REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

DUTY FREE PHILIPPINES CORPORATION,
Respondent.

CTA EB NO. 1833
(CTA Case No. 9136)

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

NOV 15 2019

10:42 a.m.

x - x

RESOLUTION

UY, J.:

For resolution is respondent's **"MOTION FOR RECONSIDERATION (of the 13 June 2019 Decision)"** filed on July 4, 2019,[1] with petitioner's **"OPPOSITION (re: Respondent's Motion for Reconsideration dated 02 July 2019)"** filed on August 6, 2019,[2] praying for the reversal and setting aside of this Court *En Banc*'s Decision dated June 13, 2019,[3] the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is hereby **GRANTED.** Accordingly, the Decision dated December

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[1] EB Docket, pp. 96 to 116.
[2] EB Docket, pp. 126 to 131.
[3] EB Docket, pp. 79 to 93.

12, 2017 and the Resolution dated March 20, 2018, both rendered by the Court in Division in CTA Case No. 9136 are **REVERSED** and **SET ASIDE** for its lack of jurisdiction.

SO ORDERED."

Respondent's arguments:

In its *Motion for Reconsideration*, respondent insists that the Court in Division has jurisdiction over its original *Petition*.

Respondent argues that the factual milieu in the case of *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue*[4] (hereinafter referred to as the "*PSALM* case"), justified the filing of the petition for the settlement of claim between Bureau of Internal Revenue (BIR) and PSALM before the Department of Justice (DOJ). He stresses that the said case involves an original action wherein the DOJ was asked to settle PSALM's case against the BIR, while present case is an appeal from the petitioner's decision; and that the *PSALM* case involves pure question of law and did not challenge the mathematical computation of VAT deficiency, while the instant case involves disputes not only on questions of law but also includes the protest on several grounds including the amount of alleged deficiency tax.

Respondent further submits that the *PSALM* case was decided by the Supreme Court only on August 8, 2017, whereas the instant case was filed on September 4, 2015; and that petitioner did not raise the issue of jurisdiction in its *Answer* or at any time during the trial or during its pendency after trial.

Petitioner's counter-arguments:

In his *Opposition*, petitioner argues that respondent has not presented any justifying ground to warrant the reversal of the assailed Decision.

According to petitioner, Section 66 of Presidential Decree (PD) No. 242 is explicit and encompasses all disputes, claims and

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

controversies between and among departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned and controlled corporations (GOCCs) arising from interpretations and application of statutes.

THE COURT *EN BANC'S* RULING

Respondent's *Motion for Reconsideration* lacks merit.

We reiterate that under PD No. 242 (which is now embodied in Chapter 14, Book IV of the Administrative Code of 1987 [Executive Order (EO) No. 226]), **all** disputes and claims **solely** between government agencies and offices, including GOCCs, shall be administratively settled or adjudicated by the Secretary of Justice (SOJ), the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved. Moreover, the Supreme Court, in the *PSALM* case, categorically ruled that when the law says *"all disputes, claims and controversies solely"* among government agencies, **it covers every dispute, claims and controversies, involving the latter**.

As a corollary, the term *"dispute"* means "(a) *conflict or controversy*";[5] while the word *"claim"* is defined as "(t)*he assertion of a right to a remedy, relief or property*".[6] Thus, so long as there is a dispute and claim between government agencies, as contemplated under law, the doctrine laid down in the *PSALM* case must be adhered to.

Accordingly, considering that the disputing parties in the case at bar are both government entities, the jurisdiction over the case is vested on the SOJ, and not with this Court, in accordance with PD No. 242 (now Chapter 14, Book IV of EO No. 226) as interpreted in the *PSALM* case by the Supreme Court. Needless to state, the Supreme Court's interpretation of a statute constitutes part of the law as of the date it was originally passed since it merely establishes the contemporaneous legislative intent that the interpreted law carried into effect.[7]

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[5] The Attorney's Pocket Dictionary © 1981, p. 150.
[6] *Id.*, p. 87.
[7] *Victorias Milling Co., Inc. vs. Intermediate Appellate Court, et al.*, G.R. No. 66880, August 2, 1991.

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With respect to respondent's allegation that the issue on jurisdiction was not raised in petitioner's *Answer* or at anytime during the trial or during its pendency after trial, the same deserves scant consideration.

Courts are bound to take notice of the limits of their authority and, even if such question is neither raised by the pleadings nor suggested by counsel, they may recognize the want of jurisdiction and act accordingly by staying pleadings, dismissing the action, or otherwise noticing the defect, at any stage of the proceedings.[8] Furthermore, the matter of jurisdiction cannot be waived because it is conferred by law and is not dependent on the consent or objection or the acts or omissions of the parties or any one of them.[9]

Thus, the Court is empowered to resolve the issue on jurisdiction, albeit the same was not raised by the parties during trial or in the case *a quo*.

In sum, We find no cogent reason to deviate from Our ruling to the effect that the Court in Division should have dismissed respondent's *Petition for Review* filed in CTA Case No. 9136 for lack of jurisdiction.

WHEREFORE, premises considered, the instant *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ON LEAVE
ROMAN G. DEL ROSARIO
Presiding Justice

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[8] *Bureau of Customs vs. Agnes Vst Devanadera, et al.*, G.R. No. 193253, September 8, 2015.
[9] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

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

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice