REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

THE TREASURER OF THE CITY OF MANILA, Petitioner,	**C.T.A. AC NO. 50**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
CHINA BANKING CORPORATION, Respondent.	**Promulgated:** APR 30 2009 3:20 p.m.

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DECISION

CASTAÑEDA, JR., J.:

Before the Court is a Petition for Review praying for the setting aside of the Decision dated July 5, 2007 and the Order dated October 29, 2007, rendered by Branch 47 of the Regional Trial Court (RTC) of the City of Manila in Civil Case No. 03-106346 entitled *China Banking Corporation vs. City Treasurer of Manila.*

Petitioner Treasurer of the City of Manila, Liberty M. Toledo is the duly appointed treasurer of the City of Manila, empowered to perform the duties of said office including, among others, the collection of all local taxes, fees and charges, and the power to decide, approve or grant refunds of erroneously or excessively paid local taxes.

Respondent China Banking Corporation is a universal banking corporation organized and operating under Philippine laws, with principal office address at 8745 Paseo de Roxas St. corner Villar St., Makati City.

On January 17, 2003, petitioner assessed respondent the sum of P1,922,918.10, including the amount of P1,123,522,25 for local taxes.

On January 20, 2003, respondent, through Ms. Gloria T. Ong, its Assistant Vice-President of the Accounting Department, wrote the Office of the City Treasurer a letter of protest and paid the amount of P1,922,918.10.[1]

On April 22, 2003, respondent filed a Complaint (For: Refund of Sum of Money) before the RTC, praying for the refund of the additional business tax in the amount of P1,123,522.25 paid under protest.[2]

On June 19, 2003, petitioner filed her Answer with Motion to Dismiss. Petitioner sought the dismissal of the Complaint based on several grounds, namely: (1) failure of respondent to exhaust administrative remedies by filing a claim for refund under Section 196 of the Local Government Code; (2) violation of the rule against forum-shopping; and (3) lack of personality of Ms. Gloria Ong to file the Complaint.[3]

In an Order dated November 30, 2004, the trial court denied the Motion to Dismiss for being unmeritorious.[4]

On August 28, 2006, the Pre-trial was conducted and both parties agreed that the only issue to be resolved is whether respondent is entitled to a refund.[5] Jc

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[1] RTC Records, pp. 99-100.
[2] Docket, pp. 40-45; RTC Records, pp. 1-12.
[3] Annex "F", Petition for Review, Docket, pp. 46-56; RTC Records, pp. 28-38.
[4] RTC Records, pp. 129-130.

Thereafter, respondent presented its lone witness, Ms. Anna Liza Ong Camaligan, and formally offered its documentary evidence on November 24, 2006. During the hearing on January 22, 2007, counsel for petitioner manifested that he was dispensing with the presentation of witness, considering that the factual matters he will elicit from his witness can be found on the records of the case.[6] The case was submitted for decision after the parties filed their respective Memorandum.[7]

On July 5, 2007, the trial court rendered the two-page assailed Decision that reads:[8]

> "This is an action brought by the plaintiff on April 22, 2003 against the defendant for the refund of the amount of P1,123,522.25 representing local taxes paid under Section 21 of City Ordinance No. 7988 as amended by City Ordinance No. 8011; plus interest thereon at the legal rate.
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> On June 19, 2003, the defendant filed her Answer with Motion to Dismiss. After the Motion to Dismiss was eventually denied by the Court, and the pre-trial concluded, trial on the merits ensued.
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> The plaintiff presented, Ms. Anna Liza Ong Camaligan a certified public accountant, and submitted Exhibits 'A' to 'C' with submarkings. The defendant did not present any witness and manifested instead through counsel that considering that the factual matters that he is going to elicit from the witness can be found in the records he is dispensing with the presentation of his witness. From the testimony of the witness for the plaintiff and the exhibits submitted, the Court was able to elicit the following facts:
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> On January 20, 2003, the plaintiff paid the defendant local fees and taxes in the total amount of P1,922,918,10, as evidenced by the Mayor's Permit, Business Taxes, Fees and Charges Receipt (Exhibit 'B') and Chinabank Manager's Check No. 0000080307 dated January 20, 2003 (Exhibit 'C' and 'C-1'). Of the total amount of P1,922,918.10, P674,113.35 represented

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[5] Pre-Trial Order dated August 28, 2006, RTC Records, p. 229.
[6] RTC Records, p. 290.
[7] RTC Records, pp. 299-309, and 321-330.
[8] Docket, pp. 25-26, RTC Records, pp. 336-343.

payment of local tax under Section 19 of City Ordinance No. 7988 (Exhibit 'B-1'), and the amount of P123,522.25 as payment of local tax under Section 21 of the same Ordinance (Exhibit 'B-2'). The latter amount was paid by the plaintiff under protest as shown by the letter of the plaintiff dated January 20, 2003 which was admitted to have been duly received by the defendant (Pre-Trial Order dated August 28, 2006).

The plaintiff claims that the defendants' assessment and collection of the local tax from the plaintiff under Section 21 of the City Ordinance No. 7988 in the amount of P123,522.25 is without any legal basis. City Ordinance No. 7988 and City Ordinance No. 8011 amending it, having been declared null and void and of no legal effect.

The only issue in this case as agreed upon by the counsels for both parties is whether or not the plaintiff is entitled to a refund of the amount paid under Section 21 of the Ordinance No. 7988 as amended by City Ordinance No. 8011.

It bears noting that the Supreme Court, in the case entitled 'Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, Liberty M. Toledo-City Treasurer and Joseph Santiago-Chief Licensing Division' (G.R. No. 1562252, June 27, 2006) already ruled that City Ordinance Nos. 7988 and 8011 are null and void. Following this ruling, this Court has no alternative but to declare that the assessment made in this case for the payment of P123,522.25 pursuant to Section 21 of Ordinance No. 7988, as amended by Ordinance No. 8011 as null and void.

WHEREFORE, premises considered, judgment is hereby rendered ordering the defendant to refund to the plaintiff the amount of P123,522.25, OR ALTERNATIVELY to issue tax credit to plaintiff for the said amount.

SO ORDERED."

Petitioner and respondent filed their respective Motion for Reconsideration on July 26, 2007 and July 31, 2007.[9]

The trial court issued an Order on August 31, 2007 granting respondent's motion, which reads:[10]

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[9] Docket, pp. 27-34; RTC Records, pp. 347-356.
[10] RTC Records, p. 360.

> "Acting on the Motion for Reconsideration filed by the plaintiff China Banking Corporation on July 31, 2007 seeking reconsideration of the decision of this Court dated July 5, 2007 and finding it to be meritorious, the same is hereby GRANTED. The dispositive portion of the decision dated July 5, 2007 is amended, modified and corrected to read as follows:
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> > 'WHEREFORE, premises considered judgment is hereby rendered ordering the defendant to refund to the plaintiff the amount of PESOS: One Million One Hundred Twenty Three Thousand Five Hundred Twenty Two and 25/100 (P1,123,522.25), OR ALTERNATIVELY to issue tax credit to the plaintiff for the said amount.'
>
> SO ORDERED."

On October 29, 2007, acting on petitioner's Motion for Reconsideration, the trial court issued an Order denying the same.[11]

Petitioner filed a Motion for Extension of Time (to File Petition for Review) on December 26, 2007 and this Court granted the same in a Resolution dated January 10, 2008.[12]

On February 8, 2008, respondent filed its Comment praying for the dismissal of the instant Petition for Review for lack of merit.[13]

Upon receipt of respondent's Memorandum on May 12, 2008, and petitioner's Memorandum on May 19, 2008, the case was considered submitted for decision on May 23, 2008.

Petitioner raised the following issues[14] in the instant Petition:

> "WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN HOLDING THAT CITY ORDINANCE Nos. 7088 AND 8011 ARE NULL AND VOID BY SIMPLY RELYING ON THE DECISION OF THE SUPREME COURT IN COCA-COLA BOTTLERS PHILIPPINES, INC. V. CITY OF MANILA, ET AL. *Jr*

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[11] Docket, p. 35.
[12] Docket, p. 11.
[13] Docket, pp. 84-89.
[14] Docket, p. 17.

WHETHER OR NOT THE DECISION OF THE HONORABLE REGIONAL TRIAL COURT BRANCH 47, CITY OF MANILA IS NULL AND VOID FOR BEING VIOLATIVE OF ARTICLE VIII SECTION 14 OF THE CONSTITUTION"

Petitioner assails the RTC Decision on the following grounds:[15]

1. the trial court failed to state clearly and distinctly the facts and the law on which it is based;

2. the trial court failed to state in the assailed Decision why the Supreme Court's ruling in *Coca-Cola Bottlers Phils., Inc. vs. City of Manila* (G.R. No. 156252, June 27, 2006) is applicable;

3. respondent failed to file a written protest or written claim for refund as mandated in the 1991 Local Government Code;[16] and

4. the trial court should have dismissed the action for respondent's violation of the rule against forum-shopping, for failure to plead its capacity to sue, and for failure to aver both parties' capacity to sue.

This Court finds no merit in petitioner's contention that the assailed Decision and Order are unconstitutional for failure to state clearly and distinctly the facts and the law on which they were based.

In the proceedings before the trial court, there was only one issue submitted for resolution, and only respondent presented its witness and offered three pieces of documents as evidence.[17] Counsel for herein petitioner did not present documentary and testimonial evidence. Taking into account the proceedings in the trial court, the assailed Decision and Order of the trial court summed up clearly, concisely, and completely the facts of the case, the issue involved, the parties' respective arguments, and rendered an appropriate ruling based on the factual and legal circumstances of the case.

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[15] Petitioner's Memorandum, Docket, pp. 101-116.
[16] Par. 15, Petitioner's Memorandum, Docket, p. 109.
[17] Respondent's letter dated January 20, 2003, Mayor's Permit, Business Taxes, Fees and Charges Receipt, and Chinabank Manager's Check No. 0000080307 dated January 20, 2003.

The assailed Decision contains the essential parts of a good decision, using a concise and straightforward language. And as long as the legal basis can be inferred from the discussion in the decision, there is no violation of the constitutional requirement that every decision must clearly and distinctly state the factual and legal bases for the conclusions reached by the trial court.[18]

In other words, the trial court has complied with the standards set forth by the Supreme Court in *Velarde vs. Social Justice Society*[19] in making a good decision. As pointed out, "The foregoing parts need not always be discussed in sequence. But they should all be present and plainly identifiable in the decision. Depending on the writer's character, genre and style, the language should be fresh and free-flowing, not necessarily stereotyped or in a fixed form; much less highfalutin, hackneyed and pretentious. At all times, however, the decision must be *clear, concise, complete* and *correct.*"

This Court now proceeds to resolve the question of propriety of applying the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[20]

In disposing of the case, the trial court took into account herein respondent's argument that City Ordinance Nos. 7988 and 8011 have no legal effect as the same were declared void pursuant to the Supreme Court's ruling in *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[21]

In this regard, the trial court did not err. In judicial hierarchy, the Highest Tribunal reigns supreme. Thus, all courts, tribunals and administrative

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[18] *Bedruz and Luna vs. Office of the Ombudsman*, G.R. No. 161077, March 10, 2006.
[19] G.R. No. 159357, April 28, 2004.
[20] G.R. No. 156252, June 27, 2006.
[21] *Supra.*

bodies exercising quasi-judicial functions are obliged to conform to its pronouncements. It has the last word on what the law is; it is the final arbiter of any justifiable controversy. In other words, there is only one Supreme Court from whose decisions all other courts should take their bearings.[22] *Stare decisis et non quieta movere.*[23] Moreover, judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.[24]

As regards herein petitioner's contention that the trial court should have dismissed the action for respondent's violation of the rule against forum-shopping, for failure to plead its capacity to sue, and for failure to aver both parties' capacity to sue, the same is without merit. In the Order dated November 20, 2004, the trial has settled the issue and found the same to be untenable. And taking into consideration the parties' arguments, the Complaint, and the Annexes attached to the Opposition filed on June 26, 2003, this Court finds no bases to disturb the trial court's finding.

As regards the allegation that respondent failed to perform a condition precedent before filing a claim for refund before a judicial body, this Court agrees with petitioner.

Section 196 of Republic Act (R.A.) No. 7160 requires that there must be a written claim for refund or credit filed with the local treasurer before a

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[22] *Development Bank of the Philippines vs. NLRC, et al.*, G.R. No. 108031, March 1, 1995; *Albert vs. Court of First Instance of Manila (Branch VI), et al.*, G.R. No. L-26364, May 29, 1968.
[23] *Tala Realty Services Corp. vs. Banco Filipino Savings and Mortgage Bank*, G.R. No. 132051, June 25, 2001.
[24] Article 8 of the Civil Code of the Philippines.

taxpayer may file an action for refund with the appropriate court. Respondent's letter to petitioner reads:[25]

> "Gentlemen:
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> We refer to your assessment for Mayor's Permit & other regulatory fees for the year 2003, specifically the additional business tax of PESOS: ONE MILLION ONE HUNDRED TWENTY THREE THOUSAND FIVE HUNDRED TWENTY TWO & 25/100 (P1,123,522.25) for the 1st quarter of 2003 which is 50% of 1% of the previous year's gross receipt. It is our position that we are not liable on the said additional local tax. And assuming that we are covered by Section 21 of the City Ordinance, we vehemently disagree with the aforesaid assessment on the ground that such constitute double taxation.
>
> In the meantime to avoid penalties/charges and any threat of closure, we are remitting the aforesaid assessment **UNDER PROTEST** in the amount of PESOS: ONE MILLION NINE HUNDRED TWENTY TWO THOUSAND NINE HUNDRED EIGHTEEN & 10/100 (P1,922,918.10) under Manager's Check No. 0000080307.
>
> Please issue the corresponding official receipt.
>
> Very truly yours,
> CHINA BANKING CORPORATION
> Downtown Center Branch
>
> By: (Signed)
> GLORIA T. ONG
> Assistant Vice-President
> Accounting Department"

Said letter does not speak of respondent's claim for refund. Respondent merely expressed its opinion that it does not agree with the assessment of business tax in the amount of P1,123,522.25 for the first quarter of 2003; that it shall pay the said amount to avoid penalties/charges and any threat of closure; and that it is requesting the issuance of an official receipt. In short, it is merely a letter of protest.

[25] RTC Records, p. 43.

In *Toledo, et al. vs. Metro Manila Shopping Mecca Corp., et al.*, this Court ruled:[26]

> "In the case of China Banking Corporation vs. City Treasurer of Manila, this Court declared that a written protest cannot be considered as a written claim for refund, and ruled that:
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> > **The above letter speaks for itself. The wordings of the letter are explicit and unequivocal that petitioner merely notified the respondent that it is paying under protest the amount of P330,649.78 representing the alleged local government tax and that they are presently instituting the appropriate legal actions to effect refund of any erroneous/excessive payment made. It is not the written claim for refund as contemplated under Section 196 of the Local Government Code.**
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> > As prescribed under Section 196 of the Local Government Code, the appropriate legal action is to file a written claim for refund. Petitioner did not attempt to seek administrative relief, which was both available and sufficient. Nothing in the records convinces us that the petitioner ever thought of pursuing the available administrative remedy, which is to file a written claim for refund.
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> > Having failed to comply with the requirements prescribed by Section 196, the complaint for refund was prematurely filed for failure to exhaust administrative remedies. Where the enabling statute indicates a procedure for administrative review, and provides a system of administrative appeal, or reconsideration, the courts, for reason of law, comity, and convenience, will not entertain a case unless the available remedies have been resorted to and the appropriate authorities have been given an opportunity to act and correct the errors committed in the administrative forum . . . . (Emphasis supplied).

The afore-quoted case squarely applies in the instant case. Respondents' letter dated October 19, 2001 disputing petitioners' assessments of local business taxes for the fourth (4th) quarter of year 2001, is merely a protest-letter, and should not be treated as a written claim for refund. In said letter, gr

[26] C.T.A. AC CASE NO. 35, October 31, 2008.

> respondents did not categorically request for the refund of the amount they paid as local business taxes. Hence, respondents failed to comply with the requirements of Section 196 of R.A. No. 7160. There being no written claim for refund or credit filed with the petitioner local treasurer, the RTC did not acquire jurisdiction over respondents' refund claim. Thus, the RTC's decision granting respondents' claim for refund is void. A void judgment for want of jurisdiction is no judgment at all.
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> Moreover, respondents' Exhibits 'C' to 'K' show that they paid local business taxes under Section 21 of the Revenue Code of the City of Manila. No other evidence was presented to prove that they paid local taxes under Sections 15 and 17 under the same Revenue Code; and how much they actually paid to petitioner City of Manila under the said Sections. Thus, the RTC erred in ordering petitioners to refund the local business taxes paid by respondents considering that there was no sufficient evidence showing that they are entitled to their respective claims for refund or tax credit."

As respondent failed to comply with the requirement of filing a written claim for refund with petitioner pursuant to Section 196 of the Local Government Code, the complaint for refund was prematurely filed for failure to exhaust administrative remedies. The Supreme Court discussed the reason for requiring and the implication of failure to exhaust administrative remedies in the case of *Teotico vs. Agda*, in the following manner:[27]

> "Within the administrative forum the law may provide for review of decisions by higher authorities. Before a party can be allowed to invoke the jurisdiction of the courts of justice, he is expected to have exhausted all means of administrative redress afforded him. There are both legal and practical reasons for this. The administrative process is intended to provide less expensive and more speedy solutions to disputes. Where the enabling statute indicates a procedure for administrative review, and provides a system of administrative appeal, or reconsideration, the courts for reasons of law, comity and convenience, will not entertain a case unless the available administrative remedies have been resorted to and the appropriate authorities have been given opportunity to act and correct the errors committed in the administrative forum."

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[27] G.R. No. 87437, May 29, 1991, citing Cortes, Irene R., *Philippine Administrative Law, Cases and Materials*, Revised Second Ed., 1984, p. 394.

There being no written claim for refund filed with petitioner, the trial court did not acquire jurisdiction over respondent's complaint and the assailed Decision granting respondent's claim for refund is void.[28]

WHEREFORE, the Petition for Review is hereby **GRANTED**. The assailed Decision dated July 5, 2007, and the Order dated October 29, 2007 of the Regional Trial Court, Branch 47 of the City of Manila in Civil Case No. 03-106346 are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

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.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

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[28] *China Banking Corp. vs. City Treasurer of Manila*, C.T.A. EB No. 182, July 27, 2006.

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