**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***EN BANC***

| | |
|---|---|
| **PROVINCIAL GOVERNMENT OF CAGAYAN, Rep. by Honorable Governor Alvaro T. Antonio and Emilia L. Iringan, in her capacity as Provincial Treasurer,** *Petitioner,* | **CTA EB No. 1137** (CTA AC No. 92) |
| | Present: |
| - versus - | Del Rosario, *P.J.*, Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Cotangco-Manalastas, and Ringpis-Liban, *JJ.* |
| **SMART COMMUNICATIONS, INC. (SMART),** *Respondent.* | Promulgated: JUN 22 2016 3:35 p.m. |

x- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - x

## RESOLUTION

**COTANGCO-MANALASTAS, J.:**

For resolution is petitioner's Partial Motion for Reconsideration[1] filed through registered mail on January 20, 2016, and received by the Court *En Banc* on January 27, 2016. Petitioner prays for reconsideration of this Court's Decision[2], dated December 8, 2015, affirming the nullification of the franchise tax assessments against respondent for calendar years 2004 to 2009. After extension was granted, respondent filed its Opposition[3], through registered mail on March 18, 2016, which was received by the Court on March 29, 2016.

The Court *En Banc* disposed of the case, as follows:

---

[1] *Rollo*, CTA EB No. 1137, pp. 450-460.
[2] *Rollo*, pp. 413-424.
[3] *Rollo*, pp. 470-488.

> "WHEREFORE, premises considered, the instant Petition for Review is hereby PARTIALLY GRANTED. The assailed *Decision* dated July 25, 2013 and *Resolution* dated February 4, 2014 of the Special First Division of the Court is AFFIRMED with MODIFICATION. The directive to cease and desist from imposing local franchise taxes on Smart Communications, Inc.'s gross receipts realized within the territorial jurisdiction of the City of Tuguegarao in the Decision dated April 30, 2012 of the Regional Trial Court, Branch 65 of Makati City in Civil Case No. 11-051 is NULLIFIED for want of jurisdiction."[4]

In its motion for reconsideration, petitioner presents the following grounds:

I. The Honorable Court En Banc erred in affirming the ruling of the Court's Special First Division that RTC Makati has jurisdiction over the appeal on the tax assessment of respondent

II. The Honorable Court En Banc erred in affirming the ruling of the Court's Special First Division that nullified and set aside the franchise tax assessment against respondent dated October 13, 2010 on the grounds that petitioner has no jurisdiction to assess respondent for franchise tax and that the presumptive assessment made on respondent has no factual and legal basis

In its Opposition, respondent claims that:

I. The Regional Trial Court of Makati has jurisdiction to hear this case

II. The RTC Makati, this Honorable Court's Special First Division, and this Honorable Court En Banc correctly nullified and set aside the franchise tax assessment against respondent dated 13 October 2010

After a careful examination of the records and evaluation of the arguments presented by petitioner and respondent, the Court *En Banc* finds no reason to reverse or modify its Decision dated December 8, 2015. The arguments stated in its

---

[4] *Rollo*, p. 423.

motion have already been thoroughly discussed and passed upon by the Court *En Banc* and the Court's Special First Division.

**WHEREFORE**, there being no new matters or issues presented that would merit reconsideration of the assailed Decision of December 8, 2015, petitioner's Partial Motion for Reconsideration is **DENIED** for lack of merit.

**SO ORDERED.**

**AMELIA R. COTANGCO-MANALASTAS**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

J. C. Castañeda, Jr.
**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
**CIELITO N. MINDARO-GRULLA**
Associate Justice

Ma. Belen
**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice