REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Second Division

THE CITY OF TAGUIG AND ATTY. J. VOLTAIRE L. ENRIQUEZ, in his capacity as TREASURER OF THE CITY OF TAGUIG,
Petitioners,

CTA AC NO. 294

-versus-

Members:
RINGPIS-LIBAN *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

UNION CEMENT HOLDINGS CORPORATION,
Respondent.

Promulgated:
JUL 3 1 2025
4:?p.m.

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DECISION

RINGPIS-LIBAN, J.

THE CASE

Before this Court is a *Petition for Review* posted on July 13, 2023,[1] praying for the reversal and setting aside of the Decision dated June 24, 2022,[2] and the Resolution dated March 10, 2023,[3] denying petitioners' *Motion for Reconsideration*, both rendered by the Regional Trial Court of Taguig City (RTC) – Branch 271, in Civil Case No. 222-TG, entitled "*Union Cement Holdings Corporation, Petitioner, versus The City of Taguig and Atty. J. Voltaire L. Enriquez, in his capacity as the City Treasurer of the City of Taguig, Respondents*", the dispositive portions of which respectively read as follows:

Decision dated June 24, 2022:

> "**WHEREFORE,** premises considered, the Local Business Tax deficiency tax herein imposed against petitioner Union

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[1] Docket, pp. 14 to 41.
[2] Docket, pp. 42 to 59; RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 525 to 542.
[3] Docket, pp. 60 to 68; RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 580 to 588.

Cement Holdings Company by the respondent City of Taguig per the 14 January 2017 Billing Statement is hereby **CANCELLED**.

Let the said payments of the petitioner Union Cement Holdings Company in the amounts of **FOUR MILLION SEVENTY SIX THOUSAND EIGHT HUNDRED SIXTY SIX PESOS AND EIGHTY TWO CENTAVOS (Php. 4,076,866.82) AND SIXTEEN THOUSAND EIGHT HUNDRED EIGHTY FIVE PESOS AND SEVENTEEN CENTAVOS (Php. 16,885.17)** totaling **FOUR MILLION NINETY THREE THOUSAND SEVEN HUNDRED FIFTY ONE PESOS AND NINETY NINE CENTAVOS (Php. 4,093,751.99)** be **REFUNDED** by the respondent Taguig City upon them.

SO ORDERED."

<u>Resolution dated March 10, 2023</u>:

"**WHEREFORE**, premises considered, the Motion for Reconsideration of the 24 June 2022 Decision is hereby **DENIED.**

The Motion to Correct the Name of Petitioner Union Cement Holdings Corporation in the dispositive portion of the 24 June 2022 Decision is hereby **GRANTED**.

Let the dispositive portion of the 24 June 2022 Decision be corrected by amending the name of the petitioner Union Cement Holdings Company to Union Cement Holdings Corporation.

SO ORDERED."

THE PARTIES

Petitioner City of Taguig is a local government unit created by law.[4]

Petitioner Atty. J. Voltaire L. Enriquez is the duly appointed City Treasurer of Taguig City, empowered to perform the duties of said office, including, *inter alia*, the collection of all local taxes, fees and charges.[5]

[4] Par. 4, *Petition to Annul Assessment*, vis-à-vis par. 1, *Answer*, RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 2 and 83, respectively.
[5] Par. 5, *Petition to Annul Assessment*, vis-à-vis par. 1, *Answer*, RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 2 and 83, respectively.

Respondent Union Cement Holdings Corporation is a domestic corporation organized and existing under Philippines laws, with principal office at the 7th Floor, Venice Corporate Center, 8 Turin Street, McKinley Town Center, McKinley Hill, Fort Bonifacio, Taguig City.[6]

THE FACTS OF THE CASE

Respondent filed for a *Certificate of Renewal of Business Permit* on January 10, 2017.[7] It stated that it has zero gross receipts/sales for January to December 2016 on said renewal application.[8]

However, on January 14, 2017, petitioner City of Taguig issued the *Billing Statement* which assessed respondent for deficiency local business taxes (LBTs) in the amount of ₱4,093,751.99, broken down as follows:[9]

Particulars	Business Tax
Whole Year Gross: 2,597,719.11 Financial Institution (Holding Company)	₱ 16,885.17
Deficiency Tax	4,076,866.82
Total	**₱4,093,751.99**

The *Billing Statement* classified respondent as a "Financial Institution (Holding Company)".[10]

Respondent paid said tax under protest on January 20, 2017 per Official Receipt No. A-3258296.[11]

On March 14, 2017, or within sixty (60) days from receipt of the Billing Statement, respondent filed its protest letter with petitioner City Treasurer.[12]

As petitioners did not decide on the protest within sixty (60) days,[13] respondent filed a *Petition to Annul Assessment* on June 13, 2017[14] with the RTC.

[6] Par. 3, *Petition to Annul Assessment*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 2 and 83, respectively; Exhibit "A", RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 337 to 360.

[7] Par. 1, Pre-Trial Order dated August 9, 2018, RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 154.

[8] Par. 2, Pre-Trial Order dated August 9, 2018, RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 154; Exhibit "D", RTC Docket (Civil Case No. 222-TG) – Vol. II, p. 363.

[9] Par. 9, *Petition to Annul Assessment*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 4 and 83, respectively; Par. 3, Pre-Trial Order dated August 9, 2018, RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 154; Exhibits "B", "B-1" and "B-2", RTC Docket (Civil Case No. 222-TG) – Vol. II, p. 361.

[10] Par. 10, *Petition to Annul Assessment*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 4 and 83, respectively; Exhibit "B-3", RTC Docket (Civil Case No. 222-TG) – Vol. II, p. 361.

[11] Par. 4, Pre-Trial Order dated August 9, 2018, RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 154; Exhibit "C", RTC Docket (Civil Case No. 222-TG) – Vol. II, p. 362.

[12] Par. 12, *Petition to Annul Assessment*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 7 and 83, respectively; Par. 5, Pre-Trial Order dated August 9, 2018, RTC Docket – Vol. I, p. 154; Exhibit "F", RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 402 to 406.

[13] Par. 6, Pre-Trial Order dated August 9, 2018, RTC Docket – Vol. I, p. 154.

The case was initially raffled to Branch 153 and docketed as Civil Case No. 222-TG.

Petitioners filed their *Answer* on August 23, 2017,[15] interposing, by way of special and affirmative defenses, that given the presumption of regularity and correctness of government actions and issuances, more particularly with regard to tax assessments, the respondent, as a taxpayer, has the burden to prove that it is not liable for the tax imposed upon it, convincingly and clearly; that respondent accuses petitioners of wrongly assessing it but utterly fails to show precisely where the error is; that the City Government of Taguig imposes and collects certain regulatory fees—including the environmental impact fees and business plate/sticker fee—as a condition for the issuance or renewal of the business permits of corporations doing business within its jurisdiction, hence, it was properly exercising its power on this matter; that the action by the respondent was premature, in bad faith and without any basis whatsoever; that under the law and jurisprudence, government cannot be enjoined or prevented from its lawful task of collecting taxes due to taxpayer; that the allegations and claims of the respondent have no basis in fact and in law; and therefore, the complaint must be dismissed.

In the Order dated August 25, 2017,[16] the case was referred for mediation before the Philippine Mediation Center. However, the case was returned to the RTC – Branch 153 due to non-appearance of counsel for petitioners in conferences scheduled despite notice.[17] In the Order dated December 14, 2017,[18] the case was set for Judicial Dispute Resolution on February 8, 2018, which was later on reset to, and held on February 22, 2018.[19]

In the meantime, on September 4, 2017, respondent filed the *Motion for Extension of Time to File Reply*,[20] to which the RTC – Branch 153 granted in the Order dated September 6, 2017.[21] On September 15, 2017, respondent filed its *Manifestation*,[22] with attached *Reply (Re: Respondents' Answer dated August 17, 2017)*,[23] which was noted by the RTC – Branch 153 in the Order dated September 22, 2017.[24]

During the Judicial Dispute Resolution proceedings, no settlement had been reached by the parties, and the case was forwarded to the Office of the

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[14] RTC Docket – Vol. I, pp. 1 to 21; Par. 7, Pre-Trial Order dated August 9, 2018, RTC Docket – Vol. I, p. 154.
[15] RTC Docket – Vol. I, pp. 83 to 87.
[16] RTC Docket – Vol. I, pp. 90 to 91.
[17] Mediator's Report dated November 29, 2017, RTC Docket – Vol. I, p. 122; Order dated December 14, 2017, RTC Docket – Vol. I, p. 123.
[18] RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 123.
[19] Notice dated February 12, 2018, RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 125.
[20] RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 92 to 95.
[21] RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 96.
[22] RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 97 to 98.
[23] RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 99 to 106.
[24] RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 109.

Executive Judge for re-raffle pursuant to the Order dated February 22, 2018.[25] The case was re-raffled to RTC – Branch 271, and the Pre-Trial was set and held on August 9, 2018.[26] Prior thereto, respondent's *Pre-Trial Brief* was filed on August 3, 2018,[27] while petitioners' *Pre-Trial Brief* was filed on August 6, 2018.[28] On August 9, 2018, the Pre-Trial Order was issued.[29]

Trial then ensued, and both parties presented their respective documentary and testimonial evidence.

Respondent filed its *Formal Offer of Documentary Exhibits* on September 12, 2019,[30] to which petitioners submitted their *Comments/Objections (to Plaintiff's Formal Offer of Exhibits)* on October 23, 2019.[31] In the Order dated December 11, 2019,[32] the Court *a quo* admitted respondent's exhibits.

On May 12, 2022, petitioners filed their *Formal Offer of Evidence*,[33] to which respondent submitted its *Comment/Opposition (Re: Formal Offer of Evidence dated May 4, 2022)* on June 22, 2022.[34] In the Order dated June 22, 2022,[35] petitioners' Exhibits "3" to "10" were deemed admitted.

The RTC – Branch 271 promulgated the assailed Decision dated June 24, 2022,[36] cancelling the *Billing Statement* dated January 14, 2017 on the local business tax (LBT) imposed against the respondent, and ordered the petitioners to refund ₱4,093,751.99 to respondent.

Petitioners filed a *Motion for Reconsideration (Re: Decision dated 24 June 2022)* on September 19, 2022,[37] to which respondent submitted its *Comment/Opposition (Re: Motion for Reconsideration dated September 15, 2022) with Motion to Correct Name* on September 27, 2022.[38] In the assailed Resolution dated March 10, 2023,[39] the Court *a quo* denied petitioners' *Motion*, while respondent's *Motion to Correct Name* was granted.

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[25] RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 127.
[26] Notice of Pre-Trial dated March 27, 2018, RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 133; Minutes of the hearing held on August 9, 2018, RTC Docket (Civil Case No. 222-TG) – Vol. I, p. 153.
[27] RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 134 to 146.
[28] RTC Docket (Civil Case No. 222-TG) – Vol. I, pp. 147 to 152.
[29] RTC Docket (Civil Case No. 222-TG), pp. 154 to 156.
[30] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 332 to 336.
[31] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 415 to 418.
[32] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 419 to 420.
[33] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 498 to 504.
[34] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 520 to 523.
[35] RTC Docket (Civil Case No. 222-TG) – Vol. II, p. 524.
[36] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 525 to 542.
[37] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 543 to 551.
[38] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 565 to 570.
[39] RTC Docket (Civil Case No. 222-TG) – Vol. II, pp. 580 to 588.

On June 23, 2023, petitioners filed with this Court a *Motion for Extension of Time to File Petition for Review*,[40] which the Court granted in the Resolution dated July 10, 2023.[41]

The *Petition for Review* was posted on July 13, 2023,[42] to which respondent posted its *Comment/Opposition (Re: Petition for Review dated July 12, 2023)* on August 24, 2023.[43]

In the Resolution dated September 11, 2023,[44] the Court ordered the parties to file their memoranda.

In compliance thereto, the *Memorandum for the Respondent* was posted on October 18, 2023,[45] and petitioners' *Memorandum* was filed on November 17, 2023.[46] The case was then deemed submitted for decision on December 5, 2023.[47] Meanwhile, the Court ordered the Branch Clerk of Court or the Officer-in-Charge of RTC – Branch 271 to elevate to this Court the entire original records of Civil Case No. 222-TG, within ten (10) days from notice.[48]

However, considering that the records of Civil Case No. 222-TG was not elevated, the Court, in the Resolution dated July 16, 2024,[49] the Court reiterated its order to the Branch Clerk of Court or the Officer-in-Charge of RTC of Taguig City – Branch 271 to elevate the said records; and ordered that the case shall be submitted for decision anew upon receipt of said records. In compliance to the said Resolution, on August 22, 2024, the Officer-in-Charge of RTC of Taguig City – Branch 271 transmitted the records of Civil Case No. 222-TG, consisting of two (2) volumes with a total of 684 pages: Volume 1 (pages 1 to 323) and Volume 2 (pages 324 to 684).[50]

This case was deemed submitted anew for decision on September 23, 2024.

THE GROUNDS FOR THE *PETITION FOR REVIEW*

Petitioners cite the following grounds in support of the *Petition for Review*, to wit:

[40] Docket, pp. 5 to 9.
[41] Docket, p. 13.
[42] Docket, pp. 14 to 41.
[43] Docket, pp. 75 to 82.
[44] Docket, p. 86.
[45] Docket, pp. 87 to 101.
[46] Docket, pp. 106 to 131.
[47] Minute Resolution dated December 5, 2023, Docket, p. 134.
[48] *Id.*
[49] Docket, pp. 135 to 136.
[50] Transmittal letter dated August 20, 2024, Docket, p. 163.

"A.

THE HONORABLE REGIONAL TRIAL COURT OF TAGUIG CITY BRANCH 271 COMMITTED REVERSIBLE ERROR IN FINDING THAT THE SUBJECT ASSESSMENT ISSUED AGAINST THE RESPONDENT UNION CEMENT HOLDINGS CORPORATION IN LEVYING BUSINESS TAX ON DIVIDEND INCOME IS ULTRA VIRES, QUOTING THE DECISION IN THE CASE OF CITY TREASURER OF MAKATI V. MICHIGAN HOLDINGS, INC.

1. The Regional Trial Court of Taguig City Branch 271 erred when it ruled that petitioner City of Taguig cannot impose Local Business Taxes on the passive income of the respondent Union Cement.

2. The Regional Trial Court of Taguig City Branch 271 erred when it ruled that it can annul the tax assessment issued by the petitioner City of Taguig.

B

THE HONORABLE COURT COMMITTED REVERSIBLE ERROR IN FINDING THAT THE CASE OF CITY TREASURER OF MAKATI CITY VS. MICHIGAN HOLDINGS, INC., IS APPLICABLE IN THE INSTANT CASE."[51]

THE ARGUMENTS OF THE PARTIES

Petitioners argue that the subject assessment issued against the respondent in levying business tax on dividend income is not *ultra vires*; that Ordinance No. 47, series of 2006, is, in effect, valid; that the RTC – Branch 271 erred when it ruled that petitioners cannot impose LBTs on the passive income of respondent; that the RTC – Branch 271 erred when it ruled that it can annul the tax assessment issued by petitioner City of Taguig; and that the case of the *City Treasurer of Makati City vs. Michigan Holdings*, Inc., is not the same because the case does not include a valid and existing Ordinance but merely the applicability of Section 143(F) of the Local Government Code (LGC) in that case.

Respondent asserts that the RTC of Taguig City correctly held that the assessment issued against it for business tax on dividend income is *ultra vires*; that the RTC correctly granted the application for refund and in holding that

[51] Grounds in Support of the Petition (With Assignment of Errors), *Petition for Review*, Docket, p. 23.

respondent, as a holding company, should be subject to imposition of LBT based on its dividend income, interest income, and other passive income; that presumption of validity of ordinance remains disputable; and that the RTC correctly granted the refund of the erroneously paid LBT in the amount of ₱4,093,751.99.

THE COURT'S RULING

The present *Petition for Review* is bereft of merit.

***The subject assessment imposing LBT on dividend income of respondent, being a holding company, is indeed* ultra vires.**

In the assailed Decision dated June 24, 2022, the Court *a quo* ruled that the RTC has the right to annul the City Government's assessment on LBT upon holding company on their dividend income, citing the case of *City Treasurer of Makati City vs. Michigan Holdings, Inc.*[52] as its basis.

According to petitioners, due to Taguig Ordinance No. 047-06,[53] petitioner City of Taguig may lawfully levy LBT on income, including dividend income of entities which are not banks or financial institutions particularly holding companies because it is not prohibited under the LGC. Petitioners further assert that said ordinance is not ostensibly unreasonable or incapable of reconciliation with the Constitution or other legal provisions of the LGC. As such, it enjoys that presumption of validity unless and until it is successfully struck down.

This Court disagrees.

To be clear, unlike the national government, local government units have no inherent power to tax. They merely derived the power from Article X, Section 5 of the 1987 Constitution. Consistent with this provision, the LGC of 1991 was enacted to give each local government unit (LGU) the power to create its own source of revenue and to levy taxes, fees, and charges **subject to statutory guidelines and limitations**.[54]

In addition, it is clear that Section 129, Book II, of the LGC of 1991, empowers each LGU to create its own sources of revenue, and to levy taxes,

[52] G.R. No. 224322, March 24, 2021.
[53] An Ordinance Adopting a Local Government Tax Rate on Holding Companies, October 11, 2006.
[54] *City of Cagayan De Oro vs. Cagayan Electric Power & Light Co., Inc. (CEPALCO)*, G.R. No. 224825, October 17, 2018.

fees, and charges, but **subject to the provisions of the said Code**, consistent with the basic policy of local autonomy.

Simply put, the power of an LGU to impose or levy taxes cannot go beyond the limitations set forth by the provisions of the LGC of 1991.

The power of a municipality and city to impose business taxes finds basis under Section 143, in relation to Section 151, both of the LGC of 1991, to wit:

> "SEC. 143. *Tax on Business.* — **The municipality may impose taxes on the following businesses**:
>
> xxx xxx xxx
>
> (e) On contractors and other independent contractors, in accordance with the following schedule:

With gross receipts for the preceding calendar year in the amount of:		Amount of Tax Per Annum
Less than 5,000.00		27.50
P5,000.00 or more but less than	10,000.00	61.60
10,000.00 or more but less than	15,000.00	104.50
15,000.00 or more but less than	20,000.00	165.00
20,000.00 or more but less than	30,000.00	275.00
30,000.00 or more but less than	40,000.00	385.00
40,000.00 or more but less than	50,000.00	550.00
50,000.00 or more but less than	75,000.00	880.00
75,000.00 or more but less than	100,000.00	1,320.00
100,000.00 or more but less than	150,000.00	1,980.00
150,000.00 or more but less than	200,000.00	2,640.00
200,000.00 or more but less than	250,000.00	3,630.00
250,000.00 or more but less than	300,000.00	4,620.00
300,000.00 or more but less than	400,000.00	6,160.00
400,000.00 or more but less than	500,000.00	8,250.00
500,000.00 or more but less than	750,000.00	9,250.00
750,000.00 or more but less than	1,000,000.00	10,250.00
1,000,000.00 or more but less than	2,000,000.00	11,500.00
2,000,000.00 or more	at a rate not exceeding fifty percent (50%) of one percent (1%)	

> xxx xxx xxx
>
> (f) **On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts** of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and

profit from exchange or sale of property, insurance premiums." *(Emphases added)*

"SEC. 151. *Scope of Taxing Powers.* — Except as otherwise provided in this Code, **the city, may levy the taxes, fees, and charges which the province or municipality may impose**: xxx

The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes." *(Emphases and underscoring added)*

Thus, a city, such as petitioner City of Taguig, may tax: (1) contractors and other independent contractors pursuant to the graduated rates under Section 143(e); and (2) banks and other financial institutions, at a rate by not more than fifty percent (50%) of that allowed a municipality to impose, *i.e.*, fifty percent (50%) of one percent (1%) on the gross receipts, under Section 143(f).

Essentially, LBTs are taxes imposed by LGUs on the privilege of doing business within their jurisdictions. To be sure, the phrase "doing business" means some "trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit."[55]

Pursuant to this taxing power, petitioner City of Taguig adopted Ordinance No. 24-93, otherwise known as "The Revenue Code of Taguig", as amended by Ordinance No. 085-05,[56] imposing LBTs, the pertinent portions of which are quoted hereunder, to wit:

"TITLE III Tax on Business

SECTION 74 - Definitions:

xxx xxx xxx

Banks and other financial institution include banks, offshore banking, non-bank financial intermediaries, lending investors, finance and investment companies, investment houses, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange including pre-need companies, as defined under applicable law, or rules and regulations.

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[55] *City of Davao, et al. vs. Randy Allied Ventures, Inc.*, G.R. No. 241697, July 29, 2019.

[56] AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE MUNICIPAL ORDINANCE NO. 24 SERIES OF 1993 OTHERWISE KNOWN AS "THE REVENUE CODE OF TAGUIG" AND ADOPTING THE NEW RATES PRESCRIBED UNDER THIS ORDINANCE, December 9, 2005.

xxx xxx xxx

Holding Company **a controlling company that has one or more subsidiaries and confines its activities primarily to their management.**

xxx xxx xxx

SECTION 75 - Imposition of Tax — There is hereby levied an annual tax on the following businesses at rates prescribed therefore:

xxx xxx xxx

(e) On Contractors and other independent contractors defined in SECTION 74 of this Code; and on owners or operators of business establishments rendering or offering services such as advertising agencies; xxx business management services; collecting agencies; xxx the following rates shall apply:

Gross Sales/Receipts for the Preceding Calendar Year			Amount of Tax Per Annum
	LESS than	50,000.00	EXEMPT
50,000.00	or more but less than	75,000.00	924.00
75,000.00	or more but less than	100,000.00	1,386.00
100,000.00	or more but less than	150,000.00	2,079.00
150,000.00	or more but less than	200,000.00	2,772.00
200,000.00	or more but less than	250,000.00	3,812.00
250,000.00	or more but less than	300,000.00	4,851.00
300,000.00	or more but less than	400,000.00	6,468.00
400,000.00	or more but less than	500,000.00	8,663.00
500,000.00	or more but less than	750,000.00	9,713.00
750,000.00	or more but less than	1,000,000.00	10,763.00
1,000,000.00	or more but less than	2,000,000.00	12,075.00
2,000,000.00	or MORE		Plus 65% of 1%

xxx xxx xxx

(j) <u>On owners or operators of banks and other financial institutions which include offshore banking, non-bank, financial intermediaries, lending investors, finance & investment companies, investment house, pawnshops, money shops, insurance companies, stock markets, stock brokers, dealers in securities including pre-need companies,</u> foreign exchange shall be taxed at the rate of EIGHT PERCENT (8%) OF ONE PERCENT (1%) of the gross receipts of the preceding calendar year derived from interests, commissions & discounts from lending activities, income from financial leasing, investments, dividends,

insurance premium and profit from exchange or sale of property, provided, however, on gross sales/receipts derived from rental of property during the preceding calendar year shall be subject to the business tax at the rate prescribed under subsection (k) 1 of Section 75, as provided in this code.

xxx xxx xxx

(o) **On Holding Company/ies shall be taxed at the rate prescribed either under subsection (e) or (j), of the gross sales and/or receipts during the preceding calendar year.**" *(Emphases and underscoring added)*

Meanwhile, the City of Taguig passed **Ordinance No. 047-06, imposing a local government tax on the dividend income and gross sales/receipts on other activities of holding companies**, to wit:

"SECTION 4. *Definition of Terms.* — When used in this Ordinance:

(a) 'Holding Company' is a corporation, partnership or juridical entity that limits its business to the ownership of stocks and interests in other companies as passive investments and derives dividend income therefrom. A holding company is one which is organized specifically to hold the stocks and interests in other companies as passive investments and derives dividend income therefrom, but excludes holding companies which are owners or operators of banks and other financial institutions such as banks, offshore banks, non-bank financial intermediaries, lending investors, finance and investment companies, insurance brokers, investment houses, pawnshops, money shops, insurance companies, stock markets, stockbrokers and dealers in securities and foreign exchange including pre-need companies.

xxx xxx xxx

SECTION 5. *Imposition of Business Tax on Dividend Income.* — **There is hereby imposed a rate of 5% of 1% on the dividend income received by Holding Companies as defined above from their investments in shares of stock or interests in other**

companies. Nonetheless, said amount of dividend income derived by a holding company as a result of a declaration of dividends shall be taxed only once, and subsequent declaration of the same dividend income to its parent holding company or parent holding companies also within the jurisdiction of City of Taguig shall not be further taxed accordingly.

SECTION 6. *Imposition of Business Tax on other Activities.* — There is hereby imposed a business tax on the gross sales/receipts of holding companies as defined above on its other activities at the same taxable rate imposed on such activities as enumerated in the Taguig Revenue Code, except dividend income." *(Emphasis added)*

However, as stated earlier, each LGU is empowered to create its own sources of revenue, and to levy taxes, fees, and charges, **but subject to the provisions of the LGC of 1991**. Hence, **the LGU's taxing power is subject to the common limitations found under Section 133(a) of the LGC of 1991,** *viz.*:

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

(a) **Income tax, except when levied on banks and other financial institutions;**

xxx xxx xxx"
(Emphasis and underscoring added.)

It is clear from the foregoing provision, the LGC of 1991 prohibits LGUs from imposing taxes, fees, or charges, on income or gain that were already subjected to income tax under the National Internal Revenue Code, except when the same is levied on banks and other financial institutions. In other words, **the LGC of 1991 forbids the imposition of LBT on income realized by entities not classified as banks and other financial institutions.**

Relative thereto, Section 131(e) of the LGC of 1991 states the scope of the term "*banks and other financial institutions*" to wit:

"SEC. 131. *Definition of Terms.* — When used in this Title, the term:

xxx xxx xxx

> (e) 'Banks and other financial institutions' include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder;"

In the present case, the Court *a quo* found that "[respondent] is a holding company. This is so stated in the petition and in their Articles of Incorporation. It is so stipulated upon by the parties in the Pre-Trial. Said stipulation also mentions that the petitioners categorized the respondent as a financial institution/holding company in their assessment." In the *Petition for Review*, petitioners also admitted that respondent is a holding company.[57]

The RTC – Branch 271 also found that the Audited Financial Statements of respondent shows that they derived income from dividend, interest and foreign exchange gains.[58]

Moreover, there is also no showing that respondent is doing business as a bank or other financial institution or engages in business as any of the entities enumerated under Section 131(e) of the LGC of 1991.

There is, therefore, no dispute on the classification of the respondent as a holding company, and that it is not classified as "banks and other financial institutions." That being said, by imposing LBT on the dividend income of respondent, **petitioners are effectively imposing respondent a tax on the income itself, which is in violation of the common limitation of the LGU's taxing power under Section 133(a) of the LGC has been violated.**

Thus, the Court *a quo* correctly cancelled the LBT assessment imposed against respondent by petitioners per the *Billing Statement* dated January 14, 2017, and likewise correctly ordered petitioners to refund the amount of ₱4,093,751.99 to respondent.

The case of The City Treasurer of Makati City vs. Michigan Holdings, Inc. (Michigan Holdings* case)[59] *is applicable in this case.

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[57] Par. 47, *Petition for Review*, Docket, pp. 33 to 34.
[58] See RTC Decision dated June 24, 2022, Annex "A", *Petition for Review*, Docket, p. 51.
[59] G.R. 224322, March 24, 2021.

Petitioners state the *Michigan Holdings* case does not apply in this case because it does not include a valid and existing ordinance but merely the applicability of Section 143(f) of the LGC of 1991. Petitioners argue that the present case involves a valid and existing ordinance, while the *Michigan Holdings* case does not have an existing ordinance taxing holding companies; that the *Michigan Holdings* case discussed the issue on the applicability of Section 143(f) of the LGC of 1991, while in the present case, the issue is on the validity of Ordinance No. 047-06; that the *Michigan Holdings* case tackles on the issue on whether a holding company becomes a non-bank financial intermediary by its mere receipt of dividends while the present case imposed taxes on the respondent by simply being a holding company; and that in the *Michigan Holdings* case, it was concluded that Michigan Holdings, Inc. is a holding company and not a bank or financial intermediary it could not be liable for LBT under Section 143(f) of the LGC, while in the present case, there is no dispute on the classification of the respondent being a holding company since there is a unique ordinance imposing LBT on holding company.

The Court finds petitioners' argument bereft of merit.

To recall, in the *Michigan Holdings case*, the City Treasurer of Makati City assessed Michigan Holdings, Inc., being a holding company, for LBT on dividends received in 2006.

The ruling in the said case stresses that Section 133(a) of the LGC of 1991 explicitly prohibits cities and municipalities from imposing income taxes, except when levied on banks and other financial institutions. In relation thereto, under Section 143(f) of the LGC of 1991, LGUs may impose tax on dividend and interest income only when they pertain to gross receipts of banks and other financial institutions. In sum, the ruling emphasized that cities and municipalities are authorized by the law to impose LBT on dividends and interest income **only when** they pertain to the gross receipts of banks and other financial institutions.

Similarly, the main issue of the present case is whether the LBT can be levied on the dividend income of a holding company. As discussed earlier, Section 133(a) of the LGC of 1991 prohibits the levy of LBT on income tax, except for banks or other financial institutions. As Taguig Ordinance No. 047-06 contravenes Section 133(a) of the LGC, the dividend income of a holding company, not a bank or other financial institutions, should *not* be subjected to LBT. Further, similar to the *Michigan Holdings* case, where the Complaint therein does not allege that Section 3A.02(p) of the Revised Makati Revenue Code is illegal or unconstitutional but rather seeks the cancellation of the assessment issued by petitioner therein levying and collecting LBT on respondent's dividend income, the present case also does not seek to invalidate Taguig Ordinance No. 047-06, but merely seeks the cancellation of petitioners'

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assessment and order the return of the LBT paid under protest. Accordingly, the *Michigan Holdings* case is applicable in the present case.

It is significant to note that the *Michigan Holdings* case is embodied in the Notice of Resolution dated March 24, 2021 signed by the Deputy Division Clerk of Court by authority of the Supreme Court. Relative thereto, in *Philippine Health Care Providers, Inc. vs. Commissioner of Internal Revenue*,[60] the Supreme Court said:

> "It is true that, although contained in a minute resolution, our dismissal of the petition was a disposition of the merits of the case. When we dismissed the petition, we effectively affirmed the CA ruling being questioned. As a result, our ruling in that case has already become final. **When a minute resolution denies or dismisses a petition for failure to comply with formal and substantive requirements, the challenged decision, together with its findings of act and legal conclusions, are deemed sustained. But what is the effect on other cases?**
>
> **With respect to the same subject matter and the same issues concerning the parties, it constitutes *res judicata*. However, if other parties or another subject matter (even with the same parties and issues) is involved, the minute resolution is <u>not binding precedent</u>.** xxx.
>
> Besides, there are substantial, not simply formal, distinctions between a minute resolution and a decision. The constitutional requirement under the first paragraph of Section 14, Article VIII of the Constitution that the facts and the law on which the judgment is based must be expressed clearly and distinctly applies only to decisions, not to minute resolutions. **A minute resolution is signed only by the clerk of court by authority of the justices, unlike a decision.** It does not require the certification of the Chief Justice. Moreover, unlike decisions, minute resolutions are not published in the Philippine Reports. Finally, the proviso of Section 4(3) of Article VIII speaks of a decision. **Indeed, <u>as a rule, this Court lays down doctrine or principles of law which constitute binding precedent in a decision duly signed by the members of the Court and certified by the Chief Justice</u>.**
>
> Accordingly, since petitioner was not a party in G.R. No. 148680 and since petitioner's liability for DST on its health care agreement was not the subject matter of G.R. No. 148680, petitioner cannot successfully invoke the minute resolution in that case (which is not even binding precedent) in its favor. xxx."

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[60] G.R. No. 167330, September 18, 2009.

Based on the foregoing doctrinal pronouncements, rulings of the Supreme Court embodied in minute resolutions are not binding precedents, and are not considered doctrines or principles of law. Although the said pronouncement involves minute resolutions, the same can be applied by analogy to Notice of Resolution, which is signed merely by the clerk of court by authority of the High Court, similar to a minute resolution. Thus, the ruling in the *Michigan Holdings* case embodied in a Notice of Resolution dated March 24, 2021 issued by the Deputy Clerk of Court of the First Division of the Supreme Court in G.R. No. 224322 cannot be treated as a doctrine or binding precedent.

In any event, despite the fact that the ruling in the *Michigan Holdings* case cannot be considered as doctrine or a binding precedent, the same ruling will be arrived at by this Court, based on the earlier discussion.

ACCORDINGLY, the present *Petition for Review* is **DENIED** for lack of merit.

The Decision dated June 24, 2022, and the Resolution dated March 10, 2023, both rendered by RTC of Taguig City – Branch 271, in Civil Case No. 222-TG, are hereby **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, is it 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