REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

DAVAO CITY WATER DISTRICT, Petitioner,	**CTA CASE NO. 8979** Members:
- versus -	**DEL ROSARIO, P.J.,** *Chairperson,* **UY,** *and* **MINDARO-GRULLA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 21 2018, 3:55pm

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RESOLUTION

MINDARO-GRULLA, *J.*:

For this Court's resolution is petitioner's **Motion for Reconsideration**, filed through registered mail on September 28, 2017 and received by the Court on October 11, 2017, with respondent's **Opposition (Re: Motion for Reconsideration)**, filed on December 22, 2017.

In the Decision (assailed Decision) promulgated on September 5, 2017, the Court denied the Petition for Review filed by registered mail on January 21, 2015 by Davao City Water District, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review filed by Davao City Water District is **DENIED** for lack of merit.
>
> **SO ORDERED**."

Petitioner seeks reconsideration of the assailed Decision, and prays that the assailed Decision be reconsidered and set aside. In lieu thereof, a judgment be rendered granting the petitioner's claim for refund in the amount of Twenty-Four Million Eight Hundred Twenty-Four Thousand Five Pesos and 45/100 (P24,824,005.45).

Petitioner avers that the dismissal of the petition was anchored mainly on Republic Act (RA) No. 7109 which granted tax exemption privileges to local water districts good only for five (5) years. Petitioner argues that RA No. 7109 was passed into law on August 14, 1991, during the time local water districts (LWD) were considered as quasi-public corporations or private corporations whose working conditions are governed by the Labor Code, and not under the Civil Service Laws and Regulations.

It further asserts that said law took effect when the case of *Metro Iloilo Water District vs. National Labor Relations Commission*[1] was the prevailing jurisprudence, wherein the Supreme Court reversed its previous decisions and ruled that LWDs are not under the jurisdiction of the Civil Service Commission (CSC), thus private corporations.

Petitioner claims that things changed upon the promulgation of the case of *Davao City Water District, et al., vs. Civil Service Commission and Commission on Audit (COA)*,[2] on September 13, 1991, in which the Supreme Court ruled that LWD are government owned or controlled corporations (GOCCs) with special charter. Moreover, it claims that the pronouncements in the case of *Manila International Airport Authority vs. Court of Appeals et al.*,[3] (MIAA case) is applicable to the petitioner and that petitioner would qualify as a government instrumentality endowed with corporate powers.

Petitioner further asserts that LWDs have no shares of stocks and are not meant to compete in a market place wherein the water rates structures are kept at the minimum which do not allow margins for profits just like in private corporations.

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[1] G.R. No. 85760, May 16, 1990.
[2] G.R. Nos. 95237-38.
[3] G.R. No. 155650, July 20, 2006.

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Finally, petitioner argues that the MIAA case should be applicable to them as it interprets Section 16 Article XII of the 1987 Constitution, thereby elevating its status from GOCC with special charter to government instrumentality with corporate powers.

In this case, petitioner, if similarly situated with MIAA, will not fall under the category of a franchisee as mandated by Section 11, Article XII of the 1987 Constitution, which is particularly granted only to (1) citizens of the Philippines; or (2) corporations with at least 60% Filipino ownership. Thus, not being qualified as a franchisee, petitioner maintains that it could not be subject to franchise tax.

Respondent opposes the above arguments and alleges that he agrees with the Court's ruling that petitioner is not entitled to the claim for refund.

The Court finds petitioner's allegations unmeritorious.

The Court maintains the ruling in the assailed Decision that petitioner, pursuant to its Presidential Decree (PD) No. 198, was granted franchise to operate as water utility with the corresponding tax exemption privileges. Under Section 45 of PD No. 198, LWDs are exempted from income taxes, all National Government, local government, and municipal taxes and fees, and all duties and imports on machinery, equipment, and materials required for its operations. However, after the passage of RA No. 7109, otherwise known as "An Act Granting Tax Exemption Privileges to Local Water Districts" on August 14, 1991, the tax exemption privileges granted to LWDs were limited to a period of five (5) years from its effectivity. Thus, LWDs, such as petitioner, had until August 13, 1996 to enjoy their exemption from taxes mentioned in Section 45 of Presidential Decree No. 198. Thereafter, all LWDs became liable to the afore-mentioned taxes.

As consistently provided by jurisprudence, taxation, along with police power and eminent domain, is one of the three basic and necessary attributes of sovereignty. Thus, the State cannot be deprived of this most essential power and attribute of sovereignty by vague implications of law. Rather being derogatory of sovereignty, the governing principle is that tax exemptions are to be construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority; and he who claims an exemption must be able to justify his claim by the clearest grant of statute. Consequently, he who claims a refund or exemption from taxes has the burden of justifying the exemption of words too plain to be mistaken and too categorical to be misinterpreted.[4]

As tax exemptions must be clear and unequivocal, taxpayer claiming tax exemption must point to a specific provision of law conferring on the taxpayer, in clear and plain terms, exemption from a common burden. Any doubt whether a tax exemption exists is resolved against the taxpayer. Tax exemptions cannot arise by mere implications, much less by an implied re-enactment of a repealed tax exemption clause.[5]

In the instant case, petitioner still cannot point to any specific provision of the National Internal Revenue Code or any law for that matter which categorically authorizes its claim for an exemption or refund. Likewise, the Court finds that the MIAA case is inapplicable to petitioner considering that the factual circumstances in the said case is not similar to this case. Furthermore, pursuant to the ruling of the Supreme Court, LWDs, such as petitioner in this case, are considered as GOCCs.[6]

In view of the foregoing, the Court finds no reason to disturb the Court's ruling in the assailed Decision dated September 5, 2017.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is hereby **DENIED** for lack of merit.

SO ORDERED.

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

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[4] *JAKA Investments Corp. vs. Commissioner of Internal Revenue*, G.R. No. 147629, July 28, 2010 citing *Compagnie Financiere Sucres Et Denrees vs. Commissioner of Internal Revenue*, G.R. No. 133834, August 28, 2006.
[5] *Cagayan Electric Power & Light Co. vs. City of Cagayan de Oro*, G.R. No. 191761, November 14, 2012.
[6] Assailed Decision, pp. 7-9, citing *Mendoza vs. Commission on Audit*, G.R. No. 195395, September 10, 2013, *see also Feliciano vs. Commission on Audit*, G.R. No. 147402, January 14, 2004.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice