Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

ANGLO VENTURES CORPORATION,
Petitioner,

-versus-

CITY OF DAVAO and HON. RODRIGO S. RIOLA, in his official capacity as the City Treasurer of Davao City,
Respondents.

CTA AC No. 128
For: Local Business Tax

Members:

DEL ROSARIO, *Chairperson*
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
AUG 01 2016 ; 8:35 a.m.

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DECISION

MINDARO-GRULLA, J.:

This is an appeal filed by Anglo Ventures Corporation on February 6, 2015, pursuant to Section 7(a)(3) of Republic Act (R.A.) No. 1125, as amended,[1] in relation to Section 4(a) of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA),[2] seeking to reverse and set aside the

[1] REPUBLIC ACT NO. 1125,
AN ACT CREATING THE COURT OF TAX APPEALS, as amended
SEC. 7. *Jurisdiction*. - The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
xxx
(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;

[2] RULE 8
PROCEDURE IN CIVIL CASES
SEC. 4. *Where to appeal; mode of appeal.* –
(a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for

Order dated October 15, 2014 issued by the Regional Trial Court (RTC) Branch 16 of Davao City in Civil Case No. 35,669-14 entitled "Anglo Ventures Corporation vs. City of Davao and Hon. Rodrigo S. Riola, in his official capacity as the City Treasurer of Davao City", dismissing petitioner's appeal on the inaction of the Office of the City Treasurer of Davao City on the protest letter, and the Order dated December 17, 2014, denying petitioner's Motion for Reconsideration.

Petitioner Anglo Ventures Corporation is a domestic corporation existing under and by virtue of Philippine laws, with principal office address at Legaspi Oil Compound, Km. 9.5, Sasa, Davao City.[3] Its primary purpose is to "purchase, subscribe for, or otherwise acquire and own, hold, use, sell, assign, transfer, mortgage, pledge, exchange, or otherwise dispose of real and personal property of every kind and description, including shares of stock, voting trust certificates for shares of the capital stock, bonds, debentures, notes, evidences of indebtedness, and other securities, contracts, or obligations of any corporation or corporations, association or associations, domestic or foreign, and to pay therefor in whole or in part in cash or by exchanging therefor stocks, bonds, or other evidences of indebtedness or securities, contracts, or obligation, to receive, collect, and dispose of the interest, dividends and income arising from such property, and to possess and exercise in respect thereof, all the rights, powers and privileges of ownership, including all voting powers on any stocks so owned; and to do every act and thing covered generally by the denomination 'holding corporation', and especially to direct the operations of other corporations through the ownership of stock therein, provided however that the Corporation shall not act as an investment company or a securities broker and/or dealer nor exercise the functions of a trust corporation."[4]

review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.

[3] Annexes "F" and "F-1", RTC Records, pp. 45-57 and 58-69, respectively; Annexes "P-8" and "P-9", CTA Docket, pp. 91-103 and 104-115, respectively.

[4] Annex "F-1", RTC Records, pp. 60-61.

Respondent City of Davao ("respondent" for brevity) is a local government unit (LGU) duly created by law; while respondent Rodrigo S. Riola ("respondent Riola" for brevity) is being sued in his official capacity as City Treasurer of Davao City, both with office address at City Hall Building, San Pedro Street, Davao City.[5]

On January 20, 2014, respondents issued a Business Tax Order of Payment addressed to petitioner, which petitioner received on the same date, assessing the latter for local business tax for the third and fourth quarters of 2011 in the amount of Nine Hundred Six Thousand Seven Hundred Fifty-Seven Pesos and 56/100 (₱906,757.56).[6]

Consequently, petitioner protested the said assessment on March 21, 2014.[7]

On April 4, 2014, respondent informed petitioner that no protest shall be entertained unless the taxpayer would pay first the assessed tax pursuant to Section 423 of the 2005 Revenue Code of the City of Davao.[8] Then, petitioner replied through a letter dated April 15, 2014, stating that the payment under protest of the assessed tax is not required to protest an assessment under the Local Government Code (LGC), except when it involves real property tax.[9] However, respondents still insisted on requiring petitioner to pay first the assessed local business tax before the protest would be entertained.[10]

Due to the inaction of respondents on petitioner's protest, the latter filed a Petition for Review on June 9, 2014[11] before the RTC Branch 16 of Davao City, which was docketed as Civil Case No. 35,669-2014 entitled "Anglo Ventures Corporation vs. City of Davao and Hon. Rodrigo S.

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[5] Pars. 11, 11.1, and 11.2, Petition for Review, CTA Docket, p. 3.
[6] Annex "P-3", CTA Docket, pp. 43-46.
[7] Annex "P-4", CTA Docket, pp. 47-54.
[8] Annex "C", RTC Records, p. 34; Annex "P-10", CTA Docket, p. 116.
[9] Annex "D", RTC Records, pp. 35-40; Annex "P-11", CTA Docket, pp. 117-122.
[10] Annex "D-1", RTC Records, p. 41; Annex "P-12", CTA Docket, p. 123.
[11] Annex "P-5", CTA Docket, p. 55; RTC Records, p. 3.

Riola, in his official capacity as the City Treasurer of Davao City".

The trial court denied the Petition for Review in an Order promulgated on October 15, 2014,[12] a copy of which was received by petitioner on November 5, 2014. The pertinent parts of the trial court decision are quoted as follows:

> "As such, being categorized as a **Financial Intermediary**, petitioner's principal income falls under the coverage of **paragraph (f), Section 143 of RA No. 7160 of the Local Government Code of 1991**, to wit:
>
> > *'SECTION 143. Tax on Business. – **The municipality may impose taxes on the following businesses**:*
> >
> > *xxx*
> >
> > *(f) On banks and other **financial institutions**, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, **dividends**, rentals on property and profit from exchange for sale of property, insurance premium.'*
>
> **FOR REASONS STATED**, the instant 'Petition for Review' filed by the Petitioner under Section 195 of Republic Act No. 7160 is hereby **DENIED** and/or **DISMISSED**."

In its Order[13] dated December 17, 2014, the trial court denied petitioner's Motion for Reconsideration[14]; which the

[12] Annex "P-1", CTA Docket, pp. 29-41.
[13] Annex "P-2", CTA Docket, p. 42.
[14] Annex "P-6", CTA Docket, pp. 74-85.

latter received on January 8, 2015[15], the dispositive portion of which is quoted as follows:

> "As such, the ***'Motion for Reconsideration'*** filed by petitioner through counsel is hereby **DENIED**."

Thus, petitioner filed the instant Petition for Review[16] before this Court on February 6, 2015.

On July 30, 2015[17], this Court received the entire original records of Civil Case No. 35,669-14, which was noted by the Court in a Resolution issued on August 26, 2015.[18]

After considering petitioner's Memorandum[19] filed via registered mail on July 29, 2015 and received by the Court on August 10, 2015, and respondents' Memorandum[20] filed through registered mail on August 7, 2015 and received by the Court on August 17, 2015, the instant case was declared by the Court as submitted for decision on September 2, 2015.[21]

In their respective Memoranda, the parties presented the following issues[22] to be resolved by this Court:

1. Whether the Court has jurisdiction over this case when petitioner failed to comply with the pre-requisite of paying first the entire assessed local business tax before filing a protest with the City Treasurer's Office, as required under the provision of Section 423 of Ordinance No. 158-05, Series of 2005, otherwise known as the "2005 Revenue Code of Davao City"; and

[15] Annex "P-2", CTA Docket, p. 42.
[16] CTA Docket, pp. 5-28.
[17] CTA Docket, p. 271.
[18] CTA Docket, p. 327
[19] CTA Docket, pp. 293-322.
[20] CTA Docket, pp. 272-290.
[21] Resolution, CTA Docket, p. 329.
[22] CTA Docket, pp. 277-278 and p. 299.

2. Whether petitioner is a non-bank financial institution/intermediary subject to the 0.55% local business tax for the third and fourth quarters of 2011 on its receipt of dividends on its San Miguel Corporation (SMC) shares of stock and interest income on its money market placements for the year 2010.

Respondents contend that this Court has no jurisdiction over the instant petition. Allegedly, the protest filed by petitioner is a mere scrap of paper for failure to comply with Section 423 of the Davao City Ordinance No. 158-05 or the 2005 Revenue Code of the City of Davao, which requires the payment of the assessed tax before the protest can be entertained. As such, it is deemed as if there was no valid protest filed contesting the tax assessment, and the said assessment became final and unappealable.

Petitioner disagrees with respondents, claiming that Section 423 of the 2005 Revenue Code of the City of Davao contravenes the provision of Republic Act (R.A.) No. 7160 because payment under protest is required only when the taxpayer protests a real property tax assessment. Petitioner posits that where a condition or requirement is not imposed under the general law and a provision authorizing the imposition of additional conditions or requirements is likewise absent, the local government may not impose the same by virtue of an ordinance.

Section 195 of R.A. No. 7160 provides:

> "SEC. 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 canceling 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."

Apparently, the foregoing provision does not require the prior payment of the imposed or assessed tax before a protest is decided by the local treasurer.

The Court takes into consideration the ruling of the Supreme Court in the case of *City of Manila, et al. vs. Colet, et al.*[23] that the power to tax is inherent in the State, but not the local government units, to wit:

> "It is already well-settled that although the power to tax is inherent in the State, the same is not true for the LGUs to whom the power must be delegated by Congress and must be exercised within the guidelines and limitations that Congress may provide. The Court expounded in *Pelizloy Realty Corporation v. The Province of Benguet* that:
>
>> The power to tax 'is an attribute of sovereignty,' and as such, inheres in the State. Such, however, is not true for provinces, cities, municipalities and *barangays* as they are not the sovereign; rather, they are mere 'territorial and political subdivisions of the Republic of the Philippines'. *£*

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[23] G.R. Nos. 120051, 121613, 121675, 121704, 121720-28, 121847-55, 122333, 122335, 122349, and 124855, December 10, 2014.

The rule governing the taxing power of provinces, cities, municipalities and *barangays* is summarized in *Icard v. City Council of Baguio:*

> It is settled that a municipal corporation unlike a sovereign state is clothed with no inherent power of taxation. <u>The charter or statute must plainly show an intent to confer that power or the municipality, cannot assume it</u>. And the power when granted is to be construed in *strictissimi juris*. Any doubt or ambiguity arising out of the term used in granting that power must be resolved against the municipality. Inferences, implications, deductions – all these – have no place in the interpretation of the taxing power of a municipal corporation.

Therefore, the power of a province to tax is limited to the extent that such power is delegated to it either by the Constitution or by statute. Section 5, Article X of the 1987 Constitution is clear on this point:

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

Per Section 5, Article X of the 1987 Constitution, 'the power to tax is no longer vested exclusively on Congress; local legislative bodies are now given direct authority to levy taxes, fees and other charges.' Nevertheless, such authority is 'subject to such guidelines and limitations as the Congress may provide'. *ℓ*

In conformity with Section 3, Article X of the 1987 Constitution, Congress enacted Republic Act No. 7160, otherwise known as the Local Government Code of 1991. Book II of the LGC governs local taxation and fiscal matters.

Relevant provisions of Book II of the LGC establish the parameters of the taxing powers of LGUs found below.

First, Section 130 provides for the following fundamental principles governing the taxing powers of LGUs:

1. Taxation shall be uniform in each LGU.
2. Taxes, fees, charges and other impositions shall:
   a. be equitable and based as far as practicable on the taxpayer's ability to pay;
   b. be levied and collected only for public purposes;
   c. not be unjust, excessive, oppressive, or confiscatory;
   d. not be contrary to law, public policy, national economic policy, or in the restraint of trade.
3. The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person.
4. The revenue collected pursuant to the provisions of the LGC shall inure solely to the benefit of, and be subject to the disposition by, the LGU levying the tax, fee, charge or other imposition unless otherwise specifically provided by the LGC.
5. Each LGU shall, as far as practicable, evolve a progressive system of taxation."

Based on the foregoing, the taxing powers of the LGUs are confined within the power delegated by the Congress. Section 195 of R.A. No. 7160 provides for a remedy to the taxpayer to protest an assessment and it does not require as a pre-condition the prior payment under protest of the assessed tax. However, payment under protest is required only when real property tax is involved pursuant to Section 252 of R.A. No. 7160.

Since this case does not involve a real property tax, petitioner is not required to pay the imposed or assessed tax before its protest is entertained.

In the present case, petitioner received the assessment on January 20, 2014, and petitioner had sixty (60) days therefrom or until March 21, 2014 within which to file a written protest with the local treasurer to contest the assessment.

On March 21, 2014, petitioner protested the said assessment; thus, respondent Riola had sixty (60) days from the said date or until May 20, 2014 to decide on petitioner's protest. However, respondent Riola did not act on the protest due to the failure of petitioner to pay under protest the subject local business tax.

As earlier discussed, payment under protest is not necessary before the protest is considered by the local treasurer. As such, due to the inaction of respondent Riola, petitioner had thirty (30) days from May 20, 2014 or until June 19, 2014 within which to appeal such inaction before the court of competent jurisdiction.

Consequently, petitioner filed a Petition for Review before the trial court on June 9, 2014. However, the trial court dismissed the same via an Order promulgated on October 15, 2014. The trial court likewise denied petitioner's Motion for Reconsideration in an Order issued on December 17, 2014. The copy of the Order denying the Motion for Reconsideration was received by petitioner on January 8, 2015.

Considering that the present Petition for Review was timely filed before this Court on February 6, 2015, in compliance with Section 3(a) of Rule 8 of the Revised Rules of the Court of Tax Appeals[24], this Court has acquired jurisdiction.

Anent the second issue, respondents contend that petitioner is a non-bank financial intermediary or an investment company based on the latter's Amended Articles of Incorporation. Respondents allege that the stated primary purpose of petitioner in the said Articles of Incorporation is broad enough to catch all the descriptive function of a non-bank financial intermediary as provided under Section 4101Q.1 of the Manual of Regulations for Non-Bank Financial Institutions issued by the *Bangko Sentral ng Pilipinas* (BSP); and the statement that the latter shall not act as an investment company or securities broker or dealer is not a conclusive proof of not being a bank or other financial institution. As a result, petitioner was assessed for local business tax under Section 143(f) of R.A. No. 7160 and Section 69(f) of Ordinance No. 158-05, Series of 2005, in relation to Section 131(e) of R.A. No. 7160 and Section 5(b)(3) of Ordinance No. 158-05, Series of 2005.

According to respondents, although dividends and interest income are not included in the general definition of gross sales/receipts under Section 131(n) of R.A. No. 7160, it cannot defeat a specific and clear provision of taxability of dividends and interest income, as provided under Section 143(f) of the same Code. Respondents further claim that even if petitioner's income partake the nature of public funds pursuant to the ruling in the case of *Cocofed vs. Republic*[25], the dividends and interest income received by petitioner are subject to the local business tax under Section 143(f) of R.A. No. 7160.

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[24] SEC. 3. *Who may appeal; period to file petition.* –
(a) A party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. xxx
[25] G.R. Nos. 147062-64, December 14, 2001.

Petitioner counter-argues that it is erroneous and illegal for respondents to assess a local business tax on the dividends and interest income of petitioner because the latter is not a bank or a financial institution pursuant to Section 133(a) of R.A. No. 7160. Petitioner insists that it is a holding company and is prohibited from acting as an investment company or a securities broker and/or dealer as shown in its Amended Articles of Incorporation. Allegedly, petitioner was neither required by the Securities and Exchange Commission to secure a secondary license nor regulated by the *Bangko Sentral ng Pilipinas* or the Insurance Commission for petitioner to fall within the ambit of the phrase "banks and other financial institutions" under Section 131(e) of R.A. No. 7160.

Petitioner added that the phrase "gross sales or receipts" does not include interests and dividends as subject to local business tax under Section 131(n) of R.A. No. 7160. In its Opinion dated March 17, 2011, the Bureau of Local Government Finance (BLGF) ruled that any tax imposed on interest or dividends of non-bank and non-financial institutions assumes the nature of income tax, which local government units are expressly prohibited from levying under Section 133(a) of R.A. No. 7160.

It is petitioner's position that its receipt of dividends and interest income as a consequence of its ownership of San Miguel Corporation shares of stock and money market placements is not a business activity that is subject to local business tax. Petitioner likewise alleges that its income partake the nature of public funds; hence, business tax cannot be imposed on the same.

The crux of the issue is whether petitioner is a non-bank financial institution/intermediary so that its dividends and interest income are subject to local business tax under Section 143(f) of R.A. No. 7160 in relation to Section 133(a) of the same.

The Court finds that petitioner cannot be categorized as a non-bank financial institution or intermediary.

Section 2(D)(c) of R.A. No. 337, otherwise known as the General Banking Act, as amended by Presidential Decree (PD) No. 71, states that:

> "Sec. 2-D. For purposes of Sections Two, Two-A, Two-B, and Two-C the following definition or terms shall apply:
>
> xxx xxx xxx
>
> (c) 'Financial intermediaries' shall mean persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others;"

Also, Section 4101Q.1 of the Manual of Regulations for Non-Bank Financial Institutions defines financial intermediaries in the following manner:

> "**§ 4101Q.1** ***Financial intermediaries*** Financial intermediaries shall mean persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them, or otherwise coursed through them either for their own account or for the account of others.
>
> *Principal* shall mean chief, main, most considerable or important, of first importance, leading, primary, foremost, dominant or preponderant, as distinguished from secondary or incidental.
>
> *Functions* shall mean actions, activities or operations of a person or entity by which his/its business or purpose is fulfilled or carried out. The business or purpose of a person or entity may be determined from the purpose clause in its articles of

incorporation/partnership, and from the nature of the business indicated in his/its application for registration of business filed with the appropriate government agency.

To be considered a financial intermediary, a person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis:

a. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;

b. Use principally the funds received for acquiring various types of debt or equity securities;

c. Borrow against, or lend on, or buy or sell debt or equity securities;

d. Hold assets consisting principally of debt or equity securities such as promissory notes, bills of exchange, mortgages, stocks, bonds, and commercial papers;

e. Realize regular income in the nature of, but need not be limited to, interest, discounts, capital gains, underwriting fees, guarantees, fees, commissions, and service fees, principally from transactions in debt or equity securities or by being an intermediary between suppliers and users of funds.

Non-banking financial intermediaries shall include the following:

(1) A person or entity licensed and/or registered with any government regulatory body as a non-bank financial intermediary, such as investment house, investment company, financing company, securities dealer/broker, lending investor, pawnshop, money

> broker, fund manager, cooperative, insurance company, non-stock savings and loan association and building and loan association.
>
> (2) A person or entity which holds itself out as a non-banking financial intermediary, such as by the use of a business name, which includes the term *financing, finance, investment, lending* and/or any word/phrase of similar import which connotes financial intermediation, or an entity which advertises itself as a financial intermediary and is engaged in the function(s) where financial intermediation is implied.
>
> (3) A person or entity performing any of the functions enumerated in Items *a* to *e* of this Subsection."

In relation thereto, Section 4 of R.A. No. 337, as amended and further amended by P.D. No. 1828, provides:

> "Sec. 4. The determination of whether a person or an entity is (a) performing banking or quasi-banking functions, or (b) engaged in other types of financial intermediation shall be decided by the Monetary Board subject to judicial review. For the purpose of resolving such issue; the Monetary Board may, through appropriate supervising department of the Central Bank, examine, inspect or investigate the books and records of such person or entity. The department head and the examiners of said appropriate supervising department are hereby authorized to administer oaths to any such person or director, officer or employee of any such entity and to compel the presentation or production of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true functions and operations of such person or entity. Failure or refusal to comply with the required presentation or production of such books, documents, papers or records shall subject the persons responsible therefor to the penal sanctions provided under Section 34 of R.A. No. 265, as amended. Persons or entities found by the Monetary Board to be performing banking or quasi-banking functions

> without the required prior authorization of the Monetary Board may, in addition to the proceedings provided under Section 34 of Republic Act No. 265, as amended, be subject to the imposition of fine of not in excess of P500 per day reckoned from the date the unauthorized banking or quasi-banking functions were performed and may be referred to the Securities and Exchange Commission for the revocation of its license to do business."

After careful examination of the records, it appears that there is no sufficient evidence proving that petitioner is a financial intermediary or has even engaged in the activities of a financial institution/intermediary.

The Court is not convinced that the stated primary purpose of petitioner in the Amended Articles of Incorporation is broad enough to catch all the descriptive functions of a financial intermediary. It is not proper to just assume that petitioner is engaged as a non-bank financial institution or intermediary based on the said primary purpose.

Furthermore, it must be emphasized that the determination of whether a person or an entity is (a) performing banking or quasi-banking functions, or (b) engaged in other types of financial intermediation is vested in the Monetary Board subject to judicial review.

Moreover, in *Commission of Internal Revenue vs. Hantex Trading Co., Inc.*[26], the Supreme Court ruled that an assessment must be based on actual facts. Accordingly, the local business tax assessment should be based on actual facts. And since there is no proof that petitioner can be considered as a non-bank financial institution or intermediary or is engaged in such activities, the local business tax assessment has no factual basis.

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[26] G.R. No. 136975, March 31, 2005, citing *Collector of Internal Revenue vs. Benipayo,* 4 SCRA 182 (1962).

WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the assailed Order of the Regional Trial Court of Davao City, Branch 16 in Civil Case No. 35,669-14 is **REVERSED and SET ASIDE**. The Business Tax Order of Payment dated January 20, 2014 issued by the City Treasurer of Davao City, assessing petitioner for local business tax in the amount of ₱906,757.56, is **SET ASIDE and NULLIFIED** for lack of factual basis.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

C E R T I F I C A T I O N

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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice