REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

NATIONAL DEVELOPMENT COMPANY,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2572
(CTA Case No. 9633)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, *JJ.*

Promulgated:
SEP 2 5 2024 2:46 pm

x- -x

RESOLUTION

FERRER-FLORES, J.:

For resolution is the **Motion for Reconsideration (Of the 13 November 2023 Decision)** (*Motion for Reconsideration*) filed by **National Development Company (petitioner/NDC)** via registered mail on November 30, 2023,[1] and received by the Court on December 5, 2023, without respondent's comment as per Records Verification dated May 9, 2024.[2]

The instant *Motion for Reconsideration* assails the Decision of this Court promulgated on November 13, 2023 (assailed Decision), the dispositive portion of which reads:

[1] *Rollo*, pp. 85 to 111.
[2] *Rollo*.

> **WHEREFORE**, in view of the foregoing, the instant Petition for Review is **DENIED** for lack of merit. The Decision dated November 26, 2020 and the Resolution dated December 4, 2021 of the Court in Division in CTA Case No. 9633 are **AFFIRMED**.
>
> **SO ORDERED**.

In the assailed Decision, it was held that the Court has jurisdiction over the instant case. The Secretary of Justice (SOJ) has jurisdiction over disputes between and among government agencies and government-owned and controlled corporation (GOCC), regardless of the nature of the dispute, save for those pending at the time of the effectivity of P.D. No. 242. The Court held that it cannot allow petitioner to change its stance when it lodged its claim for refund before the Court in Division and eventually allege lack of jurisdiction when it filed its *Petition for Review* before the Court *En Banc* and after the former denied the claim for lack of merit. The Court found that petitioner relied on the prevailing interpretation at the time of its filing of the *Petition for Review*, where the Court had jurisdiction over any tax case, regardless of whether it is between or among government agencies/instrumentalities or private persons or entities. The Court likewise ruled that petitioner failed to establish its entitlement to a refund. In affirming the findings of the Court in Division, the Court ruled that petitioner was unsuccessful in proving the actual input VAT it incurred as it failed to substantiate its sales to government, which is necessary in the determination of the seven percent (7%) standard input VAT where petitioner's claim is derived from.

In its *Motion for Reconsideration*, petitioner insists that the Court has no jurisdiction over this case as it is settled in law and jurisprudence that a tax dispute solely between government entities, including a GOCC, is within the jurisdiction of the SOJ. According to petitioner, there is wisdom in such pronouncement as it would first give the executive branch of the government the opportunity to resolve a dispute between its parts.

Petitioner also contends that the judicial interpretation of a law constitutes as part of the law as of the date when the law was originally passed; hence, it is only when a prior ruling of the Court is overruled and a different view is adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith. It further asserts that jurisdiction over the subject matter of a case cannot be subject of a waiver or estoppel, since lack of jurisdiction can be raised at any time or stage of the proceedings.

It also avers that the ruling in the case of *Philippine Mining Development Corporation vs. Commissioner of Internal Revenue* (*PMDC* *case*)[3] is inapplicable as the circumstances in the instant case are clearly different. Petitioner maintains that it filed its *Petition for Review* before the Court in Division on July 24, 2017; thus, the judicial pronouncement in the *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue* (*PSALM case*)[4] on August 8, 2017 should have resulted in the dismissal of the case.

Finally, petitioner posits that, assuming this Court has jurisdiction, it was able to substantiate its claim for refund when it presented its Summary List pursuant to the requirements laid down under Revenue Regulations (RR) No. 16-2005.

The Court denies the instant *Motion for Reconsideration*.

A careful perusal of the instant *Motion for Reconsideration* shows that most of the arguments raised therein are a duplication of its arguments in its *Petition for Review*, which have been determined and passed upon by this Court in the assailed Decision.

Nevertheless, to emphasize its stance, petitioner posits that the judicial interpretation of the law constitutes a part of the law as of the date when it was originally passed, since its construction merely establishes the contemporaneous legislative intent the law, thus construed, intends to effectuate. Petitioner also contends that it should not be considered estopped when it raised the issue on jurisdiction before the Court *En Banc* as jurisdiction over the subject matter of a case is conferred by law and cannot be waived or bargained away by the litigant parties and may be raised at any time or stage of the proceedings, whether during trial or on appeal. Accordingly, petitioner submits that NDC did not waive its right to raise the issue on jurisdiction. Finally, petitioner asserts that the *PMDC case* is not applicable since the instant case barely commenced when the ruling in the *PSALM case* on August 8, 2017 became part of the settled jurisprudence. Petitioner maintains that, at the very least, the Court should have referred the case to the SOJ.

The additional arguments raised by petitioner in the instant *Motion for Reconsideration* deserve scant consideration and are insufficient for this Court to modify its Decision.

---

3 G.R. No. 250748, October 6, 2021.
4 G.R. No. 198146, August 8, 2017.

Indeed, in the case of *Visayas Geothermal Power Company vs. Commissioner of Internal Revenue,*[5] citing the case of *Paras vs. Paras*[6] and *Pesca vs. Pesca,*[7] the Court held that the interpretation of a law constitutes part of the law as of the date it was originally enacted, *viz*:

> Article 8 of the Civil Code provides that judicial decisions applying or interpreting the law shall form part of the legal system of the Philippines and shall have the force of law. The interpretation placed upon a law by a competent court establishes the contemporaneous legislative intent of the law. **Thus, such interpretation constitutes a part of the law as of the date the statute is enacted. It is only when a prior ruling of the Court is overruled, and a different view adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith.** (Emphasis ours)

Based on the foregoing, in determining whether the Court in Division had jurisdiction over the instant case, the interpretation of the law at the time of the filing of its *Petition for Review* before the Court in Division should govern. The interpretation overruling the previous doctrine have to be applied prospectively only. Clearly, the ruling in the *PSALM case* may only be applied from August 8, 2017 onwards. The ruling in the *PSALM case* cannot be applied to the instant case without violating the non-retroactivity of court decisions, as the *Petition for Review* was filed before the Court in Division on July 24, 2017, fifteen (15) days prior to the promulgation of the *PSALM case* on August 8, 2017.

Anent the allegation that petitioner is not estopped in assailing the jurisdiction of the Court, such is likewise bereft of merit.

Assuming *arguendo*, and to address petitioner's argument on estoppel, the Court highlights the case of *Rebamonte vs. Spouses Lucero,*[8] citing the landmark case of *Tijam vs. Sibonghanoy,*[9] wherein the Supreme Court ruled that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. The question whether the court has jurisdiction either of the subject matter of the action or of the parties was not important in such case because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice cannot be tolerated — obviously for reasons of public policy.

---

[5] G.R. No. 197525, June 4, 2014.
[6] G.R. No. 147824, August 2, 2007.
[7] G.R. No. 136921, April 17, 2001.
[8] G.R. No. 237812, October 2, 2019.
[9] G.R. No. L-21450, April 15, 1968.

Accordingly, the *PMDC case* is applicable to the instant case and the Court in Division had jurisdiction and can take cognizance over the instant case. Clearly, there is no room for dismissal on the ground of lack of jurisdiction or referral to another government agency.

WHEREFORE, petitioner's **Motion for Reconsideration (Of the 13 November 2023 Decision)** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Maria Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice