REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ONE NETWORK BANK, INC. (A RURAL BANK),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8826

Members:

BAUTISTA, *Chairperson*
FABON- VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

APR 07 2017
10:22 a.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For the Court's resolution is petitioner's Motion for Reconsideration, filed on June 3, 2016, with respondent's Comment/Opposition (Re: Motion for Reconsideration) filed on June 24, 2016; and petitioner's Supplemental Motion for Reconsideration filed on January 20, 2017, with no comment from respondent to date.

Petition seeks reconsideration of the Decision[1] promulgated on May 13, 2016 (assailed Decision), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

In its Motion for Reconsideration, petitioner prays that the Court reconsider the assailed Decision and a new judgment be rendered ordering

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1 Docket, vol. II, pp. 765-774.

respondent to refund in favor of petition the total amount of One Hundred Forty One Million Seven Hundred Forty Six Thousand One Hundred Ten Pesos and 54/100 (₱141,746,110.54), allegedly representing petitioner's erroneous payments of gross receipts tax (GRT) for calendar year 2013.

Petitioner maintains its argument that as a consolidated rural bank, it enjoys the privileges and immunities of newly formed rural banks provided in Section 15 of Republic Act (RA) No. 7353.[2] It set forth the following grounds for reconsideration:

> I. The Rural Banks Act of 1992, the Manual of Regulations for Banks (MORB) and BSP circulars as well as RR 16-93 are all in unison in encouraging consolidation of rural banks consistent with the constitutionally-enshrined state's policy and commitment to further social justice.
>
> II. RMC No. 66-2012 is ultra vires as it fails to conform to the law that it seeks to implement.
>
> III. RMC No. 66-2012 is not an administrative rule which is interpretative in nature. It partook of a legislative rule as it had created a burden to which the law, it sought to interpret did not provide.
>
> IV. Contrary to this Honorable Court's decision, Petitioner respectfully asserts that:
>
> > A. The Rural Banking Act provides that all newly created rural banks in whatever nature is exempt.
> >
> > B. Section 18 of RA No. 7353 provides for incentives in addition to the tax exemption provided in Section 15 thereof.
> >
> > C. The privilege of tax exemption was acquired in petitioner's own name.
> >
> > D. The constituent corporations did not transfer any GRT liabilities to the consolidated corporation.
> >
> > E. Congress does not intend to give exemptions to rural banks indefinitely.[3]

On the other hand, respondent seeks the denial of petitioner's Motion for Reconsideration for lack of merit.

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[2] An Act Providing for the Creation, Organization and Operation of Rural Banks, and for Other Purposes, otherwise known as "Rural Banks Act of 1992", signed into law on April 2, 1992.

[3] Docket, vol. II, pp. 776-777.

On January 20, 2017, petitioner filed an Urgent Motion for Leave to Admit Attached Supplemental Motion for Reconsideration (Supplemental Motion). In its Supplemental Motion, petitioner beseeches the Court to reconsider the assailed Decision on the following grounds:

A. The tax exemption granted by Congress in RA 7353, Section 15, first paragraph, in favor of **ALL** rural banks, regardless of how such rural banks were created, cannot be amended or superseded by RMC 66-2012, a mere administrative issuance.

B. The requirements for availment of the tax exemption granted under RA 7353, Section 15 are different from the requirements for availment of the non-tax incentives under RA 7353, Section 18.

C. Petitioner, which is created and organized by way of consolidation pursuant to RA 7353, complies with all qualifications of a new rural bank.

After due consideration of the parties' arguments, the Court finds petitioner's Motion for Reconsideration and Supplemental Motion bereft of merit.

The issues presented are mere rehash of petitioner's previous arguments, all of which have been thoroughly considered and threshed out in the assailed Decision. Petitioner's arguments constitute neither compelling nor cogent reason to modify, much less reverse our Decision dated May 13, 2016.

We reiterate our finding that –

> We find RMC No. 66-2012 consistent with RA No. 7353, as well as with the Corporation Code.[4]
>
> A corporation is an artificial being created by operation of law, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence.[5] Under the Corporation Code, two or more corporations may consolidate into a new single corporation which shall be the consolidated corporation.[6] The primary law governing rural banks is RA No. 7353, supplemented by the Corporation Code, where applicable.[7]

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4 Batas Pambansa Bilang 68, The Corporation Code of the Philippines.
5 Section 2, Corporation Code.
6 Section 76, Corporation Code.
7 Section 4, Corporation Code.

RA No. 7353 did not expressly provide for tax exemptions in cases of consolidation of rural banks. The law did not categorically include any tax incentive for mergers or consolidations of rural banks under Section 18 thereof, which provides:

> SECTION 18. To encourage consolidation and mergers of rural banks, if there are five (5) or more rural banks within the region that merge and consolidate within three (3) years from the enactment of this Act, the merged or consolidated entity will be given the following incentives for a period of seven (7) years:
>
> (a) Its deposit liabilities shall be subjected to only one-third (1/3) of reserves normally required for rural banks;
>
> (b) Its reserve requirement can all be maintained under interest-bearing government securities but kept unencumbered with government financial institutions or the Central Bank; and
>
> (c) It shall have unrestricted branching right within the region, free from any assessment or surcharges required in setting up a branch but under coordination with the Central bank which will have to assess that there are qualified personnel, control and procedures to operate the branch.

Although the law encourages consolidation and mergers of rural banks, it did not go as far as giving a fresh tax exemption to consolidated rural banks for another five (5) years of operation other than giving incentives on reserve requirement and branching right for a period of seven (7) years.

x x x

It bears pointing out that the issue raised in this case is not novel. The Court of Tax Appeals *en banc* had previously resolved the same issue in a case involving the same parties. The Court *en banc* held that Section 15 of RA No. 7353 does

> **not exempt petitioner, as a consolidated rural bank, from payment of GRT. It was further ruled that the legislature did not intend rural banks to have tax exemptions for an indefinite period; otherwise, the statute would have expressly indicated so, or, at the very least, extended the exemption period for several more years.[8] The same holds true in this case.**
>
> Verily, there is no rule of law or jurisprudence which grants tax exemptions to consolidated rural banks.
>
> It has been a constant and uniform holding that exemptions from taxation are construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. Tested by this precept, we cannot indulge in expansive construction and write into the law an exemption not therein set forth. Rather, we go by the reasonable assumption that where the State has granted in express terms certain exemptions, those are the exemptions to be considered, and no more.[9]
>
> Indeed, taxation is the rule and exemption is the exception. The burden of proof rests upon the party claiming exemption to prove that it is, in fact, covered by the exemption so claimed.[10] Tax exemptions should be granted only by clear and unequivocal provision of law on the basis of language too plain to be mistaken.[11] Therefore, based on the foregoing discussions, it is clear that petitioner is not exempted from payment of GRT.

Petitioner's position that consolidated rural banks are also afforded the tax exemption under Section 15 creates a loophole for rural banks to enjoy tax exemption indefinitely. For, if petitioner is to be believed, all rural banks need to do is consolidate every five years to enjoy the Section 15 exemption. Surely, the legislature did not intend this to be the case, as in fact, they placed in a later provision, in Section 18, the incentives for consolidation. Whatever the legislative wisdom for limiting the incentive to consolidate to the three-years following the enactment of R.A. No. 7353, the law is the law. We cannot read into it what is not there, or deduce from it what it does not necessarily imply. To read into the law something that is simply not there is tantamount to judicial legislation, which we are not wont to do.

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8 *One Network Bank, Inc. (A Rural Bank) vs. Commissioner of Internal Revenue*, CTA EB No. 1200, August 14, 2015.

9 *Esso Standard Eastern, Inc. vs. Acting Commissioner of Customs*, G.R. No. L-21841, October 28, 1966.

10 *Cyanamid Philippines, Inc. vs. Court of Appeals*, 379 Phil. 689 (2000).

11 *Philippine Long Distance Telephone Company, Inc. vs. City of Davao*, 447 Phil. 571 (2003).

WHEREFORE, finding no compelling reason to reverse the ruling the Court in the assailed Decision, petitioner's Motion for Reconsideration and Supplemental Motion for Reconsideration are hereby **DENIED** for lack of merit.

SO ORDERED.

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MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice