REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITY OF DAVAO and BELLA LINDA N. TANJILI in her official capacity as the Officer-in-Charge City Treasurer's Office of Davao City,
Petitioners,

-*versus*-

ANGLO VENTURES CORP.,
Respondent.

CTA *EB* NO. 1580
(CTA AC No. 155)

Present:

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

Promulgated:

JUL 16 2019 10:36 a.m.

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RESOLUTION

MANAHAN, J.:

For resolution is petitioners' *Motion for Reconsideration* posted on February 6, 2019, with respondent's *Comment (To Petitioners' Motion for Reconsideration dated 06 February 2019)* posted on April 10, 2019.

Petitioners seek reconsideration of the Decision of the Court *En Banc* promulgated on January 4, 2019, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, we find no palpable reasons to disturb the findings and conclusions reached by the Court in Division in the assailed Decision dated July 12, 2016 as well as the assailed Resolution dated November 16, 2016. Accordingly, the Petition for Review filed with the Court *En Banc* is **DENIED** for lack of merit and the Decision dated July 12, 2016 is hereby **AFFIRMED.**

In their motion for reconsideration, petitioners believe that the Court *En Banc* made the following erroneous conclusions in the assailed Decision, to wit:

1. That respondent is a holding company thus its business operation does not fall within the definition of a non-bank financial intermediary;

2. That since there is no evidence showing that respondent was authorized by the Bangko Sentral ng Pilipinas (BSP) to perform quasi-banking activities, respondent cannot be treated as non-bank financial intermediary;

3. That being declared as owned by the government pursuant to the COCOFED decision necessarily exempts respondent from the imposition of local business tax.

Petitioners also assail the Court *En Banc's* non-appreciation of the factual findings of the lower court that respondent is a "non-bank financial intermediary" by virtue of owning, investing and holding shares of stock of San Miguel Corporation. Petitioners are of the opinion that the lower court correctly concluded that respondent is engaged in activities that fall under the definition of a "non-bank financial intermediary" pursuant to Section 131 (e) of the Local Government Code (LGC) of 1991, Section 22 (W) of the 1997 National Internal Revenue Code (NIRC) and Sections 2.3 of Revenue Regulations (RR) No. 09-2004 and the BSP Manual.

Petitioners insist that the Court *En Banc* failed to recognize and appreciate the clear wordings found in the primary purpose embodied in the Articles of Incorporation (AOI) of respondent which clearly points out the nature of its business as a non-bank financial intermediary pursuant to the Manual Regulations for Non-Bank Financial Institutions issued by the BSP. Petitioners plainly suggest that the fact that respondent is engaged principally and solely in the business of investing and holding shares in San Miguel Corporation and money market placements categorizes such as a non-bank financial intermediary. Further, petitioners argue that the non-issuance of a license by the BSP is not determinative of whether it transacts business as a non-bank financial intermediary and should not serve as a basis for making such a conclusion.

In its *Comment*, respondent reiterates its arguments against the Petition for Review filed by petitioners with the Court *En Banc* beginning with the assertion that it is erroneous on the part of petitioners to collect local business taxes (LBT) on the dividends and interest income because it is not a bank nor a financial institution as provided under Section 133 (A) of the LGC of 1991. Respondent argues that being exempt from the payment of LBT, it is entitled to a refund of the 0.55% it paid for the first and second quarters of taxable year 2011.

Respondent cites the case *of Michigan Holdings vs. The City Treasurer of Makati,*[1] where this Court allegedly declared that a holding company is not among the entities enumerated in Section 131 (e) of the LGC of 1991 as falling under the definition of "banks and other financial institutions".

We find for the respondent.

We find no compelling reason to reverse or modify the assailed Decision promulgated on January 4, 2019 as the arguments raised by petitioners are mere reiterations of the arguments already raised in their Petition for Review and which have been exhaustively passed upon and resolved in the aforesaid decision.

As ruled in the assailed Decision:

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[1] CTA EB No. 1093 (CTA AC Case No. 99), June 17, 2015.

> "The records do not show that respondent is a financial intermediary or is engaged in activities defined under the aforequoted General Banking Act. The fact that respondent holds shares of stock in San Miguel Corporation and has money market placements, does not, in themselves make it a non-bank financial intermediary because there are other factors.
>
> Based on the provisions of Section 22 (W) of the 1997 NIRC, the records do not show that the BSP authorized respondent to perform quasi-banking activities.
>
> Further, respondent is classified and registered as a holding company and not as a non-bank financial intermediary.
>
> This Court, in the case of *Michigan Holdings, Inc. vs. The City Treasurer of Makati City, Nelia A. Barlis,*[2] accurately ruled that a holding company is not among the entities enumerated as "banks and other financial institutions" as defined in Section 133 (c) of the LGC of 1991, thus :
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> "Section 131 (e) of the LGC of 1991 defines "banks and other financial institutions" to include "non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws or rules thereunder." This enumeration appears to be exclusive of other entities. **Nowhere in the entirety of Section 131 is a holding company mentioned."** (emphasis supplied")
>
> Based on the foregoing, Davao City erred in imposing LBT on holding companies under the category of "banks and other financial institutions" under Section 69 (f) of the 2005 Revenue Code of the City of Davao."

The assailed Decision emphasized that the local government's power to tax is subject to certain limitations provided under the law and the Philippine Constitution, one of which is the prohibition against imposing income tax except when imposed on banks and other financial institutions pursuant to Section 133 (a) of the LGC of 1991. Since dividends and interest income partake the nature of "income", the local government units are prohibited from imposing LBT on such, particularly on respondent as it is not considered a bank nor a financial institution as comprehensively discussed in the assailed Decision.

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[2] CTA EB No. 1093 (CTA AC Case No. 99) dated June 17, 2015.

WHEREFORE, premises considered, petitioners' Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

I reiterate my Concurring Opinion

ROMAN G. DEL ROSARIO
Presiding Justice

(I reiterate my Dissenting Opinion)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)

MA. BELEN M. RINGPIS-LIBAN
Associate Justice