REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

THE CITY OF MANILA, LIBERTY M. TOLEDO, in her capacity as the Treasurer of Manila and JOSEPH SANTIAGO, in his capacity as Chief License Division of City of Manila,
Petitioners,

- versus -

COCA-COLA BOTTLERS PHILIPPINES,
Respondent.

C.T.A. AC NO. 32

Members:

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:

OCT 2 4 2008
8:07 a.m.

x- x

DECISION

UY, J.:

In this Petition for Review filed through registered mail on May 30, 2007 and duly received by this Court on June 4, 2007, petitioners seek a review of the Order dated April 4, 2007 issued by the Regional Trial Court of Manila, Branch 47, in Civil Case No. 03-105902 entitled "Coca-Cola Bottlers Philippines, petitioner vs. City of Manila, Liberty M. Toledo, in her official capacity as the City Local Treasurer of Manila and Joseph M. Santiago, in his capacity as Chief License Division of the City of Manila, respondents,"[1] the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Motion for Reconsideration filed by the Respondents is DENIED for lack of merit.
>
> **SO ORDERED**.
>
> Manila, Philippines, April 4, 2007."

Said Order denied the Motion for Reconsideration of the Order dated November 16, 2006 (filed by the petitioners herein), reversing the court *a quo*'s earlier Decision dated May 15, 2006 dismissing the petition filed by Coca-Cola Bottlers Philippines for the cancellation of assessment for business taxes for the years 2001 to First Quarter of 2003 and for the refund of the amount of Php30,161,272.85. Said amount was paid to the City of Manila under protest by respondent pursuant to Section 196 of Republic Act No. 7160, otherwise known as the Local Government Code (LGC) of 1991.

THE FACTS

The facts of the case, as culled from the records, are as follows:

Petitioner, City of Manila, is a public corporation created and existing under Republic Act (R.A.) No. 409, as amended. The co-petitioners are Liberty M. Toledo and Joseph Santiago; the former, is the Treasurer of the City of Manila (hereinafter referred to as the City Treasurer) tasked with the implementation of the City's Revenue Code, as well as the collection and assessment of business taxes, license fees, and permit fees within the City, while the latter, is the Chief of the License Division of the City of Manila

---

[1] Penned by Presiding Judge Augusto T. Gutierrez, Docket, pp. 31-32.

empowered to issue business permits to business establishments in the City of Manila.

On the other hand, respondent Coca-Cola Bottlers Philippines, is a domestic corporation duly organized under Philippine laws, with principal address at the 20th Floor, San Miguel Properties Center, No. 7 St. Francis Avenue, Ortigas Center, Mandaluyong City.

As found by the Court *a quo,* respondent is engaged in the business of manufacturing and selling various types of beverages. It has various branch offices in the City of Manila which are subject to the local business taxes imposed under Sections 14 and 15 of the Revenue Code of Manila (referring to Ordinance No. 7794 dated July 1, 1993 as amended by Ordinance No. 7807 dated September 27, 1993). Sections 14 thereof refers to tax on manufacturers, assemblers and other processors, while Section 15 of the same Code refers to tax on wholesalers, distributors, or dealers.

On January 20, 2003, petitioners issued ***Order of Payment No. 0178459*** or an Assessment consisting of two parts against respondent for:

1. local business taxes for the first quarter of 2003, with respect to respondent's business as manufacturer and wholesaler under Sections 14 and 15 of Tax Ordinance No. 8011 (amending Ordinance No. 7988, which amended the Revenue Code of Manila [RCM]);

2. local business taxes, plus penalty and interest for the years 2001, 2002, and 2003 under "S-21", or Section 21 of the RCM.

The assessment was computed as follows:[2]

[2] RTC Records, p. 429.

Manufacturer	P	979,325.24
Wholesale		14,128.96
Section 21 (2003)		3,086,091.78
Section 21 (2001)		13,358,508.60
Section 21 (2002)		13,386,006.70
Other charges		45,262.50
Total	**P**	**30,869,323.78**

On the same day, respondent wrote a letter to the City Treasurer and tendered a check in the amount of Php708,050.93, representing only the local business tax of respondent and permit fees for the first quarter of 2003. Respondent computed its local business tax based on Tax Ordinance No. 7794, as amended by Tax Ordinance No. 7807, because Tax Ordinance No. 8011 had allegedly been declared *null and void* by the Department of Justice.[3]

Through a Letter dated January 22, 2003, the City Treasurer acknowledged receipt of respondent's check and informed the latter that the amount tendered had been applied to its deficiency taxes in accordance with the Initial Assessment against respondent. Additionally, the City Treasurer informed respondent that the latter will not be issued a Mayor's Permit and Municipal License for the year 2003 if it does not pay the assessment contained in the Order of Payment.[4]

On January 29, 2003, respondent submitted a written protest assailing the assessment.[5] The next day, the City Treasurer denied the protest and ordered respondent to pay the assessment, even under protest, so that the latter can secure a Mayor's Permit and Business License for the year 2003; the absence of which will give rise to petitioners' right to enforce existing laws,

---

[3] RTC Records, pp. 430-431.
[4] RTC Records, p. 432.
[5] RTC Records, pp. 436-439.

ordinance, rules and regulations on business entities within its territorial jurisdiction starting February 1, 2003.[6]

On March 1, 2003, respondent filed a *Petition* before the Regional Trial Court (RTC) of Manila questioning the assessment. The case was raffled to Branch 47 of said court.[7] On March 3, 2003, the City Treasurer issued ***Order of Payment No. 0151858*** against respondent. This *Order of Payment*, which replaced *Order of Payment No. 0178459*, was issued to clarify that the remaining amount to be assessed against respondent after payment of P708,050.93 is P30,161,272.85.[8]

On March 4, 2003, respondent paid under protest the amount of P30,161,272.85 to the City of Manila.[9] On the same day, the City Treasurer wrote a letter to respondent in which she acknowledged the payment. However, the following assessments were further made by the former against the latter:

1. deficiency taxes for the year 2000 in the total amount of P16,547,951.15; and
2. additional penalty and interest for the period 2001 to 2003 in the amount of P2,370,762.26 issued under *Order of Payment No. 0151862.*[10]

On April 30, 2003, respondent wrote a letter to the City Treasurer claiming refund of Php30,161,272.85, which the former paid under protest, and protesting the assessment of penalties and interest in connection thereto in the amount of Php2,370,762.26.[11] On May 15, 2003, the City Treasurer

[6] RTC Records, pp. 440-441.
[7] RTC Records, pp. 1-34.
[8] RTC Records, pp. 444.
[9] RTC Records, pp. 445.
[10] RTC Records, pp. 449-450.
[11] RTC Records, pp. 451-456.

denied respondent's claim for refund and protest.[12] Prior to the denial of the claim and protest, or on March 25, 2003, the City Treasurer issued ***Order of Payment No. 0193092*** in the amount of P10,019,224.65 against respondent representing alleged deficiency taxes, penalties and interest imposed under Tax Ordinance No. 8011 for the year 2002.[13] Respondent protested this assessment on May 23, 2003.[14] Thereafter, respondent filed a *Supplemental Petition* on July 2, 2003.[15]

On July 18, 2003, the City Treasurer issued ***Order of Payment No. 0200737*** in the amount of Php10,516,297.43 against respondent.[16] This assessment updated the amount of penalties and interest initially contained in ***Order of Payment No. 0193092*** by an additional amount of Php497,702.78. Subsequently, respondent filed a *Second Supplemental Petition* on August 18, 2003.[17]

Also on July 18, 2003, the City Treasurer issued ***Order of Payment No. 0200738*** in the amount of Php31,967,227.66 against respondent which consisted of the following assessments:

1. a revised assessment for deficiency taxes in the amount of Php18,583,932.04 for the third and fourth quarters of the year 2000;

2. a revised assessment for penalties and interest in the amount of Php3,898,351.24 for late payment of the assessment under *Order of Payment No. 0151858*; and

nd

[12] RTC Records, p. 459.
[13] RTC Records, p. 460.
[14] RTC Records, pp. 461-465.
[15] RTC Records, pp. 134-157.
[16] RTC Records, p. 484.
[17] RTC Records, pp. 247-283.

3. an original assessment for deficiency local business taxes, penalties and interest in the amount of Php9,484,944.38 for the second and third quarters of the year 2003.[18]

Consequently, respondent filed a Third Supplemental Petition on December 15, 2003.[19] On May 15, 2006, the court *a quo* rendered a decision dismissing respondent's Petition.[20] Respondent moved to reconsider the Decision on July 19, 2006.[21]

In the Order dated November 16, 2006, the court *a quo* reversed its own Decision dated May 15, 2006 whereby it ordered petitioner City of Manila to cancel and withdraw the assessments, and to refund the amount of Php30,161,272.85 which respondent paid. The dispositive portion thereof reads:

> "**WHEREFORE**, premises considered, the Motion for Reconsideration/Supplemental Motion for Reconsideration filed by the petitioner (respondent herein) is given due course. The decision of this Court dated May 15, 2006 insofar as it denied the reliefs prayed for by the petitioner (respondent herein) and dismissing the petition is reconsidered and reversed. A new judgment is hereby rendered ordering the respondents (petitioners herein) to:
>
> A. Cancel and withdraw their assessment for business taxes for years 2001 to 1st quarter of 2003 against the petitioner (respondent herein):
>
> 1. Initial Assessment and Substitute Assessment in the total amounts of P30,869,323.78 and P30,161,272.85 respectively;
>
> 2. First Additional Assessment in the total amount of P2,370,762.46;

---

[18] RTC Records, pp. 485-488.
[19] RTC Records, pp. 325-340.
[20] RTC Records, pp. 709-730.
[21] RTC Records, pp. 769-802.

3. Second Additional Assessment in the total amount of P10,019,224.65; and

4. Revised Second Additional Assessment in the total amount of P10,516,297.43, and

5. Revised First Additional Assessment and the Third Additional Assessment contained in the Order of Payment in the total amounts of P3,898,351.24 and P9,484,944.38, respectively;

B. Refund the amount of P30,161,272.85 paid by the petitioner under protest as amount illegally assessed by respondents under a void provision of the Revenue Code of the City of Manila, or alternatively, to issue a tax credit to the petitioner for said amount.

SO ORDERED.

Manila, November 16, 2006."[22]

Petitioners filed a Motion for Reconsideration[23] of said Order. In the Order dated April 4, 2007, [24] the court *a quo* denied said Motion for Reconsideration and affirmed its Order dated November 16, 2006.

Hence, this Petition for Review filed on May 30, 2007 *via* registered mail and received by this Court on June 4, 2007. Petitioners raise the following errors committed by the court *a quo*, *viz*:

I- THE HONORABLE COURT ERRED IN REVERSING ITS MAY 15, 2006 ORDER DISMISSING THE PETITION FOR REFUND AND CANCELLATION OF ASSESSMENT.

II- THE HONORABLE COURT ERRED IN HOLDING THAT HEREIN PETITIONERS SHOULD CANCEL AND WITHDRAW THEIR BUSINESS TAX ASSESSMENT AGAINST RESPONDENT FOR THE YEARS 2001 TO THE 1ST QUARTER OF 2003 AND TO REFUND THE

[22] RTC Records, pp. 938-940.
[23] RTC Records, pp. 945-965.
[24] RTC Records, pp. 997-998.

AMOUNT OF PHP30,161,272.85 OR ALTERNATIVELY, TO ISSUE A TAX CREDIT.[25]

With the admission of respondent's Comment on July 9, 2007[26] and the filing of petitioners' and respondent's Memoranda on November 5, 2007[27] and October 30, 2007,[28] respectively, this case was considered submitted for decision on December 13, 2007.[29]

ISSUE

The assigned errors boil down to the following principal issue as to whether or not the court *a quo* committed reversible error when it reversed its Decision dated May 15, 2006 in its Order dated November 16, 2006, directing the cancellation and withdrawal of petitioners' business tax assessment against respondent for the years 2001 to the First Quarter of 2003 and to refund the amount of Php30,161,272.85, or alternatively, to issue a tax credit certificate.

A resolution of the foregoing issue would necessitate a determination as to whether or not Ordinance No. 7988 and 8011 are valid; and whether or not subjecting respondent to tax under Section 21 of the *Manila Revenue Code, as amended* is prohibited as it constitutes the obnoxious type of double taxation.

[25] Docket, p. 16.
[26] Docket, pp. 319-365.
[27] Docket, pp. 454-474.
[28] Docket, pp. 385-448.
[29] Docket, p. 482.

Petitioners' Position

Petitioners allege that the court *a quo's* reliance on the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[30] was erroneous because the declaration made therein that Ordinance Nos. 7988 and 8011 were null and void is not doctrinal. According to petitioners, the case originated from an injunction suit (Civil Case No. 01-99848) initiated by Coca-Cola Bottlers Philippines, Inc. before Branch 21 of the RTC of Manila. When the injunction suit was dismissed by Branch 21 of the RTC of Manila and elevated to the Supreme Court, the latter's declaration that Ordinance Nos. 7988 and 8011 are null and void was made for the purpose of determining the propriety of the dismissal of the injunction suit.

Even assuming that such ordinances have been declared with finality as invalid, petitioners argue that respondent could still be assessed with the appropriate taxes based on Tax Ordinance No. 7807 which amended Tax Ordinance No. 7794, also known as the "*Manila Revenue Code*". Tax Ordinance No. 7807 was subsequently amended by Tax Ordinance No. 7988, which in turn was amended by Tax Ordinance No. 8011.

Petitioners also contend that the subject business taxes assessed against respondent pursuant to Section 21 of Ordinance No. 7794, as amended by Ordinance No. 7807, do not constitute prohibited double taxation. According to petitioners, the tax imposed under Section 21 is not a tax on the business *per se* but a tax on the person availing of the goods and services of the business because of the modifying *proviso* stated hereunder:

---

[30] G.R. No. 156252, June 27, 2006, 493 SCRA 279.

> "The tax shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter."

Respondent's Position

Respondent counters that the Supreme Court's declaration in *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.,*[31] that Tax Ordinance Nos. 7988 and 8011 are null and void, not only disposed the proceeding in Civil Case No. 01-99848 in Branch 21 of the RTC of Manila, but also put to rest the issue of the constitutionality of the two ordinances. The declaration is the last word of the Supreme Court on the invalidity of the two ordinances following the doctrine of *stare decisis*.

Respondent further argues that petitioner City of Manila, unconstitutionally and illegally exceeded its taxing powers when it imposed the tax under Section 21 of the Manila Revenue Code, as amended, in violation of Article X, Section 5 of the Constitution and Section 143(h) of Republic Act (R.A.) No. 7160, otherwise known as the "Local Government Code". Aside from those violations, respondent also claims that petitioners' imposition of tax under Section 21 of the Manila Revenue Code, as amended, constitutes illegal double taxation. Despite petitioners' argument that Section 21 of Manila Revenue Code, as amended, is a tax on the person availing of the goods and services of the business, respondent concludes that the collection of local taxes under that ordinance by the withholding agent, a private person, violates Section 130(c) of the Local Government Code.

[31] *Ibid.*

THE COURT'S RULING

This Court rules for respondent.

In the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[32] the Supreme Court already declared the invalidity of Tax Ordinance Nos. 7988 and 8011, as found by the Department of Justice (DOJ) Secretary, wherein it stated that:

> "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.
>
> 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.
>
> 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 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

[32] *Id.*

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.

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*[33], 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." *(Emphasis Ours)*

Under Article 8 of the Civil Code, judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines. Supreme Court decisions assume the same authority as the statute itself.[34] This provision finds basis in the doctrine of *stare decisis* which was explained by the Supreme Court in *Castillo vs. Sandiganbayan*[35] as follows:

"The doctrine of *stare decisis* enjoins adherence to judicial precedents. It requires courts in a country to follow the rule established in a decision of the Supreme Court thereof. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument."

NW

[33] 108 Phil. 1091(1960).
[34] Floresca, *et al.* vs. Philex Mining Corporation, *et al.*, G.R. No. L-30642, April 30, 1985, 136 SCRA 141.
[35] G.R. No. 138231, February 21, 2002, 377 SCRA 509.

Following the said doctrine, the High Tribunal's pronouncement in *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[36] that Tax Ordinance Nos. 7988 and 8011 are null and void finds proper application in the present case. This remains true whether or not the facts surrounding that case are not exactly in all fours with the present case. A contrary view would lead to the absurd conclusion that Tax Ordinance Nos. 7988 and 8011 will be null and void in some instances, while it will be valid in other instances. The proposed limited applicability of the invalidity of Tax Ordinance Nos. 7988 and 8011 could not have been the intention of the Secretary of Justice and the Supreme Court.

Now that Tax Ordinance Nos. 7988 and 8011 have been established as null and void, the question that arises is whether or not respondent can still be taxed under Section 21 of the *Manila Revenue Code*, as amended by Ordinance No. 7807 without violating the proscription against double taxation.

The Court rules in the negative.

We look into the taxing powers of the local government units, as petitioner City of Manila is one.

Article X, Section 5 of the 1987 Constitution provides the power of local government units to tax, as follows:

> "**Sec. 5.** Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments."

[36] *Supra.*

For this reason, Congress enacted Republic Act No. 7160, otherwise known as the Local Government Code (LGC), which contains guidelines and limitations to which local government units must adhere. Section 143 of the LGC provides:

> "**Section 143.** *Tax on Business.* — The municipality[37] may impose taxes on the following businesses:
>
> (a) 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:
>
> xxx xxx xxx
>
> (b) On wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature in accordance with the following schedule:
>
> xxx xxx xxx
>
> (h) On any business, not otherwise specified in the preceding paragraphs, which the *sanggunian* concerned may deem proper to tax: *Provided,* That on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.
>
> The *sanggunian* concerned may prescribe a schedule of graduated tax rates but in no case to exceed the rates prescribed herein."

When petitioner enacted the *Manila Revenue Code, as amended,* it included the following provisions:

> "**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

[37] Under Section 151 of the Local Government Code, cities may also impose the same taxes as a municipality may impose.

whatever kind or nature, in accordance with the following schedule:

xxx xxx xxx"

"**Section 15.** *Tax on Wholesalers, Distributors, or Dealers.* — There is hereby imposed a graduated tax on wholesalers, distributors or dealers in any article of commerce of whatever kind or nature in accordance with the following schedule:

xxx xxx xxx"

"**Section 21.** *Tax on Businesses 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:

(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 said Code.

xxx xxx xxx"

A comparison of the provisions show that Sections 14, 15, and 21 of the *Manila Revenue Code, as amended*, were based on Section 143(a), (b), and (h) of the LGC, respectively.

Based on Section 143(h) of the LGC, a taxpayer who is already paying the tax under Section 143(a) to (g) can no longer be made to pay the tax under Section 143(h). Since respondent had already paid the taxes under Sections 14 and 15, which were based on Section 143(a) and (b); it can no longer be made to pay the tax under Section 21 of the *Manila Revenue Code*,

NY

as amended, which is based on Section 143(h). This is the literal import of the law.

Thus, subjecting respondent to tax under Section 21 of the *Manila Revenue Code, as amended* is prohibited as it will constitute the obnoxious type of double taxation. "Double taxation" is defined by the Supreme Court in *Commissioner of Internal Revenue vs. Solidbank Corporation*[38] as follows:

> "*Double taxation* means taxing the same property twice when it should be taxed only once; that is, 'x x x 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 they must be of the same kind or character**." *(Emphasis Ours)*

Applying the foregoing jurisprudence to the instant case, the imposition of tax under Section 21 of the *Manila Revenue Code, as amended*, constitutes double taxation of those imposed in Sections 14 and 15 because the former taxes the gross receipts of the same business which is manufacturing and wholesaling; for the same purpose which is to generate revenue; imposed by the same taxing authority within its jurisdiction which is the City of Manila; and during the same taxing period which is 2001, 2002, and 2003.

Petitioners' argument that Section 21 does not constitute double taxation because it taxes the person availing of the goods and services of the business, not the business itself, deserves no credence. Section 21, in its entirety, states:

[38] G.R. No. 148191, November 25, 2003.

"**Section 21.** *Tax on Businesses 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:

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.

B) On the gross receipts of keepers of garages, cars for rent or hire driven by the lessee, transportation contractors, persons who transport passenger or freight for hire, and common carriers by land, air or water, except owners of bancas and owners of animal-drawn two-wheel vehicle.

C) On the amount paid on every overseas dispatch, message or conversation transmitted from the Philippines by telephone, telegraph, telewriter exchange, wireless and other communication equipment services, except amounts paid by the government, its political subdivisions or instrumentalities; diplomatic services; public international organizations or any of their agencies based in the Philippines; and news services.

The tax shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter.

D) Excisable goods subject to VAT

(1) Distilled spirits

(2) Wines

(3) Tobacco products (other than cigarette, cigars and chewing tobacco)

(4) Tobacco specially prepared for chewing

(5) Fireworks

(6) Cinematographic films

Nb

(7) Saccharine

(8) Coal and coke

(9) Fermented liquor, brewers' wholesale price, excluding the *ad valorem* tax

(10) Automobiles, manufacturers or importers selling price

(11) Non-essential goods based on wholesale price, net of excise tax and VAT

(a) Jewelry, whether real and imitation, pearls, precious and semi-precious stones and imitations thereof; goods made of, or ornamented, mounted or fitted with precious metals or imitations thereof or ivory (not including surgical and dental instruments, silver-plated wares, frames or mountings for spectacles or eyeglasses and dental gold or gold alloys and other precious metals used in filling, mounting or fitting of the teeth.)

(b) Perfumes and toilet waters.

(c) Yachts and other vessels intended for pleasure sports.

(12) Mineral products, based on actual market value of the annual gross output at the time of removal.

E) Excisable goods not subject to VAT.

(1) Naphtha when used as raw materials for production of petro-chemical products.

(2) Asphalt

PROVIDED, that all registered business in the City of Manila that are already paying the aforementioned tax shall be exempted from payment thereof." (*Emphasis and underscoring Ours*)

Applying the doctrine of the last antecedent, the subject highlighted *proviso* qualifies only paragraph (C), being the immediately preceding antecedent in Section 21, and not the other paragraphs of the same provision such as paragraph (A). Under said rule, relative and qualifying words, phrases, and clauses are to be applied to the words or phrase immediately preceding and are not to be construed as extending to or including others more remote; nor are they ordinarily to be construed as extending to the following words.[39]

A similar provision in the National Internal Revenue Code (NIRC) supports the finding that the subject *proviso* qualifies only paragraph (C), as follows:

> "**Section 120.** *Tax on Overseas Dispatch, Message or Conversation Originating from the Philippines.* —
>
> (A) Persons Liable. — There shall be collected upon every overseas dispatch, message or conversation transmitted from the Philippines by telephone, telegraph, telewriter exchange, wireless and other communication equipment services, a tax of ten percent (10%) on the amount paid for such services. The tax imposed in this Section shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter.
>
> xxx xxx xxx"

In ascertaining the intention of the lawmaker, courts are permitted to look into prior laws on the same subject and to investigate the antecedents of the statute involved. This rule is especially applicable in the interpretation of codes, revised, or compiled statutes, for the prior laws which have been codified, compiled, or revised will show the legislative history that will clarify

[39] Alcantara, Statutes, 1993 Edition, p. 67.

nb

the intent of the law or shed light on the meaning and scope of the codified or revised statute.[40]

More importantly, the modifying *proviso* could not have qualified Section 21(A) because to do so would violate Section 130(c) of the Local Government Code which provides:

> "**Section 130.** *Fundamental Principles.* - The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:
>
> xxx xxx xxx
>
> (c) The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;
>
> xxx xxx xxx"

Thus, respondent cannot legally be made a withholding agent of its clients since it would make respondent responsible for the collection of local business taxes that is allegedly imposed on its clients.

In conclusion, the court *a quo* acted correctly when it denied petitioners' Motion for Reconsideration questioning the Order dated November 16, 2006 wherein it reversed its Decision dated May 15, 2006. Hence, petitioners must refund to respondent the amount of Php30,161,272.85 which the latter erroneously paid, and must cancel/withdraw all the local business tax assessments, interest, and penalties therein, based on Section 21 of the *Manila Revenue Code, as amended,* it issued against respondent for taxable years 2001 to 2003.

MN

---

[40] Agpalo, Ruben, Statutory Construction, 5th Edition, 2003, p. 98.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the appealed Order dated April 4, 2007 is hereby **AFFIRMED.**

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

See attached Dissenting Opinion

(With Dissenting Opinion)
OLGA PALANCA-ENRIQUEZ
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.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
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.

ERNESTO D. ACOSTA
Presiding Justice