REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

MANILA ELECTRIC COMPANY, *Petitioner,*	**CTA AC No.** ***329***
- versus -	Members: **MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
SAN JOSE DEL MONTE CITY and ANALIZA E. MENDIOLA, in her capacity as OIC-City Treasurer of San Jose Del Monte City, *Respondents.*	Promulgated: NOV 12 2025 3:48 p.m.

x- -x

DECISION

REYES-FAJARDO, *J.*:

Before this Court is a *Petition for Review* filed by petitioner Manila Electric Company,[1] seeking: (1) the issuance of an Order giving due course to the petition, and (2) the issuance of a Decision reversing and setting aside the Decision dated December 14, 2023,[2] and Order dated March 15, 2024,[3] rendered by the Regional Trial Court (RTC) of Pasig – Branch 161 in Civil Case No. 73279-CV, entitled "*Manila Electric Company, Plaintiff, versus San Jose Delmonte City and Analiza Mendiola, in her capacity as OIC City Treasurer of San Jose Del Monte City, Defendants.*" Petitioner further prays for the nullification and cancellation of the assailed franchise tax adjustments for the years 2006 to 2011, and for the issuance of a

---

1 Docket, pp. 5 to 24.
2 Docket, pp. 25 to 33; RTC Docket (Civil Case No. 73279-CV) – Vol. 2, pp. 534 to 543.
3 Docket, pp. 48 to 50; RTC Docket (Civil Case No. 73279-CV) – Vol. 2, pp. 593 to 595.

permanent injunction, enjoining respondents, their representatives, agents, successors, and all persons acting on their behalf and under their direction and control, from imposing and collecting said franchise tax adjustments.

PARTIES

Petitioner Manila Electric Company is a corporation organized and existing under the laws of the Philippines, with its principal office located at the Lopez Building, Ortigas Avenue, Pasig City.[4]

Respondent San Jose Del Monte City (SJDM City) is a local government unit (LGU) created and existing under Philippine laws.[5]

Respondent Analiza E. Mendiola (Mendiola) is impleaded in her official capacity as the then Officer-in-Charge of the City Treasurer's Office of respondent SJDM City.[6]

FACTS

Petitioner operates under a legislative franchise granted by Republic Act No. 9209 within the jurisdiction of respondent SJDM City, and pays local franchise tax (LFT) to respondent SJDM City at the rate of fifty percent of one percent (50% of 1%) of its gross annual receipts from the preceding calendar year, pursuant to City Ordinance No. C-008, otherwise known as *"The Revised Revenue Code of San Jose Del Monte City,"* enacted on December 6, 2003.[7]

On July 7, 2011, respondent Mendiola issued a letter dated June 7, 2011,[8] addressed to Mr. Gener R. Montemayor, petitioner's Head of Tax Management and Realty Services, informing him of adjustments

---

4 Par. 1.1, *Petition for Review*, Docket, p. 5. Refer also to par. 1, *Complaint*, RTC Docket (Civil Case No. 73279-CV) - Vol. 1, p. 5.

5 Par. 1.2, *Petition for Review*, Docket, p. 5. Refer also to par. 2, *Complaint*, *vis-a-vis* par. I.2, *Answer (Ad Cautelam)*, RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 5 and 44, respectively.

6 Par. 1.2, *Petition for Review*, Docket, pp. 5 to 6. Refer also to par. 3, *Complaint*, *vis-a-vis* par. I.3, *Answer (Ad Cautelam)*, RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 5 to 6 and 45, respectively.

7 Decision

8 Exhibit "A," RTC Docket (Civil Case No. 73279-CV) - Vol. 1, p. 18, and Vol. 2, p. 496.

to the LFT due from petitioner for the years 2006 to 2011. These adjustments were based on an increased tax rate from 50% to 75% of 1% of petitioner's gross annual receipts for each preceding year, resulting in a total assessment of ₱18,562,295.79, computed as follows:

Taxable Year	Payable in Year	Gross Receipts	LFT Due	LFT Paid	Total Tax Still Payable
2005	2006	₱903,239,152.23	₱6,774,293.64	₱4,516,195.76	₱2,258,097.88
2006	2007	₱922,848,890.81	₱6,921,366.68	₱4,614,244.45	2,307,122.23
2007	2008	₱992,111,305.88	₱7,440,834.79	₱4,960,556.53	2,480,278.26
2008	2009	₱988,831,019.40	₱7,416,232.64	₱4,944,155.10	2,472,077.54
2009	2010	₱979,332,683.87	₱7,344,995.12	₱4,896,663.41	2,448,331.71
2010	2011	₱1,319,277,635.21	₱9,894,582.26	₱3,298,194.09	6,596,388.17
TOTAL		**₱6,105,640,687.40**	**₱45,792,305.13**	**₱27,230,009.34**	**₱18,562,295.79**

On September 5, 2011, petitioner contested the franchise tax adjustments for the years 2006 to 2011,[9] requesting their withdrawal or cancellation.

On November 14, 2011, petitioner received the reply-letter dated November 3, 2011, from respondent Mendiola,[10] denying petitioner's request for withdrawal or cancellation of the franchise tax adjustment.

On December 14, 2011, petitioner filed a *Complaint* before the RTC of Pasig,[11] docketed as Civil Case No. 73279-CV seeking to nullify the franchise tax adjustments and requesting injunctive relief.

The case was initially raffled to Branch 67.[12]

On January 25, 2012, respondents filed their *Answer (Ad Cautelam)*.[13]

On February 6, 2012, respondents filed their *Memorandum (Re: Prayer for Issuance of a Temporary Restraining Order)*,[14] while on

[9] Exhibit "B," RTC Docket (Civil Case No. 73279-CV) – Vol. 2, pp. 497 to 499.
[10] Exhibit "C," RTC Docket (Civil Case No. 73279-CV) – Vol. 2, p. 500.
[11] RTC Docket (Civil Case No. 73279-CV) – Vol. 1, pp. 5 to 17.
[12] RTC Docket (Civil Case No. 73279-CV) – Vol. 1, p. 5.
[13] RTC Docket (Civil Case No. 73279-CV) – Vol. 1, pp. 44 to 59.
[14] RTC Docket (Civil Case No. 73279-CV) – Vol. 1, pp. 87 to 98.

February 13, 2012, petitioner filed its *Memorandum (In support of Plaintiff's prayer for TRO/Preliminary Injunction)*.[15]

On February 20, 2012, petitioner filed an *Omnibus Motion (1) to Reconsider the Order dated January 26, 2012, and (2) to Declare Defendants in Default*.[16]

On March 5, 2021, respondents filed their *Comment/Opposition (to Plaintiff's Motion to Reconsider Order dated 26 January 2012 and Declare Defendant in Default) With Motion to Admit Answer*.[17]

On March 27, 2012, petitioner filed its *Reply Re: Defendant's Comment/Opposition (to Plaintiff's Motion to Reconsider Order dated 26 January 2012 and Declare Defendant in Default) and Opposition Re: Defendant's Motion to Admit Answer*.[18]

In the meantime, on February 21, 2012, the Court *a quo* issued a Resolution denying the application for TRO.[19]

On May 22, 2012, the Court *a quo* issued an *Omnibus Order*,[20] denying the *Motion to Reconsider the Order dated January 26, 2012 and to Declare Defendants in Default*, and granting the *Motion to Admit Answer* filed by defendants (now respondents).

On June 18, 2013, petitioner filed its *Memorandum*,[21] while respondents file their *Memorandum* on June 24, 2013.[22]

In a Resolution dated October 1, 2013,[23] the Court *a quo* directed the issuance of a Writ of Preliminary Injunction, enjoining respondents SJDM City and Mendiola, including their representatives, agents, successors and all persons acting on their behalf and under their direction and control, from imposing and

---

15 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 74 to 86.
16 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 102 to 110.
17 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 103 to 141.
18 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 146 to 156.
19 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 100 to 101.
20 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 157 to 159.
21 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 172 to 183.
22 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 184 to 192.
23 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 193 to 201.

collecting the franchise tax adjustments, subject to the posting of a ₱1,000,000.00 bond.

On November 25, 2013, respondents filed a *Motion for Reconsideration,*[24] which was denied by the Court *a quo* in its Order dated March 27, 2014.[25] In the same Order, petitioner's *Motion for Reconsideration* filed on December 2, 2013,[26] was merely noted.

On May 29, 2014, the Court *a quo* issued the *Writ of Preliminary Injunction*.[27] Subsequently, an Amended Writ of Preliminary Injunction was issued on December 15, 2014,[28] correcting the surname of respondent Mendiola.

The Pre-Trial Conference was initially set on April 5, 2016.[29] After several resetting, the Pre-Trial Conference was held on February 3, 2017. However, only the counsel for the defendant (now respondent) appeared. Thus, upon motion and pursuant to Rule 18, Section 5 of the Rules of Court, the case was dismissed. [30]

On February 14, 2017, petitioner filed a *Motion for Reconsideration (From the Honorable Court's February 3, 2017 Order with Affidavit of Merit)*.[31] This was granted by the Court in an Order dated March 8, 2019.[32] Consequently, the case was set for pre-trial on June 18, 2019. In the same Order, the Court *a quo* referred the parties and their counsels to the Philippine Mediation Center for possible mediation, scheduled on April 30, 2019. However, according to the *Mediator's Report* dated May 20, 2019,[33] the case was returned to Court *a quo* due to the non-appearance of the parties at the scheduled conferences.

---

24 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 245 to 253.
25 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 308 to 309.
26 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 275 to 278.
27 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, p. 310.
28 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 317 to 319.
29 RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 324 to 325.
30 Minutes of the Hearing held on, and Order dated, February 3, 2017, RTC Docket (Civil Case No. 73279-CV) - Vol. 1, pp. 374 to 375.
31 RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 390-406.
32 Order dated March 8, 2019, RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 418 to 419.
33 RTC Docket (Civil Case No. 73279-CV) - Vol. 2, p. 420.

The Judicial Dispute Resolution (JDR) proceedings were set on August 5, 2019.[34] After several resetting, the JDR was held on March 2, 2020, during which the parties manifested and committed to submit the compromise agreement on or before May 4, 2020. Failing that, the JDR would be deemed unsuccessful, and the case shall be re-raffled to another branch.[35]

The case was eventually raffled to Branch 161.[36] After further resetting, the Pre-Trial was held on May 5, 2022[37] and the Pre-Trial Order was issued on the same date.[38]

Trial ensued, with both parties presenting their respective documentary and testimonial evidence.

On December 14, 2023, the Court *a quo* rendered the assailed Decision,[39] denying petitioner's *Complaint*, and lifting and setting aside the previously issued Writ of Preliminary Injunction. The dispositive portion reads:

> **WHEREFORE,** premises considered, the *Complaint for Nullification of Franchise Tax Adjustment with Prayer for Temporary Restraining Order and Preliminary Injunction* filed by the Plaintiff MANILA ELECTRIC COMPANY is **DENIED** for lack of merit.
>
> The Writ of Preliminary Injunction previously issued is hereby lifted and set aside.
>
> *SO ORDERED.*

On January 23, 2024, petitioner filed a *Motion for Reconsideration*.[40] Respondents filed their *Comments and Opposition to Plaintiff's Motion for Reconsideration* on February 23, 2024.[41]

---

34 Minutes of the Hearing held on, and Order dated July 23, 2019, RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 425 to 426.

35 Minutes of the Hearing held on, and Order dated March 2, 2020, RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 438 to 439.

36 Order dated March 5, 2021, RTC Docket (Civil Case No. 73279-CV) - Vol. 2, p. 447.

37 Minutes of Proceedings dated May 5, 2022, RTC Docket (Civil Case No. 73279-CV) - Vol. 2, p. 466.

38 RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 472 to 478.

39 RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 534 to 543.

40 RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 544 to 554.

41 RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 558 to 568.

Thereafter, on March 15, 2024, the Court *a quo* issued the assailed Order, denying petitioner's *Motion for Reconsideration*, as follows:[42]

> **WHEREFORE**, the Plaintiff's Motion for Reconsideration is **DENIED** for lack of merit.
>
> *SO ORDERED.*

On June 5, 2024, Petitioner filed a *Petition for Review* before the Court.[43]

In a Minute Resolution dated June 27, 2024,[44] the Court directed respondents to file their comment to the *Petition for Review* within ten (10) days from notice. It also ordered the Branch Clerk of Court of RTC of Pasig - Branch 161, to elevate the entire original records of Civil Case No. 73279-CV within the same period.

On October 8, 2024, in compliance with said Minute Resolution, the Branch Clerk of Court of RTC of Pasig - Branch 161 transmitted the entire records of the case.[45]

On October 14, 2024, respondents posted their *Comment/Opposition [To the Petition for Review]*.[46]

Under Resolution dated November 12, 2024, this case was submitted for decision.[47]

ASSIGNED ERROR

Petitioner assigns the following error allegedly committed by the Court *a quo*:

---

42 RTC Docket (Civil Case No. 73279-CV) - Vol. 2, pp. 593 to 595.
43 Docket, pp. 5 to 24.
44 Minute Resolution dated June 27, 2024, Docket, p. 282.
45 Docket, pp. 283 to 284.
46 Docket, pp. 355 to 366.
47 Minute Resolution dated November 12, 2024, Docket, p. 418.

4.1 THE HONORABLE COURT *A QUO* COMMITTED SERIOUS AND REVERSIBLE ERROR WHEN IT CONCLUDED THAT THERE WAS NO SHOWING THAT THE FRANCHISE TAX ADJUSTMENT WAS INVALID OR UNCONSTITUTIONAL.[48]

ARGUMENTS

Petitioner argues that the LFT adjustment resulted in a tax rate increase beyond the limit prescribed under Section 191 of the Local Government Code of 1991 (LGC). It further asserts that the adjustment was implemented prematurely, in violation of the five (5)-year prohibition period mandated by the same provision. Additionally, petitioner claims that City Ordinance C-008 is null and void, and without legal effect, due to respondent's failure to comply with the publication requirement set forth in the LGC.

Respondents counter that Section 2F.02 of City Ordinance No. C-008, which served as the basis for the franchise tax adjustment, is valid and enforceable. They argue that the Court *a quo* did not commit any serious or reversible error in concluding that there was no showing of invalidity or unconstitutionality of the franchise tax adjustment. Respondents further assert that petitioner is barred from challenging the validity of the ordinance, having failed to exhaust administrative remedies provided under Section 187 of the LGC. Additionally, respondents maintain that they complied with the publication requirement mandated by the LGC.

RULING

The *Petition for Review* is granted.

First. The Court holds that it has acquired jurisdiction over CTA AC No. 329. Specifically, the CTA has exclusive appellate jurisdiction to review by appeal decisions, orders, or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate

---

48 Par. IV Assignment of Error, *Petition for Review*, Docket, p. 13.

jurisdiction. Section 7(a)(3), in relation to Section 11 of Republic Act (RA) No. 1125,[49] as amended by RA No. 9282 provides:

> SEC. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
>
> ...
>
> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. - Any party adversely affected by a decision, ruling of the... Regional Trial Courts **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling**...[50]

As alleged in the Petition for Review, petitioner received the assailed Order on May 10, 2024.[51] Counting thirty (30) days therefrom, petitioner had until June 9, 2024 to file an appeal before the Court. The Petition for Review was filed on June 5, 2024, thereby vesting the Court with jurisdiction over CTA AC No. 329.

Second. The Court *a quo* erred in denying petitioner's complaint on the ground that the validity[52] of the LFT adjustments found in respondent SJDM City's Tax Ordinance No. C-008, otherwise known as "An Ordinance enacting the Revised Revenue Code of San Jose Del Monte City (2003),"[53] was not brought before the Secretary of Justice, as required in Section 187 of the LGC. Said provision states:

> **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:

---

49 An Act Creating the Court of Tax Appeals.

50 Boldfacing supplied. The above provisions are also provided in Section 3(a)(1), Rule 4 and Sections 3(a) and 4, Rule 8 of the Revised Rules of the Court of Tax Appeals.

51 Paragraph 2.6, Petition for Review dated June 5, 2024. Docket, p. 7.

52 RTC Docket (Civil Case No. 73279-CV) – Vol. 2, p. 541.

53 RTC Docket (Civil Case No. 73279-CV) – Vol. 2, pp. 569 to 590.

> *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.[54]

In *Ty, et al. v. Trampe, et al.,*[55] the Supreme Court ruled that, as a rule, administrative remedies must first be exhausted before resort to judicial action can prosper. By way of exception, prior exhaustion thereof may be dispensed with if the controversy does not involve questions of fact but only of law. Jurisprudence is clear that this principle likewise applies to Section 187 of the LGC.

For instance, in *Jose J. Ferrer, Jr. v. City Mayor Herbert Bautista, et al. (Bautista),*[56] the Supreme Court explained that while the exhaustion of administrative remedies under Section 187 of the LGC is obligatory, it admits exceptions when the issue raised is purely legal:

> **Despite these cases, the Court, in Ongsuco, et al. v. Hon. Malones, held that there was no need for petitioners therein to exhaust administrative remedies before resorting to the courts, considering that there was only a pure question of law, the parties did not dispute any factual matter on which they had to present evidence. Likewise, in Cagayan Electric Power and Light Co., Inc. v. City of Cagayan de Oro, We relaxed the application of the rules in view of the more substantive matters. For the same reasons, this petition is an exception to the general rule."**[57]

Like *Bautista,* in *Alta Vista Golf and Country Club v. The City of Cebu, et al. (Alta Vista),*[58] the Supreme Court reiterated that when the

---

54 Boldfacing supplied.
55 G.R. No. 117577, December 1, 1995.
56 G.R. No. 210551, June 30, 2015, citing G.R. No. 182065, October 27, 2009 and G.R. No. 191761, November 14, 2012.
57 Boldfacing supplied.
58 G.R. No. 180235, January 20, 2016.

issue involves pure questions of law, it falls within the competence and jurisdiction of the RTC to resolve, *viz.*:

> The rule on the exhaustion of administrative remedies is intended to preclude a court from arrogating unto itself the authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative body of special competence. Thus, **a case where the issue raised is a purely legal question, well within the competence; and the jurisdiction of the court and not the administrative agency, would clearly constitute an exception. Resolving questions of law, which involve the interpretation and application of laws, constitutes essentially an exercise of judicial power that is exclusively allocated to the Supreme Court and such lower courts the Legislature may establish.**[59]

Here, in paragraph 8 of the complaint, plaintiff (now petitioner) alleged the total gross receipts from 2005 to 2010, the LFTs already paid by it from 2006 to 2011, and the amounts of LFTs sought to be collected by respondent SJDM City, as shown in the following table:[60]

Taxable Year	Payable in Year	Gross Receipts	LFT Due	LFT Paid	Total Tax Still Payable
2005	2006	₱903,239,152.23	₱6,774,293.64	₱4,516,195.76	₱2,258,097.88
2006	2007	₱922,848,890.81	₱6,921,366.68	₱4,614,244.45	2,307,122.23
2007	2008	₱992,111,305.88	₱7,440,834.79	₱4,960,556.53	2,480,278.26
2008	2009	₱988,831,019.40	₱7,416,232.64	₱4,944,155.10	2,472,077.54
2009	2010	₱979,332,683.87	₱7,344,995.12	₱4,896,663.41	2,448,331.71
2010	2011	₱1,319,277,635.21	₱9,894,582.26	₱3,298,194.09	6,596,388.17
TOTAL		**₱6,105,640,687.40**	**₱45,792,305.13**	**₱27,230,009.34**	**₱18,562,295.79**

The immediately preceding averment was *not* specifically denied by defendants (now respondents) in their Answer *Ad Cautelam*;[61] hence, paragraph 8 of plaintiff (now petitioner)'s complaint is deemed admitted. In other words, the parties are in agreement as to: (1) petitioner's total gross receipts from 2005 to 2010; (2) the amount of LFT paid by petitioner for years 2006 to 2011; and (3) the amounts of *additional* LFT sought to be collected by respondents. The only remaining task is to properly apply the law based on these undisputed facts. Since the controversy involves a pure question of law, and following *Bautista* and *Alta Vista*, the

---

59 Boldfacing supplied.
60 Paragraph 8, Complaint. RTC Docket (Civil Case No. 73279-CV) - Vol. 1, p. 3.
61 Paragraph 4, Answer (*Ad Cautelam*). RTC Docket (Civil Case No. 73279-CV) - Vol. 1, p. 45.

procedure set forth in challenging tax ordinances under Section 187 of the LGC does not apply.

Third. Based on the undisputed facts just mentioned, the adjustment of the LFT rate from 50% of 1% to 75% of 1%, as provided under Section 2F.02 of Tax Ordinance No. C-008, is invalid for being *ultra vires*.

The power of local government units (LGUs) to impose taxes emanates from Section 5, Article X of the Constitution, which authorizes them to create their own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide.[62]

In this regard, provinces are authorized to impose LFT under Section 137 of the LGC, which states:

> SECTION 137. *Franchise Tax*. - Notwithstanding any exemption granted by any law or other special laws, the province may impose a tax on businesses enjoying a franchise, at **a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year** based on the incoming receipt, or realized, within its territorial jurisdiction.
>
> . . .[63]

Meanwhile, cities, such as respondent SJDM, may likewise levy taxes which the provinces are authorized to impose, including LFT, with rates that may exceed the maximum rates allowed for provinces by not more than 50%, pursuant to Section 151 of the LGC:

> SECTION 151. *Scope of Taxing Power*. - Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: *Provided, however*, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code. **The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not**

---

62 *Smart Communications, Inc. v. City of Davao, et al.*, G.R. No. 155491, July 21, 2009.
63 Boldfacing supplied.

> **more than fifty percent (50%)** except the rates of professional and amusement taxes.[64]

To summarize:

a. The LFT provinces may *initially* impose is a rate not exceeding 50% of 1% (or 0.005 as expressed in decimal form) of the gross annual receipts of businesses enjoying a franchise for the preceding calendar year; and

b. The LFT cities may *initially* impose is a rate not exceeding 75% of 1% (or .0075 as expressed in decimal form) of the gross annual receipts of businesses enjoying a franchise for the preceding calendar year.

Pertinently, in *National Power Corporation v. City of Cabanatuan*,[65] the Supreme Court explained that while the LGC grants LGUs the power to tax, it does not dictate the tax rate to be imposed by the LGUs but merely sets the minimum or the maximum, leaving upon the respective *sanggunian* the determination of the actual rates to be imposed in accordance with their needs and capabilities.[66]

In this case, respondent SJDM City opted to begin with a *lower* LFT rate, *i.e.*, 50% of 1% (or 0.005 as expressed in decimal form) than the maximum allowed under the LGC for cities, *i.e.*, 75% of 1% (or .0075 as expressed in decimal form). Section 2F.01 of Tax Ordinance No. C-008 [The Revised Revenue Code of (respondent) SJDM City] confirmed:[67]

> **ARTICLE F** – ***Franchise Tax***
>
> **Section 2F.01.** ***Imposition of Tax.*** There is hereby levied a tax on businesses enjoying a franchise at a rate of **'fifty percent of one percent' (50% of 1%) of the gross annual receipts**, which shall include both cash sales and sales on account realized during the

---

64 Boldfacing supplied.

65 G.R. No. 149110, April 9, 2003.

66 *De Lima v. City of Manila*, supra.

67 As referred to or cited in the letter dated June 7, 2011 of respondent City of SJDM – Office of the City Treasurer to petitioner [Exhibit "A," RTC Docket (Civil Case No. 73279-CV) – Vol. 1, p. 18, and Vol. 2, p. 496], and the letter dated September 5, 2011 of petitioner to respondent City of SJDM – Office of the City Treasurer [Exhibit "B," RTC Docket (Civil Case No. 73279-CV) – Vol. 2, pp. 497 to 499].

preceding calendar year within the jurisdiction of this city.

Then, respondent SJDM City seeks to collect additional LFT from petitioner for years 2006 to 2011, by virtue of LFT adjustments made under Section 2F.02 of Tax Ordinance No. C-008 [The Revised Revenue Code of (respondent) SJDM City], reading as follows:

> **Section 2F.02. Duration of the Franchise Tax Imposition.** The rate of tax imposed herein shall be **until the lapse of five (5) years from this city acquisition of its corporate existence** pursuant to the provision of Section 49, RA 8508.[68]
>
> Thereafter, the rate of tax on businesses enjoying a franchise shall be "**seventy five percent of 1%" (75% of 1%)** of the gross annual receipts, which shall include both cash sales and sales on account, realized during the preceding calendar year within the jurisdiction of this city.[69]

This cannot be allowed.

The adjustment in LFT rate under Section 2F.02 of Tax Ordinance No. C-008 [The Revised Revenue Code of (respondent) SJDM City] is *ultra vires* and *invalid* for being contrary to law. Section 191 of the LGC provides:

> SECTION 191. *Authority of Local Government Units to Adjust Rates of Tax Ordinances.* - Local government units shall have the authority to adjust the tax rates as prescribed herein not oftener than once every five (5) years, but **in no case shall such adjustment exceed ten percent (10%) of the rates fixed under this Code.**"[70]

In *Mindanao Shopping Destination Corporation, et al. v. Duterte, et al. (MSDC)*,[71] the Supreme Court held that to validly *increase* local tax rates under Section 191 of the LGC, two (2) conditions must concur, namely: (i) there is a tax ordinance that already imposes a tax in accordance with the provisions of the LGC ; and (ii) there is a second

---

68 Reference to Section 49, Republic Act (RA) No. 8508, is an error, typographical or otherwise, since the Charter of respondent SJDM is RA 8797 or the "*Act converting the Municipality of San Jose del Monte Bulacan into a Component City to be known as the City of San Jose del Monte,*" not RA No. 8508. Boldfacing supplied.

69 Boldfacing supplied.

70 Boldfacing supplied.

71 G.R. No. 211093, June 6, 2017.

tax ordinance that made adjustment on the tax rate fixed by the first tax ordinance.

In addition to Section 191 of the LGC, respondent SJDM City was barred from increasing the LFT until September 5, 2005, or five (5) years from its acquisition of corporate existence. [72] Section 57 of RA No. 8797[73] confirms:

> SEC. 57. *Suspension of Increase in Rates of Local Taxes.* - No increase in the rates of local taxes shall be imposed by the City within a period of five (5) years from its acquisition of corporate existence.

Respondent SJDM City's Tax Ordinance No. C-008 took effect in December 2003;[74] thus, the five (5)-year period[75] under Section 191 of the LGC would end in December 2008. This means that respondent SJDM City may opt to increase the LFT rate starting January 2009, based on the gross annual receipts for the preceding calendar year, pursuant to Section 137 of the LGC. The ordinance also complied with Section 57 of RA No. 8797 because the LFT increase would be effective *after* September 5, 2005.

Yet, Ordinance No. C-008 *failed* to adhere with condition (ii) mentioned in *MSDC* – that there is a second tax ordinance that made adjustment on the tax rate fixed by the first tax ordinance.

For one, both the initial LFT rate (Section 2F.01.) **and** the adjustment thereto (Section 2F.02.) are embodied in the **same** revenue measure (Ordinance No. C-008). To stress, *MSDC* commands that the adjustment on the local tax rate be contained in another or second ordinance.

---

72 In this case, it is undisputed by the parties that petitioner became a City on September 5, 2000 [Refer to Exhibits "A" and "B," RTC Docket (Civil Case No. 73279-CV) - Vol. 1, at pp. 337-A and 337-E, respectively].

73 *Charter of the City of San Jose Del Monte.*

74 Par. 12.7, *Complaint,* RTC Docket (Civil Case No. 73279-CV) - Vol. 1, at p. 11. Refer also to Exhibit "B," RTC Docket (Civil Case No. 73279-CV) - Vol. 1, at p. 337-E; *SJDM city and OIC- City Treasurer Mendiola's Comments and Opposition to plaintiff's Motion for Reconsideration,* RTC Docket (Civil Case No. 73279-CV) - Vol. 2, at pp. 565 and 572.

75 In *De Lima v. City of Manila,* G.R. No. 222886, October 17, 2018, the Supreme Court explained that the five (5)-year period in Section 191 of the LGC would run from the date of enactment of the pertinent tax ordinance.

For another, the adjustment made by respondent SJDM City in Section 2F.02 of Ordinance No. C-008 exceeded the 10% threshold prescribed in Section 191 of the LGC.

In *De Lima v. City of Manila (De Lima),*[76] it was elucidated that when an LGU, such as respondent SJDM City, adjusts a local tax rate, the basis of the 10% threshold is the prevailing local tax rate.

Looking back, respondent SJDM City *initially* imposed a LFT rate of 50% of 1% or (0.005). Following *De Lima,* the ceiling for the increase thereof is 55% of 1% (or 0.0055). Therefore, the increase in LFT rate to 75% of 1% (or 0.0075) provided under the second paragraph of Section 2F.02 of Ordinance No. C-008 impermissibly exceeded the ceiling set forth in Section 191 of the LGC.

In fine, respondent SJDM City may not collect *additional* LFT from petitioner for years 2006-2011 because the adjustment under Section 2F.02 of Ordinance No. C-008 from which it was based, is null and *ultra vires.*

Finally. With the foregoing findings, further elaboration on the other points raised by the parties is unnecessary.

WHEREFORE, the *Petition for Review* is **GRANTED**.

The Decision dated December 14, 2023, and the Order dated March 15, 2024, both issued by the Regional Trial Court of Pasig – Branch 161, in Civil Case No. 73279-CV, which denied petitioner's *Complaint for Nullification of Franchise Tax Adjustment with Prayer for Temporary Restraining Order and Preliminary Injunction* are hereby **REVERSED and SET ASIDE**.

Accordingly, the local franchise tax adjustments being demanded by respondents from petitioner, in the aggregate amount of ₱18,562,295.79, for the years 2006 to 2011, are hereby **CANCELLED** and **SET ASIDE**. Respondent San Jose Del Monte City, OIC-City Treasurer Analiza E. Mendiola, and her duly

---

76 G.R. No. 222886, October 17, 2018.

authorized representatives are **PERMANENTLY ENJOINED** from enforcing collection of the aforementioned local franchise tax adjustments.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ON LEAVE
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
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.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice