REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

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METRO PACIFIC TOLLWAYS DEVELOPMENT CORPORATION, Petitioner,	**CTA AC No. 191**
	Members:
- versus -	**DEL ROSARIO,** P.J., *Chairperson,* **UY,** and **MINDARO-GRULLA,** JJ.
MAKATI CITY AND NELIA A. BARLIS IN HER CAPACITY AS INCUMBENT CITY TREASURER OF MAKATI CITY, Respondents.	***Promulgated:*** JUL 10 2019 ; 2:03 pm

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RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION"** filed on February 22, 2019, with respondents' **"COMMENT/OPPOSITION (To: Petitioner's Motion for Reconsideration dated February 22, 2019)"** filed on March 26, 2019, praying for the reconsideration of this Court's Decision dated January 29, 2019, the dispositive portion of which reads as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the Decision dated July 13, 2017 and the Order dated September 20, 2017, both rendered by the RTC – Branch 133 in Civil Case No. 16-101, dismissing the same, are hereby **AFFIRMED**.
>
> **SO ORDERED**."

In the *Motion for Reconsideration*, petitioner argues that this Court erred as follows: (1) when it considered the instant case as one of the protest to an assessment under Section 195 of the Local Government Code (LGC); (2) when it disregarded the mutually exclusive nature of the remedies of the taxpayer under Sections 195 and 196 of the LGC; and (3) when it regarded the subject assessments to be final and unappealable. In addition, petitioner contends that the principles laid down in the cases of *City of Manila and Office of the City Treasurer of Manila vs. Cosmos Bottling Corporation*[1] ("*Cosmos Bottling* case") and *International Container Terminal Services, Inc. vs. The City of Manila*[2] ("*ICTSI* case") (collectively referred to as the "*Cosmos Bottling* and *ICTSI* cases") do not squarely apply to this case.

For its part, respondents, in their *Comment/Opposition*, aver that petitioner failed to present any new arguments and/or legal basis to warrant the reversal of the Court's Resolution dated March 6, 2019 (sic); and that petitioner merely reiterated the arguments raised in the previous pleadings which were thoroughly discussed and passed upon by this Court in the challenged resolution (sic). Respondents point out that considering the failure of petitioner to file its written protest on the assessment on the period allowed by law, it shall likewise be tantamount to waiver of its right to contest or protest the assessment; and as a result thereof, it becomes final, executory and unappealable.

THE COURT'S RULING

The instant *Motion for Reconsideration* lacks merit.

Petitioner's assignment of errors is unfounded.

Petitioner's three (3) assignment of errors, which were supposedly committed by this Court, rest on the notion that the remedy provided under Section 196 of the Local Government Code (LGC) of 1991 is totally separate from that of Section 195 thereof, and thus, the latter provision should be completely ignored in all claims for refund of paid local taxes, and should not be considered even when a notice of assessment was issued by the concerned local treasurer.

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[1] G.R. No. 196681, June 27, 2018.
[2] G.R. No. 185622, October 17, 2018.

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The said notion, however, as already emphasized in the assailed Decision, is clearly erroneous.

For easy reference, quoted anew is the ruling of the Supreme Court in the *ICTSI* case, to wit:

> "If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 of the Local Government Code. Thus, it must file a written protest with the local treasurer within 60 days from the receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent jurisdiction within 30 days from receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest. In this case, as no tax was paid, there is no claim for refund in the appeal.
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> **<u>If the taxpayer opts to pay the assessed tax, fee, or charge, it must still file the written protest within the 60-day period, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer.</u> In its court action, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid. 'Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer.'**
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> **On the other hand, <u>if no assessment is issued by the local treasurer</u>, and the taxpayer claims that it erroneously paid a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him, <u>then Section 196 applies</u>.**
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> **<u>What determines the appropriate remedy is the local government's basis for the collection of the tax.</u> It is explicitly stated in Section 195 that it is a remedy against a notice of assessment issued by the local treasurer, upon a finding that the correct taxes, fees, or charges have not been paid. The notice of assessment must state 'the nature of the tax, fee, or**

> **charge, the amount of deficiency, the surcharges, interests and penalties.'** xxx
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> xxx xxx xxx
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> **No such precondition is necessary for a claim for refund pursuant to Section 196.**" *(Emphases and underscoring supplied)*

On the basis of the foregoing, it is clear that in case there is a notice of assessment issued by the local treasurer against a taxpayer, and even when the latter disagrees therewith, still opts to pay the assessed tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties, such taxpayer must still file a written protest within the 60-day period, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer, pursuant to Section 195 of the LGC of 1991.

If, however, there is no notice of assessment issued by the local treasurer, and the taxpayer claims payment of illegally or erroneously collected taxes and intends the refund thereof, then Section 196 of the same LGC applies, without regard to the provisions of Section 195 of the same law.

Thus, contrary to the stance of petitioner, by virtue of the *ICTSI* case, the remedies provided under Section 195 of the LGC of 1991 should be considered in claims for local tax refunds which involve a previous issuance by the concerned local treasurer of a notice of assessment, and wherein the pertinent local taxpayer subsequently pays the assessed local tax.

Correspondingly, where the concerned local treasurer previously issued a notice of assessment to a particular local taxpayer, and the latter paid the assessed local tax, although the said taxpayer does not agree with the subject assessment, the observance of the procedure laid down under Section 195 of the LGC is vital to a subsequent claim for refund of the local tax paid. Failing which, the subject local tax assessment will become final and unappealable in accordance with the said Section 195.

Considering that in the instant case, respondent city treasurer previously issued notices of assessment, and petitioner subsequently paid the assessed local taxes, petitioner should have filed a written protest within the 60-day period, and then bring the case to court within thirty (30) days from either the decision or inaction of the said city treasurer. Its failure to do so rendered the subject local tax assessments final and unappealable.

Such being the case, the imputed errors supposedly committed by this Court are without legal foundation.

The Cosmos Bottling and ICTSI cases are applicable to the instant case.

In arguing that the ruling in the *Cosmos Bottling* and *ICTSI* cases cannot be applied squarely to the instant case, petitioner primarily argues that judicial interpretations of statutes apply prospectively, citing the following ruling of the Supreme Court in *Philippine International Trading Corporation vs. Commission on Audit*,[3] to wit:

> "It is consequently clear that a judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is **a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith.** To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication." *(Emphasis is by petitioner)*

Based on the foregoing, the general rule is that judicial interpretation becomes part of the law as of the date it was originally passed, and the exception thereto is that when a doctrine laid down by the High Court is subsequently overruled or reversed, in which case, the new doctrine will only be applied prospectively.

The *Cosmos Bottling* and *ICTSI* cases, however, did not overrule or reverse any existing doctrine laid down by the Supreme Court. Thus, the general rule that judicial interpretation becomes part of the law as of the date it was originally passed applies, instead of the exception, *i.e.*, the prospective application thereof.

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[3] G.R. No. 205837, November 21, 2017.

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Correspondingly, there is likewise no legal basis for the prospective application of the *Cosmos Bottling* and *ICTSI* cases.

Nonetheless, petitioner further argues, in effect, that the factual milieu in the *Cosmos Bottling* case is different from the instant case.

While it may be true that there are certain factual differences in the *Cosmos Bottling* case and the present case, the same is of no moment.

A more careful reading of the ruling in the *Cosmos Bottling* case would reveal that the High Court has specifically interpreted Sections 195 and 196 of the LGC of 1991 in this wise:

> "Where an assessment is to be protested or disputed, the taxpayer may proceed *(a)* without payment, or *(b)* with payment of the assessed tax, fee or charge. **Whether there is payment of the assessed tax or not, it is clear that the protest in writing must be made within sixty (60) days from receipt of the notice of assessment; otherwise, the assessment shall become final and conclusive**. Additionally, the subsequent court action must be initiated within thirty (30) days from denial or inaction by the local treasurer; otherwise, the assessment becomes conclusive and unappealable.
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> To stress, **where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund *at any time* within the full period of two years from the date of payment as Section 196 may suggest. If refund is pursued, the taxpayer must administratively question the validity or correctness of the assessment in the 'letter-claim for refund' *within 60 days from receipt of the notice of assessment*, and thereafter bring suit in court *within 30 days from either decision or inaction* by the local treasurer.**
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> **Simply put, there are two conditions that must be satisfied in order to successfully prosecute an action for refund in case the taxpayer had received an assessment. *One*, pay the tax and administratively assail within 60 days the assessment before the local**

> **treasurer, whether in a letter-protest or in a claim for refund.** ***Two,*** **bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.**" *(Emphases and underscoring supplied)*

It must be remembered that judicial decisions applying or interpreting the laws, such as Sections 195 and 196 of the LGC of 1991, or the Constitution shall form part of the legal system of the Philippines.[4] These decisions, although in themselves not laws, constitute evidence of what the laws mean.[5] As already earlier intimated, the application or interpretation placed by the Supreme Court upon a law is part of the law as of the date of the enactment of the said law since the High Court's application or interpretation merely establishes the contemporaneous legislative intent that the construed law purports to carry into effect.[6] In other words, judicial decisions of the Supreme Court assume the same authority as the statute itself.[7]

Relative thereto, it is the duty of this Court to obey the said decisions of the Supreme Court and render obeisance to its status as the apex of the hierarchy of courts.[8] As a corollary, this Court is not bound by the commentaries made by legal luminaries; nor of petitioner's opinion to the effect that the more logical interpretation which will give rise to the separable, distinct and equal nature of the remedies of the LGC is that the taxpayer is at liberty to select the remedy most appropriate to his or her case. As eloquently declared by Justice J.B.L. Reyes, *"There is only one Supreme Court from whose decisions all other courts should take their bearings."*[9]

In this case, it is undisputed that notices of assessment have been issued, and that petitioner paid the assessed local tax. Thus, considering that the applicable provisions for that factual circumstances are Sections 195 and 196 of the LGC of 1991—the provisions of law which deal with the remedies of protest and tax refund, and that the *Cosmos Bottling* case expresses the

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[4] Article 8, Civil Code of the Philippines (Republic Act No. 386).
[5] *Floresca, et al. vs. Philex Mining Corporation, et al.*, G.R. No. L-30642, April 30, 1985
[6] *Ibid.*
[7] *Ibid.*
[8] *Manila Electric Company vs. Philippine Consumers Foundation, Inc., et al.*, G.R. No. 101783, January 23, 2002.
[9] *Ibid.*

interpretation by the Supreme Court of the said provisions, the same ruling in the said *Cosmos Bottling* case is therefore applicable, and must perforce be applied, to the present case.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
Associate Justice