REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB CASE No. 1066 (CTA CASE No. 7122)
-versus-	*Present*: DEL ROSARIO, P.J, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, *JJ.*
PILIPINAS SHELL PETROLEUM CORPORATION, *Respondent.*	Promulgated: NOV 03 2014 4:00 p.m.

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D E C I S I O N

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review for the Court *en banc* under *Section 18 of Republic Act (RA) No. 1125,*[1] *as amended by Section 11*[2] *of RA No. 9282,*[3] of the

[1] An Act Creating the Court of Tax Appeals

[2] Section 11. Section 18 of the same Act is hereby amended as follows:

"SEC. 18. Appeal to the Court of Tax Appeals En Banc. - No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA en banc.

[3] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as

Resolutions dated June 14, 2013[4] and September 03, 2013[5] rendered by the Special First Division of this Court, the dispositive portions of which, respectively, read as follows:

Resolution dated June 14, 2013:

"**WHEREFORE,** let a Writ of Execution be issued in this case.

SO ORDERED."

Resolution dated September 03, 2013:

"**WHEREFORE,** premises considered, respondent's Motion for Reconsideration dated July 9, 2013 is hereby **DENIED** for lack of merit.

SO ORDERED."

In CTA Case No. 7122, a Petition for Review was filed by Pilipinas Shell Petroleum Corporation (PSPC) on January 3, 2005 praying that Commissioner of Internal Revenue (CIR) be ordered to refund or issue a tax credit certificate amounting to ₱80,425,554.99 for excise taxes allegedly erroneously paid by PSPC on its sales of petroleum products to international carriers for their use or consumption outside the Philippines.

On October 22, 2008, this Court's Former First Division[6] issued a Decision,[7] partially granting PSPC's Petition for Review in a reduced amount of ₱76,167,628.99.

Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes

[4] *En banc* Docket, pp. 23-26.
[5] *En banc* Docket, pp. 28-31.
[6] Penned by Associate Justice Caesar A. Casanova, concurred in by Former Presiding Justice Ernesto D. Acosta and Associate Justice Lovell R. Bautista.
[7] Division Docket, pp. 643-657.

On May 4, 2009, this Court's Former First Division issued a Resolution[8] denying PSPC's Motion for Partial Reconsideration for lack of merit.

On February 18, 2010, this Court *en banc,* issued a Decision[9] in CTA EB Case No. 495 denying CIR's Petition for Review. On May 20, 2010, a Resolution[10] was promulgated denying CIR's Motion for Reconsideration of the aforesaid Decision.

A Petition for Review on *Certiorari*[11] docketed as G.R. No. 192524, entitled *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation,* was filed by CIR before the Supreme Court, which was denied by way of a Minute Resolution[12] dated November 17, 2010 for failure to sufficiently show any reversible error in the assailed judgment to warrant the exercise of Supreme Court's discretionary appellate jurisdiction. A Motion for Reconsideration[13] was likewise denied with finality.[14]

Consequently, PSPC filed a Motion for Issuance of Writ of Execution,[15] on May 02, 2013, attaching thereto the Entry of Judgment,[16] certifying that the November 17, 2010 Resolution in G.R. No. 192524 has, on February 23, 2011, become final and executory and recorded in the Book of Entries of Judgments. The assailed Resolutions herein granted the said Motion, hence, this Petition.

The arguments proffered by CIR in the instant Petition are mere rehash of the arguments raised before the Court in Division, which were thoroughly and exhaustively passed upon. CIR asserts that the issuance of a Writ of Execution is

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[8] Division Docket, pp. 739-744.
[9] Division Docket, pp. 893-908.
[10] Division Docket, pp. 964-965.
[11] Division Docket, pp. 970-995.
[12] Division Docket, pp. 1070-1071.
[13] Division Docket, pp. 1072-1087.
[14] Supreme Court Resolution dated January 19, 2011, Division Docket p. 1089.
[15] Division Docket, pp. 1098-1104.
[16] Division Docket, p. 1105.

erroneous on the grounds that the November 17, 2010 Resolution of the Supreme Court is:

a. Void because it is in contrast with another Supreme Court Decision docketed as G.R. No. 188497, which was subsequently promulgated on April 25, 2012 regarding the very same issues and involving the very same parties in this case, and ruled that PSPC is not entitled to a refund of excise taxes on the subject sale; and

b. Erroneous since it was made by the Supreme Court through a mere minute Resolution.

We rule to deny the Petition for Review.

Subsequent events happened upon resolution of this Petition as the Decision dated April 25, 2012 in G.R. No. 188497 was overturned by way of a Resolution dated February 19, 2014, granting PSPC's Motions for Reconsideration, thereby directing CIR to refund or to issue a tax credit certificate in favor of PSPC for the excise taxes it paid on petroleum products sold to international carriers. A Resolution by its First Division followed dated June 09, 2014, denying with finality the motions for reconsideration filed by the Office of the Solicitor General and that no further pleadings or motions shall be entertained.

If CIR's premise that such Supreme Court ruling should be applied in the instant case, then a writ of execution is obviously proper. With the reversal of the 2012 Ruling in G.R. No. 188497, CIR's arguments suffer persuasion and must necessarily fail.

As to the issue of the validity of the November 17, 2010 Resolution dismissing the Petition for Review on *Certiorari* by a mere Minute Resolution, it must be noted that CIR is indirectly asking this Court to declare the said Resolution as void as it runs counter to the 2012 Supreme Court Decision in G.R. No. 188497. Unfortunately for CIR, this Court has no authority to declare a Supreme Court decision as a void judgment. This is a Court of limited special jurisdiction and declaring a Supreme Court ruling as void is not one of those.

Moreover, the subject resolution itself explicitly and categorically stated that the Supreme Court had considered the allegations contained, the issues raised and the arguments adduced in the Petition as well as respondent's comment therein. As explained thoroughly by the Supreme Court in the case of *Commercial Union Assurance Company Limited and North British & Mercantile Insurance Company Limited, vs. Lepanto Consolidated Mining Company and the Honorable Court of Appeals*:[17]

> "In *Mendoza vs. CFI*, 51 SCRA 369, this Court speaking thru Justice Fernando, held that a minute resolution cannot be stigmatized as in any wise failing to abide by the constitutional command. In a separate concurring opinion, Justice Barredo explained succinctly that Sec. 9, Art. 10 of the Constitution requiring that "every decision of a court of record shall clearly and distinctly state the facts and the law on which it is based, but which additionally provides that the Rules of Court shall govern the promulgation of minute resolutions, in effect means that it is in the power of the Supreme Court to determine in every given case whether or not a minute resolution is sufficient to serve the best interests of justice even if the same shall amount to a final decision thereof."
>
> These pronouncements of the Court are as clear and well-established as the practice long applied by the Tribunal to remove any and all doubts as to the constitutional validity of minute resolutions. Accordingly, We hold that the Court of Appeals erred in considering that Our minute resolution of dismissal for lack of merit in L-39194 was not an adjudication on the merits of the petition. By such dismissal, a re-litigation of the issues therein raised is barred under the Rule of *res judicata*."

[17] G.R. No. L-43342 October 30, 1978.

Nationwide Security and Allied Services, Inc. v. Valderama[18] is instructive anent the effects of the issuance of a minute resolution, *viz*:

> "It is true that, **although contained in a minute resolution, our dismissal of the petition was a disposition of the merits of the case.** When we dismissed the petition, we effectively affirmed the CA ruling being questioned. **As a result, our ruling in that case has already become final.** x x x.
>
> With respect to the **same subject matter and the same issues concerning the same parties, it constitutes *res judicata.*"** [Emphasis supplied]

It is therefore clear from the above that for purposes of the application of *res judicata*, minute resolutions issued by this Court are as much precedents as promulgated decisions, hence, binding upon the parties to the action.[19] As stated by the Supreme Court in *Alonso v. Cebu Country Club, Inc.,*[20] a minute resolution binds the parties therein, and calls for *res judicata*'s application. Since the Supreme Court has already ruled, with finality, that PSPC is entitled to a refund for the excise taxes it paid on petroleum products sold to international carriers, nothing is left for CIR but to respect the same. By reason of *res judicata*, the binding effect of the ruling in G.R. No. 188497 in relation to this instant case cannot anymore be assailed.

Considering that G.R. No. 188497 before the Supreme Court involving the very same issues and parties in this case had already attained finality, thus, constitutes *res judicata*, and that the final ruling in the instant case is consistent with the final decision of the Supreme Court in G.R. No. 188497, this Court should already refrain from expressing its opinion in a case in which no practical relief may be granted in view

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[18] G.R. No. 186614, February 23, 2011, 644 SCRA 299, cited in the case of Philippine National Bank, substituted by Tranche 1 (SPV-AMC), Inc., vs. Rina Parayno Lim and Puerto Azul Land, Inc., G.R. No. 171677, January 30, 2013.
[19] Philippine National Bank, *supra.*
[20] 465 Phil. 276 (2004).

of a supervening event.[21] It is a rule almost unanimously observed that courts of justice will take cognizance only of justiciable controversies wherein actual issues are involved.[22] Where the issue has become moot and academic there is no justiciable controversy, adjudication thereon would be of no practical use or value.[23]

On a final note, *Pacquing vs. Court of Appeals*[24] declares:

> "It is an important fundamental principle in our Judicial system that every litigation must come to an end.
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> Access to the courts is guaranteed. But there must be a limit thereto. Once a litigant's rights have been adjudicated in a valid final judgment of a competent court, he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigations were to be encouraged, then unscrupulous litigants will multiply in number to the detriment of the administration of justice."

Thus, this Court upholds the assailed Resolutions' finding that this case has already attained finality and rendered immutable and executory. Regardless of the outcome of G.R. No. 188497, the instant case before Us has long become final and executory. As properly observed by PSPC, the November 17, 2010 Resolution has long become final roughly a year and a half before the Supreme Court's 2012 Ruling in G.R. No. 188497. Once a judgment becomes immutable and unalterable by virtue of its finality, its execution should follow as a matter of course.[25] A supervening event, to be sufficient to stay or stop the

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[21] Bautista vs. Board of Energy, 169 SCRA 167; Benguet vs. Bureau of Labor Relations, 135 SCRA 225.
[22] Gancho-on vs. Secretary of Labor and Employment, 271 SCRA 201.
[23] Southeast Asia Manufacturing Corporation vs. The Municipal Court of Tagbilaran, 94 SCRA 341.
[24] 200 Phil. 516 (1982).
[25] Abrigo vs. Flores, G.R. No. 160786, June 17, 2013.

execution, must alter or modify the situation of the parties under the Decision as to render the execution inequitable, impossible, or unfair.[26] The supervening event in the instant case did not alter the situation of the parties herein, but rather, affirmed the Decision that is precisely the subject of the writ of execution. A final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of what court, be it the highest Court of the land, rendered it.[27] A final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.[28] The main role of the courts of justice is to assist in the enforcement of the law and in the maintenance of peace and order by putting an end to judiciable controversies with finality.[29] Nothing better serves this role than the long established doctrine of immutability of judgments.[30]

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the Resolutions, dated June 14, 2013 and September 03, 2013 are hereby **AFFIRMED**.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[26] Ibid.
[27] Equitable Banking Corp. v. Sadac, GR No. 164772, 8 June 2006, 490 SCRA 380, 416-417.
[28] Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines, GR No. 164195, 12 October 2010.
[29] Fariscal Vda. De Emnas v. Emnas, L-26095, January 28, 1980, 95 SCRA 470.
[30] Apo Fruits Corporation, *supra.*

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

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation among the members of the Court En Banc before the case was assigned to the writer of the opinion of the Court En Banc.

ROMAN G. DEL ROSARIO
Presiding Justice