REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

THE CITY OF TAGUIG AND ATTY. J. VOLTAIRE ENRIQUEZ IN HIS CAPACITY AS THE CITY TREASURER OF THE CITY OF TAGUIG, Petitioners,	**CTA EB NO. 2927** (CTA AC No. 268)
	Present:
- versus -	**RINGPIS-LIBAN, *P.J.*, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES *JJ.***
	Promulgated:
HOLCIM PHILIPPINES, INC., Respondent.	MAY 21 2026 3:55 p.m.

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RESOLUTION

FERRER-FLORES, J.:

For resolution are:

1. respondent's **Motion for Partial Reconsideration (Re: Decision dated September 29, 2025)** filed via registered mail on October 20, 2025, and received by the Court on October 23, 2025, with petitioner's **Comment/Opposition (To Respondent's Motion for Partial Reconsideration dated October 20, 2025)** filed via registered mail on January 27, 2026, and received by the Court on February 2, 2026; and,

2. petitioners' **Motion for Partial Reconsideration (Re: Decision dated September 29. 2025)** filed via registered mail on November 3, 2025 and received by the Court on November 11, 2025, with

respondent's **Comment/Opposition (Re: Petitioner's Motion for Partial Reconsideration dated October 30, 2025)** filed on January 5, 2026.

Both *Motions* assail the Decision promulgated by the Court *En Banc* on September 29, 2025, the dispositive portion of which reads as follows:

> **WHEREFORE,** the instant **Petition for Review** is still **DENIED.** Considering the discussion above, the Decision dated November 15, 2023 in CTA AC No. 268 is hereby **MODIFIED to read as follows**:
>
> > **WHEREFORE**, in light of the foregoing considerations, the **Petition for Review** is **PARTIALLY GRANTED**. Accordingly, the assailed Judgment dated May 6, 2022, and Order dated June 13, 2022, rendered by the RTC-Branch 271, City of Taguig, in Civil Case Nos. 447-TG and 490-TG are **REVERSED** and **SET ASIDE**.
> >
> > Respondents are **ORDERED TO REFUND** petitioner Holcim Philippines, Inc., the amount of ₱162,806.64, representing its overpaid LBT for the year 2018.
> >
> > **SO ORDERED**.
>
> **SO ORDERED**.

In its *Motion*, respondent posits that the Court *En Banc* erred in ruling on a question of fact, which was not raised as an issue in the *Petition for Review*, pursuant to Rule 45, which is limited only to questions of law. Respondent argues that this Court should have confined its ruling to the legal issue of whether the applicable tax rate for the local business tax (LBT) is the tax rate provided under Section 6 of the Tax Ordinance No. 34, Series of 2017 of petitioner City of Taguig, or the preferential tax rate provided under Section 143(c) of the Local Government Code of 1991 (LGC). According to respondent, to rule that its gross receipts/sales for calendar year (CY) 2017 were not solely earned from the sale of cement, which necessitates a review of the factual findings of the Regional Trial Court (RTC) and the Court in Division, is not the role of the Court *En Banc* pursuant to Rule 45 of the Rules of Court.

Respondent also maintains that it presented evidence before the RTC that it is a manufacturer and/or wholesaler of cement entitled to preferential tax rate under Section 143(c)(8) of the LGC. Since it was not disputed by petitioner before the RTC, the Court *En Banc* should therefore consider the evidence presented before the RTC and hold that respondent is entitled to preferential tax rate for manufacturers and wholesalers of essential commodities.

Respondent contends that it is entitled to the preferential tax rate under Section 143(c)(8) of the LGC as a manufacturer and/or wholesaler of cement.

Respondent asserts that there is nothing in Section 143(c) that requires manufacturers to be exclusively engaged in the manufacture of essential commodities to qualify for the preferential tax rate and that it should only apply to the gross receipts of the manufacturer or wholesaler of the enumerated essential commodity. For respondent, once it was able to establish that it is a manufacturer and/or wholesaler of an essential commodity, it should be entitled to the preferential tax rate under the LGC. The absence of a restrictive language indicates a broader scope than a narrow, exclusive application. Respondent also avers that Section 143(c) of the LGC contains no indication that its preferential tax rate should solely apply to sales of specific essential commodities; rather, it consistently refers to gross receipts of businesses dealing in essential commodities in general and not limited to particular items.

Petitioners, on the other hand, counter that the Court *En Banc* may also rule upon related issues necessary to achieve an orderly disposition of the case considering that the Court of Tax Appeals (CTA) has its own rules. Petitioners also highlight that the Court is correct in ruling that respondent is not entitled to the preferential tax rate for manufacturer and/or wholesaler of essential commodities under Section 143(c)(8) of the LGC on the ground that it failed to prove that its sales were solely from the sale of cement.

In their *Motion for Partial Reconsideration*, petitioners assail the findings of the Court *En Banc* that the Billing Statements are not considered notice of assessment (NOA). Petitioners emphasize that Section 195 of the LGC does not require that an investigation must first be conducted to come up with the findings of correct taxes due before assessment. Moreover, they point out that Section 171 of the LGC did not mention any mandatory prior examination before assessment. Petitioners submit that the billing statements show that respondent is taxed as a manufacturer as it was stated therein what the assessment was for. For petitioners, respondent had actual knowledge of their assessment and should have just raised their concerns before the Public Assistance and Complaints Desk (PACD) upon receiving their Billing Statement. Petitioners allege that respondent failed to question the legal and factual basis of their assessment as manufacturer of essential commodities. Finally, petitioners contend that the decision of the RTC is correct in concluding that the assessments against respondent have become conclusive and unappealable for being filed beyond the 30-day period within which to appeal the claim before the CTA, pursuant to Section 195 of the LGC.

Respondent, on the other hand, claims that Section 195 of the LGC applies only when there is a "finding" by the local treasurer or his authorized representatives that correct taxes, fees, or charges have not been paid; and, it is only after such finding is made that the local treasurer may validly issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency tax, the surcharge, interests, and penalties.

Respondent likewise cites Section 171 of the LGC, which provides that the local treasurer may, by himself, or through his duly authorized representative, examine the books, accounts and other pertinent records of any person, partnership or corporation.

Respondent further avers that the Billing Statements issued by petitioners do not properly inform it of the correct taxes, fees, or charges not paid and do not provide the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties. Instead, as found by the Court in Division, the Billing Statements merely indicated the amount to be paid by respondent as part of renewing its business permit, which is a clear showing that the Billing Statements are not issued as assessments.

For respondent, petitioner's allegation that it is fully aware of the law and facts on which the assessments were based, considering that the Billing Statements indicate the term "Manufacturer", is insufficient to inform respondent of the basis and nature of the tax. Respondent rebuts petitioner's invocation of approaching the PACD for any concerns on the Billing Statements does not cure the defects thereof, as it is still necessary to inform the taxpayer of the correct taxes to be paid, the nature of the tax, fee or charge and the amount of deficiency taxes, surcharges, interests and penalties. The availability of a PACD cannot substitute for the mandatory substantive requirements provided for in Section 195 of the LGC.

Finally, respondent maintains that Section 196 of the LGC is the applicable law to this case.

Both *Motions* are denied.

At the outset, it must be emphasized that the issues raised in both *Motions* have, for the most part, already been squarely addressed and thoroughly discussed in the assailed Decision. The Court *En Banc* reiterates its findings and reasoning, not to indulge in redundancy, but to underscore that the arguments advanced by both parties have been duly considered and are found unmeritorious.

In the interest of a coherent and organized discussion, the Court *En Banc* shall discuss the arguments raised in both *Motions* together.

Applicability of Rule 45 in the instant case

Respondent argues that the Court should not have ruled on a question of fact not raised as an issue, as Rule 45 of the Rules of Court limits the Court in resolving only questions of law. Respondent contends that the RTC and the Court in Division have already held that it is a manufacturer of cement and such fact has been duly admitted and uncontested by petitioners. The Court *En Banc*, thus, is limited to only resolving question of law without determining whether respondent is indeed a manufacturer of cement. Petitioners, on the other hand, counter by reiterating that the CTA has its own rules and can decide on related matters.

Respondent clearly misapprehended the governing rule.

Rule 45 of the Rules of Court refers to Appeal by Certiorari to the Supreme Court, Section 1 of which provides:

> SECTION 1. *Filing of Petition with Supreme Court.* — A party desiring to **appeal by certiorari from a judgment, final order or resolution of the** Court of Appeals, the Sandiganbayan, the **Court of Tax Appeals**, the Regional Trial Court or other courts, whenever authorized by law, **may file with the Supreme Court a verified petition for review on certiorari**. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency. (As amended by A.M. No. 07-7-12-SC, December 12, 2007.) (Emphasis supplied)

Respondent's assertion on the applicability of Rule 45 is misplaced. The instant case is *Petition for Review* filed by petitioner before the CTA *En Banc*, assailing the Decision of the Court in Division.

Instead, respondent's attention should be directed to Section 4(b) of Rule 8 of the Revised Rules of the CTA (RRCTA), which provides:

> SECTION 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 review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal. (n)

> (b) **An appeal from a decision or resolution of the Court in Division on a motion for reconsideration** or new trial **shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court en banc shall act on the appeal.** (n)
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> xxx xxx xxx (Emphasis supplied)

Based on the foregoing, the decision or resolution of the Court in Division on a motion for reconsideration is appealable to the Court *En Banc*, the procedure thereofis analogous to Rule 43 of the Rules of Court.[1] In view of the enactment of Republic Act (R.A.) No. 9282,[2] amending R.A. No. 1125,[3] which elevated the rank of the CTA to the level of a collegiate court with special jurisdiction, the decisions and resolutions of the CTA *En Banc* is no longer appealable to the Court of Appeals, but directly to the Supreme Court, as provided under Rule 16 of the RRCTA[4] and is analogous to Rule 45 of the Rules of Court.

Clearly, appeal before the Court *En Banc*, analogous to Rule 43 of the Rules of Court, may involve questions of fact, of law, or mixed questions of fact and law, as provided in Section 3 thereof, to wit:

> SECTION 3. *Where to Appeal.* — An appeal under this Rule may be taken to the Court of Appeals within the period and in the manner herein provided, **whether the appeal involves questions of fact, of law, or mixed questions of fact and law.** (Emphasis supplied)

Moreover, Section 1, Rule 14 of the RRCTA, also provides that the CTA may not limit itself to the issues stipulated by the parties, but may also rule upon related issues necessary to achieve an orderly disposition of the case.

Jurisprudence is replete with cases, wherein the Supreme Court acknowledged that the CTA may rule upon related issues not specifically raised by the parties but necessary to achieve an orderly disposition of the case.[5] In the recent case of *National Power Corporation vs. Provincial Government of Bulacan, Gloria P. Sta. Maria, Municipal Assessor of*

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1 Appeals from the Court of Tax Appeals and Quasi-Judicial Agencies to the Court of Appeals.

2 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, otherwise known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

3 An Act Creating the Court of Tax Appeals, Junee 16, 1954.

4 SECTION 1. *Appeal to Supreme Court by Petition for Review on Certiorari.* — **A party adversely affected by a decision or ruling of the Court en banc may appeal therefrom by filing with the Supreme Court a verified petition for review on certiorari within fifteen days from receipt of a copy of the decision or resolution, as provided in Rule 45 of the Rules of Court.** If such party has filed a motion for reconsideration or for new trial, the period herein fixed shall run from the party's receipt of a copy of the resolution denying the motion for reconsideration or for new trial. (Emphasis supplied)

5 *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017.

Norzagaray, and the Municipal Government of Norzagaray, Bulacan,[6] the Supreme Court held that the issue of whether the National Power Corporation is required to first pay the tax under protest is properly cognizable by the CTA, although it was not expressly raised by the parties in their pleadings filed before the Court, to wit:

> ***The CTA may rule upon related issues not specifically raised by the parties but necessary to achieve an orderly disposition of the case.***
>
> At the onset, We hold that the issue of whether NPC is required to first pay the tax under protest is properly cognizable by the CTA, although it was not expressly raised by the parties in their pleadings filed before the court. **The CTA is not bound by the issues specifically stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals provides that "[i]n deciding the case, the [CTA] may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case."**
>
> Indeed, the requirement of payment under protest in Section 252 of the LGC is ancillary to the issue of premature filing with the LBAA. If NPC was required to pay the tax but failed, the administrative protest with the assessor was without effect, and the Petition filed with the LBAA was premature. Consequently, the CTA is precluded from entertaining the Petition. Further, the CTA observed that the Municipal Assessor of Norzagaray raised during the proceedings in the LBAA that NPC did not pay the questioned tax under protest. Accordingly, NPC is deemed to have impliedly consented to try the issue. (Emphasis supplied, italics in the original)

Patently, the Rules of Court, RRCTA and jurisprudence recognize the Court's authority to resolve factual issues when indispensable to the proper adjudication of the case.

The Billing Statements are not considered as NOA

Petitioners reiterate that the Billing Statements are in the nature of a NOA referred to in Section 195 of the LGC, as these contain the amount and nature of the tax assessed, the amount of any deficiency, surcharges, interests and penalties due from respondent. At any rate, in the absence of any indication of the nature of the tax assessed, the amount of any deficiency, surcharges, interests and penalties due, petitioners allege that respondent

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6 G.R. No. 207140, January 30, 2023.

should have approached the PACD to clarify any deficiencies in the Billing Statement.

Respondent argues that Section 195, in relation to Section 171 of the LGC, requires that there should be an examination by the local treasurer of the taxpayer's books of accounts. Respondent also contends that the examination of taxpayer's books of accounts is necessary to ascertain the correctness of the tax liability of the taxpayer.

After careful review, the findings and conclusions discussed in the assailed Decision made by this Court remain and are hereby reiterated.

The Court *En Banc* agreed with the Court in Division in holding that the Billing Statements issued by petitioners are not the NOA contemplated under Section 195 of the LGC for failure to state the legal basis for coming up with the amount indicated therein. To reiterate, the Billing Statements were issuedto the respondent in view of its renewal of business permits for the year 2018.

Section 195 of the LGC[7] is clear in requiring the issuance of a valid NOA, which contains the findings that the correct taxes, fees, or charges have not been paid, and the nature of the tax, fee or charge, the amount of deficiency surcharges, interests, and penalties.

As already discussed in the assailed Decision, the Billing Statements issued to respondent in connection with its renewal of business permits for 2018 reveal that it merely reflected the amount due based on gross receipts of the previous year and did not contain any finding of deficiency, nor specified the surcharges, interests, or penalties. The Court *En Banc*, thus, concurs with the ruling of the Court in Division that the Billing Statements issued to respondent do not meet the requirements of a valid NOA. Without proper assessment, there is no need for protest under Section 195 of the LGC.

Section 195 of the LGC is not applicable to respondent's claim for refund

Petitioners claim that respondent is very well aware of the law and facts on which the assessments were based. As the Billing Statements indicate the

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7 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**. xxx (Emphasis ours).

nature of tax, fee, or charge, deficiency, surcharge, interest or penalty, it follows that Section 195 of the LGC is applicable. Respondent, on the other hand, insists that Section 196 is applicable in view of the findings that the Billings Statements are not considered NOA.

The Court *En Banc* reiterates and upholds the findings in the assailed Decision.

As previously held, the Billing Statements are not the "assessment" contemplated under Section 195 of the LGC. In view thereof, respondent's claim for refund was properly made pursuant to Section 196 of the LGC.[8]

Jurisprudence has consistently distinguished Sections 195 and 196 of the LGC. In the case of *International Container Terminal Services, Inc. vs. The City of Manila, et al.* (*International Container* case),[9] affirming its ruling in *City of Manila vs. Cosmos Bottling Corp.*,[10] the Supreme Court clarified that Section 195 presupposes the existence of a valid assessment, while Section 196 applies even absent such assessment, provided that the taxpayer claims erroneous or illegal collection and does not depend on the issuance of a NOA.

Considering that the Billing Statements were not valid assessments under Section 195, respondent correctly invoked Section 196 in seeking a refund, which was timely filed.

In view of the foregoing, while the Billing Statements issued by petitioners are not considered as NOA, thus, the applicable provision for respondent's claim for refund is Section 196, and not Section 195, of the LGC of 1991, Holcim is not entitled to the preferential rate of 50% for LBT. Accordingly, the Court in Division should have denied the *Petition for Review* for lack of merit.

Respondent is not entitled to the preferential rate for essential commodities under Section 143 (c)(8) of the LGC

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8 Section 196. Claim for Refund of Tax Credit. — No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. **No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.** (Emphases and underscoring added).

9 G.R. No. 185622, October 17, 2018.

10 G.R. No. 196681, June 27, 2018.

Respondent claims that it presented evidence that it is a manufacturer and/or wholesaler of cement entitled to a preferential tax rate for essential commodities under Section 143 (c)(8) of the LGC. It alleges that it was petitioner who classified them as a manufacturer of cement, and the Court should consider the evidence admitted by the RTC and its findings. Respondent also posits that there is nothing in Section 143 (c) of the LGC which requires manufacturers to be exclusively engaged in the manufacture of essential commodities to qualify for the preferential tax rate. Respondent further points out that there is nothing in the same provision which requires that the preferential tax rate shall only apply to gross receipts of the manufacturer or wholesaler of the essential commodity. For respondent, once it established that it is a manufacturer or wholesaler of the essential commodity, it is automatically entitled to the preferential tax rate.

Petitioner opposes such claim and maintain that respondent failed to prove that its gross sales were exclusively from the manufacture and/or wholesale of cement.

While the Court *En Banc* agrees that respondent is a manufacturer of cement, it is still not entitled to the 50% preferential tax rate as it failed to prove which part of its gross receipts pertain to the sale of cement upon which the preferential rate should be applied. Respondent's failure to show such disqualifies respondent to apply the preferential rate entirely.

For clarity and completeness, the Court restates the pertinent portions of the ruling in the assailed Decision:

> The evidence presented before the RTC shows that petitioner is a manufacturer and/or wholesaler *not* just of cement, but is also engaged in the business of manufacturing, production, and merchandising, whether domestically or for export, of <u>cement, cement products and by-products</u>, including its derivatives, and any kinds of minerals and building materials, to wit:
>
> > To engage in the **business of manufacture, production and merchandising, whether domestically or for export**, of **<u>cement, cement products</u>** and **<u>by-products</u>**, **<u>including its derivatives</u>**, and **<u>any and all kinds of minerals and building materials</u>**. (As amended on March 31, 2011 by the Board of Directors and on May 12, 2011 by the Shareholders)
>
> From the nature of its business, respondent is not exclusively engaged in the sale and/or manufacture of cement as it may engage in the sale and/or manufacture of all kinds of minerals and building materials. Further, respondent's Certification of its total gross receipts/sales for the CY 2017 does not indicate that its sales were solely from the sale of cement. In fine,

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> there is no way for the Court the verify that respondent's sales pertain to comment only to justify the application of the preferential rate.
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> Bearing in mind that tax refunds or credits – just like tax exemptions – are strictly construed against taxpayers, the latter have the burden to prove strict compliance with the conditions for the grant of the tax refund.[11] On this score, respondent failed to prove that it is entitled to the preferential rate of LBT under Section 143 (c)(8) of the LGC of 1991. (emphasis and underscoring in the original)

In the present case, while respondent was able to establish that it is engaged in the manufacture of cement; however, it failed to discharge the more critical burden of proving the sales/receipts derived from the sale of cement products that would qualify for the 50% preferential tax rate.

Respondent has the burden to substantiate the portion of its gross receipts attributable to the sale of cement; otherwise, it will have an effect of granting respondent an unwarranted benefit grounded not on proof, but on presumption.

As this matter has been articulated in the assailed Decision, the Court *En Banc* stands by its prior pronouncement.

In fine, the Court finds no cogent reason to reverse or modify the assailed Decision. The arguments raised in both *Motions* are devoid of merit and consist largely of a mere rehash of matters already considered and resolved.

ACCORDINGLY, respondent's **Motion for Partial Reconsideration (Re: Decision dated September 29, 2025)** and petitioner's **Motion for Partial Reconsideration (Re: Decision dated September 29, 2025)** are **DENIED**.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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[11] *Applied Food Ingredients Company, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 184266, November 11, 2013.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

With Separate Concurring Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I retain my CDO
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
MARIAN IVY F. REYES-FAJARDO
Associate Justice

I maintain my DO
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

REPUBLIC OF THE PHILIPPINES
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EN BANC

THE CITY OF TAGUIG AND ATTY. J. VOLTAIRE ENRIQUEZ, IN HIS CAPACITY AS THE CITY TREASURER OF THE CITY OF TAGUIG,
Petitioners,

- versus -

HOLCIM PHILIPPINES, INC.,
Respondent.

CTA EB No. 2927
(CTA AC No. 268)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
MAY 2 1 2026 3:55 p.m.

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SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* in the denial of respondent's "Motion for Partial Reconsideration (Re: Decision dated September 29, 2025)" (**MPR**), particularly for its failure to establish that it is entitled to the preferential rate for commodities under Section 143(c)(8)[1] of the Local Government Code (**LGC**) of 1991, as amended.

Upon a second hard look of the documentary evidence, it is noted that while respondent proffered the Certification dated 10 January 2018[2] indicating that its gross receipts for calendar year (**CY**) 2017 amounted to ₱3,539,779,902.34, the same did not provide a breakdown of the alleged declared revenue.

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[1] **Section 143.** *Tax on Business.* - The municipality may impose taxes on the following businesses:

...

(c) On exporters, and on manufacturers , millers, producers, wholesalers, distributors, dealers or retailers of essential commodities enumerated hereunder at a rate not exceeding one-half (½) of the rates prescribed under subsection (a), (b) and (d) of this Section:

...

(8) Cement.

[2] RTC Records, Civil Case 447-TG, Volume II, p. 488.

Further, the gross receipts could neither be traced nor computed from the amounts reflected in respondent's Audited Financial Statement (**AFS**) for CY 2017. It is also worth mentioning that based on Note 16, respondent's net sales of ₱34,580,729,000.00[3] appear to be composed of revenues derived from different related party transactions. A perusal of respondent's contracts with the various companies reveals that it is engaged in several transactions, some of which are not related to its primary purpose of manufacturing, producing, merchandising (whether domestically or for export), of cement, products and by products, including its derivatives, and any and all kinds of minerals and building materials.[4] It is observed that respondent entered into service contracts for business process outsourcing, support services, franchise fee agreement, lease agreement, the sale of warehouses, motor pools, and software, and even a bareboat agreement.[5]

To my mind, there now exists an uncertainty as to the composition of the alleged gross receipts of ₱3,539,770,902.34. Considering respondent's failure to establish, by the required preponderance of evidence, which portion of the gross receipts pertain to the manufacturing of cement, it is thus not entitled to the preferential tax rate under Section 143(c)(8) of the LGC of 1991, as amended

All told, I vote to **DENY** respondent's Motion for Partial Reconsideration for lack of merit.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[3] Please see amount in the Statement of Profit or Loss and other Comprehensive Income, id., p. 498.
[4] See Amended Articles of Incorporation, id., p. 474.
[5] See Note 16 of the Audited Financial Statement for the year ending 31 December 2017, id., pp. 547-548.