REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

SERVICE RESOURCES, INC.,
Petitioner,

CTA AC NO. 243

- versus -

Members:

CASTAÑEDA, JR., *Chairperson*,
BACORRO-VILLENA, *and*,
CUI-DAVID, *JJ.*

PASIG CITY REPRESENTED BY HON. ROBERT EUSEBIO, CITY MAYOR AND MARITA A. CALAJE, OIC-CITY TREASURER,
Respondents.

Promulgated: JUN 03 2022
1:10 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Service Resources, Inc. (**petitioner/SRI**) pursuant to Rule 8, Section 3(a)[2], in relation to Rule 4, Section 3(a)(3)[3] of the Revised Rules of the Court of

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[1] Filed on 09 October 2020, Division Docket, pp. 5-54.

[2] **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 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 thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] **SEC. 3.** *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:

Tax Appeals[4] **(RRCTA)**. It seeks to annul the Decision dated 01 April 2020[5] (**assailed Decision**) and Order dated 14 August 2020[6] (**assailed Order**) rendered by Hon. Ira Fritzie C. Cruz-Rojo, Presiding Judge of the Regional Trial Court (**RTC**) of Pasig City - Branch 67 (**court *a quo***), as well the 1st Notice of Assessment dated 22 February 2012[7] (**1st Notice**) and the 2nd Notice of Assessment dated 01 June 2012[8] (**2nd Notice**), both issued by respondent Marita A. Calaje, OIC-City Treasurer (**respondent City Treasurer**).

Petitioner is a domestic corporation registered with the Securities and Exchange Commission (**SEC**) on 22 August 1979 to engage in local manpower outsourcing. Its principal office is located at 1st Street corner Phil-Am Street, Kapitolyo, Pasig City, Metro Manila.[9]

Respondent Pasig City (**respondent City**) is a local government unit (**LGU**) represented by its then City Mayor, Hon. Robert Eusebio (**Mayor Eusebio**).[10]

FACTS OF THE CASE

Petitioner is an independent contractor registered with the Department of Labor and Employment (**DOLE**) with DOLE Registration No. NCR-PFO-7491-091411-207.[11] It maintains a principal office in Pasig City[12] (**Pasig Office**) and branch offices in Calamba City, Laguna[13], Sta. Rosa City, Laguna[14], General Trias, Cavite[15] and Clark Field, Pampanga.[16]

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

...

(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;

...

4 A.M. No. 05-11-07-CTA dated 22 November 2005.
5 Annex "A", Petition for Review, Division Docket, pp. 55-59.
6 Annex "B", id., pp. 60-61.
7 Annex "K", id., pp. 86-88.
8 Annex "M", id., pp. 93-95.
9 Paragraph (par.) 5, id., p. 6.
10 Par. 6, id.
11 Annex "C", id., p. 62.
12 Annex "D", id., p. 63.
13 Annex "E", id., pp. 64-65.
14 Annex "F", id., p. 66.
15 Annex "G", id., pp. 67-68.
16 Annex "H", id., p. 69.

Through its principal and branch offices, petitioner provides personnel management services to client firms throughout the country for an agreed service fee.[17]

As a matter of course, petitioner bills its clients on a semi-monthly basis, which billings include the wages of deployed personnel, their mandated socialized benefits and the administration fees for its services. For services rendered in Metro Manila, billings and collections are made by its Pasig Office. For services rendered outside Metro Manila, billings and collections are made by the respective branch offices that rendered the service.[18]

On 22 August 2011, then Pasig City Treasurer, Crispina V. Salumbre, together with Ma. Magdalena W. Mejia (Chief of License Division), issued a Letter of Authority[19] (**LOA**) authorizing the examination of petitioner's books of accounts and other pertinent records. The LOA states that the period of examination covers "the period from January 1, 2008 to present and prior unexamined years."[20]

On 24 February 2012, petitioner received the 1st Notice[21] issued by respondent City Treasurer, alleging that there was an under-declaration of gross sales for the period of 2008, 2009 and 2010, in the amounts of ₱203,288,434.75, ₱329,554,760.00 and ₱472,800,412.66, respectively.[22] As a result of the alleged under-declaration, the 1st Notice assessed petitioner of deficiency taxes for the years 2009, 2010 and 2011 in the total amount of ₱9,493,376.90. The assessment was based on petitioner's gross national revenues reported in its audited financial statements (**AFS**).[23]

On 01 March 2012, petitioner protested the 1st Notice through a letter dated 28 February 2012[24] (**1st letter**). Petitioner argued that: (1) local business taxes (**LBT**) should be based on gross receipts and

17 Par. 8, id., p. 7.
18 Par. 9, id.
19 Annex "J", id., p. 85.
20 Par. 12, id., p. 8.
21 Supra at note 7.
22 Par. 15, Petition for Review, Division Docket, p. 8.
23 Par. 16, id., pp. 8-9.
24 Annex "L", id., pp. 89-92.

not gross revenues pursuant to Section 131[25] of the Local Government Code of 1991 (**LGC**); (**2**) the assessments included revenues which are not attributable to the Pasig Office; and, (**3**) the assessments are oppressive since the alleged deficiency LBT amounted to 50% of petitioner's combined corporate profit for the period in question.[26]

On 15 June 2012, petitioner received the 2nd Notice[27] issued by respondent City Treasurer wherein petitioner was assessed a higher amount of ₱9,573,969.50.[28] Under the 2nd Notice, respondent City Treasurer alleged that petitioner under-declared its gross sales in the amounts of ₱203,288,434.75, ₱290,150,040.00 and ₱480,533,117.66 for the years 2008, 2009 and 2010, based on petitioner's gross national revenues reflected in its AFS for the years 2008, 2009 and 2010, respectively.[29]

On 21 June 2012, petitioner wrote a letter dated 18 June 2012[30] (**2nd letter**) to respondent City Treasurer reiterating its objections to the assessments and calling attention to its overpayments in 2009, 2010 and 2011.[31]

On 10 July 2012, petitioner filed a "Petition for Review on Appeal" dated 09 July 2012[32] (**prior petition**) before the RTC of Pasig questioning the LBT assessments. The same was raffled to Branch 265 of the RTC of Pasig.[33]

On 12 September 2012, petitioner received respondent's Answer dated 07 September 2012[34] filed on behalf of respondent City Treasurer, without any mention of Mayor Eusebio who was similarly impleaded in the said prior petition.[35]

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25 **SEC. 131.** *Definition of Terms.* - ...
26 Par. 17, Division Docket, p. 9.
27 Supra at note 8.
28 Par. 18, Petition for Review, Division Docket, p. 9.
29 Par. 19, id.
30 Annex "N", id., pp. 96-99.
31 Par. 20, id., p. 9
32 Annex "O", id., pp. 100-110.
33 Par. 21, id., p. 9.
34 Annex "P", id., pp. 111-118.
35 Par. 22, id., p. 10.

On 17 September 2012, petitioner filed a Reply to Answer[36] and a Motion to Declare in Default then respondent Mayor Eusebio. However, the RTC of Pasig - Branch 265 denied the said motion in its Order dated 25 October 2012.[37]

After the preliminary conference, the case was referred to the Philippine Mediation Center (**PMC**) for conciliation proceedings.[38] Since the parties failed to settle amicably, the case was re-raffled to Branch 67 of the RTC of Pasig or the court *a quo* which later on proceeded to pre-trial on 11 September 2013.[39]

Thereafter, trial ensued. After the trial, the court *a quo* rendered the assailed Decision[40] denying the prior petition. The dispositive portion thereof reads:

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> ***WHEREFORE***, the instant Petition is ***DENIED*** for lack of jurisdiction and lack of cause of action.
>
> ***SO ORDERED.***
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> ...

In the assailed Decision, the court *a quo* considered petitioner's 2nd letter as *another* protest for which it must give respondent City Treasurer a period of sixty (60) days to decide before going to court. Since petitioner filed the prior petition before the lapse of said 60-day period, the court *a quo* found that the same was prematurely filed and that it did not validly acquire jurisdiction over such prior petition.

Petitioner filed a Motion for Reconsideration (**MR**) but the same was denied in the assailed Order[41] holding that there was nothing in the 2nd Notice which shows that it resolved petitioner's 1st letter. The court *a quo* further held that if petitioner indeed believed that the 2nd

[36] Annex "Q", id., pp. 119-123.
[37] Annex "S", id., pp. 125-126.
[38] See Order dated 25 March 2013, Annex "R", id., p. 124.
[39] Par. 25, id., p. 10.
[40] Supra at note 5; Emphasis and italics in the original text.
[41] Supra at note 6.

Notice was the ruling on the 1st letter, why then did petitioner file the 2nd letter on the 2nd Notice?

PROCEEDINGS BEFORE THIS COURT

On 09 October 2020, petitioner filed the instant Petition for Review[42] before this Court. After respondents filed their Comment[43] on 07 December 2020, petitioner filed its Reply[44] on 21 December 2020.

In compliance with the Court's Resolution dated 18 February 2021[45], petitioner filed its Memorandum[46] on 24 March 2021 while respondent filed its own Memorandum[47] on 07 May 2021. Later, after the Court granted petitioner's Motion for Leave to Admit Attached Reply-Memorandum[48], petitioner's Reply-Memorandum[49] was duly admitted.[50] Thus, on 08 June 2021, the case was submitted for decision.[51]

Before Us, petitioner raises the following grounds in support of the instant petition:

I.
THE COURT *A QUO* GRAVELY ABUSED ITS DISCRETION WHEN IT DISMISSED THE PETITION FOR LACK OF JURISDICTION;

II.
THE ASSESSMENTS ARE NULL AND VOID FOR VIOLATING SECTION 171 OF THE LOCAL GOVERNMENT CODE (LGC) AND ARTICLE 259(C) OF ITS IMPLEMENTING RULES AND REGULATIONS (IRR);

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42 Supra at note 1.
43 Division Docket, pp. 263-269.
44 Id., pp. 253-261.
45 Id., p. 280.
46 Dated 23 March 2021, id., pp. 281-328.
47 Dated 30 April 2021, id., pp. 331-340.
48 Id., pp. 342-343.
49 Id., pp. 344-349.
50 Id., p. 351.
51 Id.

III.
THE ASSESSMENTS FOR THE PERIOD FROM 01 JANUARY 2009 UNTIL 31 DECEMBER 2011 ARE BEREFT OF LEGAL AND/OR FACTUAL BASIS AND THUS, NULL AND VOID; AND,

IV.
THE ASSESSMENTS ARE NULL AND VOID FOR VIOLATING FUNDAMENTAL LAW AND PRINCIPLES ON DOUBLE AND LOCAL TAXATION.

Petitioner insists that the 2nd Notice effectively denied its 1st letter which prompted it to file an appeal before the RTC of Pasig in order to prevent the assessment from becoming final, executory and demandable.

Petitioner thus ascribes error on the part of the court *a quo* when it deemed that the 2nd Notice vacated the 1st Notice and that its 2nd letter was yet *another* protest for which it must give respondents a period of sixty (60) days to decide the same. Further, since it appealed with the RTC of Pasig within the said 60-day period, the court *a quo* found that it acted prematurely.

As to the court *a quo*'s observation that if indeed petitioner believed that the 2nd Notice was the ruling on its 1st letter, then why did it still file the 2nd letter, petitioner explains that its filing cannot be taken against it as it simply gave respondents a chance to reconsider their ruling before elevating the matter to the court.

Petitioner adds that the assessments against it violated the one (1)-year examination rule provided in Section 171[52] of the LGC stating

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52 **Sec. 171.** *Examination of Books of Accounts and Pertinent Records of Businessmen by Local Treasurer.* - The provincial, city, municipal or barangay treasurer may, by himself or through any of his deputies duly authorized in writing, examine the books, accounts, and other pertinent records of any person, partnership, corporation, or association subject to local taxes, fees and charges in order to ascertain. assess, and collect the correct amount of the tax, fee, or charge. Such examination shall be made during regular business hours, only once for every tax period, and shall be certified to by the examining official. Such certificate shall be made of record in the books of accounts of the taxpayer examined.

In case the examination herein authorized is made by a duly authorized deputy of the local treasurer, the written authority of the deputy concerned shall specifically state the name, address, and business of the taxpayer whose books, accounts, and pertinent records are to be examined, the date and place of such examination and the procedure to be followed in conducting the same.

that the examination shall be made only once for every tax period. Under Article 259(C)[53] of its Implementing Rules and Regulations (**IRR**), this means that the tax period that may be examined is limited to the year immediately preceding the date of examination. Thus, respondent City Treasurer's examination should have been limited only to 2010, the year immediately preceding the date of examination of 2011.

Petitioner further argues that the assessments were arbitrarily issued without examining its books of accounts and other pertinent records. Despite having been presented the books of accounts of its Pasig Office, the examiners photocopied only one (1) page and disregarded the rest. Moreover, the same examiners likewise failed to certify the examination and make the same of record in petitioner's books. For petitioner, considering respondents' blatant violation of the mandatory guidelines as provided in Section 171 of the LGC and Article 259(c) of its IRR, the assessments must be cancelled for being null and void.

Petitioner further claims that the assessments cover revenues derived from petitioner's branch offices outside its Pasig Office. Under

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For this purpose, the records of the revenue district office of the Bureau of Internal Revenue shall be made available to the local treasurer, his deputy or duly authorized representative.

53 **ART. 259.** *Examination of Books of Accounts and Pertinent Records of Businessmen.* —

(a) For purposes of implementing this Article, only the treasurer of the LGU imposing the tax, fee, or charge, may examine the books of accounts and pertinent records of businessmen in order to ascertain, assess, and collect the correct amount of taxes, fees, and charges.

(b) The provincial, city, municipal, or barangay treasurer may, by himself or through any of his deputies duly authorized in writing, examine the books, accounts, and other pertinent records of any person, partnership, corporation, or association subject to local taxes, fees, and charges.

(c) The examination shall be made during regular business hours not oftener than once a year for every tax period, which shall be the year immediately preceding the examination, and shall be certified by the examining official. Such certification shall be made of record in the books of accounts of the taxpayer examined.

(d) In case the examination is made by a duly authorized deputy of the local treasurer, the written authority of the deputy concerned shall specifically state the name, address, and business of the taxpayer whose books, accounts, and pertinent records are to be examined, the date and place of such examination, and the procedure to be followed in conducting the same.

(e) For this purpose, the records of the revenue district office of the BIR shall be made available to the local treasurer, his deputy or duly authorized representative.

(f) The Secretary of Finance shall prescribe the necessary forms to be used and such guidelines which may be deemed necessary for the proper and effective implementation of this Article.

Section 150[54] of the LGC, a business that maintains a branch office shall record the sale in the branch office making the sale or transaction and the business tax therefor shall accrue and be paid to the city or municipality where the branch office is located. Only when a transaction is made in a city or municipality where the business has no branch office will it then record the same in its principal office.

Here, petitioner conducts its business in Metro Manila through its Pasig Office. While petitioner also renders services outside of Metro Manila, these are all conducted and booked by branch offices located outside thereof. In the assessments for Pasig Office, however, petitioner was assessed deficiency business tax based on gross sales and other income reflected in its comprehensive AFS which means that it included the gross sales and revenues of its branch offices.

Petitioner likewise avers that based on Section 131[55] of the LGC, gross receipts refer to the total amount of money received by the taxpayer for the services performed, which may be in the form of a contract price, compensation or service fee. However, it does not include reimbursements received by the taxpayer for advances made in favor of a client. In this case, petitioner's actual receipts include not only the administration fees it earned for personnel management services, but also reimbursements by clients for salaries and wages of the workers deployed to its offices. Since these did not redound to the benefit of petitioner, the same should not form part of its gross receipts subject to tax.

Petitioner also maintains that the assessments against it violated the prohibition against double taxation since they have been based on gross revenues and not gross receipts. The assessments for 2009 and 2010 were also based on petitioner's revenues in 2009 which resulted in double taxation of the revenues for the said year.

Lastly, petitioner claims that LBT assessments are unjust, excessive, oppressive and confiscatory, in violation of the fundamental principles of local taxation. Specifically, the taxes assessed by respondent City Treasurer amount to more than 20%, 100% and 50% of

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54 **Sec. 150**. *Situs of the Tax*. - ...
55 Supra at note 25.

petitioner's comprehensive net income for 2008, 2009 and 2010, respectively. In fact, even without the 25% surcharge and interest, the basic LBT assessments for 2009, 2010 and 2011 still amount to more than 10%, 50% and 30% of its comprehensive net income for the corresponding base years, respectively.

With the above, petitioner thus contends that the assessments are so excessive that if implemented in addition to the 30% corporate income tax and other taxes imposed by the national government, it would obliterate petitioner's profits, expend its working capital and eventually cause the closure of its business. As the said assessments are unjust, excessive, oppressive and confiscatory, they should be voided.

On the other hand, respondents contend that the 1st Notice was cancelled and thus, the 1st protest was likewise cancelled. Therefore, the premature filing of the prior petition with the RTC of Pasig violated the doctrine of exhaustion of administrative remedies.

Respondents further claim that the tax assessments are presumed correct and made in good faith especially so that petitioner failed to show concrete evidence that they are without any foundation or that respondents acted arbitrarily. They add that it is incumbent upon petitioner to prove that it is not liable to pay the assessed taxes and to produce the following basic documentary evidence: (1) LBT assessments issued by other LGUs where it alleges that it has branches; (2) Bureau of Internal Revenue (**BIR**) Certificates of Registration for the same branches; and, (3) official receipts evidencing that it paid LBT to said localities.

Finally, respondents contend that petitioner also failed to establish the following, in relation to Section 150[56] of the LGC: (1) branches or sales outlets in other municipalities or cities; (2) all sales or transactions are duly and properly declared and recorded therein or that it has no undeclared revenues; and, (3) it had paid the proper taxes and/or fees to other LGUs.

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56 Supra at note 54.

In countering the above argument, petitioner argues that for purposes of paying LBT in a specific LGU, the only requirement of the LGC and its IRR is to show proof that the sales are made and recorded in the branch office or sales office in the locality where it is located. The LGC and its IRR are both silent on the requirement that the taxpayer must show proof of payment of taxes in other localities to the LGU where its principal office is located. Assuming that proof of payment of taxes in other localities is required, petitioner declared that it nevertheless submitted evidence that it paid such taxes.

According to petitioner, the issuance of the business permit means that it has paid the appropriate business taxes and fees. Hence, when it was issued business permits for its Pasig Office and its other branches outside Metro Manila, it only means that petitioner paid LBT in these LGUs. In addition, the said business permits likewise indicate the official receipt number, amount paid and the gross sales and these belies respondents' claim that petitioner failed to present evidence of payment of LBT in different localities. Respondent City Treasurer thus cannot feign ignorance to such a fact because the 1st and 2nd Notices contained a breakdown of the gross receipts *per* branch.

RULING OF THE COURT

After considering the contrasting arguments of the parties and the pertinent laws, rules and jurisprudence, the Court finds no merit in the instant Petition for Review.

In this case, petitioner mainly argues that the 2nd Notice[57] effectively denied its protest (1st letter[58]) and its 2nd letter[59] cannot be considered as "another protest" since it relates to the same taxable years (as the 1st letter) nor would it have the effect of resetting the period provided under Section 195 of the LGC, that is, respondent City Treasurer would have another 60 days to decide the 2nd letter.

57 Supra at note 8.
58 Supra at note 24.
59 Supra at note 30.

Respondents, on the other hand, maintain that the 2nd letter (addressing the 2nd Notice) is a written protest. Thus, the filing of the prior petition before the RTC of Pasig within the 60-day period allotted for respondent City Treasurer to resolve the 2nd letter violated the doctrine of exhaustion of administrative remedies which proved fatal to petitioner's case due to lack of jurisdiction and cause of action.

Section 195 of the LGC provides for the remedies available to the taxpayer in protesting the assessments of local business taxes, to wit:

> ...
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> **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, 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 <u>shall</u> 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.**[60]
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> ...

From the above, the taxpayer has 30 days either from the: (1) receipt of the denial of it protest; or, (2) lapse of the 60-day period, within which to appeal with the court of competent jurisdiction. Otherwise, the assessment becomes conclusive and unappealable.

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60 Emphasis and underscoring supplied.

In *China Banking Corporation v. City Treasurer of Manila*[61], the Supreme Court recognized that the failure of the local treasurer to act on the protest is tantamount to a "denial due to inaction," to wit:

> ...
>
> The Court, however, is of the view that the period within which the City Treasurer must act on the protest, and the consequent period to appeal a '**denial due to inaction**,' should be reckoned **from January 15, 2007, the date CBC filed its protest**, and not March 27, 2007. **Consequently, the Court finds that the CTA *En Banc* did not err in ruling that CBC had lost its right to challenge the City Treasurer's 'denial due to inaction.**' On this matter, Section 195 of the LGC is clear:
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> ...
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> Time and again, it has been held that the **perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case**. At the risk of being repetitious, the Court declares that the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.
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> ...

Further, in the case of *Team Pacific Corporation v. Josephine Daza, in her capacity as Municipal Treasurer of Taguig*[62], the Supreme Court ruled that the inaction of the local treasurer is appealable to a court of competent jurisdiction, to wit:

> ...
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> A taxpayer dissatisfied with a **local treasurer's** denial of or **inaction on his protest over an assessment** has thirty (30) days within which to appeal to the court of competent jurisdiction. Under the law, said period is to be reckoned from the taxpayer's receipt of the denial of his protest or **the lapse of the sixty (60)-day period within which the local treasurer is required to decide the protest, from the moment of its filing. This much is clear from Section 195 of the Local Government Code**...
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> ...

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61 G.R. No. 204117, 01 July 2015; Citation omitted and emphasis supplied.
62 G.R. No. 167732; 11 July 2012; Emphasis supplied.

Echoing the foregoing jurisprudential pronouncements, this Court, in *Public Safety Mutual Benefit Fund, Inc., represented by its President Mario A. Avenido v. Rosette F. Laquian, Acting City Treasurer, San Juan City*[63], held that the taxpayer is duty-bound to elevate a "denial due to inaction" to a court of competent jurisdiction, otherwise, the assessment becomes final and unappealable, to wit:

> ...
>
> ... [I]t is evident that under Section 195 of the LGC, the failure of the local treasurer to act on the taxpayer's protest within the 60-day period is tantamount to a "denial due to inaction." **The taxpayer is mandated to elevate the said "denial due to inaction" to a court of competent jurisdiction, within a period of thirty (30) days reckoned from the lapse of the 60-day period.** It bears stressing that the **perfection of appeal within the period prescribed under Section 195 of the LGC is <u>not only mandatory but also jurisdictional</u>**.
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> **Further, it is relevant to take note of the use of the word "shall" in Section 195 of the LGC, as the word "shall" underscores the mandatory character thereof. It is a word of command, one which always has or must be given a compulsory meaning, and is generally imperative or mandatory.** Thus, contrary to petitioner's stance, the provision under **<u>Section 195 of the LGC as well as the period indicated therein are mandatory and not merely directory in nature</u>**.
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> ...

In the instant case, the following are the undisputed pertinent events:

Date	Action
24 February 2012[64]	Petitioner received the 1st Notice
01 March 2012[65]	Petitioner filed its protest through the 1st letter
30 April 2012	End of the 60-day period for respondent City Treasurer to decide on the protest
30 May 2012	**End of the 30-day period to file an appeal before a court of competent jurisdiction**
15 June 2012[66]	Petitioner received the 2nd Notice

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63 CTA EB No. 2198 (CTA AC No. 214), 15 January 2021; Citation omitted, emphasis and underscoring supplied.
64 Par. 15, Petition for Review, Division Docket, p. 8.
65 Par. 17, id., p. 9.
66 Par. 18, id.

21 June 2012[67]	Petitioner filed the 2nd letter reiterating its objections to the assessments made by respondent City Treasurer
10 July 2012[68]	**Petitioner filed a *"Petition for Review on Appeal"* before the RTC Pasig**
20 August 2012	**End of the 60-day period for respondent City Treasurer to decide on the protest**

From the foregoing, it is clear that petitioner failed to comply with the provisions of Section 195 of the LGC in both notices of assessment.

With respect to the 1st Notice, the 30-day period for petitioner to file an appeal with the court of competent jurisdiction lapsed on 30 May 2012 without the same being filed; hence, the 1st Notice became conclusive and unappealable. On this score alone, it becomes unnecessary to delve into the supposed timeliness of the filing of the prior petition considering that the 1st Notice already attained finality.

It is noted that even if We are to consider the propriety of petitioner's filing of the prior petition, the outcome of the case would not be different since petitioner also failed to comply with the provisions of Section 195 of the LGC with respect to the 2nd Notice.

The records show that as to the 2nd Notice, petitioner hastily filed an appeal with the court of competent jurisdiction without waiting for the lapse of the 60-day period for respondent City Treasurer to decide. When petitioner filed its "Petition for Review on Appeal", only nineteen (19) days have passed since its filing of the 2nd letter intended for the 2nd Notice. Since the said appeal was prematurely filed, the RTC of Pasig also had no jurisdiction over the same.

Unrelenting, petitioner takes the middle route and insists that the 2nd Notice effectively denied its protest (1st letter). With this, petitioner claims that the filing of appeal with the RTC of Pasig within 30 days from receipt of the 2nd Notice was thus proper.

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67 Par. 20, id.
68 Par. 21, id.

We are not persuaded.

First, as petitioner admitted in its the prior petition, the same was filed with the RTC of Pasig due to respondent City Treasurer's supposed inaction on the 2nd letter. Specifically, petitioner's allegation relative to its discussion on the timeliness of the said petition reads as follows:

> ...
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> 4. A letter for reconsideration dated June 18, 2012 of said 2nd Notice of Assessment was submitted by petitioner to respondent OIC Treasurer, at her office on June 21, 2012 (Annex "D") **but which has not been acted upon up to now.**
>
> 5. **Due to the inaction of said respondent, petitioner is constrained to file this petition within the period prescribed by law.**[69]
>
> ...

From the aforecited discussion, it becomes clear that petitioner's basis for filing the prior petition is respondent City Treasurer's supposed inaction on the 2nd letter and not the alleged treatment of the 2nd Notice as the denial of its 1st letter. Likewise, petitioner's posturing appears a mere afterthought following the denial of its prior petition for lack of jurisdiction.

Second, the court *a quo* correctly observed that if petitioner treated the 2nd Notice as the denial of its 1st letter, then why would it still file the 2nd letter (which clearly addresses the 2nd Notice issued by respondent City Treasurer). Truth is, the 2nd letter was actually a protest to the 2nd Notice as it clearly stated the taxpayer's objection to the assessment and the reasons therefor.[70]

In sum, considering that petitioner failed to file a timely appeal with the court of competent jurisdiction within 30 days from the lapse of the 60-day for respondent City Treasurer to decide the protest, through the 1st letter, **the 1st Notice became conclusive and**

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69 Supra at note 32, p. 101; Emphasis supplied.
70 *See China Banking Corporation v. City Treasurer of Manila*, supra at note 60.

unappealable on 30 May 2012. As a result, the issuance of the 2nd Notice on 01 June 2012 increasing the amount of the LBT assessments against is null and void as the 1st Notice can no longer be amended, modified or set aside even by respondent City Treasurer or this Court.

Considering that the 1st Notice already attained finality, the Court finds no need to tackle the other arguments raised by petitioner.

WHEREFORE, in view of the foregoing, the instant Petition for Review filed by petitioner Service Resources, Inc. on 09 October 2020 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

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

LANEE S. CUI-DAVID
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
2nd Division Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice