REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ATTY. VOLTAIRE ENRIQUEZ, in his capacity as the City Treasurer of Taguig, *Petitioner,*	**CTA AC No. 321**
	Members:
-*versus*-	**MANAHAN**, *Chairperson,* **REYES-FAJARDO**, *and* **ANGELES**, *JJ.*
DACON CORPORATION, *Respondent.*	Promulgated: NOV 0 6 2025 4:20 p.m.

x- -x

DECISION

ANGELES, *J.*:

Before the Court is a *Petition for Review*[1] filed by Atty. Voltaire Enriquez, in his capacity as the City Treasurer of Taguig (petitioner) against Dacon Corporation (respondent), seeking the reversal and setting aside of the *Decision* dated December 6, 2023[2] (assailed Decision) and the *Order* dated March 20, 2024[3] (assailed Order), both rendered by the Regional Trial Court (RTC) of Taguig City – Branch 70, in Civil Case No. 662, entitled "*DACON CORPORATION, Plaintiff, -versus- ATTY. VOLTAIRE ENRIQUEZ, IN HIS CAPACTY [sic] AS THE CITY TREASURER OF TAGUIG CITY, Defendant.*"

THE PARTIES

Petitioner is presently the City Treasurer of Taguig City, with principal place of business at the City Hall of Taguig, Brgy. Tuktukan Gen. Luna St., 1630 Taguig City.[4] He has the legal function and responsibility to assess and collect taxes, fees, and charges from

---

[1] Docket, pp. 10 to 26.
[2] Docket, pp. 31 to 52; RTC Docket (Civil Case No. 662), pp. 513 to 534.
[3] Docket, pp. 53 to 56; RTC Docket (Civil Case No. 662), pp. 548 to 551.
[4] Petition for Review dated May 27, 2024, Docket, p. 11.

corporate and individual taxpayers as levied and imposed by the Local Government Code and the tax ordinances of the City of Taguig.[5]

Respondent is a corporation duly organized and existing under the laws of the Republic of the Philippines with main office address at DMCI Complex, Levi B. Mariano Ave., Brgy. Ususan Taguig City.[6]

ANTECEDENT FACTS

In the course of renewing its business permit for the year 2018, respondent received a Billing Statement dated January 18, 2018[7] from petitioner assessing it for the total amount of Php5,364,394.76, which included an assessment for local business tax (LBT) on its dividend income in the amount of Php4,955,966.08.[8]

On January 20, 2018, respondent paid the tax and other fees.[9]

Similarly, in the course of renewing its business permit for the year 2019, respondent received a Billing Statement dated January 16, 2019[10] from petitioner assessing it for the total amount of Php8,615,725.21, which likewise included an assessment for LBT on respondent's dividend income in the amount of Php8,195,669.03.[11]

On January 19, 2019, respondent likewise paid the tax and other fees.[12]

Subsequently, on September 19, 2019, respondent filed an administrative claim for refund with petitioner for LBT paid for the years 2018 and 2019 in the total amount of Php13,151,635.11.[13] In its claim, respondent asserted that since it is a holding company, and not a bank or financial institution, it should not be subject to LBT on its dividend income.

---

[5] *Supra* note 4.
[6] Par. 1, petitioner's *Complaint*, RTC Docket (Civil Case No. 662), p. 1.
[7] Exhibit 1 for petitioner and Exhibit D for respondent, RTC Docket (Civil Case No. 662), pp. 420 to 421.
[8] Par. 4, petitioner's *Complaint*, RTC Docket (Civil Case No. 662), p. 1.
[9] Par. 5, petitioner's *Complaint*, RTC Docket (Civil Case No. 662), p. 1; Exhibit E, RTC Docket (Civil Case No. 662), p. 226.
[10] Exhibit 2 for petitioner and Exhibit F for respondent, RTC Docket (Civil Case No. 662), pp. 422 to 423.
[11] Par. 6, petitioner's Complaint, RTC Docket (Civil Case No. 662), pp. 1 to 2.
[12] Par. 7, petitioner's *Complaint*, RTC Docket (Civil Case No. 662), p. 2; Exhibit G, RTC Docket (Civil Case No. 662), p. 229.
[13] Par. 8, petitioner's *Complaint*, RTC Docket (Civil Case No. 662), p. 2; Exhibit C, RTC Docket (Civil Case No. 662), pp. 10 to 30.

PROCEEDINGS BEFORE THE COURT *A QUO*

On January 20, 2020, respondent filed a *Complaint* with the RTC of Taguig City, praying that the Court *a quo* order petitioner to refund or pay the aggregate amount of Php13,151,635.11 representing LBT paid on dividend income for the years 2018 and 2019.[14] Respondent likewise prayed for the payment of interest from the date of receipt of the administrative claim for refund until full payment, as well as attorney's fees.[15]

On February 28, 2020, petitioner filed his *Entry of Appearance with Motion for Extension of Time to File Responsive Pleading*.[16] Petitioner then filed a *Second Motion for Extension of Time to File Responsive Pleading* on May 28, 2020.[17]

Thereafter, on July 14, 2020, petitioner filed his *Answer*.[18]

After the completion of pre-trial proceedings, the case proceeded to trial.

The Court *a quo* promulgated the assailed Decision[19] partially granting respondent's *Complaint*. It ordered petitioner to refund to respondent the amount of Php13,151,635.11 with interest at the rate of six percent (6%) per annum from the finality of the assailed Decision until full satisfaction and the costs of the suit.[20]

On March 6, 2024, petitioner filed a *Motion for Reconsideration (To the Decision dated December 6, 2023)*,[21] praying that the assailed Decision be reversed and set aside, and that a new one be issued dismissing the case for lack of merit.

The Court *a quo* thereafter issued the assailed Order denying petitioner's *Motion for Reconsideration*.[22]

PROCEEDINGS BEFORE THIS COURT

[14] RTC Docket (Civil Case No. 662), pp. 5 to 30.
[15] *Id.*
[16] RTC Docket (Civil Case No. 662), pp. 32 to 34.
[17] RTC Docket (Civil Case No. 662), pp. 39 to 41.
[18] RTC Docket (Civil Case No. 662), pp. 44 to 50.
[19] Docket, pp. 31 to 52; RTC Docket (Civil Case No. 662), pp. 513 to 534.
[20] *Id.*
[21] RTC Docket (Civil Case No. 662), pp. 535 to 542.
[22] Docket, pp. 53 to 56; RTC Docket (Civil Case No. 662), pp. 548 to 551.

On May 9, 2024, petitioner filed a *Motion for Extension of Time to File Petition for Review*.[23]

In the Minute Resolution dated May 29, 2024,[24] the Court granted petitioner an additional and non-extendible period of fifteen (15) days from May 12, 2024, or until May 27, 2024, within which to file his petition for review.

Thereafter, on May 27, 2024, petitioner filed the present *Petition for Review*.[25]

On June 20, 2024, the Court issued a Minute Resolution[26] which ordered respondent to file its comment, not a motion to dismiss, within ten (10) days from receipt thereof. In the same Minute Resolution, the Court likewise directed the Branch Clerk of Court of the RTC of Taguig City– Branch 70, to elevate to this Court the entire original records of Civil Case No. 662, within ten (10) days from notice.

On July 18, 2024, respondent filed its *Comment (To the Petition for Review dated May 27, 2024)*.[27]

Subsequently, on July 29, 2024, the Branch Clerk of Court of the RTC of Taguig City– Branch 70 transmitted to this Court the entire original records of Civil Case No. 662, consisting of 522 pages, together with copies of the transcript of stenographic notes and the Index of Exhibits.[28]

On August 9, 2024, petitioner posted his *Motion to Admit Attached Reply [To Respondent's Comment Dated July 18, 2024]*,[29] attaching a *Reply*[30] thereto.

In the Minute Resolution dated August 12, 2024,[31] the case was submitted for decision.

On September 25, 2024, the Court issued a Resolution denying petitioner's *Motion to Admit Attached Reply [To Respondent's*

---

[23] Docket, pp. 5 to 9.
[24] Docket, p. 70.
[25] Docket, pp. 10 to 30.
[26] Docket, p. 71.
[27] Docket, pp. 120 to 131.
[28] Docket, pp. 72 to 75.
[29] Docket, pp. 134 to 136.
[30] Docket, pp. 137 to 141.
[31] Docket, p. 133.

Comment Dated July 18, 2024].[32] Accordingly, the *Reply* was expunged from the records of the case.[33]

THE ISSUES

The issues to be resolved by the Court are:

> "I.
> WHETHER OR NOT THE LOWER COURT ERRED IN HOLDING THAT THE CLAIM FOR TAX REFUND ON THE LOCAL BUSINESS TAXES THAT THE RESPONDENT HAD PAID FOR THE TAXABLE YEARS 2018 AND 2019 WAS FILED ON TIME.
>
> II.
> WHETHER OR NOT THE LOWER COURT TRANSGRESSED THE POLICE POWER AND THE TAXING POWER OF THE CITY GOVERNMENT OF TAGUIG, AND EXEMPTED THE RESPONDENT FROM PAYMENT OF THE LOCAL BUSINESS TAX FOR THE TAXABLE YEARS 2018 AND 2019 WHEN IT GRANTED THE LATTER A FULL REFUND THEREOF."[34]

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner argues that the Court *a quo* erred in ruling that respondent's claim for refund of LBT paid for the years 2018 and 2019 was filed on time. Citing *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation*,[35] petitioner contends that the Billing Statements issued in this case are the same notices of assessments contemplated under Section 195 of the Local Government Code (LGC). As such, respondent should have filed a protest with petitioner within sixty (60) days from receipt thereof, pursuant to Section 195 of the LGC. Accordingly, petitioner avers that respondent should have filed its protest on March 19, 2018 for the LBT paid for the year 2018, and March 17, 2019 for the LBT paid for the year 2019. Since respondent filed its claim for refund of LBT paid for both years only on September 19, 2019, petitioner maintains that the same was filed out of time.

---

[32] Docket, pp. 144 to 146.
[33] *Id.*
[34] Issues, *Petition for Review*, Docket, p. 14.
[35] G.R. No. 128315, June 29, 1999.

Petitioner further argues that respondent likewise failed to timely file its judicial claim for refund. Under Section 195 of the LGC, a taxpayer has thirty (30) days from the lapse of the sixty (60)-day period after filing his protest within which to appeal with the court of competent jurisdiction. Considering that respondent filed its administrative claim for refund on September 19, 2019, it had only until December 18, 2019, within which to file its claim for refund to the court of competent jurisdiction. Since respondent filed its *Complaint* only on January 20, 2020, petitioner posits that the judicial claim was filed beyond the reglementary period, rendering the LBT assessments final, conclusive, and unappealable.

Moreover, petitioner asserts that even assuming the claim for refund was filed under Section 196 of the LGC, the same would still be belatedly filed. He cites *City of Manila v. Cosmos Bottling Corporation*,[36] where the Supreme Court held that if a taxpayer seeks a refund of an assessment already paid, he must first file a protest with the local treasurer within sixty (60) days from receipt of the assessment, and thereafter bring an action in court within thirty (30) days from receipt of the decision or inaction thereon, regardless of whether such claim is an appeal from an assessment or a claim for refund of erroneously or illegally collected tax.

Petitioner likewise maintains that the Court *a quo* transgressed City Government of Taguig's police power and power of taxation. He emphasizes that the LBT assessments in question are not only sources of revenue for the City of Taguig but also serve as license fees authorizing respondent to operate its business within its jurisdiction.

Finally, petitioner contends that the Court *a quo* erred in exempting respondent from LBT. He argues that respondent itself admitted that it is a holding company, and under Section 5 of the City of Taguig Ordinance No. 47, Series of 2006, holding companies are subject to business tax on dividend income.

Respondent's arguments

Respondent counters that petitioner's reliance on the *Pascor* case is misplaced, as the cited case involves national taxes, tax evasion, and the filing of a criminal complaint, matters entirely different from the factual circumstances of the present case. Specifically, the issue in *Pascor* was whether the Affidavit-Report accomplished by a revenue

---

[36] G.R. No. 196681, June 27, 2018.

officer could be considered as an assessment. Contrarily, the issue in the present case is whether the subject Billing Statements are the same notices of assessment contemplated under Section 195 of the LGC.

Respondent likewise maintains that the Court *a quo* correctly ruled that its claim for refund of LBT paid for the years 2018 and 2019 were timely filed. It emphasizes that the Billing Statements for 2018 and 2019 were issued merely in connection with the renewal of respondent's business permits and only contained the mayor's permit fee, sanitary inspection fee, medical/health fee, building inspection fee, electrical inspection fee, fire permit fee, and other charges. Respondent argues that these Billing Statements did not contain any information indicating the nature or basis of the deficiency tax, nor did they reflect any surcharge, interest, or penalty, thereby negating their characterization as assessment notices.

Respondent further contends that Section 195 of the LGC applies only in cases where a notice of assessment is issued. In this case, since none was issued, Section 196 of the LGC governs. Accordingly, the administrative claim for refund filed on September 19, 2019 was timely filed, as it was filed within two (2) years from the respective dates of payment, January 20, 2018 and January 19, 2019. Likewise, the judicial claim for refund filed on January 20, 2020 was also filed before the expiration of the two (2)-year period under Section 196 of the LGC.

Finally, respondent asserts that petitioner's argument invoking Section 5 of the City of Taguig Ordinance No. 47, Series of 2006, is devoid of merit. Respondent points out that petitioner failed to raise this defense in his Answer, thus he is deemed to have waived the same. It also stresses that petitioner did not issue any notice of assessment and he likewise failed to establish compliance with the procedural requirements under Section 195 of the LGC prior to collecting the subject tax in his Answer.

RULING OF THE COURT

The *Petition for Review* must be denied.

The CTA has jurisdiction over the present appeal.

Section 7(a)(3) of Republic Act (RA) No. 1125, as amended (CTA Law), vests the Court of Tax Appeals with appellate jurisdiction over local tax cases decided or resolved by RTCs, to wit:

r

> 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.

Consequently, Section 11 of the same law prescribes for the reglementary period within which to file an appeal before the CTA:

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

Under Section 7(a)(3) of the CTA Law, the appellate jurisdiction of the CTA over decisions, orders, or resolutions of the RTC becomes operative when the latter has ruled on a local tax case, i.e., one which is in the nature of a tax case or which primarily involves a tax issue.[37]

Among the possible issues are the legality or validity of the RPT assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.[38]

---

[37] *Ignacio v. Office of the City Treasurer of Quezon City*, G.R. No. 221620, September 11, 2017.
[38] *Herarc Corporation, Realty v. Provincial Treasurer of Batangas*, G.R. No. 210736, September 5, 2018.

Based on the foregoing, a party has thirty (30) days from the receipt of an adverse decision of a local tax case decided by the RTC within which to file a petition for review with the CTA. However, the same may be extended for a period of fifteen (15) days.[39]

The issue raised in the assailed Decision rendered by the Court *a quo* is undoubtedly a tax case, as it involves the determination of whether respondent is liable to pay business tax on dividend income and whether it is entitled to a refund in the amount of Php13,151,635.11, representing LBT paid for the years 2018 and 2019. Thus, this Court has jurisdiction over the appeal.

The *Petition for Review* was likewise timely filed. Records show that petitioner received the assailed Order on April 12, 2024.[40] Pursuant to Section 11 of the CTA Law, petitioner had thirty (30) days or until May 12, 2024 within which to file his *Petition for Review*.

On May 9, 2024, petitioner filed a *Motion for Extension of Time to File Petition for Review*[41] praying for an additional fifteen (15) days from May 12, 2024, or until May 27, 2024, within which to file his Petition for Review. The same was granted in the Minute Resolution dated May 29, 2024.[42] Since petitioner filed his *Petition for Review*[43] on May 27, 2024, it was filed within the reglementary period.

The subject Billing Statements are not the notice of assessments under Section 195 of the LGC.

Petitioner's argument that the Billing Statements in this case are the same notices of assessments contemplated under Section 195 of the LGC is misplaced.

The Billing Statements are issued at the beginning of the year for the renewal of the taxpayer's business permit are not the notices of assessment contemplated under Section 195 of the LGC. The provision expressly provides:

---

[39] *The City of Manila v. Coca-Cola Bottlers Philippines, Inc.*, G.R. No. 181845, August 4, 2009.
[40] RTC Docket (Civil Case No. 662), p. 551.
[41] *Supra* note 23.
[42] *Supra* note 24.
[43] *Supra* note 1.

> **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. (Emphasis supplied)

Ostensibly, the notice of assessment, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax.[44] Section 195 of the LGC does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved but it does require that it state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties.[45]

In *International Container Terminal Services, Inc. v. The City of Manila*,[46] where the taxpayer was assessed for business taxes during the renewal of its business license, the Supreme Court clarified that:

> Here, no notice of assessment for deficiency taxes was issued by respondent City Treasurer to petitioner for the taxes collected after the first three (3) quarters of 1999. As observed by Court of Tax Appeals Justice Casanova in his Concurring and Dissenting Opinion to the September 5, 2008 Decision:
>
> > In order to apply Section 195 of the LGC, there is a need for the issuance of a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties. It is only upon receipt of this notice of assessment that a taxpayer is required to file a protest within sixty (60) days from receipt thereof.
> >
> > Given the nature of a notice of assessment, it is my opinion that no notice pertaining to deficiency taxes for the periods subsequent to the 3rd Quarter of 1999 up to the present were ever issued or sent by respondents to ICTSI.

---

[44] *Yamane v. BA Lepanto Condominium Corporation*, G.R. No. 154993, October 25, 2005.
[45] *Id.*
[46] G.R. No. 185622, October 17, 2018.

In ICTSI's case, as correctly found by the Second Division, *viz*:

> "Records disclose in the instant case that petitioner filed a protest pursuant to Section 195 of the LGC only with respect to the assessment of the amount of P6,224,250.00, which covers the [first three quarters] of 1999. Petitioner protested the said assessment on July 15, 1999 and paid the same amount under protest. This is not controverted by the respondents."
>
> Hence, Section 195 of the LGC cannot apply to the period subsequent to the 3rd Quarter of 1999 because ICTSI did not receive any notice of assessment thereafter that states the nature of the tax[,] amount of deficiency[,] and charges.
>
> **The "assessments" from the fourth quarter of 1999 onwards were Municipal License Receipts; Mayor's Permit, Business Taxes, Fees & Charges Receipts; and Official Receipts issued by the Office of the City Treasurer for local business taxes, which must be paid as prerequisites for the renewal of petitioner's business permit in respondent City of Manila. While these receipts state the amount and nature of the tax assessed, they do not contain any amount of deficiency, surcharges, interests, and penalties due from petitioner. They cannot be considered the "notice of assessment" required under Section 195 of the Local Government Code.** (Emphasis supplied)

From the foregoing, a notice of assessment must state: (1) the nature of the tax, fee or charge; (2) the amount of deficiency; and (3) any surcharges, interests, and penalties. Since the presence of a deficiency amount is an essential element of an assessment under Section 195, it follows that the Billing Statements issued by the Business Permits and Licensing Office (BPLO) at the beginning of the year for the renewal of business permits cannot be considered as notices of assessment, there being no deficiency tax to speak of at that time.

In the present case, respondent received the subject Billing Statements for the years 2018 and 2019 while in the process of renewing its business permits. The respective Billing Statements are reproduced below:

BILLING STATEMENT FOR 2018[47]

PARTICULARS	BT	SURCHARGE	INTEREST	TOTAL
Whole Year, Gross: 4,129,971,736.44	BT 4,955,966.08	Surcharge 0.00	Interest 0% 0.00	Total 4,955,966.08

[47] Exhibit 1 for petitioner and Exhibit D, for respondent, RTC Docket (Civil Case No. 662), pp. 420 to 421.

Bank and other Financial Institutions (Holding Company (Financial))				
Whole Year, Gross: 40,309,357.56 Contractor (Management Services)	BT 301,495.18	Surcharge 0.00	Interest 0% 0.00	Total 301,495.18
Whole Year, Gross 10,000,000.00 Real Estate Seller and Lessor (Seller – Dealer)	BT 75,000.00	Surcharge 0.00	Interest 0% 0.00	Total 75,000.00
Environmental Impact Fee	125.00	0.00	0.00	125.00
Mayor's Permit Fee	18,000.00	0.00	0.00	18,000.00
Sanitary Inspection Fee	50.00	0.00	0.00	50.00
Medical/Health Fee	10.00	0.00	0.00	10.00
Building Inspection Fee	160.00	0.00	0.00	160.00
Electrical Inspection Fee	200.00	0.00	0.00	200.00
Plumbing Inspection Fee	100.00	0.00	0.00	100.00
Mechanical Inspection Fee	200.00	0.00	0.00	200.00
Fire Permit Fee	200.00	0.00	0.00	200.00
Sticker	150.00	0.00	0.00	150.00
Form Fee	150.00	0.00	0.00	150.00
Signboard	140.00	0.00	0.00	140.00
Fire Code RA 9514	1,948.50	0.00	0.00	1,948.50
Cedula Corporation	10,500.00	0.00	0.00	10,500.00
SubTotal	5,364,394.76	0.00	0.00	5,364,394.76
GRAND TOTAL	**5,364,394.76**	**0.00**	**0.00**	**5,364,394.76**

BILLING STATEMENT FOR 2019[48]

PARTICULARS	BT	SURCHARGE	INTEREST	TOTAL
1st–4th Qtr, Gross: 10,000,000.00 Real Estate Seller and Lessor (Seller – Dealer)	BT 75,000.00	Surcharge 0.00	Interest 0% 0.00	Total 75,000.00
1st–4th Qtr, Gross: 40,309,357.56 Contractor (Management Services)	BT 301,495.18	Surcharge 0.00	Interest 0% 0.00	Total 301,495.18
1st–4th Qtr, Gross: 6,829,724,195.49 Bank and Other Financial Institutions (Holding Company)	BT 8,195,669.03	Surcharge 0.00	Interest 0% 0.00	Total 8,195,669.03
Environmental Impact Fee	5,500.00	0.00	0.00	5,500.00
Mayor's Permit Fee	18,000.00	0.00	0.00	18,000.00
Sanitary Inspection Fee	700.00	0.00	0.00	700.00
Medical/Health Fee	10.00	0.00	0.00	10.00
Building Inspection Fee	160.00	0.00	0.00	160.00
Electrical Inspection Fee	200.00	0.00	0.00	200.00
Plumbing Inspection Fee	100.00	0.00	0.00	100.00
Mechanical Inspection Fee	200.00	0.00	0.00	200.00

[48] Exhibit 2 for petitioner and Exhibit F for respondent, RTC Docket (Civil Case No. 662), pp. 422 to 423.

Fire Permit Fee	200.00	0.00	0.00	200.00
Sticker	150.00	0.00	0.00	150.00
Form Fee	150.00	0.00	0.00	150.00
Signboard	140.00	0.00	0.00	140.00
Signage	5,000.00	0.00	0.00	5,000.00
Fire Code RA 9514	2,551.00	0.00	0.00	2,551.00
Cedula Corporation	10,500.00	0.00	0.00	10,500.00
SubTotal	8,615,725.21	0.00	0.00	8,615,725.21
GRAND TOTAL	**8,615,725.21**	**0.00**	**0.00**	**8,615,725.21**

A perusal of the subject Billing Statements reveals that they do not indicate any amount of deficiency tax, surcharge, interest, or penalty due from respondent. They merely itemized the business tax and the various fees required for the renewal of respondent's business permits for said years.

Furthermore, petitioner's own witness, Gabriel G. Cultura, a revenue examiner of the City of Taguig, admitted during cross-examination that no Notices of Assessments were issued to respondent:[49]

ATTY. SANGUYO III:	Mister Witness, do you confirm that the Billing Statements marked as Exhibits "1" and "2" for the defendant were issued by the City Treasurer of Taguig City?
GABRIEL CULTURA:	Hindi ko ma-confirm kasi ang alam ko ang nag-i-issue ng Billing Statement at that time was the Business Permit and Licensing Office.
ATTY. SANGUYO III:	Now these documents that were marked Exhibits "1" and "2" for the defendant, these are specifically designated as Billing Statement and not Notices of Assessment, is that correct?
GABRIEL CULTURA:	Yes, sir.
ATTY. SANGUYO III:	In these Billing Statements, the word "business tax" is not specifically stated, is that correct?
GABRIEL CULTURA:	Walang nakalagay na word na "business tax."

[49] Transcript of Stenographic Notes, July 28, 2023, pp. 1 to 2.

ATTY. SANGUYO III:	Let me remind you that the question is answerable by a yes or no only. Now, in these two Billing Statements, there was no assessment of any penalty, surcharge or interest, is that correct?
GABRIEL CULTURA:	Wala, sir.
ATTY. SANGUYO III:	In these two Billing Statements, there is no demand to pay, is that correct?
GABRIEL CULTURA:	Wala, sir.

Contrary to petitioner's stance, the subject Billing Statements are not the notice of assessments contemplated under Section 195 of the LGC. In seeking a refund through Section 195, it is essential that the assessment notice from the local treasurer contains the factual and legal basis of the assessment.[50] Without this, there would be no tax assessment to contest. As a result, the provisions of Section 196 would apply.[51]

Both the administrative and judicial claims for refund were filed on time.

Petitioner argues that even assuming Section 196 of the LGC is applicable, respondent's administrative and judicial claims for refund were filed out of time. He cites *City of Manila v. Cosmos Bottling Corporation*,[52] where the Supreme Court held that if a taxpayer seeks a refund of an assessment already paid, he must first file a protest with the local treasurer within sixty (60) days from receipt of the assessment. Thereafter, the taxpayer must bring an action before the proper court within thirty (30) days from receipt of the decision or inaction of the local treasurer, regardless of whether such claim is denominated as an appeal from an assessment or as a refund of erroneously or illegally collected tax.

Petitioner's argument is untenable.

---

[50] *Jose v. Tigerway Facilities and Resources, Inc.*, G.R. No. 247331, February 26, 2024.
[51] *Id.*
[52] G.R. No. 196681, June 27, 2018.

In *City of Manila v. Cosmos Bottling Corporation*,[53] the Supreme Court ruled that:

> To stress, where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund at any time within the full period of two years from the date of payment as Section 196 may suggest. If refund is pursued, the taxpayer must administratively question the validity or correctness of the assessment in the 'letter-claim for refund' within 60 days from receipt of the notice of assessment, and thereafter bring suit in court within 30 days from either decision or inaction by the local treasurer.
>
> Simply put, there are two conditions that must be satisfied in order to successfully prosecute an action for refund in case the taxpayer had received an assessment. One, pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund. Two, bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.

On the other hand, in *International Container Terminal Services, Inc. v. City of Manila*,[54] the Supreme Court clarified that:

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

---

[53] *Supra* note 52.
[54] *Supra* note 46.

n

These doctrines were reconciled in *Jose v. Tigerway Facilities and Resources, Inc.*[55] where the Supreme Court explained that:

> In sum, it cannot be concluded that the notices issued by petitioner qualify as the envisaged notice of assessment under Section 195. Once more, it bears emphasis that the notice of assessment is not only a requirement of due process, but also serves as the initial notice to the taxpayer about the pending tax liability. It is settled that tax assessments issued in violation of the due process rights of a taxpayer are void and of no force and effect.
>
> As a result of petitioner's failure to put forth any substantial arguments, **this Court is compelled to concur with the courts a quo's conclusion that the notices of assessment issued by petitioner are void. Hence, we determine that Section 195 is not applicable here, given the absence of a valid assessment.**
>
> **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. (Emphasis supplied)

Based on the foregoing, it is clear that if an assessment is void for failure to comply with Section 195 of the LGC, it is as if no assessment was issued at all. Consequently, Section 196 of the LGC will govern the taxpayer's remedy, even if the tax has already been paid.

It bears reiterating that the subject Billing Statements are not the notice of assessments contemplated under Section 195 of the LGC. Since no notices of assessment were issued in the present case, Section 196 of the LGC properly applies despite respondent's payment of LBT for the years 2018 and 2019.

Section 196 of the LGC is clear that:

> **Section 196.** Claim for Refund of Tax Credit. - No case or proceeding shall be maintained in any court for the recovery of any

---

[55] *Supra* note 50.

> 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.

The foregoing provision requires that, prior to the filing of a judicial claim for refund, the taxpayer must first file a written administrative claim with the local treasurer within two (2) years from the date of payment of the tax. Moreover, the judicial action for refund must likewise be filed within the same two-year prescriptive period.

In this case, records show that respondent paid the LBT on its dividend income for 2018 on January 20, 2018,[56] and for 2019 on January 19, 2019.[57] Hence, respondent had until January 20, 2020 and January 19, 2021, respectively, within which to file both its administrative and judicial claims for refund.

On September 19, 2019, respondent filed an administrative claim for refund with petitioner covering the total amount of Php13,151,635.11, representing LBT paid on dividend income for the years 2018 and 2019.[58] Thereafter, on January 20, 2020, respondent filed its judicial claim for refund.[59] Accordingly, both its administrative and judicial claims were filed within the two-year prescriptive period under Section 196 of the LGC.

Holding companies are not subject to business tax on dividend income

Petitioner alleges that, pursuant to Section 5 of City of Taguig Ordinance No. 47, Series of 2006, dividend income received by holding companies is subject to LBT. Since respondent admitted that it is a holding company, petitioner maintains that respondent is subject to LBT on its dividend income for taxable years 2018 and 2019.

Petitioner's argument is incorrect.

Under Section 143(f) of the Local Government Code (LGC), municipalities may impose taxes on banks and other financial institutions based on gross receipts derived from dividends during the

---

[56] Exhibit E, RTC Docket (Civil Case No. 662), p. 226.
[57] Exhibit G, RTC Docket (Civil Case No. 662), p. 229.
[58] Exhibit C, RTC Docket (Civil Case No. 662), pp. 10 to 30.
[59] RTC Docket (Civil Case No. 662), pp. 5 to 30.

V

preceding calendar year. Section 151 of the LGC extends this authority to cities, allowing them to levy the same taxes that municipalities may impose. It follows, therefore, that cities may likewise impose taxes on dividend income only if received by banks or other financial institutions.

Accordingly, the authority to impose LBT on dividend income is limited to banks and other financial institutions. Section 131(e) of the LGC defines "banks and other financial institutions" as follows:

> Section 131. Definition of Terms. - When used in this Title, the term:
>
> (e) "Banks and other financial institutions" include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder;

In *City of Davao v. Randy Allied Ventures, Inc.* (*RAVI* case),[60] the Supreme Court clarified that, for a taxpayer to qualify as a Non-Bank Financial Intermediary (NBFI) under the National Internal Revenue Code, banking laws, and pertinent regulations, the following requisites must concur:

> a. The person or entity is authorized by the BSP to perform quasi-banking functions;
> b. The principal functions of said person or entity include the lending, investing or placement of funds or evidences of indebtedness or equity deposited to them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others; and
> c. The person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis, to wit:
>   1. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;
>   2. Use principally the funds received for acquiring various types of debt or equity securities;
>   3. Borrow against, or lend on, or buy or sell debt or equity securities.

A careful review of the records reveals that respondent is a holding company and not an NBFI.

---

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

u

Respondent's *Amended Articles of Incorporation*[61] states that its primary purpose is "[t]o own and hold properties of all kinds, including stocks of other companies; to manage and control the operations and affairs of other companies; and to make such investments as the holding company may deem proper." In addition, none of respondent's secondary purposes in its *Amended Articles of Incorporation* authorize or involve functions that would qualify respondent as an NBFI.[62] Notably, respondent is not authorized to receive funds from the public, nor does it engage regularly and on a recurring basis in the functions enumerated above.

It bears emphasis that in the *RAVI* case where the taxpayer, which is a holding company, was assessed for LBT by the City of Davao on the dividend income, the Supreme Court highlighted the distinction between a holding company and an NBFI, *viz*:[63]

> Indeed, there is a stark distinction between a holding company and a financial intermediary as contemplated under the LGC, in relation to other laws. 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 (as opposed to directly engaging in operating activities) and 'holding' them in a conglomerate or umbrella structure along with other subsidiaries." **While holding companies may partake in investment activities, this does not per se qualify them as financial intermediaries that are actively dealing in the same. Financial intermediaries are regulated by the BSP because they deal with public funds when they offer quasi-banking functions.** On the other hand, a **holding company is not similarly regulated because any investment activities it conducts are mere incidental operations**, since its main purpose is to hold shares for policy-controlling purposes.
>
> To be sure, RAVI's act of placing the dividends from the SMC preferred shares in a trust account, which incidentally earns interest, does not convert it into an active investor or dealer in securities. As above-stated, **the primary test is regularity of function, not on an isolated basis, with the end in mind for self-profit.** Being restricted to managing the dividends of the SMC preferred shares on behalf of the government, RAVI cannot be said to be "doing business" as a bank or other financial institution, i.e., an NBFI.
>
> Moreover, while RAVI's stated primary purpose in its AOI is couched in broad terms as to allow some functions similar to an NBFI, this does not necessarily mean it is engaged in the same

---

[61] *Amended Articles of Incorporation of Dacon Corporation*, Exhibit H-1, RTC Docket (Civil Case No. 662), pp. 232 to 238.
[62] *Id.*
[63] *Supra* note 60.

n

> business. Verily, the "power to purchase and sell real and personal property, including shares," and "to receive dividends thereon," are common provisions to all corporations, including holding companies like RAVI which undertake investments. **The mere fact that a holding company makes investments does not ipso facto convert it to an NBFI. Otherwise, there would be absolutely no distinction between a mere holding company and financial intermediaries.**
>
> In sum, since RAVI is not a bank or other financial institution, i.e., an NBFI, it cannot be held liable for LBT under Section 143 (f) of the LGC. However, this pronouncement is without prejudice to RAVI's potential liability for other taxes, whether national or local, should it so engage in other profit-making activities aside from its management of the SMC preferred shares, and the dividends resulting therefrom. (Emphasis supplied)

Thus, a holding company is not automatically classified as an NBFI simply because it makes investments. Similarly, respondent's receipt of dividend income from its subsidiaries does not transform it into an NBFI. Since respondent is neither a bank nor an NBFI, it cannot be subjected to LBT on its dividend income.

While a Local Government Unit (LGU) has the power to levy taxes, such power must be exercised in accordance with law. Section 5 of City of Taguig Ordinance No. 47, Series of 2006[64] imposes taxes on dividend income received by holding companies:

> **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. Nonetheless, said amount of dividend income derived by a holding company as a result of a declaration of dividends shall be taxed only once, and subsequent declaration of the same dividend income to its parent holding company or parent holding companies also within the jurisdiction of City of Taguig shall not be further taxed accordingly.

In *City of Manila v. Laguio Jr.*,[65] the Supreme Court held that for an ordinance to be valid, it must not only be within the corporate powers of the local government unit to enact and must be passed according to the procedure prescribed by law, it must also conform to the following substantive requirements: (1) must not contravene the Constitution or any statute; (2) must not be unfair or oppressive; (3) must not be partial or discriminatory; (4) must not prohibit but may regulate trade; (5) must be general and consistent with public policy; and (6) must not be unreasonable.

---

[64] Exhibit 5, RTC Docket (Civil Case No. 662), pp. 407 to 410.
[65] G.R. No. 118127, April 12, 2005.

Section 151 of the LGC allows cities to levy the same taxes that municipalities may impose. However, while Section 143(f) authorizes the imposition of business tax on dividend income received by banks and other financial institutions, there is no provision in the LGC permitting the imposition of such tax on dividend income received by holding companies. Consequently, Section 5 of City of Taguig Ordinance No. 47, Series of 2006, clearly contravenes the LGC.

In *Magtajas v. Pryce Properties Corp., Inc.*,[66] the Supreme Court explained the rationale behind the rule that an ordinance cannot contravene a statute:

> The rationale of the requirement that the ordinances should not contravene a statute is obvious. Municipal governments are only agents of the national government. Local councils exercise only delegated legislative powers conferred on them by Congress as the national lawmaking body. The delegate cannot be superior to the principal or exercise powers higher than those of the latter. It is a heresy to suggest that the local government units can undo the acts of Congress, from which they have derived their power in the first place, and negate by mere ordinance the mandate of the statute.

Furthermore, in *Batangas CATV, Inc. v. Court of Appeals*,[67] the Supreme Court further elucidated that:

> It is a fundamental principle that **municipal ordinances are inferior in status and subordinate to the laws of the state**. An ordinance in conflict with a state law of general character and statewide application is universally held to be invalid. The principle is frequently expressed in the declaration that **municipal authorities, under a general grant of power, cannot adopt ordinances which infringe the spirit of a state law or repugnant to the general policy of the state**. In every power to pass ordinances given to a municipality, there is an implied restriction that the ordinances shall be consistent with the general law. (Emphasis supplied)

All told, Section 143(f) is clear that only dividend income received by banks and other financial institutions may be subject to LBT. Thus, Section 5 of City of Taguig Ordinance No. 47, Series of 2006 which imposes LBT on dividend income received by holding companies contravenes the LGC.

WHEREFORE, premises considered, the instant *Petition for Review* is **DENIED.**

---

[66] G.R. No. 111097, July 20, 1994.
[67] G.R. No. 138810, September 29, 2004.

Accordingly, the *Decision* dated December 6, 2023 and *Order* dated March 20, 2024, both rendered by the RTC of Taguig City – Branch 70, in Civil Case No. 662, are **AFFIRMED**.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

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.

CATHERINE T. MANAHAN
Associate Justice
Third Division Chairperson

CERTIFICATION

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

MA. BELEN RINGPIS-LIBAN
Acting Presiding Justice