REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

LIGHT RAIL MANILA CORPORATION,
Petitioner,

- versus -

CITY OF CALOOCAN AND HON. ANALIZA E. MENDIOLA, IN HER CAPACITY AS THE CITY TREASURER OF CALOOCAN CITY,
Respondents.

CTA AC NO. 224

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, ***JJ.***

Promulgated:

SEP 0 2 2020
3:30 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] under Rule 4, Section 3(a)(3)[2] of the Revised Rules of the Court of Tax Appeals (**RRCTA**) filed by

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1 With Application for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction; Division Docket, Volume I, pp. 10-44.

2 **Sec. 3**. *Cases within the jurisdiction of the Court in Divisions*. - The Court in Divisions shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

...

petitioner Light Rail Manila Corporation (**petitioner/LRMC**) against respondents City of Caloocan (**respondent City**) and its City Treasurer, Hon. Analiza E. Mendiola (**respondent City Treasurer**). It seeks the reversal of the 10 June 2019 Decision[3] of the Regional Trial Court (**RTC/court *a quo***), Branch 232 of Caloocan City, denying petitioner's Petition for Injunction, Prohibition, Mandamus and Declaration of Nullity of Section 311[4] of the Caloocan City Ordinance with Application for Temporary Restraining Order and Writ of Preliminary Injunction[5] (original petition). The dispositive portion of the assailed decision reads:

> ...
> All told, the Court rules to **DENY** the instant petition for being an improper remedy.
>
> SO ORDERED.
> ...

THE PARTIES

Petitioner is a corporation duly organized and existing under Philippine laws with business address at the Mezzanine, Engineering Building, Light Rail Transport Authority (**LRTA**) Compound, Aurora Boulevard, Pasay City.

On the other hand, respondent Caloocan City is a local government unit created by virtue of Republic Act (**RA**) No. 3278[6] and enacted Ordinance No. 0386, Series of 2004, otherwise known as an *Ordinance Enacting the Updated Caloocan City Revenue Code of 2004* Caloocan Updated Revenue Code (**CURC**), as amended. Respondent Mendiola is the City Treasurer.

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(3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction[.]

3 Division Docket, Volume I, pp. 49-52.

4 **Sec. 311**. *Payment under Protest.* – (a) No protest on the computation of the tax shall be entertained by the City Treasurer unless the taxpayer first pays the tax. The tax receipts acknowledging the tax payments shall bear the words "paid under protest." The protest in writing must be filed within thirty (30) days from the payment of the tax to the City Treasurer, who shall decide the protest within sixty (60) days from receipt.

5 Division Docket, Volume I, pp. 53-112.

6 AN ACT CREATING THE CITY OF CALOOCAN.

FACTS OF THE CASE

Light Rail Transit Line 1 (**LRT1**) was originally under the management of the LRTA, an entity created by Executive Order (**EO**) No. 603[7], as amended. It is primarily responsible for the construction, operation, maintenance and/or lease of light rail transit systems in the Philippines.

Subsequently, LRTA decided to cede the operation of LRT1 to a private corporation and conducted a public bidding where petitioner participated and eventually won for the Manila LRT1 Extension, Operations and Maintenance Project. It was thereafter given a Notice of Award[8] (**NOA**) to undergo the construction of the Manila LRT1 Cavite Extension.

Later on, petitioner and the Department of Transportation and Communication (**DOTC**), now Department of Transportation (**DOT**) signed a Concession Agreement[9] (**agreement**) regarding the LRT1's management and operation. On 11 September 2015, DOT issued an Operating Franchise[10] (**franchise**) in petitioner's favor, effectively turning over to the latter the operation of LRT1.

Thereafter, respondents began to assess petitioner for business taxes on the gross receipts for its transportation services, pursuant to their authority to impose the same under RA 7160 or the Local Government Code of 1991 (**LGC**) and Section 311[11] of the CURC.

Aggrieved, petitioner continuously protested against respondents' imposition of business tax against it. It argued that, as a common carrier (or at the very least, a transportation contractor), it is exempted from the payment of business tax under Section 133(j)[12] of

7 CREATING A LIGHT RAIL TRANSIT AUTHORITY, VESTING THE SAME WITH AUTHORITY TO CONSTRUCT AND OPERATE THE LIGHT RAIL TRANSIT (LRT) PROJECT AND PROVIDING FUNDS THEREFOR.

8 Division Docket, Volume II, pp. 525-527.

9 Id., pp. 555-771.

10 Id., p. 772.

11 Supra at note 4.

12 **SEC. 133**. *Common Limitations on the Taxing Powers of Local Government Units.* – Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays **shall not extend to the levy of the following**:

...

the LGC. Likewise, it challenged the requirement of payment under protest in Section 311 of the CURC, finding the same to be contradictory to the LGC.

Despite its persistent efforts to avert the continuous assessments against it (through meetings with respondents and timely protests to their quarterly assessments), respondents were undeterred. Later, respondents assessed petitioner's liability for the fourth (4^{th}) quarter of 2018 in the amount of ₱1,417,185,90.[13]

Claiming to be unsuccessful in obtaining any relief, petitioner filed a Petition for Injunction, Prohibition, Mandamus, and Declaration of Nullity of Section 311 of the Caloocan City Tax Ordinance with Application for Temporary Restraining Order and Writ of Preliminary Injunction with the RTC. During the pendency of the case, it paid its business tax for the first (1^{st}) quarter of 2019 in order to secure the necessary business permits for two stations. It also continued to protest the quarter after quarter assessments made against it.

Before the RTC, petitioner and respondents agreed to only submit questions of law for the court a *quo*'s determination and thereafter, submitted their respective memoranda. Petitioner maintained that it is a common carrier which gross receipts for the conduct of its business are exempt from the local business tax.

In the assailed 10 June 2019 Decision, the RTC found the grounds for the issuance of the writs of mandamus, injuction, and prohibition against respondents wanting. It also found petitioner guilty of forum-shopping due to the several "similar" cases filed before different courts in Caloocan City. The RTC held:

(j) **Taxes on the gross receipts of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carriers by air, land or water, except as provided in this Code[.]** (Emphasis supplied)

...

13

	Monumento Station	**5^{th} Avenue Station**
Business Tax	Php 1,052,408.35	Php 345,085.55
Refusal Fee	Php 11,160.00	Php 8,532.00
Sub-Total	Php 1,063,568.35	Php 353,617.55
Aggregate Total	Php 1,417,185.90	

> ...
>
> In the instant petition, LRMC would like this Court to declare that the [city] government of Caloocan City erroneously assessed and collected local business taxes as it is a common carrier exempt under the Local Government Code. This is not the function of a Writ of Injunction, Prohibition and Mandamus. While the assessment of local business tax upon petitioner would manifestly prejudice LRMC's interests, it failed to preponderantly show that it possesses **a clear legal right** that merits the issuance of the Writs prayed for.
>
> ...
>
> Also, the grant (or denial) of a writ of prohibition is ordinarily within the sound discretion of the court to be exercised with caution and forbearance, according to the circumstances of the particular case. and only where the right to seek relief is clear...[P]rohibition is granted only in cases where no other remedy is available which is sufficient to afford redress. That the [petitioner] has no other and complete remedy at law either by appeal or otherwise, is generally a sufficient reason for dismissing the writ.
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> ...
>
> Although [LRMC] claimed that there is no plain, speedy and adequate remedy in the ordinary course of law, the Court could not be oblivious of the numerous Petitions for Review- pending with other courts of this jurisdiction – which were filed ahead of the present case. Petitioner's inability to seek redress in these other courts is not a valid ground for filing the present case as it would create conflicting decisions and further frustrate the ends of justice.[14]
>
> ...

Hence, the present petition.

PROCEEDINGS BEFORE THE COURT

On 19 July 2019, the instant petition with petitioner's "Application for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction (**TRO/WPI**)" was filed before the Court. The petition sought the following reliefs from the Court, to wit:

> ...
>
> 1. Upon the filing of this Petition, **ISSUE** a temporary restraining order (TRO) or writ of preliminary injunction: (a) enjoining respondents from issuing further quarterly assessments against

[14] Division Docket, Volume II, pp. 784-785; Emphasis and underscoring in the original text.

petitioner LRMC for local business tax; (b) restraining respondents and anyone acting for or on their behalf from interfering, whether directly or indirectly, with petitioner LRMC's business operations; (c) enjoining respondents and anyone acting for or on their behalf from performing any act or acts that will impede, obstruct, frustrate, defeat, or delay the transportation services rendered by petitioner LRMC to the general public; and (d) restraining the enforcement of Section 311 of the Caloocan Updated Revenue Code upon petitioner LRMC.

2. After due proceedings, **ISSUE** a Writ of Prohibition and **GRANT** a final injunction to enjoin the illegal assessment of local business tax on gross receipts from petitioner LRMC's transportation services and the imposition of "refusal fees".

3. After due proceedings, **ISSUE** a Writ of Mandamus directing respondents to properly recognize and classify petitioner LRMC as common carrier in accordance with Section 133 (j) of the Local Government Code, and to direct the respondents to refund/credit the illegally collected amounts, including the illegally imposed "refusal fees", specifically pertaining to the fourth quarter of the calendar year 2018.

4. After due proceedings, **DECLARE** that Section 311 of Ordinance No. 0385 Series of 2004, otherwise known as an Ordinance Enacting the Updated Caloocan City Revenue Code of 2004, is **NULL and VOID**.

5. After due proceedings, render judgment ordering that the assailed *Decision* dated 10 June 2019 be **REVERSED** and **SET ASIDE** for being contrary to law and jurisprudence.[15]

...

In a Resolution[16] dated 07 August 2019, the Court ordered respondents to file their comment to the petition, while the hearing on petitioner's application for a TRO/WPI was set on 15 August 2019.

During the scheduled hearing[17], petitioner presented its lone witness, Atty. Philip Miguel I. Ranada (**Atty. Ranada**), who testified by way of his Judicial Affidavit[18] and identified, among others, certain documents proferred by petitioner. Without respondents' objection,

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15 Id., Volume I, p. 43; Emphasis in the original text.
16 Id., pp. 497-498.
17 Order dated 15 August 2019, id., Volume II, pp. 779-780.
18 Id., pp. 503-513.

petitioner marked and offered the following exhibits which the Court admitted:

Exhibits	Name of Document
"P-1"[19]	Secretary's Certificate designating Atty. Ranada as LRMC's authorized representative
"P-2"[20]	LRMC's Articles of Incorporation (AOI)
"P-3"[21]	Notice of Award
"P-4"[22]	Concession Agreement
"P-5"[23]	Operating Franchise
"P-6"[24]	eFPS Payment Details for QPT on 03/31/2018 for
"P-6-1"[25]	eFPS Payment Details for QPT on 06/30/2018 for
"P-6-2"[26]	eFPS Payment Details for QPT on 09/30/2018 for
"P-6-3"[27]	QPT Return (BIR Form No. 2551) on 12/12/2018
"P-7"[28]	Judicial Affidavit of Atty. Ranada

The Court further ordered the parties to submit their respective memoranda within thirty (30) days or until 14 September 2019, after which the case shall be deemed submitted for decision.

In a Resolution[29] dated 04 September 2019, the Court, treating petitioner's application for a TRO/WPI as a "Motion for Suspension of Collection Tax", denied the same. Applying Rule 10[30] of the RRCTA, the Court found petitioner's perceived injury not imminent for its failure

19 Id., pp. 514-515.
20 Id., pp. 516-524.
21 Supra at note 8.
22 Supra at note 9.
23 Supra at note 10.
24 Division Docket, Volume II, p. 773.
25 Id., p. 774.
26 Id., p. 775.
27 Id., p. 776.
28 Supra at note 18.
29 Division Docket, Volume II, pp. 783-787.
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RULE 10
SUSPENSION OF COLLECTION OF TAX

SECTION 1. *No suspension of collection of tax, except as herein prescribed.* – No appeal taken to the Court shall suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of his tax liability as provided under existing laws, except as hereinafter prescribed.

SEC. 2. *Who may file.* – Where the collection of the amount of the taxpayer's liability, sought by means of a demand for payment, by levy, distraint or sale of any property of the taxpayer, or by whatever means, as provided under existing laws, may jeopardize the interest of the Government or the taxpayer, an interested party may file a motion for the suspension of the collection of the tax liability.

...

to show that respondents have issued any warrant of distraint or levy against it.

After the parties filed their Memoranda[31], the Court submitted the case for decision.[32]

ISSUES

In sum, petitioner comes to this Court for the resolution of the following issues:

I.
WHETHER PETITIONER IS A COMMON CARRIER OR TRANSPORTATION CONTRACTOR EXEMPT FROM THE IMPOSITION OF LOCAL BUSINESS TAXES PURSUANT TO SECTION 133(J) OF THE LGC.

II.
WHETHER PETITIONER HAS NO OTHER PLAIN, SPEEDY AND ADEQUATE REMEDY UNDER LAW THEREBY WARRANTING ITS RESORT TO THE EXTRAORDINARY WRITS OF MANDAMUS AND PROHIBITION WITH THE LOWER COURT.

III.
WHETHER THE COURT *A QUO* ERRED IN NOT DECLARING SECTION 311 OF THE CALOOCAN UPDATED REVENUE CODE ILLEGAL INSOFAR AS IT (*i*) REQUIRES PAYMENT OF TAXES UNDER PROTEST; (*ii*) SHORTENS THE PERIOD OF SIXTY (60) DAYS WITHIN WHICH A PROTEST MUST BE FILED UNDER THE LGC TO THIRTY (30) DAYS; AND, (*iii*) IMPOSES REFUSAL FEES FOR REFUSING TO PAY.

ARGUMENTS

In its petition and memorandum, petitioner insists firmly that it is a common carrier or at the very least, a transportation contractor. It being either should exempt it from the payment of business taxes under the LGC. It therefore cries foul to respondents' treatment of it as a mere contractor. Petitioner points out that it took on LRT1's whole

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31 Division Docket, Volume II, pp. 788-825 (petitioner's Memorandum) and pp. 826-852 (respondent's Memorandum).

32 Resolution dated 18 September 2019, id., p. 853.

operation and management, and has thus actually engaged in the business of transporting the public for a fee. It further argues that it merely stepped into LRTA's shoes, who respondents treated as a common carrier throughout its management of the LRT1. Thus, it should be treated similarly as a common carrier and not be subjected to repeated assessments on business tax on its gross receipts.

Petitioner adds that the RTC erred in dismissing its case for the issuance of writs of mandamus and prohibition. Unlike its other cases before the different courts in Caloocan City (which are mere claims for refund against assessments issued to it by respondents), the case before the RTC was the *only* case filed questioning the legality of Section 311 of the CURC. It claims further that the assailed provision runs contrary to the limitations of an Local Government Unit's (**LGU's**) taxing powers under the LGC. Particularly, the requirement of "payment under protest" and the shortening of the period within which a protest may be filed before the City Treasurer in Section 311 of the CURC directly contravenes Section 195[33] of the LGC.

Petitioner also finds the imposition of refusal fees to be without basis in law and completely beyond the LGU's power to impose.

On the other hand, respondents sought the dismissal of the instant petition on procedural and substantive grounds.

According to respondents, petitioner has ample remedies and the writs of prohibition and/or mandamus sought should not be made available to it. The LGC itself, particularly Section 195, provides the remedy against the subject assessments. Even petitioner is aware of

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[33] **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.

this remedy hence its several cases filed and pending in the different courts in Caloocan City. Contrary to petitioner's version, they contend that these other cases also involved questions on their character as a common carrier.

Respondents argue as well that mandamus will not lie against them for they have not neglected the performance of any legal duty. Neither could a writ of mandamus direct how that duty should be performed. Their assessment of petitioner for business tax involves the exercise of their judgment and discretion, something that is beyond the office of mandamus. According to respondents, petitioner should have instead filed an original action before the RTC under Section 195 of the LGC.

Respondents likewise assail the present petition to have been filed prematurely. Petitioner filed its protest to the 2018 4th quarter assessment yet it did not await their resolution and sought judicial relief even before the 60-day period (to resolve the protest) in Section 195 of the LGC could lapse. Petitioner thus failed to exhaust administrative remedies before resorting to court action.

Moreover, respondents point out the absence of jurisdiction on the part of the Court of Tax Appeals (**CTA**) over the present case. They insist that the determination of the core issue of whether petitioner is a common carrier does not lie in this Court. Its jurisdiction under RA 1125[34], as amended, over decisions or orders of the RTC is confined to local taxes originally decided or resolved by the RTC in its original or appellate jurisdiction.

Lastly, on the substantive issue of whether petitioner is a common carrier, respondents maintain that petitioner is similar to a mere driver or employee of the LRTA. The latter remains as the common carrier despite the former's operation of the LRT1. LRTA's persona as a common carrier is not shed by mere contract, neither is such character bestowed unto petitioner by its Concession Agreement with the DOT. They also contend that petitioner's Operation Franchise is not tantamount to a legislative franchise which would permit its

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

treatment as a common carrier and thus exempt from local business taxes.

RULING OF THE COURT

Before the Court proceeds to resolve the issues raised, a discussion on the outset of whether it has jurisdiction over the case will be in order.

THE COURT HAS JURISDICTION OVER THE CASE

Respondents contend that this Court has no jurisdiction to entertain the present petition on the sole ground that the case appealed from is not a local tax case. They cite Section 7(a)(3) of RA 1125, as amended by RA 9282, which reads:

> ...
> **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[.]
>
> ...

In *Smart Communications, Inc. v. Municipality of Malvar, Batangas*[35] (**SMI**), this Court held that it lacked jurisdiction to declare the invalidity of a local ordinance, concluding that the fees imposed therein are not in the nature of taxes. The Supreme Court, in agreeing with this Court' s observation, held that "[c]onsidering that the fees in Ordinance No. 18 are not in the nature of local taxes, and Smart is questioning the constitutionality of the ordinance, the CTA correctly dismissed the petition for lack of jurisdiction". Nevertheless, in the same breadth, the Supreme Court declared that, "the [CTA] may likewise take cognizance of cases directly challenging the

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[35] G.R. No. 204429, 18 February 2014.

constitutionality or validity of a tax law or regulation or administrative issuance".

The provision challenged in the instant petition is specifically a part of respondent Caloocan City's Revenue Code or its CURC. Particularly, Section 311[36] which states:

> ...
> **Sec. 311.** *Payment under Protest.* – (a) No protest on the computation of the tax shall be entertained by the City Treasurer unless the taxpayer first pays the tax. The tax receipts acknowledging the tax payments shall bear the words "paid under protest." The protest in writing must be filed within thirty (30) days from the payment of the tax to the City Treasurer, who shall decide the protest within sixty (60) days from receipt.
> ...

Aside from being a part of respondent city's main revenue ordinance, a plain reading of the assailed provision will show that the same regulates the very procedure in disputing local tax assessments hence, the limitation in *SMI* does not apply to the case at present.

Furthermore, despite respondents' contention that the main issue in this case is petitioner's status as a common carrier, We find the same intertwined inherently with the issue of its exemption from the imposition of percentage taxes on its gross receipt. After all, the case appealed from as well as the present petition prays for reliefs that seek to prevent petitioner's *continuous* assessment for local business taxes. Therefore, the issue of whether petitioner is a common carrier is but a necessary incident that must be tackled in determining petitioner's entitlement to the reliefs prayed for before this Court.

It is noteworthy that, even assuming *arguendo* that petitioner did not raise such issue, this Court has the power regardless to rule on the matter if it would entail a full and proper decision on the case's merits. The authority of this Court is derived from the RRCTA which holds that, "[i]n deciding the case, the Court may not limit itself to the issues

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36 Supra at note 4.

stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case".[37]

The jurisdiction of the Court over the issues put forth by the parties for our determination having been settled, We now move on to the crux of the petition.

After careful study of the commendable legal arguments forwarded by both parties and weighing the necessary implications resulting if the Court were to rule for one or the other, We have so decided for the reasons which shall be discussed below – in *seriatim*.

PETITIONER IS A COMMON CARRIER

Article 1732[38] of the New Civil Code of the Philippines (**Civil Code**) defines a common carriers as "persons, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public".

By the above definition, the Supreme Court has set parameters to ascertain the character of a common carrier. For one, in *Bascos v. Court of Appeals and Cipriano*[39] (**Bascos**), the Supreme Court, quoting the legal author Aguedo Agbayani held that, "[t]he test to determine a common carrier is whether the given undertaking is a part of the business engaged in by the carrier which he has held out to the general public as his occupation rather than the quantity or extent of the business transacted".

Applying the test in *Bascos,* the next important query is - whether petitioner holds itself out publicly to be engaged in the business of transportation.

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37 Revised Rules of the Court of Tax Appeals, Rule 14, Section 1.

38 **Art. 1732.** Common carriers are persons, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public.

39 G.R. No. 101089, 07 April 1993.

A careful review of the records could only yield an affirmative response.

First, before the DOT's grant of petitioner's Operation Franchise, the Concession Agreement gave the latter a choice of whether it would opt to procure a facility operator or operate LRT1 itself. Section 18.2.g[40] of the Concession Agreement states:

> ...
> Sec. 18.2.g Where the Concessionaire elects to operate the System itself it shall:
>
> 18.2.g (1) itself apply for an Operating Franchise at the time and in the manner prescribed in Section 18.2.a (*Facility Operator*)[.]
>
> ...

While under Section 1.1 thereof, a "Facility Operator" is defined as "any person appointed as such pursuant to Section 18.2 (Facility Operator) or any replacement thereof <u>being the person responsible for the operation and maintenance of the System</u>".[41]

Prior to the exercise of this option, it is clear that petitioner was only a construction and maintenance contractor pursuant to the Concession Agreement and its NOA. However, it is undisputed that it elected to take on the *operation* and *management* of LRT1 itself as shown by its successful procurement of an Operating Franchise. Now, what the words "operation" and "management" mean as regards a facility operator is concerned should be understood in its ordinary usage seeing that EO 603 did not even define these terms when it created the LRTA as shown in Paragraph 1, Section 2 thereof which states:

> ...
> SEC. 2. *Creation of Authority*. - To carry out the foregoing transportation policy, there is hereby created a corporate body to be known as the LIGHT RAIL TRANSIT AUTHORITY, hereinafter called the "AUTHORITY", which shall be primarily **responsible for the construction, operation, maintenance, and/or lease of light rail**

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[40] Division Docket, supra, Volume II, p. 674.
[41] Id., p. 572; Underscoring supplied.

> **transit systems in the Philippines, giving due regard to the reasonable requirements of the public transportation system of the country.** The principal office of the Authority shall be in the Metropolitan Manila Area, but it may establish branches and agencies elsewhere within the Philippines, as may be necessary for the proper conduct of its business and the discharge of its functions. The Authority shall be attached to the Ministry of Transportation and Communication.[42]
>
> ...

In interpreting the import of these terms, Article 1370 of the Civil Code is instructive as regards the foregoing matter:

> ...
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> **Art. 1370.** If the terms of the contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.
>
> If the words appear contrary to the evident intention of the parties, the latter shall prevail over the former.
>
> ...

Likewise, as regards EO 603, the primary and basic rule in statutory construction applies, that is, where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[43]

With that said, it is beyond doubt that a vital part of the LRT1's operation involves the safe transport of passengers between all railway stations along its current route. The obligation to serve this mandate of the LRTA is, at present, the burden of petitioner while the ceding of such function in favor of the latter is within the LRTA's powers under EO 603, to wit:

> ...
>
> Sec. 4. General Powers. - The Authority, through the Board of Directors, may undertake such action as are expedient for or conducive to the attainment of the purposes and objectives of the Authority, or of any purpose reasonably incidental to or

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42 Emphasis supplied.

43 *National Food Authority (NFA), et al. v. Masada Security Agency, Inc., et al.*, 493 Phil. 241 (2005); *Philippine National Bank v. Garcia, Jr.*, 437 Phil. 289 (2002).

consequential upon any of these purposes. As such, the Authority shall have the following general powers:

> ...
> (5) To contract any obligation or enter into, assign or accept the assignment of, and vary or rescind any agreement, contract of obligation necessary or incidental to the proper management of the Authority;
> ...
>
> (9) To carry on any business, either alone or in partnership with any other person or persons;
>
> (10) **To employ an agent or contractor or perform such things as the Authority may perform**[.][44]

...

Granted that according to respondents, the LRTA does not shed its character as a common carrier by the grant of petitioner's franchise, nothing prohibits the consideration that petitioner may be a common carrier by the sheer exercise of its functions which as previously stated, involves the transport of passengers along the LRT1's route. Neither does the fact of the national government's continuous ownership through the LRTA of the LRT1 constitute any bar to the notion that petitioner could be deemed a common carrier.

In *Pedro De Guzman v. Court of Appeals, et al.*[45], the Supreme Court held:

> ...
> So understood, the concept of "common carrier" under Article 1732 may be seen to coincide neatly with the notion of "public service," under the Public Service Act (Commonwealth Act No. 1416, as amended) which at least partially supplements the law on common carriers set forth in the Civil Code. Under Section 13, paragraph (b) of the Public Service Act, "public service" includes:
>
> > ... every person that now or hereafter may own, **operate, manage, or control** in the Philippines, for hire or compensation, *with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes, any common carrier*, railroad, street

[44] Supra at note 7; Emphasis supplied.
[45] G.R. No. L-47822, 22 December 1988.

> railway, traction railway, subway motor vehicle, either for freight or passenger, or both, with or without fixed route and whatever may be its classification, freight or carrier service of any class, express service, steamboat, or steamship line, pontines, ferries and water craft, engaged in the transportation of passengers or freight or both, shipyard, marine repair shop, wharf or dock, ice plant, ice-refrigeration plant, canal, irrigation system, gas, electric light, heat and power, water supply and power petroleum, sewerage system, wire or wireless communications systems, wire or wireless broadcasting stations and other similar public services...[46]

...

Applying the foregoing, to simply equate the concept of a common carrier to ownership of a facility or vehicle used for transportation restricts its definition as contemplated under Article 1732[47] of the Civil Code as well as the notion of "public service" under Section 13[48] of Commonwealth Act (CA) 146 or The Public Service Law, when both the law and jurisprudence have made it so that the full determination of what a common carrier is, should not be resolved by checking off a closed list of legal requirements but rather, by looking at the prevailing realities of each case.

The concepts of "ownership" and "operation" *vis-à-vis* the idea of public utility have already been tackled by the Supreme Court in *Francisco S. Tatad, et al. v. Hon. Jesus B. Garcia, Jr. and EDSA LRT Corporation, Ltd.*[49], (**Tatad**). To wit:

> ...
> **The right to operate a public utility may exist independently and separately from the ownership of the facilities thereof.** One can own said facilities without operating them as a public utility, or conversely, **one may operate a public utility without owning the facilities used to serve the public.** The devotion of property to serve the public may be done by the owner or by the person in control thereof who may not necessarily be the owner thereof.
>
> This dichotomy between the operation of a public utility and the ownership of the facilities used to serve the public can be very well appreciated when we consider the transportation industry.

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46 Sec. 13, Commonwealth Act 146; Emphasis supplied and italics in the original text.
47 Supra at note 38.
48 See notes at 45 and 46.
49 G.R. No. 114222, 06 April 1995; Emphasis supplied.

> Enfranchised airline and shipping companies may lease their aircraft and vessels instead of owning them themselves.
>
> ...

Although in *Tatad*, private respondent EDSA LRT Corporation, Ltd. was awarded construction of the LRT3 under a Build-Operate-Transfer (BOT) scheme; it was not, however, enfranchised to operate the LRT3 under its agreement with the DOT. Under their contract, after construction of the railway, the DOT shall operate the same as a common carrier.[50] Hence, the Supreme Court stated that:

> ...
> Since [DOT] shall operate the EDSA LRT III, it shall assume all the obligations and liabilities of a common carrier. For this purpose, [DOT] shall indemnify and hold harmless private respondent from any losses, damages, injuries or death which may be claimed in the operation or implementation of the system...[51]
>
> ...

In contrast with the present case, the DOT actually enfranchised petitioner to operate the LRT1. Following the logic in *Tatad*, it becomes undeniable that petitioner as operator of the railway (a public utility) is, in all respects, a common carrier assuming all the responsibilities of one. Unlike EDSA LRT Corporation, Ltd. in *Tatad*, whose functions were limited to the railway's ownership, construction, repair and maintenance, petitioner is directly engaged in the act of transporting the public.

Additionally, respondents' argument that petitioner needs a legislative franchise to be a common carrier is misplaced. As respondents admit, the LRTA was granted the power to operate the LRT1 by legislative act through the enactment of EO 603. However, as earlier discussed, the same law also provides that the LRTA has the authority to employ an agent or contractor to perform such things as it [the authority] may perform without the need of any subsequent legislative ratification.[52]

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50 Id.
51 Id.
52 Supra at note 44.

As can be recalled, Article 1732[53] of the Civil Code does not even provide for such a requirement, neither does it makes any distinction between one whose principal business activity is carrying of persons or goods or both, and one who does such carrying only as an ancillary activity.[54] The Supreme Courts states further that:

> ...
> ... Article 1732 also carefully avoids making any distinction between a person or enterprise offering transportation service on a <u>regular or scheduled basis</u> and one offering such service on an <u>occasional, episodic or unscheduled basis</u>. Neither does Article 1732 distinguish between a carrier offering its services to the "<u>general public</u>," i.e., the general community or population, and one who offers services or solicits business only from a <u>narrow segment of the general population</u>...[55]
> ...

Given the foregoing, the Court finds petitioner to have satisfied all the requirements for it to be considered a common carrier and thus, it is **exempt from the payment of local business taxes under Section 113(j) of the LGC**. This conclusion is further bolstered by its continuous filing of quarterly percentage tax returns or the so-called "common carriers tax" to the national government. The exemption of common carriers from payment of percentage tax in the LGC is rooted precisely from the fact that the national government already imposes and collects their quarterly gross receipts by virtue of Section 117 of the National Internal Revenue Code (NIRC) of 1997, as amended, which states:

> ...
> **Sec.** 117. *Percentage Tax on Domestic Carriers and Keepers of Garages.* - Cars for rent or hire driven by the lessee, transportation contractors, including persons who transport passengers for hire, and other domestic carriers by land, air or water, for the transport of passengers, except owners of bancas and owner of animal-drawn two wheeled vehicle, and keepers of garages shall pay a tax equivalent to three percent (3%) of their quarterly gross receipts.
> ...

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53 Supra at note 38.
54 *Sps. Cruz v. Sun Holidays, Inc.*, G.R. No. 186312, 29 June 2010.
55 Id.; Underscoring in the original text.

Thus, if an LGU were to impose similar taxes on a common carrier, double taxation would inevitably occur. The proscription against double taxation in the case of common carriers was discussed in the case of *City of Manila, et al. v. Hon. Colet, et al.*[56] (**Colet**), wherein the Supreme Court had the occasion to delve into the legislative deliberations behind the inclusion of Section 113 in the LGC, hence:

> ...
> The deliberations conducted in the House of Representatives on the Local Government Code of 1991 are illuminating:
>
> "MR. AQUINO (A). Thank you, Mr. Speaker.
>
> Mr. Speaker, we would like to proceed to page 95, line 1. It states: "SEC. 121 (now Sec. 131). Common Limitations on the Taxing Powers of Local Government Units." . . .
>
> MR. AQUINO (A.). Thank you Mr. Speaker.
>
> Still on page 95, subparagraph 5, on taxes on the business of transportation. This appears to be one of those being deemed to be exempted from the taxing powers of the local government units. May we know the reason why the transportation business is being excluded from the taxing powers of the local government units?
>
> MR. JAVIER (E.). Mr. Speaker, there is an exception contained in Section 121 (now Sec. 131), line 16, paragraph 5. It states that local government units may not impose taxes on the business of transportation, except as otherwise provided in this code.
>
> Now, Mr. Speaker, if the Gentleman would care to go to page 98 of Book II, one can see there that provinces have the power to impose a tax on business enjoying a franchise at the rate of not more than one-half of 1 percent of the gross annual receipts. So, transportation contractors who are enjoying a franchise would be subject to tax by the province. That is the exception, Mr. Speaker.
>
> What we want to guard against here, Mr. Speaker is the imposition of taxes by local government units on the carrier business. Local government units may impose taxes on top of what is already being imposed by the National Internal Revenue Code which is the so-called "common carriers tax." We do not want a duplication of this tax, so we just provided for an exception under Section 125 (now Section 137) that a province may impose this tax at a specific rate.

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56 G.R. No. 120051, 10 December 2014.

MR. AQUINO (A.). Thank you for that clarification, Mr. Speaker. . . .

It is clear that the legislative intent in excluding from the taxing power of the local government unit the imposition of business tax against common carriers is to prevent a duplication of the so-called "common carrier's tax."

Petitioner is already paying three (3%) percent common carrier's tax on its gross sales/earnings under the National Internal Revenue Code. To tax petitioner again on its gross receipts in its transportation of petroleum business would defeat the purpose of the Local Government Code.

Consistent with the foregoing legislative intent, Republic Act No. 7716, more popularly known as the Expanded Value-Added Tax (E-VAT) Law, which took effect after the LGC on May 28, 1994, expressly amended the NIRC of 1977 and added to Section 115 of the latter on "Percentage tax on carriers and keepers of garages," the following proscription: "**The gross receipts of common carriers derived from their incoming and outgoing freight shall not be subjected to the local taxes imposed under Republic Act No. 7160, otherwise known as the Local Government Code of 1991.**"[57]

...

MANDAMUS WILL NOT LIE, PROHIBITION IS THE PROPER REMEDY

Sections 2 and 3 of Rule 65 of the Rules of Court (ROC) provide:

...

Sec. 2. *Petition for prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

...

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[57] Citation omitted and emphasis supplied.

> **Sec. 3.** *Petition for mandamus.* — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.
>
> ...

For a petition for mandamus to prosper, certain requisites must first be satisfied. In *Star Special Watchman and Detective Agency, Inc., et al. v. Puerto Princesa City, Mayor Edward Hagedorn, et al.*[58], the Supreme Court held that either of the two following grounds must be alleged in the petition:

> ...
>
> ...[a] that the court, officer, board, or person against whom the action is taken unlawfully neglected the performance of an act which the law specifically enjoins as a duty resulting from office, trust, or station; or [b] that such court, officer, board, or person has unlawfully excluded petitioner/relator from the use and enjoyment of a right or office to which he is entitled.
>
> ...

In addition thereto, the writ will not issue "to compel an official to do anything which is not his duty to do or which it is his duty not to do, or to give to the applicant anything to which he is not entitled by law"[59] or "to enforce a right which is in substantial dispute or as to which a substantial doubt exists".[60] Also, as an extraordinary remedy, "there should be no plain, speedy and adequate remedy in the ordinary course of law other than the remedy of mandamus being invoked".[61]

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58 G.R. No. 181792, 21 April 2014.
59 Id.
60 Id.
61 Id.

Lastly, "[m]andamus will not lie to control the exercise of discretion of an inferior tribunal when the act complained of is either judicial or quasi-judicial".[62] As the Supreme Court explains:

> ...
> A purely ministerial act or duty, in contradistinction to a discretional act, is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his own judgment, upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer, and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion nor judgment.[63]
> ...

From the foregoing, it would appear that mandamus will not lie to compel respondents to acknowledge petitioner's status as a common carrier. This is due to the simple reason that the determination of whether petitioner fits the criteria for exemption under Section 113 of the LGC is dependent upon respondent City Treasurer's appreciation of the circumstances.

Although petitioner's Article of Incorporation (**AOI**) shows that one of its purposes is the operation of businesses involving railways and railroad projects[64], as previously stated, such declarations are no true test to gauge one's status as a common carrier.

As culled from the records, notwithstanding petitioner's purpose as a railway operator under AOI, its initial obligation was for the construction and maintenance of the LRT1 as the Concession Agreement shows clearly. It was only after petitioner's election to handle the operations of the LRT1 on its own that it was granted a franchise for such purpose. It could be argued further that petitioner's NOA did not *ipso facto* constitute it as a common carrier. Although such circumstances are in no way fatal to petitioner's present action,

62 *Serafin Sanson v. Conrado Barrios, et al.*, G.R. No. L-45086, 20 July 1936.
63 Id.; Citation omitted.
64 Supra at note 21.

the Court could not fault respondents for its initial confusion regarding the extent of petitioner's control over LRT1.

On the other hand, in order for a writ of prohibition to issue, the following requisites must coincide:

> ...
> For a party to be entitled to a writ of prohibition, he must establish the following requisites: (a) it must be directed against a tribunal, corporation, board or person exercising functions, judicial or ministerial; (b) the tribunal, corporation, board or person has acted without or in excess of its jurisdiction, or with grave abuse of discretion; and (c) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.[65]
> ...

In addition, being a preventive remedy, a writ of prohibition will not lie for acts already accomplished.[66]

Compliance with the first requisite is a given. As for the second requirement, We find that respondents acted in excess of their jurisdiction when it assessed petitioner of business taxes. As previously discussed, a mere perusal of Article 1732 of the Civil Code will show that petitioner is indeed a common carrier and this is further enforced by respondents' own admissions that it is the actual operator of the LRT1 (as its Operation Franchise so shows).

Respondents, nevertheless, argue that petitioner's plight may be resolved in any of the cases brought by it before the courts in Caloocan City. On the other hand, petitioner contends that, in their numerous claims of refund before the lower courts, any relief granted therein shall have no bearing regarding their right to be exempted, once and for all, from paying business taxes to the LGU.

Neither party has presented to the Court any evidence regarding the very nature of these other cases pending before the lower courts, only that their existence at the very least is admitted by both parties;

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65 *Montes v. Court of Appeals, et al.*, G.R. No. 143797, 04 May 2006.
66 *Dynamic Builders & Construction Co. (Phil.), Inc. v. Hon. Ricardo P. Presbiterio, Jr., et al.*, G.R. No. 174202, 07 April 2015.

and by their own admission, that these are related to the levy of business taxes against it by Caloocan City.[67]

As regards the satisfaction of the third requisite, the Court finds petitioner trapped in a peculiar situation wherein just as it elevates one disputed assessment before the courts, another one may be already underway.

As culled from the facts of the case, respondents have been very consistent in maintaining petitioner's status as a contractor and the propriety of its imposition of quarterly percentage taxes against it which, in turn, prompts petitioner to also consistently challenge these quarterly assessments before the courts. That said, there appears no other adequate or expedient remedy available to petitioner to successfully bar respondents' *continuous* assessments.

Although it is undisputed that several of petitioner's protests are still pending before the office of respondent City Treasurer and under normal circumstances, resort to the extraordinary writs under Rule 65 of the ROC shall not issue unless all other remedies both administrative or judicial are exhausted, the Court finds a compelling reason to relax the rules in this instance.

As previously mentioned, the peculiarity of the present circumstances shall result in repeated assessments of petitioner for local business taxes though its right to be exempted therefrom has already been established. Therefore, to strictly apply the principle of exhaustion of administrative remedies in the present case serves as a bar rather than a tool for this Court to arrive at a just determination of the parties' rights.

Moreover, if the Court were not to act now on technical grounds, one of the ramifications would be the multiplication of suits in the different courts. As stated, respondents' assessment of petitioner is continuous and the latter is most likely to file suit one after the other given its firm stance that it is exempt from payment of local business tax on its gross receipts.

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67 See Respondents' Memorandum, Division Docket, supra, Volume II, p. 829.

Public policy is firmly set against unnecessary multiplicity of suits. Relitigation of issues merely burdens the court and the taxpayers, creates uneasiness and confusion, and wastes valuable time and energy that could be devoted to worthier cases.[68] As the Roman maxim goes, *non bis in idem*.[69] Not twice against the same thing.

Hence, in the interest of substantial of justice, the Court chooses to forego the technicalities for the time being. After all, even the Supreme Court held consistently that:

> ...
>
> ... **if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction.**[70]
>
> ...
>
> The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "**It is a more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not miscarriage of justice.**"
>
> What should guide judicial action is the principle that a party-litigant should be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor, or property on technicalities...[71]
>
> ...

Given the nature of the present issues involved, their resolution becomes paramount if subsequent suits between the parties involving the matter of petitioner's exemption from quarterly business taxes are

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68 *Aguila, et al. v. J.M. Tuason & Co., Inc., et al.*, 130 Phil. 715 (1968).

69 Id.

70 *Marlon Curameng y Pablo v. People of the Philippines*, G.R. No. 219510, 14 November 2016; See also *CMTC International Marketing Corporation v. Bhagis International Trading Corporation*, G.R. No. 170488, 10 December 2012; Emphasis supplied.

71 *Heirs of Amada A. Zaulda, et al. v. Isaac Z. Zaulda*, G.R. No. 201234, 17 March 2014; Citations omitted and emphasis supplied.

to be avoided; moreso, that it has already been made clear that petitioner is in fact a common carrier within the contemplation of Article 1732 of the Civil Code.

With the disquisitions above, the Court finds the issuance of a writ of prohibition in favor of petitioner in order. All requisites for it to prosper having been duly satisfied.

SECTION 311 OF THE UPDATED CALOOCAN REVENUE CODE IS VIOLATIVE OF THE LOCAL GOVERNMENT CODE

In *City of Manila, et al. v. Cosmos Bottling Corporation*[72], the Supreme Court, in agreement with this Court's findings, ruled that prior payment of the assessed tax is not necessary for filing a protest against assessments for local business taxes. The Supreme Court ratiocinates thusly:

> ...
> Clearly, when a taxpayer is assessed a deficiency local tax, fee or charge, he may protest it under Section 195 **even without making payment of such assessed tax, fee or charge. This is because the law on local government taxation, save in the case of real property tax, does not expressly require "*payment under protest*" as a procedure prior to instituting the appropriate proceeding in court.** This implies that the success of a judicial action questioning the validity or correctness of the assessment is not necessarily hinged on the previous payment of the tax under protest.
> ...

Unlike Section 252[73] of the LGC wherein "payment under protest" has been specifically provided for in case of real property taxes (**RPT**), the LGC is silent as regards other taxes imposed by the LGU. As

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[72] G.R. No. 196681, 27 June 2018; Citation omitted, emphasis supplied and italics in the original text.

[73] **Sec. 252.** *Payment Under Protest.* - (a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words "paid under protest." The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.

previously cited, Section 195[74] of the LGC does not require payment of the assessed business tax in order for a taxpayer's protest to prosper. All that Section 195 requires is that, "[w]ithin 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".[75]

Section 311 of the CURC does not only provide for "payment under protest", it further shortens the 60-day period within which a protest against the assessment could be filed to thirty (30) days.[76] Again, the LGC only requires a 30-day period to protest in the case of RPT under Section 252 thereof. However, as regards local business taxes, it is apparent that the 60-day period provided in Section 195 should be observed.

The assailed Section 311 of the CURC even goes as far as imposing refusal fees for failure to pay assessed local business taxes under protest. Since "payment under protest" in this case cannot be validly required by the LGU, it is by necessary consequence that these refusal fees cannot likewise be forced upon the taxpayer.

On this note, respondents must be reminded that an LGU's power to exercise state powers are not absolute since "...in every power to pass ordinances given to a municipality, there is an implied restriction that the ordinances shall be consistent with the general law".[77]

In *Mayor Magtajas, et al. v. Pryce Properties Corp., Inc., et al.*[78], the Supreme Court, through Justice Isagani Cruz, expounds the reason for this restriction, to wit:

> ...
>
> The rationale of the requirement that the ordinances should not contravene a statute is obvious. Municipal governments are only agents of the national government. Local councils exercise only

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74 Supra at note 33.

75 Supra.

76 Supra at note 4.

77 *Batangas CATV, Inc. v. The Court of Appeals, et al.*, G.R. No. 138810, 29 September 2004 citing *Johnson v. Philadelphia*, 94 Miss 34, 47 So 526.

78 G.R. No. 111097, 20 July 1994; Citations omitted and emphasis supplied.

delegated legislative powers conferred on them by Congress as the national lawmaking body. **The delegate cannot be superior to the principal or exercise powers higher than those of the latter. It is a heresy to suggest that the local government units can undo the acts of Congress, from which they have derived their power in the first place, and negate by mere ordinance the mandate of the statute.**

> Municipal corporations owe their origin to, and derive their powers and rights wholly from the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. As it may destroy, it may abridge and control. Unless there is some constitutional limitation on the right, the legislature might, by a single act, and if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all of the municipal corporations in the State, and the corporation could not prevent it. We know of no limitation on the right so far as to the corporation themselves are concerned. They are, so to phrase it, the mere tenants at will of the legislature.

This basic relationship between the national legislature and the local government units has not been enfeebled by the new provisions in the Constitution strengthening the policy of local autonomy. Without meaning to detract from that policy, we here confirm that Congress retains control of the local government units although in significantly reduced degree now than under our previous Constitutions. The power to create still includes the power to destroy. The power to grant still includes the power to withhold or recall. True, there are certain notable innovations in the Constitution, like the direct conferment on the local government units of the power to tax, which cannot now be withdrawn by mere statute. **By and large, however, the national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it.**

...

Simply put, local ordinances are subordinate to national law. LGUs as creatures of legislative fiat derive their power to enact ordinances from those delegated to them by Congress. Therefore, to act in a way exceeding such authority granted to them makes the act abhorrent to state law and thus, *ultra vires*.

WHEREFORE, the foregoing considered, petitioner Light Rail Manila Corporation's Petition for Review filed on 19 July 2019 is **GRANTED.** The assailed Decision of the Regional Trial Court (RTC), Branch 232 of Caloocan City, dated 10 June 2019, is hereby **REVERSED** and **SET ASIDE.**

Accordingly, petitioner's Application for a Writ of Prohibition is **GRANTED.** Respondents are therefore **ORDERED** to **DESIST** from further assessing petitioner for local business taxes on its gross receipts. Likewise, Section 311 of the Updated Caloocan Revenue Code is found violative of Republic Act No. 7160 or The Local Government Code of 1991 and hence, declared **NULL** and **VOID.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
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.
Associate Justice
2nd Division 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.

ROMAN G. DEL ROSARIO
Presiding Justice