REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

ROXAS 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. 163
(RTC Civil Case No. 34,854-13)

Members:

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

Promulgated:

APR 12 2017
10:15 a.m.

x -- x

RESOLUTION

BAUTISTA, J:

For resolution is respondents' Motion for Reconsideration filed by registered mail on February 15, 2017; with petitioner's Comment/Opposition To Respondent's Motion for Reconsideration (Re: Decision Rendered 11 January 2017) ("Comment") filed by registered mail on March 20, 2017.

On January 11, 2017, the Court promulgated a Decision declaring petitioner and its preferred shares of stock in San Miguel Corporation ("SMC") as Government-owned, hence, not subject to LBT. Therefore, it found that petitioner is entitled to the refund sought, the dispositive portion of the Decision reads as follows:

> **WHEREFORE,** in view of the foregoing, the present Petition for Review is hereby **GRANTED**. The Decision dated June 22, 2015 and the Order dated September 11, 2015 by the Regional Trial Court, Branch 16, Davao City, are hereby **REVERSED** and **SET ASIDE**. Accordingly, respondent Treasurer of the City of Davao is hereby **ORDERED TO REFUND** to petitioner, Roxas Shares, Inc., the total amount of

ONE MILLION ONE HUNDRED TWO THOUSAND TWO HUNDRED EIGHTY-FIVE AND 50/100 PESOS (PHP1,102,285.50) representing its erroneously paid local business taxes for the first and second quarters of taxable year 2011.

SO ORDERED.[1]

The Court explained that petitioner is one of the 14 Coconut Industry Investment Fund ("CIIF") holding companies owning SMC shares. Said shares were sequestered by the Presidential Commission on Good Governance, and the 14 CIIF holding companies came under common management and their Board of Directors became composed of nominees from the PCGG. Thereafter, in the case of *COCOFED v. Republic*[2], the Supreme Court declared the 14 CIIF holding companies, including petitioner, and the CIIF Block of SMC shares as Government-owned. Therefore, the Court held that since petitioner is Government-owned, by virtue of the right of accession, whatever income it earns accrues to the Government, pursuant to *Articles 440 to 442 of the Civil Code of the Philippines*; and that considering the 14 CIIF holding companies, as well as their shares in SMC and any income arising therefrom, are Government-owned, these are beyond the taxing jurisdiction of respondent City, pursuant to *Section 133(o) of the 1991 Local Government Code, as amended ("1991 LGC").*

In its Motion for Reconsideration, respondents aver that the Court erred in holding that petitioner is not a "non-bank financial intermediary," which is a category of a "bank and other financial institutions," as defined under *Section 131(e) of the 1991 LGC, Section 2.3 of Revenue Regulations ("RR") No. 9-2004,* and *Section 4101Q.1 of the Manual of Regulations for Non-Bank Financial Institution.*

Petitioner counters that it is not a "non-bank financial intermediary," instead, it is a holding company exempt from local business tax ("LBT"); and that petitioner, along with its SMC shares and income derived therefrom, are Government property exempt from LBT.

A perusal of the contents of respondents' Motion for Reconsideration show that the grounds raised therein are the exact same ones found in their Memorandum. Reproduced hereunder are

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[1] Emphases retained.
[2] G.R. Nos. 177857-58, January 24, 2012, 612 SCRA 255.

respondents' arguments in their Memorandum, as appearing in the Decision dated January 11, 2017, to wit:

> ***Respondents' Counter-Arguments***
>
> Respondents argues that petitioner is deemed a bank and other financial institution, specifically as a non-bank financial intermediary or an investment company by virtue of its investment and money market placements in SMC; that the business purpose contained in its Articles of Incorporation is broad enough to catch all the distinctive functions of a non-bank financial intermediary, as provided in *Section 4101Q.1 of the Manual of Regulations for Non-Bank Financial Institutions* issued by the Bangko Sentral ng Pilipinas ("BSP"); that the mere statement in the Articles of Incorporation stating that petitioner shall not act as an investment company, securities broker or dealer is not a conclusive proof that it is not a bank or other financial institution; that being a stock corporation, petitioner is presumed to have been organized to engage in business for profit, hence, subject to LBT; that the definition of Gross Sales/Receipts under *Section 131(n) of the 1991 LGC*, that does not include dividends and interest income as component of sales or receipts, is a general definition which cannot defeat a specific and clear provision of taxability of dividends and interest income provided under *Section 143(f) of the 1991 LGC*; and that under the assumption that the income partake the nature of public funds, pursuant to the ruling in *COCOFED v. Republic*, it does not exempt petitioner from the payment of LBT.[3]

These arguments have been comprehensively passed upon and refuted in the Decision dated January 11, 2017. Hence, the Court finds no cogent reason to reverse its Decision.

WHEREFORE, respondents' Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

[3] Underscoring ours.

WE CONCUR:

ESPERANZA R. FABON-VICTORINO	**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice	Associate Justice