is a new brand and not a variant of any of SMC's existing beer products."

"Additionally, in the case of *Commissioner of Internal Revenue v. San Miguel Corporation*, the Court *en banc* ruled that:

Effective January 1, 1998, Republic Act ('R.A.') No. 8424 explained the tax treatment of fermented liquors as a new brand in contrast with a variant as follows:

'CHAPTER III- EXCISE TAX ON ALCOHOL PRODUCTS

SEC. 143. Fermented Liquor.- xxx

> Variants of existing brands which are introduced in the domestic market after the effectivity of Republic Act No. 8240 shall be taxed under the highest classification of any variant of that brand.
>
> 'New brands shall be classified according to their current net retail price. xxx
>
> The classification of each brand of fermented liquor based on its average net retail price as of October 1, 1996, as set forth in Annex C, shall remain in force until revised by Congress.
>
> A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand and/or different brand which carries the same logo or design of the existing brand.

Beginning January 1, 2005, R.A. 9334 amended Section 143 of the 1997 NIRC making reference to fermented liquors either as a new brand or variant. R.A. 9334 restricted the meaning of a variant in the following manner:

> 'A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand. xxx
>
> 'New brand' shall mean a brand registered after the date of the effectivity of R.A. 8240.

Clearly, a new brand is one that is registered after the effectivity of R.A. 8240 on January 1, 1997. Pursuant to R.A. 8424, a variant is defined as either a brand with a modifier prefixed and/or suffixed to the root name of the brand or a different brand which carries the same logo or design of the existing brand. The first type of variant is retained in R.A. 9334.

In the instant case, San Mig Light, a fermented liquor is a new brand due to the fact that on October 27, 1999, Assistant

Commissioner Leonardo B. Albar of the Excise Tax Division granted respondent's request for the product's registration. To prove that San Mig Light is a new brand is supported by the fact that it was not among the brands registered after the effectivity of R.A. 8240. Nowhere is San Mig Light recognized as among the existing fermented liquor brands as shown in Annexes 'C-1' and 'C-2' of R.A. 8240 as aptly observed by the Court in Division as follows:

> The fact that 'San Mig Light' is a 'new brand' and not merely a variant of an existing brand is bolstered by the fact that Annexes 'C-1' and 'C-2' of RA No. 8240, which enumerated the fermented liquors registered with the BIR do not include the brand name 'San Mig Light'. Instead, what were listed, as existing brands of petitioner, as of the effectivity of RA No. 8240, were as follows: 'Pale Pilsen 320 ml.', 'Super Dry 355 ml.', 'Grande 1000 ml.', 'RPT in cans 330 ml.', 'Premium Bottles 355 ml.' and 'Premium Can 330 ml.' Even in Section 4 of RR No. 2-97, which provides for the classification and manner of taxation of existing brands, new brands and variants of existing brands, the list of existing brands of fermented liquors of petitioner does not include the brand 'San Mig Light', but merely 'RPT in cans 330 ml.', 'Premium Bottles 355 ml.', and 'Premium Bottle Can 330 ml.' for high priced brands; and 'Super Dry 355 ml.', 'Pale Pilsen 320 ml.', and 'Grande' for medium-priced brands.

San Mig Light is not a variant of an existing brand. The petitioner erred in treating the wordings 'San Miguel' or 'San Mig' as a root word and 'Light' as a suffix. 'San Miguel' or 'San Mig' is not registered nor is it an existing classified brand under R.A. 8240. The brand 'Pale Pilsen' was registered and classified as a brand name at that time. The term 'Light' cannot be separated from the word 'San Mig' or 'San Miguel' but should be considered as one brand name. xxx" Je

In the afore-cited cases, it has been aptly ruled by the Court *en banc* that San Mig Light is a new brand which, under R.A. No. 8424 amending Section 143 of the NIRC of 1997, should be classified according to its current net retail price. Considering the factual similarities involved in the afore-quoted cases and in the instant case, the Court sees no cogent reason to deviate from the foregoing findings and hence, the Court rules that San Mig Light is a new brand and not a variant."

Finally, the Court finds respondent's third argument to be bereft of merit. While legislative intent is part and parcel of the law, the intent of the law is determined by the language of the law that the lawmakers voted on.

The opinion of one member of the assembly does not necessarily reflect the genuine legislative intent of the entire body. As held in *Diaz vs. Secretary of Finance*,[5] "statements made by individual members of Congress in the consideration of a bill do not necessarily reflect the sense of that body and are, consequently, not controlling in the interpretation of law." **The congressional will is ultimately determined by the language of the law that the lawmakers voted on.** Consequently, the meaning and intention of the law must first be sought "in the words of the statute itself, read and considered in their natural, ordinary, commonly accepted and most obvious significations, according to good and approved usage and without resorting to forced or subtle construction."[6]

"Where the statute is clear and free from ambiguity, courts will not inquire into the motives which influence the legislature, or individual members, in voting for its passage; nor indeed as to the intention of the draftsman, or the legislators, so far as it has not been expressed in the act.[7] To read into law the supposed intention of the legislators, where there is no ambiguity in it, would be to supply something that does not appear in the act."[8]

The Court therefore sees no cogent reason to reverse or modify the assailed Decision. ℊ

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[5] G.R. No. 193007, July 19, 2011, 654 SCRA 96 citing *South African Airways vs. Commissioner of Internal Revenue*, G.R. No. 180356, February 16, 2010, 612 SCRA 665.
[6] *Ibid.*
[7] *Manila Jockey Club, Inc. vs. Games and Amusement Board*, 107 Phil. 151 (1960); *Guzman vs. Municipality of Taytay*, 65 Phil. 340 (1938).
[8] *Ibid.*

WHEREFORE, in view of the foregoing, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTANEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

(I maintain my dissenting opinion.)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice