

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

**EN BANC**

**BANGKO SENTRAL NG  
PILIPINAS,**

*Petitioner,*

**CTA EB NO. 2231  
(CTA Case No. 9478)**

Present:

**DEL ROSARIO, PJ  
CASTAÑEDA, JR.,  
UY,  
RINGPIS-LIBAN,  
MANAHAN,  
BACORRO-VILLENA,  
MODESTO-SAN PEDRO,  
REYES-FAJARDO, *and*  
CUI-DAVID, JJ.**

- versus -

**COMMISSIONER OF  
INTERNAL REVENUE,**

*Respondent.*

Promulgated:

**APR 18 2022**

*4:26 pm*

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**DECISION**

***CUI-DAVID, J.:***

Assailed in this Petition for Review<sup>1</sup> filed by petitioner Bangko Sentral ng Pilipinas on February 13, 2020 are the Decision<sup>2</sup> dated September 26, 2019 and the Resolution<sup>3</sup> dated January 16, 2020, both rendered by this Court's Second Division in CTA Case No. 9478 entitled *Bangko Sentral ng Pilipinas vs. Commissioner of Internal Revenue*. The dispositive portion of the assailed Decision and Resolution read as follows:

*Assailed Decision of September 26, 2019:*

**WHEREFORE,** the instant Petition for Review is **DISMISSED**, for lack of jurisdiction.

**SO ORDERED.**

<sup>1</sup> *En Banc* docket, pp. 1-24.

<sup>2</sup> *Id.*, pp. 30-38.

<sup>3</sup> *Id.*, pp. 41-47.

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Assailed Resolution of January 16, 2020:

**WHEREFORE**, the instant Motion for Reconsideration is hereby **DENIED**, for lack of merit.

**SO ORDERED.**

Petitioner Bangko Sentral ng Pilipinas (BSP) prays that the aforesaid Decision and Resolution be reversed; and that a new one be rendered ordering respondent Commissioner of Internal Revenue (CIR) to refund in favor of petitioner the total amount of ₱176,192.00, allegedly representing erroneously paid Documentary Stamp Tax (DST), surcharge and interest.

**THE FACTS AND THE PROCEEDINGS**

The facts, as found by the Court in Division, are as follows:

Petitioner is a government instrumentality created and operating by virtue of Republic Act (RA) No. 7653 (The New Central Bank Act), with principal office at A. Mabini corner P. Ocampo Streets, Malate, Manila. It is registered as a taxpayer with Taxpayer Identification No. 000-691-315.

Respondent is the Commissioner of the Bureau of Internal Revenue (BIR), duly appointed to exercise the powers and perform the duties of his office including, inter alia, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the Tax Code. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On March 22, 2007, petitioner and G7 Bank- Rural Bank of Nabua, Inc. entered into a Restructured Promissory Note with Trust Receipt Agreement and Deed of Assignment, covering the amount of One Hundred Thirty-Four Million Six Hundred Three Thousand Fourteen and 74/100 (₱134,603,014.74).

Thereafter, on December 28, 2007, petitioner and G7 Bank-Rural Bank of Nabua, Inc. entered into a Promissory Note with Trust Receipt Agreement and Deed of Assignment, covering the amount of Four Million Eight Hundred Thousand Pesos (₱4,800,000.00).

Unfortunately, G7 Bank-Rural Bank of Nabua, Inc. defaulted in its obligations. Thus, the mortgaged credits assigned to petitioner were subjected to foreclosure

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proceedings, with petitioner being declared as the highest bidder.

Considering the above foreclosure sales, the BIR assessed respondent for payment of DST, surcharge, interest and compromise penalty. Consequently, petitioner allegedly paid the same, as evidenced by its Credit Advices to the Treasurer of the Philippines on September 29, 2014, November 21, 2014 and September 30, 2014, respectively.

On October 14, 2014 and December 16, 2014, petitioner filed its respective administrative claim for refund. Without action on respondent's part, petitioner was constrained to file the instant Petition on September 28, 2016.

On December 22, 2016, petitioner filed his Answer. On August 30, 2017, both parties filed their Joint Stipulation of Facts and Issues. On December 5, 2017, the Court issued a Pre-Trial Order.

During trial, petitioner presented the following witnesses: (1) Ms. Rhea E. David — Department of Loans and Credits Manager of petitioner; and (2) Ms. Carmela Ruego - Asset Management Department Bank Officer II of petitioner. Petitioner likewise filed its Formal Offer of Evidence on May 28, 2018.

On June 4, 2018, respondent filed his Comment with Manifestation [Re: Petitioner's Formal Offer of Evidence], here respondent manifested that he will no longer present any evidence, among others.

On October 8, 2018, the Court issued a Resolution acting on petitioner's Formal Offer of Evidence and requiring the parties to file their respective memoranda. On November 16, 2018, petitioner filed its Memorandum while on December 3, 2018, respondent filed his Memorandum. On January 4, 2019, the Court issued a Resolution submitting the case for decision.

On September 26, 2019, the Court in Division rendered the assailed Decision dismissing the Petition for Review on jurisdictional ground. The Court in Division ruled that Sections 204 and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the **date of payment** of the tax or penalty. The Court in Division, however, found that the

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subject Credit Advices that were presented by petitioner as proof of payment of the alleged erroneously paid taxes were hearsay evidence. Hence, for the Court in Division, the failure to present proof of prior payment deprives the Court of jurisdiction to determine the merits of the case.

In her *Separate Concurring Opinion*<sup>4</sup>, Associate Justice Cielito N. Mindaro-Grulla agreed that the Petition for Review should be dismissed for lack of jurisdiction, *albeit*, for a different reason. Citing the Supreme Court's ruling in the case of *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue ("PSALM Case")*,<sup>5</sup> Associate Justice Grulla opined that where the disputing parties are all public entities (covers disputes between the BIR and other government entities), the case shall be governed by Presidential Decree No. 242 (PD 242). As such, the Secretary of Justice or the Solicitor General, shall have jurisdiction to administratively settle or adjudicate all disputes and claims solely between government agencies and offices, including government-owned and controlled corporations which are under the executive control and supervision of the President of the Philippines, depending on the issues and government involved.

Not satisfied, petitioner filed on October 18, 2019 a Motion for Reconsideration<sup>6</sup> asking the Court in Division to reconsider its Decision dated September 26, 2019 on the following grounds:

1. Revenue Memorandum Circular (RMC) No. 31-04 dated 26 April 2004 issued by the Bureau of Internal Revenue (BIR) considers the Credit Advice to the Bureau of Treasury (BTr) as "sufficient proof of payment" by the BSP of its tax liabilities;
2. The testimony of the witness from the Asset Management Department (AMD) of BSP is not hearsay evidence; and
3. PD 242 does not apply to the BSP as already decided by this Honorable Court in its Resolution dated 15 February 2018.

Petitioner's Motion for Reconsideration was denied in the equally assailed Resolution dated January 16, 2020. In

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<sup>4</sup> *En Banc* docket, pp. 39-40.

<sup>5</sup> G.R. No. 198146, August 8, 2017.

<sup>6</sup> Vol. II, Court in Division docket, pp. 555-567.

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denying the Motion, the Court in Division added that PD 242 is applicable in this case, citing the ruling of the Supreme Court in the **PSALM Case**<sup>7</sup>. The pertinent portion of the Resolution reads:

**PD 242 is applicable in this Case**

Finally, petitioner argues that PD 242 is not applicable in this case because, pursuant to a Resolution of the CTA 1<sup>ST</sup> Division dated February 15, 2018, it was provided for that petitioner is an independent central monetary authority that enjoys fiscal administrative autonomy.

However, it was categorically declared by the Supreme Court in the case of *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue*, that:

“The law is clear and covers “all disputes claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements. When the law says “all disputes claims and controversies solely “among government agencies, the law means all, without exception. Only those cases already pending in court at the time of the effectivity of PD 242 are not covered by the law.”

On February 13, 2020, petitioner filed a Petition for Review with the Court *En Banc*.

On June 8, 2020, the Court *En Banc* issued a Resolution<sup>8</sup> dismissing the Petition for Review for being filed out of time, the pertinent portion of which reads as follows:

Counting 15 days from January 20, 2020 to file Petition for Review with the Court *En Banc*, the period to appeal expired on February 4, 2020. Furthermore, said petition failed to allege the material dates indicative of the applicable prescriptive period to file the same, in gross violation of Rule 43, Sections 6 and 7 of the Revised Rules of Court.

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<sup>7</sup> *Ibid*.

<sup>8</sup> *En Banc* docket, pp. 183-184.



On July 29, 2020, petitioner filed a Motion for Reconsideration<sup>9</sup> on the Resolution of the Court dated June 8, 2020 insisting that it received the Court in Division's Resolution denying its Motion for Reconsideration on January 29, 2020 and when it filed its Petition for Review with the Court *En Banc* on February 13, 2020, the same was within the fifteen (15)-day period for filing an appeal in accordance with Section 3(b) of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA).

Petitioner attached, as annex to its Motion for Reconsideration, a certified true copy of the Resolution of the Court dated January 16, 2020 with a stamp received by the Office of the General Counsel and Legal Services (OGCLS) of the BSP dated January 29, 2020.

On October 1, 2020, respondent filed his Comment/Opposition (to Petition for Review).

On February 4, 2021, the Court *En Banc* granted petitioner's Motion for Reconsideration and consequently reversed and set aside its Resolution dated June 8, 2020. Considering the filing of respondent's Comment/Opposition, the Court submitted the Petition for Review for decision.<sup>10</sup>

### **THE ISSUES**

The instant Petition for Review is anchored on the following grounds:

- A. RESPONDENT CIR NEVER DISPUTED THE FACT OF PAYMENT BY BSP OF DST;
- B. RMC NO. 31-04 DATED 26 APRIL 2004, AN ADMINISTRATIVE ISSUANCE, HAS THE FORCE AND EFFECT OF LAW;
- C. ADMISSION OF THE CREDIT ADVICE TICKETS PRESENTED BY BSP WOULD NOT VIOLATE THE RULES ON EVIDENCE;
- D. THE CREDIT ADVICE TICKETS PRESENTED BY BSP ARE NOT HEARSAY EVIDENCE AND SHOULD BE GIVEN EVIDENTIARY WEIGHT;

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<sup>9</sup> *Id.*, pp. 185-212.

<sup>10</sup> Resolution, *En Banc* docket (CTA EB No. 1986), pp. 75-76.

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- E. PD 242 IS NOT APPLICABLE TO BSP; AND
- F. BSP IS, BY LAW, EXEMPT FROM PAYMENT OF DST. THUS, IT IS ENTITLED TO THE REFUND OF THE DST IT PAID TO THE BIR.

**Petitioner's arguments:**

Petitioner argues that contrary to the Court in Division's finding, the fact of payment of the DST should not have been considered as an issue, much less a jurisdictional issue since respondent never disputed petitioner's allegations that it paid the DST sought to be refunded.

Petitioner added that even if the fact of payment is a disputed issue, petitioner asserts that it presented competent and admissible proof of payment of DST. According to petitioner, RMC No. 31-04 clearly states that the "*BSP credit advice (Annex A) shall be considered as sufficient proof of payment.*" Considering that RMC No. 31-04 is an administrative issuance of the BIR and that its validity or applicability is not being questioned by respondent, judicial notice must have been taken of the fact that, pursuant to the said RMC, "*BSP is allowed to pay all its internal revenue taxes nationwide by directly crediting the account of the Treasurer of the Philippines (TOP)*" and that "*the BSP credit advice shall be considered as sufficient proof of payment.*"

Petitioner also argues that the admission of the Credit Advice Tickets would be consistent with the Rules on Evidence. According to petitioner, the Credit Advice Tickets are competent evidence as they prove that petitioner paid the DST pursuant to RMC No. 31-04. While the assailed Decision stated that an "*acknowledgment receipt mandated by Section 70 of PD (Presidential Decree) No. 1445 validly serves as proof of remittance or deposit to the Treasury,*" petitioner submits that it cannot produce such an acknowledgment receipt because under RMC No. 31-04, the Credit Advice Tickets are sufficient proof of payment. More, the BIR does not issue any other receipt to BSP. In fact, RMC No. 31-04 only required BSP to attach the credit advices in its tax returns, asserts petitioner.

Petitioner also disagrees with the Court in Division's ruling that Credit Advice Ticket Nos. 16546, 16571, and 20136 are hearsay evidence because "*none of the persons who*

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*prepared or issued the respective Credit Advices were presented before the Court, in violation of the hearsay evidence rule.”*

According to petitioner, while it is true that its witness, Ms. Carmela S. Ruego, was not the person who prepared and issued the subject Credit Advice Tickets, it is clear from her testimony that she participated in the preparation of the subject Credit Advice Tickets since she is the Account Officer of the subject properties. Ms. Ruego also has personal knowledge that Credit Advice Ticket Nos. 16546, 16571, and 20136 were issued particularly for the payment by petitioner of the DST for the subject properties; and that she is competent to testify on the subject Credit Advice Tickets in her capacity as Account Officer of the subject properties and as the official custodian of the documents relative to the said properties.

Further, respondent never raised any objection on the competence of Ms. Ruego to testify on the fact of actual payment and he never questioned the genuineness or authenticity of the subject Credit Advice Tickets. Invoking the ruling of the Supreme Court in *Miralles vs. Go*,<sup>11</sup> where the Supreme Court ruled that public documents made by government officials in the performance of their official functions are not hearsay evidence and are *prima facie* evidence of the facts that they state, petitioner submits that the subject Credit Advice Tickets, being official issuances of petitioner, are public documents as they are written official acts of records of the BSP.

On the application of PD 242 in the instant case, petitioner submits that PD 242 is not applicable to it. According to petitioner, the issue of applicability of PD 242 has already been settled by the CTA First Division, before which this case was originally assigned. The CTA First Division ruled that BSP is an independent central monetary authority that enjoys fiscal and administrative autonomy and, as such, “is not under the exclusive control and supervision of the President, thus, a dispute between petitioner and respondent arising from claim for tax refund is neither governed by PD 242 nor by Chapter 14, Book IV of Executive Order No. 292 (EO 292).”<sup>12</sup>

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<sup>11</sup> G.R. No. 139943, January 18, 2001.

<sup>12</sup> Otherwise known as the Administrative Code of 1987, which took effect on November 24, 1989.

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Petitioner also submits that the **PSALM Case** is not applicable in the instant case for two reasons. First, the **PSALM Case** involves parties which are all under the executive control and supervision of the Office of the President. Petitioner explains that it was created under RA No. 7653 as the independent central monetary authority of the Philippines, meaning, it should not be under the executive branch of the government, nor should it be interfered with by other government agencies. It is an independent body and enjoys fiscal and administrative autonomy unlike the parties in the **PSALM Case**.

Second, the application of PD 242 in the **PSALM Case** is largely hinged on the exclusive power of control and supervision over PSALM, NPC, and the BIR by the Office of the President. Thus, for petitioner, the principle of *stare decisis et non quieta movere* cannot be made to apply in the instant case.

Finally, petitioner asserts that it is entitled to the refund of the DST it paid to the BIR. According to petitioner, Section 199 of the NIRC categorically states that BSP is exempt from DST on transactions related to the conduct of its business. Allegedly, petitioner is empowered under Section 84 of RA No. 7653 to grant emergency loans and advances to banks (secured by mortgage on real properties) as part of its mandate to maintain monetary and financial stability. As testified by Ms. Ruego, petitioner's Asset Management Department is charged with the function of administering, preserving, and disposing real properties acquired by the BSP as payment for loans by banks pursuant to its mandate of controlling liquidity in the financial system.

### **Respondent's counter-arguments:**

By way of *Comment/Opposition (to Petition for Review)*,<sup>13</sup> respondent submits that the instant Petition for Review should be denied for lack of merit. According to respondent, the instant petition is just a reiteration of allegations which the Court in Division had already ruled upon. Respondent likewise maintains that petitioner is not entitled to its claim for refund since it miserably failed to adduce sufficient evidence to support its claim. For respondent, the Court in Division correctly found that no probative value should be given to the Credit Advices. And even if given probative value, the Court in

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<sup>13</sup> *En Banc* docket, pp. 240-242.

Division is still correct in holding that the Credit Advices do not prove payment as it is the Treasurer of the Philippines and depository banks who could attest to the actual receipt of payment from petitioner.

### **THE COURT EN BANC'S RULING**

Before going into the merit of the case, We shall first determine the timeliness of the petition and rule on the issue of jurisdiction.

#### **I. The present Petition for Review was timely filed.**

The timeliness of the filing of the instant Petition for Review has already been addressed and resolved in this Court's Resolution dated February 4, 2021, *viz.*:

A careful perusal of the aforesaid documents as well as the Notice of Resolution dated January 16, 2020 shows that indeed petitioner received the Resolution dated January 16, 2020 of the CTA Second Division on January 29, 2020.

Section 3 (b) of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that a party adversely affected by a decision or resolution of a Division of the Court on motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.

Thus, counting fifteen (15) days from January 29, 2020, petitioner had until February 13, 2020 within which it may file a Petition for Review before the Court *En Banc*.

**Considering that petitioner filed the instant Petition for Review on February 13, 2020, the same was therefore filed on time. (*Emphasis supplied*)**

#### **II. The CTA in Division has jurisdiction to take cognizance of the Petition for Review filed by petitioner BSP in CTA Case No. 9478.**

Jurisdiction is the court's authority to hear and determine a case. The conferment of jurisdiction upon courts or judicial tribunals is derived exclusively from the

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constitution and statutes of the forum.<sup>14</sup> In this jurisdiction, it is a power granted by the Constitution to the Supreme Court and conferred by law to other lower courts to hear and decide cases involving a justiciable controversy. A primary example of jurisdiction conferred by statute is that of this Court - the Court of Tax Appeals (CTA).

The CTA is a highly specialized body specifically created for the purpose of reviewing tax cases. By the nature of its functions, it is dedicated exclusively to the study and consideration of tax problems. For which reason, it is not hard to see why the law vested upon the CTA the **exclusive appellate jurisdiction** to review decisions, orders [and] resolutions in tax cases. From the foregoing, it is easy to see that the CTA is a court of special jurisdiction empowered to hear only certain kinds of cases specified by law. Specifically, as a court of special jurisdiction, the CTA can only try cases permitted by statute, *i.e.*, Republic Act No. (RA) 1125, as amended by RA 9282 and RA 9503.

Section 7 of RA 1125, as amended by RA Nos. 9282 and 9503, outlines the CTA's **exclusive** appellate jurisdiction to resolve all tax-related issues,<sup>15</sup> the pertinent portion of which, provides:

SEC. 7. Jurisdiction. — **The CTA shall exercise:**

(a) **Exclusive appellate jurisdiction to review by appeal**, as herein provided:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; xxx (*Emphasis supplied*)

<sup>14</sup> *People vs. Hermogenes Mariano, et. al.*, G.R. No. 1-40527, June 30, 1976.

<sup>15</sup> *Banco de Oro, et.al. vs. Republic of the Philippines, Commissioner of Internal Revenue et al.*, G.R. No. 198756, January 13, 2015.

In the case of *Commissioner of Internal Revenue vs. Court of Tax Appeals (First Division), et al.*,<sup>16</sup> the Supreme Court held that:

Section 7 of RA 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies<sup>17</sup> on **tax-related problems must be brought exclusively to the Court of Tax Appeals.**

In other words, within the judicial system, **the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems.** (*Emphasis supplied*)

In the case of *Steel Corporation of the Philippines vs. Bureau of Customs, et al.*,<sup>18</sup> the Supreme Court, citing *Banco De Oro vs. Republic of the Philippines*,<sup>19</sup> elucidated on the **exclusive jurisdiction of the CTA to resolve all tax-related issues**, in relation to its jurisdiction to pass upon the constitutionality or validity of a tax law or regulation, *viz.*:

On June 16, 1954, Republic Act No. 1125 created the Court of Tax Appeals not as another superior administrative agency as was its predecessor - the former Board of Tax Appeals - but as a part of the judicial system with **exclusive jurisdiction** to act on appeals from:

- (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;

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Republic Act No. 1125 transferred to the Court of Tax Appeals jurisdiction over all matters involving assessments that were previously cognizable by the Regional Trial Courts (then courts of first instance).

In 2004, Republic Act No. 9282 was enacted. It expanded the jurisdiction of the Court of Tax Appeals and elevated its rank to the level of a collegiate court with special jurisdiction.

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<sup>16</sup> CIR vs. CTA (First Division) and Pilipinas Shell Petroleum Corp., G.R. No. 210501, March 15, 2021; Bureau of Customs, et al. vs. Pilipinas Shell Petroleum Corp., G.R. 211294, March 15, 2021; and Pilipinas Shell Petroleum Corp. vs. CTA (First Division), et al., G.R. No. 212490, March 15, 2021.

<sup>17</sup> Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry.

<sup>18</sup> G.R. No. 220502, February 12, 2018.

<sup>19</sup> G.R. No. 198756, August 16, 2016 (En Banc Resolution).

Section 1 specifically provides that the Court of Tax Appeals is of the same level as the Court of Appeals and possesses "all the inherent powers of a Court of Justice."

Section 7, as amended, grants the Court of Tax Appeals the **exclusive** jurisdiction **to resolve all tax-related issues:**

Section 7. *Jurisdiction.* -The CTA shall exercise:

(a) *Exclusive* appellate jurisdiction to review by appeal, as herein provided:

1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;

2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

xxx                      xxx                      xxx

Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on **tax-related problems must be brought exclusively to the Court of Tax Appeals.**

In other words, within the judicial system, **the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems.** Petitions for writs of *certiorari* against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.

Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. xxx

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With the enactment of R.A. No. 1125, the CTA was granted the **exclusive appellate jurisdiction** to review by appeal all cases involving disputed assessments of internal revenue taxes, customs duties, and real property taxes.<sup>39</sup> In general, it has jurisdiction over cases involving liability for payment of money to the Government or the administration of the laws on national internal revenue, customs, and real property. xxx

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From the clear purpose of R.A. No. 1125 and its amendatory laws, the CTA, therefore, is the proper forum to file the appeal. Matters calling for technical knowledge should be handled by such court as it has the specialty to adjudicate tax, customs, and assessment cases. ... (Emphasis supplied)

In *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (Univation Motor)*,<sup>20</sup> the Supreme Court held that the **CTA is the only entity** that may review the CIR's ruling or inaction in tax refund claims. Thus:

At any rate, Section 7 of Republic Act No. 9282, amending Republic Act No. 1125, provides that the CTA has exclusive appellate jurisdiction over tax refund claims in case the Commissioner fails to act on them:

Sec. 7. *Jurisdiction.* —The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, ...;

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, xxx;

This means that while the Commissioner has the right to hear a refund claim first, if he or she fails to act on it, it will be treated as a denial of the refund, and the **CTA is the only entity that may review this ruling**. Respondent need not wait for the Commissioner to act on its administrative claim for refund. ... (Emphasis supplied)

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<sup>20</sup> G.R. 231581, April 10, 2019.

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Apart from RA 1125 and its amendatory law, RA 9282, the NIRC of 1997, as amended, is clear cut in defining the **exclusive appellate jurisdiction of the CTA** over all matters involving disputed assessments and refunds of internal revenue taxes, fees or other charges, or penalties in relation thereto, *viz.*:

**SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. - ...**

The power to decide disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the **exclusive appellate jurisdiction of the Court of Tax Appeals**. (*Emphases supplied*)

**SEC. 112. Refunds or Tax Credits of Input Tax. - ...**

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the **Court of Tax Appeals**: ... .

**SEC. 228. Protesting of Assessment. - ...**

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the **Court of Tax Appeals** within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Thus, the CTA Second Division (CTA in Division) has the *exclusive* appellate jurisdiction over the tax refund claim filed by BSP in CTA Case No. 9478, by virtue of the NIRC of 1997, as amended, and RA 1125, as amended by RA 9282 and RA 9503. When jurisdiction is exclusive, “no other officer or tribunal can take cognizance of, hear and decide any of the cases therein enumerated.”<sup>21</sup>

As ruled in *Univation Motor*, the **CTA is the only entity** that may review the CIR’s ruling or inaction in tax refund claims.

<sup>21</sup> *Philippine Airlines, Inc. vs. National Labor Relations Commission*, G.R. No. 120567, March 20, 1998, 351 SCRA 172-188.

**III. RA 1125, as amended by RA 9282  
and RA 9503, is the exception to  
general law that is PD 242.**

PD 242, promulgated on July 9, 1973, prescribes the procedures in settling administratively the disputes between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations. As provided in its whereas clauses: (1) there is but one real party in interest the Government itself in such litigations; (2) the dispute contributed to the clogged dockets of the courts, aside from dissipating or wasting the time and energies not only of the courts but also of the government lawyers and the considerable expenses incurred in the filing and prosecution of judicial actions, (3) all the aforementioned offices, agencies, and instrumentalities are under the executive control and supervision of the President of the Philippines.

PD 242 was embodied in EO 292, otherwise known as the “Administrative Code of 1987,” which took effect on November 24, 1989, specifically, in Chapter 14 “Controversies Among Government Offices and Corporations” of Book IV, entitled “Executive Branch.”

Pursuant to the Administrative Code of 1987, the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, shall have jurisdiction to administratively settle or adjudicate all disputes and claims solely between government agencies and offices, including government-owned or controlled corporations which are under the executive control and supervision of the President of the Philippines, depending on the issues and government agencies involved. The purpose is clearly to provide for a speedy and efficient administrative settlement or adjudication of disputes between government offices or agencies under the Executive branch, as well as to filter cases to lessen the clogged dockets of the courts.<sup>22</sup>

On the other hand, RA 1125, as amended by RA 9282, provides for the *exclusive* appellate jurisdiction of the CTA over decisions or inactions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of

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<sup>22</sup> *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue*, G.R. No. 198146, August 8, 2017.





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internal revenue taxes or other matters arising under the NIRC, as amended.

In the case of *Philippine National Oil Company vs. Court of Appeals, et al.* and *Philippine National Bank vs. Court of Appeals, et al.* ("**PNOC Case**"),<sup>23</sup> the Supreme Court abandoned its pronouncement in *Development Bank of the Philippines vs. Court of Appeals, et al.* ("**DBP Case**"),<sup>24</sup> that PD 242 should prevail over RA 1125, and ruled that RA 1125, a special law, is an exception to PD 242, a general law, viz.:

The PNB and DOJ are of the same position that P.D. No. 242, **the more recent law**, repealed Section 7(1) of Rep. Act No. 1125, based on the pronouncement of this Court in *Development Bank of the Philippines v. Court of Appeals, et al.*, quoted below:

The Court ... expresses its entire agreement with the conclusion of the Court of Appeals ... that there is an "irreconcilable repugnancy...between Section 7(2) of R.A. No. 1125 and P.D. No. 242," and hence, that the later enactment (P.D. No. 242), being the latest expression of the legislative will, should prevail over the earlier.

In the said case, it was expressly declared that P.D. No. 242 repealed Section 7(2) of Rep. Act No. 1125, .... PNB contends that P.D. No. 242 should be deemed to have likewise repealed Section 7(1) of Rep. Act No. 1125, which provide for the exclusive appellate jurisdiction of the CTA over decisions of the BIR Commissioner.

After re-examining the provisions on jurisdiction of Rep. Act No. 1125 and P.D. No. 242, this Court finds itself in disagreement with the pronouncement made in *Development Bank of the Philippines v. Court of Appeals, et al.*, and refers to the earlier case of *Lichauco & Company, Inc. v. Apostol, et al.*, for the guidelines in determining the relation between the two statutes in question, to wit:

The cases relating to the subject of repeal by implication all proceed on the assumption that if the act of later date clearly reveals an intention on the part of the law making power to abrogate the prior law, this intention must be given effect; but there must always be a sufficient revelation of this intention, and it has become an unbending rule of statutory construction that the intention to repeal a former law will not be imputed to the Legislature

<sup>23</sup> G.R. Nos. 109976 and 112800. April 26, 2005.

<sup>24</sup> G.R. No. 86625, December 22, 1989.

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when it appears that the two statutes, or provisions, with reference to which the question arises bear to each other the relation of general to special. (Underscoring ours.)

When there appears to be an inconsistency or conflict between two statutes and one of the statutes is a **general law**, while the other is a **special law**, then repeal by implication is not the primary rule applicable. The following rule should principally govern instead:

Specific legislation upon a particular subject is not affected by a general law upon the same subject unless it clearly appears that the provisions of the two laws are so repugnant that the legislators must have intended by the later to modify or repeal the earlier legislation. The special act and the general law must stand together, the one as the law of the particular subject and the other as the general law of the land. (*Ex Parte United States*, 226 U. S., 420; 57 L. ed., 281; *Ex Parte Crow Dog*, 109 U. S., 556; 27 L. ed., 1030; *Partee vs. St. Louis & S. F. R. Co.*, 204 Fed. Rep., 970.)

**Where there are two acts or provisions, one of which is special and particular, and certainly includes the matter in question, and the other general, which, if standing alone, would include the same matter and thus conflict with the special act or provision, the special must be taken as intended to constitute an exception to the general act or provision, especially when such general and special acts or provisions are contemporaneous, as the Legislature is not to be presumed to have intended a conflict.** (*Crane v. Reeder and Reeder*, 22 Mich., 322, 334; *University of Utah vs. Richards*, 77 Am. St. Rep., 928.)

It has, thus, become an established rule of statutory construction that between a **general law** and a **special law**, **the special law prevails** - *Generalia specialibus non derogant*.

Sustained herein is the contention of private respondent Savellano that **P.D. No. 242 is a general law** that deals with administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations. Its coverage is broad and sweeping, encompassing all disputes, claims and controversies. It has been incorporated as Chapter 14, Book IV of E.O. No. 292, otherwise known as the Revised Administrative Code of the Philippines. On the other hand, **Rep. Act No. 1125 is a**

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**special law** dealing with a specific subject matter – the creation of the CTA, which shall exercise exclusive appellate jurisdiction over the tax disputes and controversies enumerated therein. (Emphasis supplied)

Based on the above ruling, in 1989, the **DBP Case** was promulgated where the Supreme Court declared that PD 242 repealed Section 7 (2) of RA 1125. Accordingly, PD 242, the later enactment, being the latest expression of the legislative will, should prevail over the earlier law, RA 1125.

In 2005, the Supreme Court reversed itself in **PNOC Case** and held that:

Following the rule on statutory construction involving a general and a special law previously discussed, then P.D. No. 242 should not affect Rep. Act No. 1125. Rep. Act No. 1125, specifically Section 7 thereof on the jurisdiction of the CTA, constitutes an exception to P.D. No. 242. Disputes, claims and controversies, falling under Section 7 of Rep. Act No. 1125, even though solely among government offices, agencies, and instrumentalities, including government-owned and controlled corporations, remain in the exclusive appellate jurisdiction of the CTA. Such a construction resolves the alleged inconsistency or conflict between the two statutes, xxx. <sup>25</sup>(Emphasis supplied)

**PD 242 is a general law** that deals with administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations. Its coverage is broad and sweeping, encompassing all disputes, claims and controversies. It has been incorporated as Chapter 14, Book IV of EO 292, the Revised Administrative Code of the Philippines. On the other hand, **RA 1125 is a special law** dealing with a specific subject matter – the creation of the CTA, which shall exercise *exclusive* appellate jurisdiction over the tax disputes and controversies enumerated therein. <sup>26</sup> Following the rule on statutory construction involving a general and a special law previously discussed, RA 1125, on the jurisdiction of the CTA, constitutes an exception to PD 242. <sup>27</sup>

Clearly, PD 242 cannot divest CTA of its judicial power to exercise jurisdiction over the present controversy. From the

<sup>25</sup> *Commissioner of Internal Revenue vs. Secretary of Justice and Philippine Amusement and Gaming Corporation*, G.R. No. 177387, November 9, 2016.

<sup>26</sup> *Philippine National Oil Company vs. Court of Appeals*, supra.

<sup>27</sup> *Id.*

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way the relevant provisions in PD 242 are worded, it simply serves as a general rule that all disputes, claims, and controversies between or among government offices and agencies, including government-owned or controlled corporations, under the executive branch, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General or the Government Corporate Counsel, depending on the issues and the government agencies involved.<sup>28</sup>

Accordingly, RA 1125, as amended by RA 9282 (enacted in 2004), being a special and later law, prevails over PD 242 (enacted in 1973), a general and earlier law, which was incorporated in EO 292 (enacted in 1989). Further, RA 1125, as amended, works as an exception to PD 242, that is, when it comes to decisions and inaction of the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR, the CTA shall have *exclusive* appellate jurisdiction.

Moreover, Section 17 of RA 9282 has expressly repealed “all laws” inconsistent with or contrary to its provisions. It should be deemed to have repealed the pertinent provisions of PD 242 which are in conflict with RA 1125, as amended by RA 9282, specifically Section 7 thereof on the jurisdiction of the CTA. Thus:

Section 17. Repealing Clause. - All laws, executive orders, executive issuances or letter of instructions, or any part thereof, **inconsistent with or contrary to the provisions of this Act** are hereby **deemed repealed, amended or modified accordingly.** (Emphases supplied)

It is worthy to emphasize that if there is an “irreconcilable repugnancy” between the laws, as held in the **DBP Case**, the later enactment (RA 9282), being the latest expression of the legislative will, should prevail over the earlier (PD 242).

Hence, disputes, claims and controversies, falling under Section 7 of RA 1125, even though **solely** among government offices, agencies, and instrumentalities, including government-owned and controlled corporations, remain in the **exclusive**

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<sup>28</sup> *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue*, G.R. No. 198146, August 8, 2017.

appellate jurisdiction of the CTA. Such a construction resolves the alleged inconsistency or conflict between the two statutes.<sup>29</sup>

#### **IV. The CTA has undoubted expertise in tax cases.**

More importantly, the CTA is in the best position to handle tax cases effectively and efficiently due to its expertise on the subject. This is evident in the *Abstract of House Bill No. 6673* where it is shown that RA 9282 was enacted to avoid delays in the final disposition of tax cases, to effectively change and maximize the development of jurisprudence and judicial precedence on all tax matters, and to improve tax collection, to wit:

**The bill seeks to lodge with the Court of Tax Appeals (CTA) both criminal and civil jurisdictions over tax and customs cases in order to avoid needless delays in the final disposition of such cases. The vesting of both criminal and civic jurisdictions of a tax case in one court will likewise effectively change and maximize the development of jurisprudence and judicial precedence on all tax matters which is of vital importance to revenue administration.** The bill also seeks to elevate the rank of the CT A to the level of the Sandiganbayan, widen its organizational structure and expand its jurisdiction. **The approval of the bill is seen to improve the tax collection efficiency of the Bureau of Internal Revenue, the Bureau of Customs and other revenue collecting agencies of the government.**  
(Emphases supplied)

As a specialized court dedicated exclusively to the resolution of tax problems, the CTA has developed an expertise on the subject of taxation.<sup>30</sup>

This expertise of the CTA in tax matters was stressed in *Macario Lim Gaw, Jr. vs. CIR*,<sup>31</sup> where it was stated that the “CTA has developed an expertise on the subject of taxation because it is a specialized court dedicated exclusively to the study and resolution of tax problems.”

In ***PNOC Case***, the Supreme Court, rejecting the Department of Justice’s (DOJ’s) jurisdiction, held that:

<sup>29</sup> Philippine National Oil Company vs. CA, supra.

<sup>30</sup> *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 221694, January 19, 2021; *Pilipinas Shell Petroleum Corp. vs. Commissioner of Internal Revenue*, G.R. No. 211779, November 3, 2020.

<sup>31</sup> G.R. No. 222837, July 23, 2018.

The ends of justice were best served when the CTA continued to exercise its jurisdiction over CTA Case No. 4249. **The CTA**, which had assumed jurisdiction over all the parties to the controversy, **could render a comprehensive resolution of the issues raised and grant complete relief to the parties.**

Similarly, in **PSALM Case**, then Justice Mariano Del Castillo opined that:

Unlike the Secretary of Justice, **the BIR and the CTA have developed expertise on tax matters.** It is only but logical that they should have exclusive jurisdiction to decide on these matters. The authority of the Secretary of Justice under PD 242 to settle and adjudicate all disputes, claims and controversies between or among national government offices, agencies and instrumentalities, including government-owned or controlled corporations, therefore, does not include tax disputes, which are clearly under the jurisdiction of the BIR and the CTA.<sup>32</sup>

Thus, all tax disputes and issues should fall under the exclusive jurisdiction of the CTA.

**V. Recent jurisprudence also show that the Supreme Court recognized the CTA's jurisdiction over tax issues involving national governmental agencies.**

In **PSALM Case**, the Supreme Court held that under PD 242, all disputes and claims *solely* between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved. The Supreme Court explained:

...we find that the DOJ is vested by law with jurisdiction over this case. This case involves a dispute between PSALM and NPC, **which are both wholly government-owned corporations, and the BIR, a government office**, over the imposition of VAT on the sale of the two power plants. There is no question that original jurisdiction is with the CIR, who issues the

<sup>32</sup> Dissenting Opinion of Justice Del Castillo in Power Sector Assets and Liabilities Management Corp. vs. Commissioner of Internal Revenue, G.R. No. 198146, August 8, 2017.

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preliminary and the final tax assessments. However, if the government entity disputes the tax assessment, the dispute is already between the BIR (represented by the CIR) and another government entity, in this case, the petitioner PSALM. Under PD 242, all disputes and claims *solely* between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.

...

The law is clear and covers "***all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements.***" When the law says "all disputes, claims and controversies solely" among government agencies, the law means ***all, without exception.*** ...

The purpose of PD 242 is to provide for a speedy and efficient administrative settlement or adjudication of disputes between government offices or agencies ***under the Executive branch***, as well as to filter cases to lessen the clogged dockets of the courts. ...

... ***PD 242 will only apply when all the parties involved are purely government offices and government-owned or controlled corporations.*** Since this case is a dispute between PSALM and NPC, both government-owned and controlled corporations, and the BIR, a National Government office, PD 242 clearly applies and the Secretary of Justice has jurisdiction over this case.

...

It is only proper that intra-governmental disputes be settled administratively since the ***opposing government offices, agencies and instrumentalities are all under the President's executive control and supervision.*** ...

This power of control vested by the Constitution in the President cannot be diminished by law. ...

...

Furthermore, it should be noted that the 1997 NIRC is a general law governing the imposition of national internal revenue taxes, fees, and charges. ***On the other hand, PD 242 is a special law that applies only to***

**disputes involving solely government offices, agencies, or instrumentalities. ...**

**Thus, even if the 1997 NIRC, a general statute, is a later act, PD 242, which is a special law, will still prevail and is treated as an exception to the terms of the 1997 NIRC with regard solely to intragovernmental disputes.<sup>33</sup>**

Notably, before the **PSALM Case** was promulgated in August 2017, the Supreme Court made a pronouncement in the case of *Commissioner of Internal Revenue vs. Secretary of Justice, and Philippine Amusement and Gaming Corporation*<sup>34</sup> (*PAGCOR Case*), to the effect that the Secretary of Justice has **no jurisdiction** to review disputed assessments in light of the ruling in the **PNOC Case**, viz.:

**The Secretary of Justice has no jurisdiction to review the disputed assessments**

The petitioner contends that it is the Court of Tax Appeals (CTA), not the Secretary of Justice, that has the exclusive appellate jurisdiction in this case, pursuant to Section 7(1) of Republic Act No. 1125 (R.A. No. 1125), which grants the CTA the exclusive appellate jurisdiction to review, among others, the decisions of the Commissioner of Internal Revenue "in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (NIRC) or other law or part of law administered by the Bureau of Internal Revenue."

PAGCOR counters, however, that it is the Secretary of Justice who should adjudicate the dispute by virtue of Chapter 14 of the *Revised Administrative Code of 1987*, which provides: ...

**We disagree with the action of the Secretary of Justice."**

... Upon becoming aware of the new proper construction of P.D. No. 242 in relation to R.A. No. 1125 pronounced in *Philippine National Oil Company v. Court of Appeals*, therefore, the **Secretary of Justice should have desisted from dealing with the petitions, and referred them to the CTA**, instead of insisting on exercising jurisdiction thereon. Therein lay the grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Secretary of Justice, for he thereby acted arbitrarily and capriciously in ignoring the pronouncement

<sup>33</sup> Power Sector Assets and Liabilities Management Corp. vs. Commissioner of Internal Revenue, *Supra*.

<sup>34</sup> G.R. No. 177387, November 9, 2016.



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in *Philippine National Oil Company v. Court of Appeals*. Indeed, the doctrine of *stare decisis* required him to adhere to the ruling of the Court, which by tradition and conformably with our system of judicial administration speaks the last word on what the law is, and stands as the final arbiter of any justiciable controversy. In other words, there is only one Supreme Court from whose decisions all other courts and everyone else should take their bearings. (Emphasis supplied)

To harmonize Section 4 of the 1997 NIRC with PD 242, and to address the issue on jurisdiction in the settlement of intra-governmental tax disputes and claims, the Supreme Court, in **PSALM Case**, held that:

The Court of Appeals ruled that under the 1997 NIRC, the dispute between the parties is within the authority of the CIR to resolve. Section 4 of the 1997 NIRC reads:

SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the **Commissioner, subject to review by the Secretary of Finance.**

The power to decide disputed assessments, refunds in internal revenue taxes, fees or other charges, penalties imposed in relation thereto, ... is vested in the **Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.**

The first paragraph of Section 4 of the 1997 NIRC provides that the power of the CIR to interpret the NIRC provisions and other tax laws is subject to review by the Secretary of Finance, who is the alter ego of the President. Thus, the constitutional power of control of the President over all the executive departments, bureaus, and offices is still preserved. The President's power of control, which cannot be limited or withdrawn by Congress, means the power of the President to alter, modify, nullify, or set aside the judgment or action of a subordinate in the performance of his duties.

The second paragraph of **Section 4 of the 1997 NIRC**, providing for the exclusive appellate jurisdiction of the CTA as regards the CIR's decisions on matters involving disputed assessments, refunds in internal revenue taxes, fees or other

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charges, penalties imposed in relation thereto, or other matters arising under NIRC, **is in conflict with PD 242**. Under PD 242, all disputes and claims solely between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.

**To harmonize Section 4 of the 1997 NIRC with PD 242**, the following interpretation should be adopted: (1) As regards private entities and the BIR, the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR is vested in the CIR subject to the exclusive appellate jurisdiction of the CTA, in accordance with Section 4 of the NIRC; and (2) Where the disputing parties are all public entities (covers disputes between the BIR and other government entities), the case shall be governed by PD 242. (Emphasis supplied)

Notwithstanding the above ruling in *PSALM*, the Supreme Court has consistently recognized the CTA's jurisdiction over cases involving controversies between government offices and corporations, specifically between the BIR and other government entities.

In a November 2017 case also involving PAGCOR, entitled *PAGCOR vs. The Commissioner of Internal Revenue and the Head Revenue Executive Assistant, Large Taxpayer Service*,<sup>35</sup> the Supreme Court remanded to the CTA the determination of the final amount to be paid by PAGCOR.

In a July 2019 case involving *PSALM* itself, entitled *PSALM vs. Commissioner of Internal Revenue*,<sup>36</sup> the Supreme Court cancelled an assessment made by respondent without divesting the CTA of its jurisdiction. It bears to note that in this case, the Supreme Court mentioned about the 2017 ***PSALM Case***, but did not make any pronouncement as to the jurisdiction of the Secretary of Justice to settle all intra-governmental tax disputes, pursuant to PD 242 and EO 292.

In a 2020 case entitled *Commissioner of Internal Revenue vs. Bases Conversion and Development Authority* ("BCDA"),<sup>37</sup> the Supreme Court ruled on the issue of whether the BCDA, a

<sup>35</sup> G.R. Nos. 210689, 210704 and 210725, November 22, 2017.

<sup>36</sup> G.R. No. 226556, July 3, 2019.

<sup>37</sup> G.R. No. 217898, January 15, 2020.

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government instrumentality, is exempt from Creditable Withholding Tax on the sale of its Global City properties without questioning the CTA's exercise of jurisdiction over the controversy.

And most recently, in *Bases Conversion and Development Authority vs. Commissioner of Internal Revenue*,<sup>38</sup> the Supreme Court even remanded the case which involves the BCDA as one of the parties back to the CTA for further proceedings.

Clearly, to date, and despite the ruling in the **PSALM Case**, the Supreme Court acknowledges the CTA's exercise of jurisdiction over tax cases between or among national government entities.

Following these pronouncements therefore, the Court in Division has undoubted jurisdiction to try the present controversy. To rule that the CTA has no jurisdiction over tax cases between and among the national government entities will create a dangerous precedent and raise the question as to whether similar cases already decided by the CTA should be voided. The prevailing rule should be that where there is want of jurisdiction over a subject matter, the judgment is rendered null and void. A void judgment is in legal effect no judgment, by which no rights are divested, from which no right can be obtained, which neither binds nor bars any one, and under which all acts performed and all claims flowing out are void.<sup>39</sup>

**VI. Even assuming, for the sake of argument, that PD 242 prevails over RA 1125, as amended by RA Nos. 9282 and 9503, still, the Court in Division has jurisdiction to take cognizance of petitioner's Petition for Review in CTA Case No. 9478.**

Petitioner maintains that PD 242 does not strip this Court of jurisdiction to rule on tax cases involving the BSP.<sup>40</sup> BSP is NOT under the executive branch of government. It is not a government entity under the sole control of the President. Accordingly, the present petition does not fall under the cases which should be resolved under PD 242.<sup>41</sup>

<sup>38</sup> G.R. No. 205466, January 11, 2021.

<sup>39</sup> *Sebastian vs. Spouses Cruz, et al.*, G.R. No. 220940, March 20 2017.

<sup>40</sup> Par. 62, Petition for Review, CTA Case EB No. 2231 (CTA Case No. 9478), p. 18.

<sup>41</sup> Paragraphs 14 and 15, Position Paper of BSP dated December 27, 2017 in CTA Case No. 9478, p. 248.

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Petitioner further contends that the issue of applicability of PD 242 has already been settled by the CTA First Division, before which this case was originally assigned.<sup>42</sup> In the said Resolution,<sup>43</sup> the CTA First Division ruled that BSP is an independent central monetary authority that enjoys fiscal and administrative autonomy and, as such, “is not under the exclusive control and supervision of the President, thus, a dispute between petitioner and respondent arising from claim for tax refund is **neither governed by PD 242<sup>44</sup> nor by Chapter 14, Book IV of EO 292.**”<sup>45</sup>

The Court *En Banc* agrees with petitioner.

Even if PD 242 should prevail over RA 1125, as amended by RA 9282 and RA 9503, the present dispute would still not be covered by PD 242. PD 242 explicitly provides that only disputes, claims and controversies **solely** between or among departments, bureaus, offices, agencies, and instrumentalities of the National Government, including government-owned and controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.

As correctly pointed out by the petitioner, BSP, a government-owned corporation, was established **to be an independent central monetary authority that enjoys fiscal and administrative autonomy**. The independence of the central monetary authority means that it should not be under the executive branch of the government, nor should it be interfered with by other government agencies.<sup>46</sup>

Section 20, Article XII of the 1987 Constitution states:

Section 20. The Congress shall establish an **independent central monetary authority**, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the **private sector**. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall

<sup>42</sup> Par. 52, Petition for Review, CTA Case EB No. 2231 (CTA Case No. 9478), p. 16.

<sup>43</sup> Resolution promulgated on February 15, 2018 by the First Division in CTA Case No. 9478, pp. 264-270.

<sup>44</sup> PRESCRIBING THE PROCEDURE FOR ADMINISTRATIVE SETTLEMENT OR ADJUDICATION OF DISPUTES, CLAIMS AND CONTROVERSIES BETWEEN OR AMONG GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, AND FOR OTHER PURPOSES.

<sup>45</sup> Par. 53, Petition for Review, CTA Case EB No. 2231 (CTA Case No. 9478), p. 16.

<sup>46</sup> Par. 13, Position Paper of BSP dated December 27, 2017 in CTA Case No. 9478, p. 248.

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provide policy direction in the areas of money, banking, and credit. It shall have supervision over operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

Until the Congress otherwise provides, the Central Bank of the Philippines operating under existing laws, shall function as the central monetary authority.

Relatedly, Sections 1 and 2 of RA 7653, otherwise known as The New Central Bank Act, provide:

Section 1. *Declaration of Policy.* – The State shall maintain a central monetary authority that shall function and operate as an **independent and accountable body corporate** in the discharge of its mandated responsibilities concerning money, banking and credit. In line with this policy, and considering its unique functions and responsibilities, the central monetary authority established under this Act, **while being a government-owned corporation, shall enjoy fiscal and administrative autonomy.**

Section 2. *Creation of the Bangko Sentral.* – There is hereby established an independent central monetary authority, which shall be a body corporate known as the Bangko Sentral ng Pilipinas, hereafter referred to as the Bangko Sentral.

While respondent CIR is under the President's executive control and supervision, petitioner **BSP is neither under the Executive Branch of the government nor under the President's supervision and control** to fall within the ambit of PD 242. Thus, the dispute between the parties in this case, which involves a claim for refund of erroneously paid documentary stamp tax, **is NOT governed by PD 242.**

Instead, Section 4 of the NIRC of 1997, as amended, and Section 3 (a) (2), Rule 4 of the RRCTA, in relation to Section 7 (a) (2) of RA 9282, which define the exclusive appellate jurisdiction of the CTA shall apply, *viz.:*

Section 4 of the NIRC of 1997

SEC 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.



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The power to decide disputed assessments, refunds in internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, **subject to the exclusive appellate jurisdiction of the Court of Tax Appeals**. (Emphasis supplied)

Section 3 (a) (2), Rule 4 of the RRCTA

SEC. 3. Cases within the jurisdiction of the Court in Divisions. — The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

... ..

(2) **Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, ... ; (Emphasis supplied)

Section 7 (a) (2) of RA 9282<sup>47</sup>

Sec. 7. Jurisdiction. - The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

... ..

(2) **Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes**, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; ... (Emphasis supplied)

Accordingly, petitioner is not required to go through the procedure prescribed in PD 242 and EO 292. Thus, the CTA in Division has jurisdiction to take cognizance of BSP's Petition for Review in CTA Case No. 9478.

<sup>47</sup> AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

x-----x

**VII. Even assuming, for the sake of argument, that BSP is a government-owned corporation under the executive branch of government, and therefore covered by PD 242, still, the Court in Division has jurisdiction to take cognizance of petitioner's Petition for Review in CTA Case No. 9478.**

When BSP filed the Petition for Review on September 28, 2016 before the CTA in Division, the prevailing doctrine then was the ruling in ***PNOC Case*** that disputes, claims and controversies, falling under Section 7 of RA 1125, even though *solely* among government offices, agencies, and instrumentalities, including government-owned and controlled corporations, remain in the *exclusive* appellate jurisdiction of the CTA. BSP should not be blamed for bringing its appeal to the CTA. Neither should the CTA be faulted for entertaining the subject Petition.

In the 2016 ***PAGCOR Case***,<sup>48</sup> the Supreme Court has this to say:

... the Secretary of Justice should not be taken to task for initially entertaining the petitions considering that the prevailing interpretation of the law on jurisdiction at the time of their filing was that he had jurisdiction. Neither should PAGCOR to blame in bringing its appeal to the DOJ on January 5, 2004 and August 4, 2004 because the prevailing rule then was the interpretation in *Development Bank of the Philippines v. Court of Appeals*. The emergence of the later ruling was beyond PAGCOR's control. Accordingly, the lapse of the period within which to appeal the disputed assessments to the CTA could not be taken against PAGCOR. **While a judicial interpretation becomes a part of the law as of the date that the law was originally passed, the reversal of the interpretation cannot be given retroactive effect to the prejudice of parties who may have relied on the first interpretation.**

**...To dismiss the petitions in order to have PAGCOR bring a similar petition in the CTA would not serve the interest of justice.** On previous occasions, the Court has overruled the defense of jurisdiction in the interest of public welfare and for the advancement of public policy whenever, as in this case, an extraordinary situation existed. (Emphasis supplied)

*MW*

<sup>48</sup> G.R. No. 177387, November 9, 2016. Supra.

Thus, while a judicial interpretation becomes part of the law as of the date that the law was originally passed, the reversal of the interpretation cannot be given retroactive effect to the prejudice of parties who may have relied on the first interpretation.

Applying the foregoing ruling, the **PSALM Case** decided by the Supreme Court in 2017 should be applied prospectively and should not affect the cases already pending before the Court. To dismiss the pending petition in order to bring a similar petition before the Secretary of Justice would not serve the interest of justice.

Accordingly, petitioner correctly lodged its judicial claim for refund before the CTA, and the Court in Division has jurisdiction to take cognizance of the same.

**VIII. The PSALM case is not in all fours with the present case.**

In **PSALM Case**, the Supreme Court ruled that under PD 242, the DOJ Secretary, and not the CTA, had jurisdiction over the case which involves the issue of whether the sale of the Pantabangan-Masiway Plant and Magat Plant is subject to Value-Added Tax (VAT).

Notably, the facts involved in PSALM differ from the traditional tax assessment cases elevated before the CTA.

A distinct element of said case is the presence of a Memorandum of Agreement (“MOA”) executed among PSALM, BIR and the National Power Corporation (“NPC”) with respect to the payment of alleged deficiency VAT arising from the sale of NPC of two power plants. Following the MOA, NPC and PSALM will pay under protest to the BIR basic VAT amounting to Php3,813,080,472.00. NPC, PSALM and the BIR further undertook in the MOA that they will seek resolution of the issue on the deficiency VAT before the appropriate court or body, and that the ruling of such court or body will be immediately executory without need of notice or demand from the NPC or PSALM. Finally, a DOJ ruling that is favorable to NPC and PSALM shall be tantamount to filing of an application for refund.



PSALM then paid the deficiency VAT pursuant to the MOA. Thereafter, PSALM filed with the DOJ a Petition for the adjudication of the dispute with the BIR to resolve the issue of whether the sale of the power plants should be subject to VAT. The DOJ ruled in favor of PSALM, declaring the deficiency VAT assessment null and void. The CIR then questioned the jurisdiction of the DOJ via a Petition for Certiorari with the Court of Appeals ("CA"), reasoning that the dispute involved tax laws administered by the BIR and therefore within the jurisdiction of the CTA. The CA declared that the DOJ committed grave abuse of discretion amounting to lack of jurisdiction in issuing the ruling for it was the CTA who had jurisdiction. PSALM appealed to the Supreme Court which decreed that the DOJ indeed has jurisdiction.

The Supreme Court in *University of the East vs. Veronica M. Masangkay*<sup>49</sup> provided that in order to apply the principle of *stare decisis*, the facts and issues of the subject case must be in all fours with the factual milieu of the case precedent sought to be utilized, *to wit.*:

Applying said principle, the CA held that Our ruling in *University of the East v. Adelia Rocamora* is a precedent to the case at bar, involving, as it does, herein respondents' co-author and tackling the same violation-the alleged plagiarism of the very same materials subject of the instant case.

In this petition, UE, however, asserts that the case of respondents substantially varies from Rocamora so as not to warrant the application of said rule.

Indeed, the CA erred when it relied on Our ruling in *University of the East v. Adelia Rocamora* in resolving the present dispute. Our decision in *Rocamora*, rendered via a Minute Resolution, is not a precedent to the case at bar even though it tackles the same violation-the alleged plagiarism of the very same materials subject of the instant case, which was initiated by respondents' co-author. This is so since respondents are simply not similarly situated with Rocamora so as to warrant the application of the doctrine of *stare decisis*.

**A legal precedent is a principle or rule established in a previous case that is either binding on or persuasive for a court or other tribunal when deciding subsequent cases with similar issues or facts.**

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<sup>49</sup>G.R. No. 226727, April 25, 2018.

Here, **We find that the Rocamora case is not on all fours with the present dispute, thereby removing it from the application of the principle of stare decisis.** *First*, herein respondents categorically represented to UE under oath that the Manuals were free from plagiarism-an act in which their co-author Rocamora did not participate. *Second*, respondents benefited financially from the sale of the Manuals while Rocamora did not. *Third*, respondents acquiesced to UE's decision to terminate their services and even requested the release of and thereafter claimed the benefits due them. (*Emphasis supplied*)

Thus, in order for the ruling in the **PSALM Case** to be equally applicable to the present controversy, there must be a similarity in the facts and issues involved in both cases. The facts involved in PSALM and the present case are outright different.

In the case at bar, the facts involved are as follows: a) petitioner acquired real properties through foreclosure sale. As a result of such sale, the BIR assessed petitioner Capital Gains Tax and DST. Despite objecting to its imposition, petitioner was constrained to pay the DST in order to transfer the properties in its name; b) petitioner protested the assessment and collection of DST with respondent and requested that the amount it paid be refunded; c) This request for refund was not acted upon by respondent; and, d) petitioner filed a Petition for Review before the Court in Division.

Clearly, there is a difference in the factual circumstances between the **PSALM Case** and the present controversy. In the **PSALM Case**, there was no decision or inaction (on a disputed assessment, refund of internal revenue taxes or other matters involving the application of the provision of the *NIRC*) to speak of as the actions of the parties were governed by the MOA. Hence, PSALM could not have sought recourse with the CTA, even if it wanted to, as the CTA would have no jurisdiction over the same. It is noteworthy that should PSALM have proceeded in filing a case with the CTA, it was availing of an original action before the CTA for the purpose of interpreting the MOA, a matter that does not fall within the jurisdiction of the CTA.<sup>50</sup> Hence, with the execution of the MOA, the CIR and PSALM have voluntarily submitted to the jurisdiction, power and authority of the DOJ.

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<sup>50</sup>Section 3, Rule 4, Revised Rules of the CTA.

On the other hand, this is not the situation involved in the instant case wherein petitioner's cause of action is hinged upon a law, specifically *Section 7 (a) (2) of RA 1125, as amended by RA 9282 and RA 9503*, particularly on the application of the CTA's "refund" jurisdiction, a law not even considered and discussed with much weight in the **PSALM Case**. Hence, absent any agreement between or among the parties on the voluntary submission of the tax issues to the DOJ, the default provision on CTA's exclusive appellate jurisdiction should prevail.

On this note, the principle of *stare decisis* is unavailing to the present case. Thus, the doctrines and principles enunciated in the **PSALM Case** are inapplicable to the present controversy.

Resolving now the merit of the case.

It must be recalled that in the assailed Decision and Resolution of the Court in Division, the dismissal of petitioner's original Petition for Review is also grounded on petitioner's alleged failure to prove the fact of payment of the subject DST. The Court in Division ruled that the pieces of evidence presented by petitioner, *i.e.*, Credit Advice Tickets Nos. 16546, 16571, and 20136 could not be given credence for being hearsay as none of the persons who prepared or issued the respective Credit Advices were presented before the Court in violation of the hearsay evidence rule.

In assailing the foregoing ruling of the Court in Division, petitioner argues that the fact of payment of the DST should not have been considered as an issue, much more a jurisdictional issue since respondent never questioned the fact of payment and never disputed the allegations that petitioner paid the DST sought to be refunded. Even assuming that the fact of payment is a disputed issue, petitioner asserts that it presented competent and admissible proof of payment pursuant to RMC No. 31-04.

The Court *En Banc* agrees with petitioner.

**RMC No. 31-04 dated April 26, 2004,**  
**being an administrative issuance, has**  
**the force and effect of law.**

RMC No. 31-04 provides:

REVENUE MEMORANDUM CIRCULAR NO. 31-04

**SUBJECT : Payment of Internal Revenue Taxes by the Bangko Sentral ng Pilipinas through its Checkless Payment System**

**TO :** All Internal Revenue Officials, Employees and Others Concerned

To all internal revenue officials and others concerned, please be informed that:

A. The Bangko Sentral ng Pilipinas (BSP) in compliance to R.A. 8792 or the Electronic Commerce Act is currently implementing its Checkless Payment System;

B. The BSP is allowed to pay all its internal revenue taxes nationwide by directly crediting the account of the Treasurer of the Philippines (TOP);

C. Relative hereto, **the following policies and guidelines are hereby prescribed:**

1. The **BSP shall:**

a) File their tax returns together with the attached Direct Credit Advice, as proof of payment, to the Revenue District Offices having jurisdiction over the transaction/collection;

Note: The **BSP credit advice** (Annex A) shall be considered as sufficient proof of payment.

Revenue Memorandum Circulars, such as RMC No. 31-04, are considered administrative rulings which are issued from time to time by the CIR.<sup>51</sup> Executive officials are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the law, and to have formed an independent, conscientious and competent expert opinion thereon. The courts give much weight to contemporaneous construction because of the respect due the government agency or officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they frequently are the drafters of the law they interpret.<sup>52</sup>

<sup>51</sup> *Asia International Auctioneers, Inc. vs. Parayno, et al.*, G.R. No. 163445, December 18, 2007; *Philippine Bank of Communications vs. Commissioner of Internal Revenue*, G.R. No. 112024, January 28, 1999.

<sup>52</sup> *Nestle Philippines vs. Court of Appeals, et al.*, G.R. No. 86738, November 13, 1991, 203 SCRA 504 citing *Abeno, et al. vs. Hon. Dela Cruz, et al.*, 149 SCRA 654; *Asturias Sugar Central, Inc. vs. Commissioner of Customs*, 29

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In the case of *Abakada Guro Party List, et al. vs. Hon. Cesar V. Purisima, et al.*,<sup>53</sup> the Supreme Court ruled that administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law and are entitled to respect, to wit:

**Administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law and are entitled to respect.** Such rules and regulations partake of the nature of a statute and are just as binding as if they have been written in the statute itself. **As such, they have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case** by a competent court. (*Emphases supplied*)

Considering that RMC No. 31-04 is an administrative issuance of the BIR and that its validity or applicability is not being questioned by respondent, judicial notice must have been taken of the fact that, pursuant to RMC No. 31-04, petitioner is allowed to pay all its internal revenue taxes by directly crediting the account of the Treasurer of the Philippines and of the fact that the Credit Advice Tickets shall be considered as sufficient proof of payment.

The Court likewise agrees with petitioner's contention that the testimony of the witness from its Asset Management Department (AMD), Ms. Carmela S. Ruego, is not hearsay evidence.

First, it is well to emphasized that RMC No. 31-04 was crafted in view of petitioner's implementation of its Checkless Payment System in compliance to RA 8792 or the **Electronic Commerce Act**.

Sections 1 and 2, Rule 8 of the Rules on Electronic Evidence, state:

RULE 8  
**Business Records as Exception to the Hearsay Rule**

SECTION 1. *Inapplicability of the hearsay rule.* — A memorandum, report, record or data compilation of acts,

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SCRA 617; *Ramos vs. Court of Industrial Relations*, 21 SCRA 218 and *Santiago vs. Deputy Executive Secretary*, 192 SCRA 199.

<sup>53</sup> G.R. No. 166715, August 14, 2008.

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events, conditions, opinions, or diagnoses, made by electronic, optical or other similar means at or near the time of or from transmission or **supply of information by a person with knowledge thereof, and kept in the regular course or conduct of a business activity, and such was the regular practice** to make the memorandum, report, record, or data compilation by electronic, optical or similar means, **all of which are shown by the testimony of the custodian or other qualified witnesses, is excepted from the rule on hearsay evidence.**

SECTION 2. *Overcoming the presumption.* — The presumption provided for in Section 1 of this Rule may be overcome by evidence of the untrustworthiness of the source of information or the method or circumstances of the preparation, transmission or storage thereof. (*Emphases supplied*)

In her *Amended Judicial Affidavit*<sup>54</sup> dated May 15, 2018, Ms. Ruego testified that her duties and responsibilities as Bank Officer II of petitioner’s AMD include “facilitating the payment of all taxes,” fees, and costs necessary for the consolidation of the titles of acquired properties in the name of petitioner. The pertinent portion of her testimony reads:

4. Q: As a BOII with AMD, what are your duties and responsibilities?

A: My office is charged with the administration, preservation, and disposition of assets acquired or foreclosed properties by the BSP in payment for loans secured by banks, including real estate holdings of the BSP which are not utilized or earmarked for use pursuant to its objectives/regular business. As BOII, my specific functions are as follows:

**To secure consolidation of documents and facilitate the payment of all taxes, fees, and costs necessary for the consolidation of the titles acquired properties in the name of the BSP** and to transact with any government agency for this end.

xxx xxx xxx

22. Q: As the department tasked with the function of consolidating titles in the name of BSP, how does AMD go about the acquisition of the property?

A: As soon as the sale to the BSP is registered with the RoD, AMD undertakes the consolidation of the title

<sup>54</sup> Exhibit P-24. Court in Division Docket, pp. 281-292.

*mw*

to the property. To effect the consolidation, **AMD has to pay the CGT as required by the BIR, among other taxes and fees necessary for the issuance of the title in the name of the BSP.**

23. Q: You said that AMD pays other taxes and fees for the consolidation of properties in the name of the BSP. If you know, does BSP pay DST on foreclosure sales for properties acquired by it?

A: No. BSP is exempt from payment of DST on all contracts, deeds, documents, and transactions related to the conduct of its business as provided under Section 199 of the National Internal Revenue Code.

24. Q: In this particular case, did BSP pay the DST due on the subject properties?

A: Yes, but payment was made under protest. BSP paid the DST through Credit Advices to the Treasurer of the Philippines (ToP) issued on separate dates. xxx

25. Q: You mentioned of Credit Advice Ticket Nos. 16546, 20136, and 16571. If shown copies of these documents, will you be able to identify them?

A: Yes.

26. Q: I am showing you three (3) Credit Advice Tickets issued by the Financial Accounting Department, BSP, previously marked as Exhibits P-15, P-16, and P-20, please verify if these are the documents you were referring to.

A: **These are the same documents.**

Clear from the testimony of Ms. Ruego that she participated in the preparation of Credit Advice Ticket Nos. 16546,<sup>55</sup> 16571,<sup>56</sup> and 20136;<sup>57</sup> or at the very least, that she has personal knowledge that those tickets are specifically for the payment of DST in connection with the titling of the real properties she mentioned. It is also well to note that Ms. Ruego has possession of the Credit Advice Tickets because she is the Account Officer of the subject properties. Thus, Ms. Ruego is competent to testify on the Credit Advice Tickets in her capacity as Account Officer of the subject properties and as the official custodian of the documents relative to said

<sup>55</sup> Exhibit P-15.

<sup>56</sup> Exhibit P-20.

<sup>57</sup> Exhibit P-16.

*Am*

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properties such as Credit Advice Ticket Nos. 16546, 16571, and 20136.

Second, in the case of *Miralles vs. Go*,<sup>58</sup> the Supreme Court ruled that public documents made by government officials in the performance of their official functions are not hearsay evidence and are *prima facie* evidence of the facts that they state, to wit:

Petitioner specifically maintains that the SAC-Napolcom “heavily relied on Exhibits “B” to “O”, notwithstanding the incontrovertible fact that they had not been properly identified by the by the persons who executed them. Hence, being hearsay, they are inadmissible in evidence.” The argument is not persuaded. The bulk of these documents, except Exhibits “B” and “C” are public documents consisting of reports made by government officials in the performance of their functions. Hence, they are *prima facie* evidence of the facts they stated.

Official entries are admissible in evidence regardless of whether the officer or person who made them was presented and testified in court, since these entries are considered *prima facie* evidence of the facts stated therein.<sup>59</sup> Such evidence, of course, are only *prima facie*, *i.e.*, good until rebutted by reliable contradictory evidence. In the instant case, and for reasons only known to him, respondent neither objected nor rebutted the facts stated on the subject Credit Advice Tickets. Hence, the Court *En Banc* finds no reason why the Credit Advice Ticket Nos. 16546, 16571, and 20136, should not be given probative value.

Finally, and as pointed out by petitioner,<sup>60</sup> this Court’s First Division in CTA Case No. 9010,<sup>61</sup> gave credence in BSP’s Credit Advice Tickets (as proof of payment) in granting its claim for refund of erroneously paid Capital Gains Tax. Truly, the Court *En Banc* sees no reason why petitioner should be penalized for just following the ruling of this Court’s First Division and the mandate of RMC No. 31-04 that the BSP Credit Advice shall be considered “*sufficient proof of payment.*”

Having ruled that the Credit Advice Ticket Nos. 16546, 16571, and 20136 were not hearsay evidence, the Court *En*

<sup>58</sup> G.R. No. 139943, January 18, 2001.

<sup>59</sup> *Fullero vs. People*, G.R. No. 170583, September 12, 2007.

<sup>60</sup> Paragraphs 63 and 64, Petition for Review *En Banc*. *En Banc* dockets, pp 18-19.

<sup>61</sup> *Bangko Sentral ng Pilipinas vs. Commissioner of Internal Revenue*, CTA Case No. 9010, August 18, 2017.

*mw*



x-----x

*Banc* shall now proceed to determine whether the original Petition for Review filed before the Court in Division was timely filed.

**The original Petition for Review before the Court in Division was timely filed.**

It is settled that Sections 204 and 229 of the NIRC of 1997, as amended, pertain to the refund of erroneously or illegally collected taxes. Section 204<sup>62</sup> applies to administrative claims for refund, while Section 229<sup>63</sup> to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty.

Record show that petitioner paid the DST sought to be refunded on the following dates:<sup>64</sup>

Credit Advice Ticket No.	Date	Amount
16546	September 29, 2014	₱64,834.00
20136	November 21, 2014	2,790.00
16571	September 30, 2014	129,768.00
<b>TOTAL</b>		<b>₱197,392.00<sup>65</sup></b>

<sup>62</sup> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*

The Commissioner may —  
xxx                      xxx                      xxx

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty.** *Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.*

<sup>63</sup> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, **no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment.** *Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.* *(Boldfacing supplied)*

<sup>64</sup> Paragraphs 11 and 14, *Joint Stipulation of Facts and Issues (JSFI)*, Court in Division docket, pp. 203-204.

<sup>65</sup> Paragraph 19, *JSFI*, Court in Division docket, pp. 204-205:

“19. To summarize, the following payments for DST were made ‘under protest’ and were requested to be refunded: (a) For properties in Tigaon, Camarines Sur: Fifty-Eight Thousand Four Hundred Twenty-four Pesos (Php58,424.00), representing the DST paid in the amount of Php67,624.00 less the compromise penalty of Php9,200.00; and (b) For properties in Nabua, Camarines Sur: One Hundred Seventeen Thousand Seven Hundred Sixty-Eight Pesos (Php17,768.00), representing the DST paid in the amount of Php129,768.00 less the compromise penalty of Php12,000.00.

*MW*

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Thus, counting two (2) years from said dates, petitioner had until September 29, 2016 (for Credit Advice Ticket No. 16546), September 30, 2016 (for Credit Advice Ticket No. 16571), and November 21, 2016 (for Credit Advice Ticket No. 20136), to file its administrative as well as judicial claims for refund.

On October 14, 2014<sup>66</sup> (for Credit Advice Ticket Nos. 16546 and 16571) and December 16, 2014<sup>67</sup> (for Credit Advice Ticket No. 20136) petitioner filed its respective administrative claims for refund and on September 28, 2016, its judicial claim for refund. Evidently, petitioner's administrative and judicial claims for refund were timely filed.

Now, on the merits of petitioner's claim for refund.

**Petitioner was able to prove its entitlement to its claim for refund.**

Section 199(l) of the NIRC of 1997, as amended, provides:

SEC. 199. *Documents and Papers Not Subject to Stamp Tax.* — The provisions of Section 173 to the contrary notwithstanding, the following instruments, documents and papers shall be **exempt from the documentary stamp tax**:

xxx

xxx

xxx

(l) **All contracts, deeds, documents and transactions related to the conduct of business of the Bangko Sentral ng Pilipinas.** (*Emphases supplied*)

As part of its mandate to maintain monetary and financial stability, petitioner is empowered under Section 84<sup>68</sup> of RA No. 7653<sup>69</sup> to grant emergency loans and advances to banks secured by mortgage on real properties. In the implementation of the said provision and in the event that it is the highest bidder/purchaser in the foreclosure of such mortgage, petitioner acquires the mortgaged real properties through extra-judicial foreclosure.

<sup>66</sup> Exhibit P-1 and P-2, Court in Division docket, pp. 398-401.

<sup>67</sup> Exhibit P-3, Court in Division docket, pp.402-403.

<sup>68</sup> Section 84. *Emergency Loans and Advances.* - In periods of national and/or local emergency or of imminent financial panic which directly threaten monetary and banking stability, the Monetary Board may, by a vote of at least five (5) of its members, authorize the Bangko Sentral to grant extraordinary loans or advances to banking institutions secured by assets as defined hereunder: xxx

<sup>69</sup> The New Central Bank Act.


x-----x

In the instant case, the consolidation of title of real properties acquired by petitioner is part of the conduct of its business. Hence, it is without a doubt that the assessment and collection of the subject DST is erroneous considering the clear and categorical language of the law that “all contracts, deeds, documents and transactions related to the conduct of business of the BSP” are exempt from DST.

**WHEREFORE**, the instant *Petition for Review* is **GRANTED**. The assailed Decision dated September 26, 2019 and Resolution dated January 16, 2020 are **REVERSED** and **SET ASIDE**.

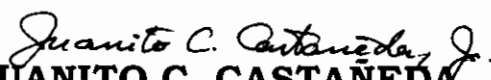
Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** in favor of petitioner the amount of One Hundred Seventy-Six Thousand One Hundred Ninety-Two Pesos (₱176,192.00), representing petitioner’s erroneously paid Documentary Stamp Tax.

**SO ORDERED.**


  
**LANEE S. CUI-DAVID**  
Associate Justice


*We Concur:*

  
**ROMAN G. DEL ROSARIO**  
Presiding Justice

  
**JUANITO C. CASTAÑEDA, JR.**  
Associate Justice

  
**ERLINDA P. UY**  
Associate Justice

  
**MA. BELEN RINGPIS-LIBAN**  
Associate Justice

  
(With Dissenting Opinion)  
**CATHERINE T. MANAHAN**  
Associate Justice

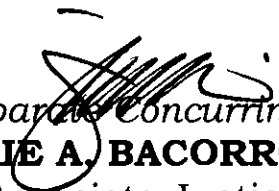
DECISION

CTA EB No. 2231 (CTA Case No. 9478)

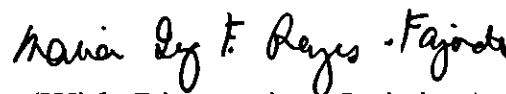
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(With Separate Concurring Opinion)  
**JEAN MARIE A. BACORRO-VILLENA**  
Associate Justice

  
**MARIA ROWENA MODESTO-SAN PEDRO**  
Associate Justice

  
(With Dissenting Opinion)  
**MARIAN IVY F. REYES-FAJARDO**  
Associate Justice

## **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



**ROMAN G. DEL ROSARIO**

Presiding Justice

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

EN BANC

**BANGKO SENTRAL NG  
PILIPINAS,**

*Petitioner,*

**CTA EB NO. 2231**  
(CTA Case No. 9478)

Present:

*-versus-*

**DEL ROSARIO, PJ,**  
**CASTAÑEDA, JR.,**  
**UY,**  
**RINGPIS-LIBAN,**  
**MANAHAN,**  
**BACORRO-VILLENA,**  
**MODESTO-SAN PEDRO,**  
**REYES-FAJARDO, and**  
**CUI-DAVID, JJ.**

**COMMISSIONER OF INTERNAL  
REVENUE,**

*Respondent.*

Promulgated:

APR 18 2022

X-----X

**DISSENTING OPINION**

The *ponencia* ruled that disputes, claims and controversies falling under Section 7 of Rep. Act No. 1125, even though solely among government offices, agencies and instrumentalities, including government-owned and controlled corporations, remain in the exclusive appellate jurisdiction of the CTA.

I respectfully register my dissent to the foregoing position primarily because this seems to be contrary to or ignores the ruling of the Supreme Court in the case of *CIR vs. PSALM*<sup>1</sup> where it was held that the procedure outlined in Presidential Decree (P.D.) 242 shall be followed in disputes and claims *solely* between government agencies and offices, including government-owned and controlled corporations, and I quote:

<sup>1</sup> G.R. No. 1988146, August 8, 2017. 

“This case involves a dispute between PSALM and NPC [National Power Corporation], **which are both wholly government-owned corporations, and the BIR, a government office, over the imposition of VAT on the sale of the two power plants.** There is no question that **original** jurisdiction is with the CIR, who issues the preliminary and the final tax assessments. However, if the government entity disputes the tax assessment, the dispute is already between the BIR (represented by the CIR) and another government entity, in this case, the petitioner PSALM. **Under Presidential Decree No. 242 (PD 242), all disputes and claims solely between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.** As regards cases involving only questions of law, it is the Secretary of Justice who has jurisdiction. xxx            xxx            xxx

xxx            xxx            xxx

The use of the word “shall” in a statute connotes a mandatory order or an imperative obligation. Its use rendered the provisions mandatory and not merely permissive, and unless PD 242 is declared unconstitutional, its provisions must be followed. The use of the word “shall” means that administrative settlement or adjudication of disputes and claims between government agencies and offices, including government-owned or controlled corporations, is not merely permissive but mandatory and imperative. Thus, under PD 242, it is mandatory that disputes and claims **“solely”** between government agencies and offices, including government-owned or controlled corporations, involving only questions of law, be submitted to and settled or adjudicated by the Secretary of Justice.

The law is clear and covers **“all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements.”** When the law says “all disputes, claims and controversies solely” among government agencies, the law means **all, without exception.** Only those cases already pending in court at the time of the effectivity of PD 242 are not covered by the law. *cm*

The Supreme Court in the same *PSALM* case provided for the rationale of the ruling, to wit:

“The purpose of PD 242 is to provide for a **speedy and efficient administrative settlement or adjudication of disputes between government offices or agencies under the Executive branch, as well as to filter cases to lessen the clogged dockets of the courts.**   xxx           xxx           xxx

xxx           xxx           xxx

PD 242 is only applicable to disputes, claims, and controversies **solely** between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations, and where no private party is involved. **In other words, PD 242 will only apply when all the parties involved are purely government offices and government-owned or controlled corporations.** Since this case is a dispute between PSALM and NPC, both government-owned and controlled corporations, and the BIR, a National Government office, PD 242 clearly applies and the Secretary of Justice has jurisdiction over this case. xxx           xxx           xxx

xxx           xxx           xxx

The second paragraph of Section 4 of the 1997 NIRC, providing for the exclusive appellate jurisdiction of the CTA as regards the CIR’s decisions on matters involving disputed assessments, refunds in internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under NIRC, is in conflict with PD 242. Under PD 242, **all** disputes and claims **solely** between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.

To harmonize Section 4 of the 1997 NIRC with PD 242, the following interpretation should be adopted: (1) As regards **private entities and the BIR**, the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR is vested in the CIR subject to the exclusive appellate jurisdiction of the CTA, in accordance with Section 4 of the NIRC; and (2) Where the





disputing parties are **all public entities** (covers disputes between the BIR and other government entities), the case shall be governed by PD 242.

Furthermore, it should be noted that the 1997 NIRC is a general law governing the imposition of national internal revenue taxes, fees, and charges. **On the other hand, PD 242 is a special law that applies only to disputes involving solely government offices, agencies, or instrumentalities.** xxx            xxx            xxx

xxx            xxx            xxx

**Thus, even if the 1997 NIRC, a general statute, is a later act, PD 242, which is a special law, will still prevail and is treated as an exception to the terms of the 1997 NIRC with regard solely to intra-governmental disputes.** PD 242 is a special law while the 1997 NIRC is a general law, insofar as disputes solely between or among government agencies are concerned. Necessarily, such disputes must be resolved under PD 242 and not under the NIRC, precisely because PD 242 specifically mandates the settlement of such disputes in accordance with PD 242. PD 242 is a valid law prescribing the procedure for administrative settlement or adjudication of disputes among government offices, agencies, and instrumentalities under the executive control and supervision of the President.

xxx            xxx            xxx

PD 242 is now embodied in Chapter 14, Book IV of Executive Order No. 292 (EO 292), otherwise known as the Administrative Code of 1987, which took effect on 24 November 1989.” (emphasis supplied)

The Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is, it is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decision all other courts should take their bearings.<sup>2</sup> The position espoused by the majority that the CTA has jurisdiction in disputes, claims and controversies even though *solely* among government offices, agencies, etc., effectively reverses the ruling of the Supreme Court in the *PSALM case*. If at all, the controversy should be confined on whether or not the instant case falls squarely within the ambit of P.D. 242 for the aforesaid Supreme Court decision to apply.

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<sup>2</sup> *CIR vs. Michel S. Lhuiller Pawnshop, Inc.* G.R. No. 150947, July 15, 2003 citing the case of *GSIS vs. Court of Appeals*, 334 Phil 163, 175 (1997). *on*

The petitioner in the instant case is the Bangko Sentral ng Pilipinas (BSP) and under Republic Act (RA) No. 7653, otherwise known as the New Central Bank Act, it is classified as a government owned corporation which enjoys fiscal and administrative autonomy pursuant to Section 1 thereof, and I quote:


“Section 1. Declaration of Policy. – The State shall maintain a central monetary authority that shall function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking and credit. **In line with this policy, and considering its unique functions and responsibilities, the central monetary authority established under this Act, while being a government-owned corporation, shall enjoy fiscal and administrative autonomy.**” (emphasis supplied)

With all due respect to the esteemed *ponente* and equally distinguished majority, I disagree with the view that the CTA has jurisdiction over the dispute between the BSP and the CIR because it goes against the spirit, intent and purpose of PD. No. 242 entitled “Prescribing the Procedure for Administrative Settlement or Adjudication of Disputes, Claims and Controversies Between or Among Government Offices, Agencies and Instrumentalities, Including Government-Owned or Controlled Corporations, and for Other Purposes” and now embodied in the Administrative Code of 1987, relevant portions of which I quote below:

“Section 1. Provisions of law to the contrary notwithstanding, all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That this shall not apply to cases already pending in court at the time of the effectivity of this decree.”

Article XII, Section 20 of the 1987 Constitution provides, thus :

**“Article XII**

Section 20. The Congress shall establish an **independent central monetary authority**, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity and patriotism, the majority of whom shall come from the private sector. They shall also be subject 

to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money. Banking and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.”

Based on the definitions provided under Executive Order (EO) 292 or the Administrative Code of 1987, BSP falls under the definition of “government instrumentality” and equally partakes of the nature of a government owned and controlled corporation (GOCC) under the same Code. Quoted below are the the applicable provisions of EO 292, *viz*:

Executive Order No. 292

Section 2. General Terms Defined. xxx. xxx.


(10) **“Instrumentality”** refers to any agency of the National Government, not integrated within the department framework vested within special functions or jurisdiction by law, **endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter. This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations.** (emphasis supplied)

xxx

xxx

xxx

(13) **Government -owned or controlled corporation”** refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) per cent of its capital stock: Provided, That government-owned or controlled corporations may be further categorized by the Department of the Budget, the Civil Service Commission, and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.”

As stated earlier, petitioner BSP is a government-owned corporation and respondent CIR represents the Bureau of Internal Revenue (BIR) which is another government agency. Applying the ruling in the afore-quoted *PSALM* case, this Court has no jurisdiction to take cognizance of their dispute. 

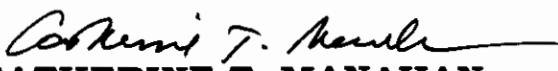
**DISSENTING OPINION**

CTA EB No. 2231

Page 7 of 7

The cases cited by the *ponencia* particularly the case of *PNOC vs. the Hon. Court of Appeals, CIR and Tirso Savellano*; *PNB vs. the Hon. Court of Appeals, Court of Tax Appeals, Tirso Savellano and the CIR*,<sup>3</sup> do not apply squarely to the instant case because the controversy in said cases was not solely among government offices, agencies, instrumentalities, etc. as it also involves a private citizen, Mr. Tirso Savellano. Similarly, the other case cited in the *ponencia* - *CIR vs. Univation Motor Philippines, Inc.*,<sup>4</sup> involves a private entity and the CIR, hence, does not fall squarely with the facts of the instant case.

In view of the foregoing considerations, I dissent and vote for the dismissal of the Petition for Review filed by the BSP for lack of jurisdiction.

  
**CATHERINE T. MANAHAN**  
Associate Justice

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<sup>3</sup> G.R. Nos. 109976 and 112800 dated April 26, 2005.

<sup>4</sup> G.R. No. 231581, April 10, 2019.

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
Quezon City

**EN BANC**

BANGKO SENTRAL NG  
PILIPINAS,  
Petitioner,

CTA EB NO. 2231  
(CTA Case No. 9478)

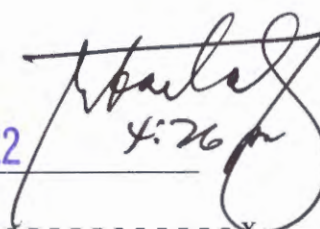
*Present:*

- versus -

DEL ROSARIO, *P.J.*,  
CASTAÑEDA, JR.,  
UY,  
RINGPIS-LIBAN,  
MANAHAN,  
BACORRO-VILLENA,  
MODESTO-SAN PEDRO,  
REYES-FAJARDO, and  
CUI-DAVID, *JJ.*

COMMISSIONER OF  
INTERNAL REVENUE,  
Respondent.

Promulgated:  
APR 18 2022



x-----x

**SEPARATE CONCURRING OPINION**

***BACORRO-VILLENA, J.:***

I concur with the *ponencia* of our esteemed colleague, Honorable Associate Justice Lanee S. Cui-David.

In the assailed Decision dated 26 September 2019, the Court's Second Division (of which I am a member) dismissed petitioner Bangko Sentral ng Pilipinas' (**petitioner's/BSP's**) original Petition for Review for lack of jurisdiction on the ground that petitioner failed to prove the fact of payment of the subject Documentary Stamp Tax (**DST**). However, in the subsequent Resolution (resolving petitioner's Motion for Reconsideration) dated 16 January 2020, the Second Division added another perspective to the issue of

jurisdiction and mentioned the ruling in *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*<sup>1</sup> (**PSALM**) that the Court does not have jurisdiction over disputes involving departments, bureaus, offices, agencies and instrumentalities of the National Government pursuant to Presidential Decree No. 242<sup>2</sup> (**PD 242**), which mandates such disputes be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.

Finding *PSALM* inapplicable, the *ponencia* ruled that the Court has jurisdiction over petitioner's tax refund claim because the prevailing doctrine at the time petitioner filed its prior Petition for Review in 2016 was that enunciated in *Philippine National Oil Company v. The Hon. Court of Appeals, et al.*<sup>3</sup> (**PNOC**), *i.e.*, disputes, claims and controversies falling under Section 7 of Republic Act (**RA**) No. 1125<sup>4</sup>, as amended by RA 9282<sup>5</sup>, even though solely among government offices, agencies and instrumentalities, including government-owned and controlled corporations (**GOCCs**), remain in the exclusive appellate jurisdiction of the Court of Tax Appeals (**CTA**).

I am not unaware of my concurrence in the Second Division's Resolution dated 16 January 2020, which justified the dismissal of petitioner's prior petition for lack of jurisdiction on the basis of the Supreme Court's declaration in *PSALM*. However, after a re-examination of the applicable law and jurisprudence, I concur with the *ponencia* that *PSALM* is inapplicable.

As pointed out in the *ponencia*, petitioner filed its prior Petition for Review before the Second Division on 28 September 2016 and before the promulgation of *PSALM* on 08 August 2017. Indeed, the prevailing doctrine at the time petitioner filed its prior Petition for Review (before the Second Division) was that in *PNOC* that the CTA has *exclusive* appellate jurisdiction to review, among others, the decisions or inactions of the Commissioner of Internal Revenue (**CIR**) in cases involving disputed assessments, refunds of

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<sup>1</sup> G.R. No. 198146, 08 August 2017.

<sup>2</sup> PRESCRIBING THE PROCEDURE FOR ADMINISTRATIVE SETTLEMENT OR ADJUDICATION OF DISPUTES, CLAIMS AND CONTROVERSIES BETWEEN OR AMONG GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, AND FOR OTHER PURPOSES.

<sup>3</sup> G.R. No. 109976, 26 April 2005.

<sup>4</sup> AN ACT CREATING THE COURT OF TAX APPEALS.

<sup>5</sup> AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

internal revenue taxes, fees and other charges, penalties imposed in relation thereto, pursuant to Section 7 of RA 1125, as amended by RA 9282. This being so, petitioner correctly lodged its judicial claim for refund before Us. The subsequent ruling in *PSALM* should not have affected it.

In *Commissioner of Internal Revenue v. Secretary of Justice, and Philippine Amusement and Gaming Corporation*<sup>6</sup>, the Supreme Court opined that while a judicial interpretation becomes part of the law as of the date that the law was originally passed, the **reversal of the interpretation cannot be given retroactive effect to the prejudice of parties who may have relied on the first interpretation.**

Similarly, in *Philippine International Trading Corporation v. Commission on Audit*<sup>7</sup>, the Supreme Court expounded on the rule on non-retroactivity of laws, to wit:

...  
Article 4 of the Civil Code provides that “(l)aws shall have no retroactive effect, unless the contrary is provided.[”] Correlatively, Article 8 of the same Code declares that “(j)udicial decisions applying the laws or the Constitution shall form part of the legal system of the Philippines.”

Jurisprudence, in our system of government, cannot be considered as an independent source of law; it cannot create law. While it is true that judicial decisions which apply or interpret the Constitution or the laws are part of the legal system of the Philippines, still they are not laws. Judicial decisions, though not laws, are nonetheless evidence of what the laws mean, and it is for this reason that they are part of the legal system of the Philippines. Judicial decisions of the Supreme Court assume the same authority as the statute itself.

...  
The reasoning behind *Seranillos vs. Hermosisima* that judicial interpretation of a statute constitutes part of the law as of the date it was originally passed, since the Court’s construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect, is all too familiar. **Such judicial doctrine does not amount to the passage of a new law but consists merely of a construction or interpretation of a pre-existing one, x x x.** ↗

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<sup>6</sup> G.R. No. 177387, 09 November 2016.  
<sup>7</sup> G.R. No. 205837, 21 November 2017.

It is consequently clear that a judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith. To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication.<sup>8</sup>

...

Applying the foregoing doctrine, the ruling in *PSALM* decided by the Supreme Court *En Banc* should be applied prospectively and should not affect the cases already pending before the Court. This is congruent with the time-honored doctrine on adherence of jurisdiction. Such that, when a court has already obtained and is exercising jurisdiction over a controversy, its jurisdiction to proceed to final determination of the case is not affected by a new legislation transferring jurisdiction over such proceedings to another tribunal. Once jurisdiction is vested, the same is retained up to the end of the litigation.<sup>9</sup>

Moreover, jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted. **Jurisdiction being a matter of substantive law, the established rule is that the statute in force at the time of the commencement of the action determines the jurisdiction of the Court.**<sup>10</sup>

It necessarily follows then that the prevailing doctrine at the time of the filing of the action is determinative of the jurisdiction. In the instant case, it is the CTA which has jurisdiction over petitioner's claim for refund. Again, the jurisdiction of the court once attached cannot be ousted by subsequent happenings or events, although of a character which would have prevented jurisdiction from attaching in the first

<sup>8</sup> Emphasis, italics and underscoring in the original text.

<sup>9</sup> *Lucia Barrameda Vda. De Ballesteros v. Rural Bank of Canaman Inc.*, G.R. No. 176260, 24 November 2010.

<sup>10</sup> *Anama v. Citibank, N.A.*, G.R. No. 192048, 13 December 2017.



instance, and the Court retains jurisdiction until it finally disposes of the case.<sup>11</sup>

Incidentally, the essence of PD 242 “is to provide a speedy and efficient administrative settlement or adjudication of disputes between government offices”. Such spirit of the law would be subverted if, after the parties have exhaustively presented their respective cases before the Division, the Court *En Banc* will nevertheless dismiss the same based on lack of jurisdiction, and have them pursue anew administrative settlement before the Secretary of Justice. If that were the case, the years spent litigating the case, not to mention the energy and resources expended by the parties, would have been rendered useless and naught. Surely, such counterproductive resolution could not have been the intent of the law.

With the above disquisitions, I vote to **GRANT** the instant Petition for Review and consequently, **REVERSE** and **SET ASIDE** the assailed Decision dated 26 September 2019 and Resolution dated 16 January 2020 in CTA Case No. 9478, entitled *Bangko Sentral ng Pilipinas v. Commissioner of Internal Revenue*, on the ground that the Court’s Second Division had jurisdiction over petitioner’s prior Petition for Review.

  
**JEAN MARIE A. BACORRO-VILLENA**  
Associate Justice

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<sup>11</sup> Supra at note 9.

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

EN BANC

BANGKO SENTRAL NG  
PILIPINAS

*Petitioner,*

- versus -

COMMISSIONER OF INTERNAL  
REVENUE,

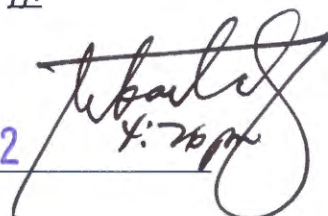
*Respondent.*

CTA EB NO. 2231  
(CTA Case No. 9478)

PRESENT:

DEL ROSARIO, PJ,  
CASTAÑEDA, JR.,  
UY,  
RINGPIS-LIBAN,  
MANAHAN,  
BOCORRO-VILLENA,  
MODESTO-SAN PEDRO,  
REYES-FAJARDO, and  
CUI-DAVID, II.

Promulgated:  
APR 18 2022



x-----x

DISSENTING OPINION

REYES-FAJARDO, J.:

With due respect, I am constrained to withhold my assent on the *ponencia*.

The Constitution is the basic and paramount law to which all other laws must conform and to which all persons, including the highest officials of the land, must defer. It is through the Constitution that the fundamental powers of government are established, limited and defined, and by which these powers are distributed among the several departments.<sup>1</sup>

<sup>1</sup> *Louis "Barok" C. Biraogo v. The Philippine Truth Commission of 2010*, G.R. No. 193036 and 193036, December 7, 2010.



The President of the Republic of the Philippines in the **exercise of executive power** as vested in Section 1, Article VII of the 1987 Constitution and following Presidential Decree (PD) No. 242, has the power to place disputes between government offices on questions of law and of fact under the jurisdiction of the Secretary of Justice, even if the dispute involves the Bangko Sentral ng Pilipinas (BSP), a government instrumentality, statutorily created, although mandated under Section 20, Article XII of the Constitution to be “independent.”

The Constitution restored the presidential system of government and the separation of legislative, executive, and judicial powers by their actual distribution among the three distinct branches of government with provision for checks and balances. The Supreme Court in *Dennis A. B. Funa v. The Chairman, Civil Service Commission*,<sup>2</sup> citing *Rufino v. Endriga*,<sup>3</sup> explicitly pronounced:

**Every government office, entity or agency must fall under the Executive, Legislative, or Judicial branches, or must belong to one of the independent constitutional bodies, or must be a quasi-judicial body or local government unit. Otherwise, such government office, entity, or agency has no legal and constitutional basis for its existence. (Emphasis supplied)**

BSP does not fall under the legislative or judicial branches of government. It is also not one of the constitutional bodies. Neither is it a quasi-judicial body nor a local government unit. Under the Revised Administrative Code of 1987, any agency “not placed by law or order creating them under any specific department” falls “under the Office of the President.”<sup>4</sup>

Section 1, Article VII of the Constitution provides that “executive power shall be vested in the President of the Philippines.” A government office in the Executive branch may not be put outside the control of the President in the guise of insulating that office from politics or making it independent. If the office is part of the Executive branch, it must remain subject to the control of the President.<sup>5</sup>

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<sup>2</sup> *Dennis A. B. Funa v. The Chairman, Civil Service Commission, Francisco T. Duque III, Executive Secretary Leandro R. Mendoza, Office of the President*, G.R. No. 191672, November 25, 2014.

<sup>3</sup> *Armita B. Rufino, Zenaida R. Tantoco, Lorenzo Calma, Rafael Simpao, Jr., and Freddie Garcia v. Baltazar N. Endriga, Ma. Paz D. Lagdameo, Patricia C. Sison, Irma Ponce-Enrile Potenciano, and Doreen Fernandez*, G.R. No. 139554, July 21, 2006.

<sup>4</sup> Instituting the “Administrative Code of 1987,” Executive Order (EO) No. 292, Title II, Chapter 8 (1987).

<sup>5</sup> *Supra*, at Note 3.

While the BSP is an instrumentality<sup>6</sup> of the government and a government owned corporation,<sup>7</sup> its creation is peculiar in that it was organized by Congress following the dictum of Section 20, Article XII of the Constitution, which mandates Congress to establish an "independent central monetary authority." Section 20 also states that "Until the Congress otherwise provides, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority."

Section 20, Article XII of the Constitution provides:

SECTION 20. The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

Until the Congress otherwise provides, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority.

Here, this Court is called upon to demarcate the constitutionally enshrined executive power of the President over an agency which is **statutorily created** to be "independent" from the executive. On one hand, is the exercise of the executive power, as vested to the President by the Constitution and fundamental in our presidential system of government. On the other hand, is a body created by law and whose independence is likewise defined by Republic Act (R.A.) No. 7653, as amended by R.A. No. 11211 (R.A. No. 7653, as amended).

The President's executive power cannot be curtailed or diminished, except as limited by the Constitution itself, as when the Constitution frees a body from interference from the executive. Section 20, Article XII mandates that BSP be independent from the executive *but* only insofar as the BSP "shall provide policy direction in the areas of money, banking and credit," "shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions," and "shall function as

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<sup>6</sup> *Republic of the Philippines, represented by the Philippine Reclamation Authority v. City of Paranaque*, G.R. No. 1911109, July 18, 2012.

<sup>7</sup> New Central Bank Act, Republic Act No. 7653, Art. I, Sec. 1.

the central monetary authority.”<sup>8</sup> The evil sought to be prevented by the framers of our Constitution is the possible collusion between the executive branch and the fiscal and monetary authorities with respect to monetary policy. This is the reason why the framers of the Constitution deemed it wise that the governance of the monetary authority be composed of majority full-time members from the private sector. The deliberations of the members of the Constitutional Commission are enlightening, to wit:

...

THE VICE-PRESIDENT. Commissioner Natividad is recognized.

MR. NATIVIDAD. Thank you.  
I refer to Section 10, page 4, which says:

The Congress shall establish an independent central monetary authority, the majority of whose governing board shall come from the private sector, which shall provide policy direction in the areas of money, banking, and credit.

If this is an independent major governmental activity, why do we want that it should have a majority coming from the private sector? If we do this, shall we not lose control of monetary and fiscal policies? The government may lose control of monetary and fiscal policies because we use the word “independent” and then say “majority of the members of the governing board shall come from the private sector.” Is this not a formula for losing control of monetary and fiscal policies of the government?

MR. VILLEGAS. No, this is a formula intended to prevent what happened in the last regime when the fiscal authorities sided with the executive branch and were systematically in control of monetary policy. This can lead to disastrous consequences. When the fiscal and the monetary authorities of specific economy are combined, then there can be a lot of irresponsibility. So, this word “independent” refers to the executive branch.

...<sup>9</sup>

Hence, its enabling law, R.A. No. 7653, as amended, provides in its Declaration of Policy, that “the State shall maintain a central monetary authority that shall **function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking, and credit.**”<sup>10</sup> In the Declaration of Policy of the BSP’s enabling law, the term “independent” was qualified to refer only to the BSP’s discharge of its mandated responsibilities

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<sup>8</sup> PHILIPPINE CONSTITUTION OF 1987, Art. XII, Sec. 20.

<sup>9</sup> Record of the Constitutional Commission, Vol. III at p. 268. Emphasis supplied.

<sup>10</sup> New Central Bank Act, Republic Act No. 7653, Art. I, Sec. 1.

concerning money, banking, and credit. In line with the independence granted to the BSP, its enabling law provides that the BSP shall enjoy “fiscal and administrative autonomy.”<sup>11</sup> The Supreme Court has pronounced that the BSP is an independent body corporate bestowed under its charter with fiscal and administrative autonomy and its officials, under its charter, are granted a certain degree of flexibility in the performance of their duties, and unnecessary interference in their functions should not be allowed to counterfoil the **exercise of their regulatory mandate.**<sup>12</sup>

The BSP is not independent in the way that constitutional bodies such as Constitutional Commissions are independent. These constitutional bodies do not owe their existence to any act of Congress, but are created by the Constitution itself. Constitutional Commissions are independent constitutional bodies; created by the Constitution and the Constitution itself provides that they “shall be independent.”<sup>13</sup> Hence, Constitutional Commissions, which have been characterized under the Constitution as “independent,” are **not** under the control of the President, even if they discharge functions that are executive in nature.<sup>14</sup> Also, the Members of the Constitutional Commission may be removed from office through impeachment for and conviction of acts as enumerated in the Constitution.<sup>15</sup> In the case of BSP, whose creation is by law, its independence from the executive must find sufficient anchorage on its enabling law<sup>16</sup> and only insofar as in the discharge of its mandated responsibilities concerning money, banking, and credit.

Fr. Joaquin G. Bernas, SJ, a member of the Constitutional Commission that drafted the Constitution noted that the independence of the BSP as contemplated by the Constitution “does not have the same status as the Constitutional Commissions.”<sup>17</sup> The records of the deliberations of the 1986 Constitutional Commission shed particular light on the matter:

...

**MR. FOZ.** Perhaps, a relevant question is: **What is the status of the Monetary Board, let us say, compared with a constitutional body such as the Commission on Elections? Is it on the same level or higher or is it under the Office of the President?**

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Alberto V. Reyes, Wilfredo B. Domo-Ong and Herminio C. Principio v. Rural Bank of San Miguel (Bulacan), Inc.*, G.R. No. 154499, February 27, 2004.

<sup>13</sup> PHILIPPINE CONSTITUTION OF 1987, Art. IX, Sec. 1.

<sup>14</sup> *Sixto S. Brillantes, Jr. v. Haydee B. Yorac*, G.R. No. 93867, December 18, 1990.

<sup>15</sup> PHILIPPINE CONSTITUTION OF 1987, Art. XI, Sec. 2.

<sup>16</sup> *Bank of Commerce v. Planters Development Bank and Bangko Sentral ng Pilipinas*, G.R. Nos. 154470-71 and 154589-90, September 14, 2012.

<sup>17</sup> Bernas, Joaquin G., *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 2009 ed., p. 1235 citing III RECORD, CONSTITUTIONAL COMMISSION 267-269, 612, 696.



MR. MONSOD. Madam President, **it is not the same because under this section, it is Congress who organizes or establishes the Monetary Board. Secondly, even the present law establishes it as an independent monetary authority.**

MR. FOZ. Is it an independent monetary authority?

MR. MONSOD. Yes.

MR. FOZ. But it does not enjoy the same rank or status of, let us say, the Commission on Election?

MR. MONSOD. No, it does not, Madam President. As a matter of fact, one of the issues that will arise if we keep that provision is how we remove them from office because impeachment is only available to those officers enumerated in the Constitution by virtue of the Regalado amendment.

MR. FOZ. So I was thinking that if it would enjoy the same ranking and status of a constitutional body, then its members should really be subject to the same disqualification and disabilities of members of the constitutional commissions.

...18

Aside from Section 20, Article XII of the Constitution, there is no other provision in the Constitution that sets forth the parameters of the independence of the BSP. Again, it is Congress that is tasked to define said independence from the executive but only insofar as ensuring that there is no government interference in the areas of its function in money, banking, and credit. While the extent of independence of BSP is defined by law, executive power of the President is not only set forth by the Constitution but in fact, cannot be limited only to the specific powers enumerated in the Constitution. *Ergo*, the President can exercise its executive power over BSP in the prescription of an administrative procedure for the settlement of certain types of disputes between or among departments. The application of PD No. 242 to the dispute between the Bureau of Internal Revenue (BIR) and the BSP does not constitute executive interference on the independence of the BSP as a central monetary authority.

As ruled by the Supreme Court in *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*,<sup>19</sup> "The President's constitutional power of control over all the executive departments, bureaus and offices cannot be curtailed or diminished by law." Executive power is more than the sum of specific powers so enumerated. It

<sup>18</sup> Record of the Constitutional Commission, Vol. III at pp. 695-696. Emphasis supplied.

<sup>19</sup> G.R. No. 198147, August 8, 2017.

would not be accurate, however, to state that "executive power" is the power to enforce the laws, for the President is head of state as well as head of government and whatever powers inhere in such positions pertain to the office unless the Constitution itself withholds it.<sup>20</sup> The presidential power of control is self-executing and does not require statutory implementation and its exercise may not be limited or withdrawn.<sup>21</sup> The executive power of control of the President over a government agency like BSP cannot be curtailed by R.A. No. 7653, the law creating BSP.

In addition, the application of PD No. 242 neither contravenes the independence of the BSP nor diminishes the jurisdiction of the Court. As in the case of *Philippine Veterans Investment Development Corp. (PHIVIDEC) & PHIVIDEC Industrial Authority v. Hon. Alejandro M. Velez and Philippine Veterans Assistance Commission (PVAC)*,<sup>22</sup> it "does not diminish the jurisdiction of courts but only prescribes an administrative procedure for the settlement of certain types of disputes between or among departments, bureaus, offices, agencies, and instrumentalities of the National Government, including government-owned or controlled corporations."

From all the foregoing, I vote for the denial of the Petition for Review filed by BSP.

*Marian Ivy F. Reyes-Fajardo*  
MARIAN IVY F. REYES-FAJARDO  
Associate Justice

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<sup>20</sup> *Ferdinand E. Marcos v. Honorable Raul Manglapus*, G.R. No. 88211, September 15, 1989.  
<sup>21</sup> *Social Security System v. Commission on Audit*, G.R. No. 243278, November 3, 2020.  
<sup>22</sup> G.R. No. 84295, July 18, 1991.