REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

TEAM ENERGY CORPORATION,
Petitioner,

-versus-

THE MUNICIPALITY OF PAGBILAO, SHIERRE ANN PORTES-PALICPIC, in her capacity as Municipal Mayor of the Municipality of Pagbilao, **CORAZON H. ENCENAREZ,** in her capacity as Acting Municipal Treasurer of the Municipality of Pagbilao, and/or **RIZALINO P. TIÑA,** in his capacity as Assistant Municipal Treasurer of the Municipality of Pagbilao,
Respondents.

CTA AC NO. 255

Members:

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

Promulgated:

FEB 26 2024
3:24 p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

This is a *Petition for Review* filed by Team Energy Corporation (petitioner/TEC) to set aside the Order dated September 24, 2021[1] rendered by the Regional Trial Court (RTC) – Branch 60, Lucena City, in Civil Case No. 2021-02, entitled "*Team Energy Corporation, Plaintiff vs. The Municipality of Pagbilao, Shierre Ann Portes-Palicpic, in her capacity as Municipal Mayor of the Municipality of Pagbilao, Corazon H. Encenarez, in her capacity as Acting Municipal Treasurer of the*

[1] Docket, pp. 43 to 52.

Municipality of Pagbilao, and/or Rizalino P. Tiña, in his capacity as Assistant Municipal Treasurer of the Municipality of Pagbilao, Defendants", the dispositive portion of which reads as follows:

> **Order dated September 24, 2021:**
>
> "***WHEREFORE***, premises considered, defendants' prayer for dismissal by way of Affirmative Defenses is hereby **GRANTED**.
>
> The Complaint filed in this case is hereby ordered **DISMISSED**.
>
> Accordingly, the pre-trial set on December 10, 2021 is hereby ordered cancelled.
>
> **SO ORDERED**."

Petitioner further prays that this Court render judgment: (1) declaring 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; and (2) directing the respondents to refund or grant a tax credit amounting to ₱4,491,556.80 in favor of petitioner corresponding to the excess LBT paid for the year 2019; and (3) directing the respondents to refund or grant a tax credit of ₱4,696,316.28 in favor of petitioner corresponding to the excess LBT for the year 2020.[2]

THE PARTIES

TEC is a corporation duly organized and existing under and by virtue of the laws of the Philippines with principal office at the 25th Floor, W Fifth Ave. Building, 5th Avenue, Bonifacio Global City, Taguig City.[3]

On the other hand, respondent Municipality of Pagbilao (Pagbilao) is a local government unit with capacity to sue and be sued. Respondent Mayor Shierre Ann Portes-Palicpic is being impleaded in her official capacity as the Municipal Mayor of Pagbilao. Respondent Corazon H. Encenarez is being impleaded in her capacity as the Acting Municipal Treasurer of Pagbilao.

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[2] *Prayer, Petition for Review*, Docket, p. 32.
[3] Par. 11, petitioner's *Complaint*, RTC Docket (Civil Case No. 2021-02), p. 7.

Respondent Rizalino P. Tiña is being impleaded in his capacity as the Assistant Municipal Treasurer of Pagbilao.[4]

The respondents may also be served with summons, orders, notices, and other processes and papers at the Quezon Provincial Legal Office located at 2nd Floor Social Services Building, Quezon Capitol Compound, Lucena City or through its official email address provincialattorney.quezon@gmail.com.[5]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

LBT Payments for the year 2019

On January 18, 2019, petitioner received Pagbilao's Statement of Account of Business Tax of TeaM Energy Corporation for the year 2019 (2019 SOA) computing petitioner's LBT and fees for the year 2019, as follows:[6]

GROSS RECEIPTS	**₱ 8,982,813,635.90**
Mayors Permit	50,000.00
Sworn Statement	200.00
Sanitary Permit	250.00
Medical fee	50.00
Inspection Fee	50.00
Police Clearance Fee	50.00
Sticker	20.00
Garbage Fee	1,000.00
Business Tax (Contractor) 1st Quarter	13,474,670.45
Sanitary Inspection Fee	500.00
	₱ 13,526,790.45

2nd Quarter	13,474,670.45
3rd Quarter	13,474,670.45
4th Quarter	13,474,670.45

On January 19, 2019, petitioner tendered the amount of ₱13,474,670.45 to the Office of the Assistant Treasurer, as payment of the LBT for the 1st quarter of 2019 in accordance with the 2019 SOA. Petitioner also submitted the cover letter dated January 18, 2019 to the Office of the Assistant Treasurer, (a) documenting its payment of ₱13,474,670.45 for its 1st quarter LBT, and (b)

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[4] Par. 12, *Complaint*, vis-à-vis Par. 8, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 7 and 207 to 208, respectively.

[5] Par. 8, *Answer*, RTC Docket (Civil Case No. 2021-02), p. 207.

[6] Pars. 3 and 14, *Complaint*, vis-à-vis Pars. 3 and 9 *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 5, 8, 206 and 208, respectively; and Exhibit "A", RTC Docket (Civil Case No. 2021-02), p. 33.

stating that, of this amount, petitioner was contesting its excess LBT payment of ₱1,122,889.20 for that quarter (January 18, 2019 Letter).[7]

In response to the January 18, 2019 Letter, petitioner received the letter dated January 23, 2019 from the Office of the Municipal Treasurer stating as follows:[8]

> "This refers to your letter dated 18 January 2019 re: payment under protest of local business tax assessed against Team Energy Corporation (TEC) for the 1st quarter of calendar year 2019.
>
> Please be informed that inasmuch as R.A. 7160 or the Local Government Code of 1991 does not provide for payments under protest of local business taxes, TEC's payment of THIRTEEN MILLION FIVE HUNDRED TWENTY SIX THOUSAND SEVEN HUNDRED NINETY PESOS AND FORTY FIVE CENTAVOS (PhP 13,526,790.45) is deemed **absolute and full payment** of the local business tax for the 1st quarter of 2019.
>
> The Municipality of Pagbilao, Quezon simply sees no reason why its 2017 Revised Revenue Code, the present basis of the local business tax assessments against TEC and all other tax payers, should not equally apply to TEC."

Petitioner continued to pay its LBT based on the 2019 SOA for the 2nd to 4th quarters of 2019, accompanied by letters similar to the January 18, 2019 Letter, documenting its quarterly LBT payment of ₱13,474,670.45, and claiming that each of those quarterly LBT payments were in excess of the amount of ₱1,122,889.20. The Office of the Municipal Treasurer, in turn, replied with letters similar to the January 23, 2019 Letter.[9]

Petitioner paid its LBT for the year 2019 in the following quarterly installments:[10]

[7] Par. 15, *Complaint*, vis-à-vis Par. 9, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 8 to 9 and 208, respectively; and Exhibit "H-1", RTC Docket (Civil Case No. 2021-02), p. 66.
[8] Par. 16, *Complaint*, vis-à-vis Par. 9, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 9 and 208, respectively; and Exhibit "I-1", RTC Docket (Civil Case No. 2021-02), p. 70.
[9] Par. 17, *Complaint*, vis-à-vis Par. 9, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 9 and 208, respectively.
[10] Par. 4, *Complaint*, vis-à-vis Par. 3, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 5 and 206, respectively; and Exhibits "B-1" to "B-4", RTC Docket (Civil Case No. 2021-02), pp. 34 to 37.

Quarter and Date of Payment	Official Receipt No.	Amount
1st Quarter 2019 - January 19, 2019	1374640-Y	₱13,474,670.45
2nd Quarter 2019 - April 16, 2019	8233555-Z	₱13,474,670.45
3rd Quarter 2019 - July 19, 2019	8376731-Z	₱13,474,670.45
4th Quarter 2019 - October 18, 2019	4823679-C	₱13,474,670.45
	Total	**₱53,898,681.80**

The quarterly LBT payments of petitioner for the year 2019, and the corresponding correspondences between petitioner and the Office of the Municipal Treasurer are summarized as follows:[11]

Quarter (2019)	Date of Payment	Date of Petitioner's Letter	Date of Treasurer's Letter
1st	January 19, 2019	January 18, 2019	January 23, 2019
2nd	April 16, 2019	April 15, 2019	June 13, 2019
3rd	July 19, 2019	July 18, 2019	September 10, 2019
4th	October 18, 2019	October 15, 2019	December 4, 2019

LBT Payments for the year 2020

On January 15, 2020, petitioner received Pagbilao's Statement of Account of Business Tax of TeaM Energy Corp for the Year 2020 (2020 SOA) computing petitioner's LBT for the year 2020, as follows:[12]

GROSS RECEIPTS		**₱ 9,392,332,617.72**
		Quarterly
Mayor's Permit	₱	50,000.00
Sworn Statement		200.00
Sanitary Permit		250.00
Medical fee		50.00
Inspection Fee		50.00
Police Clearance Fee		50.00
Sticker/Bus Plate		20.00
Garbage Fee		200.00
Business Tax - contractor	₱	14,088,948.92
Add: Sanitary Inspection Fee		500.00
TOTAL	**₱**	**14,140,268.92**

On January 18, 2020, petitioner tendered the amount of ₱14,088,948.92 to the Municipal Treasurer as payment of the LBT for the 1st quarter of 2020 in

[11] Par. 18, *Complaint*, vis-à-vis Par. 9, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 9 and 208, respectively; Exhibits "H-1" to "H-4", RTC Docket (Civil Case No. 2021-02), pp. 66 to 69; and Exhibits "I-1" to "I-4", RTC Docket (Civil Case No. 2021-02), pp. 70 to 73.

[12] Pars. 5 and 20, *Complaint*, vis-à-vis Pars. 3 and 10, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 5 to 6, 10, 206 and 208, respectively; and Exhibit "C", RTC Docket (Civil Case No. 2021-02), p. 38.

accordance with the computation in the 2020 SOA. Similar to its LBT payments for the year 2019, petitioner submitted the cover letter dated January 17, 2020 to the Office of the Municipal Treasurer, (a) documenting its payment of ₱14,088,948.92 for the LBT of the 1st quarter of 2020, and (b) stating that, of this amount, petitioner was contesting its excess LBT payment of ₱1,174,079.07 (the January 17, 2020 Letter).[13]

In response, petitioner received the letter dated March 13, 2020 from the Office of the Municipal Treasurer, stating as follows:[14]

> "This pertains to your letter dated January 17, 2020 which was received by our office on the same date regarding the payment under protest of local business tax by TeaM Energy Corporation (TEC) for the 1st quarter of calendar year 2020 amounting to **One Million One Hundred Seventy Four Thousand Seventy Nine Pesos & 07/100 (P 1,174,079.92)** [*sic*]
>
> Relative to your quarterly payment for local business tax for year 2019, the same will be applied for the first quarter of calendar year 2020 for same reason provided by Mr. Rizalino Tiña in his reply letter to you dated February 6, 2019, that Republic Act 7160 does not provide for payments under protest of all local business taxes thus your payment amounting to **Fourteen Million One Hundred Forty Thousand Five Hundred Sixty Eight Pesos & 92/100 (P 14,140,568.92)** is deemed absolute and full payment for the 1st quarter of 2020.
>
> The Municipality of Pagbilao, Quezon sees no reason why its 2017 Revised Revenue Code would not be the basis of the tax assessment against TEC considering that it was implemented through an ordinance approved by the Sangguniang Bayan and the Sangguniang Panlalawigan."

Petitioner continued to pay its 2020 LBT for the 2nd to 4th quarters based on the 2020 SOA. Those payments were also accompanied by letters similar to the January 17, 2020 Letter documenting petitioner's quarterly LBT payment of ₱14,088,948.92, and claiming that each of those quarterly LBT payments were in excess of the amount of ₱1,174,079.07. The Office of the Municipal Treasurer, in turn, continued to reply with letters similar to the March 13, 2020 Letter.[15]

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[13] Pars. 21 to 22, *Complaint*, vis-à-vis Par. 10, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 10 to 11 and 208, respectively; and Exhibit "K-1", RTC Docket (Civil Case No. 2021-02), p. 79.

[14] Par. 23, *Complaint*, vis-à-vis Par. 10, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 11 and 208, respectively; Exhibit "L-1", RTC Docket (Civil Case No. 2021-02), p. 83.

[15] Par. 24, *Complaint*, vis-à-vis Par. 10, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 11 and 208, respectively.

Petitioner paid its LBT for the year 2020 in the following quarterly installments:[16]

Quarter and Date of Payment	Official Receipt No.	Amount
1st Quarter 2020 - January 18, 2020	9629220-C	₱ 14,088,948.92
2nd Quarter 2020 - June 24, 2020	0879281-E	₱ 14,088,948.92
3rd Quarter 2020 - July 20, 2020	0984613-E	₱ 14,088,948.92
4th Quarter 2020 - October 20, 2020	9127986-E	₱ 14,088,948.92
	Total	**₱ 56,355,795.68**

The quarterly LBT payments for the year 2020 of petitioner, and the corresponding correspondences between petitioner and the Office of the Municipal Treasurer are summarized as follows:[17]

Quarter (2020)	Date of Payment	Date of Petitioner's Letter	Date of Treasurer's Letter
1st	January 18, 2020	January 17, 2020	March 13, 2020
2nd	June 24, 2020	June 23, 2020	June 25, 2020
3rd	July 20, 2020	July 20, 2020	August 17, 2020
4th	October 20, 2020	October 19, 2019	November 19, 2020

On January 6, 2021, petitioner filed its written claim for refund or credit of excess LBT payments dated January 6, 2021 for the years 2019 and 2020 with Pagbilao's Acting Municipal Treasurer, Corazon H. Encenarez.[18]

PROCEEDINGS BEFORE THE COURT *A QUO*

On January 15, 2021, petitioner, as plaintiff, filed its *Complaint* with the RTC – Lucena City, docketed as Civil Case No. 2021-02,[19] praying the Court render judgment (a) declaring that (i) the 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 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; and (b) directing the respondents to refund or grant a tax credit amounting to ₱4,491,556.80 in favor of petitioner corresponding to the excess LBT paid for the year 2019; and (c) directing the

[16] Par. 6, *Complaint*, vis-à-vis Par. 3, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 6 and 206, respectively; and Exhibits "D-1" to "D-4", RTC Docket (Civil Case No. 2021-02), pp. 39 to 42.

[17] Par. 25, *Complaint*, vis-à-vis Par. 10, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 11 to 12 and 208, respectively; Exhibits "K-1" to "K-4", RTC Docket (Civil Case No. 2021-02), pp. 79 to 82; and Exhibits "L-1" to "L-4", RTC Docket (Civil Case No. 2021-02), pp. 83 to 86.

[18] Par. 7, *Complaint*, vis-à-vis Par. 4, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 6 and 207, respectively; Exhibit "E", RTC Docket (Civil Case No. 2021-02), pp. 43 to 45.

[19] RTC Docket (Civil Case No. 2021-02), pp. 4 to 29.

respondents to refund or grant a tax credit of ₱4,696,316.28 in favor of petitioner corresponding to the excess LBT for the year 2020.

The case was raffled to RTC – Branch 60, Lucena City, on January 18, 2021.[20]

In reply, respondents filed their *Answer* on May 3, 2021,[21] interposing, by way of special and affirmative defenses, that (a) petitioner failed to make an appeal on the denial of its protest with the court of competent jurisdiction within the period prescribed under Section 195 of the LGC of 1991 as petitioner received a notice of assessment for the 1st quarter for the year 2019 on January 18, 2019, through the Statement of Account of Business Tax issued by the Office of the Municipal Treasurer of Pagbilao, and then protested the same on January 19, 2019, and its protest having been denied on January 23, 2019, under Section 195 of the LGC of 1991, petitioner has only until February 22, 2019, to make an appeal with the court of competent jurisdiction, and having failed to perfect an appeal, the assessment became conclusive and unappealable; and (b) that the complaint states no cause of action for failure to challenge the validity of the Revised Revenue Code of 2017 before the Secretary of Justice.

During the pre-trial conference set on September 17, 2021, on motion of respondents' counsel, the affirmative defenses raised in the *Answer* was submitted for the resolution of the court *a quo*. Hence, the hearing for pre-trial on the said day was cancelled and reset to December 10, 2021.[22]

On September 24, 2021, the RTC issued the assailed Order granting the dismissal of the *Complaint* by way of Affirmative Defenses, ruling that the *Complaint* was not seasonably filed. Accordingly, the pre-trial set on December 10, 2021 was ordered cancelled.[23]

PROCEEDINGS BEFORE THIS COURT

Petitioner then filed the present *Petition for Review* on November 4, 2021.[24]

In compliance with this Court's Resolution dated December 4, 2021,[25] the RTC – Branch 60 of Lucena City transmitted to the Court its records of Civil Case No. 2021-02 on May 5, 2022.[26]

[20] RTC Docket (Civil Case No. 2021-02), p. 192.
[21] RTC Docket (Civil Case No. 2021-02), pp. 206 to 218.
[22] Order dated September 17, 2021, RTC Docket (Civil Case No. 2021-02), pp. 256 to 257.
[23] RTC Docket (Civil Case No. 2021-02), pp. 266 to 275.
[24] Docket, pp. 5 to 37.

On September 30, 2022, respondents then posted their *Comment/Opposition (To: Petitioner TeaM Energy Corporation's Petition for Review dated 3 November 2021)*.[27]

Thus, in the Resolution dated October 27, 2022,[28] the Court ordered the parties to file their respective memoranda. In compliance thereto, petitioner's *Memorandum* was filed on December 27, 2022,[29] and respondent's *Memorandum* was posted on February 9, 2023.[30]

The case was deemed submitted for decision on March 3, 2023.[31]

THE ISSUES

Petitioner submits the following issues for this Court's resolution, to wit:

> "(a) Whether or not the Lower Court erred in dismissing TEC's Complaint for supposedly being filed out of time;
>
> (b) Whether or not TEC properly availed of the remedy provided under Section 196 of the LGC;
>
> (c) Whether or not the 2019 and 2020 SOAs are 'notices of assessment' as contemplated under Section 195 of the LGC;
>
> (d) Whether or not the Revised Revenue Code exceeds the maximum allowable increase of tax rates under Section 191 in relation to Section 143(e) of the LGC; and
>
> (e) Whether or not TEC is entitled to a refund or tax credit in the aggregate amount of ₱9,187,873.08 representing its excess LBT payments for the years 2019 and 2020."[32]

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[25] Docket, p. 288.
[26] RTC – Branch 60 of Lucena City's *Transmittal* dated April 22, 2022 attached to RTC Docket (Civil Case No. 2021-02).
[27] Docket, pp. 330 to 354.
[28] Docket, pp. 359 to 360.
[29] Docket, pp. 361 to 398.
[30] Docket, pp. 402 to 436.
[31] Resolution dated March 3, 2023, Docket, p. 443.
[32] The Issues, petitioner's *Memorandum*, Docket, pp. 373 to 374.

Petitioner's arguments:

Petitioner argues that a taxpayer seeking the refund of erroneously or illegally collected taxes from LGUs pursuant to Section 196 of the LGC is required to comply with the periods prescribed by Section 195 *only if* the LGU issued a "notice of assessment" as required under Section 195 of the LGC; that the respondents did *not* issue a "notice of assessment" contemplated under the Section 195 of the LGC and the Supreme Court's decision in *International Container Terminal Services, Inc. vs. The City of Manila*;[33] that the 2019 and 2020 SOAs are *not* "notices of assessment" that would trigger the application of Section 195 of the LGC; for this reason, petitioner is *not* required to comply with the periods prescribed by Section 195, and only the two (2)-year period provided under Section 196 of the LGC should be complied with by petitioner; that petitioner timely filed its administrative claim with the respondent Treasurer, and timely filed the *Complaint* with the lower court, pursuant to the reglementary period provided under Section 196 of the LGC; that petitioner is entitled to the refund of the amounts of ₱4,491,556.80 for the excess LBT paid for the year 2019 and ₱4,696,316.28 for the excess LBT paid for the year 2020; and that Section 187 of the LGC does not apply because its challenge on the validity of the Revised Revenue Code is based on a pure question of law.

Respondent's counter-arguments:

Respondent counters that compliance with the procedure in assailing a tax ordinance under Section 187 of the LGC[34] is mandatory in an action for tax refund; the determination of whether the local tax imposed is excessive, oppressive or confiscatory and timeliness of challenging the same are questions of fact, which require prior appeal to the Secretary of Justice; and that the court *a quo*'s denial of petitioner's claim for tax refund is correct for its failure to comply with the conditions under Section 195 of the LGC.

[33] G.R. No. 185622, October 17, 2018.

[34] "SECTION 187. *Procedure for Approval and Effectivity of Tax ordinances and Revenue Measures; Mandatory Public Hearings.* - The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided*, That public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided, further*, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: *Provided, however*, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: *Provided, finally*, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction."

THE COURT'S RULING

The *Petition for Review* is partly meritorious.

At the outset, it is necessary to emphasize that the pre-trial is yet to be conducted in the case *a quo* which would clarify and define the issues and matters to be resolved and where parties may enter into stipulations or admissions of facts and of documents. For this reason, this Court will limit itself to the determination of whether the Court *a quo* erred in dismissing petitioner's *Complaint* for supposedly being filed out of time.

The Statements of Account (SOAs) issued in this case are not the "notice of assessment" contemplated under Section 195 of the LGC.

In the assailed Order,[35] the Court *a quo*, citing the rulings of the Supreme Court in *International Container Terminal Services, Inc. vs. The City of Manila, et al.* (*International Container* case)[36] and *City Treasurer of Manila vs. Philippine Beverage Partners, Inc., substituted by Coca-Cola Bottlers Philippines*,[37] held that:

> "It is, thus, clear from the foregoing pronouncement that even if the claim for refund is grounded under Section 196, the taxpayer is still bound to comply with the aforequoted two conditions because one cannot claim for refund without assailing or protesting the assessment.
>
> In the instant case, it is undeniable that the case is one for refund under Section 196, as alleged in the complaint, *as the nature of an action is determined by the allegations in the complaint and the character of the relief sought.*
>
> The question now is, has plaintiff satisfied the two-fold conditions in order to successfully prosecute the instant complaint for refund?
>
> This Court is not convinced.
>
> The first condition provides: ***to pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund.***
>
> Admitted by the plaintiff is that, it received the subject assessment for the year 2019 on January 18, 2019, while, for the year 2020, the pertinent assessment was received on January 14, 2020.
>
> Following the oft-repeated condition, plaintiff has 60 days from receipt to pay and manifest its protest or claim for refund. Therefore, plaintiff had a 60[-]day period from January 18, 2019 or until March 19, 2019

[35] Docket, pp. 43 to 52.
[36] G.R. No. 185622, October 17, 2018.
[37] G.R. No. 233556, September 11, 2019.

to make payment and assail the assessment before the local treasurer. In the same manner, plaintiff had 60 days from January 14, 2020 or until March 14, 2020 to make payment and assail the said assessment. However, plaintiff, instead, made payments for the pertinent quarters and assailed the assessments before the defendants Acting Municipal Treasurer and Assistant Municipal Treasurer, by way of letters dated January 18, 2019, April 15, 2019, July 18, 2019, October 15, 2019, January 17, 2020, June 23, 2020, July 20, 2020 and October 19, 2020, which letters uniformly stated that plaintiff protests and disagrees with the assessment and reserves the right to pursue available remedies.

It was only on January 6, 2021 or almost two (2) years from the first assessment on January 18, 2019 and almost one (1) year from the second questioned assessment on January 14, 2020 that plaintiff sent a letter to the defendant Acting Treasurer, to claim for refund. This claim for refund, the Court considers, as well-beyond the 60[-]day required period.

With the foregoing, the Court so believes that plaintiff was not able to comply with the first condition.

The second condition requires: ***to bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.***

Granting that the protest and payment were both done within 60 days from the subject assessment, considering that the payment and protest were done quarterly, still, plaintiff was not able to comply with the second condition, as there was no timely filing of a complaint in court from the time of the denial of the protest by the local treasurer.

As borne by the records, plaintiff has alleged that for the first quarter of 2019, the treasurer's reply was on January 23, 2019; for the 2nd quarter, the reply was on June 13, 2019; for the 3rd quarter, the reply was on September 10, 2019; and for the 4th quarter, the reply was on December 4, 2019. For the year 2020, for the 1st quarter, the treasurer's reply was on March 13, 2020; for the 2nd quarter, June 25, 2020; for the 3rd quarter, August 17, 2020 and for the 4th quarter November 19, 2020.

The said replies of the local treasurer show an apparent denial of the Protest as those letters uniformly state that the payments made are deemed absolute and full of the local business tax paid for the pertinent quarter. The said letters further stated that:

> *'The Municipality of Pagbilao, Quezon simply sees no reason why its 2017 Revenue Code, the present basis of the local business tax assessments against TEC and all other tax payers, should not equally apply to TEC.'*

Based on what is clearly set forth in the aforequoted jurisprudence, the taxpayer has thirty (30) days to bring a court action, from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax. Thus, plaintiff had a 30[-]day period from each of the date of the Acting Treasurer/Assistant Treasurer's letter within which to elevate its claim to the courts. However, no such action within such period of time was taken by the plaintiff.

> Therefore, when plaintiff filed the instant suit on January 15, 2021, the same was already way beyond the aforementioned 30[-]day period set forth under law and prevailing jurisprudence. As an apparent remedy to its lost cause, and as earlier pointed out, plaintiff sent a letter to defendant Acting Treasurer dated January 6, 2021 which it referred to as an administrative claim for refund.
>
> To the mind of the Court, the same is not within the intendment of the law and jurisprudence, as the requirements for tax refund must be strictly complied with. The case of ***China Banking Corporation vs. City Treasurer of Manila*** states:
>
>> *This Court is simply pointing out the rule that claims for refunds are the exception, rather than the rule, and that each claim for refund, in order to be granted, must be proceeded in accordance with the manner set forth by law. After all, in every claim for refund of taxes paid, the burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit.*
>
> Plaintiff, not having satisfied the twin requirements for filing a tax refund, cannot now seek for an affirmative relief for refund, as the complaint was not seasonably filed."

On the other hand, petitioner states that the 2019 and 2020 SOAs are *not* "notices of assessment" that would trigger the application of Section 195 of the LGC. For this reason, petitioner is *not* required to comply with the periods prescribed by Section 195, and only the two (2)-year period provided under Section 196 of the LGC should be complied with by petitioner. In contrast, respondents insist that the 2019 and 2020 SOAs issued by the respondent Municipal Treasurer, although denominated as such, are considered as the Notices of Assessment contemplated under Section 195 of the LGC.

The Court finds merit in petitioner's argument.

From the foregoing discussion, the main issue to be resolved is whether the remedy under Section 195 or Section 196 of the LGC of 1991 is applicable to petitioner's case.

For ready reference, these provisions respectively provide as follows:

> "SECTION 195. *Protest of Assessment.* – When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly

> meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.
>
> 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 payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit."

In the *City of Manila and Office of the City Treasurer of Manila vs. Cosmos Bottling Corporation* (*Cosmos Bottling* case),[38] the Supreme Court made the following interpretation of the above-quoted Sections 195 and 196, to wit:

> "Where an assessment is to be protested or disputed, the taxpayer may proceed *(a)* without payment, or *(b)* with payment[39] of the assessed tax, fee or charge. **Whether there is payment of the assessed tax or not, it is clear that the protest in writing must be made within sixty (60) days from receipt of the notice of assessment; otherwise, the assessment shall become final and conclusive.** Additionally, the subsequent court action must be initiated within thirty (30) days from denial or inaction by the local treasurer, **otherwise, the assessment becomes conclusive and unappealable.**
>
> > (a) Where no payment is made, the taxpayer's procedural remedy is governed strictly by **Section 195**. That is, in case of whole or partial denial of the protest, or inaction by the local treasurer, the taxpayer's only recourse is to *appeal* the assessment with the court of competent jurisdiction. The appeal before the court does not seek a refund but only questions the validity or correctness of the assessment.
> >
> > (b) **Where payment was made, the taxpayer may thereafter maintain an action in court questioning the validity and correctness of the assessment (Section 195, LGC) and at the same time seeking a refund of the taxes.** In truth, it would be illogical for the taxpayer to only seek a reversal of the assessment without praying for the refund of taxes. 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.
> >
> > **The same implication should ensue even if the taxpayer were to style his suit in court as an action for refund or recovery of erroneously paid or illegally collected tax as pursued under Section 196 of the LGC.** In such a suit for refund, the taxpayer cannot successfully prosecute his theory of erroneous payment of

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

[39] Whether payment was made before, on, or after the date of filing the formal protest.

illegal collection of taxes without necessarily **assailing the validity or correctness of the assessment** he had administratively protested.

It must be understood, however, that in such latter case, the suit for refund is conditioned on the prior filing of a written claim for refund or credit with the local treasurer. In this instance, what may be considered as the administrative claim for refund is the letter-protest, he would also pray that the taxes paid should be refunded to him.[40] As previously mentioned, there is really no particular form or style necessary for the protest of an assessment or claim for refund of taxes. What is material is the substance of the letter submitted to the local treasurer.

Equally important is the institution of the judicial action for refund within thirty (30) days from the denial of or inaction on the letter-protest or claim, <u>not any time later</u>, even if within two (2) years from the date of payment (as expressly stated in Section 196). Notice that the filing of such judicial claim for refund after questioning the assessment is within the two-year prescriptive period specified in Section 196. Note too that the filing date of such judicial action necessarily falls on the beginning portion of the two-year period from the date of payment. Even though the suit is seemingly grounded on Section 196, **<u>the taxpayer could not avail of the full extent of the two-year period within which to initiate the action in court</u>**.

The reason is obvious. This is because an assessment was made, and if not appealed in court within thirty (30) days from decision or inaction on the protest, it becomes conclusive and unappealable. **<u>Even if the action in court is one of claim for refund, the taxpayer cannot escape assailing the assessment, invalidity or incorrectness, the very foundation of his theory that the taxes were paid erroneously or otherwise collected from him illegally</u>. Perforce, the subsequent judicial action, after the local treasurer's decision or inaction, must be initiated within thirty (30) days later. It cannot be anytime thereafter because the lapse of 30 days from decision or inaction results in the assessment becoming conclusive and unappealable. In short, <u>the scenario wherein the administrative claim for refund falls on the early stage of the two-year period but the judicial claim on the last day or late stage of such two-year period does not apply in this specific instance where an assessment is issued</u>.**

To stress, where an assessment is issued, <u>the taxpayer cannot choose to pay the assessment and thereafter seek a refund *at any time* within the full period of two years from the date of payment as Section 196 may suggest</u>. If refund is pursued, the taxpayer must administratively question the validity or correctness of the assessment in the 'letter-claim for refund' *within 60 days from receipt of the notice of assessment*, and thereafter bring suit in court *within 30 days from either decision or inaction* by the local treasurer.

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[40] Where protest against assessment was first made, then later payment of the assessed tax, substantial justice or procedural economy, at the very least, demands that the prior letter-protest be treated as having the same effect and import as a written claim for refund for purposes of satisfying the requirement of exhaustion of administrative remedies.

> Simply put, **there are two conditions that must be satisfied in order to successfully prosecute an action for refund <u>in case the taxpayer had received an assessment</u>. *One*, pay the tax and administratively assail <u>within 60 days</u> the assessment before the local treasurer, whether in a letter-protest or <u>in a claim for refund</u>. *Two*, bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or <u>claim for refund</u> of erroneously or illegally collected tax.**" *(Emphases and underscoring added)*

Based on the foregoing jurisprudence, where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund *at any time* within the full period of two years from the date of payment as Section 196 may suggest. Furthermore, it is clear that, as the Supreme Court put it, on the basis of Sections 195 and 196 of the LGC of 1991, there are two (2) conditions that must be satisfied in order **to successfully prosecute <u>an action for refund in case the taxpayer had received an assessment</u>**, to wit; (1) pay the tax and administratively assail the assessment, within sixty (60) days from receipt thereof, before the local treasurer, whether in a letter-protest or in a claim for refund; *and* (2) bring an action in court within thirty (30) days from decision or inaction whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.

The above jurisprudence was likewise quoted in *City Treasurer of Manila vs. Philippine Beverage Partners, Inc., substituted by Coca-Cola Bottlers Philippines.*[41]

Moreover, consistent with the *Cosmos Bottling* case in interpreting Sections 195 and 196 of the LGC of 1991, the Supreme Court, in *International Container Terminal Services, Inc. vs. The City of Manila, et al.* (*International Container* case),[42] held as follows:

> "**If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 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 <u>the taxpayer opts to pay the assessed tax</u>, 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

[41] G.R. No. 233556, September 11, 2019.
[42] G.R. No. 185622, October 17, 2018.

> 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 <u>no assessment notice</u> 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 applies</u>**." *(Emphases and underscoring added)*

Just as in the *Cosmos Bottling* case, it is clear that **Section 196** *cannot* be read in isolation from **Section 195**, <u>when an assessment has been issued against the concerned taxpayer</u>. In such a case, the said taxpayer is likewise mandated to observe the 60+30-day period prescribed under Section 195, even when its ultimate purpose is to refund the local taxes paid.

It is only when *no assessment* has been issued against the taxpayer, will the remedy under Section 196 be applied independently of the periods provided under Section 195. Thus, the taxpayer need not observe the 60+30-day period prescribed under the latter provision.

Respondents, however, insist that the SOAs issued by the Office of the Municipal Treasurer are considered the *Notices of Assessment* contemplated under Section 195 of the LGC.

In ascertaining whether the SOAs are in the nature of *Notices of Assessment*, the Court finds relevant the ruling in the case of *National Power Corporation vs. The Province of Pampanga and Pia Magdalena D. Quibal*,[43] wherein the Supreme Court emphasized the details that must be contained in a notice of assessment, to wit:

> "Article 285 of the rules implementing the LGC reiterates the language used in Section 195. Thus, <u>in *Yamane v. BA Lepanto Condominium Corp.*, the Court stressed the details that must be contained in the notice of assessment</u>:
>
>> <u>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**</u>. **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

[43] G.R. No. 230648, October 6, 2021.

> 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. (Boldfacing supplied.)

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 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, to wit:

> The rationale behind the requirement that taxpayers should be informed of the facts and the law on which the assessments are based conforms with the constitutional mandate that no person shall be deprived of his or her property without due process of law. Between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.
>
> **The purpose of the written notice requirement is to aid the taxpayer in making a reasonable protest, if necessary. Merely notifying the taxpayer of his or her tax liabilities without details or particulars is not enough.**
>
> *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.* held that a **final assessment notice that only contained a table of taxes with no other details was insufficient**; xxx
>
> Any deficiency to the mandated content of the assessment or its process will not be tolerated. xxx
>
> xxx xxx xxx
>
> A final assessment notice provides for the amount of tax due with a demand for payment. This is to determine the amount of tax due to a taxpayer. However, **due process requires that taxpayers be informed in writing of the facts and law on which the assessment is based in order to aid the taxpayer in making a reasonable protest**. To immediately ensue with tax collection without initially substantiating a valid assessment contravenes the principle in administrative investigations 'that taxpayers should be able to present their case and adduce supporting evidence.' (Emphasis supplied; citations omitted)

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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." (*Underscoring added*)

Moreover, in the *International Container* case, the Supreme Court further clarified what differentiates Sections 195 and 196 of the LGC of 1991 and that a "notice of assessment" is required under Section 195 *while the same is not a precondition under Section 196*, thus:

"The nature of an action is determined by the allegations in the complaint and the character of the relief sought. Here, petitioner seeks a refund of taxes that respondents had collected. Following *City of Manila*, refund is available under both Sections 195 and 196 of the Local Government Code: for Section 196, because it is the express remedy sought, and for Section 195, as a consequence of the declaration that the assessment was erroneous or invalid. Whether the remedy availed of was under Section 195 or Section 196 is not determined by the taxpayer paying the tax and then claiming a refund.

What determines the appropriate remedy is the local government's basis for the collection of the tax. It is explicitly stated in Section 195 that it is a remedy against a notice of assessment issued by the local treasurer, upon a finding that the correct taxes, fees, or charges have not been paid. The notice of assessment must state 'the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties.' In *Yamane v. BA Lepanto Condominium Corp.*:

xxx xxx xxx

No such precondition is necessary for a claim for refund pursuant to Section 196.

Here, no notice of assessment for deficiency taxes was issued by respondent City Treasurer to petitioner for the taxes collected after the first three (3) quarters of 1999. As observed by Court of Tax Appeals Justice Casanova in his Concurring and Dissenting Opinion to the September 5, 2008 Decision:

In order to apply Section 195 of the LGC, there is a need for the issuance of a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties. It is only upon receipt of this notice of assessment that a taxpayer is required to file a protest within sixty (60) days from receipt thereof.

Given the nature of a notice of assessment, it is my opinion that no notice pertaining to deficiency taxes for the periods subsequent to the 3rd Quarter of 1999 up to the present were ever issued or sent by respondents to ICTSI.

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

> 'Records disclose in the instant case that petitioner filed a protest pursuant to Section 195 of the LGC only with respect to the assessment of the amount of P6,224,250.00, which covers the [first three quarters] of 1999. Petitioner protested the said assessment on July 15, 1999 and paid the same amount under protest. This is not controverted by the respondents.'

Hence, Section 195 of the LGC cannot apply to the period subsequent to the 3rd Quarter of 1999 because ICTSI did not receive any notice of assessment thereafter that states the nature of the tax[,] amount of deficiency[,] and charges.

The 'assessments' from the fourth quarter of 1999 onwards were Municipal License Receipts; Mayor's Permit, Business Taxes, Fees & Charges Receipts; and Official Receipts issued by the Office of the City Treasurer for local business taxes, which must be paid as prerequisites for the renewal of petitioner's business permit in respondent City of Manila. While these receipts state the amount and nature of the tax assessed, they do not contain any amount of deficiency, surcharges, interests, and penalties due from petitioner. They cannot be considered the 'notice of assessment' required under Section 195 of the Local Government Code." *(Underscoring added)*

Applying the foregoing to the present case, a perusal of the subject SOAs[44] shows that the same did not provide notice of the facts and laws from which the billed amounts were based. Moreover, the SOAs were issued not as an assessment of LBT but as a prerequisite for the issuance/renewal of petitioner's mayor's permit. Although the SOAs state the amount and nature of the tax and fees assessed, they do not contain the amount of deficiency, surcharges, interests and penalties due from petitioner. Further, although the validity of the increased rates under the 2017 Revised Revenue Code of Pagbilao is in issue, the provisions involved were not stated in the subject SOAs. Hence, they cannot be considered the 'notice of assessment' required under Section 195 of the LGC of 1991. Accordingly, there being no "notice of assessment" issued by respondent Acting/Assistant Municipal Treasurer to petitioner in this case, and petitioner claiming that it erroneously paid the LBT, then Section 196 of the LGC of 1991 solely applies.

Petitioner complied with the prescriptive period for filing a claim for refund of LBT as provided in Section 196 of the LGC.

As provided in Section 196 of the LGC of 1991, 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 and no case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of

[44] *See* Exhibits "A" and "C", RTC Docket (Civil Case No. 2021-02), pp. 33 and 38, respectively.

payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

In this case, it is shown that petitioner paid the LBT to the Office of the Municipal Treasurer on January 19, 2019, April 16, 2019, July 19, 2019, October 18, 2019, January 18, 2020, June 24, 2020, July 20, 2020 and October 20, 2020.[45] Counting from the earliest payment, January 19, 2019, petitioner has until January 19, 2021 to file its administrative and judicial claims for refund, with the administrative claim for refund initiated first before the judicial claim.

Notably, petitioner's administrative claim for refund was filed on January 6, 2021 before respondent Acting Municipal Treasurer Corazon H. Encenarez,[46] and the judicial claim for refund filed before the Court *a quo* on January 15, 2021.[47] Thus, *both* administrative and judicial claims fell *within* the two-year prescriptive period.

Clearly, the Court *a quo* committed a reversible error when it dismissed the subject *Complaint* filed before it holding that petitioner failed to administratively assail within sixty (60) days the assessments before the municipal treasurer, because, in the first place, *there were no assessments* to speak of in this case.

Petitioner then received on October 19, 2021[48] the assailed Order of the Court *a quo*. Under Section 11[49] of Republic Act (RA) No. 1125,[50] as amended by RA No. 9282,[51] petitioner has thirty (30) days from October 19, 2021, or

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[45] Par. 4, *Complaint*, vis-à-vis Par. 3, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 5 and 206, respectively; Exhibits "B-1" to "B-4", RTC Docket (Civil Case No. 2021-02), pp. 34 to 37; and Par. 6, *Complaint*, vis-à-vis Par. 3, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 6 and 206, respectively; and Exhibits "D-1" to "D-4", RTC Docket (Civil Case No. 2021-02), pp. 39 to 42.

[46] Par. 7, *Complaint*, vis-à-vis Par. 4, *Answer*, RTC Docket (Civil Case No. 2021-02), pp. 6 and 207, respectively; Exhibit "E", RTC Docket (Civil Case No. 2021-02), pp. 43 to 45.

[47] RTC Docket (Civil Case No. 2021-02), pp. 4 to 29.

[48] Par. 4, *Petition for Review*, Docket, p. 6; and Docket, p. 43.

[49] "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

xxx xxx xxx"

[50] AN ACT CREATING THE COURT OF TAX APPEALS.

[51] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR

until November 18, 2021, within which to the file this *Petition for Review*. Thus, this *Petition for Review* was timely filed on November 4, 2021.

In view of the reversal of the Order of the Court* a quo *in dismissing the case without trial on the merits, the case must be remanded for further proceedings.

Considering that the proceedings in the Court *a quo* have not yet reached the pre-trial stage and the parties have yet to present their respective evidence, the remand of the case for the conduct of pre-trial and further proceedings for the reception of evidence to thoroughly examine the claims and defenses of the parties is in order. To be sure, the issue of whether petitioner is entitled to a refund or tax credit in the aggregate amount of ₱9,187,873.08 representing its excess LBT payments for the years 2019 and 2020 must be resolved by the Court *a quo*.

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, the assailed Order dated September 24, 2021, issued by the Regional Trial Court (RTC) – Branch 60, Lucena City, in Civil Case No. 2021-02, is hereby **REVERSED** and **SET ASIDE**. Let this case be **REMANDED** to RTC – Branch 160, Lucena City, for further proceedings on the merits of the refund claim.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

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
Presiding Justice