REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

THE CITY OF MAKATI,
Petitioner,

- versus -

THE CITY TREASURER AND THE CITY GOVERNMENT OF CALAMBA AND FUJI-HAYA INTERNATIONAL CORPORATION,
Respondents.

CTA AC NO. 167

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:

MAR 02 2018

9:50 a.m.

x - x

RESOLUTION

CASTAÑEDA, JR., *J.*:

This addresses the **Motion for Reconsideration** filed by respondents the City Treasurer (treasurer) and the City Government of Calamba (City of Calamba) on January 4, 2018, with petitioner's **Comment (Re: Motion for Reconsideration dated 04 January 2018)**, filed on January 24, 2018.

Respondents, treasurer and City of Calamba, seek reconsideration of the Court's Decision dated December 11, 2017, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, the Decision dated August 4, 2015 and the Order dated January 4, 2016, both issued by the Regional Trial Court, Branch 34 of Calamba City, Laguna in Civil Case No.

4829-2014-C entitled *Fuji-Haya International Corporation vs. The City Treasurer and The City Government of Calamba City, Laguna, and The City Treasurer and The City Government of Makati City* are **REVERSED** and **SET ASIDE**.

Petitioner is likewise declared to be entitled to the local business tax which accrues from the sales made in respondent FHIC's branch office in Makati City; while respondent City of Calamba is entitled to the local business tax that accrues from the sales made in respondent FHIC's office in Calamba City and other city or municipality except Makati City."

The instant motion for reconsideration is anchored on the following arguments:

1. It is the City of Mayor of Makati who is authorized to represent the Local Government of Makati as the real party-in-interest. Amalia C. Santos is bereft of authority to act as representative of Makati City; and

2. Evidence on record shows that the Makati office of respondent Fuji-Haya International Corporation (FHIC) is not a branch sales office. No proof on record will dispute the findings of the trial court that respondent FHIC's Makati office is not a branch sales office.

Respondents treasurer and City of Calamba contend that the right to sue belongs to the City Mayor of Makati and not to the City Treasurer as provided under Section 455(b)(3)(ix) of the Local Government Code. As such, it is allegedly the City Mayor of Makati and not Ms. Amalia C. Santos who is the real party in interest in this case. It is alleged that the instant petition filed by Ms. Santos was defective.

Petitioner opposes the above allegation, claiming that the City Treasurer of Makati has the authority to file the present petition in accordance with Section 183 of the Local Government Code.

As regards the ruling of this Court that respondent FHIC's Makati office is a branch office, respondents treasurer and City of

Calamba posit that there are overwhelming evidence supporting the factual findings of the Regional Trial Court (RTC), Branch 34, Calamba City that the Makati office is not a branch sales office of respondent FHIC. Allegedly, the testimony of Ms. Gemma Matamorosa during cross-examination described the activities being conducted at the Makati office of FHIC, which did not include any sale transaction. Respondents treasurer and City of Calamba adopt the dissenting opinion of Justice Catherine T. Manahan as part of the former's arguments.

On the contrary, petitioner avers that the arguments raised in the motion are mere reiteration of arguments which were extensively reviewed and adjudicated upon by this Court in the assailed Decision. Petitioner claims that there are no new matters or arguments raised in the aforesaid motion. Petitioner insists that the Court correctly ruled that the Makati office of respondent FHIC is a branch office for which the first sentence of Section 150(a) of Local Government Code should apply.

After a careful evaluation of the arguments raised in the instant motion, the Court finds that the same are mere rehash of the same facts and issues which have already been passed upon extensively in the assailed Decision.

To reiterate, the city treasurer is mandated to collect taxes, and it is his obligation to perform such ministerial function which necessarily includes institution of a case to perform such duty.[1] Also, based on preponderance of evidence, the Court already found that the office in Makati City is a branch office of respondent FHIC. Thus, in accordance with Section 150(a) of Republic Act No. 7160, all the sales made by FHIC in its office in Makati City shall be recorded in such office and the tax there on shall accrue and shall be paid to petitioner.[2]

Since there are no new issues raised in the instant motion, and the arguments presented are mere rehash, there is no cogent reason to disturb the findings in the assailed Decision.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit. ge

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[1] Assailed Decision, p. 6.
[2] Assailed Decision, p. 13.

SO ORDERED.

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

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice