CTA Form No. 8

23-000180-0018

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA AC NO. 289

PUBLIC SAFETY MUTUAL BENEFIT FUND, INC., REPRESENTED BY ITS PRESIDENT ANTHONY L. CUAYCONG,
Petitioner,

NOTICE OF DECISION

\- versus -

ROSETTE A. LAQUIAN, Acting City Treasurer, San Juan City,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. ANDREA JUAREZ
ATTY. JENNIFER ANNE REYES
ATTY. MOHAMMAD FAYEZ D. PAUDAC
ATTY. ANDREA FELIPINA B. JUAREZ
City Government of San Juan
2nd Floor, San Juan City Hall
Pinaglabanan St. cor. P. Narciso Street
San Juan City

MS. ROSETTE A. LAQUIAN
Acting City Treasurer
City Hall Complex, Pasig City (Stationed in San Juan City)
Pinaglabanan St. corner Dr. P.A. Narciso St.
Barangay Corazon de Jesus, San Juan City

ABELLA, YUMANG, CAPITAN and PARTNERS (ABLY for short)
Unit 204, 2nd Floor Corporate 101 Building
Mother Ignacia, Brgy. South Triangle
Quezon City

ATTY. LOURDES L. ESCUYOS
BRANCH CLERK OF COURT
Regional Trial Court
Branch 264, Pasig City (San Juan City Station)

GREETINGS:

You are hereby notified by these presents that on **February 12, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 13, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PUBLIC SAFETY MUTUAL BENEFIT FUND, INC., REPRESENTED BY ITS PRESIDENT ANTHONY L. CUAYCONG,
Petitioner,

- versus -

ROSETTE A. LAQUIAN, Acting City Treasurer, San Juan City,
Respondent.

CTA AC NO. 289

Members:

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

Promulgated:
FEB 12 2025 11:30 AM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Public Safety Mutual Benefit Fund, Inc. (**petitioner/PSMBFI**) pursuant to Section 3(a)(3)[2], Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**). It seeks the reversal and setting aside of the Decision dated 13 June 2022[3] (**assailed Decision**) and Order dated 03 October 2022[4] (**assailed Order**), both rendered by the Regional Trial Court (**RTC**) of

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[1] Filed on 24 April 2023, Division Docket, pp. 5-33, with annexes.

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

[3] Penned by Presiding Judge Ma. Christina de Pio Lim, RTC Records, pp. 217-225.

[4] Id., pp. 240-242.

Pasig City, Branch 264 (**court *a quo***), in Civil Case No. 75517-SJ, entitled *Public Safety Mutual Benefit Fund, Inc. represented by its Vice President Armando E. Ramolete v. Rosette F. Laquian, City Treasurer of San Juan City.*

The assailed Decision[5] dismissed petitioner's judicial protest against respondent Hon. Rosette F. Laquian's (**respondent**'s/ **Laquian**'s) deficiency local business tax (**LBT**) assessments for the calendar years (**CYs**) 2009 through 2020 in the aggregate amount of ₱235,670,315.39, as assessed in the Tax Order of Payment (**TOP**) dated 07 January 2020.[6] On the other hand, the assailed Order[7] denied the Motion for Reconsideration[8] (**MR**) thereto filed by petitioner on 17 August 2022.

PARTIES TO THE CASE

Petitioner is a non-stock, non-profit organization existing under and by virtue of the laws of the Republic of the Philippines, with principal office located at No. 318-320 corner 1st and 2nd West Crame Sts., Brgy. West Crame, Santolan Road, San Juan City.[9]

As stated in its Amended Articles of Incorporation[10] (**AOI**), petitioner's primary purpose is: (1) to foster brotherhood and sisterhood mutual assistance among its members; (2) to encourage the habit of thrift and savings among its members; (3) to provide financial material aid and comforts to members and their families in case of losses, disability, necessities, unemployment, old age, as may be authorized by statutes or regulations prescribed by competent authorities; (4) to provide retirement pension benefits to members and their families; and, (5) in general, to do such acts and things and to undertake such activities not otherwise prohibited by law which are calculated to help members and necessary for the accomplishments of the purpose for which the fund has been organized.

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5 Supra at note 3.
6 Annex "A", RTC Records, pp. 30-32.
7 Supra at note 4.
8 Petitioner's "Motion for Reconsideration [of the Decision promulgated on June 13, 2022]" dated 16 August 2022, RTC Records, pp. 226-239.
9 Paragraph 8, Petition for Review, Division Docket, p. 7; Par. 2.3, Respondent's "Comment (To Petition for Review dated 24 April 2023)", Division Docket, p. 130.
10 Annex "G", RTC Records, pp. 65-71.

Petitioner operates as a mutual benefit association and derives gross receipts from its members' contributions into Equity Plan or Insurance Plan, premiums from other insurance plans, and investment earnings and other income. It also engages in leasing activities (*i.e.* leasing a portion of its building).[11]

Respondent, on the other hand, is the Acting City Treasurer of the City of San Juan, who is empowered to perform the duties of said office. These duties include, among others, the authority to assess and collect local taxes, fees and charges. She may be served summons, notices, orders and other processes of this Court through the Office of the City Treasurer in Pinaglabanan St. corner Dr. P.A. Narciso St., Brgy. Corazon de Jesus, San Juan City.[12]

FACTS OF THE CASE

On 26 July 2006, the Business Permits and License Office under the Office of the Mayor of the City (then Municipality) of San Juan issued a Permit to Operate[13] in petitioner's favor. Prior thereto, petitioner had been operating in Camp Crame, Quezon City.[14]

From CYs 2006 to 2015, the City of San Juan recognized petitioner as a non-stock, non-profit entity and assessed LBT only upon the latter's leasing operations.[15]

On 29 October 2015, for the first time after operating nine (9) years in the City of San Juan, respondent issued a Tax Order of Payment of even date[16] (**TOP 1**) imposing LBT upon petitioner's entire gross receipts, both from its operations as a supposed financial institution and from its leasing operations. In the succeeding CYs, respondent issued further similar TOPs 2, 3, and 4 bearing cumulative amounts, as summarized below:

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11 Par. 53, Petition for Review, Division Docket, p. 21.
12 Par. 9, Petition for Review, id., p. 7; Pars. 2.1 and 2.2, Respondent's "Comment (To Petition for Review dated 24 April 2023)", id., p. 130.
13 Annex "J", RTC Records, p. 89.
14 Petitioner's Amended By-Laws, Annex "H", id., p. 85.
15 Annexes "K-1" to "K-32", id., pp. 90-123.
16 Annex "B", id., pp. 33-34.

TOP no.	Date of issuance	Amount due	CYs covered
TOP 1[17]	29 October 2015	₱122,108,041.10	CYs 2009 – 2015
TOP 2[18]	18 January 2017	₱160,185,097.80	CYs 2009 – 2017
TOP 3[19]	21 January 2019	₱208,130,501.95	CYs 2009 – 2019
TOP 4[20]	07 January 2020	₱235,670,315.39	CYs 2009 – 2020

Meanwhile, on 17 September 2019, the City of San Juan (acting through respondent) issued a Warrant of Levy for the payment of petitioner's delinquent LBTs (in connection with the above TOPs) from CY 2009 through 2019, in the total amount of ₱216,217,731.24.[21]

Petitioner received the above-mentioned TOP 4 on the same day it was issued, then contested the same by filing a Letter-Protest[22] on 28 February 2020. Respondent, however, had not acted upon petitioner's protest by the end of the sixty (60)-day period provided under Section 195[23] of Republic Act (**RA**) No. 7160 or the Local Government Code of 1991 (**LGC**).

With no action from respondent, on 25 June 2020, petitioner filed its Petition for Review[24] with the court *a quo*.

In an Order dated 13 July 2020[25], the court *a quo* gave respondent ten (10) days to file her Comment on petitioner's Petition for Review.

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17 Id.

18 Annex "C", id., pp. 35-36.

19 Annex "D", id., pp. 37-38.

20 Annex "A", supra at note 6.

21 See the CTA Third Division's Resolution dated 31 March 2023 in CTA AC No. 245, Division Docket, pp. 117-119.

22 Annex "F", RTC Records, p. 45.

23 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 shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.** (Emphasis supplied)

24 RTC Records, pp. 1-29, with annexes.

25 Id., p. 171.

Following respondent's failure to file any comment, the court *a quo* submitted the case for resolution in its Order dated 03 December 2020.[26]

On 10 February 2021, respondent filed a "Manifestation (In Re: Settlement of Tax Order of Payment [TOP] 1, 2, 3 and 4)"[27] (**Manifestation**), stating that petitioner had offered to settle its supposed unpaid taxes *per* TOPs 1 through 4 in an installment basis (but dispensing with further increments to interest, penalties, and surcharges), which the local government deemed acceptable. Respondent further declared that, to facilitate the arrangement, the local government had drafted ordinances to authorize the payments. Thus, in the Manifestation, respondent asked the court *a quo* to defer its resolution of the case pending their enactment of the ordinances.

On 10 June 2021, petitioner filed its own Manifestation dated 09 June 2021[28] to inform the court *a quo* that it had paid the City of San Juan a total of ₱266,007,672.17 under protest[29] on 18 March 2021. The payment includes the amounts due under TOPs 1 through 5[30] (inclusive of all relevant penalties and interest), broken down as follows:

Applicable CY	Covered TOP	Official Receipt (OR) No.[31]	Amount paid
2009	1	SJ 1299014	₱11,580,217.64
2010	1	SJ 1299015	14,054,343.56
2011	1	SJ 1299016	16,433,333.26
2012	1	SJ 1299017	19,353,640.38
2013	1	SJ 1299018	22,204,904.29
2014	1	SJ 1299019	26,739,181.62
2015	1	SJ 1299020	25,740,134.69
2016	2	SJ 1299021	23,347,352.93
2017	2	SJ 1299022	23,107,344.82
2018	3	SJ 1299023	19,692,397.63
2019	3	SJ 1299024	27,734,937.71
2020	4	SJ 1299025	21,436,732.40
2021	5	SJ 1299026	14,583,151.24
Total amount paid			**₱266,007,672.17**

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26 Id., p. 172.

27 Id., pp. 173-175.

28 Id., pp. 195-197.

29 Petitioner's letter dated 16 March 2021 addressed to respondent with subject "Payment Under Protest, PSMBFI Local Business Tax for 2021", id., p. 213.

30 Respondent issued two (2) further TOPs dated 20 January 2021 and 02 March 2021, collectively known as TOP 5, which became the subject of a later case, CTA AC No. 293.

31 Annexes "B" to "N" attached to petitioner's Manifestation dated 09 June 2021, RTC Records, pp. 200-212.

The portion paid corresponding to TOP 4 or CY 2020 was computed in the following manner:

Tax base	₱2,231,892,958.87
Applicable tax rate	0.60%
Basic tax due	₱13,391,357.75
Regulatory fees (Mayor's permit)	3,000.00
Regulatory fees (Garbage fee)	3,600.00
Total tax due	₱13,397,957.75
Penalty	3,349,489.44
Interest	4,689,285.21
Total amount due	**₱21,436,732.40**[32]

Petitioner paid the above amounts (as respondent confirmed) pursuant to the previously-issued Warrant of Levy *vis-à-vis* the TOPs, as supplemented by respondent's updated computations.[33] Hence, in the Order dated 01 March 2022[34], the court *a quo* denied respondent's motion to hold the resolution of the case before it in abeyance (as embodied in her earlier Manifestation). Considering petitioner's payments under protest, it found that there was no longer any need to await the enactment of ordinances to authorize the payments of the same taxes in question. Consequently, in the same Order, the court *a quo* submitted the case for resolution anew.

On 13 June 2022, the court *a quo* promulgated the assailed Decision[35], denying and dismissing petitioner's Petition for Review while upholding the validity of TOP 4. It ruled that petitioner may still be assessed with LBTs if it deviates from its primary purpose and engages in activities inconsistent with its being a mutual benefit association. In particular, it found petitioner to be in the conduct of activities appropriate for a financial institution, or more specifically, an insurance company.

Aggrieved, on 17 August 2022, petitioner filed its MR[36] of the assailed Decision. However, the court *a quo* denied the same in its similarly assailed Order dated 03 October 2022.[37]

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32 Annex "M" attached to petitioner's Manifestation dated 09 June 2021, id., p. 211.
33 Supra at note 21.
34 RTC Records, p. 216.
35 Supra at note 3.
36 Supra at note 8.
37 Supra at note 4.

PROCEEDINGS BEFORE THIS COURT

On 24 April 2023, petitioner filed the instant present Petition for Review.[38] The case was raffled to the Second Division[39], docketed as CTA AC No. 289.

In its petition before this Court , petitioner pleads for Us to: (1) reverse and set aside the court *a quo*'s assailed Decision[40] and Order[41] in Civil Case No. 75517-SJ, thereby setting aside the TOP dated 07 January 2020 (previously designated herein as TOP 4) that respondent issued; (2) refund the amount it paid under protest in relation to TOP 4; and, (3) lift and cancel the Warrant of Levy issued by the City of San Juan.

Notably, amidst the proceedings in another case (CTA AC No. 245) involving an assessment upon petitioner's operations for CY 2021, this Court's Third Division already lifted the same Warrant of Levy through its Resolution dated 31 March 2023.[42] The said Resolution granted petitioner's "Urgent Verified Motion for the Lifting of the Warrant of Levy" in the said case. Petitioner declared that the motion became necessary as respondent refused to lift the Warrant of Levy unless the former abandoned the protest on its payments.[43]

In a Resolution dated 09 May 2023[44], the Second Division ordered respondent to comment on the present petition.

In the meantime, on 29 May 2023, pursuant to CTA Administrative Circular No. 01-2023 dated 23 May 2023, the present case was transferred to this Court's First Division, which continued to hear the same.[45]

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38 Supra at note 1.

39 The Second Division was then composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

40 Supra at note 3.

41 Supra at note 4.

42 Supra at note 21.

43 Par. 39, Petition for Review, Division Docket, p. 17.

44 Id., p. 127.

45 Reorganizing the Divisions of the Court.

On 19 June 2023, respondent filed her "Comment (To Petition for Review dated 24 April 2023)"[46] (**Comment**).

Later, on 22 June 2023, the First Division ordered the court *a quo*'s Branch Clerk of Court to elevate the entire original records of Civil Case No. 75517-SJ within ten (10) days from notice.[47] In compliance with the Court's directive, the court *a quo*'s Branch Clerk of Court forwarded the complete case records on 18 July 2023.[48] The submission consisted of RTC Records (pages 1-371), a Certificate of Correctness and Completeness, and a Table of Contents. The First Division noted the same in the Minute Resolution dated 27 July 2023.[49]

In a subsequent Resolution dated 12 February 2024[50], the First Division submitted herein case for decision.

ISSUES

The issues raised by the parties for this Court's determination can be summed up as follows —

I.

WHETHER THE COURT *A QUO* ERRED IN UPHOLDING THE VALIDITY OF THE DEFICIENCY LOCAL BUSINESS TAX (LBT) ASSESSMENT AGAINST PETITIONER PUBLIC SAFETY MUTUAL FUND, INC. FOR THE CALENDAR YEARS (CYs) 2009 TO 2020 AMOUNTING TO ₱235,670,315.39, *PER* THE TAX ORDER OF PAYMENT (TOP) DATED 07 JANUARY 2020 ISSUED BY RESPONDENT ROSETTE A. LAQUIAN, IN HER CAPACITY AS THE ACTING CITY TREASURER OF SAN JUAN CITY; AND,

II.

WHETHER PETITIONER PUBLIC SAFETY MUTUAL FUND, INC. IS ENTITLED TO A REFUND OF THE AMOUNT OF ₱266,007,672.17 IT PAID UNDER PROTEST TO THE CITY OF SAN JUAN.

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46 Division Docket, pp. 129-146.

47 Id., p. 164.

48 See Compliance dated 11 July 2023 and Atty. Lourdes L. Escuyos (Branch Clerk of Court)'s Transmittal Letter dated 11 July 2023, id., pp. 170 and 167, respectively.

49 Id., p. 171.

50 Id., p. 177.

ARGUMENTS

In support of its petition, petitioner essentially argues that the relevant regulations clearly exempt it from the payment of LBTs on its "insurance" activities. It contends that tax laws must be construed strictly against the State and liberally in favor of the taxpayer.

Petitioner admits that the LGC authorizes the imposition of LBTs on banks and other financial institutions, which includes insurance companies. However, petitioner points out that, in defining "banks and other financial institutions", the LGC does not state what is an "insurance company" and instead relies on how the same is "defined under applicable laws, or rules and regulations thereunder."

In relation to the foregoing, petitioner declares that it is a "mutual benefit association" as defined under the Insurance Code[51], as amended. It emphasized that the said Code, in defining an insurance company, excludes mutual benefit associations.

Furthermore, petitioner makes reference to Department of Finance – Bureau of Local Government Finance's (**DOF-BLGF**'s) Local Finance Circular No. 2-93[52] issued on 16 June 1993. The said Circular prescribed the guidelines governing the powers of municipalities and cities to impose business tax on insurance companies pursuant to the LGC. In doing so, it echoed the LGC's provisions and confirmed that a Local Government Unit (**LGU**) may impose LBT on banks and other financial institutions, which may include insurance companies. Nevertheless, in defining an "insurance company", it excepted "mutual benefit associations and purely cooperative insurance associations organized under the laws on cooperatives."

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51 Republic Act (RA) No. 10607 (An Act Strengthening the Insurance Industry, Further Amending Presidential Decree No. 612, Otherwise Known as "The Insurance Code", as Amended by Presidential Decree Nos. 1141, 1280, 1455, 1460, 1814 and 1981, and Batas Pambansa Blg. 874, and for Other Purposes)

52 PRESCRIBING THE GUIDELINES GOVERNING THE POWER OF MUNICIPALITIES AND CITIES TO IMPOSE THE BUSINESS TAX ON INSURANCE COMPANIES PURSUANT TO SECTIONS 143(F) AND 151 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, AND ITS IMPLEMENTING RULES AND REGULATIONS (IRR).

More specific to it, petitioner likewise highlighted that the DOF-BLGF issued an opinion in its letter dated 14 January 2016[53] (**Opinion**). In its Opinion, the DOF-BLGF referenced the same Local Finance Circular No. 2-93, it issued and recognized petitioner as a mutual benefit association operating as an insurance company under the supervision of the Insurance Commission. It expressed its view that petitioner, as such, is exempted from the payment of LBTs, but would still be liable to pay for a Mayor's Permit and any other regulatory fees that are imposable pursuant to a duly-enacted local ordinance.

Finally, petitioner maintains that respondent's assessment, as laid out in TOP 4, is void for being issued in violation of petitioner's due process rights. According to it, such assessment lacked legal basis as respondent previously only assessed LBTs on its leasing activities. It deemed the sudden change in the interpretation of the local revenue code as prejudicial to its interests, considering respondent was apparently of the position before that petitioner was not subject to LBT on its "insurance" activities.

Respondent, on the other hand, counters that petitioner is engaged in an insurance business. She opines that since petitioner admits to receiving insurance premiums, it is subject to LBT levied on financial institutions, based on the income derived from financial transactions, which includes insurance premiums. Moreover, respondent points to petitioner's narrations in the present Petition for Review, where the latter admits to be habitually engaged in activities that are subject to LBT (*i.e.*, lending activities, financial leasing, leasing property, exchange or sale of property, and collecting insurance premiums). Respondent maintains that petitioner failed to prove that a mutual benefit association is not subject to LBT. For respondent, the modified definition of an "insurance company" under the Insurance Code is only for the limited purpose of the Code and is **not** a tax exemption provision.

Additionally, in challenging petitioner's position, respondent stated that the one who claims a tax exemption must point out to a specific provision of the law which grants it. She argues that petitioner has failed in this regard. Respondent cites the assailed Decision in agreement in declaring that "petitioner is not included in the

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[53] Annex "N", RTC Records, pp. 152-154.

constitutional exemption from taxation." She opines that petitioner's argument that "tax laws must be construed strictly against the state and liberally in favor of the taxpayer" must necessarily fail, as it is clear that petitioner is subject to business tax under Section 2J.02(I)[54] of the City of San Juan Revenue Code of 2013.[55]

As to petitioner's payments under protest, respondent states that Section 195 of the LGC provides for remedies of protest and appeals of tax assessments but makes no mention of payments under protest. She contends that such remedy is only available under Section 252, with respect to Real Property Taxes, and not for LBTs.

Lastly, respondent denies any due process violations and maintains that TOPs 1 to 4 are valid and legal. She relies on the court *a quo*'s pronouncements, which found that petitioner was accorded with due process. For this purpose, respondent makes reference to TOP 4 itself (which supposedly clearly states the basis of the assessment) and prior communications[56] between respondent and petitioner, informing the latter that it had not proffered any basis for exemption from LBTs.

RULING OF THE COURT

Before the Court proceeds to resolve the merits of the case, the Court finds it propitious to first discuss whether it has jurisdiction over the instant petition.

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54 SECTION 2J.02. *Imposition of Tax*. — There is hereby levied an annual tax on the business mentioned in this Article at rates prescribed therefore.

The tax is payable for every distinct establishment and one line of business or activity does not become exempt by being conducted with some other business or activity for which a tax has been paid.

...

(I) *On Banks and Other Financial Institutions Including Non-Bank Intermediaries, Lending Investors, Finance and Investment Companies, Pawnshops, Money Shops, Insurance Companies, Stock Markets, Stock Brokers and Dealers in Securities and Foreign Exchange, Educational Plan Agencies, Health Plan Agencies and Memorial or Life Plan Agencies.*

Out of gross receipts for the preceding Calendar year

YEAR	AMOUNT OF TAX PER ANNUM
	Sixty percent of one percent (60% of 1%)

55 San Juan City Ordinance No. 091-13 dated 09 December 2013.

56 Respondent's Letter dated 05 September 2017 addressed to petitioner's President, Division Docket, pp. 160-161.

THE COURT OF TAX APPEALS (CTA) HAS JURISDICTION OVER THE INSTANT PETITION FOR REVIEW.

The CTA, being a court of special jurisdiction, can only take cognizance of matters that are clearly within its jurisdiction.[57] The jurisdiction of the CTA regarding local tax cases is provided under Section 7(a)(3) of RA 1125[58], as amended by RA 9282[59] and RA 9503[60], which provides:

...

SEC. 7. *Jurisdiction.* — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

...

(3) **Decisions, orders or resolutions of the Regional Trial Courts in local tax cases** originally decided or resolved by them **in the exercise of their original** or appellate **jurisdiction**[.][61]

...

Similarly, Section 3(a)(3) of Rule 4 of the RRCTA states:

...

SEC. 3. *Cases within the Jurisdiction of the Court in Division.* — The Court in Division shall exercise:

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

...

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57 *Commissioner of Internal Revenue v. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, 12 March 2014.

58 AN ACT CREATING THE COURT OF TAX APPEALS.

59 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.

60 AN ACT ENLARGING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

61 Emphasis supplied and italics in the original text.

> (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**[.][62]
>
> ...

As to the reckoning point for filing an appeal before this Court in local tax cases decided by RTCs, Section 11, in relation to the afore-cited Section 7(a)(3) of RA 1125[63], as amended by RA 9282[64] and RA 9503[65], pertinently states:

> ...
>
> **SEC. 11.** *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision, ruling** or inaction **of** the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or **the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
>
> **Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling** or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: *Provided, however,* That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction, appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc.*[66]
>
> ...

It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the

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62 Emphasis supplied and italics in the original text.
63 Supra at note 58.
64 Supra at note 59.
65 Supra at note 60.
66 Emphasis supplied and italics in the original text.

court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[67]

It is undisputed that petitioner received a copy of the court *a quo*'s assailed Order[68] (denying its MR[69] on the assailed Decision[70]) on **23 March 2023**.

Thus, for purposes of filing an appeal before this Court, petitioner had until **24 April 2023**, or the next working day after the 30th day from its receipt of the assailed Order on 22 April 2023, which fell on a Saturday.

Given that the present Petition for Review[71] was timely filed on **24 April 2023**, this Court has jurisdiction over the case.

We now proceed to the merits of the case.

After an assiduous review of the case records and the parties' arguments, this Court finds the present petition **partly meritorious**.

PETITIONER IS NOT SUBJECT TO LOCAL BUSINESS TAX (LBT) ON ITS OPERATIONS AS A MUTUAL BENEFIT ASSOCIATION.

The power of a city to impose LBT on financial institutions stems from Sections 143(f) and 151, respectively, of the LGC which provide:

> ...
> **SEC. 143.** *Tax on Business.* — The municipality may impose taxes on the following businesses:

67 *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*, G.R. No. 185666, 04 February 2015.
68 Supra at note 4.
69 Supra at note 8.
70 Supra at note 3.
71 Supra at note 1.

> ...
> (f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.
> ...
>
> **SEC. 151.** *Scope of Taxing Powers.* — Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: *Provided, however,* That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.
>
> The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes.[72]
>
> ...

The Supreme Court, in *City of Davao, et al. v. Randy Allied Ventures, Inc.*[73], elaborated on the power of an LGU to impose LBTs on banks and other financial institutions, pursuant to Section 143(f) of the LGC, in this wise:

> ...
> Essentially, LBT are taxes imposed by local government units on the **privilege of doing business within their jurisdictions**. To be sure, the phrase "doing business" means some "trade or commercial activity **regularly engaged in as a means of livelihood or with a view to profit.**" Particularly, the LBT imposed pursuant to Section 143 (f) is premised on the fact that the persons made liable for such tax are banks or other financial institutions by virtue of their being engaged in the business as such. This is why the LBT are imposed on their gross receipts from "interest, commissions and discounts from **lending activities**, income from **financial leasing**, dividends, rentals on property and profit from exchange or sale of property, insurance premium."

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[72] Emphasis and italics in the original text.

[73] G.R. No. 241697, 29 July 2019; Citations omitted, emphasis in the original text and underscoring supplied.

In this case, it is clear that RAVI is neither a bank nor other financial institution, *i.e.*, an NBFI. In order to be considered as an NBFI under the National Internal Revenue Code, banking laws, and pertinent regulations, the following must concur:

a. The person or entity is authorized by the BSP to perform quasi-banking functions;

b. The principal functions of said person or entity include the lending, investing or placement of funds or evidences of indebtedness or equity deposited to them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others; and

c. The person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis, to wit:

   1. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;

   2. Use principally the funds received for acquiring various types of debt or equity securities;

   3. Borrow against, or lend on, or buy or sell debt or equity securities.

...

<u>In sum, since RAVI is not a bank or other financial institution, *i.e.*, an NBFI, it cannot be held liable for LBT under Section 143 (f) of the LGC</u>. However, this pronouncement is without prejudice to RAVI's potential liability for other taxes, whether national or local, should it so engage in other profit-making activities aside from its management of the SMC preferred shares, and the dividends resulting therefrom.

...

Furthermore, in *The City of Makati, et al. v. CEMCO Holdings, Inc.*[74], the Court *En Banc* held that LGUs are prohibited from imposing

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[74] CTA EB No. 1661, 12 December 2018; Citations omitted, emphasis supplied, italics and underscoring in the original text. This was affirmed by the Supreme Court in its Resolutions dated 07 August 2019 and 27 January 2020 in G.R. No. 247373, as stated in the Court of Tax Appeals Official Website Case History - <u>http://cta.judiciary.gov.ph/history#</u> (last accessed 27 January 2025).

LBT on income realized by entities *not* classified as a bank or financial institution, to wit:

> ...
>
> However, such omnibus grant of taxing power in favor of LGUs under Section 143 of the LGC is not unbridled as enshrined in Section 133 of the same Code. **In particular, paragraph (a) thereof decrees that <u>save for banks and other financial institutions</u>, LGUs are explicitly proscribed from imposing taxes, fees or charges of any kind, on items of gain or yield which were levied income tax by the national government.** The rule is animated by the doctrine of pre-emption, or the instance where the national government elects to tax a particular area, impliedly withholding from the local government the delegated power to tax the same field. ***Ergo*, as diametrically opposed with petitioners' posture, Section 133(a) of the LGC does not allow, and in fact forbids the imposition of LBT on income realized by entities not classified as a bank or financial institution.**
>
> Significantly, petitioners and respondent expressly acknowledged in their Joint Stipulation of Facts that respondent is <u>not</u> a bank or financial institution as defined under Section 131(e) of the LGC. This fact certainly rocks their argument to its foundation. Note that once the stipulations are reduced into writing and signed by the parties and their counsels, as in this case, they become binding on the parties who made them. Such judicial admission also removes an admitted fact from the field of controversy, and no amount of rationalization can offset it. With the parties' admission that respondent does not fall under the classification of a bank or a financial institution, **petitioners' imposition of LBT on dividend income realized by respondent undoubtedly traverses the statutory impediment enshrined under Section 133(a) of the LGC, rendering the issuance of the subject assessment *ultra vires* and without any legal consequence, effectively warranting its cancellation and withdrawal.**
>
> ...

The records show that petitioner is a **non-stock non-profit mutual benefit association.** While the parties themselves do not dispute this fact, they take different positions as to the taxability of petitioner's activities as such. Petitioner believes that it is not subject to tax. On the other hand, respondent contends that petitioner is, in fact, subject to LBT <u>regardless of whether it is a mutual benefit association, as long as it engages in an **insurance business**</u>.

To shed light on the matter, We first look into the definitions of "business" and "banks and other financial institutions" under the LGC:

> ...
>
> **SEC. 131.** *Definition of Terms.* - When used in this Title, the term:
>
> ...
>
> (d) "Business" means trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit;
>
> (e) "Banks and other financial institutions" include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder[.][75]
>
> ...

These definitions appear to have been adopted into the City of San Juan Revenue Code of 2013, to wit:

> ...
>
> **ARTICLE B**
>
> *Definition and Rules of Construction*
>
> SECTION 1B.01. *Definitions.* — When used in this Code, the term:
>
> ...
>
> *Business* — means trade or commercial activity regularly engaged in as means of livelihood or with a view to profit.
>
> *Banks and Other Financial Institutions* — include non-bank financial intermediaries, lending investor, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as define under applicable laws or rules and regulations thereunder.[76]
>
> ...

Reading further down both the LGC and the City of San Juan Revenue Code of 2013, it becomes apparent that neither proffer specific definitions for "insurance companies". In its stead, both authorities rely

[75] Italics in the original text and underscoring supplied.

[76] Emphasis and italics in the original text.

on supplemental definitions "under applicable laws, or rules and regulations thereunder."

Pertinently, Section 190 of the Insurance Code defines an insurance company, *viz*:

> ...
>
> Section 190. For purposes of this Code, the term *insurer* or *insurance company* shall include all partnerships, associations, cooperatives or corporations, including government-owned or -controlled corporations or entities, engaged as principals in the insurance business, **excepting mutual benefit associations**. Unless the context otherwise requires, the term shall also include professional reinsurers defined in Section 288. *Domestic company* shall include companies formed, organized or existing under the laws of the Philippines. *Foreign company* when used without limitation shall include companies formed, organized, or existing under any laws other than those of the Philippines.[77]
>
> ...

Similarly, DOF-BLGF's Local Finance Circular No. 2-93[78] defines "insurance companies" in this wise:

> ...
>
> *SECTION 1. Coverage.* - (a) As used herein, the term "insurance companies" shall mean those formed or organized to save any person or persons or other corporations harmless from loss, damage or liability, arising from any unknown or future or contingent event, or to indemnify or to compensate any person or persons or other corporations for any such loss, damage or liability, or to guarantee the performance of or compliance with contractual obligations or the payment of debts of others.
>
> The term "insurance companies" shall include all individuals, partnerships, associations, or corporations including government-owned or - controlled corporations or entities, engaged as principals in the insurance business, including their branches, **except mutual benefit associations** and purely cooperative insurance associations organized under the laws on cooperatives. The term shall also include professional reinsurers.[79]
>
> ...

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77 Emphasis supplied and italics in the original text.
78 Supra at note 52.
79 Emphasis supplied.

At the outset, a plain reading of both the Insurance Code definition and the DOF-BLGF discloses that mutual benefit associations are expressly **excluded** from its scope.

Nevertheless, Section 403 of the Insurance Code also defines "mutual benefit associations" as follows:

> ...
> Section 403. Any society, association or corporation, without capital stock, formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money, irrespective of whether such aim or purpose is carried out by means of fixed dues or assessments collected regularly from the members, or of providing, by the issuance of certificates of insurance, payment of its members of accident or life insurance benefits out of such fixed and regular dues or assessments, but in no case shall include any society, association, or corporation with such mutual benefit features and which shall be carried out purely from voluntary contributions collected not regularly and/or no fixed amount from whomsoever may contribute, shall be known as a mutual benefit association within the intent of this Code.
> ...

Relating the foregoing to petitioner's circumstances, as can be gleaned from its AOI[80], petitioner cannot be considered to be engaged in "business" as it does not operate for profit, but only for the exclusive benefit of its members. For the same reason, the incidents of petitioner's operations fall squarely within the Insurance Code definition of a mutual benefit association under Section 403, *i.e., "not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money."*

Furthermore, as to the question of petitioner's identity as an insurance company, it is clear that mutual benefit associations are specifically excluded from the definition of an insurance company. In the same light, a mutual benefit association is excluded from the definition of "banks and other financial institutions" (the definitions of which include insurance companies).

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80 Supra at note 10.

In the assailed Decision and Order, respondent and the court *a quo* erred in upholding an LBT assessment upon petitioner's operations as a mutual benefit association (which the taxing provisions specifically exclude). They likewise erred in deeming petitioner a "financial institution" and an "insurance company" when the pertinent law and regulations specifically and clearly expressed otherwise.

As such, respondent's LBT assessments against petitioner are invalid as it was issued beyond the scope of the LGU's authority to tax under the LGC. Being erroneously and illegally issued, the cancellation of TOP 4 is therefore warranted.

RESPONDENT DID NOT VIOLATE PETITIONER'S DUE PROCESS RIGHTS WHEN SHE ISSUED THE TAX ORDERS OF PAYMENT (TOPs).

For an orderly disposition of petitioner's arguments, We also tackle petitioner's claim that the present LBT assessment against it is void for being issued in violation of its due process rights.

We do not share petitioner's view.

Section 195 of the LGC provides that in assessing the correct taxes, the local treasurer shall issue an assessment notice, which contains the nature of tax, fee, or charge and the amount of deficiency including the surcharges, interests, and penalties, *viz*:

> ...
> **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 shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.[81]
>
> ...

The afore-quoted provision is akin to Section 228 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, which requires that, in order for an assessment to be valid, "taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void." Similarly, for the local treasurer's assessment notice to be valid, it must state the **nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties**.

In *Luz R. Yamane, in her capacity as the City Treasurer of Makati City v. BA Lepanto Condominium Corporation*[82], a similar case on LBT assessment, the Supreme Court emphasized the importance of the assessment notice being sufficiently informative to ensure that it properly apprises the taxpayer of the basis of the tax assessment:

> ...
>
> Ostensibly, the **notice of assessment, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax. Section 195 of the Local Government Code 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 state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties**. In this case, the notice of assessment sent to the Corporation did state that the assessment was for business taxes, as well as the amount of the assessment. There may have been *prima facie* compliance with the requirement under Section 195. However, in this case, the Revenue Code provides multiple provisions on business taxes, and at varying rates. Hence, we could appreciate the Corporation's confusion, as expressed in its protest, as to the exact legal basis for the tax. **Reference to the local tax ordinance is vital, for the power of local government units to impose local taxes is exercised**

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81 Emphasis supplied and italics in the original text.

82 G.R. No. 154993, 25 October 2005; Citations omitted, emphasis supplied and italics in the original text.

> **through the appropriate ordinance enacted by the *sanggunian*, and not by the Local Government Code alone**. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body.
>
> ...

Based on the foregoing pronouncements and considering the parties' contrasting arguments, a Notice of Assessment (or in this case, a TOP as an equivalent document) may still be deemed valid, even without the mention of the specific provision of the applicable local revenue code, provided the following details are indicated therein: (1) nature of the tax, fee, or charge; and, (2) amount of deficiency, the surcharges, interests, and penalties.

A careful scrutiny of TOP 4[83] reveals that for the "Tax Description", the same indicates "FINANCIAL INSTITUTION – INSURANCE COMPANIES" in each pertinent line item of LBT and beside it the corresponding tax base and basic tax due. Further, a tax rate of 60% of 1% can easily be inferred from the tax due in relation to the tax base. Other items included in the TOP are denominated as various regulatory fees and are likewise readily understandable. Towards the end of the document, the provisions for surcharge and interest are laid out ostensibly, as well as the due date for payment.

Meanwhile, a reading of the City of San Juan Revenue Code of 2013 would show that Section 2J.02(I)[84] thereof unambiguously prescribes the rate of 60% of 1% of the gross receipts for the preceding CY, for **financial institutions**, including **insurance companies**.

Taking the foregoing findings collectively, We conclude that TOP 4 adequately complies with the requirements under the law and established jurisprudence, bearing sufficient information that the assessment was for LBT. It would thus be improper to declare TOP 4 void premised on its supposed defective issuance.

In any case, We have already ruled that petitioner's activities as a mutual benefit association are **not** subject to LBT. We, thus, proceed to

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83 Supra at notes 6 and 20.
84 Supra at note 54.

a determination of its entitlement to a refund of the amounts it had paid under protest.

PETITIONER CANNOT BE
ENTITLED TO A FULL REFUND
OF THE AMOUNT IT PAID
UNDER PROTEST.

The remedies available to petitioner are outlined in Sections 195 and 196 of the LGC. The aforementioned provisions read as follows:

> ...
>
> **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 shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.
>
> **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.
>
> ...

In *International Container Terminal Services, Inc. v. The City of Manila, et al.*[85], the Supreme Court elucidated that the taxpayer's

[85] G.R. No. 185622, 17 October 2018; Citations omitted and emphasis supplied.

remedy is dependent on two things: *first,* on whether a notice of assessment was issued; and, *second,* if the same taxpayer will opt to pay the assessed tax or not. The Supreme Court stated thusly:

> ...
>
> **If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195** of the Local Government Code. Thus, it must file a written protest with the local treasurer within 60 days from the receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent jurisdiction within 30 days from receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest. In this case, as no tax was paid, there is no claim for refund in the appeal.
>
> **If the taxpayer opts to pay the assessed tax, fee, or charge, it must still file the written protest within the 60-day period**, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer. In its court action, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid. "Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer."
>
> **On the other hand, if no assessment notice is issued by the local treasurer, and the taxpayer claims that it erroneously paid a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him, then Section 196 applies.**
>
> ...

Relatedly, it is undisputed that: (1) petitioner received TOP 4 on 07 January 2020[86]; (2) petitioner timely filed a Letter-Protest[87] on 28 February 2020 (within 60 days from receipt) contesting the said TOP 4; (3) respondent did not act on petitioner's protest within the prescribed 60-day period; and, (4) petitioner timely elevated its case to the RTC through Civil Case No. 75517-SJ.

Based on the foregoing, following a finding that petitioner's activities as a mutual benefit association are not subject to LBT, it is initially clear that **petitioner is entitled to a refund of the LBTs it paid under protest.**

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[86] Supra at notes 6 and 20.
[87] Supra at note 22.

On 18 March 2021, petitioner paid under protest the total amount of ₱266,007,672.17, representing LBT assessments spanning multiple CYs from 2009 through 2021, covered by TOPs 1 through 5.[88] To recap, each of the issued TOPs bears a cumulative assessment:

TOP no.	Date of issuance	CYs covered
TOP 1	29 October 2015	CYs 2009 – 2015
TOP 2	18 January 2017	CYs 2009 – 2017
TOP 3	21 January 2019	CYs 2009 – 2019
TOP 4	07 January 2020	CYs 2009 – 2020
TOP 5	20 January 2021 and 02 March 2021	CYs 2009 – 2021

Due to the nature of the TOPs issued, the earlier TOPs 1, 2, and 3 that preceded TOP 4 have since become the subject of different cases before this Court.

TOPs 1 and 2 (respectively covering CYs 2009 – 2015 and CYs 2009 – 2017) were the subject of the ruling in CTA EB No. 2198 (CTA AC No. 214) and later on in the Supreme Court's Resolution dated 04 August 2021 in G.R. No. 256741.

In CTA AC No. 214, this Court's Second Division found that petitioner filed its petition with the RTC beyond the 30-day period to file an appeal (before a court of competent jurisdiction) allowed under Section 195[89] of the LGC and thus dismissed the action for lack of jurisdiction. The Court *En Banc*, as later affirmed by the Supreme Court, similarly declared that TOPs 1 and 2 were already conclusive and unappealable. With the decision in question attaining finality, petitioner is no longer entitled to the refund of the amounts due under TOPs 1 and 2 covering CYs 2009 through 2017.

Meanwhile, with respect to TOP 3 (covering CYs 2009 – 2019), this Court's Second Division, in CTA AC No. 245, ruled similarly that the assessment had become final, executory, and unappealable as petitioner's appeal before the RTC was belatedly filed. At present, the case is being heard by the Court *En Banc* in CTA EB No. 3003. We understand that petitioner may still eventually elevate the case to the Supreme Court.

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[88] Supra at note 29.
[89] Supra at pp. 21-22.

Considering that the matter therein has **not** attained finality, We are unable to definitively conclude the finality of TOP 3. Accordingly, We find that petitioner **may** still be entitled to the refund for CYs 2018 and 2019, depending on the final outcome of the case. Thus, in order to avoid issuing conflicting rulings, We deem it prudent to withhold Our ruling upon petitioner's claim for refund pertaining to CYs 2018 and 2019, as covered by TOP 3. This leaves the amounts covered by TOP 4, which were not the subject of earlier TOPs. Based on the foregoing discussions, TOP 4 covers CYs 2009 through 2020. After excluding CYs 2019 and earlier (subject of TOPs 1, 2, and 3), the assessment for the year of its issuance, or CY 2020, remains.

Out of the total of ₱266,007,672.17 paid under protest by petitioner on 18 March 2021, a portion amounting to **₱21,436,732.40**[90] pertained to CY 2020 (inclusive of interest and other penalties), is rightfully refundable in favor of petitioner:

Basic tax due	₱13,391,357.75
Regulatory fees (Mayor's permit)	3,000.00
Regulatory fees (Garbage fee)	3,600.00
Total tax due	₱13,397,957.75
Penalty	3,349,489.44
Interest	4,689,285.21
Total amount due	**₱21,436,732.40**

On a final note, in consideration of the Third Division's Resolution dated 31 March 2023 in CTA AC No. 245[91], which already lifted the Warrant of Levy issued by the City of San Juan on 17 September 2019, petitioner's prayer in its Petition for Review to have the same lifted is thus rendered **MOOT AND ACADEMIC**.

WHEREFORE, the foregoing premises considered, the present Petition for Review filed by petitioner Public Safety Mutual Fund, Inc. on 24 April 2023 is **PARTIALLY GRANTED**. The assailed Decision dated 13 June 2022 and Order dated 03 October 2022, both rendered by the Regional Trial Court of the City of Pasig, Branch 264 in Civil Case No. 75517-SJ, entitled *Public Safety Mutual Benefit Fund, Inc. represented by*

90 Supra at note 32.
91 Supra at note 21.

its Vice President Armando E. Ramolete v. Rosette F. Laquian, City Treasurer of San Juan City, are hereby **REVERSED** and **SET ASIDE**.

Accordingly, the subject Tax Order of Payment dated 07 January 2020 is **CANCELLED**. Respondent is **ORDERED TO REFUND** petitioner the amount of ₱21,436,732.40, representing petitioner's erroneously or illegally collected Local Business Tax for the calendar year ended 31 December 2020.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
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