REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

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CITY OF MANILA AS REPRESENTED BY ITS CITY MAYOR, HONORABLE FRANCISCO "ISKO MORENO" DOMAGOSO AND OIC-CITY TREASURER, Petitioners,	**CTA AC NO. 252**
	Members:
	UY, *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
- versus -	
MARINA SQUARE PROPERTIES, Respondent.	***Promulgated:*** FEB 20 2023 11:30 a.m.

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DECISION

UY, *J.*:

Before the Court is a *Petition for Review* filed on May 24, 2021 by petitioners, City of Manila as represented by its then City Mayor, Honorable Francisco "Isko Moreno" Domagoso and OIC-City Treasurer, seeking for the reversal and setting aside of the Decision dated December 15, 2020[1] and Order dated March 4, 2021,[2] both rendered by the Regional Trial Court (RTC) of Manila – Branch 34, in Civil Case No. R-MNL-18-00546-CV, entitled "*Marina Square Properties, Inc., Plaintiff, vs. The City of Manila and Hon. Rizal Y. Del Rosario in his capacity as OIC – City Treasurer, Defendants*", the dispositive portions of which respectively read as follows:

Decision dated December 15, 2020:

> "***WHEREFORE,*** in view of all the foregoing, judgment is hereby rendered in favor of plaintiff Marina Square

[1] Docket, pp. 17 to 25
[2] Docket, p. 26.

Properties, Inc., and against defendants City of Manila and Hon. Rizal del Rosario, in his capacity as OIC-City Treasurer of Manila ordering the latter to refund to the former the amount of ***ONE MILLION SEVEN HUNDRED SIXTY SEVEN ONE HUNDRED FIFTY PESOS (PHP 1,767,150.00)*** representing the unlawfully collected business taxes for the CY 2016.

Defendant's counterclaim is hereby **DISMISSED** for lack of merit and legal basis.

SO ORDERED."

<u>Order dated March 4, 2021</u>:

"Accordingly, the defendant's Motion for Reconsideration is hereby ***DENIED*** for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner is a local government unit created and established by virtue of Republic Act No. 409, otherwise known as the "Revised Charter of the City of Manila", as amended, and with office address at the Office of the Mayor, Manila City Hall, A. Villegas Street, Ermita, Manila.[3]

Respondent Marina Square Properties, Inc. is a domestic corporation organized and existing under the laws of the Republic of the Philippines, with principal office address at 5/F AG New World Manila Bay Hotel, 1588 M.H. Del Pilar corner Pedro Gil St., Malate, Manila.[4] It was incorporated with the following primary purpose, to wit:

"To purchase, acquire, own, lease, manage, operate, sell and convey real properties (excluding land), such as buildings, factories and warehouses and machineries, equipment and other personal properties as may be necessary or incidental to the conduct of the corporate

[3] Par. 1, *Petition for Review*, Docket, p. 5; Refer also to Par. 3, *Complaint*, vis-à-vis Par. 3, *Answer*, RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 3 and 44, respectively.
[4] Par. 1, Stipulation of Facts, Pre-Trial Order dated October 23, 2018, RTC Docket (Civil Case No. R-MNL-18-00546-CV), at p. 102.

business, and to pay in cash, shares of its capital stock, debentures and other evidences of indebtedness, or other securities, as may be deemed expedients, for any business or property acquired by the Corporation."[5]

THE FACTS

On January 20, 2016, the City Treasurer issued a Statement of Account (SOA), requiring plaintiff to pay local business tax (LBT) and local fees and charges, for calendar year (CY) 2016, in the amount of ₱11,898,480.79, broken down as follows:[6]

LBT for 2016		
LBT (Gross Amount)	₱13,200,734.21	
Less: 10% Discount	(1,320,073.42)	₱11,880,660.79
Local Fees and Charges		17,820.00
Total Amount Assessed		**₱11,898,480.79**

Respondent paid the City of Manila the said amount on February 12, 2016.[7]

Thereafter, on November 3, 2017, respondent filed its letter of even date with the City Treasurer's Office,[8] requesting for the refund of the excess payment of LBT for CY 2016, amounting to ₱1,767,150.00.

On February 1, 2018, respondent filed its *Complaint* with the RTC of Manila,[9] praying that judgment be rendered ordering petitioner to refund to respondent the amount of ₱1,767,150.00, allegedly representing overpaid LBT for CY 2016. Respondent was constrained to file the said *Complaint* within the two-year prescriptive period under Section 196 of the Local Government Code (LGC), to preserve its right to judicially claim for refund the said overpaid LBT.[10] The case was

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[5] Par. 2, Stipulation of Facts, Pre-Trial Order dated October 23, 2018, RTC Docket (Civil Case No. R-MNL-18-00546-CV), at p. 102.

[6] Par. 7, *Complaint*, vis-à-vis Par. 5, *Answer*, RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 3 to 4, and 44, respectively.

[7] Par. 8, *Complaint*, vis-à-vis Par. 6, *Answer*, RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 4, and 45, respectively.

[8] Pars. 11 and 12, *Complaint*, vis-à-vis Par. 8, *Answer*, RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 4, and 45, respectively; Exhibit "F", Docket (Civil Case No. R-MNL-18-00546-CV), pp. 275 to 280.

[9] RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 2 to 11.

[10] Par. 3, Stipulation of Facts, Pre-Trial Order dated October 23, 2018, RTC Docket (Civil Case No. R-MNL-18-00546-CV), at p. 102.

docketed as Civil Case No. R-MNL-18-00546-CV, and raffled to RTC of Manila, Branch 34.[11]

Thereafter, petitioners filed their *Answer* on March 26, 2018,[12] interposing as special and affirmatives defense that respondent is not entitled to the claimed refund. By way of counterclaim, petitioner claims the amount of ₱6,182,904.24 as deficiency business tax liability of respondent for CY 2013, 2014 and 2016.

After trial, the court *a quo,* RTC of Manila, Branch 34, promulgated the assailed Decision[13] on December 15, 2020, ordering the refund in favor of respondent in the amount of ₱1,767,150.00, and dismissing petitioners' counterclaim.

Thereafter, on January 25, 2021, petitioners filed their *Motion for Reconsideration (Re: DECISION dated 15 December 2020).*[14]

On March 4, 2021, RTC-Branch 34 issued the assailed Order,[15] denying petitioners' *Motion for Reconsideration.*

Hence, petitioners filed the present *Petition for Review* on May 24, 2021.[16]

In the Resolution dated June 22, 2021,[17] the Court ordered: (1) petitioners to submit the requisite *Affidavit of Service* as proof that respondent was served with a copy of the instant *Petition for Review,* within ten (10) days from receipt thereof; and (2) counsel for petitioners, Atty. Frankie E. Comia, to provide the Court a copy of his/her *MCLE Compliance for the 6th Compliance Period*, and to pay a fine of ₱2,000.00, furnishing the Court with the proof of payment thereon, within five (5) days from receipt thereof.

Petitioners, through counsel, then posted their *Partial Compliance With Partial Motion for Reconsideration As To The Imposition Of Fine* on December 7, 2021.[18] Subsequently, they also posted their *Compliance* on December 13, 2021.[19]

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[11] RTC Docket (Civil Case No. R-MNL-18-00546-CV), at p. 2.
[12] RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 44 to 47.
[13] Docket, pp. 17 to 25; RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 367 to 375.
[14] RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 377 to 381.
[15] Docket, p. 26; RTC Docket (Civil Case No. R-MNL-18-00546-CV), p. 382.
[16] Docket, pp. 5 to 16.
[17] Docket, pp. 114 to 116.
[18] Docket, pp. 119 to 125.
[19] Docket, pp. 127 to 131.

In the Resolution dated March 16, 2022,[20] the Court: (1) noted and granted petitioners' *Partial Compliance With Partial Motion for Reconsideration As To The Imposition Of Fine*, and recalled and set aside the imposition of fine in the amount of ₱2,000.00 against Atty. Comia; (2) ordered to file its comment to the present *Petition for Review*, not a motion to dismiss, within ten (10) days from notice thereof; and (3) directed the Branch Clerk of Court of RTC of Manila, Branch 34, to elevate the entire original records of Civil Case No. R-MNL-18-134939 *(sic)* to this Court within ten (10) days from notice.

In compliance with this Court's Resolution, the RTC-Branch 34 transmitted to the Court the entire record of Civil Case No. 18-00546 on March 30, 2022, consisting of one (1) folder consisting of three hundred eighty-three (383) pages.[21]

On April 4, 2022, respondent filed its *Comment (Re: Petition for Review Dated May 24, 2021)*.[22] Thereafter, the present case was submitted for decision on April 19, 2022.[23]

Hence, this Decision.

ISSUE

Petitioners assign the following error supposedly committed by the Court *a quo*, to wit:

> "The Lower Court, with all due respect, erred when it found that Respondent is entitled to the claimed refund for its alleged overpayment of local business tax for CY 2016."[24]

Petitioner's arguments:

Petitioners argue that respondent failed to establish its alleged overpayment for local business taxes for CY 2016. Allegedly, respondent's sole witness, Genalyn T. Variacion, respondent's Chief Accountant, testified before the lower court without any proof that she is indeed the Chief Accountant of respondent. Petitioners contend that the competence of respondent's witness to testify was not duly

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[20] Docket, pp. 134 to 135.
[21] Transmittal dated March 29, 2022, Docket, p. 136.
[22] Docket, pp. 143 to 159.
[23] Resolution dated April 19, 2022, Docket, p. 163.
[24] Assignment of Errors, *Petition for Review*, Docket, p. 10.

established. Granting, without admitting the competency of respondent's witness, petitioners assert that the said testimony is also self-serving and should not be given probative value.

Moreover, petitioners, by way of a counterclaim, contend that they were able to sufficiently establish the liability of respondent for deficiency taxes for taxable years 2014, 2017 and 2018 in the total amount of ₱2,863,039.93.

Lastly, petitioners claim that respondent was guilty of undue delay in claiming refund. Allegedly, respondent only filed a claim for refund on November 3, 2017 or almost two (2) years from date of payment.

Respondent's counter-arguments:

Respondent counter-argues that its administrative and judicial claims for refund of overpaid LBT for CY 2016 were filed within the two-year prescription period provided under Section 196 of the LGC.

Respondent further claims that it was able to establish its alleged overpayment of LBT for CY 2016 in the amount of ₱1,767,150.00. Respondent reiterates the ruling of the court a quo that its witness need not be armed with a board resolution authorizing her to testify for the respondent since she merely testified as a witness for the respondent.

Respondent also asserts that petitioner's counterclaim for the payment of the alleged deficiency LBT for taxable years 2014, 2017 and 2018 should be dismissed for lack of merit. The matter of respondent's alleged deficiency taxes for CY 2017 and 2018 were entirely new factual issues which were belatedly raised by the petitioner only in its Motion for Reconsideration of the Assailed Decision. The same were not properly raised during the trial proceedings before the RTC.

Allegedly, the counterclaim to respondent's claim for refund of erroneously collected LBT is not a substitute for the Notice of Assessment required under the LGC; that the counterclaim violates respondent's right to due process; that the taxes allegedly due to petitioner are not delinquent taxes, and as such, petitioner cannot resort to any civil remedy for collection of revenues under the LGC; and that the counterclaim was not properly raised in the proceedings before the RTC due to petitioner's failure to pay the corresponding docket fees.

THE COURT'S RULING

The instant *Petition for Review* lacks merit.

Respondent timely filed its administrative and judicial claim in accordance with Section 196 of the LGC of 1991.

Petitioner claims that respondent is guilty of undue delay in claiming a refund. Allegedly, petitioner was deprived of the opportunity to resolve respondent's claim for refund since respondent filed its claim only on November 3, 2017 or almost two (2) years from date of payment. By delaying the claim for refund and hurriedly filing a complaint before the RTC to beat the two-year prescriptive period, respondent did not come to the court with clean hands.

We are not convinced.

Pertinent to the resolution of respondent's claim for refund of erroneously or illegally collected LBT is Section 196 of the LGC of 1991, which reads as follows:

> 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 payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

The foregoing provision states that, to be entitled to a claim for refund or tax credit, the taxpayer must first file a written claim for refund or credit with the local treasurer; and subsequently file a judicial case for refund, both of which must be filed within two (2) years from the payment of the tax, fee, or charge, or from the date when the taxpayer is entitled to a refund or credit.

In the case of *International Container Terminal Services, Inc., vs. The City of Manila,*[25] the Supreme Court explained that in Section 196 of the LGC of 1991, the taxpayer need not wait for the local treasurer to act on the refund claim as long as both the administrative and judicial claims for refund were filed within the two-year prescriptive period, to wit:

> "xxx, Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, that such tax, fee or charge had been illegally collected from him. **The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two (2) years from the date of payment. By necessary implication, the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive but before the judicial action**.
>
> Unlike Section 195, however, **Section 196 does not expressly provide a specific period within which the local treasurer must decide the written claim for refund or credit. It is, therefore, possible for a taxpayer to submit an administrative claim for refund very early in the two-year period and initiate the judicial claim already near the end of such two-year period** due to an extended inaction by the local treasurer. In this instance, the taxpayer cannot be required to await the decision of the local treasurer any longer, otherwise, his judicial action shall be barred by prescription." (*Emphases Added*)

In the instant case, records show that respondent paid the amount of ₱11,898,480.79[26] on February 12, 2016 with the Office of City Treasurer of Manila pursuant to the SOA dated January 20, 2016[27] issued by the Office of the City Treasurer of Manila requiring plaintiff to pay LBT and local fees and charges for calendar year (CY) 2016 as a prerequisite for the renewal of respondent's business permit in the City of Manila.[28]

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[25] G.R. No. 185622, October 17, 2018.
[26] Exhibit "C", RTC Docket (Civil Case No. R-MNL-18-00546-CV), p. 132.
[27] Exhibit "B", RTC Docket (Civil Case No. R-MNL-18-00546-CV), p. 131.
[28] Q&A No. 8, Sworn Statement of Ms. Genalin T. Variacion to Questions Propounded by Atty. Joshua Y. Bagotsay, Exhibit "G", RTC Docket, pp. 108 to 116 at p. 110.

On November 3, 2017, respondent wrote a letter to the Office of the City Treasurer of Manila, with the subject "*Claim for Refund of Overpaid Local Taxes for CY 2016*".[29]

Thereafter, respondent instituted its judicial claim for refund before the Regional Trial Court – Manila, Branch 34 on February 1, 2018. The relevant dates are summarized as follows:

Period Covered	***Payment Date***	***Last day of two (2)-year prescriptive period***	***Date of Filing Administrative Written Claim for Refund***	***Date of Filing Judicial Claim for Refund***
2016	February 12, 2016	February 12, 2018	November 3, 2017	February 1, 2018

Clearly, respondent's administrative claim filed on November 3, 2017 before the Office of the City Treasurer of Manila, and its judicial claim for refund filed before the RTC-Manila were timely instituted in accordance with Section 196 of the LGC of 1991.

The Court a quo committed no reversible error in giving credence to the testimony of respondent's sole witness Genalyn T. Variacion.

In questioning the findings of the Court *a quo* granting respondent's refund of overpayment of LBT for CY 2016 in the amount of ₱1,767,150.00, petitioner alleges that the testimony of respondent's sole witness, Genalyn Variacion, cannot be given credence by the Court *a quo* for failure to show proof that she is indeed the Chief Accountant of respondent and that she was not duly authorized to testify for and on behalf of respondent. Hence, respondent allegedly failed to discharge its burden of proof on its claim for refund.

Petitioner's contention deserves scant consideration.

In *Armed Forces of the Philippines Retirement and Separation Benefits System vs. Republic of the Philippines,*[30] the Supreme Court held that there is no substantive or procedural rule which requires a

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[29] Exhibit "F", RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 189 to 191.
[30] G.R. No. 188956, March 20, 2013.

witness for a party to present some form of authorization to testify as a witness for the party presenting him or her. As a rule, all persons who can perceive, and perceiving, can make known their perception to others, may be witnesses.[31] All that the Rules of Evidence require of a witness is that the witness possesses all the qualifications and none of the disqualifications provided therein.[32] In this case, records do not show that respondent's witness was declared disqualified as a witness.

Moreover, it should be borne in mind that the assessment of the credibility of witnesses lies within the province and competence of trial courts. A trial court judge is in the best position to weigh the testimonies of witnesses in the light of the declarant's demeanor, conduct, and attitude during trial, and is therefore placed in a more competent position to discriminate between truth and falsehood.[33] Absent any improper findings by the trial court or evidence to show that respondent's testimony was actuated with falsehood, the testimony of respondent's witness should be given credence.

Respondent cannot be held liable for deficiency taxes for TY 2014, 2017 and 2018 in the absence of a Notice of Assessment issued by the local treasurer.

Petitioner insists that respondent's claim for refund of overpaid LBT for CY 2016 should still be denied because respondent is allegedly liable for deficiency taxes for taxable years 2014, 2017 and 2018 in the total amount of ₱2,863,039.93.

Moreover, petitioner maintains that the alleged deficiency liability of respondent was shown when petitioner was able to present the Data and Assessment Form by petitioner's witness during trial before the Court *a quo* which established the liability of respondent for deficiency taxes for taxable years 2014, 2017 and 2018 in the amount of ₱2,863,039.93. As such, the alleged overpayment as claimed by respondent have no legal and factual basis.

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[31] Section 21, Rule 130 of A.M. No. 19-08-15-SC, 2019 Proposed Amendments to the Revised Rules on Evidence.
[32] Supra at 31.
[33] People of the Philippines vs. John Paul Lopez y Mayao, G.R. No. 234157, July 15, 2020.

We do not agree.

Petitioner's collection of respondent's alleged deficiency LBTs for taxable years 2014, 2017 and 2018 by way of a counterclaim is not allowed as it is contrary to the provisions of Section 195 of the LGC of 1991, which states:

> "**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 canceling 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 become conclusive and unappealable." (*Emphases Ours*)

Based on the foregoing, whenever the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, the local treasurer is mandated to issue a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties.

In the case of *Yamane vs. BA Lepanto Condominium Corporation,*[34] the Supreme Court emphasized that the notice of assessments stand as the first instance that the taxpayer is officially made aware of the pending tax liability. Hence, it should be sufficiently informative to apprise the taxpayer about the legal basis of the tax. The High Court further stated that Section 195 of the LGC does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved, but it does require that it

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[34] G.R. No. 154993, October 25, 2005.

state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties.

A perusal of the records disclose that no notice of assessment was issued against respondent for the alleged deficiency taxes for TY 2014, 2017 and 2018, except for a Data and Assessment Form[35] that was only presented by respondent during trial before the lower court. However, the Court finds the Data and Assessment Form as not tantamount to the Notice of Assessment mandated under Section 195 of the LGC. Consequently, without a valid assessment, no valid collection of the alleged deficiency taxes should arise.

Respondent is entitled to its refund claim for erroneously and/or illegally paid LBT for CY 2016 in the amount of ₱1,776,551.05.

In the assailed Decision, the Court a quo held that the local business taxes due from respondent, net of 10% discount, should only be ₱10,113,570.79 and thus, respondent has an excess payment of Php1,767,150.00 for CY 2016.

However, upon careful review of the records of this case, the Court finds respondent entitled to the refund of **₱1,776,551.05**, representing erroneously collected LBT.

To recall, the Court *a quo* computed respondent's local business tax based on respondent's rental income in the amount of ₱1,362,088,995.19 appearing in its audited financial statement for CY 2015 pursuant to Section 110 of the 2013 Omnibus Revenue Code of the City of Manila or Manila City Ordinance No. 8331,[36] which provides as follows:

> Section 110. *Tax on Real Estate Developers, Dealers and Lessors.* – On real estate developers/dealers, lessors or sub-lessors of real estate including accessories, apartments, condominia, houses for lease, rooms and spaces for rent, a tax at the rate of Eighty Two and One Half of One Percent (82.5% of 1%) per annum of the gross receipts for the preceding calendar year is hereby imposed.

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[35] Exhibit-2, RTC Docket (Civil Case No. R-MNL-18-00546-CV), p. 302.
[36] An Ordinance Enacting The 2013 Omnibus Revenue Code of the City of Manila.

Section 110 imposes a tax on all real estate developers/dealers, lessors or sub-lessors of real estate, accessories, apartments, condominia, houses for lease, rooms and space for rent on their **gross receipts for the preceding calendar year**.

Gross receipts is defined under Section 131 of the LGC of 1991, as follows:

> " xxx xxx xxx
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> (n) "*Gross Sales or Receipts*" include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and the deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax, and value-added tax (VAT);

As duly found by the Court *a quo*, respondent is primarily engaged in the business of real estate to purchase, acquire, own, lease, manage, operate, sell and convey real properties (excluding land), such as buildings, factories, and warehouses and machineries, equipment and other personal properties as may be necessary or incidental to the conduct of the corporate business, and to pay in cash, shares of its capital stock, debentures and other evidence of indebtedness, or other securities, as may be deemed expedient, for any business or property acquired by the company.[37] As such, the computation of respondent's LBT should be based on its gross sales or gross receipts.

In determining respondent's gross receipts, respondent alleges that it derived gross receipts from rentals in the total amount of ₱1,362,088,995.19 as stated in its Audited Financial Statements for CY 2015.[38] Respondent's witness testified that the same amount appeared in respondent's Annual Income Tax Return for TY 2015 to wit:

> "Q19: What other proof do you have, if any, that the Company derived gross receipts from rentals in the total amount of Php1,362,088,995.19 for CY 2015?

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[37] Exhibit "A", RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 117 to 131, at p. 122.
[38] Exhibit "D", RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 133 to 175, at p. 137.

A19: The Company's Annual Income Tax Return for CY 2015"

Upon verification however, the Court notes that in its Annual Income Tax Return for TY 2015,[39] respondent reported that it has a Net Sales/Revenues/Receipts/Fees in the total amount of **₱1,360,822,861.00**[40], while in its Audited Financial Statements for CY 2015, the amount of respondent's rental income stated is **₱1,362,088,995.19.**

Considering the foregoing noted discrepancy between the amount reflected in respondent's Annual Income Tax Return and Audited Financial Statements for CY 2015, the Court shall rely upon the amount appearing in respondent's Annual Income Tax Return.

Following the principle that tax refunds should be strictly construed, the lower amount reflected in the Annual Income Tax Return of respondent shall be considered as the basis for gross receipts in computing respondent's local business tax.

Moreover, the sufficiency of a claimant's evidence and the determination of the amount of refund are questions of fact, which must rest on all evidence introduced, and its ultimate determination must find support in credible evidence.[41]

In resolving respondent's entitlement to the subject refund claim, We quote with approval the findings of fact of the Court *a* quo pertaining to the proof of payment of respondent's local business tax for taxable year 2016 in the amount ₱11,898,480.79, to wit:

> "From the evidence presented, it is undisputed that plaintiff paid the local business taxes due for the taxable year 2016 to the City Treasurer's Office of Manila amounting to Php11,898,480.79 as evidenced by O.R. No. UO43006050B dated February 16, 2016, (Exh. "C"), based on the Statement of Account issued by the said office. It, however, contested the payment of said amount, the same being erroneous considering that for the CY 2015, plaintiff derived

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[39] Exhibit "E", RTC Docket (Civil Case No. R-MNL-18-00546-CV), pp. 176 to 184, at pp. 178 and 179.
[40] Discrepancy of ₱1,266,134.19 (₱1,362,088,995.19 Less ₱1,360,822,861.00).
[41] *Commissioner of Internal Revenue vs. Hantex Trading, Co., Inc.,* G.R. No. 136975, March 31, 2005.

gross receipts for lease of property in the total amount of Php1,362,088,995.19. Thus, the local business taxes due from plaintiff, net of 10% discount, should only be Php10,113,570.79, based on Section 110 of the 2013 Omnibus Revenue Code of the City of Manila. Clearly, plaintiff has an excess payment of Php1,767,150.00 for CY 2016xxx."[42]

Accordingly, this Court finds respondent entitled to a refund of erroneously collected and paid LBT under Section 110 of the Manila City Ordinance No. 8331 in the total amount of **₱1,776,551.00**, computed as follows:

Gross Sales/Receipts for CY 2015	₱1,360,822,861.00
Multiply by LBT Rate	82.5% of 1%
LBT due for CY 2016	**₱11,226,788.60**

Amount of LBT paid in CY 2016		**₱11,880,660.79**
LBT due for CY 2016	11,226,788.60	
Less: 10% Discount	1,122,678.86	10,104,109.74
Overpaid LBT for CY 2016 for refund		**₱1,776,551.05**

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit. The assailed *Decision* dated December 15, 2020 rendered by the Regional Trial Court of Manila – Branch 34 in Civil Case No. R-MNL-18-00546-CV is **AFFIRMED with MODIFICATION** as follows: Judgment is hereby rendered **ORDERING** petitioner City of Manila through the City Treasurer to refund in favor of respondent Marina Square Properties, Inc. the amount of **₱1,776,551.05** representing erroneously collected and paid local business tax for CY 2016.

SO ORDERED.

ERLINDA P. UY
Associate Justice

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[42] Decision dated December 15, 2020, RTC Docket (Civil Case No. R-MNL-18-00546-CV), p. 371.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

ERLINDA P. UY
Associate Justice
Chairperson, Special 3rd Division

CERTIFICATION

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