CTA Form No. 8 (For DCC)

24-000459-0017

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA AC NO. 331

TEAM (PHILIPPINES) ENERGY CORPORATION,
Petitioner,

- versus -

THE MUNICIPALITY PAGBILAO, QUEZON, HON. ANGELICA PORTES-TATLONGHARI, in her capacity as the Municipal Mayor of Pagbilao, and CORAZON H. ENCENAREZ, in her capacity as Municipal Treasurer of the Municipality of Pagbilao,
Respondents.

NOTICE OF DECISION

To:

QUEZON PROVINCIAL LEGAL OFFICE
(Counsel for the Respondents)
2nd Floor, Capital Building
Quezon Capitol Compound
Lucena City, Quezon Province

HON. ANGELICA PORTES-TATLONGHARI
Pagbilao Municipal Hall
Rizal Street, Barangay Santa Catalina
Pagbilao, Quezon Province

MS. CORAZON H. ENCENAREZ
Pagbilao Municipal Hall
Rizal Street, Barangay Santa Catalina
Pagbilao, Quezon Province

GATMAYTAN YAP PATACSIL GUTIERREZ & PROTACIO
(Counsel for the Petitioner)
30/F 88 Corporate Center
Sedeño corner Valero Streets, Salcedo Village
Makati City

BRANCH CLERK OF COURT
Regional Trial Court
Branch 58, Lucena City
City Hall Annex Building, Brgy. Isabang
Lucena C ty

GREETINGS:

You are hereby notified by these presents that on **August, 11, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

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

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

TEAM (PHILIPPINES) ENERGY CORPORATION,
Petitioner,

-versus-

THE MUNICIPALITY OF PAGBILAO, QUEZON, HON. ANGELICA PORTES-TATLONGHARI, in her capacity as the Municipal Mayor of the Municipality of Pagbilao, and **CORAZON H. ENCENAREZ**, in her capacity as Municipal Treasurer of the Municipality of Pagbilao,
Respondents.

CTA AC No. 331

Members:

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

Promulgated:

AUG 1 1 2025 3:09 p.m.

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review*[1] filed by Team (Philippines) Energy Corporation (petitioner or TPEC), seeking to set aside the Order dated June 25, 2024[2] (assailed *Order)* issued by the Regional Trial Court (RTC), Branch 58, Lucena City, in Civil Case No. 2024-06, entitled *Team (Philippines) Energy Corporation v. The Municipality of Pagbilao, Quezon, Hon. Angelica Portes-Tatlonghari, in her Capacity as the Municipal Mayor of the Municipality of Pagbilao, and Corazon H. Encenarez, in her capacity as Municipal Treasurer of the Municipality of Pagbilao.* The assailed *Order* disposed of the case as follows:

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[1] Docket, pp. 6–49.
[2] Docket, pp. 60–69; RTC Docket – Vol. 1, pp. 513–529.

PREMISES CONSIDERED, the defendants' affirmative defenses are hereby GRANTED. The instant case is dismissed for lack of cause of action.

In view of the dismissal of the instant case, the initial presentation of plaintiff's evidence set on 25 August 2024 is hereby CANCELLED.

SO ORDERED.

Petitioner further prays for this Court to:

1. Declare that:

   (i) The local business tax (LBT) rate for contractors under Section 2A.02(E) of the Revised Revenue Code is in excess of the maximum allowable rate of 55% of 1% under the Local Government Code (LGC); and

   (ii) Petitioner is entitled to a refund or tax credit so long as it pays LBT in accordance with Section 2A.02(E) of the Revised Revenue Code;

2. Direct respondents to refund or grant a tax credit amounting to ₱1,971,013.48 in favor of petitioner corresponding to the excess LBT paid for the year 2022; and

3. Direct respondents to refund or grant a tax credit of ₱2,795,105.08 in favor of petitioner corresponding to the excess LBT for the year 2023.

THE PARTIES

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines with principal office at the W Fifth Avenue Building, 5th Avenue, Bonifacio Global City, Taguig City.[3]

Respondent Municipality of Pagbilao (Pagbilao) is a local government unit with the capacity to sue and be sued. Respondent Hon. Angelica Portes-Tatlonghari is impleaded in her official capacity as the Municipal Mayor of Pagbilao. Respondent Corazon H. Encenarez is being impleaded in her capacity as the Municipal Treasurer of Pagbilao.[4]

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3 RTC Docket – Vol. 1, p. 14, Complaint, par. 11.

4 RTC Docket – Vol. 1, p. 15, Complaint, par. 12, vis-à-vis RTC Docket – Vol. 1, p. 284, Answer, Admissions, par. 7.

THE ANTECEDENT FACTS

On January 15, 2022, petitioner submitted its Schedule of Gross Receipts-Pagbilao, Quezon for Calendar Year (CY) 2021 (Schedule of 2021 Gross Receipts) to the Office of the Municipal Treasurer. Petitioner declared that its gross receipts allocated to Pagbilao for the year 2021 were ₱3,941,727,005.50.[5]

On January 17, 2022, respondent Municipal Treasurer issued a Tax Order of Payment (2022 TOP),[6] computing petitioner's local business tax (LBT) and related fees for the year 2022 in the total amount of ₱23,703,482.00,[7] broken down as follows:

Description	Base Tax	Amount Due	Qtr
Mayor's Permit Fee – CONTRACTOR		₱ 50,000.00	
Sanitary Permit Fee		250.00	
Sticker		20.00	
Garbage Fee		200.00	
Business Tax - CONTRACTOR	₱3,941,727,005.50	23,652,162.00	1234
Medical Certificate		50.00	
Inspection Fee		50.00	
Sanitary Inspection Fee		500.00	
Police Clearance		50.00	
Sworn Statement Fee		200.00	
	TOTAL	**₱23,703,482.00**	

Payment Options:

Payment	Deadline	Amount Due
Annual	Jan 20, 2022	₱23,703,482.00
Semi-Annual	Jan 20, 2022	₱11,877,401.00
	Jul 20, 2022	₱11,826,081.00
Quarterly	Jan 20, 2022	₱5,964,360.50
	Apr 20, 2022	₱5,913,040.50
	Jul 20, 2022	₱5,913,040.50
	Oct 20, 2022	₱5,913,040.50

Petitioner tendered quarterly payments of the 2022 TOP to the Office of the Municipal Treasurer on the following dates:

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5 RTC Docket – Vol. 1, p. 15, Complaint, par. 13, vis-à-vis RTC Docket – Vol. 1, p. 284, Answer, Admissions, par. 13; RTC Docket – Vol. 1, pp. 388–394, Exhibit "G".

6 RTC Docket – Vol. 1, p. 42, Exhibit "A".

7 RTC Docket – Vol. 1, p. 15, Complaint, par. 14, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 9.

Payment Date	Amount
January 20, 2022	₱5,964,360.50[8]
April 20, 2022	₱5,913,040.50[9]
July 19, 2022	₱5,913,040.50[10]
October 19, 2022	₱5,913,040.50[11]

On January 18, 2023, petitioner submitted its Schedule of Gross Receipts-Pagbilao, Quezon for CY 2022 (Schedule of 2022 Gross Receipts) to the Office of the Municipal Treasurer. Petitioner declared that its gross receipts allocated to Pagbilao for the year 2022 were ₱5,589,910,168.41.[12]

On the same day, respondent Pagbilao issued the Tax Order of Payment (2023 TOP),[13] computing petitioner's LBT and fees for the year 2023 in the total amount of ₱33,592,581.00,[14] broken down as follows:

Description	Base Tax	Amount Due	Qtr
Mayor's Permit Fee – CONTRACTOR		₱50,000.000	
Sanitary Permit Fee		250.00	
Sticker		20.00	
Garbage Fee		200.00	
Business Tax – CONTRACTOR	₱5,589,910,168.41	33,541,261.00	1234
Medical Certificate		50.00	
Inspection Fee		50.00	
Sanitary Inspection Fee		500.00	
Police Clearance		50.00	
Sworn Statement Fee		200.00	
	TOTAL	**₱33,592,581.00**	

Payment Options:

Payment	Deadline	Amount Due
Annual	Jan 20, 2023	₱33,592,581.00
Semi-Annual	Jan 20, 2023	₱16,821,950.50
	Jul 20, 2023	₱16,770,630.50

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8 RTC Docket – Vol. 1, p. 16, Complaint, par. 15, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 43–44 & 395, Exhibits "B" to "B-1" & "H", respectively.

9 RTC Docket – Vol. 1, p. 16, Complaint, par. 15, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 45 & 396, Exhibits "B-2" & "H-1", respectively.

10 RTC Docket – Vol. 1, p. 16, Complaint, par. 15, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 46 & 397, Exhibits "B-3" & "H-2", respectively.

11 RTC Docket – Vol. 1, p. 16, Complaint, par. 15, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 47 & 398, Exhibits "B-4" & "H-3", respectively.

12 RTC Docket – Vol. 1, p. 16, Complaint, par. 16, vis-à-vis RTC Docket – Vol. 1, p. 284, Answer, Admissions, par. 8; RTC Docket – Vol. 1, p. 399–403, Exhibit "I".

13 RTC Docket – Vol. 1, p. 48, Exhibit "C".

14 RTC Docket – Vol. 1, p. 16, Complaint, par. 17, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 9; RTC Docket – Vol. 1, p. 48, Exhibit "C".

Quarterly	Jan 20, 2023	₱8,436,635.25
	Apr 20, 2023	₱8,385,315.25
	Jul 20, 2023	₱8,385,315.25
	Oct 20, 2023	₱8,385,315.25

Petitioner made quarterly payments of the 2023 TOP to the Office of the Municipal Treasurer as follows:

Payment Date	Amount
January 20, 2023	₱8,436,635.25[15]
April 20, 2023	₱8,385,315.25[16]
July 20, 2023	₱8,385,315.25[17]
October 20, 2023	₱8,385,315.25[18]

On January 17, 2024, petitioner filed a written claim for a refund or tax credit[19] with respondent Municipal Treasurer in the total amount of ₱4,766,118.56, representing alleged excess LBT paid for the years 2022 (₱1,971,013.48) and 2023 (₱2,795,105.08).

On January 19, 2024, petitioner filed a judicial claim for refund by way of a *Complaint*[20] with the RTC, Lucena City, docketed as Civil Case No. 2024-06, and raffled to the court *a quo*.

On March 13, 2024, the court *a quo* issued a *Summons*[21] to respondents, which was served on March 18, 2024.[22]

On April 12, 2024, respondents filed their *Answer*,[23] raising the following affirmative and special defenses:

(a) Petitioner has no cause of action to file the present case as it failed to timely assail the validity of Section 2A.02(E) of the Revised Revenue Code in accordance with Section 187 of the LGC; and

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15 RTC Docket – Vol. 1, p. 17, Complaint, par. 18, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 49–50 & 404, Exhibits "D" to "D-1" & "J", respectively.

16 RTC Docket – Vol. 1, p. 17, Complaint, par. 18, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 51 & 405, Exhibits "D-2" & "J-1", respectively.

17 RTC Docket – Vol. 1, p. 17, Complaint, par. 18, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 52 & 406, Exhibits "D-3" & "J-2", respectively.

18 RTC Docket – Vol. 1, p. 17, Complaint, par. 18, vis-à-vis RTC Docket – Vol. 1, p. 285, Answer, Admissions, par. 10; RTC Docket – Vol. 1, pp. 53 & 407, Exhibits "D-4" & "J-3", respectively.

19 RTC Docket – Vol. 1, pp 54–61, Exhibit "E".

20 RTC Docket – Vol. 1, pp. 11–33.

21 *Id.* at 278.

22 *Id.* at 280 & 282.

23 *Id.* at 283–317.

(b) Petitioner failed to satisfy the twin requirements provided under Section 195 of the LGC when it filed the administrative protest beyond the 60-day period from its receipt of the 2022 and 2023 Tax Orders of Payment.

On May 2, 2024, the court *a quo* issued an Order[24] setting the case for pre-trial conference on June 20, 2024, and directed the parties to file their respective pre-trial briefs at least ten (10) days before the scheduled preliminary conference on June 13, 2024.

On June 11, 2024, the court *a quo* received petitioner's *Pre-Trial Brief.*[25]

On June 20, 2024, following the termination of the pre-trial conference, the court *a quo* noted that a pending incident still exists, as affirmative defenses were raised in the *Answer*, which necessitates resolution before the presentation of petitioner's evidence.[26]

Acting on respondents' affirmative defenses, the court *a quo* rendered the assailed *Order* on June 25, 2024,[27] declaring that the assessments had become final and executory, as no evidence exists that a written protest was filed by petitioner before the local treasurer within sixty (60) days from receipt of the assessments, as required under Section 195 of the Local Government Code (LGC).

On August 5, 2024, petitioner filed the present *Petition for Review,*[28] initially docketed as CTA Case No. 11584.

On August 21, 2024, the Court resolved to direct: (a) petitioner to file a comment within ten (10) days from notice; (b) petitioner to submit proof of receipt of the assailed Order within five (5) days from notice; and (3) the Judicial Records Division to redocket the case as an appealed civil case.[29]

On September 12, 2024, petitioner filed its *Compliance*[30] to the August 21, 2024 Resolution, submitting its proof of receipt of the assailed Order.

[24] *Id.* at 322–323.
[25] *Id.* at 329–349.
[26] *Id.* at 506–507, Order.
[27] *Id.* at 513–520; *Supra* note 2.
[28] *Supra* note 1.
[29] Docket, p. 92, Notice of Resolution.
[30] *Id.* at 94–112.

On September 26, 2024, respondents filed by registered mail an *Entry of Appearance with Motion for Additional Time to File Comment/ Opposition*,[31] which the Court noted and deemed granted on November 7, 2024.[32]

On October 4, 2024, respondents filed, *via* registered mail, their *Comment/ Opposition (To: Petitioner TeaM (Philippines) Energy Corporation's Petition for Review dated 2 August 2024).*[33]

On November 7, 2024, the Court directed the Branch Clerk of the court *a quo* to elevate the entire original record of the case within ten (10) days from notice.[34]

On December 4, 2024, the Court received the *Indorsement November 14, 2024*[35] from Atty. Denji G. Cosico, Branch Clerk of the court *a quo*, transmitting the entire records of the case, consisting of two (2) volumes with 1,114 pages.

On December 17, 2024, the Court noted the *Indorsement* dated November 14, 2024, and submitted the case for decision.[36]

THE ISSUES

Petitioner raises the following grounds for the Court's resolution:

I. The 2022 and 2023 Tax Orders of Payment are not the *"notices of assessment"* contemplated by Section 195 of the LGC. Thus, the periods and procedure in Section 195 do not apply.

I.A. Billing statements issued by LGUs as regular or ordinary means of collecting LBT from taxpayers applying to renew their business permits are not assessments subject to Section 195 of the LGC. Because there is no *"notice of assessment"* as contemplated by Section 195, Section 196 would apply.

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31 *Id.* at 113–116.
32 *Id.* at 348–349, Notice of Resolution.
33 *Id.* at 124–178.
34 *Id.* at 348–349, Notice of Resolution.
35 *Id.* at 351.
36 *Id.* at 352.

I.B. Because the 2022 and 2023 Tax Orders of Payment are not *"notices of assessment"* under Section 195, the proper reglementary period to file a claim for refund is two (2) years from payment of the LBT, as prescribed under Section 196 of the LGC.

I.C. The Administrative Claim and TPEC's Complaint were timely filed in accordance with Section 196 of the LGC.

II. Section 187 of the LGC does not apply because the issue of whether the LBT rate for *"contractors and other independent contractors"* with gross sales or receipts of ₱2,000,000.00 or more under Section 2A.02(E) of the Revised Revenue Code exceeds the maximum allowable increase of tax rates under Section 191 in relation to Section 143(e) of the LGC is a pure question of law, which is an exception to the rule on exhaustion of administrative remedies.

III. Because this case involves a pure question of law, this Honorable Court may grant the relief prayed for in TPEC's Complaint without remanding the case to the Lower Court.

Petitioner's arguments:

Petitioner argues that the 2022 and 2023 TOPs are not the "notices of assessment" contemplated under Section 195 of the LGC because none of these indicated that petitioner was liable for deficiency taxes, surcharges, interests, and penalties for those years. For this reason, petitioner asserts that it is not required to comply with the periods prescribed by Section 195, and that only the two (2)-year period provided under Section 196 of the LGC is applicable, which petitioner claims it duly complied with. According to petitioner, its administrative claim with respondent Treasurer and the *Complaint* with the court *a quo* were both timely filed within two (2) years from the first LBT payment for which it seeks a refund or credit in this case.

Petitioner further argues that since the only issue raised in the Complaint with the court *a quo* was whether the LBT rate for "contractors and other independent contractors" with gross sales or receipts of ₱2,000,000.00 or more under Section 2A.02(E) of the Revised Revenue Code exceeds the maximum allowable increase of tax rates under Section 191, in relation to Section 143(e) of the LGC, which is a pure question of law, petitioner need not appeal to the Secretary of Justice under Section 187 of the LGC. Thus, petitioner submits that it is

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entitled to a refund or credit of ₱1,971,013.48 for the excess LBT paid in 2022 and ₱2,795,105.08 for the excess LBT paid in 2023.

Respondents' counter-arguments:

Respondents contend that the court *a quo* correctly dismissed the case since petitioner had no cause of action due to its failure to timely assail the validity of Section 2A.02(E) of the Revised Revenue Code pursuant to Section 187 of the LGC. Respondents echo the findings of the court *a quo* that although styled as "Tax Orders of Payments", these are the "notices of assessment" contemplated under Section 195 of the LGC. Thus, respondents conclude that the twin conditions of complying with the 60-day and thirty (30)-day requirements for filing an administrative claim for tax refund under Section 195 of the LGC must be met. Even so, petitioner's claim that the rates charged by respondents were excessive has no basis, considering that the Revised Revenue Code remains valid.

THE COURT'S RULING

The *Petition for Review* is partly meritorious.

The present Petition for Review is timely filed.

Before delving into the substantive issues, the Court shall first determine whether it has **jurisdiction** to take cognizance of this case.

Section 7(a)(3) of Republic Act (RA) No. 9282, which amended RA No. 1125, provides:

> SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> ....
>
> (3) Decisions, **orders**, or resolutions **of the Regional Trial Court in local tax cases originally decided or resolved by them in the exercise of their original** or appellate **jurisdiction**; (Emphasis supplied)

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The above provision is implemented by Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), which states:

> SEC. 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division 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**. (Emphasis supplied)

The records show that on July 5, 2024,[37] petitioner received the assailed *Order* of the court *a quo* dismissing its *Complaint* for lack of cause of action. Under Section 3(a), Rule 8 of the RRCTA,[38] petitioner had 30 days from receipt of the assailed Order, or until August 5, 2024,[39] to file an appeal before the CTA. Petitioner filed the instant *Petition for Review* on August 5, 2024, thereby complying with the prescribed period.

Having settled that the *Petition for Review* was timely filed, the Court likewise finds that it has the requisite jurisdiction to take cognizance of the case.

The 2022 and 2023 Tax Orders of Payment issued in this case do not constitute the "notices of assessment" contemplated under Section 195 of the LGC.

To determine the applicable legal remedy, the Court must first ascertain whether Section 195 or Section 196 of the LGC governs the present dispute. These provisions provide distinct remedies:

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37 Docket, p. 103, Compliance, Annex "A"; RTC Docket – Vol. 1, p. 530.

38 SEC. 3. *Who may appeal; period to file petition.* – A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, ...

39 The last day to file an appeal, August 4, 2024, fell on a Sunday, giving petitioner until the next working day, August 5, 2024 to file an appeal with this Court.

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

In *City of Manila v. Cosmos Bottling Corporation* (*Cosmos*),[40] as affirmed in *International Container Terminal Services, Inc. v. City of Manila* (*International Container*),[41] the Supreme Court discussed and clarified the distinction between these remedies:

> [Section 195 of the LGC] provides the procedure for contesting an assessment issued by the local treasurer; whereas, the second provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court. In Section 195, it is the written protest with the local treasurer that constitutes the administrative remedy; while in Section 196, it is the written claim for refund or credit with the same office. As to form, the law does not particularly provide any for a protest or refund claim to be considered valid. It suffices that the written protest or refund is addressed to the local treasurer expressing in substance its desired relief. The title or denomination used in

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[40] G.R. No. 196681, June 27, 2018 [Per J. Martires, Third Division].
[41] G.R. No. 185622, October 17, 2018 [Per J. Leonen, Third Division].

describing the letter would not ordinarily put control over the content of the letter.

Obviously, **the application of Section 195 is triggered by an assessment made by the local treasurer or his duly authorized representative for nonpayment of the correct taxes, fees or charges**. Should the taxpayer find the assessment to be erroneous or excessive, he may contest it by filing a written protest before the local treasurer within the reglementary period of sixty (60) days from receipt of the notice; otherwise, the assessment shall become conclusive. The local treasurer has sixty (60) days to decide said protest. In case of denial of the protest or inaction by the local treasurer, the taxpayer may *appeal* with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable. (Emphasis supplied)

On the other hand, **Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him**. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment. By necessary implication, the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive period but before the judicial action.

Unlike Section 195, however, **Section 196 does not expressly provide a specific period within which the local treasurer must decide the written claim for refund or credit**. It is, therefore, possible for a taxpayer to submit an administrative claim for refund very early in the two-year period and initiate the judicial claim already near the end of such two-year period due to an extended **inaction** by the local treasurer. In this instance, **the taxpayer cannot be required to await the decision of the local treasurer any longer, otherwise, his judicial action shall be barred by prescription**.

Additionally, **Section 196 does not expressly mention an assessment made by the local treasurer**. This simply means that its applicability does not depend upon the existence of an assessment notice. By consequence, a taxpayer may proceed to the remedy of refund of taxes even without a prior protest against an assessment that was not issued in the first place. This is not to say that an application for refund can never be precipitated by a previously issued assessment, for it is entirely possible that the taxpayer, who had received a notice of assessment, paid the assessed tax, fee or charge believing it to be **erroneous or illegal**. Thus, under such circumstance, **the taxpayer may subsequently**

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> **direct his claim pursuant to Section 196 of the LGC.** (Citations omitted; emphasis supplied)

In *International Container,* the Supreme Court reiterated the above discussion in this wise:

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

To summarize the rulings in *Cosmos* and *International Container*, the distinctions between Sections 195 and 196 of the LGC are set out below:

Element	Section 195: Protest of Assessment	Section 196: Claim for Refund or Tax Credit
Purpose	To **contest an assessment** issued by the local treasurer	To **recover taxes**, fees, or charges **already paid,** which were erroneously or illegally collected
Trigger event	Issuance of a **notice of assessment** by the local treasurer for deficiency taxes, fees, or charges.	**Erroneous or illegal collection** of local taxes, fees, or charges (even without a prior assessment).
How initiated; Remedy	**Written protest** must be filed with the local treasurer.	**Written claim for refund or tax credit** must be filed with the local treasurer.
Filing Period	Within **60 days** from receipt of the assessment notice.	Within **2 years** from the date of payment or the date when

		entitlement to a refund or tax credit arose.
Effect of Failure to File on Time	Assessment becomes **final and executory.**	Claim for refund or tax credit is **barred** (no action may be entertained in court).
Period for Local Treasurer to Decide	Local treasurer must decide **within 60 days** from filing of protest.	**No specific period** stated for the treasurer to act.
Remedy after Local Treasurer's Denial/Inaction	Appeal to **court** within **30 days** from denial or lapse of 60-day period.	If denied or unacted upon, taxpayer may bring the case to the **court**, still within the **2-year period** from the date of payment or when entitlement to refund or tax credit arose.

Thus, the key factor in determining whether Section 195 or 196 of the LGC applies hinges on the LGU's basis for the collection of the tax.[42] Section 195 applies in cases where a tax assessment is issued to the taxpayer, thereby presupposing the existence of a *valid* tax assessment; while Section 196 assumes relevance in instances where no such assessment exists.[43]

Here, petitioner contends that it properly availed of the remedy under Section 196 of the LGC, arguing that the 2022 and 2023 TOPs are not the notices of assessment contemplated under Section 195 of the LGC. Respondents disagree, maintaining that the 2022 and 2023 TOPs constitute notices of assessment and that petitioner's failure to file a protest within 60 days from receipt rendered the assessments final and unappealable, warranting the dismissal of the present Petition.

The court *a quo* concurred with respondents, ruling that the TOPs, although styled as "Orders of Payment," satisfied the requirements of the law to qualify as assessments, citing *Yamane v. BA Lepanto Condominium Corporation*[44] (*BA Lepanto*).[45] It concluded:

> Considering the fact that an assessment was issued for the pertinent periods, and considering further that no evidence exists that a written protest was filed by the taxpayer before the local treasurer within sixty (60) days from the receipt of the respective assessments on 17 January 2022 and 18 January 2023, the pertinent assessments have become final and executory, in accordance with the provisions of Section 195 of the LGC.

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[42] *Jose v. Tigerway Facilities and Resources, Inc.*, G.R. No. 247331, February 26, 2024 [Per J. J.Y. Lopez, Second Division], citing *International Container Terminal Services, Inc. v. City of Manila, et al.*, G.R. No. 185622, October 17, 2018 [Per J. Leonen, Third Division].

[43] *Jose v. Tigerway Facilities and Resources, Inc.*, G.R. No. 247331, February 26, 2024 [Per J. J.Y. Lopez, Second Division].

[44] G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division].

[45] Docket, pp. 67–68.

> As such, the same assessments can no longer be questioned before the court and the payments made thereon can no longer be subject of tax refund or tax credit under Section 195 of the LGC.[46]

However, this Court finds otherwise.

A closer examination of the 2022 and 2023 TOPs reveals that they do not meet the requirements for a valid notice of assessment under Section 195 of the LGC. In *BA Lepanto*, the Supreme Court emphasized that a valid notice of assessment under Section 195 must clearly state the nature of the tax, fee, or charge, as well as the amount of deficiency, and any applicable surcharges, interest, and penalties, *viz.*:

> Ostensibly, **the notice of assessment, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax**. **Section 195** of the Local Government Code does not go as far as to expressly **require that the notice of assessment** specifically cite the provision of the ordinance involved but it does require that it **state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties**. In this case, the notice of assessment sent to the Corporation did state that the assessment was for business taxes, as well as the amount of the assessment. There may have been *prima facie* compliance with the requirement under Section 195. However in this case, the Revenue Code provides multiple provisions on business taxes, and at varying rates. Hence, we could appreciate the Corporation's confusion, as expressed in its protest, as to the exact legal basis for the tax. **Reference to the local tax ordinance is vital**, for the power of local government units to impose local taxes is exercised through the appropriate ordinance enacted by the *sanggunian*, and not by the Local Government Code alone. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body. (Emphasis supplied)

The requirement laid down in *BA Lepanto,* that a notice of assessment must state both the factual and legal bases for the assessment, was reiterated in *National Power Corporation v. The Province of Pampanga*:[47]

> Verily, **taxpayers must be informed of the nature of the deficiency tax, fee, or charge, as well as the amount of deficiency, surcharge, interest, and penalty. Failure of**

[46] *Id.* at 68.
[47] G.R. No. 230648 (Resolution), October 6, 2021 [Per J. M.V. Lopez, First Division].

> **the taxing authority to sufficiently inform the taxpayer of the facts and law used as bases for the assessment will render the assessment void**. In *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, albeit involving national internal revenue taxes, the Court explained the importance of the notice requirement with due regard to the taxpayers' constitutional rights[.]
>
> ....
>
> Without doubt, the mandate of providing the taxpayer with notice of the facts and laws used as bases for the assessment is not to be mechanically applied. The purpose of this requirement is to adequately inform the taxpayer of the basis of the assessment to enable him to prepare for an intelligent or "effective" protest or appeal of the assessment or decision. Thus, substantial compliance with the law is allowed if the taxpayer is later fully apprised of the basis of the deficiency taxes assessment, which enabled him to file an effective protest.
>
> Here, **the Assessment Letter hardly complies with the requirements of Section 195 of the LGC and implementing rules that will enable NPC to file an effective protest**. The letter quoted provisions of the Tax Ordinance of the Province of Pampanga imposing franchise tax and penalties for non-payment or late payment. **Glaringly absent, however, are the amount of the alleged deficiency tax, surcharges, interest, and penalties.** The period covered by the assessment was not also indicated. Although Section 195 of the LGC does not expressly require the taxable period to be stated in the notice of assessment, the period is important to determine compliance with the prescriptive period when the Provincial Treasurer is authorized by law to assess and collect deficiency taxes. (Emphasis supplied)

Applying the foregoing, a review of the 2022 and 2023 TOPs shows that, while they indicate the amount and nature of the taxes and fees assessed, they fail to specify any deficiency amount; applicable surcharges, interest, or penalties due from petitioner; and the factual and legal bases for the assessed amounts.

Accordingly, the 2022 and 2023 TOPs do not constitute valid "notices of assessment" as required under Section 195 of the LGC.

In the absence of a valid notice of assessment issued by respondent Municipal Treasurer and considering petitioner's claim that it erroneously paid the LBT, the appropriate remedy

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lies under Section 196 of the LGC, which governs claims for refund or tax credit due to erroneous or illegal collection.

Petitioner timely availed of the remedy under Section 196 of the LGC.

Having settled that Section 196 of the LGC is the proper remedy in this case, given that no valid assessments were issued, the Court now proceeds to determine whether petitioner's written claim for refund was timely filed.

Petitioner alleges that it filed its administrative and judicial claims for refund on January 17, 2024, and January 19, 2024, respectively, both within the two (2)-year prescriptive period reckoned from its earliest payments under the 2022 and 2023 TOPs, which were made on January 20, 2022, and January 20, 2023, respectively, pursuant to Section 196 of the LGC.

As previously quoted, Section 196 of the LGC requires that a written claim for refund or tax credit must be first filed with the local treasurer. Thereafter, a case or proceeding must be brought in court within two (2) years from the date of payment of the erroneously or illegally collected tax, fee, or charge.

Records show that petitioner made the following payments of LBT to the Office of the Municipal Treasurer:

> For the 2022 TOP: on January 20, 2022, April 20, 2022, July 19, 2022, and October 19, 2022; and
>
> For the 2023 TOP: on January 20, 2023, April 20, 2023, July 20, 2023, and October 20, 2023.

Counting from the earliest payment made on January 20, 2022, petitioner had until **January 20, 2024**, to file first its administrative claim and then its judicial claim for refund. Petitioner filed its administrative claim on **January 17, 2024**, and its judicial claim on **January 19, 2024**, both within the allowable period.

A summary of the relevant dates is presented below:

<table>
<tr><th>TOP</th><th>Earliest Date of Payment</th><th>Administrative claim filed</th><th>Judicial claim filed</th><th>End of 2-year prescriptive period</th></tr>
<tr><td>2022</td><td>January 20, 2022</td><td rowspan="2">January 17, 2024</td><td rowspan="2">January 19, 2024</td><td>January 20, 2024</td></tr>
<tr><td>2033</td><td>January 20, 2023</td><td>January 20, 2025</td></tr>
</table>

In fine, petitioner correctly invoked Section 196 of the LGC, and both its administrative and judicial claims for refund were timely filed. Hence, the court *a quo* erred in dismissing the case.

Since no trial on the merits has yet been conducted and neither party has presented evidence, the Court finds it appropriate to remand the case to the court *a quo* for further proceedings. This remand will allow for the reception of evidence necessary to fully determine the factual and legal bases of the parties' respective claims and defenses. Specifically, the court *a quo* must determine whether petitioner is entitled to a refund or tax credit in the aggregate amount of ₱4,766,118.56, representing alleged excess LBT payments for the years 2022 and 2023.

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* is **PARTIALLY GRANTED**. The assailed *Order* dated June 25, 2024, issued by the Regional Trial Court (RTC) Branch 58, Lucena City, in Civil Case No. 2024-06, is hereby **REVERSED** and **SET ASIDE**.

Accordingly, the case is **REMANDED** to the RTC Branch 58, Lucena City, for further proceedings on the merits, specifically to determine the amount of excess local business tax, if any, to be refunded or credited in favor of petitioner.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G.DEL ROSARIO
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CERTIFICATION

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

ROMAN G.DEL ROSARIO
Associate Justice