REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

ATTY. VOLTAIRE ENRIQUEZ, in his capacity as the City Treasurer of Taguig, *Petitioner,*	**CTA AC No. 323**
- versus -	Members: **REYES-FAJARDO,** *Acting Chairperson,* and **ANGELES,** *JJ.*
CHRISMON INVESTMENTS, INC., *Respondents.*	Promulgated: FEB 04 2026 3:30 p.m.

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DECISION

REYES-FAJARDO, *J*.:

Before this Court is a Petition for Review filed by petitioner Atty. Voltaire Enriquez,[1] in his capacity as the City Treasurer of Taguig, assailing the Decision dated December 6, 2023[2] and Order dated March 20, 2024,[3] both rendered by the Regional Trial Court of Taguig City – Branch 70 (RTC-Taguig), in Civil Case No. 665, entitled "*Chrismon Investments, Inc. v. Atty. Voltaire Enriquez, in his capacity as the City Treasurer of Taguig City.*" Petitioner prays that this Court reverse and set aside the assailed Decision and Order and render a new judgment dismissing respondent's *Complaint* for lack of merit. In the alternative, petitioner seeks to hold respondent liable for local business tax (LBT) as a holding company pursuant to Section 5, Ordinance No. 47, Series of 2006, otherwise known as, "An Ordinance Adopting the Local Government Tax Rate on Holding Companies" of the City of Taguig.[4]

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1 Docket, pp. 11 to 31.
2 Docket, pp. 32 to 53; RTC Docket (Civil Case No. 665), pp. 475 to 496.
3 Docket, pp. 54 to 57; RTC Docket (Civil Case No. 665), pp. 510 to 513.
4 Prayer, *Petition for Review*, Docket, p. 26.

PARTIES

Petitioner Atty. Voltaire L. Enriquez was sued in his official capacity as the City Treasurer of Taguig City.[5]

Respondent Chrismon Investments, Inc. is a corporation duly organized and existing under Philippine laws, with principal office address at No. 2281 Pasong Tamo Extension, Makati City.[6]

FACTS

In the course of renewing its business permit for the year 2018 with the City of Taguig, respondent was issued a *Billing Statement* dated January 18, 2018 by petitioner, assessing, among others, LBT on dividend income in the amount of ₱139,064.34.[7] On January 20, 2018, respondent fully paid said tax together with the other assessed fees.[8]

Likewise, upon renewing its business permit for the year 2019, respondent was issued a *Billing Statement* dated January 17, 2019 by petitioner, assessing, among others, LBT on dividend income in the amount of ₱514,035.47.[9] On January 19, 2019, respondent fully paid said tax along with the other assessed fees.[10]

Subsequently, on September 25, 2019, respondent filed a written protest before petitioner's office, seeking a refund of the payments it made for the LBT on its dividend income as reflected in the *Billing Statements* dated January 18, 2018, and January 17, 2019.[11]

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5 Par. 3, *Complaint*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 665), pp. 5 and 44, respectively.

6 The Parties, *Petition for Review*, Docket, p. 12; par. 1, *Complaint*, RTC Docket (Civil Case No. 665), p. 5.

7 Par. 4, *Complaint*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 665), pp. 5 and 44, respectively.

8 Par. 5, *Complaint*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 665), pp. 5 and 44, respectively.

9 Par. 6, *Complaint*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 665), pp. 5 to 6 and 44, respectively.

10 Par. 7, *Complaint*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. 665), pp. 6 and 44, respectively.

11 Par. B.1, Admission/Stipulation of Facts, Pre-Trial Conference Order dated August 19, 2022, RTC Docket (Civil Case No. 665), p. 313.

On January 20, 2020, respondent filed its Complaint before RTC-Taguig, docketed as Civil Case No. 665,[12] to which petitioner posted his Answer on June 30, 2020.[13]

On December 6, 2023, RTC-Taguig rendered the assailed Decision,[14] partially granting respondent's *Complaint,* and ordering the refund of ₱653,099.81, with legal interest. The dispositive portion reads:

> **WHEREFORE**, premises considered, the Complaint for Sum of Money and Damages filed by plaintiff Chrismon is hereby **PARTIALLY GRANTED**. Consequently, defendant Atty. Voltaire Enriquez, in his capacity as the City Treasurer of Taguig City, is ordered to **REFUND** plaintiff Chrismon Investments Inc., the total amount of Six Hundred Fifty-Three Thousand Ninety-Nine Pesos and Eighty-One Centavos (Php653,099.81), with legal interest of 6% per annum from the finality of this Decision until its full satisfaction; and the costs of suit.
>
> **SO ORDERED.**

RTC-Taguig ruled that the LBT collected from respondent in 2018 and 2019 was erroneous, thereby entitling respondent to a refund. RTC-Taguig explained that since petitioner is a holding company, its dividend income is not subject to LBT under Section 10 of Taguig City Ordinance No. 034-17. Only banks and financial institutions are liable for LBT on dividend income. It further held that the billing statements issued on January 18, 2018, and January 17, 2019, do not qualify as notices of assessment under Section 195 of the Local Government Code (LGC). Therefore, the applicable provision is Section 196 of the LGC, which governs claims for refund of taxes that were erroneously or illegally collected. Thus, respondent filed its claim within the prescriptive period provided under Section 196 of the LGC.

On February 28, 2024, petitioner posted a *Motion for Reconsideration (To the Decision dated December 6, 2023),*[15] to which

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12 RTC Docket (Civil Case No. 665), pp. 5 to 9.
13 RTC Docket (Civil Case No. 665), pp. 44 to 52.
14 RTC Docket (Civil Case No. 665), pp. 475 to 496.
15 RTC Docket (Civil Case No. 665), pp. 497 to 506.

respondent posted its *Comment-Opposition (To the Motion for Reconsideration dated February 27, 2024)* on March 7, 2024.[16]

On March 20, 2024, RTC-Taguig issued the assailed Order denying petitioner's *Motion for Reconsideration*, as follows:[17]

> **WHEREFORE**, premises considered, defendant Atty. Voltaire Enriquez, in his capacity as the City Treasurer of Taguig City's *Motion for Reconsideration (to the Decision dated December 6, 2023)* is **DENIED** for lack of merit.
>
> **SO ORDERED.**

On May 9, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review,[18] stating that on April 12, 2024, he received RTC-Taguig Order dated March 20, 2024, denying his Motion for Reconsideration. Counting thirty (30) days from April 12, 2024, petitioner had until May 12, 2024, to file his Petition for Review. Petitioner prayed to be granted an additional period of fifteen (15) days from May 12, 2024, or until May 27, 2024, within which to file the Petition for Review.

On May 27, 2024, petitioner posted the present *Petition for Review*[19] within the extended time granted by the Court.[20]

On September 9, 2024, respondent filed its *Comment (To the Petition for Review dated May 27, 2024)*.[21]

On September 27, 2024, RTC-Taguig, transmitted to this Court the records of Civil Case No. 665, consisting of one (1) volume, with 514 pages, with two (2) folders of Transcript of Stenographic Notes.[22]

Under Resolution dated February 4, 2025, this case was submitted for decision.[23]

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16 RTC Docket (Civil Case No. 665), pp. 507 to 509.
17 RTC Docket (Civil Case No. 665), pp. 510 to 513
18 Docket, pp. 5 to 7.
19 Docket, pp. 11 to 29.
20 Minute Resolution dated May 29, 2025, Docket, p. 10.
21 Docket, pp. 72 to 83.
22 RTC of Taguig City – Branch 70's Transmittal dated September 25, 2024, Docket, pp. 99 to 103.
23 Minute Resolution dated February 4, 2025, Docket, p. 153.

ISSUES

I. Whether the lower court erred in holding that respondent's claim for tax refund on the local business taxes paid for the taxable years 2018 and 2019 was filed within the prescribed period.

II. Whether the lower court transgressed the police power and taxing authority of the City Government of Taguig when it exempted respondent from payment of the local business tax for the taxable years 2018 and 2019 and granted a full refund thereof.[24]

ARGUMENTS

Petitioner argues that the Billing Statements issued on January 18, 2018, and January 19, 2019, constituted notices of assessment under Section 195 of the LGC. It claims these statements contained all necessary information on respondent's obligations for 2018 and 2019, were received during business permit renewals, and required payment within 20 days of the calendar year under Section 183 of the Taguig Revenue Code. Petitioner contends that respondent's refund claim filed on September 25, 2019, was late, as it should have been filed within 60 days of receipt (by March 19, 2018, and March 18, 2019). Moreover, respondent allegedly failed to elevate its claim to court within 30 days after the lapse of the 60-day period, rendering the assessments final and unappealable under Section 195 of the LGC. Thus, petitioner insists the RTC Decision must be reversed, as the action was barred by prescription.

Respondent counters that the billing statements were not notices of assessment but mere billings for business permits renewal. These did not identify any deficiency tax, its legal basis, or the imposition of surcharges, interests, and penalties. Citing *International Container Terminal Services, Inc. v. City of Manila*, respondent argues that Section 195 applies only when a proper notice of assessment is issued. Instead, Section 196 governs, allowing refund claims within two years from payment. Thus, respondent asserts that its administrative claim filed

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[24] Issues, *Petition for Review*, Docket, p. 15.

on September 25, 2019, and judicial claim on January 20, 2020, were timely. It likewise disputes petitioner's claim that it is liable for business tax as a holding corporation under Section 5 of Ordinance No. 47, Series of 2006, is without merit.

RULING

The Petition for Review is devoid of merit.

The Court has validly acquired jurisdiction over CTA AC No. 323.

The CTA has exclusive appellate jurisdiction to review by appeal decisions, orders, or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction. This authority is provided under Section 7(a)(3), in relation to Section 11 of Republic Act (RA) No. 1125,[25] as amended by RA No. 9282, which states:

> SEC. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
>
> ...
>
> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. - Any party adversely affected by a decision, ruling of the... Regional Trial Courts **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling...**[26]

Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals clarified that the CTA in Division has jurisdiction over the

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25 An Act Creating the Court of Tax Appeals.

26 Boldfacing supplied. The above provisions are also provided in Section 3(a)(1), Rule 4 and Sections 3(a) and 4, Rule 8 of the Revised Rules of the Court of Tax Appeals.

decisions, orders, or resolutions of the RTC in local tax cases decided or resolved by them in the exercise of their original jurisdiction.[27]

Here, the assailed Decision and Order stemmed from the billing statements issued by petitioner pertaining to LBT paid by respondents for the years 2018 and 2019; hence, the Court may address the controversy pertaining thereto.

As alleged in the Petition for Review, petitioner received the assailed Order on April 12, 2024.[28] Counting thirty (30) days therefrom, petitioner had until May 9, 2024, to file an appeal before the Court. On May 9, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review.[29] Subsequently, on May 27, 2024, petitioner filed its Petition for Review within the extended period granted by the Court.[30] Accordingly, jurisdiction was properly vested in the Court over CTA AC No. 323.

The Billing Statements do not constitute the "notice of assessment" under Section 195 of the LGC. Instead, respondent's administrative claim for refund is a recovery of taxes erroneously or illegally collected under Section 196 of the LGC.

There are two (2) remedies available to taxpayers under the LGC, to wit:

> **(i) Section 195** provides the procedure for contesting an assessment issued by the local treasurer for the nonpayment of the correct taxes, fees or charges;
>
> **(ii) Section 196** governs the recovery of local taxes, fees, or charges that have been erroneously paid or illegally collected.[31]

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[27] 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:

...

(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; |

[28] Statement of Material Dates, Petition for Review. Docket, p. 12.

[29] Docket, pp. 5 to 9.

[30] Minute Resolution dated May 29, 2025, Docket, p. 10.

[31] *City of Manila, et al. v. Cosmos Bottling Corporation (Cosmos),* G.R. No. 196681, June 27, 2018.

Sections 195 and 196 of the LGC provide:

> Section 195. *Protest of Assessment.* – **When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties.** Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. **The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.**
>
> Section 196. *Claim for Refund of Tax Credit.*— No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. **No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.**[32]

Hon. Lourdes R. Jose, in her capacity as City Treasurer of City of Caloocan v. Tigerway Facilities and Resources, Inc. (Tigerway)[33] and *City Treasurer of Paranaque v. Royal Cargo,*[34] underscore the distinction and proper application of Sections 195 and 196 of LGC. Section 195 applies when there is a formal assessment: even if flawed, once issued, it must be protested within 60 days to prevent finality. In contrast, Section 196 governs when there is no assessment, such as when taxes are paid based on a demand lacking audit, computation, or legal basis. While a refund may be sought under either provision, the chosen remedy must align with the specific procedural requirement of the applicable section.

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32 Boldfacing supplied.

33 G.R. No. 247331, February 26, 2024.

34 CTA EB No. 2908 (CTA AC No. 270), April 15, 2025.

The Supreme Court in *Tigerway,*[35] citing *Yamane v. BA Lepanto Condominium Corporation*[36] and *National Power Corporation v. Province of Pampanga*[37] consistently affirmed that Section 195 of the LGC explicitly requires that a notice of assessment must indicate the nature of the tax, fee, or charge, the amount of deficiency, the corresponding surcharges, interests, and penalties.

In this case, RTC-Taguig correctly ruled that the Billing Statements issued to respondent on January 18, 2018, and January 19, 2019,[38] do not constitute the "notice of assessment" contemplated under Section 195 of the LGC. Instead, respondent's administrative claim for refund is properly anchored on Section 196 of the LGC, which governs the recovery of taxes erroneously or illegally collected.

A perusal of the *Billing Statements* shows that they were issued not as LBT assessments but were issued by the City Treasurer of Taguig in relation with respondent's application for renewal of business permits for the years 2018 and 2019. The *Billing Statements* bore the notation **"BT."** There is likewise no indication that petitioner found any deficiency in respondent's payments, as no surcharges, interests and penalties were imposed.

This deficiency was confirmed by respondent's own witness, Gabriel G. Cultura, who testified:[39]

> ...
>
> Q In Exhibits "1" and "2," these are specifically designated as Billing Statements and not Notices of assessment, is that correct?
> A Yes, sir.
>
> Q In these two Billing Statements, the word "business tax" is not specifically stated, is that correct?
> A Yes, sir.
>
> **Q In these two Billing Statements, there is no assessment for penalty, surcharge or interest, is that correct?**
> **A Yes, sir.**

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35 G.R. No. 247331, February 26, 2024.
36 G.R. No. 154993 October 25, 2005.
37 G.R. No. 230648, October 6, 2021.
38 Exhibits "D" and "F," RTC Docket (Civil Case No. 665), pp. 230 and 232, respectively.
39 Transcript of Stenographic Notes taken during the hearing held on September 10, 2024, pp. 9 to 10.

> **Q In these two Billing Statements there is no demand to pay, is that correct?**
> **A Yes, sir.**
>
> ...
>
> Q The Complaint in this case is for tax refund and not for collection of any assessed tax, is that correct?
> A Yes sir.
>
> ...[40]

Absent these essential particulars, and consistent with *Cosmos, ICTSI* and *Tigerway*, RTC-Taguig correctly held that the *Billing Statements* issued to respondent do not constitute notices of assessment within the contemplation of Section 195 of the LGC. Accordingly, the Court finds that respondent's remedy properly falls under Section 196 of the LGC. Thus, the LBT payments made in 2018 and 2019 pursuant to the Billing Statements are recoverable only through the procedure outlined in Section 196 of the LGC.

RTC-Taguig correctly ruled that petitioner complied with the prescriptive period for filing claims for refund of LBT as provided in Section 196 of the LGC.

Tigerway[41] outlined the requirements for a refund claim under Section 196 of the LGC as follows:

> Under these circumstances, Section 196 of the LGC must be applied. Relevantly, a close reading of Section 196 reveals that to be entitled to a refund or credit of local taxes, two procedural requisites must coincide: (1) the taxpayer needs to submit a written claim for refund or credit to the local treasurer; and (2) the case or proceeding for refund must be initiated within two years from the date of the payment of the tax, fee, or charge, or from the date the taxpayer becomes entitled to a refund or credit. It is worth highlighting that this provision does not mention a specific period for the submission of written claims for tax refunds or credits, apart from the requirement that such claims and the filing of the suit be within two years from the date of tax payment. This is different from Section 195, which requires the submission of a written protest within 60 days from the receipt of the assessment.

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40 Cross-Examination of Gabriel Cultura by Atty. Buenaventura S.G. Sanguyo III. Boldfacing supplied. Exhibit "4," RTC Docket (Civil Case No. 665), pp. 67 to 74.

41 G.R. No. 247331, February 26, 2024.

Here, respondent paid the LBTs reflected in the *Billing Statements* issued by the City of Taguig on January 20, 2018 and on January 19, 2019.[42] Applying the two (2)-year prescriptive period, petitioner had until (1) January 18, 2020, for the 2018 Billing Statement; and (2) January 19, 2021, for the 2019 Billing Statement, to file its administrative and judicial claims for refund, with the administrative claim necessarily preceding the judicial claim.

Notably, respondent timely filed its: *one,* administrative claim for refund of the Billing Statements for 2018 and 2019 on September 25, 2019 before the Office of the City Treasurer,[43] and, *two,* judicial claim for refund for 2018 and 2019 before RTC-Taguig on January 20, 2020.[44] Since January 18, 2020 fell on a Saturday, the filing of the *Complaint* on the following Monday, January 20, 2020, was timely.[45]

Respondent is not liable for LBT on its dividend income under Section 10 of Ordinance No. 043-17. It is a holding company and not a bank or non-bank financial institution.

The power to tax by local government units emanates from Section 5, Article X of the Constitution which empowers them to create their own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide.[46]

In addition, Section 129 of the LGC grants each LGU to create its own sources of revenue, and to levy taxes, fees, and charges, but subject to the provisions of the Code and consistent with the basic policy of local autonomy.

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42 Exhibit "E" and "G," RTC Docket (Civil Case No. 665), pp. 231 and 233, respectively.

43 Exhibits "C" and "3," RTC Docket (Civil Case No. 665), pp. 209 to 215.

44 RTC Docket (Civil Case No. 665), pp. 5 to 9.

45 Section 1, Rule 22 of the Rules of Court, as amended, provides:
Section 1. *How to compute time.* — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

46 *Smart Communications, Inc. v. City of Davao, et al.*, G.R. No. 155491, July 21, 2009.

In this regard, municipalities are authorized to impose business taxes under Section 143 (f), which states:

> SEC. 143. *Tax on Business.* — **The municipality may impose taxes on the following businesses:**
>
> ...
>
> (f) **On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts** of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, **dividends**, rentals on property and profit from exchange or sale of property, insurance premiums.[47]

Meanwhile, cities, such as petitioner, may likewise levy taxes which municipalities are authorized to impose, pursuant to Section 151 of the LGC:

> SEC. 151. *Scope of Taxing Powers.* — Except as otherwise provided in this Code, **the city, may levy the taxes, fees, and charges which the** province or **municipality** may **impose**:
>
> **The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%)** except the rates of professional and amusement taxes.[48]

It is well settled that cities may impose a tax on banks and other financial institutions at a rate not exceeding fifty percent (50%) of that which municipalities are authorized to impose under the LGC.

Here, petitioner imposed LBT for 2018 and 2019 on respondent's dividend income, under the mistaken premise that respondent was a bank or financial institution.[49] The imposition was made pursuant to Section 10 of Taguig City Ordinance No. 034-17,[50] which imposes a

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47 Boldfacing supplied.

48 Boldfacing supplied.

49 Par. 14, *Answer*, RTC Docket (Civil Case No. 665), p. 50; Q&A No. 14, Exhibit "4," RTC Docket (Civil Case No. 665), p. 72.

50 AN ORDINANCE AMENDING CERTAIN PROVISIONS OF ORDINANCE NO. 24. SERIES OF 1993 OTHERWISE KNOWN AS "THE REVENUE CODE OF TAGUIG" AS AMENDED, AND ADOPTING THE NEW RATES OF BUSINESS AND OTHER TAXES PRESCRIBED UNDER THIS ORDINANCE.

business tax on banks and financial institutions at the rate of 12% of 1% of gross receipts from dividends:

> ...
>
> **SEC. 10. TAX ON BANKS AND OTHER FINANCIAL INSTITUTIONS.** – Section 75 [(]h) of the Revenue Code of Taguig of 1993, as amended, is hereby amended to read as follows:
>
> "h) Banks and other financial institutions shall be taxed at the rate of twelve percent (12%) of one percent (1%) of the gross receipts from interests, commissions and discounts from lending activities, income from financial leasing, investments, dividends, and insurance premium. This classification includes operations of offshore banking, non-bank financial intermediaries, lending investors, finance and investment companies, investment houses, pawnshops, money shops, insurance and pre-need companies, stock markets, stock brokers, dealers in securities and foreign exchange.
>
> Receipts derived from other businesses, such as sale, lease or rental of property, shall be subject to the applicable tax rate provided in this Code."
>
> ...

Relative thereto, Section 131 (e) of the LGC defines "banks and other financial institutions" as including non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder.

Respondent, however, does not fall within this classification. It is not a bank or financial institution but a holding company. In *City of Davao, et al. v. Randy Allied Ventures, Inc.* (*Randy Allied Ventures*)[51], the Supreme Court distinguished a holding company from a financial intermediary. A holding company is organized and is basically conducting its business by investing substantially in the equity securities of another company for the purpose of controlling their policies and holding them in a conglomerate or umbrella structure along with other subsidiaries. While it may engage in investment activities, this does not per se qualify them as financial intermediaries

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[51] G.R. No. 241697, July 29, 2019.

because such activities are only incidental to its main purpose of policy controlling purposes. In contrast, financial intermediaries are regulated by the Bangko Sentral ng Pilipinas because they deal with public funds when they offer quasi-banking functions.

RTC-Taguig correctly found that respondent is a holding company. Its Amended Articles of Incorporation and Bureau of Internal Revenue (BIR) registration confirm that its primary purpose is to invest in and hold properties and securities, consistent with its classification as a holding company rather than a financial institution. Respondent is not licensed by the Bangko Sentral ng Pilipinas to perform banking or quasi-banking activities. Further, respondent presented its certified true copy of BIR Registration (Form 2303), which indicates that it is engaged in financial holdings company activities. As exhaustively discussed in the assailed Decision:

> Based on the foregoing discussion, this Court shall now resolve if plaintiff Chrismon can be classified as a bank or other financial institution subject to LBT under Section 10 of the Taguig City Ordinance No. 034-17. To determine this, reference must first be made as to the primary purpose for which said corporation was established. On this matter, the Amended Articles of Incorporation of herein plaintiff corporation pertinently provides that:
>
> > xxx
> >
> > CHRISMON INVESTMENT INC.
> >
> > SECOND: A. That the primary purpose of this corporation is:
> >
> > To invest in, hold, purchase, acquire, lease, contract, or otherwise, within the limits allowed by law, any and all real and personal properties of every kind and description whatsoever which the Corporation may deem necessary or appropriate and to own, hold, operate, improve, develop, manage, grant, lease, sell, exchange, or otherwise acquire the stocks, bonds, and other securities or evidence of indebtedness of any other corporation, association, firm, or entity, domestic or foreign, ...
> >
> > ...
> >
> > The secondary purpose is to hold, manage, operate, conduct and dispose of, in any manner, the whole or part of any acquisitions, and to exercise all the powers necessary or convenient for the conduct and management thereof, and to do every act and thing

> covered generally by the denominations 'Holding Company.'
> xxx
>
> In view of the foregoing, in consonance with the contention of plaintiff Chrismon that their income from dividends should not be subject to LBT as provided under Section 10 of Taguig City Ordinance No. 034-17, considering they are not a bank or financial institution, since its primary purpose as stated in Article Second of its AOI is to 'invest in, hold, purchase, acquire, lease contract or otherwise, within the limits allowed by law, any all real and personal properties of every kind and description' consistent with it being a holding company. To support its claim for being a holding company, plaintiff Chrismon presented its certified true copy of BIR Registration or BIR Form 2303 which indicates that it is engaged in financial holdings company activities. Thus, being [a] holding company it should be taxes as a holding company not as a bank or financial institution as specifically imposed by the City of Taguig against herein plaintiff Chrismon. Further, plaintiff Chrismon is not licensed by the Bangko Sentral ng Pilipinas to perform banking or quasi-banking activities, as done regularly by banks and financial institutions, contrary to the evidence presented by the defendant which indubitably shows that said corporation is taxed not as a holding company but as a bank or financial institution pursuant to Section 10 of Taguig City Ordinance No. 034-17.[52]

In view of the foregoing, respondent's dividend income cannot be subjected to LBT under Section 10 of Taguig City Ordinance No. 034-17. The imposition of taxes for 2018 and 2019 was erroneous, as respondent is a holding company and not a bank or financial institution.

Respondent is not liable for business tax on dividend income received by holding companies.

Notably, petitioner later conceded that respondent is indeed a holding company but argued that it remained liable under Ordinance No. 47, Series of 2006, which imposes a business tax on dividend income received by holding companies at the rate of 5% of 1%. This ordinance applies to entities organized for the purpose of holding stocks and interests in other companies as passive investments but expressly excludes holding companies which are owners or operators of banks and other financial institutions.

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[52] RTC Docket (Civil Case No. 665), at pp. 486 to 488.

Petitioner's witness, Gabriel G. Cultura, testified that respondent was allegedly liable under Section 5 of said ordinance, which imposes a tax of 5% of 1% on dividend income received by holding companies:[53]

> 14. Q: What else, if any, is the result of your review and examination of the documents pertaining to the application for the renewal of Plaintiff's business permit?
>
> **A: I also discovered that since Plaintiff admitted in this letter dated September 18, 2019 (Exhibit '3') that it is a holding company, granting, for the sake of argument, that it was erroneously assessed with local business tax on its dividend income under Section 75(h) of the Revenue Code of Taguig, as amended, it is still, nonetheless, liable for the same tax under a separate ordinance.**
>
> 15. Q: What is this ordinance that you are referring to?
>
> **A: I am referring to the City of Taguig's Ordinance No. 47, Series of 2006, or otherwise known as 'An Ordinance adopting a Fixed Local Government Tax Rate on Holding Companies.'**
>
> 16. Q.: What specific provision under the Ordinance No. 47, Series of 2006, that you just mentioned is Plaintiff liable for local business tax on its dividend income?
>
> **A: Section 5 of the Ordinance, Series of 2006, which states that:**
>
> **'SECTION 5. IMPOSITION OF BUSINESS TAX ON DIVIDEND INCOME. – There is hereby imposed a rate of 5% of 1% on the dividend income received by Holding Companies as defined above from their investments in shares of stock or interests in other companies. ....**[54]

This argument cannot be sustained.

For one, the tax under Ordinance No. 47, Series of 2006 was not included in the billing statements and **was raised only for the first**

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[53] Pars. 23 to 26, *Petition for Review*, Docket, pp. 24 to 25.

[54] Boldfacing supplied.

time at trial; hence, it cannot serve as basis to impose said tax against respondent. To hold otherwise would violate petitioner's right due process. For another, dividend income received as a passive income is not subject to LBT. This is expressly clarified in the Bureau of Local Government Finance (BLGF) Memorandum Circular No. 01-001-2017,[55] stating that dividends do **not form part of the gross sales or receipts for purposes of LBT computation, during the registration and renewal of business permits and licenses:**

> ...
>
> It has come to the attention of this Bureau of reported erroneous assessment of taxes and fees in the local governments during the registration and renewal of business permits and licenses. In order to ease the process and prevent undue harassment on the part of the taxpayers, all concerned are reminded of the following:
>
> ...
>
> **B. Assessment of LBT for Renewal of Business Permit**
>
> 1. In the absence of audited Financial Statement, the LBT shall be based on the Sworn Declaration of gross sales or receipts by the taxpayers or its Income Tax Returns (ITR). In case of suspected under declaration of gross sales/receipts, the application shall be tagged by the LGU, and the business may be subjected to the examination of books of accounts by the local treasurer, which shall be done after the business renewal period.
>
> 2. If applicable, **the following shall not form part of the gross sales or receipts**:
>
>   ...
>
>   iii. Passive income, i.e. interest, **dividends**, and gains from sale of shares; and
>
> ...[56]

Meanwhile, the tax base for the imposition of LBT under Section 143, in relation to Section 151 of the LGC, is the taxpayer's gross sales or receipts. Since dividends are *excluded* from a taxpayer's gross sales

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55 SUBJECT: Reminders in the Assessment of the Local Business Tax (LBT), Registration and Renewal of Business Permits and Licenses and Payment of Community Tax.

56 Boldfacing supplied.

or receipts, they are likewise *excluded* from the tax base for imposition of LBT. Therefore, dividends are *not* subject to LBT.

At this juncture, it must be underscored that "although the power to tax is inherent in the State, the same is not true for the LGUs to whom the power must be delegated by Congress and must be exercised within the guidelines and limitations that Congress may provide." Thus, the scope of an LGU's power to levy taxes is confined to the extent authorized by the Constitution or law. **Accordingly, such power must be exercised reasonably and in line with the constitutional mandate that no person shall be deprived of his or her property without due process of law.**[57]

All told, the Court finds no compelling reason to disturb the findings of RTC-Taguig that respondent is entitled to its claim for LBT refund due to erroneous payment.

As to the issue of RTC-Taguig's award of legal interest on such LBT refund, jurisprudence is clear. In *Tigerway*,[58] the Supreme Court ruled that interest in tax refunds is permissible only when authorized by law or when the tax collection was attended by arbitrariness, thus:

> However, upon further scrutiny of the records, this Court finds that **the award of legal interest on the refund is unwarranted. It is settled that interest on tax refunds is only permissible when authorized by law or in instances where the tax collection was attended by arbitrariness. 'Arbitrariness presupposes inexcusable or obstinate disregard of legal provisions.'** These conditions are notably absent in the present case.
>
> Here, **we find neither a legal basis for the imposition of interest on tax refunds nor any indication of arbitrariness in the collection of the tax. Indeed, '[a]n action is not arbitrary when exercised honestly and upon due consideration where there is room for two opinions, however much it may be believed that an erroneous conclusion was reached.'** Everything considered, the imposition of interest should be set aside.

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57 *Jose v. Tigerway Facilities and Resources, Inc.* G.R. No. 247331, February 26, 2024. Boldfacing supplied.

58 *Id.*

In the present case, there is neither law directing the payment of interest on LBT refunds nor any showing that the collection of the LBT sought to be refunded was tainted with arbitrariness. Thus, the imposition of legal interest should be set aside.

WHEREFORE, the Petition for Review filed by Atty. Voltaire Enriquez, in his capacity as the City Treasurer of Taguig is **DENIED**, for lack of merit.

Accordingly, the assailed Decision dated December 6, 2023, and the assailed Order dated March 20, 2024, both rendered by the RTC of Taguig City – Branch 70, in Civil Case No. 665, are **AFFIRMED with MODIFICATION** that the award of legal interest of 6% per annum, reckoned from the finality of said Decision until full satisfaction, is **DELETED**.

SO ORDERED.

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

I CONCUR:

HENRY S. ANGELES
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
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice