REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

MUNICIPALITY OF LABRADOR PANGASINAN AND THE OFFICE OF THE MUNICIPAL TREASURER OF LABRADOR, PANGASINAN, Petitioners,	**CTA AC NO. 112**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **CASANOVA,** *and* **COTANGCO-MANALASTAS,** *JJ.*
NATIONAL TRANSMISSION CORPORATION, Respondent.	**Promulgated:** NOV 1 2 2014 1:30 p.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution is respondent's *Motion for Reconsideration (Re: 3 September 2014 Decision)* filed through a courier on September 22, 2014, with petitioners' *Comment to the Motion for Reconsideration* filed on October 20, 2014.

The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. The assailed **ORDER** of the RTC dated June 28, 2013 which upheld the **DECISION** dated December 26, 2012, both in Civil Case No. 19086 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Complaint filed by respondent TRANSCO in the RTC in Civil Case No. 19086 is hereby **DENIED** for lack of merit."

Respondent moves for the reconsideration of the subject Decision byinterposing the following grounds:

1. Respondent's action in the Regional Trial Court (RTC) is not one for cancellation of assessment but for refund of illegally collected local business tax;
2. The remedy under Section 195 of the Local Government Code (LGC) is different from Section 196 also of the LGC; and
3. A void and illegal assessment and collection of local business tax cannot attain finality.

On the other hand, petitioners oppose the above-enumerated arguments and reiterate that the assessment notices were not appealed and that the same had become "conclusive and unappealable" by operation of law. By failure of respondent to appeal the assessment notices, petitioners believe that respondent conceded that they are valid.

Perusal of the instant *Motion for Reconsideration* reveals that the arguments contained therein were already mentioned in respondent's *Comment (On the Petition for Review)* filed on September 13, 2013, which were already considered and passed upon in the assailed Decision. Accordingly, a detailed discussion addressing respondent's arguments is not necessary.

Notably, if respondent believes that there was an error in the imposition and assessment of business tax in this case, it could have easily appealed the denial of its protest or petitioners' inaction thereto as provided under Section 195 of the LGC.

However, as already found in the assailed Decision, the subject assessment notices from which the alleged illegal collection of taxes was based were already final, executory and unappealable due to respondent's failure to appeal the said assessment notices.

Accordingly, the Court cannot sustain the grant by the RTC of respondent's claim for refund considering that granting the refund claim would necessarily violate Section 195 of the LGC, which specifically renders an assessment final and executory for failure to appeal from the denial of the assessment protest or from the lapse of the required sixty-day period within which to appeal to a court of competent jurisdiction.

In view of respondent's failure to raise matters that would warrant the reversal of this Court's ruling in the assailed Decision, the Court has no other recourse but to deny respondent's *Motion for Reconsideration* for being unmeritorious.

WHEREFORE, respondent's *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice