REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

CITY TREASURER OF MANILA,
Petitioner,

-*versus*-

NEW COAST HOTEL, INC.,
Respondent.

CTA AC No. 231
(Civil Case No. 16-136011)

Members:

DEL ROSARIO, *P.J.*, *Chairperson,*
and
MANAHAN, *J.*

Promulgated:

JUL 09 2021 9:11 am

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RESOLUTION

MANAHAN, *J.:*

This resolves petitioner's **Motion for Partial Reconsideration (Of the Decision dated 13 January 2021)**[1] filed on January 29, 2021 against this Court's Decision dated January 13, 2021 (Assailed Decision), which the dispositive portion read as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the assailed RTC-Branch 34, City of Manila *Decision* dated June 28, 2019 and *Order* dated September 23, 2019 are hereby **AFFIRMED**.
>
> **SO ORDERED**."[2]

The instant motion prays for this Court to partially reconsider and set aside the Assailed Decision, to reverse the RTC-Branch 34, City of Manila's *Decision* dated June 28, 2019 and *Order* dated September 23, 2019 which cancelled its Notice of Assessment dated November 16, 2015 with the exception of the Rental and Other Income, and to order

[1] Docket, CTA AC No. 231, pp. 247-253.
[2] *Id.*, p. 245.

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respondent to pay its 2014 and 2015 deficiency taxes as stated in the said assessment notice.

Petitioner argues that it complied with the due process requirement in the issuance of the Letter of Assessment dated November 16, 2015[3] against respondent because there was a Letter of Authority issued and received by the latter prior to the issuance of said Letter of Assessment with attached Data Assessment Form which provided the respondent the opportunity to protest.

Petitioner also argues that its assessment should be presumed correct and made in good faith, thus, its assessment due to respondent's underdeclared income and for having another set of financial statements must prevail.

On the other hand, respondent, in its **Comment (Re: Petitioner's Motion for Partial Reconsideration dated January 29, 2021)**[4] filed on March 1, 2021, argues that said Letter of Assessment dated November 16, 2015 was null and void because it failed to inform or state the facts and laws as basis for said assessment.

Respondent also argues that petitioner has no legal basis for assessing the former of alleged underdeclared income when it applied for the renewal of its business permits and licenses for calendar years 2014 and 2015.

We deny the instant motion.

It is clear from the factual antecedents of the instant case that the lower court opined that the subject Letter of Assessment was not the proper Notice of Assessment subject of protest under Section 195 of Republic Act No. 7160, otherwise known as the Local Government Code (LGC) of 1991. The lower court also found that the alleged Notice of Assessment was only presented during the trial therein.

It was also declared that the subject Letter of Assessment failed to state the reason and the legal basis for the reallocation of respondent's gross income therein.

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[3] Docket. CTA AC No. 231, p. 84.
[4] *Id.*, pp. 258-266.

Petitioner is totally mistaken in asserting that the notice required under Section 195 of LGC shall be complied with by merely issuing and serving a letter or notice to taxpayers as to the amount of assessment for a deficiency local business tax.

Section 195 of the LGC requires that the Notice of Assessment should be informative enough, in the sense that it should include the nature of taxpayer's violation by citing the provision of the LGC violated as well as the facts and circumstances constituting the acts of violation. The exercise of the power of taxation constitutes a deprivation of property, hence, the right to due process dictates that in assessing and collecting taxes, it should not be attended with arbitrary or oppressive methods as held in *Luz R. Yamane, in her capacity as the City Treasurer of Makati City v. BA Lepanto Condominium Corporation*[5], to wit:

> "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**. 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 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.
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> xxx xxx xxx
>
> Besides, we shudder at the thought of upholding tax liability on the basis of the standard of "full appreciative living values", a phrase that defies statutory explication, commonsensical meaning, the English language, or even definition from Google. **The exercise of the power of taxation constitutes a deprivation of property under the due process clause, and the taxpayer's right to due**

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[5] G.R. No. 154993, October 25, 2005.

> **process is violated when arbitrary or oppressive methods are used in assessing and collecting taxes**..." (*Emphasis supplied*)

In the instant case, petitioner failed to explain or elaborate to respondent the legal basis of its unilateral reallocation of the latter's income resulting to the imposition of the alleged deficiency assessment as shown in the Letter of Assessment below:

ANNEX "A"

ANNEX "A"

Republic of the Philippines
City of Manila
CITY TREASURER'S OFFICE

November 16, 2015

LETTER OF ASSESSMENT

NEW COAST HOTEL INC
BIN: 117-00-2004-0045919
9th Flr R. Magsaysay Ctr. 1680 Roxas Blvd. Manila

Dear Sir/Madam:

A report has been made in connection with the examination of the Company's business records conducted pursuant to **Letter of Authority No. RYDR02277** dated **07/08/2015**. The audit covers the taxable period from **2013 - 2014**.

It has been determined that the Company is liable for business taxes deficiencies in the amount of **Five Hundred Fifty Thousand Four Hundred Forty Four Pesos and Seventy Nine Centavos (Php 550,444.79)** inclusive of applicable surcharge and interest penalties. A copy of the Data and Assessment Form or Computation Table is attached for ready reference.

Accordingly, the Company is hereby given a period of seven (7) days from receipt hereof to pay the stated amount. A Certificate of Examination shall subsequently be issued. In case of default, this Office shall be constrained to avail of all legal remedies to ensure the proper collection of the business tax delinquencies.

Very truly yours,

RIZAL Y. DEL ROSARIO
OIC - City Treasurer

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Accounting
New World Manila Bay Hotel

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Nowhere in the said letter did petitioner cite any legal basis for the imposition of said deficiency assessment and the unilateral reallocation of respondent's income. Thus, it is very clear that the subject Letter of Assessment did not comply with the requirement under Section 195 of LGC.

As stated in the Assailed Decision, petitioner had the chance to explain its basis for such reallocation in view of respondent's protest and yet he failed to do so because of his inaction on the said protest.

As to the correctness and accuracy of petitioner's assessment, this Court shall no longer discuss said issue considering that the assessment itself was null and void for violation of respondent's right to due process.

WHEREFORE, premises considered, petitioner's *Motion for Partial Reconsideration (Of the Decision dated 13 January 2021)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice