REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SAN MIGUEL FOODS, INC.,
Petitioner,

- versus -

OFFICE OF THE CITY TREASURER, CITY OF DAVAO, represented by BELLA N. TANJILI, City Treasurer,
Respondent.

CTA EB NO. 2535
(CTA AC NO. 210)

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJRDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:

MAY 18 2023 3:55pm

x - x

DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court *En Banc* is a Petition for Review filed under Section 18 of Republic Act (RA) No. 1125, as amended by RA 9282 and RA 9503, and under Rule 4, Section 2 of the Revised Rules of the Court of Tax Appeals (RRCTA).[1] Petitioner San Miguel Foods, Inc. (SMFI) seeks to reverse or modify the July 3, 2020 Decision of the First Division and its July 28, 2021 Resolution and remand the case to the Court *a quo* for the resolution of the issues raised therein.[2]

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[1] *Rollo*, pp. 2-3.
[2] *Id.*, p. 22.

The relevant portion of the assailed Decision reads:

> "**In sum, the permit fees to slaughter and ante-mortem and post-mortem fees imposed by respondent pursuant to Section 367 of *The 2005 Revenue Code of the City of Davao* are not local taxes, for purposes of Section 7(a)(3) of RA No. 1125, as amended by RA No. 9282.** Correspondingly, this Court is without jurisdiction to entertain the present appeal.
>
> It has long been established that this Court is a court of special jurisdiction. As such, it can only take cognizance of such matter as are clearly within its jurisdiction. Hence, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, the court shall dismiss the claim.
>
> **WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DISMISSED**.
>
> **SO ORDERED.**"[3]

The assailed Resolution denied petitioner's *Motion for Reconsideration of 03 July 2020 Decision* for lack of merit.[4]

The Parties

Petitioner SMFI is a corporation organized under and existing by virtue of Philippine laws, with principal office at the JMT Corporate Condominium, ADB Avenue, Ortigas Center, Pasig City. It has a branch office in Davao City located at the 3rd Floor, Alpha Bldg., Lanang Business Park, Lanang Davao City.[5]

It is engaged in poultry operations, livestock farming, processing and selling of meat products, manufacturing and marketing of feed products, selling and distribution of food product and franchising operations. In Davao City, petitioner operates two dressing plants — the Toril Dressing Plant and the Tugbok Dressing Plant, that were separately issued Mayor's Permits for the operation of a processing plant for poultry products. Petitioner also pays to the city government *ante-mortem* and *post-mortem* fees for the slaughter of animals, pursuant to Section 367(d) of Davao City Ordinance No. 158-05, otherwise known as *The 2005 Revenue Code of the City of Davao*, considering that in the course of its operations, live birds/poultry products are slaughtered in the dressing plants.[6]

Respondent is the Office of the City Treasurer, City of Davao, represented by its City Treasurer, Bella Linda N. Tanjili. The Office of the City Treasurer is

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[3] *Id.*, p. 60-61.
[4] *Id.*, p. 31.
[5] *Id.*, p. 33.
[6] *Id.*, pp. 33-34.

located at the Ground Floor of the Davao City Hall, City Hall Drive, Davao City.[7]

The Facts

Administrative Level

On June 10, 2015, petitioner's Toril Dressing Plant received from the Office of the Treasurer, Toril District, the letter dated June 5, 2015 regarding the payment of the *permit fees to slaughter*, assessed against the dressing plant for January 2005 to March 2015, in the total amount of ₱11,063,058.44.[8]

Petitioner then explained, in its letter dated August 12, 2015, which the Toril District Treasurer received on August 18, 2015, that there was no basis for the assessment of the *permit fees to slaughter*, for the following reasons:

a. Petitioner is an AAA meat establishment under the regulatory jurisdiction of the National Meat Inspection Services (NMIS);

b. Petitioner is using a *private*, not public, facility in the slaughter of poultry products; and,

c. The assessments for July 2010 and earlier periods have already prescribed.[9]

Subsequently, petitioner's Davao Office (for Tugbok Dressing Plant) received on September 28, 2015 from the Office of the Treasurer, Tugbok District, the letter dated September 21, 2015 and seven (7) Tax Orders of Payment (TOPs), all dated September 16, 2015, also assessing *permit fees to slaughter* for 2009 up to 2015. The details of the TOPs are indicated below:[10]

Date	Year	Basic Fee	Surcharge	Interest	Total
9/16/2015	2009	₱94,128.90	₱23,532.23	₱84,716.01	₱202,377.14
9/16/2015	2010	482,671.60	120,667.90	434,404.44	1,037,743.94
9/16/2015	2011	607,879.40	151,969.85	547,091.46	1,306,940.71
9/16/2015	2012	699,287.70	174,821.93	629,358.93	1,503,468.56
9/16/2015	2013	825,496.10	206,374.03	681,034.28	1,712,904.41
9/16/2015	2014	794,740.70	198,685.18	417,238.87	1,410,664.74
9/16/2015	2015	488,526.80	122,131.70	109,918.53	720,577.03
				Total	₱7,894,676.53

[7] *Id.*, p. 34.
[8] *Id.*, pp. 34-35.
[9] *Id.*, p. 35.
[10] *Id.*

On September 17, 2015, petitioner received the letter dated September 3, 2015 from respondent, stating that the City Treasurer refused to accept the explanation/justification of petitioner on the non-imposition of the *permit fees to slaughter.*[11]

Consequently, on October 16, 2015, petitioner filed with the Office of the City Mayor a Request for Reconsideration of the assessment.[12]

On January 20, 2016, petitioner was constrained to pay under protest because the issuance of the business permit for 2016 for its sales offices and facilities was put on hold unless the following permit fees to slaughter were paid:[13]

Establishment	Year Applicable	Amount
Toril Dressing Plant	2005 to 2015	₱12,421,582.46
Tugbok Dressing Plant	2009 to 2015	8,456,093.28
	Total	₱20,877,675.74

The assessment included interest and surcharges.[14]

On February 11, 2016, petitioner filed its protest against the payment of the *permit fees to slaughter* pursuant to *The 2005 Revenue Code of the City of Davao.*[15]

Petitioner then received respondent's letter dated February 15, 2016, which denied petitioner's protest against the imposition of the *permit fees to slaughter* on the ground that *The 2005 Revenue Code of the City of Davao* has not been declared invalid or unconstitutional:

> "xxx we, however, presume regularity in the performance of their duties by the Sangguniang Panlungsod members and the City Mayor in enacting and approving City Ordinance known as the 'The 2005 Revenue Code of the City of Davao.'
>
> Our basis in the issuance of assessment for permit fee to slaughter is in the enforceability of the xxx ordinance, which was not declared invalid or unconstitutional nor annulled by a competent court thus enforceable.
>
> Thus, in the absence of such declaration, and with Legal Opinion No. 26 Series of 2016, dated January 19, 2016, xxx we will fulfil our mandate continue to assess and collect permit fee to slaughter."[16]

Subsequently, petitioner, through its dressing plants, received between January and February 2017 *Orders of Payment* from respondent, which assessed

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[11] *Id.*, pp. 35-36.
[12] *Id.*, p. 36.
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*, pp. 36-37.

permit fees to slaughter in the total amount of ₱232,150.70 for the months of December 2016 and January 2017, as follows:[17]

Dressing Plant	Month	Amount
Toril Plant	December 2016	₱ 45,268.10
Tugbok Plant	December 2016	64,393.70
Toril Plant	January 2017	49,946.00
Tugbok Plant	January 2017	72,542.90
	Total	**₱232,150.70**

Consequently, on March 1, 2017, petitioner filed a written protest against the assessment.[18]

Petitioner then received from respondent the letter dated March 8, 2017, which stated that it would no longer entertain questions on the assessment, to wit:

> "This is in relation to your letter dated March 1, 2017, relative to the Orders of Payment received on January and February of this year protesting the permit to slaughter for the period of December 2016 and January 2017 respectively.
>
> We will refrain from entertaining any and all questions that are now under the purview of the Courts. This issue is now for the courts to decide but this does not preclude us from asking you to pay the aforementioned fees as there is still ongoing activities in both slaughterhouses, thus the charges.
>
> Kind[ly] also be reminded that pursuant to the Local Revenue Code, Article 1, Section 89, renewal of business permits maybe refused on the grounds of unsettled obligations.
>
> Hope we have you properly informed on the matter."[19]

Thereafter, between March and April 2017, petitioner received from respondent Orders of Payment, assessing it *permit fees to slaughter* in the amount of ₱200,081.00 for the months of February and March 2017, broken down as follows:[20]

Dressing Plant	Month	Amount
Toril Plant	February 2017	₱40,068.60
Tugbok Plant	February 2017	57,276.90
Toril Plant	March 2017	29,563.40
Tugbok Plant	March 2017	73,172.10
	Total	**₱200,081.00**

[17] *Id.*, p. 37.
[18] *Id.*
[19] *Id.*, pp. 37-38.
[20] *Id.*, p. 38.

On April 27, 2017, petitioner filed with respondent a written protest against the assessment.[21]

Subsequently, petitioner received respondent's letter dated April 28, 2017, stating the following, to wit:

> "This is in relation to your letter dated April 27, 2017, relative to the Orders of Payment received on January and February of this year protesting the permit to slaughter for the period of December 2016 and January 2017 respectively.
>
> We will refrain from entertaining any and all questions that are now under the purview of the Courts. This issue is now for the courts to decide but this does not preclude us from asking you to pay the aforementioned fees as there is still ongoing activities in both slaughterhouses, thus the charges.
>
> Kind[ly] also be reminded that pursuant to the Local Revenue Code, Article 1, Section 89, renewal of business permits maybe refused on the grounds of unsettled obligations.
>
> Hope we have you properly informed on the matter."[22]

On May 1, 2017, petitioner then received the Order of Payment dated April 30, 2017, which assessed it a *permit fee to slaughter*, among others, in the amount of ₱60,661.80 for the Tugbok Dressing Plant, and ₱33,412.20 for the Toril Dressing Plant, both for April 2017.[23]

On June 1, 2017, petitioner received Orders of Payment also assessing *permit fees to slaughter*, among others, in the amount of ₱67,301.40 for the Tugbok Dressing Plant, and ₱51,389.50 for the Toril Dressing Plant, both for May 2017.[24]

The above assessments have a total amount of ₱212,764.90, broken down as follows:[25]

Dressing Plant	*Month*	*Amount*
Toril Plant	April 2017	₱ 33,412.20
Tugbok Plant	April 2017	60,661.80
Toril Plant	May 2017	51,398.50
Tugbok Plant	May 2017	67,301.40
	Total	**₱212,764.90**

Petitioner, through its letter dated June 28, 2017, protested the assessment, on the following principal grounds:

a. *The 2005 Revenue Code of the City of Davao* clearly and categorically taxes only the slaughter of animals and slaughterhouses owned and operated by the City Government, *not privately owned facilities*;

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[21] *Id.*
[22] *Id.*, pp. 38-39.
[23] *Id.*, p. 39.
[24] *Id.*
[25] *Id.*

b. That petitioner is not liable for *permit fee to slaughter* has been confirmed by the Bureau of Local Government Finance of the Department of Finance;

c. Even assuming that the City Government of Davao has the authority to impose a *permit fee to slaughter* on privately owned slaughterhouse, the assessment is still void, as the same is tantamount to double taxation proscribed by law; and,

d. Payment under protest is not required for local business tax assessment before the protest may be acted upon.[26]

Thereafter, on July 3, 2017, petitioner received respondent's letter dated June 30, 2017, which stated that they will refrain from entertaining any and all questions that are now under the purview of the courts, but such does not preclude them from asking petitioner to pay the permit fees to slaughter as there are still ongoing activities in both slaughterhouses; thus, the charges.[27]

Proceedings Before the RTC – Davao City

On March 18, 2016, petitioner filed an Appeal against respondent with the RTC-Branch 10, Davao City, praying that the RTC:

a. Reverse and set aside the findings of respondent as embodied in its letter dated February 15, 2016;

b. Cancel or annul the seven (7) separate TOPs, all dated September 16, 2016, assessing the petitioner *permit fees to slaughter*; and,

c. Enjoin the government of Davao City from implementing Section 367(d) of *The 2005 Revenue Code of Davao City*, against petitioner and other privately owned and operated slaughterhouses, it being a direct duplicate taxation.

The case was docketed as Civil Case No. R-DVO-16-01273-CV.[28]

In its Order dated April 7, 2016, the RTC-Branch 10 ordered that the records of Civil Case No. R-DVO-16-01273-CV be returned to the Office of the Clerk of Court for assignment to a designated RTC branch to handle tax cases and stated that the appeal involved a disputed assessment, which properly belongs to the exclusive jurisdiction of the tax court.[29]

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[26] *Id.*, pp. 39-40.
[27] *Id.*, p. 40.
[28] *Id.*
[29] *Id.*, p. 41.

Subsequently, another *Appeal* was filed by petitioner on May 30, 2017 with the RTC-Branch 10, docketed as Civil Case No. R-DVO-17-02113-CV, wherein it prayed that the RTC render judgment cancelling or annulling the two separate Orders of Payment, dated January 3, 2017 and February 1, 2017, which assessed petitioner *permit fees to slaughter* in the total amount of ₱232,150.70; and permanently enjoining the government of Davao City from implementing Section 367(a) of *The 2005 Revenue Code of Davao City*, simultaneously with Section 367(d) of the same Code, against petitioner and other privately-owned and operated slaughterhouses.[30]

On July 26, 2017, petitioner filed an *Appeal* with RTC-Branch 53, praying that RTC-Branch 53 render judgment:

a. Cancelling or annulling the four (4) separate Orders of Payment, dated March 2, 3, and 30, 2017 and April 5, 2017, which assessed petitioner permit fees to slaughter in the total amount of ₱200,081.00; *and*

b. Permanently enjoining the government of Davao City from implementing Section 367(a) of *The 2005 Revenue Code of Davao City*, simultaneously with Section 367(d) of the same Code, against petitioner and other privately owned and operated slaughterhouses. The case was docketed as Civil Case No. R-DVO-17-03158-CV.[31]

A *Motion for Consolidation of Trial* was filed by petitioner on September 19, 2017 with RTC-Branch 10 in Civil Case No. R-DVO-16-01273-CV, wherein it stated that on May 30, 2017, petitioner filed a similar appeal with the RTC-Branch 17, in the total amount of ₱232,150.70, docketed as R-DVO-17-02113-CV, and that both appeals are pending before RTC-Branch 17. Thus, petitioner moved that RTC-Branch 17 allow the consolidation of the trial of the twin cases before it.[32]

Petitioner then filed an *Appeal* on September 26, 2017 with RTC-Branch 17, docketed as Civil Case No. R-DVO-17-04010, wherein petitioner prayed that RTC-Branch 17 render judgment:

a. Cancelling or annulling the four (4) separate Orders of Payment, dated May 1 and June 1, 2017, assessing petitioner *permit fees to slaughter* in the total amount of ₱212,764.90; and,

b. Permanently enjoining the government of Davao City from implementing Section 367(a) of *The 2005 Revenue Code of Davao City*, simultaneously with Section 367(d) of the same Code, against petitioner and other privately owned and operated slaughterhouses.[33]

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[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.*, p. 42.

In the Order dated October 2, 2017, RTC-Branch 17 granted the Motion for Consolidation of Trial and ordered that Civil Case No. R-DVO-16-01273-CV be jointly tried with Civil Case No. R-DVO-17-02113-CV.[34]

Subsequently, RTC-Branch 17 issued the Order dated February 1, 2018, which granted the *Motion for Consolidation of Trial* of Civil Case Nos. R-DVO-16-01273, R-DVO-16-02113, R-DVO-17-03158, R-DVO-17-04010, and ordered that these four (4) cases be consolidated.[35]

Thereafter, both parties manifested that the issues in these cases are *purely legal*, except for the issue on the interest and that both intend to move that these cases be submitted for summary judgment.[36]

On February 28, 2018, petitioner manifested that:

a. In Civil Case No. R-DVO-16-01273-CV, it paid under protest the disputed *permit fees to slaughter* in the total amount of ₱20,877,675.74 for the years 2005 to 2015 for Tugbok and Toril Dressing Plants on January 20, 2016;

b. On January 18, 2018, petitioner wrote a letter to the City Treasurer claiming refund of the above-stated payments; *and*,

c. By its February 5, 2018 letter, which petitioner received on February 6, 2018, respondent denied petitioner's claim for refund to await the final decision of the Court in these cases.[37]

Thereafter, RTC-Branch 17 issued its Pre-Trial Order dated April 26, 2018, which stated that the parties manifested that the issues in these cases are *purely legal* and that they will no longer present any evidence and granted the parties a period of thirty (30) days from April 26, 2018 to file their respective memoranda.[38]

On July 16, 2018, RTC-Branch 17 promulgated the assailed Joint Decision in Civil Case Nos. R-DVO-16-01273-CV, R-DVO-17-02113-CV, R-DVO-17-03158-CV, R-DVO-17-04010-CV, pertinent portions of which read:

> "This has reference to the Appeals, filed by petitioner San Miguel Foods, Inc., (SMFI, for brevity) from the denial of its protests by respondent Office of the City Treasurer of Davao City (City Treasurer, for brevity); pursuant to Section 195 of Republic Act No. 7160, otherwise known as the 'Local Government Code of 1991.'
>
> In these four (4) Appeals, petitioner SMFI protests the City Treasurer's assessment of the 'Permit Fee to Slaughter,' in SMFI's dressing plants in Sirawan, Toril District and Los Amigos, Tugbok District, both in Davao City,

[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.*, p. 43.

as provided under paragraph (a), Section 367, Article 12, of the Davao City Ordinance No. 158-05, also known as the 2005 Revenue Code of the City of Davao (Local Tax Code, for brevity); and seeks the refund of its payments under protest for the said fee from 2005 to 2017, in the total amount of Twenty One Million Five Hundred Twenty Two Thousand Six Hundred Seventy Two Pesos and Thirty Four Centavos (₱21,522,672.34), broken down as follows:

Case Number	Periods Covered	Amount
R-DVO-16-01273-CV	2005-2015	₱ 20,877,675.74
R-DVO-17-02113-CV	December 2016-January 2017	232,150.70
R-DVO-17-03158-CV	February-March 2017	200,081.00
R-DVO-17-04010-CV	April-May 2017	212,764.90
	TOTAL	₱ 21,522,672.34

xxx xxx xxx

WHEREFORE, premises considered, the Court finds **IN FAVOR** of respondent Office of the City Treasurer of Davao City and against petitioner of San Miguel Foods, Inc.

Accordingly, the Appeals under Section 195 of Republic Act No. 7160, filed by petitioner San Miguel Foods, Inc., against the respondent Office of the City Treasurer of Davao City, are hereby **DISMISSED**, for lack of merit.

SO ORDERED."[39]

Petitioner moved for reconsideration of the assailed Joint Decision. Thereafter, respondent filed its comment. However, petitioner's motion was denied by the trial court in the assailed Order dated October 8, 2018.[40]

Proceedings Before the Court in Division

Petitioner filed a *Petition for Review* before the Court *a quo* on November 12, 2018.[41]

In its November 26, 2018 Resolution, the Court *a quo* ordered respondent to file its comment, not a motion to dismiss, within ten (10) days from receipt thereof.[42]

On November 11, 2019, respondent filed its *Comment (to the Petition for Review dated November 7, 2018)*.[43]

[39] *Id.*, pp. 43-44.
[40] *Id.*, p. 44.
[41] *Id.*
[42] *Id.*
[43] *Id.*

In a Resolution dated February 1, 2019, the Court *a quo* gave due course to the *Petition for Review* and gave the parties a period of thirty (30) days from notice within which to file their respective memoranda.[44]

Thereafter in a Resolution dated February 20, 2019, the Court *a quo* ordered the RTC-Branch 17's Clerk of Court to elevate the entire original records of (a) Civil Case No. R-DVO-16-01273-CV [Appeal]; (b) Civil Case No. R-DVO-17-02113-CV [Appeal]; (c) Civil Case No. R-DVO-17-03158-CV [Appeal]; *and*, (d) Civil Case No. R-DVO-17-04010-CV [Appeal], within ten (10) days from notice, pursuant to Section 5 (b), Rule 6, RRCTA.[45]

On April 4, 2019, the Branch Clerk of Court of RTC-Branch 17 transmitted the records of Civil Case Nos. R-DVO-16-01273-CV, R-DVO-17-02113-CV, R-DVO-17-03158-CV, and R-DVO-17-04010-CV.[46]

Respondent filed its Memorandum on March 20, 2019 while petitioner on May 7, 2019.[47]

On May 31, 2019, the Court *a quo* submitted the case for decision[48] and promulgated the assailed decision on July 3, 2020.

With the denial of its motion for reconsideration, petitioner elevated the case before the Court *En Banc.*

Proceedings Before the Court En Banc.

On October 8, 2021, petitioner filed its *Petition for Review* by registered mail.[49]

In its February 7, 2022 Resolution, the Court noted the filing of the petition on October 8, 2021 and ordered respondent to file its comment.[50]

On March 1, 2022, petitioner filed a *Submission* with attached original and notarized copies of its *Secretary's Certificate* and *Verification and Certification Against Forum Shopping* both dated October 8, 2021.[51] The Court noted the *Submission* and admitted the documents in its March 17, 2022 Resolution.[52]

On March 23, 2022, respondent filed its *Comment* by registered mail,[53] which was noted in a Resolution dated May 11, 2022.[54]

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[44] *Id.*, pp. 44-45.
[45] *Id.*, p. 45.
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] Postmark on the envelope dated October 8, 2021, *Rollo*, p. 63.
[50] *Rollo*, pp. 65-66.
[51] *Rollo*, pp. 67-73.
[52] *Rollo*, pp. 76-77.
[53] *Rollo*, pp. 78-80.
[54] *Rollo*, pp. 83-89.

In the same May 11, 2022 Resolution, the case was deemed submitted for decision.[55]

The Issues

The single ground raised by petitioner for the Court *En Banc's* resolution states:

> Does the Honorable Court (First Division) have jurisdiction over regulatory fees imposed by the local government unit pursuant to its taxing authority under the Local Government Code?[56]

The Arguments of the Parties

Petitioner's Arguments

Petitioner argues that the Court *a quo* erred in dismissing its petition on the ground that the regulatory fees imposed by local government units are outside of its appellate jurisdiction under Section 7(a)(3) of RA 1125, as amended. It takes the position that the Court *a quo* has jurisdiction over regulatory fees imposed by the local government unit, pursuant to its taxing authority under the Local Government Code. It submits that the term "local tax cases" in the law should be interpreted to mean questions involving the exercise by the local government of its delegated powers of taxation under its tax ordinance. This term, it emphasizes, covers the imposition of taxes, fees or charges, and other exactions, pursuant to the city's power to tax.[57] In addition, petitioner is of the view that the Court of Tax Appeals (CTA) under Section 7 of RA 1125, as amended, has the exclusive power to resolve all tax related issues *citing* the case of *Steel Corporation of the Philippines v. Bureau of Customs, et al.*[58] Thus, to restrict the scope of the term "local tax cases" and include only local revenue-raising measures is to defeat the purpose of RA 1125, as amended. Not only will it render absurd judicial processes, it may also create a legal vacuum.[59] Finally, petitioner states that the holding in *Smart Communications, Inc. v. Municipality of Malvar, Batangas*[60] is not controlling in this case because it failed to consider the import of Section 195 of the Local Government Code.[61]

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[55] *Id.*
[56] *Rollo*, p. 9.
[57] *Rollo*, pp. 9-17.
[58] G.R. No. 220502, February 12, 2018; *Rollo*, pp. 13-17.
[59] *Rollo*, pp. 17-20.
[60] G.R. No. 204429, February 18, 2014.
[61] *Rollo*, pp. 20-22.

Respondent's Counter-Arguments

Respondent, in its Comment, stated that the Court *a quo* had already dismissed a similar and earlier petition filed by SMFI for lack of jurisdiction. Furthermore, respondent asserts that it is the nature of the imposition that determines whether or not a suit is a "local tax case." The imposition involved was already determined by the Court *a quo* to be a regulatory fee and *not a local tax*. Hence, respondent concludes, that the only option for the Court *En Banc* is to dismiss the case.[62]

The Ruling of the Court

After due consideration, the Court *En Banc* finds *no merit* in the present Petition for Review.

***The* permit fee to slaughter, *which is the subject of respondent's orders of payment and assessments and/or petitioner's payments under protest, is in the nature of a license fee and, thus,* not a tax.**

Before the Court *a quo*, petitioner SMFI argued that the *permit fee to slaughter* is a fee for the regulation of the slaughter of the animals and, therefore, a direct duplication of the *ante-mortem* and *post-mortem* fees.[63] Petitioner, however, contradicts this position on appeal before the Court *En Banc* by stating that this case involves a "local tax case" or the issue pertains to the exercise of the taxing powers of the local government over which the Court *a quo* has jurisdiction, under Section 7 of RA 1125, as amended.[64]

First, a *fee* is defined as a charge fixed by law for the service of a public officer, while a *tax* is a forced contribution of wealth to the public needs of government. *Taxes* are imposed for the purpose of general revenue, while *license fee* and *other fees* are ordinarily imposed to cover cost and expense of supervision or regulation.[65]

These definitions are consistent with the codal definition laid down by the Local Government Code in Section 131(l), thus:

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[62] *Rollo*, pp. 78-79.
[63] Petition for Review (AC-210), Docket, pp. 19-22.
[64] Petition for Review, *Rollo*, pp. 9-20.
[65] Words and Phrases, Permanent Edition, Vol. 16, p. 322.

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

xxx xxx xxx

(l) 'Fee' means a charge fixed by law or ordinance for the regulation or inspection of a business or activity;

xxx xxx xxx"

More specifically, *The 2005 Revenue Code of the City of Davao* also provides a definition that follows the wording of those provided above:

"**CHAPTER 1**
General Provisions

xxx xxx xxx

SECTION 5. *Definition of Terms.* —

xxx xxx xxx

(f2) *Fee* — a charge fixed by law or ordinance for the regulation or inspection of a business or activity. It shall also include charges fixed by law or agency for the services of a public officer in the discharge of his official duties;" (*Underscoring supplied*)

Secondly, in *Progressive Development Corporation v. Quezon City*,[66] petitioner Progressive Development Corporation, owner and operator of a public market known as the *Farmers Market & Shopping Center* filed a Petition for Prohibition with Preliminary Injunction against respondent Quezon City before the then Court of First Instance of Rizal on the ground that the *supervision fee* or *license tax* imposed by the Quezon City ordinances was in reality *a tax on income* which respondent may not impose, the same being expressly prohibited by RA 2264, as amended. The issue resolved by the Supreme Court was whether the imposition on petitioner's gross receipts of stall rentals is properly characterized as partaking of the nature of an *income tax* or, alternatively, of a *license fee*. The Supreme Court *denied* the petition for lack of merit and began its discussion with the distinction between *fees* and *taxes*, thus:

"Petitioner, however, insist that the 'supervision fee' collected from rentals, being a return from capital invested in the construction of the Farmers Market, practically operates as a tax on income, one of those expressly excepted from respondent's taxing authority, and thus beyond the latter's competence. xxx.

The term 'tax' frequently applies to all kinds of exactions of monies which become public funds. It is often loosely used to include levies for

[66] G.R. No. L-36081, April 24, 1989.

revenue as well as levies for regulatory purposes such that license fees are frequently called taxes although license fee is a legal concept distinguishable from tax: the former is imposed in the exercise of police power primarily for purposes of regulation, while the latter is imposed under the taxing power primarily for purposes of raising revenues. Thus, if the generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.

To be considered a license fee, the imposition questioned must relate to an occupation or activity that so engages the public interest in health, morals, safety and development as to require regulation for the protection and promotion of such public interest; the imposition must also bear a reasonable relation to the probable expenses of regulation, taking into account not only the costs of direct regulation but also its incidental consequences as well. When an activity, occupation or profession is of such a character that inspection or supervision by public officials is reasonably necessary for the safeguarding and furtherance of public health, morals and safety, or the general welfare, the legislature may provide that such inspection or supervision or other form of regulation shall be carried out at the expense of the persons engaged in such occupation or performing such activity, and that no one shall engage in the occupation or carry out the activity until a fee or charge sufficient to cover the cost of the inspection or supervision has been paid. Accordingly, a charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power.

In the case at bar, the 'Farmers Market & Shopping Center' was built by virtue of Resolution No. 7350 passed on 30 January 1967 by respondents's local legislative body authorizing petitioner to establish and operate a market with a permit to sell fresh meat, fish, poultry and other foodstuffs. The same resolution imposed upon petitioner, as a condition for continuous operation, the obligation to 'abide by and comply with the ordinances, rules and regulations prescribed for the establishment, operation and maintenance of markets in Quezon City.'

The 'Farmers' Market and Shopping Center' being a public market in the sense of a market open to and inviting the patronage of the general public, even though privately owned, petitioner's operation thereof required a license issued by the respondent City, the issuance of which, applying the standards set forth above, was done principally in the exercise of the respondent's police power. The operation of a privately owned market is, as correctly noted by the Solicitor General, equivalent to or quite the same as the operation of a government-owned market; both are established for the rendition of service to the general public, which warrants close supervision and control by the respondent City, for the protection of the health of the public by insuring, e.g., the maintenance of sanitary and hygienic conditions in the market, compliance of all food stuffs sold therein with applicable food and drug and related standards, for the prevention of fraud and imposition upon the buying public, and so forth." (*Citations omitted and underscoring supplied*)

Thirdly, Section 367(a) of *The 2005 Revenue Code of the City of Davao*, which imposes the *permit fee to slaughter*, when read together with the other germane provisions in the city ordinance provides the context and reason for the imposition. The purpose of the *permit fee to slaughter* is clearly *to regulate or control the*

slaughter of animals intended for sale to the public in order to promote public health and safety within Davao City's territory:

"**CHAPTER 5**

City Charges

xxx xxx xxx

ARTICLE TWELVE

Slaughter and Corral Fees

SECTION 367. Imposition of Fees. — There shall be imposed the following:

(a) Slaughterhouse Fee. — There shall be collected fees for the slaughter of animals and the use of corals in accordance with the provisions of this article at the slaughterhouse operated by the City Government.

Permit Fee to Slaughter. — Before any animal is slaughtered, a permit therefore shall first be secured from the City Veterinarian or his duly authorized representative, and the corresponding permit fee collected by the City Treasurer's Office, as follows:

Per Head		
Large cattle		P17.50
Hogs a.)	For Lechon	5.25
b.)	Others	8.50
Goat/Sheep & All Others		5.25
Chickens & Fowls		0.10

Slaughter Fee. — For the use and services of the slaughterhouse at Ma-a and other public slaughterhouses the City Treasurer or its deputized personnel shall collect a Slaughter Fee, as follows:

Per Head

1. For Public Consumption:

Large cattle		P141.40
Hogs		94.28
Goat/Sheep & All others		37.71
Chicken/fowls		
(a)	Defeathering	1.60
(b)	Evisceration	0.40
(c)	Entrail Separation and Gizzard Cleaning	0.80
(d)	Leg descaling	1.20

2. For Home Consumption:

Large cattle	P94.28
Hogs	47.14
Goat/Sheep & All others	18.85

Chicken/fowls		
(a)	Defeathering	1.20
(b)	Evisceration	0.40
(c)	Entrail Separation and Gizzard Cleaning	0.40
(d)	Leg descaling	0.80

Provided, that Slaughter Fees herein shall be increased yearly at the rate of Five Percent (5%) of the above schedules, starting from the year 2007 and every year thereafter.

(b) Corral Fee. — Shall be collected by the City Treasurer for the animals to be slaughtered which are deposited and kept in corrals owned by the City, viz:

Per Head

Large cattle	P16.50
Hogs	8.35
Goat/Sheep & All others	5.00
Chicken and fowls	0.08

(c) Delivery Fee Charge. All carcasses and meat products of animals slaughtered at Ma-a slaughterhouse shall be delivered to the respective market outlets or wholesaler outlets, through the accredited meat delivery van and the corresponding delivery fees/charge shall be collected by the City Treasurer, as follows:

Per Head

1.	Matina/Poblacion/Agdao/Buhangin:	
	Large Cattle	P33.00
	Hogs/Swine	24.75
	Goat/Sheep & All others	12.25
	Chicken/fowls	0.16
2.	Other Markets:	
	Large Cattle	P49.50
	Hogs/Swine	33.00
	Goat/Sheep & All others	24.75
	Chicken/fowls	0.25

(d) Ante-Mortem and Post-Mortem Fees. — There is hereby collected ante-mortem and post-mortem fees for the slaughter of animals in City operated slaughterhouses or those authorized by the City Government, as follows:

Per Head

1.	Ante-Mortem Fees	
	Cattle	P5.00
	Carabao, Buffaloes	5.00
	Horses	5.00
	Swine	3.00
	Goats, Sheeps/Deer	1.50

	Poultry	0.15
2.	Post-Mortem Fees:	0.25/Kg.

(e) Other Fees and Charges. — For the use of the ice crusher and chilling facilities at Ma-a Slaughterhouse, the following fees and charges shall be collected by the City Treasurer:

Ice Crusher	P4.25 per block
Chilling Facilities for Chicken	82.50 per 1,000 heads

Executive Order 137, Section 4 (a) states that only transport vehicles accredited by the City Veterinarian shall be used to deliver meat products within the City. Whereas, Section 4 (e) states that the licensing and regulation of butchers, meat vendors, meat dealers, and meat stall/shops is to be exercised by the City, therefore the following fees and charges are hereby imposed:

Meat & Meat Products Delivery Van	P300.00/year
Meat Shop Operator	100.00/year
Meat Processor	100.00/year
Meat Dealer	50.00/year
Vendor	50.00/year
Butcher	50.00/year
Dresser	50.00/year
Cutter	50.00/year
Fish Inspection Fee	P 0.10/kilo or P 30.00/banyera

SECTION 368. Place of Slaughter. — The slaughter of any kind of animal for sale to or consumption of the public shall be done only in the slaughterhouse unless otherwise authorized by the City Government. The slaughter of animals intended for home consumption may be done elsewhere; provided, that the animals slaughtered shall not be sold or offered for sale.

SECTION 369. Time of Payment. —

(a) Permit Fee. — The fee shall be paid to the City Treasurer upon application for a permit to slaughter with the City Veterinarian.

(b) Slaughter Fee. — The fee shall be paid to the City Treasurer or his authorized representative before the slaughtered animal is removed from the public slaughterhouse, or before the slaughtering of the animal if it takes place elsewhere outside the public slaughterhouse.

(c) Corral Fee. — The fee shall be paid to the City Treasurer before the animal is kept in the city corral or any place designated as such. If the animal is kept in the coral beyond the period, the fees due on the unpaid period shall first be paid before the same animal is released from the corral.

SECTION 370. Administrative Provision. —

(a) The slaughter of any kind of animal intended for sale shall be done only in the city slaughterhouse designated as such by the Sangguniang Panlungsod. The slaughter of animals intended for home consumption may be done elsewhere, except large cattle which shall be slaughtered only in the public slaughterhouse. The animal slaughtered for home consumption shall not be sold.

(b) Before issuing the permit for the slaughter of large cattle the City Treasurer shall require for branded cattle, the production of the certificate of ownership and certificate of transfer showing title in the name of the person applying for the permit if he is not the original owner. If the applicant is not the original owner, and there is no certificate of transfer made in his favor, one such certificate shall be issued and the corresponding fee to be collected therefore.

For unbranded cattle that have not yet reached the age of branding, the City Treasurer shall require such evidence as will be satisfactory to him regarding the ownership of the animal for which permit to slaughter has been requested.

For unbranded cattle of the required age, the necessary certificate of ownership and/or transfer shall be issued, and the corresponding fees collected therefore before the slaughter permit is granted.

(c) Before any animal is slaughtered for public consumption, a permit therefore shall be secured from the City Veterinarian or his duly authorized representative, through the City Treasurer. The permit shall bear the date and month of issue and the stamp of the City Veterinarian, as well as the page of the book in which said permit number is entered and wherein the name of the permittee, the kind and sex of the animal to be slaughtered appears.

(d) The permit to slaughter as herein required shall be kept by the owner to be posted in a conspicuous place in his/her stall at all times.

SECTION 371. Prohibition. — It shall be unlawful for any person, natural or juridical, to sell or buy, for business or commerce, within the territorial jurisdiction of the City, unprocessed carcasses or meat of animals and fowls slaughtered in places other than the City operated slaughterhouses or those authorized by the National Meat Inspection Service (NMIS).

Permit to slaughter shall not be granted nor the corresponding fee collected on animals condemned by the City Veterinarian.

SECTION 372. Confiscation: Other Penalty. — All such unprocessed carcasses or meat butchered at slaughterhouses other than the City operated slaughterhouse or those authorized by the National Meat Inspection Service (NMIS), shall be confiscated or seized in favor of the government and shall be disposed of in accordance with law.

xxx xxx xxx." (*Underscoring supplied*)

A reading of Section 367(a) within the context of the other related provisions under Article Twelve – Slaughter and Corral Fees, brings to light the *general welfare* purpose of these provisions. To reiterate, the purpose of these provisions collectively and the imposition of the permit fee is to *regulate* the activities pertaining to the slaughter of animals, in general, and the slaughter of live birds/poultry, in particular.

Based on the foregoing legal authorities, the imposition of Davao City is unmistakably in the nature of a *fee* for the purpose of regulating the business activity of SMFI. The *permit fee to slaughter* is, therefore, *not a tax* to raise revenues for the city but is imposed on SMFI in order for it to engage in a particular trade or business. The *permit fee to slaughter,* which is within the power of respondent to impose, can only be classified as a *fee* for the purpose of regulating a specific business activity imbued with public interest because the activity, *i.e.* the slaughter of live birds/poultry in its Toril and Tugbok dressing plants, can impact public health, hygiene and sanitation.

Without a doubt, such business activity by its nature warrants close supervision and control by the city in the exercise of *police power* under the general welfare clauses of Section 16 of the Local Government Code and Section 87 of the *The 2005 Revenue Code of the City of Davao*:

> "SECTION 16. *General Welfare.* - Every local government unit shall exercise the powers expressly granted, those necessarily implied there from, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants." (*Underscoring supplied*)

> "SECTION 87. Mayor's Permit Fee. — It shall be unlawful for any person or entity to conduct or engage in any of the business, trade or occupation within the territorial jurisdiction of the City of Davao for which permit is required for the proper supervision and enforcement of existing laws and ordinance governing the *sanitation*, security and *welfare of the public* and *the health of the employees engaged in the business, trade or occupation specified in this Revenue Code and other ordinances* that may hereafter be enacted, without first having secured a permit therefore from the City Mayor and paying the necessary fees to the City Treasurer.
>
> There shall be collected an annual fee for the issuance of a Mayor's Permit to operate a business, pursue an occupation or calling, or undertake an activity within the City.
>
> The permit fee is payable for every distinct or separate business or place where the business or trade is conducted. One line of business or trade does not become exempt by being conducted with some other business of trade for which the permit fee has been obtained and the corresponding fee paid for.
>
> xxx xxx xxx." (*Italics and underscoring supplied*)

It bears stressing that the police power delegated to the local government units under the general welfare provision of Section 16 of the Local Government Code subsumes the promotion of *health and safety* within their territory. Evidently, the regulation of the slaughter of live bird/poultry, the activity undertaken in SMFI's dressing plants, is covered within the standards of *health and safety* for the exercise of the city's regulatory powers.

All told, the *permit fee to slaughter*, which is the subject of respondent's orders of payment and assessments and/or petitioner's payments under protest, is in the nature of a *license fee* and, thus, *not a tax.*

Under RA 1125, as amended, the Court a quo has no jurisdiction to decide a case not involving a local tax case decided by the Regional Trial Court.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case.[67] *It is conferred by law.*[68]

Without a law that grants the power to hear, try, and decide a particular type of action, a court may not, regardless of what the parties do or fail to do, afford any sort of relief in any such action filed before it. It follows then that, in those cases, any judgment or order other than one of dismissal is void for lack of jurisdiction. This must be the rule since no less than the Constitution provides that it is a function of the Congress to define, prescribe, and apportion the jurisdiction of courts.[69]

RA 1125, as amended, delineates the *limited* jurisdiction of the CTA in the following manner:

> "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 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

[67] *Victoria Manufacturing Corporation Employees Union v. Victoria Manufacturing Corporation*, G.R. No. 234446, July 24, 2019.
[68] *MR Holdings, Inc. v. Rolando A. De Jesus*, G.R. No. 217837, September 4, 2019.
[69] *Victoria Manufacturing Corporation Employees Union v. Victoria Manufacturing Corporation*, G.R. No. 234446, July 24, 2019.

> 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;
>
> 3. Decisions, orders or resolutions of the Regional Trial Courts in *local tax cases* originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
>
> 4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;
>
> 5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;
>
> 6. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;
>
> 7. Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties." (*Underscoring and italics supplied*)

The CTA, as a specialized court, enjoys jurisdiction *limited to those specifically mentioned in the law.* Noteworthy is that the exhaustive enumeration above *does not* include cases involving the imposition of *fees* by the local government units.

Stated differently, Section 7(a)(3) of RA 1125 vests the CTA with the exclusive appellate jurisdiction over "decisions, orders or resolutions of the Regional Trial Courts in *local tax cases* originally decided or resolved by them in the exercise of their original or appellate jurisdiction."

This was the holding in *Teresa R. Ignacio v. Office of the City Treasurer of Quezon City, et al.*[70] where the Supreme Court ruled that the CTA had no jurisdiction over a case decided by the RTC that did not "primarily involve a tax issue". It further explained that the CTA's *appellate jurisdiction* over decisions, orders, or resolutions of the RTC becomes operative only when the RTC has ruled on a *local tax case*:

> "On the issue of jurisdiction, public respondents argue that the RTC-Br. 85's Resolution dismissing with prejudice the Annulment Case on the ground of *res judicata* has already become final, maintaining that Teresa should

[70] G.R. No. 221620, September 11, 2017.

have elevated the case to the Court of Tax Appeals (CTA), and not to the CA, pursuant to Section 7 (a) (3) of Republic Act (RA) No. 9282, *viz.*:

> SEC. 7. *Jurisdiction.* - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction[.]

The Court disagrees, as the CA properly assumed jurisdiction over Teresa's appeal.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. Case law holds that jurisdiction is conferred by law and determined from the nature of action pleaded as appearing from the material averments in the complaint and the character of the relief sought. Once the nature of the action is determined, it remains the same even on appeal until a decision rendered thereon becomes final and executory.

Based on the above-cited provision of law, it is apparent that the CTA's appellate jurisdiction over decisions, orders, or resolutions of the RTCs becomes operative only when the RTC has ruled on a local tax case. Thus, before the case can be raised on appeal to the CTA, the action before the RTC must be in the nature of a tax case, or one which primarily involves a tax issue. In *National Power Corporation v. Municipal Government of Navotas*:

> Indeed, the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes. This is evident from a perusal of the Local Government Code (LGC) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.

Thus, cases decided by the RTC which involve issues relating to the power of the local government to impose real property taxes are considered as local tax cases, which fall under the appellate jurisdiction of the CTA. To note, these issues may, inter alia, involve the legality or validity of the real property tax assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.

In this case, a reading of the Annulment Complaint shows that Teresa's action before the RTC-Br. 85 is essentially one for recovery of ownership and possession of the property, with damages, which is not anchored on a tax issue, but on due process considerations. Particularly, she alleged that: (a) public

> respondents sent the Notice of Delinquency in July 2008, and the corresponding Warrant of Levy in May 2009, to a wrong address; (b) they knew her correct address as early as March 2007, or before they sent the Notice and Warrant; (c) she had in fact already filed an action against them involving a different property, for likewise sending the notice to a wrong address; and (d) their willful violation of her right to notice of the levy and auction sale deprived her of her right to take the necessary steps and action to prevent the sale of the property, participate in the auction sale, or otherwise redeem the property from Sps. Dimalanta. In other words, the Annulment Complaint's allegations do not contest the tax assessment on the property, as Teresa only bewails the alleged lack of due process which deprived her of the opportunity to participate in the delinquency sale proceedings. As such, the RTC-Br. 85's ruling thereon could not be characterized as a local tax case over which the CTA could have properly assumed jurisdiction on appeal. In fine, the case was correctly elevated to the CA. (*Underscoring supplied; citations omitted*)

Petitioner relies on *Steel Corporation of the Philippines v. Bureau of Customs, et al.*[71] to support its argument that the Court *a quo* should have assumed jurisdiction over the present case.[72] However, in that case, the Supreme Court *affirmed* the CTA's jurisdiction to resolve the issue on whether Steel Corporation of the Philippines, which was undergoing rehabilitation proceedings in RA 10142, or the Financial Rehabilitation and Insolvency Act (FRIA) of 2010, is entitled to the waiver of *customs duties and taxes* due on its importations. As discussed earlier, the present case involves the imposition of *permit fee to slaughter* imposed by the local government of Davao City and has nothing to do with those imposed by the national government. In short, the case law cited by petitioner is inapplicable.

More relevant to the issue of this case, however, is the holding in *Smart Communications Inc. v. Municipality of Malvar, Batangas.*[73]

In *Smart*, no less than the Supreme Court *En Banc* has declared that the fees imposed under Ordinance No. 18 in question are *not taxes but fees.* The Supreme Court further clarified that the ordinance in question *regulate* the enumerated activities particularly related to the construction and maintenance of various structures. In other words, the fees in Ordinance No. 18 were *not* impositions on the building or structure itself; rather, they are impositions on the activity subject of government regulation, such as the installation and construction of the structures. Accordingly, the Supreme Court concluded that the CTA *correctly* dismissed the taxpayer's petition for lack of jurisdiction since the purpose of the ordinance is to regulate and the fees imposed are *not taxes*:

> *"On whether the CTA has jurisdiction over the present case*
>
> Smart contends that the CTA erred in dismissing the case for lack of jurisdiction. Smart maintains that the CTA has jurisdiction over the present case considering the 'unique' factual circumstances involved.

[71] G.R. No. 220502, February 12, 2018.
[72] *Rollo*, pp. 13-17.
[73] G.R. No. 204429, February 18, 2014.

The CTA refuses to take cognizance of this case since it challenges the constitutionality of Ordinance No. 18, which is outside the province of the CTA.

Jurisdiction is conferred by law. Republic Act No. 1125, as amended by Republic Act No. 9282, created the Court of Tax Appeals. Section 7, paragraph (a), sub-paragraph (3) of the law vests the CTA with the exclusive appellate jurisdiction over 'decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction.'

The question now is whether the trial court resolved a local tax case in order to fall within the ambit of the CTA's appellate jurisdiction. This question, in turn, depends ultimately on whether the fees imposed under Ordinance No. 18 are in fact taxes.

Smart argues that the 'fees' in Ordinance No. 18 are actually taxes since they are not regulatory, but revenue-raising. Citing *Philippine Airlines, Inc. v. Edu*, Smart contends that the designation of 'fees' in Ordinance No. 18 is not controlling.

The Court finds that the fees imposed under Ordinance No. 18 are not taxes.

Section 5, Article X of the 1987 Constitution provides that '[e]ach local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government.'

Consistent with this constitutional mandate, the LGC grants the taxing powers to each local government unit. Specifically, Section 142 of the LGC grants municipalities the power to levy taxes, fees, and charges not otherwise levied by provinces. Section 143 of the LGC provides for the scale of taxes on business that may be imposed by municipalities while Section 147 of the same law provides for the fees and charges that may be imposed by municipalities on business and occupation.

The LGC defines the term 'charges' as referring to pecuniary liability, as rents or fees against persons or property, while the term 'fee' means 'a charge fixed by law or ordinance for the regulation or inspection of a business or activity.'

In this case, the Municipality issued Ordinance No. 18, which is entitled 'An Ordinance Regulating the Establishment of Special Projects,' to regulate the 'placing, stringing, attaching, installing, repair and construction of all gas mains, electric, telegraph and telephone wires, conduits, meters and other apparatus, and provide for the correction, condemnation or removal of the same when found to be dangerous, defective or otherwise hazardous to the welfare of the inhabitant[s].' It was also envisioned to address the foreseen 'environmental depredation' to be brought about by these 'special projects' to the Municipality. Pursuant to these objectives, the Municipality imposed fees on various structures, which included telecommunications towers.

As clearly stated in its whereas clauses, the primary purpose of Ordinance No. 18 is to regulate the 'placing, stringing, attaching, installing,

> repair and construction of all gas mains, electric, telegraph and telephone wires, conduits, meters and other apparatus' listed therein, which included Smart's telecommunications tower. Clearly, the purpose of the assailed Ordinance is to regulate the enumerated activities particularly related to the construction and maintenance of various structures. The fees in Ordinance No. 18 are not impositions on the building or structure itself; rather, they are impositions on the activity subject of government regulation, such as the installation and construction of the structures.
>
> Since the main purpose of Ordinance No. 18 is to regulate certain construction activities of the identified special projects, which included 'cell sites' or telecommunications towers, the fees imposed in Ordinance No. 18 are primarily regulatory in nature, and not primarily revenue-raising. While the fees may contribute to the revenues of the Municipality, this effect is merely incidental. Thus, the fees imposed in Ordinance No. 18 are not taxes.
>
> xxx xxx xxx
>
> Considering that the fees in Ordinance No. 18 are not in the nature of local taxes, and Smart is questioning the constitutionality of the ordinance, the CTA correctly dismissed the petition for lack of jurisdiction. Likewise, Section 187 of the LGC, which outlines the procedure for questioning the constitutionality of a tax ordinance, is inapplicable, rendering unnecessary the resolution of the issue on non-exhaustion of administrative remedies." (*Underscoring supplied and citations omitted*)

As a final argument, petitioner contends that the holding in *Smart* is not controlling in the present case.[74]

On the contrary, the characterization of the imposition made by the local government in *Smart*, was *not* a collateral issue at all in that case. In fact, the Supreme Court *En Banc,* in dismissing the petition and in upholding the dismissal of the case by the CTA *En Banc*, explicitly stated the importance of the issue of classifying the local imposition to determine the issue on jurisdiction. To quote for emphasis:

> "The question now is whether the trial court resolved a local tax case in order to fall within the ambit of the CTA's appellate jurisdiction. This question, in turn, depends ultimately on whether the fees imposed under Ordinance No. 18 are in fact taxes."

Smart is a binding precedent which is directly applicable to the adjudication of this case. The Supreme Court *En Banc*'s disposition precisely focused on the very issue of how to classify the imposition of the local government: whether it should be considered a *local fee* meant to regulate an activity or whether it should be considered a *local tax* meant to raise revenues.

All told, the Court *En Banc* finds no reason to modify or reverse the assailed Decision and assailed Resolution of the Court *a quo*.

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[74] *Rollo*, pp. 20-22.

WHEREFORE, premises considered, the present Petition for Review is hereby **DENIED** for lack of merit. The July 3, 2020 Decision of the First Division and its July 28, 2021 Resolution are hereby **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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