REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION
****

MS. LIBERTY M. TOLEDO, in her official capacity as the City Treasurer of Manila and the City of Manila,
Petitioners,

-versus-

METRO MANILA SHOPPING MECCA CORP.,SHOEMART INC., SM PRIME HOLDINGS INC., STAR APPLIANCES CENTER, SUPERVALUE, INC., ACE HARDWARE PHILIPPINES, INC., HEALTH AND BEAUTY, INC., JOLLIMART PHILS., CORP., AND SURPLUS MARKETING CORPORATION,
Respondents.

C.T.A. AC No. 35
(Civil Case No. 03-108175)

Members:

Castañeda, Jr., Chairperson,
Uy, and
Palanca-Enriquez, ***JJ.:***

Promulgated:
OCT 3 1 2008
10:50 a.m.

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DECISION

CASTAÑEDA, JR., J.:

Before this Court is a *Petition for Review* praying for the reversal and setting aside of the Decision dated December 7, 2006 and the Order dated April 17, 2007 rendered by Branch 47 of the Regional Trial Court (RTC) of Manila in Civil Case No. 03-108175, entitled *"Metro Manila Shopping Mecca Corp.,* *Shoemart, Inc., SM Prime Holdings, Inc., Star Appliances Center, Supervalue, Inc., Ace Hardware Philippines, Inc., Health and Beauty, Inc., Jollimart Phils. Corp., and Surplus Marketing Corporation vs. MS. LIBERTY TOLEDO, in her official capacity as the City Treasurer of Manila and the City of Manila".*

Petitioner Liberty M. Toledo is the duly appointed City Treasurer of the City of Manila, empowered to perform the duties of said office including, among others, the collection of all local taxes, fees, and charges, and the power to decide, approve or grant refunds or tax credits of erroneously or excessively paid taxes; while petitioner City of Manila is a local government unit.

Respondents are domestic corporations organized and existing under and by virtue of the laws of the Republic of the Philippines, and doing business in the City of Manila.[1]

During the taxable period ending October 2001, the Business Permits and Licenses Division of petitioner City of Manila assessed respondents for their alleged fourth (4th) quarter local business taxes pursuant to Section 21 (Tax on Business Subject to the Excise Tax, Value-Added Tax or Percentage Taxes under the National Internal Revenue Code) of City Ordinance No. 7794, as amended by City Ordinance Nos. 7807, 7988 and 8011, otherwise known as the Revenue Code of the City of Manila (Revenue Code of Manila), as follows: Je

[1] Docket, p. 41 (Joint Stipulation of Facts and Issues).

1.	Metro Manila Shopping Mecca Corp.	P	1,203,361.44
2.	Shoemart, Inc.		2,902,041.70
3.	SM Prime Holdings, Inc		310,398.44
4.	Star Appliances Center		397,282.22
5.	Supervalue, Inc.		153,428.69
6.	Ace Hardware Philippines, Inc.		53,800.85
7.	Health and Beauty, Inc.		23,256.39
8.	Jollimart Phils. Corp.		25,574.05
9.	Surplus Marketing Corp.	P	35,137.48
	TOTAL	P	5,104,281.26[2]

Respondents accordingly paid the above-mentioned assessments on October 20, 2001. However, independently of the amounts collected under Section 21 (Tax on Business subject to the Excise, Value-Added or Percentage Taxes under the NIRC) of the Revenue Code of Manila, petitioner City Treasurer assessed respondents of local taxes imposed upon retailers, wholesalers, exporters and importers pursuant to Section 15 (Tax on Wholesalers, Distributors, or Dealers), Section 17 (Tax on Retailers) and such other applicable provisions of the Revenue Code of Manila.[3]

On October 20, 2003, respondents filed a judicial action denominated as "Petition" praying for the issuance of a writ of temporary restraining order against the petitioners; the declaration of Section 21 of the Revenue Code of Manila as unconstitutional; and the refund of the amount of P5,104,281.26. The case was docketed as Civil Case No. 03-108175, entitled *"Metro Manila Shopping Mecca Corp., Shoemart, Inc., SM Prime Holdings, Inc., Star Appliances Center, Supervalue, Inc., Ace Hardware Philippines, Inc., Health and Beauty, Inc.,* Je

[2] Ibid.
[3] Ibid.

Jollimart Phils. Corp., and Surplus Marketing Corporation vs. Ms. Liberty Toledo, in her official capacity as the City Treasurer of Manila and the City of Manila".[4]

On November 14, 2003, respondents as plaintiffs filed an *Amended Complaint* seeking the issuance of the writs of temporary restraining order and preliminary injunction for the petitioners as defendants to cease and desist from collecting local business taxes based on Section 21 of the Revenue Code of Manila; and the refund of P5,104,281.26, plus interest.[5]

On December 16, 2003, petitioners filed their *Answer* refuting the material allegations of the Amended Complaint.

During the pre-trial conference, the parties stipulated the following issues:

> 1. Whether or not the assessment upon plaintiffs under Section 21 of the Revenue Code of Manila as amended is illegal and unconstitutional and consequently
>
> 2. Whether or not the plaintiffs are entitled to a tax credit/tax refund in the amount of Five Million One Hundred Four Thousand Two Hundred Eighty One and 26/100 Pesos (P5,104,281.26).[6]

On December 7, 2006, the Regional Trial Court ("RTC") Branch 47 of Manila rendered the assailed Decision, the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is rendered:
>
> (1) Declaring the assessments made upon the plaintiffs for the 4th Quarter local business taxes pursuant to Section 21 of the Revenue Code of the City of Manila in the total amount of P5,104,281.26 null and void;
>
> (2) Ordering the defendants to refund to the plaintiffs as follows:
>
> a) Metro Manila Shopping Mecca Corp. P 1,203,361.44

Jz

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[4] Docket, pp. 56-65.
[5] Docket, pp. 79-87.
[6] Docket, p. 41(Joint Stipulation of Facts and Issues).

b) Shoemart, Inc.		2,902,041.70
c) SM Prime Holdings, Inc.		310,398.44
d) Star Appliances Center		397,282.22
e) Supervalue, Inc.		153,428.69
f) Ace Hardware Philippines, Inc.		53,800.85
g) Health and Beauty, Inc.		23,256.39
h) Jollimart Phils. Corp.		25,574.05
i) Surplus Marketing Corp.		35,137.48
	TOTAL	P 5,104,281.26

OR ALTERNATIVELY, to issue tax credits to the said plaintiffs for the said amount.

SO ORDERED.[7]

On January 17, 2007, petitioners filed a *Motion for Reconsideration* which was eventually denied by the RTC through its Order dated April 17, 2007, the pertinent portions of which state:

> After a careful study of the defendants' motion for reconsideration and the Comment/Opposition filed by the plaintiffs thereto, the court finds that the motion does not raise substantial matters or cogent reasons which would warrant a reversal of the court's decision dated December 7, 2006.
>
> WHEREFORE, premises considered, the Motion for Reconsideration filed by the defendants is DENIED for lack of merit.
>
> SO ORDERED.[8]

Petitioners received a copy of the Order on April 27, 2007 and had thirty (30) days within which to appeal to this Court. On May 5, 2007 and June 9, 2007, petitioners twice moved to extend the filing of a *petition for review.* They likewise filed a *Manifestation* on June 28, 2007, alleging the filing of their *Petition for Review* by registered mail on June 26, 2007. In a Resolution dated July 6, 2007,

[7] Docket, p. 44.
[8] Docket, p. 46.

this Court granted the *Motions*, noted the *Manifestation*, and admitted the *Petition for Review*.[9]

Respondents filed their *Comment* on September 10, 2007. Thereafter, petitioners filed their *Reply* on September 26, 2007; and respondents their *Rejoinder* on November 8, 2007.[10]

In compliance with Resolution dated October 19, 2007, petitioners and respondents filed their respective Memorandum on January 23, 2008 and January 7, 2008, respectively. Hence, on January 29, 2008, the case was submitted for decision.[11]

Petitioners raised the following assigned errors in their Petition for Review:

i. The Honorable Court *a quo* gravely erred in entertaining the case despite the fact that it has no jurisdiction over the case.

ii. The Honorable Court *a quo* gravely erred in its failure to dismiss the case despite failure of plaintiffs to observe a condition sine qua non before resort to court may be had.

iii. The Honorable Court *a quo* gravely erred in its failure to dismiss the case for plaintiffs' failure to state cause of action.

iv. The Honorable Court *a quo* gravely erred in its failure to dismiss the case despite violation by plaintiffs of Section 4, Rule 8 of the 1997 Rules of Court.

v. The Honorable Court *a quo* gravely erred in its failure to dismiss the case despite the fact that the claim of plaintiffs is barred by statute of limitations.

vi. The Honorable Court *a quo* gravely erred in applying the case of Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, Liberty M. Toledo, City Treasurer, and Joseph Santiago, Chief, Licensing Division of Manila, docketed as G.R. No. 156252, (June) 27, 2006.[12]

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[9] Docket, pp. 158-159.
[10] Docket, pp. 221, 261, 272 & 276.
[11] Docket, pp. 297, 357 & 439.
[12] Docket, pp. 25-26.

In their *Comment*, respondents countered:

6. *First*, Petitioners asserted that RTC of Manila-Branch 47 did not acquire jurisdiction of the case for the alleged failure of Respondents to state cause of action. Respondents allegedly failed to observe the procedure in Section 187, LGC which requires that any revenue measure may be raised on appeal to the Secretary of Finance within thirty (30) days from its effectivity. This issue has long been settled by the Court. Section 187, LGC is inapplicable in this case considering that this is a claim for refund of taxes paid under Section 21, (RCM), as amended. Respondents did not attack the constitutionality of the Section 21 tax, they merely claimed that the imposition of taxes under Section 21, RCM, as amended, in addition to taxes under Sections 15 and 17, RCM, (a) violates the City's taxing powers under the LGC; and (b) constitutes illegal double taxation. Therefore, an appeal to the Secretary of Justice is not necessary in this case.

7. *Second,* Petitioners also alleged that while the Court admittedly acquired jurisdiction over the claims of Respondents Metro Manila Shopping Mecca Corp. and SM Prime Holdings, Inc., the Court could not have acquired jurisdiction over the rest of the Respondents due to a purported violation on the rules of joinder of causes of action. While this argument deserves scant consideration due to Petitioners' failure to provide any basis therefore, it does not hurt Respondents' case to point out that the parties in this case stipulated that Respondents are corporations organized and existing under and by virtue of Philippine laws and are all doing business in the City of Manila. The factual findings of the RTC of Manila-Branch 47 and the stipulations of the parties are more telling, in that they confirmed that the cause of action of the Respondents all arose from the same assessment made by Petitioners of business taxes for the 4th quarter of 2001. Even assuming that Petitioners' vague assertions may have some semblance of merit, Section 6, Rule 2, 1997 Revised Rules of Court is explicit that misjoinder of causes of action is not a ground for dismissal of action.

8. *Third*, Petitioners alleged that Respondents' claim for refund was barred by the statute of limitations. Petitioners took note of Respondents' filing of an Amended Complaint on November 14, 2003, which was allegedly beyond the two-year prescriptive period provided under Section 196, LGC. Petitioners must remember that if the amendment merely supplements, amplifies or corrects the facts alleged in the original complaint without constituting a new cause of action, the amendment relates back to the date of the filing of the original complaint for purposes of applying the statute of limitations. Both the Complaint and the Amended Complaint essentially prayed for the refund of ₱5,104,281.26 representing Respondents' erroneously paid business taxes for 2001. Thus, Respondents' claim for refund could not have prescribed since the Amended Complaint merely supplements and amplifies the original Complaint filed on October 20,

2003, which undoubtedly was filed within the two-year prescriptive period.

9. In any case, these matters pertaining to the factual antecedents of the Respondents' administrative claim for refund are undisputed and deemed admitted when they were not denied by Petitioners upon Respondents' request for admission of these facts –

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10. *Finally*, Petitioners averred that the RTC of Manila-Branch 47 should have dismissed Respondents' claim for refund for allegedly violating Section 4, Rule 8, 1997 Revised Rules of Court regarding the legal capacity of Ms. Cecilia R. Patricio, Respondents' then Senior Assistant Vice President-Tax Division, to sue on behalf of Respondents. Petitioners insisted that Respondents failed to state the capacity of Ms. Patricio to file the case. The argument deserves little consideration given that Ms. Patricio was duly authorized by Respondents to file the judicial claim for refund. Both the Complaint and the Amended Complaint contained the duly signed verification and certification of Ms. Patricio.

11. In any event, the Supreme Court has consistently held that the requirement regarding certification and verification of a pleading is formal, not jurisdictional. Such requirement is simply a condition affecting the form of the pleading, non-compliance with which does not necessarily render the pleading fatally defective. The verification is intended to assure that the allegations therein have been prepared in good faith or are true and correct, not mere speculations. Its absence does not divest the trial court of jurisdiction. On the other hand, the certification of non-forum shopping is rooted in the principle that a party-litigant shall not be allowed to pursue simultaneous remedies in different fora, as this practice is detrimental to orderly judicial procedure. This requirement under Administrative Circular No. 04-94, which came before the 1997 Rules of Court, is deemed mandatory but not jurisdictional, as jurisdiction over the subject or nature of the action is conferred by law. As the Supreme Court has ruled in a very recent case, a verification signed by an officer who was understood to be in a position to attest to the truthfulness and correctness of the petition even if he has not shown to have been duly authorized to sign was found acceptable. The records of the case would show that Ms. Patricio, who was then Respondents' Senior Assistant Vice President-Tax Division, was in the same position to have known the correctness of the contents of the Complaint and the Amended Complaint.

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13. *Lastly*, the granting of a refund or tax credit for overpaid taxes is founded on the well-entrenched civil law principle of quasi-contracts, particularly, *solutio indebiti*. Pursuant to the fundamental principle of *solutio indebiti*, the Petitioner City of Manila "received

something when 'there (was) no right to demand it,' and thus the obligation to return arises."[13]

The foregoing assigned errors and counter arguments can be summarized as follows:

1. Whether or not compliance with Section 187 of Republic Act (R.A.) No. 7160[14] is necessary before seeking judicial recourse.
2. Whether or not there was a misjoinder of causes of action.
3. Whether or not the RTC erred when it failed to dismiss the case despite the fact that respondents' claim was allegedly barred by the statute of limitations.
4. Whether or not the RTC erred when it failed to dismiss the case despite the alleged failure of the respondents to comply with Section 4, Rule 8 of the 1997 Rules of Civil Procedure.
5. Whether or not the Supreme Court's ruling in the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.,* is applicable to the present case.

Before proceeding with the rest of the issues, the Court deems it necessary to resolve the third issue on whether or not respondents' claim is barred by the statute of limitations.

THE ASSESSMENTS OF LOCAL BUSINESS TAXES FOR THE FOURTH (4th) QUARTER OF YEAR 2001 UNDER SECTION 21, ARE FINAL AND COLLECTIBLE, AND THEREFORE, VALID

Petitioners contend that the RTC did not acquire jurisdiction due to respondents' failure to file the *Amended Complaint* within the prescribed period, Jc

[13] Docket, pp. 240-244.
[14] Also known as the 1991 Local Government Code which took effect on January 1, 1992.

including the failure to file a written claim for refund or credit, in violation of R.A. No. 7160.

We agree with the petitioners' argument.

Sections 195 and 196 of R.A. No. 7160 pertaining to the remedies available to taxpayers in cases of assessment and refund claim are hereunder quoted for ready reference, to wit:

> Section 195. *Protest of Assessment.* - When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.
>
> Section 196. *Claim for Refund or Tax Credit.* - No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

At the outset, it must be pointed out that the nature, applicable statutory provisions and requirements of an assessment and a claim for refund differ. In local taxation, Section 195 of R.A. No. 7160 provides for the remedies available to taxpayers in case of assessment; while Section 196 of the same Code refers to the requirements for refund.

Based on the facts of the case and the records of the lower court, the Office of the City Treasurer issued assessments of deficiency local business taxes covering the fourth (4^{th}) quarter of year 2001 against respondents, which the latter paid and protested.[15] For purposes of clarity, hereunder is a reproduction of the pertinent portions of the respondents' letter protest:

October 19, 2001

OFFICE OF THE CITY TREASURER
City of Manila

Attention: **MS. LIBERTY M. TOLEDO**
City Treasurer

Gentlemen:

In behalf of SM Group of Companies (names of which are listed on Annex A), we would like to formally notify your office that the payments of our business license and other taxes under pertinent provisions of Tax Ordinance No. 7988 of the City of Manila, including Section 21 thereof were all made under protest.

Notwithstanding the 2^{nd} opinion filed by the City Legal Officer of Manila in his 2^{nd} Indorsement dated December 29, 2000, we still maintain our position on the unconstitutionality of Tax Ordinance No. 7988 of the City of Manila due to its failure to comply with the requirements mandated by the Local Government Code of 1991 as stated in Department of Justice Resolution dated August 17, 2000 in the case of "The Coca Cola Bottlers Phils., Inc. versus The City Mayor and The City Council of Manila".

In this regard, may we again respectfully request that our protest for payment be properly noted in all copies of the official receipts.

[15] Exhibits "A", "C" to "K". See RTC Records, pp. 374-377 and pp. 381-403.

We trust that you will give this matter your preferential attention. Thank you.

Very truly yours,

SM GROUP OF COMPANIES

(Signed)
CECILIA R. PATRICIO
AVP, Corporate tax Division[16]

In a letter dated October 25, 2001, petitioner Liberty M. Toledo denied respondents' protest which reads:

25 October 2001

MS. CECILIA R. PATRICIO
AVP, Corporate Tax Division
SM Group of Companies
Rm. 331 Makati Stock Exchange
Ayala Avenue, Makati City

Madam:

Mabuhay!

This pertains to your letter dated October 19, 2001, notifying this Office that the payments of your business license and other taxes under pertinent provisions of Tax Ordinance No. 7988, including Section 21 thereof were all made under protest.

Furthermore, you requested that the protest for payment be properly noted in the copies of the official receipts.

Regretfully, this Office vehemently reiterates its position **DENYING** your protest. The Court, to date, has not rendered a final judicial declaration as to the assailed provision of the Local Tax Code. Hence, we are under obligation to enforce and collect the revenue imposed therein.

We hope that the foregoing clarifies our position.

[16] RTC Records, p. 374.

Very truly yours,

(Signed)
LIBERTY M. TOLEDO
City Treasurer[17]

Records indicate that although respondents filed a protest on the assessments on October 19, 2001, the *Petition* filed before the RTC was filed beyond the reglementary period. Section 195 of R.A. No. 7160 categorically states that "the taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable". The denial of the protest was received by respondents on November 22, 2001; however, they failed to contest the same before a court of competent jurisdiction within the allowable period, *viz.*, thirty (30) days from receipt of the denial of the protest. In fact, respondents only filed their *Petition* and the *Amended Complaint* on October 20, 2003 and November 14, 2003, respectively. It took them almost two (2) years from the date of receipt of the denial of the protest on November 22, 2001 to seek judicial recourse; way more than the legally prescribed thirty (30) day period.

Accordingly, the subject assessments became conclusive and unappealable when respondents failed to question the same before a competent court within thirty (30) days from receipt of the denial of their protest.

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[17] Exhibit B, RTC Records, p. 378.

RESPONDENTS' CLAIM FOR REFUND CANNOT PROSPER

The amount of P5,104,281.26 representing the alleged amount of erroneously paid local business taxes plus interest covering the fourth (4th)quarter of year 2001, cannot be refunded.

Based on Section 196 of R.A. No. 7160, there are two requisites for a refund claim or tax credit of local taxes, namely: **(1)** a written claim for refund or credit must be filed with the local treasurer before filing an action for refund with the appropriate court; **(2)** the refund claim or tax credit must be filed before the court within two (2) years from the date of payment of the tax, fee or charge.

Although the respondents satisfied the second requisite as prescribed in Section 196 of R.A. No. 7160, they had failed to file a written claim for refund or credit with the petitioner local treasurer, in violation of the same provision. Compliance with the two requisites is mandatory.

Should respondents' letter of protest dated October 19, 2001 be treated as a written claim for refund?

In the case of *China Banking Corporation vs. City Treasurer of Manila* [18], this Court declared that a written protest cannot be considered as a written claim for refund, and ruled that:

> **The above letter speaks for itself. The wordings of the letter are explicit and unequivocal that petitioner merely notified the respondent that it is paying under protest the amount of P330,649.78 representing the alleged local government tax and that they are presently instituting the appropriate legal actions to effect refund of any erroneous/excessive payment made. It is not the written claim for refund as contemplated under Section 196 of the Local Government Code.** JL

[18] C.T.A EB No. 182, July 27, 2006.

> As prescribed under Section 196 of the Local Government Code, the appropriate legal action is to file a written claim for refund. Petitioner did not attempt to seek administrative relief, which was both available and sufficient. Nothing in the records convinces us that the petitioner ever thought of pursuing the available administrative remedy, which is to file a written claim for refund.
>
> Having failed to comply with the requirements prescribed by Section 196, the complaint for refund was prematurely filed for failure to exhaust administrative remedies. Where the enabling statute indicates a procedure for administrative review, and provides a system of administrative appeal, or reconsideration, the courts, for reason of law, comity, and convenience, will not entertain a case unless the available remedies have been resorted to and the appropriate authorities have been given an opportunity to act and correct the errors committed in the administrative forum xxx. (Emphasis supplied).[19]

The afore-quoted case squarely applies in the instant case. Respondents' letter dated October 19, 2001 disputing petitioners' assessments of local business taxes for the fourth (4th) quarter of year 2001, is merely a protest-letter, and should not be treated as a written claim for refund. In said letter, respondents did not categorically request for the refund of the amount they paid as local business taxes. Hence, respondents failed to comply with the requirements of Section 196 of R.A. No. 7160. There being no written claim for refund or credit filed with the petitioner local treasurer, the RTC did not acquire jurisdiction over respondents' refund claim. Thus, the RTC's decision granting respondents' claim for refund is void. A void judgment for want of jurisdiction is no judgment at all.[20]

Moreover, respondents' Exhibits "C" to "K"[21] show that they paid local business taxes under Section 21 of the Revenue Code of the City of Manila.[22] No other evidence was presented to prove that they paid local taxes under Je

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[19] Ibid.
[20] *Galicia vs.Manliquez Vda. De Mindo*, G.R. No. 155785, April 13, 2007, 521 SCRA 85 citing the case of *Metropolitan Bank and Trust Company vs. Alejo*, G.R. No. No.141970, September 10, 2001, 364 SCRA 812.
[21] RTC Records, pp. 381-403.
[22] Tax on Business Subject to the Excise, Value-Added or Percentage Taxes under the NIRC.

Sections 15 and 17 under the same Revenue Code; and how much they actually paid to petitioner City of Manila under the said Sections. Thus, the RTC erred in ordering petitioners to refund the local business taxes paid by respondents considering that there was no sufficient evidence showing that they are entitled to their respective claims for refund or tax credit.

The Court sees no cogent reason to resolve the other issues for being moot.

WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED**. The assailed Decision dated December 7, 2006 and the Order dated April 17, 2007 rendered by the Regional Trial Court, Branch 47, Manila in Civil Case No. 03-108175, are **REVERSED** and **SET ASIDE**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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.

ERNESTO D. ACOSTA
Presiding Justice