REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FERNANDEZ HOLDINGS, INC., Petitioner,	**CTA EB NO. 1531** (CTA AC No. 133)
	Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
- versus -	
CITY OF DAVAO and HON. RODRIGO S. RIOLA, in his official capacity as the City Treasurer of Davao City, Respondents.	Promulgated: MAY 21 2018 4:03 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is Respondents' "Motion for Reconsideration" filed on January 12, 2018 *via* registered mail[1] seeking reconsideration of the Decision[2] promulgated on December 05, 2017 ("Assailed Decision"), the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review filed with the Court *En Banc* on November 04, 2016 is **GRANTED**. The assailed Orders dated October 15, 2014 and December 17, 2014, both issued by RTC-Branch 16 of the City of Davao, are **REVERSED** and **SET ASIDE**. Accordingly, the local business tax assessed against

[1] Rollo, pp. 194-204.
[2] *Id.* at pp. 165-183.

Petitioner for the 3rd and 4th quarters of taxable year 2011 in the aggregate amount of Php760,933.49 is **CANCELLED** and **SET ASIDE**."[3]

On February 07, 2018, this Court issued a Resolution[4] ordering Petitioner to comment on the motion within ten (10) days from notice. In response thereto, Petitioner filed its "Comment (On Respondents' Motion for Reconsideration dated 12 January 2018)" on March 12, 2018 *via* registered mail.[5]

In the "Motion for Reconsideration", Respondents anchor their arguments on the following grounds:

1) The Court erred in holding that the imposition of local business tax on dividends and interest income received by Petitioner is erroneous since there is no showing that it is a non-bank financial intermediary; and

2) The Court erred in holding that, as Petitioner, as well as the San Miguel shares it held, were declared to be owned by the Government, they are national government property exempt from local business tax.

According to Respondents, Petitioner's primary purpose as contained in its Amended Articles of Incorporation is within the purview of the nature a non-bank financial intermediary as provided under Section 4101Q.1 of the Manual of Regulations for Non-bank Financial Institutions, issued by the Bangko Sentral ng Pilipinas. Also, the most credible and convincing proof which show that Petitioner is a non-bank financial intermediary is its very act of owning, investing and engaging in money market placements expressly admitted in paragraph 58 of its Petition for Review with the court *a quo*.

Respondents also maintain that the non-issuance of license by the Monetary Board does not *ipso facto* exclude Petitioner from the ambit of a non-bank financial intermediary.

Respondents further aver that the ruling of the Supreme Court in *Philippine Coconut Producers Federation, Inc. v. Republic of the Philippines ("COCOFED")*[6] does not delve on the taxability of the coconut levy fund or on its income but solely on the nature of ownership of the of the San Miguel shares of stock as government owned.

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[3] *Id.* at p. 182.
[4] *Id.* at p. 206-207.
[5] *Id.* at pp. 208-236.
[6] G.R. Nos. 177857-58 & 178193, January 24, 2012.

On the other hand, in its "Comment (On Respondents' Motion for Reconsideration dated 12 January 2018)", Petitioner contends that Respondents' imposition of local business tax on the dividends and interest income it received is erroneous since there is no showing that it is a non-bank financial intermediary.

Petitioner also alleges that being a holding company, its dividend and interest income is not subject to local business tax.

Further, Petitioner asserts that the company, the San Miguel shares of stock it held and the income derived therefrom are national government property exempt from local business tax.

Respondents' "Motion for Reconsideration" must perforce fail.

After a careful examination and consideration, the Court finds that the arguments raised in Respondents' "Motion for Reconsideration" are mere reiterations of matters which have already been considered, weighed and passed upon by this Court in the assailed Decision.

Finding no compelling reason to reconsider, modify or reverse the Assailed Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions and rulings made therein.

We reiterate our findings –

> "...Public Respondents utterly failed to establish by convincing and credible evidence that Petitioner is a non-bank financial intermediary, or is engaged in such activities. Hence, it cannot be taxed as such by Respondent City of Davao.
>
> xxx xxx xxx
>
> Since the subject San Miguel shares of Petitioner are owned by the government, it follows that the dividends and any income therefrom are also owned by the government. Stated otherwise, Petitioner's dividend and interest income from its San Miguel shares belong to the government, and is beyond the scope of the taxing power of Respondent City of Davao. Any local tax imposed on Petitioner is imposed on the national government. To insist taxing Petitioner would clearly be in contravention of Section 133(o) of the 1991 LGC."

WHEREFORE, finding no cogent reason to reverse the Assailed Decision, Respondents' "Motion for Reconsideration" is **DENIED** for lack of merit.

SO ORDERED.

Ma. Belen M.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
(With due respect, I reiterate my vote to affirm the Assailed Decision of the Second Division)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

(With due respect, I reiterate my position)
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice