REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

CITY TREASURER OF MAKATI rep. by ACTING CITY TREASURER JESUSA E. CUNETA,
Petitioner,

-versus-

KURIMOTO (PHILIPPINES) CORPORATION,
Respondent.

CTA AC NO. 257

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
MAR 05 2024
4:15 p.m.

x- -x

RESOLUTION

CUI-DAVID, J.:

For resolution is petitioner's *Motion for Reconsideration (on the Decision of the CTA-Second Division promulgated on August 31, 2023*) filed on September 22, 2023, without respondent's comment as per Records Verification dated January 3, 2024.

Petitioner prays for the reconsideration and setting aside of the *Decision* dated August 31, 2023 (assailed *Decision*), which disposed of the case as follows:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Orders dated June 7, 2021 and November 17, 2021 of the RTC Branch 132, Makati City, in Civil Case No. R-MKT-19-00308-CV are **AFFIRMED**.
>
> **SO ORDERED.**

Petitioner argues that the reckoning period for filing a protest for refund was on January 17, 2017, when the Billing Assessment amounting to ₱162,400.86 was issued to respondent for taxable year (TY) 2016, and not on June 5, 2018, when a Notice of Assessment[1] for deficiency taxes, fees, and charges amounting to ₱4,670,384.44, which covered TYs 2013 to 2017, was issued to respondent; that the protest filed by respondent on July 30, 3018 did not pertain to the subject tax refund; and the protest letter filed by respondent on December 14, 2018 to the January 17, 2017 Billing Assessment is beyond the prescriptive period under Section 195 of the Local Government Code (LGC).

Petitioner's *Motion for Reconsideration* is bereft of merit.

Petitioner put forth the same arguments already considered, discussed, and passed upon by the Court in the assailed *Decision*. Petitioner posits that since respondent paid the subject claim pursuant to the January 17, 2017 Billing Assessment, it was required to follow the procedure stated in Section 195 of the LGC by filing a written protest within the 60-day period.

Petitioner's argument is specious.

The fact that respondent paid the assessment does not preclude it from claiming a refund or credit under Section 196 of the LGC. This was explained by the Supreme Court in *City Treasurer of Manila v. Philippine Beverage Partners, Inc.*:[2]

> ...[I]t is entirely possible that **the taxpayer, who had received a notice of assessment, paid the assessed tax**, fee or charge **believing it to be erroneous or illegal. Thus**, under such circumstance, **the taxpayer may subsequently direct his claim pursuant to <u>Section 196</u> of the LGC**. [*Emphasis supplied*]

To recall, this case arose due to respondent's petition for tax refund amounting to ₱162,400.86—representing its paid local business tax (LBT) for TY 2016—that was filed with the lower court within two (2) years from the payment of the said amount. Since the present action is a claim for refund, Section 196[3] of the LGC applies.

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[1] Exhibit "G", JSFI, RTC *rollo* – Vol. 2, p. 110.
[2] GR. No. 233556, September 11, 2019.
[3] SEC. 196. *Claim for Refund of 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.** [*Emphasis supplied*]

Contrary to respondent's assertion, the Court did not tack the reckoning period for appeal on June 5, 2018. Since respondent paid the subject refund claim on January 23, 2017, it had two (2) years therefrom, or until January 23, 2019, to file its administrative *and* judicial claims, which petitioner both complied with.

Nonetheless, petitioner subsequently issued the July 18, 2019 Revised Notice of Assessment which noted that the ₱243,491.99 tax overpayment refundable to the petitioner includes the subject refund claim of respondent. Said fact further cements respondent's entitlement to the refund claim, which it properly pursued under the procedure stated in Section 196 of the LGC.

WHEREFORE, petitioner's *Motion for Reconsideration (on the Decision of the CTA-Second Division promulgated on August 31, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice