REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION,
Petitioner,

-versus-

COMMISIONER OF INTERNAL REVENUE
Respondent.

CTA Case No. 9235

Members:

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

Promulgated:
NOV 05 2018 2:15 pm

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RESOLUTION

MANAHAN, *J.:*

To be resolved is petitioner Power Sectors Assets and Liabilities Management Corporation's (PSALM) **Motion for Reconsideration**[1], without respondent's comment[2] despite due notice[3], asking this Court to reconsider its decision dated August 28, 2018 (assailed decision) and the issuance of a new one instead. The dispositive portion of the assailed decision reads as follows:

> **WHEREFORE**, in light of the foregoing, the Petition for Review is hereby **DISMISSED** due to lack of jurisdiction. Let the copy of this decision be furnished to the Office of the Solicitor General pursuant to the provisions of the Administrative Code of 1987.
>
> **SO ORDERED**.

Petitioner argues that this Court has jurisdiction over its petition under Section 7 of Republic Act No. 9282[4] and that

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[1] Docket, CTA Case No. 9235, Vol. III, pp. 1152-1174.
[2] *Id.*, Records Verification dated October 15, 2018.
[3] *Id.*, Resolution dated September 18, 2018, p 1176.
[4] Otherwise known as "An Act Expanding the Jurisdiction of the Court of Tax appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction

the facts in the case of *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue*[5] (*PSALM case*), which were cited in the assailed decision, are different from the instant case considering that in the *PSALM case* the collection of the assessed amount pertains to the execution and implementation of the Memorandum of Agreement (MOA) between the Bureau of Internal Revenue (BIR), PSALM, and National Power Corporation (NPC), and not to a valid assessment.

Petitioner further argues that, prior to the promulgation of the *PSALM case,* respondent's position was that this Court has jurisdiction on the instant case and respondent would be misleading PSALM and other government corporations on available remedies in challenging his decisions on tax assessments.

Petitioner also insists that applying the *PSALM case* on cases pending before this Court between the BIR and other government offices, including government-owned or controlled corporations (GOCCs), will be prejudicial to the interest of said offices, hence, it cannot be retroactively applied.

As to petitioner's argument that the instant case has a different factual setting, a scrutiny of the factual antecedents of the *PSALM case* reveals that the case was the result of the letter dated 14 August 2007 from the BIR, signed by the OIC-Commissioner of Internal Revenue, **demanding immediate payment** of P3,813,080,472 deficiency value-added tax (VAT) for the sale of the Pantabangan-Masiway and Magat power plants.

In *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation*[6], the Supreme Court (SC) defines what is an assessment, to wit:

> An assessment contains not only a computation of tax liabilities, but also **a demand for payment** within a prescribed period. It also signals the time when penalties and interests begin to accrue against the taxpayer... (*Emphasis supplied*)

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and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, Otherwise known as the Law Creating the Court of Tax Appeals, and for Other Purposes".

[5] G.R. No. 198146, August 8, 2017.

[6] G.R. No. 128315, June 29, 1999.

The actual issue in *PSALM case* was the assessment of deficiency value-added tax (VAT) on the sale of NPC properties while in the instant case, an assessment of internal revenue taxes covering withholding tax on compensation (WTC), expanded withholding tax (EWT), final tax, and VAT was also the issue at hand. Thus, the facts are substantially the same which belies petitioner's argument.

The SC is very categorical in its ruling in *PSALM case* that "**all** disputes, claims and controversies" between or among offices, agencies and instrumentalities of the National Government, including constitutional offices, must be resolved under Presidential Decree No. 242, to wit:

> The use of the word "shall" in a statute connotes a mandatory order or an imperative obligation. Its use rendered the provisions mandatory and not merely permissive, and unless PD 242 is declared unconstitutional, its provisions must be followed. The use of the word "shall" means that administrative settlement or adjudication of disputes and claims between government agencies and offices, including government-owned or controlled corporations, is not merely permissive but mandatory and imperative. Thus, under PD 242, it is mandatory that disputes and claims "**solely**" between government agencies and offices, including government-owned or controlled corporations, involving only questions of law, be submitted to and settled or adjudicated by the Secretary of Justice.
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> The law is clear and covers ***"all disputes, claims and controversies solely*** **between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements.**" When the law says "all disputes, claims and controversies solely" among government agencies, the law means ***all, without exception***. Only those cases already pending in court at the time of the effectivity of PD 242 are not covered by the law.
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> The purpose of PD 242 is to provide for a **speedy and efficient administrative settlement or adjudication of disputes between government offices or agencies under the Executive branch, as well as to filter cases to lessen the clogged dockets of the courts...** an

Petitioner should also be aware that this Court is mandated to take cognizance of the rulings which are promulgated by the Supreme Court as ruled in the case of *The Heirs of Felicidad Canque v. Court of Appeals et al.*,[7] to wit:

> Clearly, the Court of Appeals committed a reversible error because it palpably failed to consider in its August 25, 1994 Decision the aforementioned ruling of the Supreme Court promulgated twenty months earlier on January 27, 1993. Unfortunately, this is not the first time for this Court to come upon such a slip. *Peltan Development vs. Court of Appeals* ruled that **every court must take cognizance of decisions this Court has rendered because they are proper subjects of mandatory judicial notice** xxx [and] **more importantly form part of the legal system**. We stress that **members of the bench have a responsibility to know and to apply the latest holdings of the Supreme Court**. The nature of their calling requires no less. (*Emphasis supplied*)

Such duty to follow the legal doctrine enunciated by the Supreme Court is not only pursuant to the doctrine of judicial notice but because it is the only institution which the courts should follow as pronounced in the case of *Manila Electric Company v. Philippine Consumers Foundation, Inc. et al.*,[8] to wit:

> A lower court cannot reverse or set aside decisions or orders of a superior court, especially of this Court, for to do so will negate the principle of hierarchy of courts and nullify the essence of review. A final judgment, albeit erroneous, is binding on the whole world. **Thus, it is the duty of the lower courts to obey the Decisions of this Court and render obeisance to its status as the apex of the hierarchy of courts.** "A becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation." "**There is only one Supreme Court from whose decisions all other courts should take their bearings,**" as eloquently declared by Justice J. B. L. Reyes. (*Emphasis supplied*)

Further, it is well-settled that courts must be cognizant of the decisions of the Supreme Court because of the doctrine of *stare decisis* as amply explained in the case of *Amelia D. De Mesa et al. v. Pepsi Cola Products, Inc. et al.*,[9] and further

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[7] G.R. No. 119184, July 21, 1997.
[8] G.R. No. 101783, January 23, 2002.
[9] G.R. Nos. 153063-70, August 19, 2005.

strengthened in the case of *Nancy L. Ty v. Banco Filipino Savings and Mortgage Bank*[10], to wit:

> The principle of *stare decisis et non quieta movere* is entrenched in Article 8 of the Civil Code, to wit:
>
> > ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.
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> It enjoins adherence to judicial precedents. It requires our courts to follow a rule already established in a final decision of the Supreme Court. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. **The doctrine of stare decisis is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument**. (emphasis supplied)

This Court merely applies the doctrine laid down by the highest court in the said *PSALM case* and that the change of jurisdiction for the resolution of cases involving government entities will not prejudice them considering that there are adequate remedies available for them under the law.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is hereby **DENIED** for lack of merit. Accordingly, the assailed decision promulgated on August 28, 2018 is hereby **AFFIRMED**.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

[10] G.R. No. 188302, June 27, 2012.