

**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,

- versus -

**SMART COMMUNICATIONS,
INC. (SMART),**

Respondent.

**CTA EB No. 1137
(CTA AC No. 92)**

Present:

Del Rosario, PJ,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, JJ.

Promulgated:

JUN 22 2016 3:35 p.m.

X- - - - - X

R E S O L U T I O N

COTANGCO-MANALASTAS, J.:

For resolution is petitioner's Partial Motion for Reconsideration¹ 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 Decision², 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 Opposition³, 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.

RESOLUTION

CTA EB No. 1137 (CTA AC No. 92)

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“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.

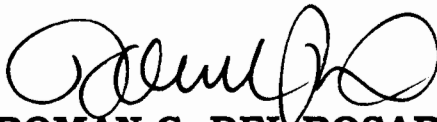
WHEREFORE, there being no new matters or issues presented that would merit reconsideration of the assailed Decision of December 8, 2015, petitioner's Partial Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.



AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:



ROMAN G. DEL ROSARIO
Presiding Justice



JUANITO C. CASTAÑEDA, JR.
Associate Justice



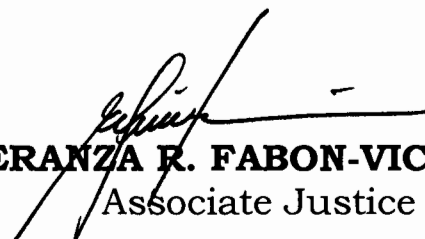
LOVELL R. BAUTISTA
Associate Justice



ERLINDA P. UY
Associate Justice



CAESAR A. CASANOVA
Associate Justice



ESPERANZA R. FABON-VICTORINO
Associate Justice



CIELITO N. MINDARO-GRULLA
Associate Justice



MA. BELEN M. RINGPIS-LIBAN
Associate Justice