REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

THE CITY TREASURER OF MAKATI and the CHIEF OF THE LICENSE DIVISION OF THE CITY OF MAKATI,
Petitioners,

- versus -

FUJIFILM BUSINESS INNOVATION PHILIPPINES CORP. [Formerly: FUJI XEROX PHILIPPINES, INC. (FXPI)],
Respondent.

CTA AC NO. 284

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

APR 02 2025

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RESOLUTION

RINGPIS-LIBAN, J.:

Before the Court is petitioners' **Motion for Reconsideration**, filed on October 18, 2024, with respondent's **Comment/Opposition (On/To Petitioner's Motion for Reconsideration dated 18 October 2024)** filed through a licensed courier service on November 8, 2024, and received by the Court on November 11, 2024.

On September 19, 2024, the Court promulgated a Decision, dismissing petitioners' appeal for imposition of local business tax (LBT) for failing to prove that respondent conducted business operations in the City of Makati for taxable year 2017, the dispositive portion of which states:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review (of the Decision dated 02 June 2021 and Order dated 20 January 2023)* is **DENIED**. Accordingly, the assailed Decision dated June 2, 2021 and Order dated January 20, 2023, both issued by the Regional Trial Court of Makati City – Branch 58, in Civil Case No. 17-01547, are **AFFIRMED**.
>
> **SO ORDERED.**"

In their Motion, petitioners primarily insist that respondent did not effectively retire its business in Makati and it should be liable to pay for business taxes. Petitioners argue that respondent failed to submit the necessary documents (*i.e.*, duly accomplished notarized Retirement Accomplishment Form, original board resolution signed by a majority of the Board of Directors, copy of the Articles of Incorporation, etc.) pursuant to Makati City Ordinance No. 2004-A-025 or the *Revised Makati Revenue Code.*[1] Petitioners expound that for all intents and purposes, respondent is still conducting business in the City of Makati during the said period since retirement of business shall be made upon termination of business – and, considering respondent's Application for Retirement of Business was never approved, petitioners aver that it is only fitting that respondent be assessed for deficiency LBT.

On the other hand, in its Comment, respondent submit that petitioners' Motion for Reconsideration should be denied for failure to show the specific ground for their Motion pursuant to Rule 37 of the 2019 Amendments to the 1997 Rules of Civil Procedure.[2] Respondent continues that petitioners failed to point out specific errors committed in the Decision and, thus, said Motion ought to be declared as *pro forma* considering that the arguments stated therein are mere rehash of their previous arguments which have all been aptly addressed by the Court. Respondent further asserts that petitioners' allegation that it failed to "effectively" retire its business when it failed to submit the required documents is a mere conclusion of law, as it was not raised or put in issue in the lower court, as it is being introduced by petitioners for the first time in the instant Motion.

After due consideration, the Court finds petitioners' Motion for Reconsideration bereft of merit.

As correctly pointed out by respondent, a cursory reading of the Motion for Reconsideration reveals that the same arguments were already raised by petitioners in their *Petition for Review*, which have already been exhaustively considered, weighed, and resolved in the Decision.

Again, there is no doubt that local government units (LGUs) have the power to impose LBTs on the privilege of doing business within their territorial jurisdictions. Perforce, the term "doing business" contemplates some "trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit".[3] However, for an LGU to impose LBT, it must be shown that the taxpayer is within their territory and the said taxpayer is doing business therein.

Herein, petitioners based their claim that respondent is liable for LBT for year 2017 on the assumption that respondent conducted business operations

[1] Took effect on January 1, 2006.
[2] A.M. NO. 19-10-20-SC, took effect on May 1, 2020.
[3] *City of Davao, et al. v. Arc Investors, Inc.*, G.R. No. 249668. July 13, 2022.

until March 31, 2017. Yet, aside from the Contract of Lease between Makati Sky Plaza Inc. and respondent;[4] Addendum to Lease Contract, extending the lease agreement until March 31, 2017;[5] and respondent's letter dated November 24, 2016 addressed to *officer-in-charge* City Treasurer;[6] petitioners did not present any other evidence to corroborate their claim that respondent actually conducted business until March 31, 2017. In fact, petitioners waived their rights to present evidence on their behalf during the trial before the Court *a quo.*

To stress, basic is the rule that one who alleges a fact has the burden of proving it by means other than mere allegations.[7] The burden of proof lies upon him who asserts it, not upon him who denies, since, by the nature of things, he who denies a fact cannot produce any proof of it.[8] Bare allegations which are not supported by any evidence, documentary or otherwise, sufficient to support a claim, fall short to satisfy the degree of proof needed.[9] Herein, petitioners did not present any evidence to prove their claims and to rebut the documents presented by respondent. By failing to do so, all pieces of evidence duly considered lead to no other conclusion that respondent did not conduct any business in taxable year 2017 in the City of Makati, and that its retirement of business was deemed effective on December 31, 2016.

Correspondingly, the *Order of Payment* dated March 24, 2017 issued petitioner City Treasurer of Makati, assessing respondent for LBT in the amount of ₱7,428,230.84 for the year 2017 has no leg to stand on, considering that business taxes is paid at the beginning of the year as a fee to allow the business to operate for the rest of the year, and not for having engaged in business in the previous year.[10]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioners in their Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on September 19, 2024.

WHEREFORE, premises considered, petitioners' Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

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MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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4 Exhibit "N", RTC Docket (Civil Case No. 17-01547) - Vol. 2, pp. 36 to 42.
5 Exhibits "AA'", "P" and "CC", RTC Docket (Civil Case No. 17-01547) - Vol. 2, pp. 10, 45, and 198 to 199, respectively,
6 Exhibit "I", RTC Docket (Civil Case No. 17-01547) - Vol. 2, p. 31.
7 *Municipality of San Mateo, Isabela, et al. v. Smart Communications, Inc.*, G.R. No. 219506, June 23, 2021.
8 *MOF Company, Inc. v. Shin Yang Brokerage Corporation*, G.R. No. 172822, December 18, 2009.
9 *LNS International Manpower Services vs. Padua, Jr.*, G.R. No. 179792, March 5, 2010.
10 See *Mobil Philippines, Inc. v. The City Treasurer of Makati and the Chief of the License Division of the City of Makati*, G.R. No. 154092, July 14, 2005.

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice