REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SORIANO SHARES, INC.,
Petitioner,

-versus-

CITY OF DAVAO and HON. RODRIGO S. RIOLA, in his official capacity as the City Treasurer of Davao City.
Respondents.

CTA AC NO. 151

Members:

Bautista, Chairperson,
Fabon-Victorino, and
Ringpis-Liban *JJ.*

Promulgated:

MAY 25 2017
4:00 p.m.

x- -x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Respondents' "Motion for Reconsideration"[1] filed by registered mail on April 04, 2017 seeking to set aside the Decision[2] promulgated on March 13, 2017 (assailed decision).

On April 24, 2017, the Court issued a Resolution requiring Petitioner to comment on Respondents' "Motion for Reconsideration" within ten (10) days from notice.[3] Records show that counsel for Petitioner received the Resolution on May 03, 2017,[4] thus Petitioner had until May 13, 2017 within which to file his Comment.

On May 17, 2017, a Records Verification Report was issued by the Judicial Records Division stating that Petitioner failed to file its comment on Respondents' "Motion for Reconsideration".[5] Thus, pursuant to the Resolution issued on April 24, 2017, the incident is now deemed submitted for resolution.

1 Docket. at pp. 237-252.
2 Id. at pp. 221-235.
3 Id at p. 254.
4 Id. at p. 253.
5 Id. at p. 255.

The dispositive portion of the assailed decision reads as follows:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. The Decision dated June 22, 2015 and the Order dated September 11, 2015 of the Regional Trial Court, Branch 16 of the City if Davao in Civil Case No. 34,857-13 are hereby **REVERSED** and **SET ASIDE**. Accordingly, respondent Treasurer of the City of Davao is hereby **ORDERED TO REFUND** to petitioner Soriano Shares, Inc. the total amount of **SIX HUNDRED TWENTY EIGHT THOUSAND EIGHT HUNDRED TWENTY NINE PESOS** (₱628,829.00) representing its erroneously paid local business taxes for the first and second quarters of taxable year 2011.[6]

In its motion, Respondents argue that Petitioner's dividend and interest income from the San Miguel Corporation ("SMC") shares are not exempt from local business tax.

After a careful consideration, the Court finds that the issues and arguments raised in Respondents' motion had already been amply discussed, passed upon and considered by this Court in the assailed Decision. Respondents' arguments constitute neither compelling nor cogent reason to modify, much less reverse our Decision dated March 13, 2017.

We reiterate our finding that –

> The tax imposed in this case is on the dividends and money market placement earnings from the dividends. All were derived from the SMC shares that the government owns. Any earnings of the SMC shares belong to the government. Any local tax imposed on SSI, is imposed on the national government. This is clearly in contravention of Section 133(o) of the LGC. Hence, the erroneously paid local business tax must be refunded.[7]

WHEREFORE, premises considered, Respondents' "Motion for Reconsideration is hereby **DENIED** for lack of merit.

6 Id. at p. 234.
7 Id. at p. 230.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice