REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

THE TREASURER OF THE CITY OF MANILA, Petitioner,	CTA AC NO. 74
	Members:
- versus -	ACOSTA, *Chairperson* UY, *and* FABON-VICTORINO, *JJ.*
UNILEVER PHILIPPINES, INC., Respondent.	Promulgated: DEC 06 2012 ; 10:30 a.m.

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DECISION

Fabon-Victorino, J.:

This is a Petition for Review filed by petitioner Treasurer of the City of Manila on May 30, 2011, assailing the (1) Consolidated Orders dated January 14, 2008[1] and (2) February 28, 2011,[2] both issued by the Manila Regional Trial Court (RTC), Branch 34, in the consolidated Civil Cases Nos. 04-111184, 05-113701, and 06-114828.

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[1] Annex "H", Petition for Review, docket, pp. 220 to 222.
[2] Docket, pp. 17 and 18; RTC Records (Civil Case No. 04-111184), pp. 647 to 648; RTC Records (Civil Case No. 05-113701), pp. 592 to 593; RTC Records (Civil Case No. 06-114828), pp. 642 to 643.

Petitioner alleges that the Treasurer of the City of Manila is a public official tasked to implement the City's Revenue Code[3] and to assess and collect all local taxes, license and permit fees within the City of Manila. Its current officer-in-charge is Treasurer Vicky L. Valientes, whose Office is located at the Ground Floor, Manila City Hall, Taft Avenue, Manila.

On the other hand, respondent Unilever Philippines, Inc. is a duly organized domestic corporation with principal office at 1351 United Nations Avenue, Manila.[4]

On October 6, 2004, respondent filed with petitioner a claim for refund of business taxes paid under Section 21 of the Manila Revenue Code for the 4th quarter of year 2002.[5] Shortly before the case first anniversary or on September 30, 2005, respondent filed the second claim for refund covering the business tax paid for the 4th quarter of 2003.[6] On March 28,

[3] Tax Ordinance No. 7794.
[4] The Parties, Petition for Review, docket, p. 129.
[5] Admitted in the Answer dated October 29, 2004 of petitioner, par. 3, p. 27 in RTC Record, Civil Case No. 04-111184. Par. 3 of the Answer admitted par. 9 of the Petition which alleged the filing of the administrative claim.
[6] Admitted in the Answer dated April 05, 2006 of petitioner, par. 4, p. 34 in RTC Record, Civil Case No. 05-113701. Par. 4 of the Answer admitted par. 9 of the Petition which alleged the filing of the administrative claim.

2006, the third claim for refund of business tax paid for the 2nd quarter of 2004 was filed by respondent.[7]

Petitioner did not act on respondent's claims for refund for the fourth and second quarters of year 2002[8] and 2004,[9] respectively. Petitioner however denied the claim for refund for the 4th quarter of 2003.[10]

In view thereof, respondent elevated the matter to the RTC via a series of Petitions for Refund the first of which was filed on October 15, 2004 and docketed as Civil Case No. 04-111184. The second Petition for Refund assailing the denial of respondent's claim for refund for the fourth quarter of 2003 was filed on October 14, 2005 and docketed as Civil Case No. 05-113701. The third Petition for Refund for payment made for the 2nd quarter of 2004 was filed on April 07, 2006 docketed as Civil Case No. 06-114828.

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[7] Admitted in the Answer dated April 24, 2006 of petitioner, par. 4, p. 27 in RTC Record, Civil Case No. 06-114828. Par. 4 of the Answer admitted par. 9 of the Petition which alleged the filing of the administrative claim.
[8] Admitted in par. 3 of the Answer of petitioner which admitted par. 9 of the Petition alleging the inaction, see RTC Record p. 27, RTC Record, Civil Case No. 04-111184.
[9] Admitted in par. 4 of the Answer of petitioner which admitted par. 9 of the Petition alleging the inaction, see RTC Record, p. 27, Civil Case No. 06-114828.
[10] Admitted in par. 4 of the Answer of petitioner which admitted par. 9 of the Petition alleging the denial of the claim for refund, see p. 34, RTC Record, Civil Case No. 05-113701; See also Annex "C," RTC Record p. 18 in Civil Case No. 05-113701.

In the three (3) Petitions for Refund, respondent uniformly prayed that it be declared not liable for business taxes under Section 21 of City of Manila's Revenue Code (Ordinance No. 7794), having already paid taxes imposed under Section 14 of the same code. That being the case, it should be refunded of the illegally collected business taxes it paid in the amount of P11,350,041.07 for the fourth quarter of year 2002 (Civil Case No. 04-111184), P13,724,446.00 for the fourth quarter of year 2003 (Civil Case No. 05-113701), and P14,046,216.61 for the second quarter of year 2004 (Civil Case No. 06-114828).

The amount of P11,350,041.07 business tax for the 4th quarter of year 2002 was paid by respondent on October 18, 2002, as evidenced by Official Receipt No. 77987,[11] while the amount of P13,724,446.00 for the 4th quarter of year 2003 was paid on October 17, 2003, per Official Receipt No. 131853.[12] The business tax of P14,046,216.61 for the 2nd quarter of year 2004 was paid on April 19, 2004, as indicated in Official Receipt No. 141001.[13]

Significantly, all the foregoing payments for business taxes for the relevant quarters of the years 2002, 2003, and 2004

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[11] Annex "A," RTC Record, Civil Case No. 04-111184, p. 15.
[12] Annex "A," RTC Record, Civil Case No. 05-113701, p. 12.
[13] Annex "A," RTC Record, Civil Case No. 06-114828, p. 10.

were admitted by petitioner in the Answers to the (3) three petitions filed with the RTC. [14]

On June 15, 2007, the RTC rendered a Consolidated Decision dismissing the three (3) Petitions for Refund for lack of merit, the dispositive portion of which reads, as follows:

> ***WHEREFORE*** premises considered, this Court finds the taxes assessed and collected under Sections 21 and 14 of the Manila Revenue Code by the Respondent (herein petitioner) against the Petitioner (herein respondent) to be valid and lawful, hence the three Petitions for refund in Civil Cases Nos. 04-111184; 05-113701 and 06-114828 are **DENIED** for lack of merit.
>
> SO ORDERED.

Respondent sought to reverse the adverse decision[15] praying that respondent be declared not liable for business tax under Section 21 of the Manila Revenue Code having already paid business taxes under Section 14 thereof, and that petitioner be ordered to refund respondent the amount of business taxes it paid under Section 21.

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[14] RTC Record - (Civil Case No. 04-111184, Answer par. 2, p. 27); (Civil Case No. 05-113701, Answer par. 3, p. 34); (Civil Case No. 06-114828, Answer par. 3, p. 27) – all admitted the allegation in the Petitions for Refund pertaining to the payments made.

[15] RTC Records (Civil Case No. 04-111184), pp. 221 to 245; RTC Records (Civil Case No. 05-113701), pp. 226 to 250; RTC Records (Civil Case No. 06-114828), pp. 236 to 261.

In its Consolidated Orders promulgated on January 14, 2008, the RTC granted respondent's motion for reconsideration and set aside its earlier Consolidated Decision dated June 15, 2007 ordering petitioner to refund the taxes claimed by respondent under the three Petitions for Refund. The dispositive portion of the Consolidated Orders reads as follows:

> Wherefore finding that Tax Ordinances Nos. 7988 and 8011 have been declared NULL and VOID by the Supreme Court, herein Respondent is hereby declared to have no power and authority to assess and tax Petitioner. Consequently, the motion for reconsideration is hereby granted directing the Respondents to refund the following amounts to the Petitioner, to wit:
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> In Civil Case no. 04-111184, the amount of Php11,350,041.07 assessed and collected by the Respondent for the fourth quarter of year 2002;
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> In Civil Case No. 05-113701, the amount of Php13,724,446.00 assessed and collected by the Respondent for the fourth quarter of year 2003;
>
> In Civil Case No. 06-114828, the amount of Php14,046,216.61 assessed and collected by the Respondent for the fourth (sic) quarter of year 2004.
>
> SO ORDERED.

Petitioner, on February 6, 2008, assailed the RTC's ruling via a Motion for Reconsideration (of the Consolidated Orders dated January 14, 2008)[16] which the RTC denied in its Consolidated Orders[17] dated February 28, 2011, in this wise:

> *WHEREFORE, the respondent's (herein petitioner) Motion for Reconsideration is hereby denied for lack of merit and the Consolidated Orders dated January 14, 2008 is hereby affirmed and reiterated en toto.*
>
> *SO ORDERED.*

In the three (3) Petitions for Refund, respondent uniformly prayed that it be declared not liable for business taxes under Section 21 of City of Manila's Revenue Code (Ordinance No. 7794), having already paid taxes imposed under Section 14 of the same code, hence, should be refunded of the illegally collected business taxes it paid in the amount of P11,350,041.07 for the fourth quarter of year 2002 (Civil Case No. 04-111184), P13,724,446.00 for the fourth quarter of year 2003 (Civil Case No. 05-113701), and P14,046,216.61 for the second quarter of year 2004 (Civil Case No. 06-114828).

Hence, the instant Petition for Review filed on May 30, 2011, with the following Assignment of Errors, to wit:

[16] RTC Records (Civil Case No. 04-111184), pp. 422 to 447; RTC Records (Civil Case No. 06-114828), pp. 431 to 456.
[17] Docket, pp. 17 and 18; RTC Records (Civil Case No. 04-111184), pp. 647 to 648; RTC Records (Civil Case No. 05-113701), pp. 592 to 593; RTC Records (Civil Case No. 06-114828), pp. 642 to 643.

1. The Honorable Court a quo erred in holding that petitioner has no power to tax respondent in view of the fact that Ordinances No. 7988 and 8011 were declared as null and void by the Supreme Court.

2. The Honorable Court a quo erred in not maintaining its June 15, 2007 decision declaring that there is no prohibited double taxation in the imposition of Section 21 against the respondent.

Respondent filed Comment on the Petition on August 03, 2011 in compliance with the Court Resolution dated June 29, 2011.[18]

On December 12, 2011, the instant case was submitted for decision, considering respondent's Memorandum filed on October 3, 2011 and that of petitioner's, on November 2, 2011.[19]

Petitioner contends that the RTC erred in not maintaining its July 15, 2007 Consolidated Decision insisting that there was no prohibited double taxation in the imposition under Section 21 of Manila Ordinance No. 7794 on respondent's manufacturing business. Sections 14 and 21 of the Ordinance are two distinct impositions. Section 21 is based on Section 143(h) of the Local Government Code (LGC), while Section 14 is derived under

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[18] Docket, p. 237.
[19] Resolution dated December 12, 2011, docket, p. 404.

Section 143(a) of the LGC. Section 14 is the tax imposed on manufacturers, assemblers and other processors, while Section 21, on any other business not otherwise specified under Section 143(a) to (f) of the LGC. Section 14 of the Manila Revenue Code covers the business of respondent as manufacturer of goods, while Section 21 is for being a business enterprise subject to excise, value-added or percentage taxes under the National Internal Revenue Code (NIRC).

Besides, Section 21 is an original provision of Ordinance No. 7794 upon which the questioned assessment and collection were based. On the other hand, Ordinance Nos. 7988 and 8011 are mere amendatory ordinances the declaration of which as null and void did not affect petitioner's authority to tax respondent under Section 21 of Ordinance No. 7794.

Further, double or even multiple taxation, is not *per se* prohibited by law. Double taxation only becomes prohibited when it violates the equal protection clause of the Constitution or when it is not uniformly applied to members of the same class. The City of Manila, according to petitioner, is not guilty of any violation of this principle as it provided no exceptions to any class who are liable for business tax under Section 21.

Further, the complained assessment and collection occurred prior to the promulgation of the decision in the *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[20] *(Coca Cola case),* declaring as null and void Manila City Ordinance Nos. 7988 and 8011. The consolidated cases were still pending when the decision was rendered. Therefore at that time, Ordinance Nos. 7988 and 9011 were still valid and effective. Allegedly, the acts done prior to the declaration of nullity of a law or ordinance must be given due respect and obedience.

Finally, petitioner avers that Section 21 imposed an indirect tax and that the tax subject of refund was collected by respondent as a withholding agent from its customers or end-users. Consequently, respondent is not entitled to the refund of the amount it never paid, in the first place.

Respondent counters that petitioner, without hesitation, admitted that Ordinance Nos. 7988 and 8011 amended Section 21 of the Manila Revenue Code and that subsequently these amendatory ordinances were declared null and void by the Supreme Court in the *Coca-Cola case*. In fine, no tax may be legally collected by virtue of said invalidated ordinances.

[20] G.R. No. 156252, June 27, 2006.

Following the premise, the business tax collected by petitioner and paid by respondent should be refunded

According to respondent, petitioner is mistaken in claiming that the tax imposed and collected under Section 21, when the said Ordinances were still valid and enforceable, cannot be invalidated by the subsequent promulgation of the decision in the *Coca Cola case*. This is on the ground that acts done pursuant to a nullified law can only be recognized if the same does not have any prejudicial effect, which is clearly not attendant in this case.

Moreover, a reading of the law reveals that the imposition of taxes under Sections 14 and 21 constitutes prohibited double taxation, given that they are imposed on the same subject matter, for the same purpose, by the same taxing authority, within the same jurisdiction, during the same taxing period. In the case of *Swedish Match Philippines vs. The Treasurer of the City of* Manila,[21] this Court had allegedly ruled that the imposition of both Sections 14 and 21 constitute double taxation in its obnoxious form. On appeal however, the case was dismissed by the Supreme Court for being the wrong remedy.

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[21] CTA AC No. 15, July 21, 2006.

A similar ruling was laid down in the case of *Unilever Philippines, Inc. vs. The Treasurer of the City of Manila*,[22] which became final and executory for failure to appeal. Inevitably, the ruling of this Court in these cases already constitutes the "law of the case" and may be applied to the instant case, having the same parties, issues, and subject matter.

Respondent also totally disagrees with petitioner that it was a mere withholding agent and the taxes imposed under Section 21 was paid for by its customers, thus it has no right to seek for refund of an amount it did not pay. Following petitioner's logic that it is the end user who is being taxed under Section 21, therefore it is the purchase of goods that is being taxed. A fortiori, the contention that Section 21 is a tax on business activity subject to excise, VAT or percentage tax and not on purchases is flawed. Further, when the one taxed is the end user, then the imposition of business tax under Section 21 is illegal simply because local governments have no authority to tax end users or to appoint withholding agents pursuant to the LGC upon which Section 21 is based.

Above all, Section 21 is anchored on Section 143(h) of the LGC while Section 14, on Section 143(a) of the same Code. In

[22] CTA AC No. 25, June 18, 2007.

view thereof, Section 21 is illegal since Section 143(h) explicitly excludes from its coverage those already subject to tax under Section 143(a), which in turn is the basis of Section 14. Also, prohibited double taxation exists since Section 14, by virtue of Section 143(a) of the LGC, imposes business tax on manufacturers while Section 21, which is based on Section 143(h) of the LGC, imposes the same business tax on businesses subject to excise tax, VAT or percentage taxes under the NIRC. This is proscribed under Section 143(h) of the LGC which does not allow the imposition of taxes to those already taxed under Section 143(a).

The arguments traded by the parties synthesized their issues into whether the RTC committed reversible error in issuing the assailed Consolidated Orders of January 14, 2008[23] and February 28, 2011[24] in Civil Case Nos. 04-111184, 05-113701, and 06-114828, which held that the business taxes under Section 21 of the Manila Revenue Code were illegally collected rendering respondent entitled to refund.

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[23] Annex "H", Petition for Review, docket, pp. 220 to 222.
[24] Docket, pp. 17 and 18; RTC Records (Civil Case No. 04-111184), pp. 647 to 648; RTC Records (Civil Case No. 05-113701), pp. 592 to 593; RTC Records (Civil Case No. 06-114828), pp. 642 to 643.

But the Court must first determine the timeliness of the instant appeal. Section 196 of the LGC laid down the rules, thus:

> SECTION 196. *Claim for Refund of Tax Credit.* — No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

In the instant case, it is admitted that petitioner paid the alleged erroneously collected taxes subject of the refund as follows:

Amount paid	Date of payment	Period covered
P11,350,041.07	October 18, 2002	4th quarter of 2002
P13,724,446.00	October 17, 2003	4th quarter of 2003
P14,046,216.61	April 19, 2004	2nd quarter of 2004

Under Section 196 of the LGC, both the administrative and the judicial claim for refund must be filed within two (2) years from the date of payment of the tax or penalty.

Evidently, the administrative claims for refund filed with petitioner on October 6, 2004, for the 4th quarter of year 2002; on September 30, 2005, for the 4th quarter of 2003; and on March 28, 2006 for the 2nd quarter of 2004, were filed within the two-year prescriptive period.

The same is true with respondent's judicial claim filed with the RTC on October 15, 2004 for the 4th quarter of year 2002; on October 14, 2005 for the 4th quarter of 2003; and on April 7, 2006 for the 2nd quarter of 2004.

Moving to the merits of the case, Sections 14 and 21 of the Manila Revenue Code, as amended, state as follows:

> SECTION 14. *Tax on Manufacturers, Assemblers and other Processors* - There is hereby imposed a graduated tax on manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with the following schedule:
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> xxx xxx xxx
>
> SECTION 21. – *Tax on Business Subject to the Excise, Value-Added or Percentage Taxes Under the NIRC* – On any of the following businesses and articles of commerce subject to the excise, value-added or percentage taxes under the National Internal Revenue Code hereinafter referred to as NIRC, as amended, a tax of fifty

> percent (50%) of one percent (1%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed:
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> A) On persons who sell goods and services in the course of trade or business, and those who import goods whether for business or otherwise, as provided for in Sections 100 to 103 of the NIRC as administered and determined by the Bureau of Internal Revenue pursuant to the pertinent provisions of the said Code.
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> xxx xxx xxx
>
> **PROVIDED, that all registered businesses in the City of Manila that are already paying the aforementioned tax shall be exempted from payment thereof.** *(Emphasis supplied)*

Section 21 of Ordinance No. 7794, as amended, specifically provides that "all registered businesses in the City of Manila that are already paying the aforementioned tax shall be exempted from payment thereof." The proviso on exemption in Section 21 of Ordinance No. 7794 was subsequently deleted when Ordinance No. 7988 was enacted by the Local Government of Manila.

Subsequently however, Ordinance Nos. 7988 and 8011 were categorically declared null and void in the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, Liberty M. Toledo-City*

Treasurer and Joseph Santiago-Chief, Licensing Division.[25] The pertinent portion of the Decision reads as follows:

> It is undisputed from the facts of the case that Tax Ordinance No. 7988 has already been declared by the DOJ Secretary, in its Order, dated 17 August 2000, as null and void and without legal effect due to respondents' failure to satisfy the requirement that said ordinance be published for three consecutive days as required by law. Neither is there quibbling on the fact that the said Order of the DOJ was never appealed by the City of Manila, thus, it had attained finality after the lapse of the period to appeal.
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> Furthermore, the RTC of Manila, Branch 21, in its Decision dated 28 November 2001, reiterated the findings of the DOJ Secretary that respondents failed to follow the procedure in the enactment of tax measures as mandated by Section 188 of the Local Government Code of 1991, in that they failed to publish Tax Ordinance No. 7988 for three consecutive days in a newspaper of local circulation. From the foregoing, it is evident that Tax Ordinance No. 7988 is null and void as said ordinance was published only for one day in the 22 May 2000 issue of the Philippine Post in contravention of the unmistakable directive of the Local Government Code of 1991.
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> Despite the nullity of Tax Ordinance No. 7988, the court *a quo*, in the assailed Order, dated 8 May 2002, went on to dismiss petitioner's case on the force of the enactment of Tax Ordinance No. 8011, amending Tax Ordinance No. 7988. Significantly, said amending ordinance was likewise declared null and void by the DOJ Secretary in a Resolution, dated 5 July 2001, elucidating that *"[I]nstead of amending Ordinance No. 7988, [herein] respondent*

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[25] G.R. No. 156252, June 27, 2006.

> *should have enacted another tax measure which strictly complies with the requirements of law, both procedural and substantive.* ***The passage of the assailed ordinance did not have the effect of curing the defects of Ordinance No. 7988 which, any way, does not legally exist.*** *"* Said Resolution of the DOJ Secretary had, as well, attained finality by virtue of the dismissal with finality by this Court of respondents' Petition for Review on *Certiorari* in G.R. No. 157490 assailing the dismissal by the RTC of Manila, Branch 17, of its appeal due to lack of jurisdiction in its Order, dated 11 August 2003.
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> Based on the foregoing, this Court must reverse the Order of the RTC of Manila, Branch 21, dismissing petitioner's case as there is no basis in law for such dismissal. The amending law, having been declared as null and void, in legal contemplation, therefore, does not exist. Furthermore, even if Tax Ordinance No. 8011 was not declared null and void, the trial court should not have dismissed the case on the reason that said tax ordinance had already amended Tax Ordinance No. 7988. As held by this Court in the case of *People v. Lim*, if an order or law sought to be amended is invalid, then it does not legally exist, there should be no occasion or need to amend it.

Such declaration effectively reinstated the deleted proviso in Section 21 of Ordinance No. 7794 rendering it enforceable with all its legal consequences. Thus, the tax imposed under Section 21 of Ordinance No. 7794 upon the taxpayer who is already burdened under Section 14 becomes illegal as mandated before the passage of the invalidated Ordinance No. 7988. This certainly defeats petitioner's argument that the validity of

Section 21 was not affected by the pronouncement of the Supreme Court in the *Coca Cola case* [26] that both Ordinance Nos. 7988 and 8011 were null and void.

The application of the exempting proviso of Section 21 under Ordinance No. 7794, as well as the invalidity of imposing business tax under both Sections 14 and 21 of the Ordinance was succinctly explained by the Supreme Court, in this wise:

> Petitioners insist that even with the declaration of nullity of Tax Ordinance No. 7988 and Tax Ordinance No. 8011, respondent could still be made liable for local business taxes under both Sections 14 and 21 of Tax Ordinance No. 7944 as they were originally read, without the amendment by the null and void tax ordinances.
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> Emphasis must be given to the fact that prior to the passage of Tax Ordinance No. 7988 and Tax Ordinance No. 8011 by petitioner City of Manila, petitioners subjected and assessed respondent only for the local business tax under Section 14 of Tax Ordinance No. 7794, but never under Section 21 of the same. **This was due to the clear and unambiguous *proviso* in Section 21 of Tax Ordinance No. 7794, which stated that 'all registered business in the City of Manila that are already paying the aforementioned tax shall be exempted from payment thereof.' The 'aforementioned tax' referred to in said *proviso* refers to local business tax. Stated differently, Section 21 of Tax Ordinance No. 7794 exempts**

[26] The City of Manila, et al. vs. Coca-Cola Bottlers Philippines, Inc., G.R. No. 181845, August 4, 2009.

from the payment of the local business tax imposed by said section, businesses that are already paying such tax under other sections of the same tax ordinance. The said *proviso*, however, was deleted from Section 21 of Tax Ordinance No. 7794 by Tax Ordinances No. 7988 and No. 8011. Following this deletion, petitioners began assessing respondent for the local business tax under Section 21 of Tax Ordinance No. 7794, as amended.

The Court easily infers from the foregoing circumstances that petitioners themselves believed that prior to Tax Ordinance No. 7988 and Tax Ordinance No. 8011, respondent was exempt from the local business tax under Section 21 of Tax Ordinance No. 7794. Hence, petitioners had to wait for the deletion of the exempting *proviso* in Section 21 of Tax Ordinance No. 7794 by Tax Ordinance No. 7988 and Tax Ordinance No. 8011 before they assessed respondent for the local business tax under said section. Yet, with the pronouncement by this Court in the *Coca-Cola* case that Tax Ordinance No. 7988 and Tax Ordinance No. 8011 were null and void and without legal effect, then Section 21 of Tax Ordinance No. 7794, as it has been previously worded, with its exempting *proviso*, is back in effect. Accordingly, respondent should not have been subjected to the local business tax under Section 21 of Tax Ordinance No. 7794 for the third and fourth quarters of 2000, given its exemption therefrom since it was already paying the local business tax under Section 14 of the same ordinance.

Petitioners obstinately ignore the exempting *proviso* in Section 21 of Tax Ordinance No. 7794, to their own detriment. Said exempting proviso was precisely included in said section so as to

> avoid double taxation. *(Emphasis supplied)*[27]

From the ruling, it is Ordinance No. 7988 that allowed petitioner to impose taxes under Section 21 simultaneously with Section 14. There is no escaping the reality that the declaration of nullity of the amendatory ordinances revived or once again breathed life into the exempting proviso of Section 21 of Ordinance No. 7794 proscribing its imposition of business tax on top of that under Section 14.

Relevantly, the facts as established during the trial remained undisputed. Petitioner as earlier stated admitted in the Answer filed with the RTC that the respondent paid the alleged amounts. Under the obtaining circumstances, petitioner is proscribed from collecting business tax pursuant to Section 21 of Manila Revenue Code as it already collected business tax from respondent under Section 14 of the same Ordinance.

Anent petitioner's argument that Sections 14 and 21 of the Manila Revenue Code are two distinct tax impositions, hence there is no obnoxious double taxation in their simultaneous

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[27] *Id.*

imposition, the Supreme Court in the above cited *Coca-Cola case* had this to say:

> Double taxation means taxing the same property twice when it should be taxed only once; that is, 'taxing the same person twice by the same jurisdiction for the same thing.' It is obnoxious when the taxpayer is taxed twice, when it should be but once. Otherwise described as 'direct duplicate taxation,' **the two taxes must be imposed on the same subject matter**, for the **same purpose**, by the **same taxing authority, within the same jurisdiction, during the same taxing period**; and the taxes must be **of the same kind or character**.
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> **Using the aforementioned test, the Court finds that there is indeed double taxation if respondent is subjected to the taxes under both Sections 14 and 21 of Tax Ordinance No. 7794, since these are being imposed: (1) on the same subject matter – the privilege of doing business in the City of Manila; (2) for the same purpose – to make persons conducting business within the City of Manila contribute to city revenues; (3) by the same taxing authority – petitioner City of Manila; (4) within the same taxing jurisdiction – within the territorial jurisdiction of the City of Manila; (5) for the same taxing periods – per calendar year; and (6) of the same kind or character – a local business tax imposed on gross sales or receipts of the business.**
>
> The distinction petitioners attempt to make between the taxes under Sections 14 and 21 of Tax Ordinance No. 7794 is specious. The Court revisits Section 143 of the LGC, the very source of the power of municipalities and cities to impose a local business tax, and to which any local business

> tax imposed by petitioner City of Manila must conform. **It is apparent from a perusal thereof that when a municipality or city has already imposed a business tax on manufacturers, *etc.* of liquors, distilled spirits, wines, and any other article of commerce, pursuant to Section 143(a) of the LGC, said municipality or city may no longer subject the same manufacturers, *etc.* to a business tax under Section 143(h) of the same Code.** Section 143(h) may be imposed only on businesses that are subject to excise tax, VAT, or percentage tax under the NIRC, and that are '**not otherwise specified in preceding paragraphs**.' **In the same way, businesses such as respondent's, already subject to a local business tax under Section 14 of Tax Ordinance No. 7794 [which is based on Section 143(a) of the LGC], can no longer be made liable for local business tax under Section 21 of the same Tax Ordinance [which is based on Section 143(h) of the LGC].** *(Emphasis supplied)*[28]

It is also worth to note that this Court in *The Treasurer of the City of Manila vs. Unilever Philippines, Inc.*[29] held that the *Coca Cola case* is considered *stare decisis* in the case at bench, thus:

> The Coca Cola case is a *stare decisis* in the case at bench. The subjects of the instant petition are Sections 14 and 21 of Ordinance No. 7988, as amended by Ordinance No. 8011. As stated by the Supreme Court, Ordinance No. 7988, as amended by Ordinance 8011 is null and void. An invalid ordinance does not, in legal contemplation, exist. A municipal tax

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[28] *Id.*
[29] CTA AC No. 33, May 21, 2008.

> ordinance empowers a local government unit to impose taxes. The power to tax is the most effective instrument to raise needed revenues to finance and support the myriad activities of local government units for the delivery of basic services essential to the promotion of the general welfare and enhancement of peace, progress, and prosperity of the people. In the present case, petitioner gets its authority to tax the respondent from the invalid ordinance. The authority of the City of Manila to impose taxes by virtue of the Local Government Code is not absolute. It cannot impose taxes that constitute a violation of the constitutional principle of uniformity and equal protection in taxation.
>
> Moreover, jurisprudential rule states that only decisions of the Supreme Court are authoritative and precedent setting. Since the Coca Cola case is a *stare decisis* in the instant case, the ruling of the High Court, will, generally, be followed by the same court and by all courts of lower rank in subsequent cases where the same legal issue is raised. Thus, petitioner is not correct in stating that it has no doctrinal effect in the instant petition. We affirm the court *a quo's* decision in relying with the case of *Coca Cola Bottlers Philippines, Inc. vs. City of Manila, et. al.*

Stare decisis et non quieta movere. Stand by the decisions and disturb not what is settled. *Stare decisis* means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.[30]

WHEREFORE, the instant Petition for Review dated May 26, 2011 filed by petitioner City Treasurer of Manila is hereby **DENIED,** for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

ERNESTO D. ACOSTA
Presiding Justice

ERLINDA P. UY
Associate Justice

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[30] *Lazatin, et al. vs. Desierto, et al.*, G.R. No. 147097, June 5, 2009, citing *Chinese Young Men's Association of the Philippine Islands vs. Remington Steel Corporation*, G.R. No. 159422, March 28, 2008.

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's Division.

ERNESTO D. ACOSTA
Presiding Justice