REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

MARIETTA A. BONDAD
In her capacity as Municipal Treasurer of the Municipality of Mankayan, Benguet and DONALD DAGANOS, in his capacity as Municipal Assessor of the Municipality of Mankayan, Benguet,
Petitioners,

- *versus* -

LEPANTO CONSOLIDATED MINING COMPANY,
Respondent.

CTA AC NO. 107

Members:

BAUTISTA, *Chairperson*
FABON-VICTORINO, and
RINGPIS-LIBAN, *JJ.*

Promulgated:

APR 13 2015
3:04 pm

x--x

RESOLUTION

BAUTISTA, J.:

For resolution are:

a. Petitioner's "Motion for Reconsideration," filed by registered mail on November 28, 2014 which was received by the Court on December 12, 2014; and

b. Respondent's "Comment (To petitioner's Motion for Reconsideration dated 28 November 2014)," filed by registered mail on February 2, 2015 which was received by the Court on February 16, 2015.

On November 4, 2014, the Court promulgated a Decision, the dispositive portion thereof states:

> "**WHEREFORE**, finding no reversible error in the Assailed Decision dated March 4, 2013, and the Assailed Order dated April 22, 2013, both rendered by the Regional Trial Court (RTC), Branch 64, of Abatan, Buguias, Benguet, the same are both hereby **AFFIRMED**.
>
> **SO ORDERED**."

Petitioner's Arguments:

Petitioner reiterates its position that respondent is not entitled to the 50% tax rate contained in Section 143(C) of the Local Government Code ("LGC") as the term exporters in the said LGC is limited by the phrase "essential commodities."

Furthermore, petitioner alleges that any doubt as to the existence of the power to tax shall be interpreted in the favor of the local government unit.

Finally, petitioner avers that Section 143 of the LGC explicitly used the word "AND" which operates to link, add, or join "on exporters" <u>and</u> "on manufacturers, millers, producers, wholesalers, distributors, dealers or retailers."

Respondent's Counter-Arguments:

Respondent alleges that the term "exporters" in Section 143(C) of the LGC is a class on its own when applying the principle of the "Doctrine of Last Antecedent" which provides: "that a limiting clause or phrase should ordinarily be read as modifying only the noun or phrase that it immediately follows."[1]

Moreover, respondent avers that the records of the deliberations of the Bicameral Conference on the LGC show that the intent of the Legislature is not to limit the term "exporters" by the phrase "essential commodities."

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[1] Respondent's Comment (To Petitioner's Motion for Reconsideration dated 28 November 2014).

Finally, respondent alleges that all of the arguments raised by petitioner have been settled by the Court in its Decision dated November 4, 2014.

There is no merit in petitioner's Motion for Reconsideration.

The crux of the controversy lies on the interpretation of the term "exporters" in Section 143(C) of the LGC whether it is limited by the phrase "essential commodities."

In resolving the aforesaid issue, the Court has resorted to extrinsic aids such as the Implementing Rules and Regulations of the LGC and the Model Local Government Revenue Code.

In the Implementing Rules and Regulations of the LGC, Article 233(c),[2] the term "exporters" is defined as follows:

> "Article 233. *Tax on Business.* Xxx
>
> (c) On exporters, and on manufacturers, millers, producers, wholesalers, distributors, dealers or retailers of essential commodities enumerated hereunder at a rate not exceeding one-half (1/2) of the rates prescribed in paragraphs (a), (b) and (d) of this Article:
>
> xxx xxx xxx
>
> For purposes of this Article, the term <u>exporters</u> shall refer to those who are principally engaged in the business of <u>exporting goods and merchandise</u>, as well as manufacturers and producers whose goods or products are both sold domestically and abroad. The amount of export sales shall be excluded from the total sales and shall be subject to the rates not exceeding one half (1/2) of the rates prescribed under paragraphs (a), (b) and (d) of this Article." (Emphasis Supplied)

On the other hand, in the Model Local Government Revenue Code, which serves as a guide in the formation and creation of the

[2] Rules and Regulations, Implementing The Local Government Code of 1991.

LGC, it referred exportation to all kinds of goods and merchandise, to wit:

> "13. On Exporters [Section 2M.02 (c)]
>
> The various essential products enumerated under Section 2M.02(c) applies only to manufacturers, millers, producers, wholesalers distributors, dealers or retailers of said products. Exporters who are mentioned in the section refer to persons who are principally engaged in the exportation of all kinds of goods and merchandise.
>
> In the case of manufacturers, assemblers, processors and other business enumerated in the aforecited section of the model who are also exporters the export sales shall be segregated from the total sales and shall be subject to a tax not exceeding 1/2 of the rate prescribed for manufacturers, assemblers, etc. In Section 2M.02 (a) of the model. The export sales of businesses enumerated under Section 2M.02 (b) of the model, e.g., wholesalers, distributors, etc., who are also engaged in the exportation of goods and merchandise, shall likewise be subject to a tax not exceeding one-half (1/2) of the rates prescribed in the said section." (Emphasis Supplied).

It is clear therefrom that the Implementing Rules and Regulations of the LGC and the Model Local Government Revenue Code provide that "exporters" are not limited by the phrase "essential commodities."

In the case *Rodolfo G. Navarro, Victor F. Bernal, and Rene O. Medina vs. Executive Secretary Eduardo Ermita, et.al.*,[3] the Supreme Court has ruled that the Court may resort to extrinsic aids such as the implementing rules and regulations and the pertinent executive issuances for the statutory construction of the law when it is ambiguous, to wit:

> "Courts determine the intent of the law from the literal language of the law within the law's four corners. If the language of the law is plain, clear and unambiguous, courts simply apply the law according to its express terms. If a literal application of the law results in absurdity,

[3] G.R. No. 180050, February 10, 2010, 612 SCRA 131.

impossibility or injustice, then courts may resort to extrinsic aids of statutory construction like the legislative history of the law, or may consider the implementing rules and regulations and pertinent executive issuances in the nature of executive construction."[4]

The Court, with the guide of extrinsic aids in construing "exporters" under Section 143(C) of the LGC, finds no cogent reason to reverse its Decision dated November 4, 2014.

WHEREFORE, the "Motion for Reconsideration," is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[4] *Id.*