REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

BANGKO SENTRAL NG PILIPINAS,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10106

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:
AUG 15 2022 9:00a—

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RESOLUTION

MANAHAN, *J.:*

For this Court's resolution is petitioner Bangko Sentral ng Pilipinas' (BSP) *Motion for Reconsideration (of the Decision dated 15 February 2022)* filed on March 10, 2022, with respondent's *Opposition (Re: Motion for Reconsideration)* filed on April 5, 2022.

Petitioner seeks reconsideration of the Court's Decision promulgated on February 15, 2022 (Assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the Petition for Review is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

Petitioner's Motion for Reconsideration is anchored on two main points: 1) that the provisions of Presidential Decree (P.D.) 242 is not applicable to the instant case, and 2) that the ruling of the Supreme Court in the case of *Power Sector Assets and Liabilities Management Corporation (PSALM) vs. CIR* (*PSALM* case)[1] only applies to government offices or agencies under the Executive Branch and under the control and supervision of the Office of the President of the Philippines.

Petitioner submits that the BSP is the central monetary authority of the Philippines and is an independent body which enjoys fiscal and administrative autonomy, hence, cannot be compared to the Power Sector Assets and Liabilities Management (PSALM), the National Power Corporation (NPC) and the Bureau of Internal Revenue (BIR) which are all under the executive control and supervision of the Office of the President. Petitioner firmly contends that the provisions of Republic Act (RA) No. 1125, as amended by RA No. 9282, confers jurisdiction on the Court of Tax Appeals (CTA) over decisions or inaction of the respondent in cases involving disputed assessments, claims for refund of internal revenue taxes, etc., thus clearly covering the instant appeal on the inaction of the CIR over its claim for refund of documentary stamp tax (DST). It stresses the fact that the CTA, by the nature of its functions, is dedicated exclusively to the resolution of tax problems and has the accompanying expertise on the subject, as compared to the Department of Justice (DOJ) which the assailed Decision has ruled to be the appropriate body exercising jurisdiction over its appeal.

Respondent contravenes the arguments of petitioner as it echoes the assailed Decision on the lack of jurisdiction of the Court over the instant case.

RULING OF THE COURT

We deny the motion.

Petitioner is the BSP and under RA No. 7653, otherwise known as the New Central Bank Act, it is classified as a government owned corporation which enjoys fiscal and administrative autonomy pursuant to Section 1 thereof, and we quote:

> "Section 1. Declaration of Policy. – The State shall maintain a central monetary authority that shall function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking and credit. **In line with this policy, and**

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

considering its unique functions and responsibilities, the central monetary authority established under this Act, while being a government-owned corporation, shall enjoy fiscal and administrative autonomy." (emphasis supplied)

Article XII, Section 20 of the 1987 Constitution provides, thus:

Article XII

Section 20. The Congress shall establish an independent central monetary authority, the members of whose governing board must bc natural-born Filipino citizens, of known probity, integrity and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money. Banking and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

The Supreme Court in the *PSALM* case,[2] ruled that the administrative procedure provided in P.D. 242 (now embodied in the Administrative Code of 1987) should be followed in disputes and claims solely between government agencies and offices, *including government-owned and controlled corporations*, and we quote:

...This case involves a dispute between PSALM and NPC [National Power Corporation], **which are both wholly government-owned corporations, and the BIR, a government office, over the imposition of VAT on the sale of the two power plants.** There is no question that **original** jurisdiction is with the CIR, who issues the preliminary and the final tax assessments. However, if the government entity disputes the tax assessment, the dispute is already between the BIR (represented by the CIR) and another government entity, in this case, the petitioner PSALM. **Under Presidential Decree No. 242 (PD 242), all disputes and claims *solely* between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government**

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[2] Ibid., see Footnote No. 1.

Corporate Counsel, depending on the issues and government agencies involved. As regards cases involving only questions of law, it is the Secretary of Justice who has jurisdiction. xxx xxx xxx

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The use of the word "shall" in a statute connotes a mandatory order or an imperative obligation. Its use rendered the provisions mandatory and not merely permissive, and unless PD 242 is declared unconstitutional, its provisions must be followed. The use of the word "shall" means that administrative settlement or adjudication of disputes and claims between government agencies and offices, including government-owned or controlled corporations, is not merely permissive but mandatory and imperative. Thus, under PD 242, it is mandatory that disputes and claims **"solely"** between government agencies and offices, including government-owned or controlled corporations, involving only questions of law, be submitted to and settled or adjudicated by the Secretary of Justice.

The law is clear and covers ***"all disputes, claims and controversies solely*** **between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements."** When the law says "all disputes, claims and controversies solely" among government agencies, the law means ***all, without exception***. Only those cases already pending in court at the time of the effectivity of PD 242 are not covered by the law.

The purpose of PD 242 is to provide for a **speedy and efficient administrative settlement or adjudication of disputes between government offices or agencies under the Executive branch, as well as to filter cases to lessen the clogged dockets of the courts.** xxx xxx xxx

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PD 242 is only applicable to disputes, claims, and controversies **solely** between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations, and where no private party is involved. **In other words, PD 242 will only apply when all the parties involved are purely government offices and government-owned or controlled corporations.** Since this case is a dispute between PSALM and NPC, both government-owned and controlled corporations, and the BIR, a National

Government office, PD 242 clearly applies and the Secretary of Justice has jurisdiction over this case. xxx xxx xxx

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The second paragraph of Section 4 of the 1997 NIRC, providing for the exclusive appellate jurisdiction of the CTA as regards the CIR's decisions on matters involving disputed assessments, refunds in internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under NIRC, is in conflict with PD 242. Under PD 242, **all** disputes and claims **solely** between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.

To harmonize Section 4 of the 1997 NIRC with PD 242, the following interpretation should be adopted: (1) As regards **private entities and the BIR**, the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR is vested in the CIR subject to the exclusive appellate jurisdiction of the CTA, in accordance with Section 4 of the NIRC; and (2) Where the disputing parties are **all public entities** (covers disputes between the BIR and other government entities), the case shall be governed by PD 242.

Furthermore, it should be noted that the 1997 NIRC is a general law governing the imposition of national internal revenue taxes, fees, and charges. **On the other hand, PD 242 is a special law that applies only to disputes involving solely government offices, agencies, or instrumentalities.** xxx xxx xxx

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Thus, even if the 1997 NIRC, a general statute, is a later act, PD 242, which is a special law, will still prevail and is treated as an exception to the terms of the 1997 NIRC with regard solely to intra-governmental disputes. PD 242 is a special law while the 1997 NIRC is a general law, insofar as disputes solely between or among government agencies are concerned. Necessarily, such disputes must be resolved under PD 242 and not under the NIRC, precisely because PD 242 specifically mandates the settlement of such disputes in accordance with PD 242. PD 242 is a valid law prescribing the procedure for administrative settlement or adjudication of disputes among government offices, agencies, and instrumentalities under the executive control and supervision of the President.

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PD 242 is now embodied in Chapter 14, Book IV of Executive Order No. 292 (EO 292), otherwise known as the Administrative Code of 1987, which took effect on 24 November 1989." (emphasis supplied)

We quote for emphasis the penultimate paragraph of the assailed Decision which provides the rationale for the conferment of jurisdiction upon the Department of Justice, to wit:

> "As stated earlier, petitioner BSP is a government-owned corporation and respondent CIR represents the BIR which is another government agency. Applying the ruling in the afore-quoted *PSALM* case, this Court has no jurisdiction to take cognizance of their dispute. Besides, as rationalized in the said case, the purpose of PD 242 is to provide a speedy and efficient administrative settlement or adjudication of disputes between government offices. Long-drawn tax litigation cases prejudice no less the government itself. Furthermore, the funds involved herein are public funds that go in and out of the same pockets."

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (of the Decision dated 15 February 2022)* filed on March 10, 2022, is **DENIED** for lack of merit.

Accordingly, the Decision of the Court in the above-captioned case dated February 15, 2022, is hereby **AFFIRMED.**

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

(I reiterate my Separate Concurring Opinion in the Assailed Decision)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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