



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated June 30, 2020 which reads as follows:

“G.R. No. 248167 – CITY OF DAVAO AND MR. ERWIN P. ALPARAQUE IN HIS OFFICIAL CAPACITY AS ACTING TREASURER OF THE CITY OF DAVAO, petitioners, versus TODA HOLDINGS, INCORPORATED, respondent.

After reviewing the petition¹ and its annexes, inclusive of the Court of Tax Appeals *En Banc* (CTA *EB*) Decision² dated October 29, 2018 and Resolution³ dated May 28, 2019, the Court resolves to **DENY** the same for failure of petitioners to sufficiently show that the CTA *EB* committed any reversible error in holding that respondent Toda Holdings Inc. (THI) and the income derived from its San Miguel Corporation shares (SMC shares), are government properties which petitioner City Government of Davao cannot tax; and that in any event, THI cannot be considered as a “non-bank financial intermediary”⁴ (NBFi).

As correctly ruled by the CTA *EB*, the Supreme Court’s unequivocal pronouncement in *Philippine Coconut Producers Federation, Inc. (COCOFED) v. Republic*,⁵ (COCOFED), that Coconut Industry Investment Fund (CIIF) companies and the CIIF block of SMC shares are “government assets” and are “accordingly

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¹ *Rollo*, pp. 13-31.

² *Id.* at 32-50. Penned by Associate Justice Catherine T. Manahan and Associate Justices Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, concurring; Presiding Justice Roman G. Del Rosario, with Concurring Opinion; and Associate Justice Juanito C. Castañeda, Jr., with Dissenting Opinion.

³ *Id.* at 60-64.

⁴ *Id.* at 36.

⁵ G.R. Nos. 177857-58 & 178193, October 5, 2016, 805 SCRA 1.

owned by the Government,”⁶ removes THI’s dividend and interest income beyond the scope of the taxing power of local government units, such as petitioner City Government of Davao, pursuant to the clear mandate of Section 133(o)⁷ of Republic Act No. 7160,⁸ otherwise known as the “Local Government Code of 1991.”

Moreover, in the case of *City of Davao and Bella Linda N. Tanjili, in her capacity as City Treasurer of Davao City v. Randy Allied Ventures Inc.,*⁹ (RAVI), the Court, relying upon its previous pronouncement in the *COCOFED* case, held:

In this case, it is clear that RAVI is neither a bank nor other financial institution, *i.e.*, an NBF. In order to be considered as an NBF under the National Internal Revenue Code, banking laws, and pertinent regulations, the following must concur:

- a. The person or entity is authorized by the BSP to perform quasi-banking functions;
- b. The principal functions of said person or entity include the lending, investing or placement of funds or evidences of indebtedness or equity deposited to them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others; and
- c. The person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis, to wit:
 1. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;

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⁶ Id. at 65.

⁷ SECTION 133. Common Limitations on the Taxing Powers of Local Government Units. — Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

x x x x

(o) Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units.

⁸ Entitled “AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991,” approved on October 10, 1991.

⁹ G.R. No. 241697, July 29, 2019.

2. Use principally the funds received for acquiring various types of debt or equity securities;
3. Borrow against, or lend on, or buy or sell debt or equity securities.

As observed in the COCOFED case, RAVI is a CIIF holding company. The SMC preferred shares held by it are considered government assets owned by the National Government for the coconut industry. As held in the same case, these SMC shares as well as any resulting dividends or increments from said shares are owned by the National Government and shall be used **only** for the benefit of the coconut farmers and for the development of the coconut industry. Thus, RAVI's management of the dividends from the SMC preferred shares, including placing the same in a trust account yielding interest, is not tantamount to doing business whether as a bank or other financial institution, *i.e.*, an NBF, but rather an activity that is essential to its nature as a CIIF holding company.

x x x x

To be sure, RAVI's act of placing the dividends from the SMC preferred shares in a trust account, which incidentally earns interest, does not convert it into an active investor or dealer in securities. As above stated, the primary test is regularity of function, not on an isolated basis, with the end in mind for self-profit. Being restricted to managing the dividends of the SMC preferred shares on behalf of the government, RAVI cannot be said to be "doing business" as a bank or other financial institution, *i.e.*, an NBF.¹⁰

Further, in the very recent case of *City of Davao v. AP Holdings, Inc.*¹¹ (APHI), the Court, applying the ruling in the afore-cited RAVI case, upheld APHI's exemption from local business tax, as one of the government owned CIIF companies.

Similar to RAVI and APHI, THI is among the fourteen (14) CIIF companies formed and organized solely for the purpose of holding the SMC shares. Thus, as correctly found by the CTA EB, THI cannot be considered as an NBF because its primary purpose does not involve the lending, investing or placement of funds in a regular and recurring manner for the purpose of earning profit. Rather, THI's management of SMC shares, including its money market placements, is in furtherance of its purpose as a CIIF holding

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¹⁰ Id. at 4-6; underscoring and italics supplied.

¹¹ G.R. No. 243848, December 5, 2019 (Unsigned Resolution); G.R. No. 245887, January 22, 2020.

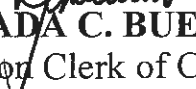
company. This finding, however, is without prejudice to THI's potential liability for other taxes, whether national or local, should it so engage in other profit-making activities aside from its management of SMC preferred shares and the dividends or interest income resulting therefrom.¹²

It is settled that the CTA's findings can only be disturbed on appeal if they are not supported by substantial evidence, or there is a showing of gross error or abuse on the part of the Tax Court. In the absence of any clear and convincing proof to the contrary, the Court must presume that the CTA rendered a decision which is valid in every respect, as in this case.¹³

Verily, the Court finds no compelling reason to disturb the findings and conclusions of the CTA *EB* as it is supported by prevailing jurisprudence. The assailed Decision and Resolution are hereby **AFFIRMED**.

SO ORDERED.” *Peralta, C.J., no part; Carandang, J., designated Additional Member per Raffle dated March 2, 2020.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *2/12*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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¹² *City of Davao and Bella Linda N. Tanjili, in her capacity as City Treasurer of Davao City v. Randy Allied Ventures Inc.*, supra note 9, at 6.

¹³ *City of Davao v. Rock Steel Resources, Inc.*, G.R. No. 243823, February 11, 2019, p. 2 (Unsigned Resolution).

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