23-000324-0010

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA AC NO. 299

TRICOR MANAGEMENT & DEVELOPMENT CORPORATION Represented by MELANIE R. GERASTA,
Petitioner-Appellant,

- versus -

CEBU CITY GOVERNMENT and OFFICE OF THE CITY TREASURER, represented by MARE VAE F. REYES, City Treasurer of Cebu City,
Respondents-Appellees.

NOTICE OF DECISION

To:

ATTY. AARON LEE SOLON YAP
(Counsel for the Petitioner)
Concession Space No. 3
The Regency Crest, Maria Luisa Rd.
Banilad, Cebu City 6000

HON. MICHAEL LOPEZ RAMA
City Mayor
Cebu City Government
Ground Floor, Executive Building
Cebu City Hall, M.C. Briones Street
Cebu City

ATTY. EUGENE C. ORBITA
Head, Cebu City Legal Office
Ground Floor, Legislative Building
Cebu City Hall, M.C. Briones Street
Cebu City

MS. MARE VAE F. REYES
City Treasurer
Cebu City Government
2nd Floor, Cebu City Finance Center Building
M.C. Briones Street, Cebu City

ATTY. CARLO VINCENT E. GIMENA
(Counsel for the Respondents)
Ground Floor, New Legislative Building
Cebu City Hall, Jose Rizal Street, Cebu City

HON. GRACE M. VELOSO-FERNANDEZ
Presiding Judge
THRU: ATTY. NANETTE C. GABUTAN
Branch Clerk of Court - OIC
Regional Trial Court
7th Judicial Region
Branch 19, Cebu City
Port Service Road, North Reclamation Area
Cebu City

GREETINGS:

You are hereby notified by these presents that on **August 22, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 27, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST DIVISION

TRICOR MANAGEMENT & DEVELOPMENT CORPORATION Represented by MELANIE R. GERASTA,
Petitioner-Appellant,

- versus -

CEBU CITY GOVERNMENT and OFFICE OF THE CITY TREASURER, represented by **MARE VAE F. REYES**, City Treasurer of Cebu City,
Respondents-Appellees.

CTA AC NO. 299

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

AUG 2 2 2024 1:20PM

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DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review*[1] filed by petitioner-appellant Tricor Management & Development Corporation ("Petitioner") pursuant to Section 3(a)(3), Rule 4[2] of the Revised Rules of the Court of Tax Appeals (RRCTA), assailing the twin *Orders* dated March 7, 2023[3] and June 19, 2023,[4] rendered by the Regional Trial Court (RTC), Branch 19 of Cebu City, in Civil Case No. R-CEB-22-06407-CV, entitled *Tricor Management & Development Corporation, represented by Melanie R. Gerasta v. Cebu City Government and Office of the City Treasurer, represented by Mare Vae F. Reyes, City Treasurer of Cebu City.* The dispositive portions of the assailed *Orders* read as follows:

[1] Docket, pp. 5-49.
[2] *Infra.*
[3] Docket, pp. 217-220.
[4] Docket, pp. 280-283.

Assailed *Order* dated March 7, 2023:

> **WHEREFORE,** for lack of jurisdiction, the Complaint is hereby **DISMISSED**.
>
> **SO ORDERED**.

Assailed *Order* dated June 19, 2023:

> **WHEREFORE**, the Motion for Reconsideration filed by the plaintiff is hereby **DENIED**.
>
> **SO ORDERED**.

Petitioner prays for the Court that after due proceeding, judgment be rendered setting aside the assailed Orders of the RTC. Petitioner also prays for other just and equitable relief.

First, the facts.

Petitioner is a domestic holding company duly organized and existing under and by virtue of the laws of the Philippines, with principal business address at the Concession Space No. 3, The Regency Crest, Maria Luisa Rd., Banilad, Cebu City 6000. It is represented in this case by its Administrative Officer, Melanie R. Gerasta, pursuant to an authority issued by the Board of Directors dated June 30, 2023, and evidenced by a Secretary's Certificate dated July 12, 2023.[5]

Respondents-Appellees, the Cebu City Government and the Office of the City Treasurer ("Respondents"), represented by Mare Vae F. Reyes, City Treasurer of Cebu City, with address at the Ground Floor, Executive Building and the 2nd Floor, Cebu City Finance Center Building both located in M.C. Briones Street, Cebu City, Philippines.[6]

On April 10, 2019, petitioner executed a *Deed of Absolute Sale of Real Property*[7] in favor of Angelli Suzanne Lim Lua for a consideration of ₱21,840,000.00.

After payment of the corresponding Capital Gains Tax (CGT) and Documentary Stamp Tax (DST), the Bureau of Internal Revenue (BIR) on May 30, 2019, issued the Certificate

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[5] The Parties, Petition for Review, Docket, p. 6-7.
[6] *Id.*
[7] Docket, pp. 78-80.

Authorizing Registration[8] (eCAR) for the transaction involving transfer of real property under eCAR No. C-2019-081-018008-M (eCR201700588435).

Thereafter, or on July 15, 2022, petitioner received a Letter of Assessment[9] (1st Notice) dated June 30, 2022, pursuant to a Letter of Authority No. 2020-03-009[10] dated March 2, 2020, assessing petitioner of additional business taxes and charges, including surcharge, interest, and penalty for taxable year (TY) 2020 in the aggregate amount of ₱441,800.00.

On July 20, 2022, petitioner protested the assessment, [11] arguing that it is a holding and management company and is not engaged in the real estate business; hence, the sale of its real properties is not to be construed as gross sales subject to Local Business Tax (LBT).

On September 22, 2022, through a letter [12] dated September 19, 2022, addressed to Atty. Eugene C. Orbita of the Cebu City Legal Office, respondents sought a legal opinion as to whether petitioner is liable for LBT on the sale of its real property. Petitioner was copy-furnished with the said letter-request.

On October 5, 2022, petitioner, through its counsel, was provided with a copy of the *Legal Opinion*[13] where the Cebu City Legal Office opined that "*Tricor Management and Development is liable to pay Local Business Tax on the sale of its real property in 2019 worth ₱21,840,000.00, based on the fact that Tricor issued official receipt therefor, under its name and in a commercial capacity which, according to BIR Revenue Regulation No. 07-2003, makes Tricor as one engaged in real estate business.*"

Thereafter, or on October 13, 2022, petitioner received a Letter of Assessment[14] (Final Demand) dated October 5, 2022, demanding it to settle the deficiency LBT assessment in the total amount of ₱463,640.00.

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[8] Docket, p. 81.
[9] Docket, p. 84.
[10] Docket, p. 82.
[11] Docket, pp. 86-90.
[12] Docket, pp.91-93.
[13] Docket, pp. 95-98.
[14] Docket, p. 99.

On October 19, 2022, petitioner elevated its case *via* a *Complaint*[15] filed before the RTC, pursuant to Section 195 of the Local Government Code (LGC) of 1991.

On December 27, 2022, and within the extension period given, respondents filed their *Verified Answer with Affirmative Factual, and Special Defenses,*[16] interposing, among others, that the instant complaint be dismissed because of lack of jurisdiction over the subject matter of the claim pursuant to Rule 15, Section 12(a)(1) of the 2019 Amendments to the 1997 Rules of Civil Procedure.

On March 7, 2023, the RTC rendered the first assailed *Order,* dismissing petitioner's *Complaint* on jurisdictional ground. The RTC explained that in *China Banking Corporation v. City Treasurer of Manila,*[17] citing the case of *Luz R. Yamane v. BA Lepanto Condominium Corporation,*[18] the Supreme Court ruled that with the passage of Republic Act (RA) No. 9282, the authority of the RTC to exercise either original or appellate jurisdiction over local tax cases depends on the amount of the claim. According to the RTC, it cannot validly take cognizance of the case since the amount involved in the contested Final Demand, as indicated in the *Complaint,* is only ₱463,640.00, which is way below the jurisdictional amount provided under Section 19 of Batas Pambansa Blg. 129 (BP 129), as amended.

Unable to agree, petitioner filed a *Motion for Reconsideration*[19] but the same was denied in the second assailed *Order* dated June 19, 2023.

Hence, the instant *Petition for Review* raising the following issues for consideration of the Court, to wit:

1. **On the procedural aspect**:

   Whether or not the RTC erred in dismissing Civil Case No. R-CEB-22-06407-CV for lack of jurisdiction;

2. **On the substantive grounds**:

[15] Docket, pp. 55-74.
[16] Docket, pp. 163-185.
[17] G.R. No. 204117, July 1, 2015.
[18] G.R. No. 154993, October 25, 2005.
[19] Docket, pp. 221-234.

a. **Whether or not Petitioner-Appellant, being a holding and management company and not engaged in real estate business, is subject to the Local Business Tax imposed under Sections 143 and 151 of the Local Government Code of 1991, as amended, on its sale of real property; and**

b. **Whether or not the deficiency tax assessments issued by Respondents have no legal basis and therefore invalid and void *ab initio*.**

On the procedural aspect, petitioner submits that the dismissal of the *Complaint* for lack of jurisdiction was erroneous. According to petitioner, the issue of the validity and legality of the deficiency tax assessment falls within the jurisdiction of the RTC since it is incapable of pecuniary estimation. It also asserts that the amount of deficiency tax is immaterial in this case since what is being questioned is the legal basis of the respondents in issuing the challenged deficiency assessment. And since the primary issue is the legality and validity of the business tax deficiency assessment and not the amount of the assessment, the case is considered an action incapable of pecuniary estimation. Hence, petitioner asserts that the RTC has jurisdiction to hear and decide the case.

Petitioner also contends that the instant case is anchored on Section 195 of the LGC of 1991, as amended. In availing its remedy under the said provision, petitioner highlights that it protested the deficiency LBT assessment for its lack of legal basis and not on its accuracy of amount or computation. For petitioner, there is a distinction between the two (2) grounds of protest. In the latter, there is no question of law or legal basis but a question of fact on the assessed amount; thus, the amount is relevant in determining the jurisdiction of the case. In the former, the matter is purely a question of law and indeed incapable of pecuniary estimation, and the amount of the assailed assessment is only incidental and not the main case.

Petitioner likewise argues that the instant case involves questioning the legality and validity of a deficiency tax assessment issued by the City of Cebu. Allegedly, if the Local Government Unit (LGU) has unlawfully exercised its power of taxation, it undermines the principles of fairness, equity, and the rule of law. According to petitioner, resolving this issue is of significant public interest as it ensures that the LGU's actions are in accordance with the law and that taxpayer's rights are protected. Hence, dismissing the instant case based on technical rules of procedure would undermine these important considerations and could have negative consequences for taxpayers and the overall integrity of the tax system.

Regarding the substantive aspect of the instant case, petitioner avers that it is a holding and management company engaged in management/administrative services and not in the real estate business, as evidenced by its *Amended Articles of Incorporation* issued by the Securities and Exchange Commission (SEC) and its *Certificate of Registration* issued by the Bureau of Internal Revenue (BIR).

As a holding and management company, its real properties are investment properties or assets. Thus, the sale of its real property in 2019 is not considered in the regular or ordinary course of business as a real estate company.

Further, as a holding and management company, the sale of its real property has a different tax treatment from the sale of real property by a real estate dealer or real estate developer. In the latter case, the taxpayer is directly and regularly engaged in the real estate business. Hence, its gross receipts from the sale of real properties are subject to LBT. The same is not true in the case of a holding and management company where its real properties are not inventories primarily held for sale in the regular course of trade or business; rather, these properties are just held by the company for passive investment or capital appreciation purposes.

Moreover, petitioner submits that its issuance of an Official Receipt for the sale of real property in 2019 does not automatically convert its nature from a holding company to a real estate business. For petitioner, it only means that it is compliant with the tax regulations since upon registration of corporations with the BIR, official receipts or sales invoices, as the case may be, must be printed and registered with the BIR.

Also, the fact that petitioner paid the corresponding CGT as assessed by the BIR only shows that the sale of the real property is not categorized as an ordinary asset. Assuming that it is subject to LBT, petitioner asserts that the said tax cannot be imposed on the proceeds from the sale of its real property as it is not engaged in the real estate business. And besides, the sale was already subjected to the applicable local transfer tax.

Petitioner further argues that the deficiency LBT assessment is void as nowhere in the LGC, as amended, provides that proceeds from sale of real property by a holding company is taxed or shall be taxed. According to petitioner, no less than the Department of Finance, through the Bureau of Local Government Finance (BLGF), released Memorandum Circular No. 1 dated January 2, 2020 providing guidance on the assessment of local taxes and fees in the local governments during the registration and renewal of business permits and licenses, to wit:

> B. Assessment of LBT for Renewal of Business Permit
>
> 1. xxx
> 2. If applicable, the following shall not form part of the gross sales or receipts
>
>   i. Receipts from the sale of real properties or realty assets, unless one is engaged in the business of buying or selling real estate;[20] xxx

Lastly, petitioner contends that while taxes are indeed the lifeblood of the government, the same should not be used as a tool to destroy. For petitioner, the imposition of taxes without any clear legal basis, is a violation of due process and is confiscatory in nature.

In their *Respondents' Comment and Vehement Opposition to Petitioner's Petition for Review dated July 17, 2023,*[21] respondents submit the following reasons and grounds why the instant *Petition for Review* should not be given due course:

> I. LACK OF JURISDICTION OVER THE SUBJECT MATTER OF THE CLAIM, TAKING INTO ACCOUNT THAT THE INSTANT APPEAL IS CAPABLE OF PECUNIARY ESTIMATION;
>
> II. PETITIONER HAS NO LEGAL CAPACITY TO SUE;
>
> III. THE INSTANT COMPLAINT HAS BEEN BARRED BY STATUTE OF LIMITATIONS BECAUSE THE LETTER OF ASSESSMENT (FINAL DEMAND) DATED OCTOBER 5, 2022 HAD ALREADY BECOME FINAL AND

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[20] BLGF Memorandum Circular No. 001-2020 dated January 2, 2020.

[21] Docket, pp. 304-338.

EXECUTORY DUE TO PETITIONER'S FAILURE TO FILE PROTEST WITHIN THE REGLEMENTARY OR PRESCRIPTIVE PERIOD PROVIDED FOR UNDER SECTION 195 OF RA NO. 7160;

IV. THE VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING APPENDED TO THE COMPLAINT IS FATALLY DEFECTIVE WARRANTING ITS DISMISSAL; AND,

V. THE LETTERS OF ASSESSMENT DATED JUNE 30, 2022 AND OCTOBER 5, 2022 WERE PROPERLY MADE.

Respondents submit that the RTC properly dismissed petitioner's *Complaint* on the ground of lack of jurisdiction. According to respondents, jurisdiction over a subject matter is conferred by the Constitution or the law, and rules of procedure yield to substantive law. And what determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.[22]

Allegedly, in paragraphs 5, 6 and 9 of the petitioner's *Complaint* before the RTC, it alleged that:

> "5. On July 15, 2022, Plaintiff received a Letter of Assessment (1st Notice) dated June 30, 2022, pursuant to a Letter of Authority No. 2020-03-009 dated March 2, 2020, assessing Plaintiff additional business taxes and charges, including surcharge, interest and penalty for taxable year 2020 in the total amount of Four Hundred Forty One Thousand Eight Hundred Pesos (Php441,800.00) xxx.
>
> 6. On July 20, 2022, Plaintiff, acting through its Legal Counsel, submitted a Letter of Protest against the said local business tax deficiency assessment xxx.
>
> xxx xxx xxx
>
> 9. On October 13, 2022, Plaintiff received a Letter of Assessment (Final Demand) dated October 5, 2022, demanding from Plaintiff to settle the amount of Four Hundred Sixty-Three Thousand Six Hundred Forty Pesos (Php463,640.00) inclusive of penalty as of October 2022 xxx."

[22] *Padlan v. Dinglasan*, G.R. No. 180321. March 20, 2013, citing *Fort Bonifacio Development Corporation v. Domingo*, G.R. No. 180765, February 27, 2009.

Respondents assert that contrary to petitioner's protestation, the instant action is capable of pecuniary estimation because the principal relief sought is an appeal from the assessment for the payment of additional business taxes and charges, including surcharge, interest and penalty for TY 2020. Since the allegations in the complaint shall determine the jurisdiction over the subject matter of the case, it is clear that petitioner's protested amount based on the Letter of Assessment (₱441,800.00) does not belong to the RTC, but to the lower court, the Municipal Trial Court in Cities (MTCC) in Cebu City. In fact, according to respondents, in the case of *China Banking Corporation v. City Treasurer of Manila,*[23] the Supreme Court ruled that with the passage of RA No. 9282, the authority of the RTC to exercise either original or appellate jurisdiction over local tax cases depended on the amount of the claim.

Here, considering that the *Complaint* was filed on October 17, 2022, the jurisdictional amount of Two Million Pesos (₱2,000,000.00) and below belonged to the MTCC in Cebu City in accordance with RA No. 11576, otherwise known as "*An Act Further Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa Blg. 129, Otherwise Known As "The Judiciary Reorganization Act of 1980", as Amended.*"

Respondents likewise contend that the *Complaint* should also be dismissed on the ground that petitioner has no legal capacity to sue pursuant to Rule 8, Section 12(a)(3) of the 2019 Amendments to the 1997 Rules of Civil Procedure. According to respondents, the filing of the *Complaint* was unauthorized because it failed to mention therein that it was also authorized to file an appropriate case relative to the Letter of Assessment (Final Demand) dated October 5, 2022, which should have been the reckoning point in filing the instant case before the RTC. Allegedly, the resolving clause of the *Secretary's Certificate* reads:

> "RESOLVED, as it is hereby resolved, that the Board of Directors of Corporation hereby authorizes the Corporation to file the appropriate complaint/s before the competent court or tribunal against the Office of the City Treasurer of Cebu City or the City Government of Cebu City to question and annul

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[23] G.R. No. 204117, July 1, 2015.

> the **assessment of business tax** against (sic) issued to the corporation **dated June 30, 2022**;"

Thus, for failure to state in the quoted resolution that Melanie R. Gerata was authorized to file appropriate action relative to the October 5, 2022 Letter of Assessment which is the final one, it logically follows that she has no authority in filing the *Complaint* for and on behalf of petitioner corporation.

Further, respondents submit that the *Complaint* must also be dismissed on the ground that it has already been barred by statute of limitations. According to respondents, petitioner anchored the filing of its *Complaint* under Section 195 of the LGC. However, despite receipt of the Letter of Assessment (Final Demand) dated October 5, 2022, which allegedly is an updated or amended version of the Notice of Assessment (1st Notice) dated June 30, 2022, petitioner glaringly failed to file a protest on said assessment within sixty (60) days from receipt thereof. Respondents assert that petitioner should have first filed its protest to the final assessment within the reglementary period under Section 195 of the LGC before filing the *Complaint* before the proper court. For respondents, the failure to file a protest rendered the Letter of Assessment (Final Demand) dated October 5, 2022 final and executory pursuant to Section 195 of the LGC.

Respondents also claim that the *Complaint* should also be dismissed on the ground that the *Verification and Certification of Non-Forum Shopping* appended to it is fatally defective. Allegedly, the *Jurat* does not pertain to the *Verification and Certification of Non-Forum Shopping* as the same states: *"xxx and she personally acknowledged to me that the foregoing 'Complaint' is her free and voluntary act and deed."*

In closing, respondents submit that the Letters of Assessment dated June 30, 2022 and October 5, 2022, were properly made.

RULING OF THE COURT

Before *We* proceed to resolve the merits of the case, *We* shall determine first if the Court has jurisdiction to take cognizance of the instant petition.

The Court of Tax Appeals (CTA) has jurisdiction over the instant Petition for Review.

Section 7(a)(3) of RA No. 1125,[24] as amended by RA No. 9282[25] provides:

> SEC. 7. *Jurisdiction.* - The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> xxx xxx xxx
>
> (3) **Decisions, orders or resolutions of the Regional Trial Courts <u>in local tax cases originally decided or resolved by them in exercise of their</u> <u>original or appellate jurisdiction</u>.** (*Boldfacing and underscoring supplied*)

The above provision is implemented by Section 3(a)(3), Rule 4 of the RRCTA, to wit:

> Section 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:
>
> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
>
> xxx xxx xxx
>
> (3) **Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction.** (*Boldfacing supplied*)

With regard to the filing of an appeal with the Court, Section 3(a), Rule 8 of the RRCTA, in part, reads:

> SEC. 3. *Who may appeal; period to file petition.* —
>
> (a) **A party adversely affected** by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or **by a decision**

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[24] AN ACT CREATING THE COURT OF TAX APPEALS.

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

> **or ruling of** the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or **a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within <u>thirty days after receipt</u> of a copy of such decision or ruling**, or expiration of the period fixed by law or the Commissioner of Internal Revenue to act on the disputed assessments... (*Boldfacing and underscoring supplied*)

Records show that petitioner received the RTC's first assailed *Order* dated March 7, 2023 on April 20, 2023, to which petitioner filed a *Motion for Reconsideration* on May 5, 2023. Thereafter, or on June 20, 2023, petitioner received the second assailed *Order* dated June 19, 2023, denying its *Motion for Reconsideration.*

Following Section 3(a), Rule 8 of the RRCTA, petitioner had thirty (30) days from receipt of the second assailed *Order* on June 20, 2023, or until July 20, 2023, to file its *Petition for Review* before the CTA.

Evidently, the filing of the present *Petition for Review* on July 18, 2023 is on time. Hence, the Court has jurisdiction to take cognizance of the present *Petition.*

Now, on the merits of the case.

Admittedly, the *Complaint*, docketed as Civil Case No. R-CEB-22-06407-CV, filed by petitioner before the RTC was an appeal under Section 195 of the LGC. Said provision reads:

> "SEC. 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, interest 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 <u>court of competent jurisdiction</u> otherwise the assessment becomes conclusive and unappealable**." (*Boldfacing and underscoring supplied*).

Based on the foregoing, a taxpayer who disagrees with a tax assessment issued by a local treasurer, or his duly authorized representative, may file a written protest to contest the assessment. In the event that the protest is denied, in whole or in part, by the local treasurer, or after the lapse of the sixty (60)-day prescriptive period for the local treasurer to resolve the protest, the taxpayer has thirty (30) days within which to file an appeal with the court of competent jurisdiction, otherwise the assessment becomes conclusive and unappealable.

In the assailed *Order* dated March 7, 2023, the RTC dismissed petitioner's appeal under Section 195 of the LGC holding that it had no jurisdiction over the said appeal as the amount involved in the contested Final Demand is only ₱463,640.00, which is way below the jurisdictional amount provided under Section 19 of BP 129, as amended.

However, petitioner claims that the RTC has jurisdiction over the case in Civil Case No. R-CEB-22-06407-CV as the sole issue is the propriety of the deficiency tax assessment, irrespective of the tax assessed, and thus, the action is one incapable of pecuniary estimation.

The Court is not convinced.

In determining whether an action is one the subject matter of which is not capable of pecuniary estimation, the Supreme Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the courts of first instance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, the Supreme Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by courts of first instance (now Regional Trial Courts).[26]

In its *Complaint* filed before the RTC, petitioner prayed for the following reliefs:

> "**PRAYER**
>
> WHEREFORE, premises considered, it is most respectfully prayed for this Honorable Court that judgment be rendered in favor of herein Plaintiff and order that the Letter of Assessment (1st Notice) dated 30 June 2022 and Letter of Assessment (Final Demand) dated October 5, 2022 issued by herein Defendant in the amounts of Four Hundred Forty One Thousand Eight Hundred Pesos (Php441,800.00) and Four Hundred Sixty Three Thousand Six Hundred Forty Pesos (463,640.00), respectively, be ANNULLED and SET ASIDE. Plaintiff likewise prays for such other reliefs that are deemed just and equitable under the premises."

Based on the foregoing, it is the Court's considered view that the subject matter of the *Complaint* is capable of pecuniary estimation inasmuch as the principal relief sought is to annul and asset aside the Letter of Assessment demanding payment of local business tax deficiency assessment of ₱463,640.00. Correspondingly, it is without question that the *Complaint* filed before the RTC by petitioner is one capable of pecuniary estimation.

Further, it is well settled that jurisdiction of the court over the subject matter of the action is determined by the allegations of the complaint at the time of its filing, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.[27]

To be sure, the *Complaint* filed before the RTC had the following material allegations, to wit:

> "5. On July 15, 2022, Plaintiff received a Letter of Assessment (1st Notice) dated June 30, 2022, pursuant to Letter of Authority No. 2020-03-009 dated March 2, 2020, assessing Plaintiff additional business taxes and charges,

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[26] *Singson, et al. vs. Isabela Sawmill, et al.*, G.R. No. L-27343, February 28, 1979.
[27] *Encarnacion v. Amigo*, G.R. No. 169793, September 15, 2006.

> including surcharge, interest and penalty for taxable year 2020 in the total amount of Four Hundred Forty One Thousand Eight Hundred Pesos (Php441,800.00) xxx.
>
> 6. On July 20, 2022, Plaintiff, acting through its Legal Counsel, submitted a Letter of Protest against the said local business tax deficiency assessment xxx.
>
> xxx xxx xxx
>
> 9. On October 13, 2022, Plaintiff received a Letter of Assessment (Final Demand) dated October 5, 2022, demanding from Plaintiff to settle the amount of Four Hundred Sixty-Three Thousand Six Hundred Forty Pesos (Php463,640.00) inclusive of penalty as of October 2022 xxx."

Hence, in its prayer, petitioner sought the annulment and setting aside of the Letter of Assessment (1st Notice) dated June 30, 2022 and Letter of Assessment (Final Demand) dated October 5, 2022, assessing petitioner of additional local business taxes of ₱441,800.00 and ₱463,640.00, respectively.

In *China Banking Corporation v. City Treasurer of Manila*,[28] citing the case of *Luz R. Yamane v. BA Lepanto Condominium Corporation*,[29] the Supreme Court ruled that with the enactment of RA No. 9282, the authority of the RTC to exercise either original or appellate jurisdiction over local tax cases depends on the amount of the claim.

Pertinent provisions of BP 129, as amended by RA No. 11576,[30] read:

> SEC. 19. *Jurisdiction of the Regional Trial Courts in Civil Cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction:
>
> xxx xxx xxx
>
> (8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs or the value of the property in controversy exceeds Two million pesos (P2,000,000.00).

[28] G.R. No. 204117, July 1, 2015.
[29] G.R. No. 154993, October 25, 2005.
[30] AN ACT FURTHER EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 129, OTHERWISE KNOWN AS "THE JUDICIARY REORGANIZATION ACT OF 1980," AS AMENDED.

xxx xxx xxx

> SEC. 22. *Appellate jurisdiction.* — Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. xxx

Relevant thereto, Section 33 of the same law provides:

> SEC. 33. *Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts in Civil Cases.* - Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
>
> (1) Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed Two million pesos (P2,000,000.00), exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: *Provided,* That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: *Provided,* further, That where there are several claims or causes of actions between the same or different parties, embodied in the same complaint, the amount of the demand shall be totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; xxx

Pursuant to the foregoing provisions, the jurisdiction to decide appeals under Section 195 of the LGC depends on the amount of local taxes, fees or charges subject of the notice of assessment issued by the local treasurer. Specifically, if the amount exceeds ₱2,000,000.00, the RTC has jurisdiction to hear and decide the case. On the other hand, if the amount does not exceed the threshold, then jurisdiction over the case is vested with the first level courts, to wit: Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts or Municipal Circuit Trial Courts, as the case may be.

Considering that the total amount of local business taxes, fees and charges subject of the Letter of Assessment (Final Demand) dated October 5, 2022 issued by respondents against petitioner for TY 2020 does not exceed the jurisdictional threshold of ₱2,000,000.00 for regional trial courts, the RTC of Cebu City, Branch 19 did not err in ruling that it has no jurisdiction to take cognizance of the appeal filed by petitioner. Specifically, considering that the amount involved is only ₱463,640.00, petitioner's *Complaint* should have been filed with the pertinent first level trial court (Municipal Trial Court in Cities, or MTCC), in Cebu City, not with the RTC.

Verily, finding the dismissal of Civil Case No. R-CEB-22-06407-CV for want of jurisdiction proper, it now becomes unnecessary for this Court to address other arguments raised by the parties.

WHEREFORE, premises considered, the instant *Petition for Review* is **DENIED**, for lack of merit. Accordingly, the *Orders* dated March 7, 2023 and June 19, 2023, both issued by the Regional Trial Court of Cebu City, Branch 19 in Civil Case No. R-CEB-22-06407-CV, are hereby **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(On Official Business)
JEAN MARIE A. BACORRO-VILLENA
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice