REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

HJ SHIPBUILDING AND CONSTRUCTION CO., LTD., represented by **KOOKIL JEON,**
Petitioner,

CTA AC CASE NO. 341

-versus-

J. VOLTAIRE L. ENRIQUEZ JR., in his official capacity as City Treasurer of Taguig City and the **CITY GOVERNMENT OF TAGUIG,**
Respondents.

x- x

EEI CORPORATION, represented by **ATTY. CYRIL C. GESULGA,**
Petitioner,

CTA AC CASE NO. 343

-versus-

J. VOLTAIRE L. ENRIQUEZ JR., in his official capacity as City Treasurer of Taguig, & **CITY GOVERNMENT OF TAGUIG,**
Respondents.

x- x

J. VOLTAIRE L. ENRIQUEZ JR., in his official capacity as the City Treasurer of Taguig, & **CITY GOVERNMENT OF TAGUIG**
Petitioners,

CTA AC CASE NO. 345

-versus-

HANJIN-EEI JOINT VENTURE, HANJIN HEAVY INDUSTRIES & CONSTRUCTION CO., LTD. and EEI CORPORATION, all represented by **PYUNG JONG YU and/or HANS CHRISTOPHER O. LOPEZ,** *Respondents.*	Present: **RINGPIS-LIBAN*,** *P.J.,* **REYES-FAJARDO,** *Chairperson* and **ANGELES,** *JJ.* Promulgated: JUL 2 0 2026 4:20 p.m.

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DECISION

ANGELES, J.:

Before the Court are the following consolidated[1] cases:

(1) *Petition for Review*[2] filed by HJ Shipbuilding and Construction Co., Ltd., formerly known as Hanjin Heavy Industries & Construction Co., Ltd. (HJSC) against J. Voltaire L. Enriquez Jr., in his official capacity as City Treasurer of Taguig (Taguig City Treasurer), and the City Government of Taguig (Taguig City Government), docketed as CTA AC Case No. 341;

(2) *Petition for Review*[3] filed by EEI Corporation (EEI) against the Taguig City Treasurer and the Taguig City Government, docketed as CTA AC Case No. 343; and

(3) *Petition for Review*[4] filed by the Taguig City Treasurer and the Taguig City Government (collectively referred to as Taguig City) against Hanjin-EEI Joint Venture (HEJV), HJSC, and EEI, docketed as CTA AC Case No. 345.

CTA AC Case Nos. 341 and 343 seek the reversal and nullification of the *Decision*[5] dated April 4, 2024 (Assailed Decision) and *Resolution*[6] dated September 4, 2024 (Assailed Resolution)

*Designated as Special Member
[1] Resolution dated February 10, 2025, AC No. 343 Docket, pp. 582-584.
[2] AC No. 341 Docket, pp. 62-93.
[3] AC No. 343 Docket, pp. 5-36.
[4] AC No. 345 Docket, pp. 93-114.
[5] AC No. 345 Docket, pp. 119-165.
[6] AC No. 345 Docket, pp. 166-196.

promulgated by the Regional Trial Court (RTC) of Taguig City, Branch 271, in Civil Case No. 74996-TG.

CTA AC Case No. 345 on the other hand seeks the partial reversal of the Assailed Decision and Resolution, insofar as they nullified the assessment for the years 2008 and 2009 due to prescription.

PARTIES

HJSC is a foreign corporation organized and existing under the laws of the Republic of Korea, with a branch in the Philippines holding office at One Neo Bldg., 3rd Ave. cor. 26th Street, Bonifacio Global City, Taguig City.[7]

EEI is a domestic corporation organized and existing under the laws of the Philippines, with office address at No. 12 Manggahan St., Brgy. Bagumbayan, Quezon City.[8]

HEJV is an unincorporated joint venture between HJSC and EEI, formed for the sole purpose of undertaking the construction of the Berth 6 Container Terminal Project (Berth 6 Project) under contract with the International Container Terminal Services, Inc. (ICTS).[9]

The Taguig City Government is a public corporation created by virtue of Republic Act (RA) No. 8487, otherwise known as the Charter of the City of Taguig, with seat of authority at the City Hall of Taguig City.[10]

Atty. Jonathan Voltaire L. Enriquez Jr. is the incumbent City Treasurer of Taguig City, who has the legal function and responsibility of assessing and collecting taxes, fees and charges from corporate and individual taxpayers as levied and imposed by the tax ordinances of Taguig City.[11]

ANTECEDENTS

On June 16, 2008, HJSC and EEI entered into an *Amended Joint Venture Agreement* (JVA),[12] where they agreed to join their capital, manpower, equipment, and other resources and efforts as an

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[7] *Petition for Review* dated October 30, 2024, AC No. 341 Docket, p. 63.
[8] *Petition for Review* dated October 11, 2024, AC No. 343 Docket, p. 8.
[9] Annex "A-EEI", RTC Docket - Vol. I, pp. 411-414.
[10] *Petition for Review* dated October 30, 2024, AC No. 345 Docket, p. 95.
[11] *Id.*
[12] *Supra*, note 9.

unincorporated joint venture to join in the Eligibility Check, Bidding and Undertaking of the Berth 6 Project.

Under the JVA, the percentage of HJSC and EEI's participation in HEJV are as follows, subject to adjustments:

PARTIES	PERCENTAGE OF PARTICIPATION
HJSC	65% of the Project Scope
EEI	35% of the Project Scope

Likewise provided in the JVA are the parties' respective scope of work, and a proviso stating that the JVA shall remain valid and effective only for the Berth 6 Project, unless earlier terminated by the parties or upon the happening of certain events.

On even date, the construction of Berth 6 and other associated works was awarded by ICTS, the owner of Berth 6, to HEJV as contractor, as evidenced by their *Agreement* dated June 16, 2008.[13]

On September 16, 2008, HJSC and EEI executed an *Addendum*[14] to the JVA, setting forth the terms under which HEJV will be operated and managed, as well as the scope of work, relationship, obligations and liabilities of the parties, including payment and costing arrangements.

Years later, or on June 18, 2015, ICTS issued a *Certification*[15] stating that HEJV satisfactorily completed the construction of the Berth 6 Project, with contract period from July 2008 to May 2013.

HJSC alleges that in January 2014, HEJV dissolved after the completion of the Berth 6 Project; and that in January 2015, for purposes of winding up its affairs, HEJV applied for retirement of business with the Business Processing and Licensing Office (BPLO) of Taguig City.[16]

On June 4, 2015, HJSC received a letter dated June 2, 2015[17] addressed to HEJV and issued by the Taguig City Treasurer, forwarding the Notice of Assessment dated May 15, 2015 (subject

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[13] Annex "B", AC No. 341 Docket, pp. 31-34.
[14] Annex "B-EEI", RTC Docket - Vol. I, pp. 415-425.
[15] Exhibit "C", AC No. 341 Docket, p. 34.
[16] *Supra*, note 7, p. 66.
[17] Exhibit "E-EEI", RTC Docket - Vol. I, p. 430.

assessment), demanding the sum of ₱11,258,109.56 representing alleged deficiency business taxes and their corresponding surcharges and interests. The assessed deficiency taxes were computed, to wit:

Particulars	Gross Sales/Audit	Declared Sales	Year	Tax Due	Tax Paid	Difference	Surcharge	Interest	Total
City Tax	49,450,695.41	-	2008 (2009)	321,429.52	32,500.00	288,929.52	72,232.38	260,036.57	621,198.47
City Tax	159,310,362.88	5,000,000.00	2009 (2010)	1,035,517.36	32,500.00	1,003,017.36	250,754.34	902,715.62	2,156,487.32
City Tax	240,171,162.63	6,000,000.00	2010 (2011)	1,561,112.56	39,000.00	1,522,112.56	380,528.14	1,369,901.30	3,272,542.00
City Tax	214,910,835.96	360,000.00	2011 (2012)	1,396,920.43	6,468.00	1,390,452.43	347,613.11	1,251,407.19	2,989,472.73
City Tax	116,897,504.83	360,000.00	2012 (2013)	759,833.78	6,468.00	753,365.78	188,341.45	546,190.19	1,487,897.42
City Tax	49,285,144.44	360,000.00	2013 (2014)	320,353.44	6,468.00	313,885.44	78,471.36	133,401.31	525,758.11
City Tax	22,901,651.67	-	2014 (2015)	148,860.74	-	148,860.74	37,215.18	18,607.59	204,683.51
							1,355,155.96	4,482,259.78	
TOTAL						5,420,623.83	5,837,415.73		**11,258,039.56**
Taxable income is computed based on 30% situs tax. The subject taxpayer, is a joint venture for MICT Berth 6 Project located in Port Area, Manila, but is maintaining principal office in Taguig City. Please note that their project is 100% completed.								Retirement Fee	**70.00**
								Total	**11,258,109.56**

HJSC and EEI, on behalf of HEJV, filed their respective *Letter Protest* against the subject assessment with the Office of the City Treasurer on July 23, 2015[18] and July 30, 2015.[19]

In a *Letter-Reply* dated September 18, 2015,[20] the Taguig City Treasurer denied both HJSC and EEI's protests, which was received by them on September 29, 2015.

PROCEEDINGS BEFORE THE RTC

On October 20, 2015, HEJV, together with HJSC and EEI as co-plaintiffs (plaintiffs), filed a Complaint for Nullification of Tax Assessment with Damages with the RTC of Taguig City, Branch 70.[21]

Summons was served on the Taguig City Treasurer and the Taguig City Government (defendants) on November 3, 2015.[22]

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[18] Exhibit "E", AC No. 341 Docket, p. 38.
[19] Exhibit "F", AC No. 341 Docket, p. 41.
[20] Exhibit "G", AC No. 341 Docket, p. 44.
[21] RTC Docket – Vol. I, p. 3.
[22] RTC Docket – Vol. I, p. 52.

The defendants filed a *Motion to Dismiss* on the grounds that the plaintiffs' cause of action has prescribed, and that the plaintiffs failed to state a cause of action,[23] to which the plaintiffs filed their *Comment and or Opposition*,[24] and to which the defendants filed their *Reply*.[25] The RTC denied the said motion,[26] as well as the defendants' *Motion for Reconsideration*[27] of such denial.[28]

The defendants filed their *Answer*[29] on August 23, 2017, while the plaintiffs filed their *Reply*[30] on September 6, 2017.

The Pre-Trial Conference was initially scheduled on November 24, 2017.[31] HJSC and EEI filed their respective Pre-Trial Briefs on November 17, 2017,[32] while the defendants filed their *Pre-Trial Brief* on November 20, 2017.[33] The case was then set for mediation[34] and Judicial Dispute Resolution,[35] to no avail.[36]

The case was thereafter re-raffled to Branch 271. After several postponements, the Pre-Trial Conference was finally held on April 21, 2022.[37] The parties agreed on the following stipulations of facts:

> 1. The Court has jurisdiction over the case; and
>
> 2. Hanjin-EEI Corporation applied for retirement of business with the Business Permit and Licensing Officer of Taguig City on 20 January 2015.[38]

Trial ensued. HJSC presented Loida Tubasis[39] and Sonia Milay;[40] while EEI presented Leonardo Hernandez.[41] HJSC and EEI filed their respective *Formal Offer of Evidence* on October 13, 2022[42] and

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[23] RTC Docket – Vol. I, pp. 56-62.
[24] RTC Docket – Vol. I, pp. 71-81.
[25] RTC Docket – Vol. I, pp. 94-97.
[26] Order dated February 13, 2017, RTC Docket – Vol. I, pp. 117-120.
[27] RTC Docket – Vol. I, pp. 121-126.
[28] Order dated August 2, 2017, RTC Docket – Vol. I, p. 133.
[29] RTC Docket – Vol. I, pp. 134-138.
[30] RTC Docket – Vol. I, pp. 142-146.
[31] Notice of Pre-Trial Conference dated September 22, 2017, RTC Docket – Vol. I, pp. 250-251.
[32] RTC Docket – Vol. I, pp. 379-388, 391-400.
[33] RTC Docket – Vol. I, pp. 492-494.
[34] Order dated November 24, 2017, RTC Docket – Vol. I, p. 502.
[35] Order dated February 2, 2018, RTC Docket – Vol. I, p. 516.
[36] Mediator's Report dated February 7, 2018 and Minutes dated June 29, 2018, RTC Docket – Vol. I, pp. 517, 533.
[37] Pre-Trial Order dated April 21, 2022, RTC Docket – Vol. II, pp. 642-644.
[38] *Id.*
[39] Order dated September 15, 2022, RTC Docket – Vol. II, p. 652.
[40] Order dated September 29, 2022, RTC Docket – Vol. II, p. 657.
[41] Order dated February 9, 2023, RTC Docket – Vol. II, p. 738.
[42] RTC Docket – Vol. II, pp. 658-664.

February 5, 2023.[43] The defendants filed their *Comment/Opposition* thereto on November 17, 2022[44] and March 22, 2023.[45] The Court admitted all of the plaintiffs' exhibits.[46]

The defendants presented Dolores M. Cruz,[47] and then filed their *Formal Offer of Evidence*[48] on November 22, 2023, to which EEI and HJSC filed their respective *Comment/Objections* thereto on December 1, 2023[49] and December 5, 2023.[50] The Court likewise admitted all of the defendants' exhibits.[51]

The case was submitted for decision on March 7, 2024.[52]

The RTC issued the Assailed Decision, the dispositive portion of which reads:

> WHEREFORE, premises considered, the 14 May 2015 Notice of Assessment upon Hanjin-EEI Joint Venture with regards to the years **2008 and 2009** is hereby deemed **PRESCRIBED** and accordingly **NULLIFIED.**
>
> The 14 May 2015 Notice of Assessment upon Hanjin-EEI Joint Venture for the years **2010 to 2014** is hereby **SUSTAINED**.[53]

EEI filed a *Motion for Partial Reconsideration*;[54] HEJV and HJSC also filed a *Motion for Reconsideration*;[55] while the defendants filed a *Motion for Partial Reconsideration*.[56] The defendants filed their respective *Comment/Opposition* to EEI and HEJV and HJSC's motions on May 18, 2024[57] and May 6, 2024;[58] while EEI and HEJV and HJSC filed their respective *Comment/Opposition* to the defendants' motion on April 29, 2024.[59]

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43 RTC Docket – Vol. II, pp. 748-756.
44 RTC Docket – Vol. II, pp. 716-723.
45 RTC Docket – Vol. II, pp. 762-773.
46 Orders dated November 17, 2022 and March 22, 2023, RTC Docket – Vol. II, pp. 728, 777.
47 Order dated November 9, 2023, RTC Docket – Vol. II, p. 805.
48 RTC Docket – Vol. II, pp. 807-812.
49 RTC Docket – Vol. II, pp. 816-819.
50 RTC Docket – Vol. II, pp. 823-828.
51 Order dated December 7, 2023, RTC Docket – Vol. II, p. 829.
52 RTC Docket – Vol. II, p. 841.
53 *Supra*, note 5.
54 RTC Docket – Vol. II, pp. 894-912.
55 RTC Docket – Vol. II, pp. 915-943.
56 RTC Docket – Vol. II, pp. 944-952.
57 RTC Docket – Vol. II, pp. 988-994.
58 RTC Docket – Vol. II, pp. 976-985.
59 RTC Docket – Vol. II, pp. 956-963, 966-974.

In the Assailed Resolution,[60] the RTC denied all the foregoing motions. Hence, the present appeals.

PROCEEDINGS BEFORE THE CTA

EEI's *Petition for Review* **(CTA AC Case No. 343)** was filed on October 16, 2024; while the *Petition for Review* **(CTA AC Case No. 345)** filed by the Taguig City was filed on October 31, 2024, after being granted an extension of time.[61]

Meanwhile, after being granted a similar extension of time,[62] HJSC's *Petition for Review* **(CTA AC Case No. 341)** was personally filed on October 30, 2024 and electronically filed on November 8, 2024.

In a Resolution dated January 7, 2025, the Court consolidated CTA AC Case Nos. 343 and 345, and submitted the said cases for decision.[63]

HJSC filed a *Motion to Consolidate*[64] on January 15, 2025. Acting thereon, the Court granted the same, thereby consolidating CTA AC Case No. 341 with CTA AC Case Nos. 343 and 345.[65] Accordingly, the Resolution dated January 7, 2025 was recalled and set aside.

Considering that the parties have filed their respective comments/oppositions to the abovementioned Petitions for Review, CTA AC Case Nos. 341, 343 and 345 were submitted for decision on April 21, 2025.[66]

ASSIGNMENT OF ERRORS

CTA AC Case No. 341

HJSC assigns the following errors allegedly committed by the Court *a quo*, to wit:

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[60] *Supra*, note 6.
[61] Resolution dated November 25, 2024, AC No. 345 Docket, p. 201.
[62] Resolution dated January 17, 2025, AC No. 341 Docket, pp. 515-516.
[63] AC No. 343 Docket, p. 570-572.
[64] AC No. 341 Docket, pp. 497-504.
[65] Resolution dated February 10, 2025, AC No. 343 Docket, pp. 582-584; Minute Resolution dated March 6, 2025, AC No. 341 Docket, p. 566.
[66] Minute Resolution dated April 21, 2025.

a) THE COURT A QUO ERRED WHEN IT RULED THAT A JOINT VENTURE, SUCH AS HEJV, IS SUBJECT TO THE IMPOSITION OF LOCAL BUSINESS TAX UNDER SECTION 75 (E) OF THE TAX REVENUE CODE;

b) THE TRIAL COURT A QUO ERRED IN RULING THAT THE DELETION OF THE DEFINITION OF "CORPORATION" FROM ORDINANCE NO. 85 SERIES OF 2005 REMOVED THE EXCLUSION OF HEJV FROM LOCAL BUSINESS TAX;

c) THE COURT A QUO ERRED IN RULING THAT THE JOINT VENTURE FORMED BY THE PETITIONER AND EEI CORPORATION HAS A SEPARATE AND DISTINCT PERSONALITY FROM ITS MEMBERS;

d) THE TRIAL COURT A QUO ERRED IN RULING THAT HEJV IS LIABLE TO LOCAL BUSINESS TAX BY THE FACT THAT IT HAS A PRINCIPAL OFFICE IN TAGUIG CITY;

e) THE TRIAL COURT A QUO ERRED IN RULING THAT THE 14 MAY 2015 NOTICE OF ASSESSMENT IS VALID UPON HANJIN-EEI JOINT VENTURE FOR THE YEARS OF 2010 TO 2014 DO NOT CONSTITUTE DOUBLE TAXATION;

f) THE TRIAL COURT A QUO ERRED IN RULING THAT RESPONDENTS HAVE JUSTIFIED ITS CLAIM OVER THE DIFFERENCE IN THE DECLARED JOINT VENTURES GROSS RECEIPTS AND ACTUAL GROSS RECEIPTS; AND

g) THE TRIAL COURT A QUO ERRED IN RULING THAT THE IMPOSITION OF INTERESTS AND SURCHARGES IN THE 14 MAY 2015 NOTICE OF ASSESSMENT WERE NOT EXCESSIVE.

CTA AC Case No. 343

EEI raises the following similar issues, *viz.*:

I
WHETHER HEJV, A JOINT VENTURE SPECIFICALLY FORMED TO UNDERTAKE CONSTRUCTION PROJECTS, IS SUBJECT TO TAXATION DESPITE ITS CONSTITUENT MEMBERS, INCLUDING PETITIONER EEI, HAVING ALREADY FULFILLED THEIR RESPECTIVE TAX OBLIGATIONS.

II
WHETHER THE IMPOSITION OF ADDITIONAL BUSINESS TAX ON HEJV AMOUNTS TO DOUBLE TAXATION.

III
WHETHER THE 2005 TAGUIG REVENUE CODE IMPLIEDLY REPEALED THE 1993 TAGUIG REVENUE CODE'S PROVISION EXEMPTING JOINT VENTURES FORMED FOR CONSTRUCTION PROJECTS FROM BUSINESS TAXES DESPITE THE LACK OF

EXPLICIT LANGUAGE OR CLEAR LEGISLATIVE INTENT SUPPORTING SUCH REPEAL.

IV

WHETHER HEJV SHOULD BE CHARGED WITH INTEREST, ASSUMING IT IS LIABLE FOR DEFICIENCY IN BUSINESS TAX.

CTA AC Case No. 345

Taguig City, in turn, assigns the following sole error:

THE HORRONABLE RTC OF TAGUIG CITY BRANCH 271 COMMITTED REVERSIBLE ERROR IN FINDING THAT THE ASSESSMENT FOR THE YEARS 2008 AND 2009 HAD PRESCRIBED.

ARGUMENTS OF THE PARTIES

CTA AC Case No. 341

First, HJSC argues that HEJV, being a joint venture, is excluded from the payment of local business tax (LBT) under Section 75(e) of the Taguig City Revenue Code (old TCRC).

It explains that under Section 75 of the old TCRC, contractors and other independent contractors as defined in Section 74 of the Code are liable for LBT. However, under Section 74 of the Code, there is no categorical mention of "joint venture" as one of the taxable businesses subject to LBT under Section 75 thereof.

Instead, under Section 74 of the Code, "joint venture" has its own statutory definition under which HEJV falls. Further, under the said provision, a partnership is generally considered as a corporation, except joint ventures or consortiums formed for the purpose of undertaking construction projects, under which HEJV is classified.

HJSC also claims that under Section 131(i) of the Local Government Code (LGC) and Section 22(B) of the National Internal Revenue Code (Tax Code), joint ventures or consortiums formed for the purpose of undertaking construction projects are excluded from the definition of "corporation," hence, are excluded from the imposition of the applicable local or national tax.

Second, HJSC argues that the deletion of the definition of "corporation" in Ordinance No. 85 s. 2005 (amended TCRC) did not remove the exclusion of HEJV from the payment of LBT. Petitioner insists that HEJV remains excluded from the payment LBT, as such deletion does not amount to an implied repeal of HEJV's exemption, which may still be supplemented by the old TCRC.

HJSC also argues that Revenue Regulations (RR) No. 10-2012 and Memorandum Circular (MC) No. 001-2020 issued by the Bureau of Local Government Finance (BLGF), are not applicable to the present case.

Third, HJSC posits that HEJV has no separate and distinct personality from its members that can be subject to LBT. Citing Item 2.1(c) and (d) of the Philippine Competition Commission (PCC) Guidelines on Notification of Joint Ventures, petitioner claims that HEJV is a "Contractual JV" and not a "JV Company" which is a separate juridical entity.

Fourth, HJSC avers that it has no principal office in Taguig City within the context of Section 79(a) of the TCRC and Article 243 of the Implementing Rules and Regulations (IRR) of the LGC. HEJV's office in Taguig City cannot be considered its principal office considering that it is an unincorporated joint venture and has no articles of incorporation where it can declare its principal office.

Fifth, HJSC argues that the subject assessment is contrary to law as it constitutes double taxation, since the same gross receipts will be effectively subjected to tax at two (2) points: *first,* at the instance of the joint venture; and *second,* at the instance of the joint venture's members. In this case, LBT has already been settled by HJSC in Taguig City, and EEI in Quezon City, according to their respective shares.

Sixth, HJSC argues that the Taguig City Treasurer and the Taguig City Government failed to adduce evidence to justify the amount of deficiency in the subject assessment. They merely assumed the discrepancy on the face of the certificate of gross sales which clearly reflects the distribution of gross receipts between the joint venture's members.

Lastly, HJSC submits that the Taguig City Treasurer and the Taguig City Government failed to adduce evidence to justify the excessive and onerous interests in the subject assessment.

In its *Comment*,[67] Taguig City maintains that HEJV is not excluded from the payment of LBT. HJSC's interpretation is contrary to the definition of contractor under Section 74 of the amended TCRC, which defines contractor as "persons, natural or juridical, not subject to professional tax whose activity consists essentially of the sale of **all** kinds of services **for a fee**..."

Taguig City further argues that the subject assessment is not contrary to law and does not constitute double taxation. The creation of the TCRC is based on the 1987 Constitution and the LGC, which also gives the *Sangguniang Panglungsod* of Taguig City the right to amend the TCRC, including the right to take away any exemptions granted by the old TCRC. Moreover, the elements of double taxation are not present in this case because HEJV, HJSC, and EEI are three (3) separate taxpayers in the eyes of the amended TCRC. The application for a separate business permit in Taguig City by HEJV is a clear recognition that it is a separate entity from HJSC and EEI.

Taguig City also states that HJSC has no legal standing in the present appeal because it is not the taxpayer in the subject assessment. It also points out that the instant case was instituted before the Court *a quo* by a representative of the joint venture. Hence, the present appeal should be dismissed for lack of cause of action.

On the issue of the amount of deficiency taxes assessed, Taguig City explains that the basis of the computation therefor was the *Certification*[68] issued by HEJV, stating that for the years 2008 to 2014, its gross sales amounted to ₱2,843,091,192.83, broken down as follows:[69]

	GROSS SALES	**HANJIN**	**EEI**
2008	164,835,651.38	113,001,452.31	51,834,199.07
2009	531,034,542.96	525,905,637.76	5,128,905.20
2010	800,570,542.12	707,301,912.57	93,268,629.55
2011	716,369,453.20	501,215,293.36	215,5134,159.84
2012	389,658,349.44	202,749,456.63	186,908892.81
2013	164,283,814.80	78,542,248.69	85,741,566.11
2014	76,338,838.93	39,378,383.32	36,960,555.61
TOTAL	**2,843,091,192.83**	**2,168,094,284.64**	**674,996,908.19**

[67] AC No. 341 Docket, pp. 542-556.
[68] Exhibit "1", AC No. 341 Docket, p. 500.
[69] AC No. 341 Docket, p. 550.

However, HEJV had allegedly been declaring sales when renewing its business permit in Taguig City, to wit:[70]

YEAR	*DECLARED SALES*	*GROSS SALES PER AUDIT*
2008 (2009)	-	49,450,691.41
2009 (2010)	5,000,000.00	159,310,362.88
2010 (2011)	6,000,000.00	240,171,162.63
2011 (2012)	360,000.00	214,910,835.96
2012 (2013)	360,000.00	116,897,504.83
2014 (2015)	-	22,901,651,67

According to Taguig City, "Gross Sales Per Audit" represents thirty percent (30%) of the gross sales reported by HEJV in the aforementioned *Certification*.

Taguig City alleges that the subject assessment shows the large difference between the actual tax due and actual tax paid by HEJV, resulting in discrepancies that led to the imposition of deficiency tax. The differences are shown below:[71]

YEAR	*TAX DUE*	*TAX PAID*	*DIFFERENCE*
2008 (2009)	321,429.52	32,500.00	**288,929.52**
2009 (2010)	1,035,517.36	32,500.00	**1,003,017.36**
2010 (2011)	1,561,112.56	39,000.00	**1,522,112.56**
2011 (2012)	1,396,920.43	6,468.00	**1,390,452.43**
2012 (2013)	759,833.78	6,468.00	**753,365.78**
2014 (2015)	148,860.74	-	**148,860.74**

[70] *Id.*
[71] AC No. 341 Docket, p. 551.

		TOTAL	**5,420,623.83**

Furthermore, per Taguig City, due to the foregoing differences, charges and interest were imposed in the amount of ₱5,837,415.73, computed as such:[72]

YEAR	***SURCHARGE***	***INTEREST***	***TOTAL***
2008 (2009)	72,232.38	260,036.57	**621,198.47**
2009 (2010)	250,754.34	902,715.62	**2,156,487.32**
2010 (2011)	380,528.14	1,369,901.30	**3,272,542.00**
2011 (2012)	347,613.11	1,251,407.19	**2,989,472.73**
2012 (2013)	188,341.45	546,190.16	**1,487,897.42**
2013 (2014)	78,471.36	133,401.31	**525.758.11**
2014 (2015)	37,215.18	18,607.59	**204,683.51**
TOTAL		**5,837,415.73**	

Taguig City claims that the aforementioned discrepancies were only discovered when HEJV applied for retirement of business in 2015. Thus, Taguig City's right to assess for the years 2008 and 2009 had not yet prescribed. In relation thereto, Taguig City insists that the gross sales submitted by HEJV for the years 2008 to 2014 should be considered as false or fraudulent return, triggering the application of Section 194(b) of the LGC.

Finally, Taguig City counters that HEJV has consistently applied for and paid the business permit since 2009, which constitute an admission that HEJV is indeed engaged in business in, and is liable for LBT to Taguig City. Thus, HJSC and HEJV are estopped from questioning Taguig City's right to levy LBT against HEJV.

CTA AC Case No. 343

[72] *Id.*

For its part, EEI argues that joint ventures specifically formed to undertake construction projects are expressly excluded from the definition of a "corporation" under the Section 22(B) of the Tax Code and Section 131 of the LGC, and are, therefore, not subject to business taxes imposed on other corporations.

EEI avers that the Court *a quo*'s view undermines the rationale for exempting joint ventures involved in construction projects from additional taxation. EEI states that Presidential Decree (PD) No. 929[73] explicitly aims to support local contractors by facilitating their competitiveness against foreign contractors–a deliberate legislative measure articulated in the "WHEREAS" clauses of the said decree.

EEI also points out that the subject assessment was issued pursuant to Section 77 of the old TCRC, thus, it is only proper and legal to use the same basis to determine the tax treatment of HEJV. Under Section 74 of the old TCRC, joint ventures formed for the purpose of undertaking construction projects are expressly excluded from being classified as taxable corporations.

Assuming there is a conflict between the old and amended TCRC, EEI posits that the removal of the term "corporation" in the latter does not automatically negate the tax exemption previously granted under the former, since tax exemptions are generally interpreted in favor of the taxpayer.

Assuming further that the amended TCRC impliedly repealed the old TCRC, effectively removing the exemption of joint ventures, EEI asserts that it is the LGC and national laws that should remain as the primary reference for any tax imposition, to which any local ordinance must conform, in accordance with Sections 131 and 186 of the LGC.

EEI likewise avers that it has consistently fulfilled its tax obligations in Quezon City, where its principal office is located, and in the City of Manila, where the Berth 6 Project is situated; thus, imposing taxes on HEJV will amount to double taxation as such taxes will inevitably be borne by its constituent members, *i.e.*, HJSC and EEI, who are already independently taxed on their income.

Lastly, EEI submits that HEJV is not liable for any interest under the amended TCRC, and under the old TCRC for being excessive.

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[73] Amending subparagraph (b) of Section 84 and Section 191 of the National Internal Revenue Code of 1939, May 4, 1976.

The Court notes that the arguments raised in Taguig City's *Comment*[74] to EEI's *Petition for Review* are exactly the same as those raised in its *Comment* to HJSC's *Petition for Review*.

CTA AC Case No. 345

On the other hand, Taguig City disagrees with the ruling of the Court *a quo* insofar as it nullified the assessment for the years 2008 and 2009.

Taguig City argues that in case of fraud or intent to evade the payment of taxes, such as in this case, taxes, fees, and charges may be assessed within ten (10) years from discovery of the fraud or the intent to evade the payment of taxes, as per Section 194 of the LGC.

Taguig City alleges that records of this case show that there are substantial differences between the declared gross sales submitted by HEJV upon renewal of its business permit for the years 2009 to 2014, and the gross sales declared in the *Certification*[75] submitted by HEJV upon application for retirement of business in 2015. Taguig City stresses that such *Certification* clearly shows substantial underdeclaration committed by HEJV. This gives rise to the presumption of falsity which triggers the application of Section 194(b) of the LGC.

Since the discrepancies were only discovered when HEJV applied for retirement of business in 2015, Taguig City submits that its right to assess the deficiency taxes for the years 2008 and 2009 had not yet prescribed.

By way of *Comment*,[76] HJSC contends that there was no due process in the assessments for 2008 and 2009, considering that there was no intent to assess HEJV using the ten (10)-year prescriptive period. HJSC alleges that Taguig City did not communicate in a clear and adequate manner its basis for extending the ordinary assessment period; thus, it failed to observe the requirements for invoking the extraordinary ten (10)-year prescriptive period set forth by jurisprudence.

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[74] AC No. 343 Docket, pp. 392-403.
[75] *Supra*, note 68.
[76] AC No. 345 Docket, pp. 203-213.

HJSC likewise contends that assuming that HEJV made an error in the declaration of its gross sales, Taguig City failed to show that the understatement/overstatement constituted a false declaration with intent to evade the taxes due.

Furthermore, HJSC argues that Taguig City failed to substantiate its claim as to the veracity of the amounts in the "Declared Sales" and "Gross Sales as Per Audit." HJSC asserts that Taguig City's contentions are based only on self-serving statements, as it failed to present sufficient evidence showing how it derived the declared sales of HEJV under the "audit" report.

In its own *Comment*,[77] EEI argues that Taguig City has not adduced credible proof that HEJV was guilty of fraud. EEI also submits that HEJV cannot be charged with underdeclaration since it was not even legally obligated to pay taxes to Taguig City in the first place.

RULING OF THE COURT

The principal issues for resolution of this Court may be succinctly stated, as follows:

1. Whether HJSC and EEI have legal standing to institute the present action;

2. Whether HEJV is liable for deficiency LBT for the years 2008 to 2014; and,

3. Whether HEJV is liable for surcharge and interest.

As a necessary preliminary, We shall first determine whether this Court has jurisdiction over the present appeals.

Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA),[78] in relation to Section 7(a)(3) of RA No. 1125, as amended by RA No. 9282 (CTA Law),[79] enumerates the cases within the jurisdiction of this Court, to wit:

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[77] AC No. 345 Docket, pp. 229-251.
[78] A.M. No. 05-11-07-CTA, November 22, 2005.
[79] Expanding the Jurisdiction of the Court of Tax Appeals, Republic Act No. 9282, March 30, 2004.

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

Section 3(a), Rule 8 of the RRCTA, in relation to Section 11 of the CTA Law, further provides the period for filing an appeal of the decision of the RTC with this Court, *viz.*:

> SECTION 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. *(Emphasis supplied)*

Based on the above-cited rules, local tax cases decided or resolved by the RTC in the exercise of its original jurisdiction may be appealed to this Court within thirty (30) days from the petitioner's receipt of a copy of such decision or ruling.

It is important that the action before the RTC is in the nature of a local tax case, or one which primarily involves a local tax case.[80] A local tax case pertains to a dispute between a local government unit (LGU) and a taxpayer involving the LGU's power to impose and levy taxes, fees, or charges against the property or business of the taxpayer concerned.[81]

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[80] *Mactel Corp. v. City Government of Makati*, G.R. No. 244602, July 14, 2021.
[81] *Id.*

In this case, CTA AC Case Nos. 341, 343 and 345 respectively involve an appeal of the Assailed Decision and Resolution promulgated by the RTC of Taguig City, on the complaint filed by HEJV, HJSC and EEI questioning the deficiency assessment for LBT issued by the Taguig City Treasurer and the Taguig City Government. The Assailed Decision and Resolution were resolved by the said RTC in the exercise of its original jurisdiction.

Applying the above-cited rules, the subject matter of the present appeals falls squarely within the jurisdiction of this Court.

With respect to the timeliness of the present appeals, the following are established:

Case No.	Date of receipt of Assailed Resolution	Date of Filing Motion for Extension of Time to File Petition for Review	Date of Filing of Petition for Review
341	September 16, 2024	October 14, 2024[82]	October 30, 2024
343	September 16, 2024	-	October 16, 2024
345	September 16, 2024	October 16, 2024[83]	October 31, 2024

Records of this case show that the petitioners in CTA AC Case Nos. 341, 343 and 345 respectively received the Assailed Resolution via electronic mail on September 16, 2024.[84] Thus, they had thirty (30) days from such receipt, or until October 16, 2024, to file an appeal with the CTA.

Seeing that petitioners in CTA AC Case Nos. 341 and 345 filed their respective *Motion for Extension of Time to File Petition for Review* within the original period, as well as their respective *Petition for Review* within the extended period, and seeing that petitioner in CTA AC Case Nos. 343 filed its *Petition for Review* within the original period, the present appeals were filed on time.

Now, on the merits.

[82] This was granted by the Court in a Resolution dated January 17, 2025.
[83] This was granted by the Court in a Resolution dated November 25, 2024.
[84] RTC Docket - Vol. II, p. 1032.

HJSC and EEI have legal standing to institute the present action

In its *Comment* to the *Petition for Review* in CTA AC Case No. 341, Taguig City raises the argument that HJSC has no legal standing in the instant case because it is a separate and distinct juridical entity from HEJV, the latter being the taxpayer subject of the assailed assessment.

Taguig City's argument lacks merit.

There is no dispute that HEJV, against whom the subject assessment was issued, is a joint venture pursuant to the JVA dated June 16, 2008.[85]

A joint venture has been defined by jurisprudence, as such:

> The legal concept of a joint venture is of common law origin. It has no precise legal definition, but it has been generally understood to mean **an organization formed for some temporary purpose**... It is in fact hardly distinguishable from the partnership, since their elements are similar – community of interest in the business, sharing of profits and losses, and a mutual right of control... The main distinction cited by most opinions in common law jurisdictions is that the partnership contemplates a general business with some degree of continuity, while the joint venture is formed for the execution of a single transaction, and is thus of a temporary nature... This observation is not entirely accurate in this jurisdiction, since under the Civil Code, a partnership may be particular or universal, and a particular partnership may have for its object a specific undertaking. (Art. 1783, Civil Code). **It would seem therefore that under Philippine law, a joint venture is a form of partnership and should thus be governed by the law of partnerships.** The Supreme Court has however recognized a distinction between these two business forms, and has held that although a corporation cannot enter into a partnership contract, it may however engage in a joint venture with others. *(Citations omitted, emphasis supplied)*[86]

Based on the foregoing, a joint venture is considered in this jurisdiction as a form of partnership and is, accordingly, governed by the law on partnerships.[87]

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[85] *Supra*, note 9.
[86] *Aurbach v. Sanitary Wares Manufacturing Corp.*, G.R. Nos. 75875, 75951 & 75975-76, December 15, 1989, as cited in *Philex Mining Corp. v. Commissioner of Internal Revenue*, G.R. No. 148187, April 16, 2008.
[87] *J. Tiosejo Investment Corp. v. Spouses Ang*, G.R. No. 174149, September 8, 2010

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Under Article 1768 of the Civil Code of the Philippines,[88] a partnership has a juridical personality separate and distinct from that of each partner. However, as regards the obligations of the partners, Article 1797 of the same Code provides that the losses and profits of the partnership shall be distributed in conformity with the agreement; and if only the share of each partner in the profits has been agreed upon, the share of each in the losses shall be in the same proportion. Further, Article 1816 of the same Code states that all partners shall be liable *pro rata* with all their property and after all the partnership assets have been exhausted, for the contracts which may be entered into in the name and for the account of the partnership.

In other words, although a partnership enjoys a legal personality distinct from that of its partners, the law nonetheless imposes upon each partner the obligation to share in the losses sustained by the partnership and to be held accountable for partnership liabilities, subject to conditions established by law.

This is confirmed in the case of *Kilosbayan, Inc. v. Guingona, Jr.*,[89] where the Supreme Court further defined a joint venture as an association of persons or companies jointly undertaking some commercial enterprise, where generally all co-venturers contribute assets and share risks, which may be altered by agreement to share both in profit and losses.

Relatedly, "legal standing" or *locus standi* has been defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.[90] Section 2, Rule 3 of the Rules of Court,[91] as amended, likewise defines a real party in interest, to wit:

> **Section 2.** *Parties in interest.* - **A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.** Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest. *(Emphasis supplied)*

The term "interest" pertains to a material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. By real

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[88] Republic Act No. 386, June 18, 1949.
[89] G.R. No. 113375, May 5, 1994.
[90] *Integrated Bar of the Philippines v. Zamora*, G.R. No. 141284, August 15, 2000.
[91] July 1, 1997.

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interest is meant a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest.[92]

In view of the foregoing, there can be no serious issue on the matter of HJSC and EEI being real parties in interest in this case, for they both possess a direct and substantial interest in the outcome of this case. Being co-venturers of HEJV, they stand to benefit from the invalidation of the subject assessment and, correspondingly, to suffer injury should it be upheld.

Therefore, HJSC and EEI both possess legal standing to file the *Complaint* before the RTC and to pursue their respective appeals before this Court.

The right to assess HEJV for deficiency LBT for the years 2009 and 2010 has prescribed

In the Assailed Decision, the Court *a quo* held that fraudulent intent to evade payment of correct taxes was not proven sufficiently by Taguig City, so as to warrant the application of the ten (10)-year prescriptive period to assess local taxes, fees, or charges. Applying instead the five (5)-year prescriptive period under Section 194(a) of the LGC, the Court *a quo* ruled that the assessments covering the years 2008 and 2009 has already prescribed.

In their *Petition for Review*, Taguig City argued that there are substantial differences between the declared gross income by HEJV when it renewed its business permit in the years 2009 to 2014, and the declared gross income by HEJV when it applied for retirement of its business. Taguig City claims that such discrepancies were only discovered when HEJV applied for retirement of its business in 2015, such discrepancy being based on a document submitted by HEJV itself to Taguig City. Taguig City thus submits that since the discrepancies were only discovered in 2015, its right to assess deficiency taxes for the years 2008 and 2009 has not yet prescribed.

Taguig City further states that the gross sales submitted by HEJV for the years 2008 to 2014 should be considered as false or fraudulent returns warranting the application of Section 194(b) of the LGC, or the 10-year prescriptive period, considering that HEJV substantially underdeclared its gross income by more than thirty percent (30%). As

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[92] *Ortigas & Co. Ltd. v. Court of Appeals*, G.R. No. 126102, December 4, 2000.

such, there is a presumption of falsity, shifting the burden of proof to the other parties.

In its *Comment*, HJSC maintains that Taguig City did not communicate to them, in a clear and adequate manner, its basis for extending the assessment period. HJSC claims that Taguig City did not mention in the subject assessment that it will be using the 10-prescriptive period, thereby violating HEJV's right to due process. It adds that Taguig City failed to prove that the understatement/overpayment constituted a false declaration with intent to evade the taxes due.

In its own *Comment*, EEI argues that Taguig City cannot plausibly charge HEJV with underdeclaration since it was not even legally obligated to pay taxes to Taguig City in the first place. EEI likewise avers that the subject assessment failed to apprise HEJV of the alleged existence of fraud, and did not even contain the necessary legal and factual bases outlining how the alleged deficiency taxes were calculated. As such, there is no legal basis for applying the 10-year prescriptive period.

We affirm the ruling of the Court *a quo*.

We clarify, however, that the covered period of the subject assessment is from 2009 to 2015, although the basis for computing LBT thereon are gross sales/receipts for the preceding calendar year (*i.e.*, 2008 to 2014). Hence, it is more accurate to state that the right to assess deficiency LBT for the years 2009 and 2010 (not 2008 and 2009) has already prescribed.

The prescriptive periods for the assessment of local taxes are governed by Section 194 of the LGC, as quoted below:

> **SECTION 194.** *Periods of Assessment and Collection.* -
>
> (a) **Local taxes, fees, or charges shall be assessed within five (5) years from the date they became due.** No action for the collection of such taxes, fees, or charges, whether administrative or judicial, shall be instituted after the expiration of such period: Provided, That taxes, fees or charges which have accrued before the effectivity of this Code may be assessed within a period of three (3) years from the date they became due.
>
> (b) **In case of fraud or intent to evade the payment of taxes, fees, or charges, the same may be assessed within ten (10)**

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> **years from discovery of the fraud or intent to evade payment.**
>
> xxx xxx xxx
>
> *(Emphasis supplied)*

The right to assess local taxes prescribes after five (5) years from the due date for payment; however, in case of fraud or intent to evade payment, the right to assess the same prescribes after ten (10) years from discovery thereof. Relatedly, business taxes are payable within the first twenty (20) days of January.[93]

To determine whether the ordinary 5-year prescriptive period or extraordinary 10-year prescriptive period applies, fraud is never presumed or imputed. Fraud must be proved by clear and convincing evidence amounting to more than mere preponderance, and cannot be justified by mere speculation.[94]

In *Commissioner of Internal Revenue v. Spouses Magaan*,[95] the High Tribunal elaborated on the element of fraud as a ground to invoke the extraordinary 10-year prescriptive period, to wit:

> Generally, fraud is "anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust or confidence justly reposed, resulting in the damage to another, or by which an undue and unconscionable advantage is taken of another."
>
> In the context of Section 222(a), **there is fraud in the filing of a false and deceitful entry with intent to evade the taxes due. The act of filing a fraudulent return must be intentional and not attributable to "mistake, carelessness, or ignorance."** Thus, for petitioner to invoke the 10-year prescriptive period, it must prove the following with clear and convincing evidence: (1) respondents received taxable income; (2) they underdeclared or did not declare the taxable income in their tax returns; and **(3) they intended to evade payment of correct taxes due.** *(Emphasis supplied)*

It must be noted that under Section 194 of the LGC, only cases involving fraudulent returns can trigger the application of the extraordinary 10-year prescriptive period. The said provision does not include falsity in tax returns as a ground to apply the 10-year period, which otherwise applies under the Tax Code, as amended.

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[93] Section 167 of the LGC.
[94] *Yutivo Sons Hardware Co. v. Court of Tax Appeals*, G.R. No. L-13203, January 28, 1961.
[95] G.R. No. 232663, May 3, 2021.

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In this case, We agree with the Court *a quo* that Taguig City failed to establish by clear and convincing evidence the existence of fraud or intent to evade payment in HEJV's payment of its business taxes for calendar years 2009 to 2015, so as to warrant the application of the 10-year prescriptive period.

The fact that there are substantial differences between HEJV's declared gross income upon renewal of business permit in the years 2009 to 2014, and its declared gross income upon application for retirement of business in 2015, does not automatically impute fraud on the part of HEJV in its filings with Taguig City.

Evidence shows that as early as the year 2010 (in relation to calendar year 2009), HEJV believed that it is not subject to LBT in Taguig City, as can be seen from its "payment under protest" of tax liabilities on "services" arising from the joint venture project.[96] Evidence also shows that HJSC and EEI have consistently paid for LBT on "services" / "city tax" / "tax on gen bldg contr" to their respective LGUs (*i.e.*, Taguig City[97] for HJSC; and Quezon City[98] and Manila[99] for EEI) for the years 2009 to 2014. The taxpayers' uninterrupted payment of LBT for the years covered by the subject assessment, notwithstanding a mistaken belief regarding their obligations, negates any clear and convincing showing of fraud or intent to evade the payment of taxes.

As for Taguig City's contention that HEJV's substantial underdeclaration of gross sales by more than thirty percent (30%) gives rise to a presumption of falsity, suffice it to say that the same is unsupported by applicable provisions of the LGC or amended TCRC.

There being no fraud or intent to evade the payment of taxes on the part of HEJV in the payment of its taxes for calendar years 2009 to 2015, the ordinary 5-year prescriptive period to assess shall apply.

Considering that the subject assessment was received by HJSC on behalf of HEJV on **June 4, 2015**, the right to assess calendar years 2009 and 2010 has already prescribed by then, as shown below:

Period Covered	Business Tax Due Date	Last Day to Assess

[96] Exhibit "H", RTC Docket - Vol. I, p. 294.
[97] Exhibits "I" to "N-1", RTC Docket - Vol. 1, pp. 297-308.
[98] Exhibits "H-EEI" to "H-23-EEI", RTC Docket - Vol. I, pp. 441-464.
[99] Exhibits "1-EEI" to "I-21-EEI", RTC Docket - Vol. I, pp. 465-486.

2009	January 20, 2009	January 20, 2014 **(PRESCRIBED)**
2010	January 20, 2010	January 20, 2015 **(PRESCRIBED)**
2011	January 20, 2011	January 20, 2016
2012	January 20, 2012	January 20, 2017
2013	January 20, 2013	January 20, 2018
2014	January 20, 2013	January 20, 2019
2015	January 20, 2014	January 20, 2020

HEJV is liable to Taguig City for deficiency LBT for the years 2011 to 2015

Joint ventures formed for the purpose of undertaking construction projects, such as HEJV, may be subject to LBT under the LGC and TCRC

Codified under Section 5, Article X of the 1987 Philippine Constitution[100] is the grant of power to each LGU to create its own sources of revenues, and to levy taxes, fees, and charges, subject to such guidelines and limitations as the Congress may provide. Such power is confirmed under Section 192 of the LGC.[101] Section 132 thereof further provides that such power shall be exercised by the *sanggunian* of the LGU concerned through an appropriate ordinance.

Under Section 143 of the LGC itself, in relation to Section 151 thereof, cities are empowered to impose LBT on certain businesses, including those of contractors and other independent contractors, thus:

> SECTION 143. *Tax on Business.* -- The municipality may impose taxes on the following businesses:
>
> xxx xxx xxx
>
> (e) **<u>On contractors and other independent contractors</u>**, in accordance with the following schedule:

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[100] February 2, 1987.
[101] Republic Act No. 7160, October 10, 1991.

xxx xxx xxx

> SECTION 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.
>
> xxx xxx xxx
>
> *(Emphasis supplied)*

Pertinently, Section 131(h) of the LGC defines the term "contractor" while Section 131(i) defines the term "corporation," to wit:

> (h) "Contractor" includes **persons, natural or juridical**, not subject to professional tax under Section 139 of this Code, **whose activity consists essentially of the sale of all kinds of services for a fee**, regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees.
>
> As used in this section, the term "contractor" shall include general engineering, general building and specialty contractors as defined under applicable laws; filling, demolition and salvage works contractors; proprietors or operators of mine drilling apparatus; proprietors or operators of dockyards; persons engaged in the installation of water system, and gas or electric light, heat, or power; proprietors or operators of smelting plants, engraving, plating, and plastic lamination establishments; proprietors or operators of establishments for repairing, repainting, upholstering, washing or greasing of vehicles, heavy equipment, vulcanizing, recapping and battery charging; proprietors or operators of furniture shops and establishments for planing or surfacing and recutting of lumber, and sawmills under contract to saw or cut logs belonging to others; proprietors or operators of dry cleaning or dyeing establishments, steam laundries, and laundries using washing machines; proprietors or owners of shops for the repair of any kind of mechanical and electrical devices, instruments, apparatus, or furniture and shoe repairing by machine or any mechanical contrivance; proprietors or operators of establishments or lots for parking purposes; proprietors or operators of tailor shops, dress shops, milliners and hatters, beauty parlors, barbershops, massage clinics, sauna, Turkish and Swedish baths, slenderizing and building salons and similar establishments; photographic studios; funeral parlors; proprietors or operators of hotels, motels, and lodging houses; proprietors or operators of arrastre and stevedoring, warehousing, or forwarding establishments; master plumbers, smiths, and house or sign painters; printers, bookbinders, lithographers; publishers except those engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted

> principally to the publication and advertisements; business agents, private detective or watchman agencies, commercial and immigration brokers, and cinematographic film owners, lessors and distributors.
>
> (i) "Corporation" includes partnerships, no matter how created or organized, joint-stock companies, joint accounts (cuentas en participacion), associations or insurance companies **but does not include** general professional partnerships and **a joint venture or consortium formed for the purpose of undertaking construction projects** or engaging in petroleum, coal, geothermal, and other energy operations pursuant to an operating or consortium agreement under a service contract with the government. General professional partnerships are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.
>
> xxx xxx xxx
>
> *(Emphasis supplied)*

With respect to the payment of LBT, Sections 146 of the same Code provides, *viz.*:

> SECTION 146. *Payment of Business Taxes.* — (a) The taxes imposed under Section 143 shall be **payable for every separate or distinct establishment or place where business subject to the tax is conducted** and one line of business does not become exempt by being conducted with some other businesses for which such tax has been paid. **The tax on a business must be paid by the person conducting the same.**
>
> xxx xxx xxx
>
> *(Emphasis supplied)*

A complete reading of the foregoing related provisions of the LGC shows that **persons, natural or juridical,** conducting business as a contractor, as defined by law, is subject to and shall pay LBT to the appropriate LGU based on a graduated schedule and fixed sales allocation.

The exclusion of "a joint venture or consortium formed for the purpose of undertaking construction projects" from the definition of a "corporation" under Section 131(i) of the LGC, cannot be construed to preclude such entity from qualifying as a "contractor" under Section 131(h) of the same Code. There is neither logical nor legal basis to support such interpretation. The term "contractor" as defined by law broadly encompasses **all** "persons, natural or juridical, not subject to professional tax under Section 139 of this Code, whose activity consists essentially of the sale of all kinds of services for a fee."

In this case, it is established by evidence that HEJV is a joint venture formed for the sole purpose of constructing the Berth 6 Project under contract with the ICTS. As a joint venture, which is considered as a form of partnership,[102] having a juridical personality separate and distinct from that of each member,[103] HEJV may qualify as a "contractor" under Section 131(h) of the LGC, provided it satisfies the other criteria set forth therein.

Under the *Addendum* to the JVA dated September 16, 2008,[104] the scope of work of HJSC and EEI for and on behalf of HEJV were specified, to wit:

II. DIVISION OF RESPONSIBILITIES

2.1 Scope of Work

2.1.1 **HANJIN** shall provide and perform the following works for the Project:

Bill 1 - General (as indicated in Annex "C" attached hereto and made an integral part of this Addendum)
Bill 2 - Demolition and Site Clearing
Bill 3 - Filing Works
Bill 4 - Dredging
Bill 5 - Piling
Bill 6 - Concrete
Bill 7 - Steelwork
Bill 8 - Wharf Furniture
Bill 9 - Pavement D
Bill 10 - Drainage
Bill 18 - Perimeter Fencing and Gates
Bill 19 - Pavement Line Marking

2.1.2 **EEI** shall provide and perform the following works for the Project:

Bill 1 - General (as indicated in Annex "C" attached hereto and made an integral part of this Addendum)
Bill 9 - Pavement D
Bill 11 - Potable Water and Fire Water Supply
Bill 12 - Electrical Services
Bill 13 - Building Works-Substation
Bill 14 - Building Works-Entry and Exit Gates
Bill 15 - Building Works-Amenity Blocks

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[102] *Supra*, note 87.
[103] *Supra*, note 88.
[104] *Supra*, note 14.

Bill 16 - Building Works-Pump Houses
Bill 17 - Building Works-RTG Service Area

xxx xxx xxx

Thus, on the basis of the said *Addendum*, in relation to the JVA dated June 16, 2008[105] and *Agreement* dated June 16, 2008,[106] among other pieces of evidence, HEJV clearly falls within the definition of a "contractor" under the LGC, which may be subject to LBT thereunder.

HJSC alleges that under Section 75(e) of the amended TCRC, annual tax is levied on several businesses, including that of contractors and other independent contractors "defined in SECTION 74 of this Code." HJSC and EEI claim, however, that contrary to the ruling of the Court *a quo*, there is no categorical mention of "joint ventures" as one of the taxable businesses under Section 75(e). They argue that in statutory construction, the express mention of one person, thing, act, or consequence excludes all others. In contrast, the term "joint venture" is given its own definition, as quoted below:

> "**Joint Venture** – is a legal organization that takes the form of a short term partnership in which the persons jointly undertake a transaction for mutual profit. Generally each person contributes assets and share risks. Like a partnership joint ventures can involved any type of business transaction and the "persons" involved can be individuals, group of individuals, companies or corporations."[107]

They maintain that HEJV is specifically classified under the term "joint venture" under Section 74, and should not be taken to broadly mean as included under the term "contractor" or "independent contractor."

They also maintain that the deletion of the definition of "corporation" from the amended TCRC, which excluded construction joint ventures from being classified as a corporation, did not remove the exclusion of HEJV from the payment of LBT. HJSC further alleges that both the LGC and the Tax Code are consistent as to the exclusion of construction joint ventures from being classified as a corporation.

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[105] *Supra*, note 9.
[106] *Supra*, note 13.
[107] *Petition for Review* dated October 30, 2024, AC No. 341 Docket, p. 78.

HJSC then submits that the burden rests upon Taguig City to prove that HEJV is subject to LBT, while EEI posits that tax exemptions are generally interpreted in favor of the taxpayer.

On the other hand, Taguig City contends that the definition of "contractor" under Section 74 of the TCRC is all-encompassing thereby including all entities whose activity involves sales of services for a fee. As such, Taguig City agrees with the Court *a quo* when it held that there might be an exemption in favor of construction joint ventures based on the Tax Code but such exemption only extends to income tax. As for LBT, there are no clear provisions granting construction joint ventures exemption from the payment of the same.

We agree with Taguig City.

At the outset, it must be noted that the parties failed to adduce in evidence the full or relevant text of the local ordinance upon which the assailed assessment and claimed tax exemption is based, which would have proved or tended to prove matters on HEJV's liability for LBT. The parties merely quoted the relevant text in their respective Petitions for Review, without further proof. Without proof of the applicable local ordinance, this Court has no basis to determine either the correctness of Taguig City's findings in the subject assessment, or the existence and applicability of the plaintiffs' claimed tax exemption.

Neither can this Court take judicial notice of the applicable local ordinance of Taguig City. In *Quezon City Government v. Manila Seedling Bank Foundation, Inc.,*[108] the Supreme Court proclaimed:

> Preliminarily, We note that the records are bereft of any evidence of the full text or any part of the assailed Zoning Ordinance. **An ordinance or a part of it is not included in the enumeration of matters covered by mandatory judicial notice under the 1997 Rules of Court, specifically under Rule 129, Sec. 1.** Even with the enactment of Republic Act No. 409, in which Sec. 50 thereof states that "[a]ll courts sitting in the city shall take judicial notice of the ordinances passed by the *[Sangguniang Panlungsod]*," this does not mean that this Court, which has a seat in Quezon City, should procure a copy of the ordinance on its own, which is the duty of the party.
>
> Neither is the court *a quo* required to take judicial notice of municipal or city ordinances that are not before it, and to which it does not have access. The intent of Republic Act No. 409 is to remove any discretion a court might have in determining whether to take notice of an ordinance, and *not to direct the court to act on its own*

[108] G.R. Nos. 208788 and 228284, July 23, 2024.

> *in obtaining evidence for the record.* **It is the obligation of the party to supply the court with the full text or any part of the ordinance if they so desire for the court to take cognizance thereof** xxx xxx xxx
>
> xxx xxx xxx
>
> **Considering the lack of the full text or specific provisions of the assailed Zoning Ordinance, We will rely on the admissions of the parties as embodied in their pleadings, and as found by the RTC in its Decision dated June 18, 2013.** Nonetheless, We take judicial notice of Executive Order Nos. 620 and 620-A, which were issued by then President Gloria Macapagal-Arroyo in 2007, being an official act of the executive department as per the 1997 Rules of Court, Rule 129, Section 1. *(Emphasis supplied)*

Guided by the foregoing precept, since the parties failed to submit the full text or specific provisions of the TCRC, We will similarly rely on their admissions as found in their respective pleadings, as well as on the findings of the Court *a quo* per its Assailed Decision and Resolution.

Next, it is important to highlight that a tax exemption must be expressed in the statute in clear language that leaves no doubt as to the intention of the legislature to grant such exemption.[109] It should be granted only by clear and unequivocal provision of law on the basis of language too plain to be mistaken.[110] Even if it is granted, the exemption must be interpreted in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.[111]

When interpreting tax ordinances or revenue measures in particular, Section 5(b) of the LGC mandates that any tax exemption, incentive or relief granted by any LGU shall be construed strictly against the person claiming it.

Apropos to the present controversy are Sections 74 and 75 of the amended TCRC, as reproduced below:

> **TITLE III**
> *Tax on Business*
>
> SECTION 74. *Definitions.* —
>
> xxx xxx xxx

[109] *PLDT v. City of Davao*, G.R. No. 143867, August 22, 2001.
[110] *Philippine Long Distance Telephone Co. v. City of Davao*, G.R. No. 143867, March 25, 2003.
[111] *Id.*

Contractor **includes persons, natural or juridical, not subject to professional tax whose activity consists essentially of the sale of all kinds of services for a fee** regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees.

As used in this Article, the term contractor shall include general engineering, general building and specialty contractors as defined under applicable laws, filling, demolition and salvage works contractors, proprietors or operators of mine drilling apparatus, proprietors or operators of computer services/rental, proprietors or operators or dockyards, persons engaged in the installation of water system, and gas or electric light, heat, or power, proprietors or operators of smelting plants; engraving, plating, and plastic lamination establishments; proprietors or operators of establishments for repairing, repainting, upholstering, washing or greasing of vehicles, heavy equipment, vulcanizing, recapping and battery charging; proprietors or operators of furniture shops and establishments for planting or surfacing and recutting of lumber, sawmills under contract to saw or cuts logs belonging to others; proprietors or operators of dry-cleaning or dyeing establishments, steam laundries, and laundries using washing machines, proprietors or owners of shops for the repair of any kind of mechanical and electrical devices, instrument, apparatus, or furniture and shoe repairing by machine or any mechanical contrivance, proprietors of tailor shops, dress shops, milliners and hatters, beauty parlors, barbershops, massage clinics, sauna Turkish and Swedish baths, slenderizing and building saloons and similar establishments; photographic studios; funeral parlors; proprietors or operators of arrastre and stevedoring, warehousing, or forwarding establishments; master plumbers, smiths, and house or sign painters; printers, bookbinders, lithographers, publishers except those engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of advertisements; business agents, private detective or watchman agencies, commercial and immigration brokers, and cinematographic film owners, lessors and distributors.

xxx xxx xxx

Joint Venture — is a legal organization that takes the form of a short-term partnership in which the persons jointly undertake a transaction for mutual profit. Generally each person contributes assets and share risks. Like a partnership **joint ventures can involved any type of business transaction** and the "persons" involved can be individuals, group of individuals, companies or corporations.

xxx xxx xxx

CHAPTER 12
Graduated Tax on Business

SECTION 75. *Imposition of Tax.* — There is hereby levied an **annual tax on the following businesses** at rates prescribed therefore:

xxx xxx xxx

e) On **contractors and other independent contractors defined in SECTION 74 of this Code**; and on owners or operators of business establishments rendering or offering services such as advertising agencies, rental of space of signs, signboards, billboard or advertisements, animal hospitals, assaying laboratories, belts and buckle shops, blacksmith shops, bookbinders, booking offices for film exchange, booking office for transportation on commission basis; breeding of game cocks and other sporting animals belonging to others; business management services; collecting agencies; escort services; feasibility studies, consultancy services; garages; garbage disposal contractors; gold and silversmith shops; inspection services for incoming and outgoing cargoes; interior decorating services; janitorial services; job placements or recruitment agencies; landscaping contractors; lathe machine shops; management consultants not subject to professional tax; medical and dental laboratories; mercantile agencies; messengerial services; operators of shoe shine stand; painting shops; perma-press establishments; rent-a-plant services; polo players; school for and/or horseback riding academy; real estate appraisers; real estate brokerages; photostatic; white/blue printing, photocopying, typing and mimeographing services; car rental, rental of heavy equipment, rental of bicycles and/or tricycles; furniture, shoes, watches, household appliances, boats, typewriters, etc.; roasting of pigs, fowls, animals; silkscreen or T-shirt printing shops; stables; travel agencies; vaciador shops; veterinary clinics; video rentals and/or coverage services; dancing school/speed reading/EDP; nursery, vocationally and other schools not regulated by the Department of Education (DepEd), day care centers; etc., the following rates shall apply:

xxx xxx xxx

For purposes of this Section, all general engineering, general building and specialty contractors with principal offices located outside Taguig but with multi-year projects located in the City of Taguig, shall secure the required city business permit and shall be subjected to pay the city taxes, fees and charges based on the total contract price payable in annual or quarterly installments within the project team.

Upon completion of the project, the taxes shall be recomputed on the basis of the gross sales/receipts for the preceding calendar years and the deficiency tax, if there is any, shall be collected as provided in this Code, and shall retire the city business permits secured upon full completion of the projects undertaken in the City of Taguig.

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(Emphasis supplied)

From the foregoing provisions of the amended TCRC, the following may be deduced: **(1)** the definition of "contractor" is substantially the same as the definition of "contractor" under the LGC; **(2)** there is no definition of "corporation" from which HJSC's claimed tax exemption is based; **(3)** the definition of "joint venture" is expressly provided; and, **(4)** an annual business tax is imposed on the business of contractors and other independent contractors as defined under the amended TCRC. Scrutiny, therefore, of the relevant provisions of the amended TCRC ultimately reveals that **there is nothing therein that grants a joint venture formed for the purpose of undertaking construction projects, such as HEJV, exemption from the payment of LBT.**

The fact that HEJV falls under the definition of "joint venture" does not automatically remove it from the coverage of the term "contractor." To be sure, a joint venture can involve any type of business, and the persons involved therein can be individuals, groups of individuals, or corporations. A contractor can likewise pertain to the sale of all kinds of services for a fee, and can involve persons, whether nature or juridical.

As can be gleaned from the JVA dated June 16, 2008,[112] *Agreement* dated June 16, 2008,[113] and *Addendum* to the JVA dated September 16, 2008,[114] among other pieces of evidence, **HEJV qualifies as both a joint venture and a contractor. What is most important is that it qualifies as contractor; and absent any clear provision of law exempting it from LBT, it remains liable to pay the same pursuant to Section 75(e) of the amended TCRC.**

It is true that "a joint venture or consortium formed for the purpose of undertaking construction projects" was expressly excluded from the term "corporation" in the old TCRC. But again, **for purposes of imposing <u>local business tax</u>**, such exclusion cannot be construed as a tax exemption in favor of joint ventures that surely qualify as a "contractor" under Section 74 of the same Code. Similar to the definition of "contractor" under the LGC, "contractor" under the TCRC, old or amended, includes **all** "persons, natural or juridical, not

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[112] *Supra*, note 9.
[113] *Supra*, note 13.
[114] *Supra*, note 14.

subject to professional tax... whose activity consists essentially of the sale of all kinds of services for a fee..."

Thus, it was erroneous for the Court *a quo* to hold that "plaintiffs are no longer exempt from the business tax as the express exemption in the original law was deleted in the new law," since construction joint ventures, such as HEJV, are neither exempt from the payment of LBT under the old TCRC, nor under the amended version thereof.

The Court *a quo* likewise erred in stating that "[p]laintiffs herein failed to allege in their complaint their compliance with the said Revenue Regulation No. 10-2012. They also failed to provide proof of their compliance thereto. Therefore, per said Revenue Regulation No. 10-2012, the Joint Venture of plaintiffs is not exempt from the taxes herein." Verily, RR No. 10-2012 was promulgated to implement Section 22(B) of the Tax Code in relation to **tax on income**, and therefore has nothing to do with LBT, which is the applicable tax in this case.

By parity of reasoning, EEI's invocation of the policy under PD No. 929 "to assist [local contractors] in achieving competitiveness with foreign contractors, the joint ventures formed by them should not be considered an additional income tax," is misplaced, as PD No. 929 involves income tax, and not LBT, which are two (2) very different tax types governed by different purposes, rules, and limitations.

Essentially, LBT are taxes imposed by LGUs on the privilege of doing business within their jurisdictions,[115] while income tax is imposed by the State on an individual or entity as a form of excise tax or a tax on the privilege of earning income.[116]

For purposes of imposing LBT, the phrase "doing business" means some "trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit."[117] Here, evidence shows that HEJV was not only regularly but solely engaged in the construction of the Berth 6 Project for commercial purposes or for profit. **Thus, pursuant to Section 75(e) of the amended TCRC, Taguig City is expressly allowed to levy LBT on HEJV's business, regardless of its treatment under income taxation.**

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[115] *City of Davao v. Randy Allied Ventures, Inc.*, G.R. No. 241697, July 29, 2019.
[116] *Republic v. Manila Electric Co.*, G.R. Nos. 141314 & 141369, November 15, 2002.
[117] *Supra*, note 106, in relation to Section 131(d), LGC.

The imposition of LBT on HEJV does not amount to double taxation

In the Assailed Resolution, the Court *a quo* found that HEJV was a separate and legal entity distinct from the companies that composed it, hence, was subject to LBT based on its own personality. As there was no identity of the taxpayer, the first requirement of double taxation (*i.e.*, the same taxpayer is taxed twice) was not met.

HJSC now contends that a joint venture may be further classified into a "contractual joint venture" and "JV Company" per Item 2.1(c) and (d) of the Philippine Competition Commission Guidelines on Notification of Joint Ventures. Under the said guidelines, only a JV Company has a juridical entity. HJSC asserts that since HEJV was an unincorporated joint venture, it was devoid of any juridical personality and the corporations forming it retained their respective legal personality.

EEI adds that the reasoning of the Court *a quo* is misplaced because the imposition of taxes on HEJV will inevitably be borne by HJSC and EEI. It also advances the position that the Court *a quo*'s view undermines the entire rationale for exempting joint ventures involved in construction projects from additional taxation, citing PD No. 929, Section 22(B) of the Tax Code and Section 131 of the LGC.

Taguig City reiterates its position that there can be no double taxation as there are three (3) different taxpayers involved. It adds that HEJV's application for a separate business permit is a clear recognition that it is a separate entity from HJSC and EEI.

HJSC and EEI's contentions are wanting in merit.

The controlling test for determining the existence of double taxation in the context of local government taxation has been adequately articulated and applied in the oft-cited case of *City of Manila v. Coca-Cola Bottlers Philippines, Inc.*,[118] to wit:

> Double taxation means taxing the same property twice when it should be taxed only once; that is, "taxing the same person twice by the same jurisdiction for the same thing". It is obnoxious when the taxpayer is taxed twice, when it should be but once. **Otherwise described as "direct duplicate taxation", the two taxes must**

[118] G.R. No. 181845, August 4, 2009.

> **be imposed on the same subject matter, for the same purpose, by the same taxing authority, within the same jurisdiction, during the same taxing period; and the taxes must be of the same kind or character.**
>
> Using the aforementioned test, the Court finds that there is indeed double taxation if respondent is subjected to the taxes under both Sections 14 and 21 of Tax Ordinance No. 7794, since these are being imposed: (1) on the same subject matter — the privilege of doing business in the City of Manila; (2) for the same purpose — to make persons conducting business within the City of Manila contribute to city revenues; (3) by the same taxing authority — petitioner City of Manila; (4) within the same taxing jurisdiction — within the territorial jurisdiction of the City of Manila; (5) for the same taxing periods — per calendar year; and (6) of the same kind or character — a local business tax imposed on gross sales or receipts of the business.

Applying the same test to the instant case, it becomes evident that neither HEJV, HJSC nor EEI have been subjected to double taxation as the elements thereof have not concurred.

As aptly held by the Court *a quo*, since HEJV is treated under partnership law as having a juridical personality that is separate and distinct from that of each partner, it cannot be said that two (2) taxes were imposed on the same subject matter. A crucial point to bear in mind is that the tax base of LBT on contractors and other independent contractors under the amended TCRC is gross sales/receipts for the preceding calendar year. Considering that HEJV and EEI are separate corporations with their own businesses other than that of their joint venture with each other, it can be readily assumed that their respective gross sales/receipts from doing business in Taguig City, Quezon City or Manila, yielded a different LBT liability other than what HEJV alone yielded from doing its own business in Taguig City. Thus, herein taxpayers cannot validly claim that the **same** gross sales/receipts will be effectively subjected to LBT at two (2) points.

Neither can EEI invoke the prohibition against double taxation, on the basis that it already paid LBT to Quezon City and Manila, as the deficiency LBT herein involved is being imposed by another taxing authority (*i.e.*, Taguig City) for the privilege of doing business within its own jurisdiction.

Anent its argument on the rationale for exempting construction joint ventures from additional taxation, it bears reiterating that the policy underlying PD No. 929 and Section 22(B) of the Tax Code pertains to income taxation, not local business taxation, which are distinct tax regimes, each emanating from different legal foundations and governed by a separate set of objectives, rules, and limitations. Hence, reliance on such policy cannot be done so indiscriminately.

The question that remains is whether HEJV was indeed conducting its business in Taguig City for the years 2010 to 2014 so as to be liable for LBT for the years 2011 to 2015.

There is sufficient evidence to hold that HEJV maintained its principal office in Taguig City, and a project office in Manila

The Court *a quo* held that Taguig City has a right to impose LBT upon HEJV based on the latter's cited address. It found that the parent companies forming HEJV are not being taxed as individual entities, but as a single unit–the joint venture itself. The joint venture's principal office, located at 1128 University Parkway, Fort Bonifacio, Taguig City, made it liable for LBT under the Taguig City's tax code, irrespective of the project's location in Manila.

HJSC disagrees, arguing that HEJV has no principal office in Taguig City within the meaning of the relevant laws. HEJV's office in Taguig City cannot be considered its principal office considering that it is an unincorporated joint venture with no articles of incorporation where it can declare its principal office.

Taguig City counters that HEJV has consistently applied and paid for a business permit since 2009, which constitute an admission that HEJV is indeed engaged in business in and is liable for LBT to Taguig City. Thus, it is estopped from questioning Taguig City's right to levy LBT against HEJV.

After a careful examination of the parties' arguments and evidence, We find that HEJV maintained a principal or main office in Taguig City.

Since LBT partakes of the nature of an excise tax, the situs of taxation is the place where the privilege is exercised.[119] Section 150 of the LGC provides the situs of LBT, to wit:

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[119] *City of Iriga v. Camarines Sur III Electric Cooperative, Inc.*, G.R. No. 192945, September 5, 2012.

> SECTION 150. *Situs of the Tax.* — (a) For purposes of collection of the taxes under Section 143 of this Code, manufacturers, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, **contractors**, banks and other financial institutions, and other businesses, **maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality.**
>
> (b) The following sales allocation shall apply to manufacturers, assemblers, **contractors**, producers, and exporters with factories, project offices, plants, and plantations in the pursuit of their business:
>
> > (1) Thirty percent (30%) of all sales recorded in the principal office shall be taxable by the city or municipality where the **principal office** is located; and
> >
> > (2) Seventy percent (70%) of all sales recorded in the principal office shall be taxable by the city or municipality where the **factory, project office, plant, or plantation** is located.
>
> xxx xxx xxx
>
> *(Emphasis supplied)*

Section 79(a)(1) of the amended TCRC, similar to Article 243(1) of the IRR of the LGC,[120] distinguishes a "principal office" from a "branch or sales office" as follows:

> SECTION 79. *Situs of the Tax.* —
>
> *(a) Definition of Terms*
>
> > *(1)* ***Principal Office*** **— the head or main office of the business appearing in the pertinent documents submitted to the Securities and Exchange Commission, or the Department of Trade and Industry, or other appropriate agencies as the case may be.**
> >
> > The municipality or city specifically mentioned in the articles of incorporation or official registration of papers as being the

[120] Administrative Order No. 270, February 21, 1992.

> official address of said principal office shall be considered as the situs thereof.
>
> In case there is a transfer or relocation of the principal office to other municipality or city, it shall be the duty of the owner, operator or manager of the business to give due notice of such transfer or relocation to the City Mayor within fifteen (15) days after such transfer or relocation is effected.
>
> (2) ***Branch or Sales Office*** **— a fixed place in a locality that conducts operations of the business as an extension of the principal office.** Offices used only as display areas of the products where no stocks or items are stored for sale although orders for the products may be received thereat, are not considered branch or sales offices as herein contemplated. A warehouse that accepts orders and/or issues sales invoices independent of a branch with sales office shall be considered as a sales office. *(Emphasis supplied)*

Based on the foregoing, for purposes of collecting LBT, the general rule is that for contractors maintaining or operating a branch or sales outlet in the city where the sale or transaction is made, such sale shall be recorded in the branch or sales outlet making the sale or transaction, and the tax shall accrue and be paid to the city where such **branch or sales outlet** is located.[121] But where the contractor does not maintain or operate a branch or sales outlet in the city where the sale or transaction is made, such sale shall be recorded in the principal office, and the tax shall accrue and be paid to the city where such **principal office** is located.[122]

In the *latter* scenario, where the contractor additionally maintains or operates a factory, project office, plant, or plantation in pursuit of its business, the following allocation shall apply:

(1) Thirty percent (30%) of all sales recorded in the principal office shall be taxable by the city or municipality where the **principal office** is located; and

(2) Seventy percent (70%) of all sales recorded in the principal office shall be taxable by the city or municipality where the **factory, project office, plant, or plantation** is located.[123]

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[121] Section 150 of the LGC.
[122] *Id.*
[123] *Id.*

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These scenarios are reflected in Section 79(b) of the amended TCRC, which lays down a more detailed sales allocation for Taguig City, *viz.*:

> (b) Sales Allocation
>
> (1) All sales made by a branch or sales office or warehouse located in the City of Taguig shall be taxable herein.
>
> (2) In case the principal office and the factory are located in the City of Taguig, all sales recorded in the principal office and those on the other localities where there is no branch or sales office or warehouses shall be recorded in the principal office and taxable by the city.
>
> (3) (i) **<u>If the principal office is located in the city and the factory, project office plant or plantation is located in another locality, thirty percent (30%) of the sales recorded in the principal office shall be taxable by the City of Taguig.</u>**
>
> (ii) If the factory, project office, plant or plantation is located in the city and the principal office is located in another locality, seventy percent (70%) of the sales recorded in this city shall be taxable herein. This sales allocation in (i) and (ii) above shall not apply to experimental farms.
>
> (iii) If the plantation is located in the city and the factory is located in another locality, forty percent (40%) of the seventy percent (70%) sales determined in paragraph 3 (ii) of this section shall be taxable herein. On the other hand, if the factory is located in the city, and the plantation is located in another locality, sixty percent (60%) of the seventy percent (70%) sales determined in paragraph 3 (ii) above shall be taxable herein.
>
> (iv) If the factory, project office, plant or plantation is located in the city and the other factories, project offices, plants or plantations are located in other localities this city shall tax the sales in proportion to the volume of production in the factory, project office, plant or plantation located herein during the tax period.
>
> In the case of project offices or services and other independent contractors the term production shall refer to the cost of projects actually undertaken during the tax period.
>
> (4) All sales made by the factory, project office, or plant located in this city shall be recorded in the branch or sales office which is similarly located herein, and shall

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be taxable by the city along with the sales recorded in the principal office.

(5) In the case of manufacturers or producers, which engage the services of an independent contractor to produce or manufacture some of their products, the foregoing rules on the situs of taxation shall apply. However, the factory or plant and warehouse of the contractor utilized for the production and storage of the manufacturers products shall be considered as the factory or plant and warehouse of the manufacturers.

(6) (i) All route sales made in this city where a manufacturer, producer, wholesaler, maintains a branch or sales office or warehouse shall be recorded and shall be taxable herein.

(ii) This city shall tax the sales of the products recorded and withdrawn by route trucks from the branch, sales office or warehouse located herein but sold in another locality where there is no branch, sales office, warehouse.

In the case of *City of Makati v. Municipality of Bakun*,[124] the Supreme Court clarified that the rules on sales allocation come into play **when a business subject to LBT does not operate a branch or sales office outside of its principal office where all sales are recorded, but has a factory, project office, plant, or plantation situated in different localities, whether or not sales are made in these localities.** The enumeration itself — factory, project office, plant, or plantation — reveals the character of the office contemplated by the provision. These are offices directly involved in production or operations of the business.[125]

Further guidance may be provided by Section 5(a)(1) of DOF Local Finance Circular No. 03-95,[126] or the prescribed guidelines governing the power of cities and municipalities to impose LBT on construction contractors, which emphasizes the distinction between a principal office, sales office, and project office, thus:

SECTION 5. *Situs of Tax.*

(a) *Definition of terms.*

(1) *Head/Principal Office.* — shall refer to the main office of the construction contractor indicated in the pertinent documents submitted to either to the Securities and Exchange Commission (SEC) or other appropriate government

[124] G.R. No. 225226, July 7, 2020.
[125] *Id.*
[126] May 22, 1995.

> agencies, as the case may be. The city or municipality specifically mentioned in the Articles of Incorporation and other official registration papers as being the official address of said Head/Principal Office shall be considered as the situs thereof.
>
> (2) *Branch Office.* — is a fixed place in a locality which conduct operations of the business as an extension of the principal office.
>
> (3) ***Project Office. — shall mean the field office in the construction site. It is equivalent to the factory of a manufacturer.*** *(Emphasis supplied)*

In the case at bar, records disclose that there are two (2) LGUs concerned: Taguig City and the City of Manila. They further reveal that HEJV maintained an office in Taguig City that served as its principal office, and an office in Manila that functioned as its project office, as evidenced by the following:

In page 10 of the *Addendum* to the JVA dated September 16, 2008,[127] which supplements the original JVA,[128] it is stated under "XIII NOTICES/COMMUNICATIONS" that any notice or communication to the parties shall be in writing and shall be delivered to the following addresses:

To HANJIN:	**HANJIN HEAVY INDUSTRIES & CONSTRUCTION CO. LTD** 12th Floor, Hanjinphil Building 1128 University Parkway North Bonifacio, Global City, Taguig Metro Manila, Philippines Attention: Mr. Shin Young Yoon
To EEI:	**EEI CORPORATION** 12 Manggahan Street Brgy. Ugong Norte, Quezon City Metro Manila, Philippines Attention: Mr. Hans Christian O. Lopez
To the Joint Venture:	**HANJIN-EEI JOINT VENTURE** 12th Floor, Hanjinphil Building 1128 University Parkway North Bonifacio, Global City, Taguig Metro Manila, Philippines Attention: Mr. Taek Sam Kim

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[127] *Supra*, note 14.
[128] *Supra*, note 9.

HEJV's address at "1128 University Parkway, North Bonifacio, Global City, Taguig" was likewise indicated in the following documents: **(1)** Bureau of Internal Revenue (BIR) Ruling dated January 15, 2009,[129] on HEJV's request for a ruling on the tax consequences that may arise during its operation, stating, among others, that HEJV was registered with the BIR as a Value-Added Tax (VAT) taxpayer; **(2)** *Order of Payment* dated January 12, 2010[130] issued by the BPLO of Taguig City to HEJV for "Renewal" status; and, **(3)** *Certification* dated June 18, 2015[131] issued by ICTS, stating that HEJV satisfactorily completed the construction of the Berth 6 Project, with contract period from July 2008 to May 2013.

On cross-examination, when asked whether he knows, in fact, whether HEJV consistently applied for a business permit in Taguig City for the years 2010 to 2014, EEI's witness, Mr. Hernandez, answered in the affirmative.[132] The parties also admit that after completing the Berth 6 Project in 2014, HEJV applied for retirement of business with the BPLO of Taguig City.[133]

It can be deduced from the foregoing pieces of evidence that HEJV had an office located at "1128 University Parkway, North Bonifacio, Global City, Taguig" that served as its principal office for the duration of its operations, *i.e.*, from the time it entered into contract with ICTS, until it dissolved and applied for business retirement, considering that it **consistently** used the said address as its registered or recorded address with the BIR, Taguig City and ICTS. Although there is no proof that the said address was submitted to the Securities and Exchange Commission (SEC) or the Department of Trade and Industry (DTI), there is sufficient proof that the said address was registered with the BIR for various purposes, including VAT registration, thereby meeting the requirements for qualifying as a principal office per Section 79(a)(1) of the amended TCRC. Furthermore, HEJV's decision to apply for and obtain a business permit in Taguig City from 2009 to 2014, despite the project being located in another LGU, is **strongly indicative of its true intention to conduct business in Taguig City in some capacity.**

Meanwhile, it appears that HEJV also had an office located at "Berth 6, Access Road, Manila International Container Terminal,

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[129] Exhibit "J-EEI", RTC Docket - Vol. I, pp. 487.
[130] Exhibit "H", RTC Docket - Vol. I, p. 294.
[131] Exhibit "C", AC No. 341 Docket, p. 34.
[132] *Transcript of Stenographic Notes* (TSN) dated February 9, 2023, p. 18.
[133] Pre-Trial Order dated April 21, 2022, RTC Docket – Vol. II, p. 642.

Manila 1012, Philippines" that functioned as its project office. HJSC's witness, Ms. Milay, testified that the Berth 6 Project was located in the Manila Port Area where she was assigned by HJSC as a **site cashier** for the said project. As the site cashier, her duties and responsibilities included, among others: (1) cash disbursement; (2) cash reimbursement; and, (3) in-charge of payables.[134] Mr. Hernandez also testified that the project site was located in Manila.[135]

Based on Ms. Milay's testimony on her duties and responsibilities as a site cashier, taken together with the location of the Berth 6 Project and the nature of HEJV's joint venture business as a construction contractor, it can be reasonably concluded that HEJV operated a project or field office at or near the job site in Manila, where a site cashier could be assigned to, to handle day-to-day cash flow, funds, disbursements, reimbursements, and payments. On the other hand, no evidence was presented tending to prove that HEJV's presence in Manila amounted to a branch or sales office within the purview of the above-cited provisions of the LGC and amended TCRC. Records are devoid of evidence showing that HEJV had an office in Manila where sales were made and/or recorded therein.

Applying the ruling in *City of Makati*,[136] and considering the Court's above findings based on preponderant evidence, since HEJV does not operate a branch or sales office outside of its principal office, but instead has a project office situated in a different locality, the above rules on sales allocation, in relation to tax situs, shall apply.

The Court notes that on cross-examination, Mr. Hernandez did not deny that the following amounts were declared to Taguig City:

YEAR	***DECLARED SALES***
2009 (2010)	5,000,000.00
2010 (2011)	6,000,000.00
2011 (2012)	360,000.00
2012 (2013)	360,000.00
2013 (2014)	360,000.00

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134 Exhibit "P", *Judicial Affidavit of Sonia C. Milay* dated November 16, 2017, RTC Docket - Vol. I, p. 313.
135 Exhibit "K-EEI", *Judicial Affidavit* dated November 16, 2017, RTC Docket - Vol. I, p. 404.
136 *Supra*, note 116.

While Mr. Hernandez denied that such amounts were actual sales, and stated that they were "merely retainer's fee to renew the business permit," he did not cite any evidence to support his statement nor did he at least provide any further explanation.[137] Hence, his mere denial as to the nature of the declared amounts deserves scant consideration.

For these reasons, Taguig City was justified in assessing HEJV for basic deficiency LBT for the years 2011 to 2015. Accordingly, HEJV is liable to pay ₱3,162,427.50, representing basic deficiency LBT, re-computed as follows:

CY	Gross sales/receipts for the preceding CY				Tax Due	Tax Paid	Tax Still Due
	Year	Declared in application for business permit[138]	Declared in application for retirement of business[139]		50% of 1%[140]		
			100%	30%[141]			
2011	2010	6,000,000.00	800,570,542.12	240,171,162.64	1,200,855.81	39,000.00	1,161,855.81
2012	2011	360,000.00	716,369,453.20	214,910,835.96	1,074,554.18	6,468.00	1,068,086.18
2013	2012	360,000.00	389,658,349.44	116,897,504.83	584,487.52	6,468.00	578,019.52
2014	2013	360,000.00	164,283,814.80	49,285,144.44	246,425.72	6,468.00	239,957.72
2015	2014	-	76,338,838.93	22,901,651.68	114,508.26	-	114,508.26
						Total	**3,162,427.50**

It is imperative to point out that since the parties failed to adduce in evidence the full text of the amended TCRC, or at least the schedule showing the applicable tax imposable per annum on contractors and other independent contractors, this Court is constrained to use the schedule of tax on business under Section 143(e) of the LGC.[142]

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[137] *Supra*, note 124.
[138] TSN dated February 9, 2023, p. 18; Exhibit "H", RTC Docket - Vol. I, p. 294.
[139] Exhibit "1", RTC Docket – Vol. I, p. 500.
[140] Section 143(e) of the LGC.
[141] Section 150(b)(1) of the LGC.
[142] (e) On contractors and other independent contractors, in accordance with the following schedule:

With gross sales or receipts for the preceding calendar year in the amount of:	Amount of Tax Per Annum
Less than 5,000.00	27.50
5,000.00 or more but less than 10,000.00	61.60
10,000.00 or more but less than 15,000.00	104.50
15,000.00 or more but less than 20,000.00	165.00
20,000.00 or more but less than 30,000.00	275.00
30,000.00 or more but less than 40,000.00	385.00
40,000.00 or more but less than 50,000.00	550.00
50,000.00 or more but less than 75,000.00	880.00
75,000.00 or more but less than 100,000.00	1,320.00
100,000.00 or more but less than 150,000.00	1,980.00
150,000.00 or more but less than 200,000.00	2,640.00
200,000.00 or more but less than 250,000.00	3,630.00
250,000.00 or more but less than 300,000.00	4,620.00
300,000.00 or more but less than 400,000.00	6,160.00
400,000.00 or more but less than 500,000.00	8,250.00

The imposition of interest on the unpaid amount of taxes is excessive

Herein taxpayers jointly argue that even if HEJV was liable to pay the alleged deficiency LBT to Taguig City, the latter failed to justify the excessive and onerous interests and penalties in the subject assessment.

On this point, We rule for the taxpayers.

The imposition of surcharges, penalties and interests on unpaid taxes is specifically governed by Section 168 of the LGC, to wit:

> SECTION 168. *Surcharges and Penalties on Unpaid Taxes, Fees, or Charges.* — The sanggunian may impose a surcharge not exceeding twenty-five (25%) of the amount of taxes, fees or charges not paid on time and an interest at the rate not exceeding two percent (2%) per month of the unpaid taxes, fees or charges including surcharges, until such amount is fully paid but in no case shall the total interest on the unpaid amount or portion thereof exceed thirty-six (36) months.

Clearly from above, and in line with Section 132 of the LGC which vests upon the *sanggunian* of the LGU concerned local taxing authority, **it is the *sanggunian* through an appropriate ordinance that may impose surcharges and interests on unpaid local taxes.**

As the imposition of tax is a legislative function, such power cannot be left to the discretion of the City Mayor or City Treasurer. An ordinance must be enacted by the *sanggunian* under such terms and conditions as may be necessary such that there is nothing left to do but to enforce it in accordance with the terms and conditions set therein, and subject to the guidelines and limitations as Congress may provide.[143]

500,000.00 or more but less than 750,000.00	9,250.00
750,000.00 or more but less than 1,000,000.00	10,250.00
1,000,000.00 or more but less than 2,000,000.00	11,500.00
2,000,000.00 or more	at a rate not exceeding fifty percent (50%) of one percent (1%)

[143] *Guialani v. Court of Appeals, (Special) Twenty-Second Division*, G.R. Nos. 221253-54, 227527-28 & 231065-68, April 26, 2021.

In this case, based on HJSC's own admission in its *Petition for Review*,[144] Section 227 of the amended TCRC prescribes rules for the imposition of surcharges and penalties of unpaid taxes, fees, or charges, which We quote below:

> SECTION 227. Surcharges and Penalties on Unpaid Taxes, Fees, or Charges – There is hereby imposed a **surcharge not exceeding twenty-five (25%) of the amount of taxes, fees or charges not paid on time** and an **interest at the rate not exceeding two percent (2%) per month of the unpaid taxes, fees or charges including surcharges**, until such amount is fully paid **but in no case shall the total interest on the unpaid amount or portion thereof exceed thirty-six (36) months.** *(Emphasis supplied)*

In *National Power Corp. v. City of Cabanatuan*,[145] the Supreme Court elucidated the limits on the imposition of surcharge and interest pursuant to Section 168 of the Tax Code. It explained that the law allows the local government to collect an interest at a rate not exceeding 2% per month of the unpaid taxes, fees, or charges including surcharges, until such amount is fully paid. However, **the law provides that the total interest on the unpaid amount or portion thereof should not exceed thirty-six (36) months or three (3) years. In other words, the local government cannot collect a total interest on the unpaid tax including surcharge that is effectively higher than 72%.**[146]

Thus, while HEJV may be held additionally liable to pay surcharge and interest, the computation thereof is adjusted herein to conform with the above-cite rules and jurisprudence, resulting in a total tax deficiency of **₱6,625,569.19**:

CY	Tax Still Due	Surcharge	Interest	Total
		25%[147]	2% per month[148]	
2011	1,161,855.81	290,463.95	1,045,670.23	2,497,990.00
2012	1,068,086.18	267,021.54	961,277.56	2,296,385.29
2013	578,019.52	144,504.88	520,217.57	1,242,741.98
2014	239,957.72	59,989.43	127,477.54	427,424.69
2015	114,508.26	28,627.06	17,891.92	161,027.24
			Total	**6,625,569.19**

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[144] AC No. 341 Docket, p. 90.
[145] G.R. No. 177332, October 1, 2014.
[146] *Id.*
[147] Section 227 of the amended TCRC.
[148] *Id.*

As for the retirement fee in the amount of ₱70.00, considering that it is not a local tax, We are without jurisdiction to determine the correctness of the same.

WHEREFORE, premises considered, the Petitions for Review filed in CTA AC Case Nos. 341 and 343 are **PARTIALLY GRANTED**; while the *Petition for Review* filed in CTA AC Case No. 345 is **DENIED** for lack of merit.

Accordingly, the Assailed Decision and Resolution promulgated by the RTC of Taguig City, Branch 271, in Civil Case No. 74996-TG is **MODIFIED**, as follows:

> "**WHEREFORE,** premises considered, the 14 May 2015 Notice of Assessment upon Hanjin-EEI Joint Venture with regards to the years **2009 and 2010** is hereby deemed **PRESCRIBED** and accordingly **NULLIFIED.**
>
> The 14 May 2015 Notice of Assessment upon Hanjin-EEI Joint Venture for the years **2011 to 2015** is hereby **SUSTAINED**, but only to the extent of the basic deficiency taxes in the amount of **₱6,625,569.19**."

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

Marian Ivy F. Reyes-Fajardo
(with CDO)
MARIAN IVY F. REYES-FAJARDO
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.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice, Chairperson

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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

HJ SHIPBUILDING AND CONSTRUCTION CO., LTD., represented by **KOOKIL JEON**, *Petitioner*,	**CTA AC No. 341** (Civil Case No. 74996-TG)
- versus -	
J. VOLTAIRE L. ENRIQUEZ JR., in his official capacity as City Treasurer of Taguig City and the **CITY GOVERNMENT OF TAGUIG**, *Respondents*.	

x- -x

EEI CORPORATION represented by **ATTY. CYRIL C. GESULGA**, *Petitioner*,	**CTA AC No. 343** (Civil Case No. 74996-TG)
- versus -	
J. VOLTAIRE L. ENRIQUEZ JR., in his official capacity as City Treasurer of Taguig City and the **CITY GOVERNMENT OF TAGUIG**, *Respondents*.	

x- -x

J. VOLTAIRE L. ENRIQUEZ JR., in his official capacity as City Treasurer of Taguig City and the **CITY GOVERNMENT OF TAGUIG,** *Petitioners,*	**CTA AC No. 345** (Civil Case No. 74996-TG) Members: **RINGPIS-LIBAN***, PJ **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
- versus -	
HANJIN-EEI JOINT VENTURE, HANJIN HEAVY INDUSTRIES & CONSTRUCTION CO., LTD. AND EEI CORPORATION, all represented by **PYUNG JONG YU** and/or **HANS CHRISTOPHER O. LOPEZ,** *Respondents.*	Promulgated: JUL 20 2026 4:20 p.m.

x - x

CONCURRING AND DISSENTING OPINION

REYES-FAJARDO, *J.*:

I agree with the *ponencia's* conclusion that the City of Taguig's right to assess Hanjin-EEI Joint Venture (HEJV) for local business taxes (LBT) for the Calendar Years (CYs) 2009 and 2010 is barred by prescription under Section 194 of the 1991 Local Government Code (LGC).[1]

I, however, disagree with the *ponencia's* finding that HEJV is liable for the LBT imposed by the City of Taguig for CYs 2011 to 2015, my reasons for which are essayed below.

First. HEJV is <u>**not**</u> a taxable person for local tax purposes under the LGC.

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* Designated as special member.

1 Republic Act (RA) No. 7160.

The City of Taguig imposed LBT on HEJV as a service contractor covering CYs 2009 to 2015. Truly, Section 143(e),[2] in relation to Section 151[3] of the LGC, permits cities to impose LBT on businesses within its territorial jurisdiction.

Before the City of Taguig's LBT assessment on HEJV may prosper, the latter must first be a service contractor. To be a service contractor, a person should fall under term "contractor" and "persons" in Section 131(h) and (u) of the LGC, respectively. Thus:

> SECTION 131. *Definition of Terms*. - When used in this Title, the term:
>
> ...
>
> (h) "Contractor" includes **persons, natural or juridical**, not subject to professional tax under Section 139 of this Code, whose activity consists essentially of the sale of all kinds of services for a fee, regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees.
>
> ...
>
> (u) "Persons" **means every natural or juridical being**, susceptible of rights and obligations or of being the subject of legal relations;[4]

As formulated, a service contractor subject to LBT is a natural or juridical being, selling services for a fee. In reverse, if one is *not* a natural or juridical being for local tax purposes, then it cannot be considered as a taxable person, much more, a service contractor subject of LBT.

HEJV is ***not*** a natural being. Its existence came into the fore by reason of the Amended Joint Venture Agreement (JVA)[5] dated June 16,

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2 SECTION 143. *Tax on Business*. - The municipality may impose taxes on the following businesses:

...

(e) On **contractors and other independent contractors**, in accordance with the following schedule:

... (Boldfacing mine)

3 SECTION 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.

... (Boldfacing mine)

4 Boldfacing mine.

5 Annex "A-EEI." Vol. I, RTC Docket (Civil Case No. 74996), pp. 411-414.

2008, executed by and between Hanjin Heavy Industries & Construction Co., Ltd. (HJSC) and EEI Corporation (EEI).

HEJV is likewise ***not*** a juridical being for local tax purposes. Indeed, the LGC is silent as to the precise definition of a juridical being. Nevertheless, Article 44 of the Civil Code[6] enumerated ***who*** are juridical beings *in general*:

> **Article 44.** The following are juridical persons:
>
> (1) The State and its political subdivisions;
>
> (2) Other corporations, institutions and entities for public interest or purpose, created by law; their personality begins as soon as they have been constituted according to law;
>
> (3) Corporations, partnerships and associations for private interest or purpose to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner or member. (35a)[7]

True, jurisprudence classifies a JV, such as HEJV, as being akin to a partnership.[8] Equally true is that a corporation is treated as a separate and different entity from a partnership for private interest by Article 44(3) of the Civil Code. Yet, *for local tax purposes*, Section 131(i) of the LGC is unequivocal in that a corporation *includes* partnerships; thus, a partnership is the same as a corporation. For this reason, a partnership, such as a JV, should fall under the term "corporation" under the LGC for it to be considered a juridical being for local tax purposes. Thus:

> (i) **"Corporation" includes partnerships**, no matter how created or organized, joint-stock companies, joint accounts (*cuentas en participacion*), associations or insurance companies but **does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects** or engaging in petroleum, coal, geothermal, and other energy operations pursuant to an operating or consortium agreement under a service contract with the government. General professional partnerships are partnerships formed by persons for the

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6 Republic Act (RA) No. 386.

7 Cited in *Private Hospitals Association of the Philippines (PHAPI) v. Hon. Medialdea, et al.*, G.R. No. 234448, November 6, 2018.

8 See *Valdes, et al. v. La Colina Development Corporation (LCDC), et al.*, G.R. No. 208140, July 12, 2021.

> sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.[9]

Section 131(i) of the LGC excludes a JV formed for the purpose of, among others, undertaking construction projects, from the term "corporation." Since a partnership is a corporation for local tax purposes, HEJV is neither a taxable partnership nor a corporation for local tax purposes. *Ergo*, HEJV is *not* a juridical being *for local tax purposes.* ***To separate and segment a partnership from a corporation for local tax purposes is anathema to said provision of law, because in the eyes of Section 131(i) of the LGC, a partnership (including a JV), is the equivalent of, or the same as a corporation.***

In fine, considering that HEJV is neither natural nor juridical *being for local tax purposes*, it is ***not*** a taxable person, *i.e.*, every natural or juridical being, within the context of Section 131(u) of the LGC. *A fortiori*, HEJV cannot be branded as a service contractor, let alone, be saddled with LBT as such, under Section 143(e) of the LGC. *Ergo*, the City of Taguig **erred** in imposing 2009 to 2015 LBT on HEJV as a service contractor.

Second. Section 131(i) of the 1991 LGC and Section 20(b) of the 1977 NIRC are in *pari materia* with one another; hence, the Supreme Court *En Banc's* declaration in *Tan v. Del Rosario, Jr. (Tan)*[10] that a JV formed for undertaking construction projects is a tax-exempt entity for income tax purposes, applies with equal force on local tax cases.

Footnote 4 in *Tan* declared that a JV formed for undertaking construction projects is an exempt partnership under Section 20(b) of the 1977 NIRC:

> A general professional partnership, in this context, must be formed for the sole purpose of exercising a common profession, no part of the income of which is derived from its engaging in any trade business; otherwise, it is subject to tax as an ordinary business partnership or, which is to say, as a corporation and thereby subject to the corporate income tax. **The only other exempt partnership is a joint venture for undertaking construction projects** or engaging in petroleum operations pursuant to an operating agreement under a service contract with the government (see **Sections 20**, 23 and 24, **[1977] National Internal Revenue Code**)[11]

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9 Boldfacing mine.
10 G.R. No. 109289, October 3, 1994.
11 Boldfacing mine.

Meanwhile, the definition of the term "corporation," as well as the exclusions therefrom, specified in Section 131(i) of the LGC, were tailored after Section 20(b) of the 1977 NIRC. Ponder the following presentation:[12]

Section 20(b), 1977 NIRC	Section 131(i) of the 1991 LGC
SECTION 20. Definitions. – When used in this Title – ... (b) The ter[m] "corporation" includes partnerships, no matter how created or organized, joint stock companies, joint accounts (cuentas en participacion), associations or insurance companies, **but does not include** general professional partnerships and **a joint venture formed for the purpose of undertaking construction projects.** General professional partnerships are partnerships formed by persons for the sole purpose of exercising their common. profession, no part of the income of which is derived from engaging in any trade or business.	SECTION 131. *Definition of Terms.* - When used in this Title, the term: ... (i) "Corporation" includes partnerships, no matter how created or organized, joint-stock companies, joint accounts (*cuentas en participacion*), associations or insurance companies **but does not include** general professional partnerships and **a joint venture or consortium formed for the purpose of undertaking construction projects....** General professional partnerships are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.

Doubtless, Section 20(b) of the 1977 NIRC and Section 131(i) of the LGC are essentially the same as to the inclusions on term "corporation," as well as the omission of a joint venture for undertaking construction projects from the purview of said term; thus, these provisions are *in pari materia*. As held in *Philippine Economic Zone Authority v. Green Asia Construction & Development Corporation (GACC)*:[13] "[s]tatutes are in pari materia when they relate to the **same person or thing or to the same class of persons or things**, or object, or cover the same specific or particular subject matter."

Towards this end, *Soliman v. Santos (Soliman)*[14] ordained that if diverse statutes relate to the same thing, they ought to be taken into consideration in construing any one of them, as it is an established rule of law that all acts in *pari materia* are to be taken together, as if they were one law.

12 Boldfacing mine.
13 G.R. No. 188866, October 19, 2011. Boldfacing mine.
14 G.R. No. 202417, July 25, 2023, citing *Philippines International Trading Corporation v. Commission on Audit*, 635 Phil. 447 (2010).

Prescinding from *GACC* and *Soliman, Tan's* recognition of the tax-exempt status of JVs for undertaking construction projects in Section 22(b) of the 1977 NIRC, applies with equal force as to JVs for undertaking construction projects for *local tax purposes* per Section 131(i) of the LGC. The reason — these statutes are in *pari materia* for they relate to the same class of persons or things (JVs organized for the purpose of undertaking construction projects); hence, they must be construed together as if they were one law. This further underpins the conclusion that a JV formed for undertaking construction projects, like HEJV, is a non-taxable entity for local tax purposes.

FOR THESE REASONS, I VOTE to:

a. **GRANT** the Petition for Review in CTA AC No. 341, filed by HJ Shipbuilding and Construction Co., Ltd., represented by Kookil Jeon;

b. **GRANT** the Petition for Review in CTA AC No. 343, filed by EEI Corporation, represented by Atty. Cyril C. Gesulga;

c. **DENY** the Petition for Review in CTA AC No. 345, filed by J. Voltaire L. Enriquez, Jr. in his official capacity as the City Treasurer of Taguig, & City Government of Taguig; and,

d. **INVALIDATE** the City Treasurer of Taguig's Notice of Assessment[15] dated May 15, 2015, finding Hanjin-EEA Joint Venture liable for local business tax covering Calendar Years 2009 to 2015.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

15 Erroneously stated that the LBT assessment is for CYs 2008-2014. It should be understood as for CYs 2009-2015, because the LBT imposed on HEJV is based on the latter's gross sales/receipts for 2008-2014. See Exhibits "4," and "4-a." Vol. II, RTC Records (Civil Case No. 74996-TG), pp. 800 and 801, respectively.