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 -

FIRST MERIDIAN DEVELOPMENT, INC.,
Respondent.

CTA EB NO. 1590
(CTA AC No. 132)

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

Promulgated:
MAY 10 2018 4:08 pm

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is Petitioners' "Motion for Reconsideration" filed on January 23, 2018 *via* registered mail[1] seeking reconsideration of the Decision[2] promulgated on December 18, 2017 ("Assailed Decision"), the dispositive portion of which reads:

> "**WHEREFORE**, finding no cogent reason to disturb the findings and conclusions reached by the First Division in the assailed Decision dated August 26, 2016 as well as in the assailed Resolution dated December 20, 2016, the same are **AFFIRMED**. Accordingly, the Petition for Review filed with the Court *En Banc*

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[1] Rollo, pp. 138-148.
[2] *Id.* at pp. 107-123.

on February 09, 2017 *via* registered mail is **DENIED** for lack of merit."[3]

On February 14, 2018, this Court issued a Resolution[4] ordering Respondent to comment on the motion within ten (10) days from notice. In response thereto, Petitioner filed its "Comment (On Petitioners' Motion for Reconsideration dated 23 January 2018)" on March 22, 2018 *via* registered mail.

On April 11, 2018, a Minute Resolution was issued submitting the incident for resolution.

In the "Motion for Reconsideration", Petitioners anchor their arguments on the following grounds:

1) The Court erred in holding that the imposition of local business tax on dividends and interest income received by Respondent is erroneous since there is no showing that it is a non-bank financial intermediary; and

2) The Court erred in holding that, as Respondent, as well as the San Miguel shares it held, were declared to be owned by the Government, they are national government property exempt from local business tax.

According to Petitioners, Respondent's primary purpose as contained in its Amended Articles of Incorporation is within the purview of the nature a non-bank financial intermediary as provided under Section 4101Q.1 of the Manual of Regulations for Non-bank Financial Institutions, issued by the Bangko Sentral ng Pilipinas. Also, the most credible and convincing proof which show that Respondent is a non-bank financial intermediary is its very act of owning, investing and engaging in money market placements expressly admitted in paragraphs 42.6 and 63 of its Memorandum with the court *a quo.*

Petitioners also maintain that the non-issuance of license by the Monetary Board does not *ipso facto* exclude Respondent from the ambit of a non-bank financial intermediary.

Petitioners further aver that the ruling of the Supreme Court in *Philippine Coconut Producers Federation, Inc. v. Republic of the Philippines ("COCOFED")*[5] does not delve on the taxability of the coconut levy fund or on its income, but solely

[3] *Id.* at p. 122.
[4] *Id.* at p. 154-155.
[5] G.R. Nos. 177857-58 & 178193, January 24, 2012.

on the nature of ownership of the San Miguel shares of stock as government owned.

On the other hand, in its "Comment (On Petitioners' Motion for Reconsideration dated 23 January 2018)", Respondent contends that Petitioners' imposition of local business tax on the dividends and interest income it received is erroneous since there is no showing that it is a non-bank financial intermediary.

Respondent also alleges that being a holding company, its dividend and interest income is not subject to local business tax.

Further, Respondent asserts that the company, the San Miguel shares of stock it held and the income derived therefrom are national government property exempt from local business tax.

Petitioners' "Motion for Reconsideration" must perforce fail.

After a careful examination and consideration, the Court finds that the arguments raised in Petitioners' "Motion for Reconsideration" are mere reiterations of matters which have already been considered, weighed and passed upon by this Court in the Assailed Decision.

Finding no compelling reason to reconsider, modify or reverse the Assailed Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions and rulings made therein.

We reiterate our findings –

> "...Respondent does not fulfill any of the requirements [to be considered] a non-bank financial intermediary.
>
> xxx xxx xxx
>
> [Additionally], [s]ince the subject shares are owned by the government, it follows that the dividends and any income therefrom are also owned by the government. Thus, the same is not within the power of the Davao City to tax. Any earnings of the San Miguel shares belong to the government. Any local tax imposed on Respondent, is imposed on the national government. This is clearly in contravention of Section 133(o) of the 1991 LGC.
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> xxx xxx xxx

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To reiterate, the Supreme Court held there that all San Miguel held by the holding companies, together with all dividends declared, paid and issued thereon as well as any increments thereto are owned by the government, having been acquired using coconut levy funds, to be used only for the benefit of all coconut farmers and for the development of the coconut industry. It cannot be clearer that Respondent and the San Miguel shares it holds are beyond the scope of the Davao City's taxing power."

WHEREFORE, finding no cogent reason to reverse the Assailed Decision, Petitioners' "Motion for Reconsideration" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(On Official Business)
CATHERINE T. MANAHAN
Associate Justice