REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

****

THE CITY OF ANGELES & THE CITY TREASURER OF ANGELES, Petitioners,	**CTA AC No. 237**
	Members:
- versus -	**UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
SUPER SHOPPING MARKET, INC. & SANFORD MARKETING CORPORATION, Respondents.	***Promulgated:*** SEP 28 2022 10:56 a.m.

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DECISION

UY, J.:

Before this Court is a *Petition for Review* filed on February 20, 2020, via courier by petitioners, the City of Angeles and the City Treasurer of Angeles against respondents, Super Shopping Market, Inc. & Sanford Marketing Corporation, praying that the *Decision*[1] dated December 27, 2018, and *Order*[2] dated September 9, 2019 rendered by the Regional Trial Court (RTC) – Branch 58, Angeles City, in Civil Case R-ANG-16-01034-CV, entitled *"Super Shopping Market, Inc. & Sanford Marketing Corporation vs. The City of Angeles & The City Treasurer of Angeles,"* be reversed and set aside. The dispositive portion thereof reads:

DECISION dated December 27, 2018:

"**WHEREFORE**, judgment is rendered **ORDERING** defendant Angeles City through the City Treasurer:

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[1] Docket, pp. 55 to 66.
[2] Docket, pp. 23 to 32.

1) To refund/issue Tax Credit Certificate in favor of plaintiff SUPER SHOPPING MARKET, INC. in the amount of ₱18,586.05; and

2) To refund/issue Tax Credit Certificates in favor of plaintiff SANFORD MARKETING CORP. in the amount of ₱609.42.

SO ORDERED."

<u>ORDER dated September 9, 2019:</u>

"**WHEREFORE**, the Court **PARTLY GRANTS** the plaintiffs' instant Motion for Reconsideration.

Accordingly, the assailed Decision is modified as to the entitlement of plaintiff SSMI and SMC's tax refund of the reduced amount as follows:

Defendant Angeles City through its City Treasurer is hereby **ORDERED**:

1) To refund/issue Tax Credit Certificate in favor of plaintiff SUPER SHOPPING MARKET, INCORPORATED in the amount of **₱10,487,314.98**; and

2) To refund/issue Tax Credit Certificate in favor of plaintiff SANFORD MARKETING CORPORATION in the amount of **₱300,774.97**.

SO ORDERED."

THE PARTIES

Petitioner City of Angeles ("City") is a local government unit created by virtue of Republic Act No. 3400 and holds office at Angeles City Hall, Barangay Pulung Maragul, Angeles City where it may be served with orders and processes of the Honorable Court.[3]

Co-petitioner City Treasurer of Angeles City ("City Treasurer") is the office tasked and empowered to collect all local taxes, fees, and charges and the power to decide, approve, and grant refunds or tax

[3] Petition for Review, Docket, p. 7.

credits erroneously or excessively paid, and is holding office at Ground Floor, Angeles City Hall, Barangay Pulung Maragul, Angeles City where he may be served with orders and processes of the Honorable Court.[4]

Respondent Super Shopping Market, Inc. ("SSMI") is a corporation duly organized and existing under Philippine Laws with principal place of business at SM Corporate Offices, Building E, J.W. Diokno Boulevard, Mall of Asia Complex, Pasay City where it may be served with orders and processes of the Honorable Court.[5]

Co-respondent Sanford Marketing Corporation, ("SMC") is a corporation duly organized and existing under Philippine Laws with principal place of business at SM City Sucat, Dr. A. Santos Avenue, Barangay San Dionisio, Paranaque City where it may be served with orders and processes of the Honorable Court.[6]

THE PROCEEDINGS AT THE REGIONAL TRIAL COURT

On April 15, 2016, SSMI and SMC, as plaintiffs, filed a verified *Complaint (for Refund of Excess Local Business Taxes Paid)*[7] before Branch 58 of the Regional Trial Court of Angeles City, against the City of Angeles and the City Treasurer of Angeles, as defendants, docketed as R-ANG-16-01034-CV.

In their Complaint, plaintiffs SSMI and SMC, claim that Sec. 3.H.02(d) of the Revenue Code of Angeles City exceeds the maximum allowable taxes that a city may impose upon businesses within its jurisdiction under Section 143(c) of the Local Government Code (LGC) of 1991, as amended. Thus, plaintiffs pray for the refund or issuance of tax credit certificates in the amount of ₱11,074,280.22, representing payment of excess taxes paid for the 2nd quarter of 2014 to the 1st quarter of 2016.

In their *Answer*[8] filed on May 27, 2016, defendants, the City of Angeles and the City Treasurer of Angeles raised the following Special and Affirmative Defenses, to wit:

[4] Petition for Review, Docket, p. 7.
[5] Petition for Review, Docket, pp. 7 to 8.
[6] Petition for Review, Docket, p. 8.
[7] RTC Docket (R-ANG-16-01034-CV), Vol. 1, pp. 2 to 19.
[8] RTC Docket (R-ANG-16-01034-CV), Vol. 1, pp. 50 to 53.

1) The exhaustion of remedies under Section 187 of the LGC is mandatory and non-compliance thereof is fatal to SSMI and SMC's cause;

2) There were no excessive taxes collected invoking Section 151 of the LGC, in relation to Section 191 of the same law. At the rate of 10% upward adjustment every five (5) years, it is not impossible, scandalous and illegal for Local Business Taxes (LBT) rates of the LGU to reach the point they are now.

In their *Reply (To Defendants' Answer dated 27 May 2016)*[9], SSMI and SMC maintain that non-exhaustion of the remedy provided under Section 187 of the LGC is not fatal to their case. According to them, defendants collected excess LBT, by imposing LBT on sale of essential goods at 3/4 of the rate imposed on non-essential goods.

In view of the on-going settlement negotiation between the parties, they moved to reschedule the Pre-Trial Conference several times. However, settlement did not materialize, thus the case was referred to the Philippine Mediation Center for proper mediation proceedings.[10] In view of the Mediator's Report dated June 13, 2017, stating that there was failed mediation between the parties, the case was referred back to court.[11] When the case was called for Judicial Dispute Resolution (JDR) proceedings on June 28, 2017, neither the parties nor their counsel appeared, which constrained the Court to dismiss the case without prejudice to its re-filing.

On July 14, 2017, SSMI and SMC filed a *Motion for Reconsideration (of the Order dated June 28, 2017),*[12] stating that they only received the Order of the Court setting the case for JDR on June 30, 2017, or two (2) days after the scheduled JDR proceedings on June 28, 2017. Finding the subject Motion meritorious, the Court granted said motion and set the case for another Judicial Dispute Resolution proceeding on August 9, 2017.[13]

During the JDR proceedings on August 9, 2017, the parties manifested that they cannot agree on a settlement since the issue being raised by then plaintiffs was purely a question of law.

[9] RTC Docket (R-ANG-16-01034-CV), Vol. 1, pp. 54 to 60.
[10] RTC Docket (R-ANG-16-01034-CV), Vol. 1, p. 76.
[11] RTC Docket (R-ANG-16-01034-CV), Vol. 1, p. 191.
[12] RTC Docket (R-ANG-16-01034-CV), Vol. 1, pp. 194 to 198.
[13] RTC Docket (R-ANG-16-01034-CV), Vol. 1, p. 202.

Thereafter, the JDR proceeding was terminated and the records of the case was forwarded to the Office of the Clerk of Court of the Regional Trial Court for immediate re-raffle.[14] The case was then re-raffled to the Regional Trial Court of Angeles City, Branch 58, and the Pre-Trial Conference of the said case was scheduled on January 11, 2018.[15]

During the Pre-Trial Conference, the parties entered into the following stipulation of facts:

> *"1. Sec. 143 (c) of the LGC allows the imposition of LBT on manufacturers, millers, producers, wholesalers, discributors (sic), dealers or retailers of essential commodities at a reate (sic) not exceeding one-half of the rates prescribed for manufacturers, millers, producers, wholesalers, distributors, dealers or retailers of essential commodities;*
>
> *2. Sec. 3.H.02 (c) of the Revenue Code allows the imposition of LBT on exporters, and on manufacturers, millers, producers, wholesalers, discributors (sic), dealers or retailers of essential commoditie (sic) at a rate no (sic) exceeding three-fourths of the rates prescribed for exporters and on manufacturers, millers, producers, wholesalers, discributors (sic), dealers or retailers of essential commodities;*
>
> *3. The defendants assessed and collected LBT on the plaintiffs' gross sales as retailers of essentials commodities at the rate of three-fourths of the rate prescribed under Sec. 3.H.02(d) of the Revenue Code.*
>
> *4. The plaintiffs filed the Complaint with the Regional Trial Court of Angeles City on April 14, 2016; and*
>
> *5. The existence and genuineness, due execution, and contents of documents marked as Exhibits A to H and series."*[16]

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[14] RTC Docket (R-ANG-16-01034-CV), Vol. 1, p. 204.
[15] RTC Docket (R-ANG-16-01034-CV), Vol. 1, p. 206.
[16] RTC Docket (R-ANG-16-01034-CV), Vol. 2, pp. 424 to 426.

In view of the foregoing stipulations of facts and admission of exhibits, the case was submitted for decision based on the said documents.

On December 27, 2018, the Regional Trial Court rendered a *Decision*[17] in favor of SSMI and SMC, the dispositive portion states as follows:

> *"**WHEREFORE**, judgment is rendered **ORDERING** defendant Angeles City through the City Treasurer:*
>
> *(1) To refund/issue Tax Credit Certificate in favor of plaintiff SUPER SHOPPING MARKET INC. in the amount of **₱18,586.05**; and*
>
> *(2) To refund/issue Tax Credit Certificate in favor of plaintiff SANFORD MARKETING CORP. in the amount of **₱609.42**.*
>
> ***SO ORDERED**."*

Aggrieved, SSMI and SMC filed a *Motion for Partial Reconsideration (of the Decision dated December 27, 2018)*[18] on February 19, 2019, praying that the Court partially set aside its Decision dated December 27, 2018, and order the refund or issuance of a Tax Credit Certificate in favor of:

(a) SSMI in the amount of ₱12,077,124.39; and

(b) SMC in the amount of ₱367,394.78.

On September 9, 2019, the RTC issued an *Order*[19] partially granting the *Motion for Partial Reconsideration* of SSMI and SMC, and ruled as follows:

> *"**WHEREFORE**, the Court **PARTLY GRANTS** the plaintiffs' instant Motion for Reconsideration.*
>
> *Accordingly, the assailed decision is modified as to the entitlement of plaintiff SSMI and SMC's tax refund of the reduced amount as follows:*

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[17] RTC Docket (R-ANG-16-01034-CV), Vol. 2, pp. 428 to 439.
[18] RTC Docket (R-ANG-16-01034-CV), Vol. 2, pp. 440 to 451.
[19] RTC Docket (R-ANG-16-01034-CV), Vol. 2, pp. 469 to 478.

Defendant Angeles City through its City Treasurer is hereby ***ORDERED****:*

(1)To refund/issue Tax Credit Certificate in favor of the plaintiff SUPER SHOPPING MARKET, INCORPORATED in the amounted of ***₱10,487,314.98****; and*

(2)To refund/issue Tax Credit Certificates in favor of the plaintiff SANFORD MARKETING CORPORATION in the amount of ***₱300,774.97****.*

SO ORDERED*."*

PROCEEDINGS BEFORE THE COURT OF TAX APPEALS

On February 20, 2020, petitioners filed the instant *Petition for Review*[20] docketed as CTA AC No. 237.

On February 16, 2021, respondents were ordered to file their Comment, not a Motion to Dismiss, within 10 days from notice.[21]

Respondents filed their *Comment (on the Petition for Review dated February 20, 2020)*[22] on March 3, 2021, praying for the dismissal of the Petition for Review for lack of merit.

As directed by the Court in the Resolution dated March 10, 2021, respondents filed their *Memorandum*[23] *on July 7, 2021, while* petitioners filed their *Memorandum on Appeal*[24] on October 4, 2021. Thus, this case was submitted for Decision on October 28, 2021.[25]

Hence, this Decision.

THE ISSUES

Petitioners raise the following issues for the Court's resolution to wit:

[20] Docket, pp. 6 to 22.
[21] Docket, p. 140.
[22] Docket, pp. 141 to 172.
[23] Docket, pp. 204 to 237.
[24] Docket, pp. 249 to 266.
[25] Docket, p. 277.

> *"Whether or not the Honorable Trial Court erred in declaring as void the imposition of a tax rate of three point three percent (3.3%) for retailers with gross sales receipt of not exceeding four hundred thousand pesos ₱400,000.00 during the preceding calendar year and one point sixty five percent (1.65%) for retailers with gross sales receipts exceeding four hundred thousand pesos ₱400,000.00 during the preceding calendar year; and*
>
> *Whether or not the Honorable Trial Court erred in computing the tax refund due to SSMI and SMC void (sic) for lack of basis in violation of the constitution."*[26]

Petitioners' arguments:

Petitioners argue that the three point three percent (3.3%) and one point sixty five percent (1.65%) tax rate imposed by the petitioner is valid pursuant to Section 191 of the Local Government Code.

Petitioners also claim that the computation of the Regional Trial Court is invalid as it is without basis and is violative of Section 14 of the 1987 Constitution.

Respondents' counter-arguments:

Respondents counter that Angeles City cannot impose LBT on retailers of non-essential commodities at a rate exceeding the adjustment allowed by Section 151 in relation to Section 143(d) of the LGC. The allowable increase for cities under Section 191 is subject to the limitation under Section 151 of the LGC.

Respondents likewise assert that Section 3.H.02(c) of the Revenue Code, which allows the imposition on retailers of essential commodities of rates not exceeding three-fourths (3/4) of the rate prescribed for retailers of non-essential commodities under Section 3.H.02(d), contravenes Section 143(c) of the LGC, which limits the rate of LBT on retailers of essential commodities to a rate not exceeding one-half (1/2) of the rates prescribed under subsection (d) of this Section on retailers of non-essential commodities. *mf*

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[26] Issues, Memorandum on Appeal, Docket, p. 258.

Finally, respondents maintain that the assailed Order, including the lower court's re-computation of the amounts to be refunded to the respondents, complies with Section 14, Article VIII of the Constitution.

THE COURT'S RULING

The tax rates imposed by the Revenue Code of Angeles City exceed the allowable rates provided for in the LGC of 1991, as amended. Moreover, Section 191 of the LGC of 1991, as amended, finds no application in the instant case.

Petitioners contend that rates of tax imposed under Sections 3.H.02 (c) and (d) of the Angeles City Revenue Code are valid. Moreover, petitioners argue that the limitations found in Sections 143 (c) in relation to 143 (d), and 151, are not absolute in character, and must be read in conjunction with Section 191 of the LGC of 1991, as amended.

We are not convinced.

In this case, petitioners assessed and collected LBT on the respondents' gross sales as ***retailers of essential commodities*** at the rate of three-fourths of the rate prescribed under Sec. 3.H.02 (d) of the Revenue Code.[27]

Sections 3.H.02 (c) and (d) of the Angeles City Revenue Code,[28] imposes the following rates of local business tax on ***retailers of essential commodities***, to wit:

"Chapter III – Other City Taxes (Except Real Property Tax)

xxx xxx xxx

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[27] Pre-Trial Order dated January 11, 2018, RTC Docket (R-ANG-16-01034-CV), Vol. II, pp. 424 to 426.

[28] Tax Ordinance No. 61, Series of 2011 (PO-667-12-11), RTC Docket (R-ANG-16-01034-CV), Vol. I, pp. 288 to 315; RTC Docket (R-ANG-16-01034-CV), Vol. II, pp. 316 to 398.

ARTICLE H. – BUSINESS TAXES

xxx xxx xxx

Section 3.H.02. Imposition of Taxes. – Every person who operates in the City of Angeles, any of the businesses mentioned in this Article shall pay a business tax in the amount prescribed thereof. The tax payable for every distinct establishment and one line of business activity does not become exempt by being conducted with some other businesses for which such tax has been paid.

xxx xxx xxx

(c) On exporters and on manufacturers, millers, producers, wholesalers, distributors, dealers, or **retailers** of **essential commodities** enumerated hereunder at a **rate not exceeding three fourths (3/4) of the rates prescribed under subsections** (a), (b), and **(d) of this section** x x x

xxx xxx xxx

(d) On retailers

With gross sales of receipts for the preceding calendar year of	Rates of Tax Per Annum
More than P50,000.00 but not over P400,000.00	**3.3%**
Over Php400,000.00	**1.65%**

Provided, however that barangays shall have exclusive power to levy taxes, as provided under Section 152 of Republic Act No. 7160, otherwise known as Local Government Code of 1991, on gross sales or receipts of the preceding calendar year of Fifty Thousand Pesos (P50,000.00) or less."[29] *(Emphasis supplied.)*

In order to determine whether the foregoing imposition of local business taxes by the City of Angeles is valid, reference must be

[29] RTC Docket (R-ANG-16-01034-CV), Vol. II, p. 320.

made to the allowable rates of tax, as stated in Sections 143 (c) and (d), in relation to Section 151 of the LGC of 1991, as amended, to wit:

"**BOOK II**
Local Taxation and Fiscal Matters

TITLE I
Local Government Taxation

CHAPTER II
Specific Provisions on the Taxing and Other Revenue-Raising Powers of Local Government Units

ARTICLE II
Municipalities

SECTION 143. Tax on Business. — The municipality may impose taxes on the following businesses:

xxx xxx xxx

(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**:

xxx xxx xxx

(d) On retailers.

With gross sales or receipts for the preceding calendar year of:	Rate of Tax Per Annum
P400,000.00 or less	**2%**
more than P400,000.00	**1%**

Provided, however, That barangays shall have the exclusive power to levy taxes, as provided under Section 152 hereof, on gross sales or receipts of the preceding calendar year of Fifty thousand pesos (P50,000.00) or less, in the case of cities, and Thirty thousand pesos (P30,000.00) or less, in the case of municipalities.

xxx xxx xxx

ARTICLE III
Cities

SECTION 151. Scope of Taxing Powers. — Except as otherwise provided in this Code, the city may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.

<u>The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%)</u> except the rates of professional and amusement taxes."

For easy reference, the foregoing provisions are summarized in the table below, to wit:

MUNICIPALITY		**CITY**		**CITY OF ANGELES**	
MAXIMUM Tax Rates Imposable on **<u>Retailers</u>** as stated under Section 143 (d) of the LGC of 1991, as amended		MAXIMUM Tax Rates Imposable on **<u>Retailers</u>** as stated under Section 151 of the LGC of 1991, as amended		Tax Rates Imposed on **<u>Retailers</u>** as stated under Section 3.H.02 (d) of the Angeles City Revenue Code	
With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum	With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum	With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum
P400,000.00 or less	**2%**	**P400,000.00 or less**	**3% (2% + 1%)**	**More than P50,000.00 but not over P400,000.00**	**3.3%**
more than P400,000.00	**1%**	**more than P400,000.00**	**1.5% (1% + 0.5%)**	**over P400,000.00**	**1.65%**
MAXIMUM Tax Rates Imposable on **<u>Retailers of Essential Commodities</u>** as stated under Section 143 (c) of the LGC of 1991, as amended		MAXIMUM Tax Rates Imposable on **<u>Retailers of Essential Commodities</u>** as stated under Section 151 of the LGC of 1991, as amended		Tax Rates Imposed on **<u>Retailers of Essential Commodities</u>** under Section 3.H.02 (c) of the Angeles City Revenue Code	
With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum	With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum	With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum

P400,000.00 or less	**1%** (1/2 of 2%)	**P400,000.00 or less**	**1.5%** (1% + 0.5%)	**More than P50,000.00 but not over P400,000.00**	**2.475%** (3/4 of 3.3%)
more than P400,000.00	**0.5%** (1/2 of 1%)	**more than P400,000.00**	**0.75%** (0.5% + 0.25%))	**over P400,000.00**	**1.2375%** (3/4 of 1.65%)

Based on the subject provisions, the maximum tax rates that can be imposed by <u>municipalities</u> for retailers of ***<u>essential</u> commodities*** as stated under Section 143 (c) of the LGC of 1991, as amended, are as follows:

With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum
P400,000.00 or less	**1%** **(1/2 of 2%)**
more than P400,000.00	**0.5%** **(1/2 of 1%)**

Meanwhile, based on Section 151 of the LGC of 1991, as amended, the ***maximum tax rates*** that a <u>city</u> may impose "may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%)." Thus, in the case of retailers of ***<u>essential</u> commodities,*** the maximum tax rates imposable are as follows:

With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum
P400,000.00 or less	**1.5%**
more than P400,000.00	**0.75%**

However, as stipulated[30] by the parties, respondents, as ***retailers of <u>essential</u> commodities***, were assessed and subsequently paid for local business taxes at the rate of three-fourths of the rate prescribed under Sec. 3.H.02 (d) of the Revenue Code, summarized as follows:

With gross sales or receipts for the preceding calendar year of:	Rates of Tax Per Annum
More than P50,000.00 but not over P400,000.00	**2.475%** (3/4 of 3.3%)
over P400,000.00	**1.2375%** (3/4 of 1.65%)

A perusal of the foregoing shows that the tax rates imposed by the Angeles City Revenue Code on retailers of essential commodities exceeded the maximum allowable rates of tax prescribed by statute. To be specific, the rates of 2.475% and 1.2375%, exceeded the statutory maximum of 1.5% and 0.75%, respectively.

The imposition of tax rates, over and above the ceiling rates imposed by statute is beyond the scope of corporate powers of the local government unit. It is clearly *ultra vires,* for being contrary to Section 151 of the LGC of 1991, as amended. To stress, an ordinance which is incompatible with any existing law or statute is *ultra vires,* hence, null and void.[31] It produces no legal effect from its inception.[32]

Accordingly, the court *a quo* did not err in ruling that the imposition by the City of Angeles of tax rates greater than that allowed by law is prohibited, and is considered ultra vires.

Petitioners insist, however, that Section 191 of the LGC of 1991, as amended, should be read in conjunction with Sections 143 (c) and (d), in relation to Section 151 of the LGC of 1991, as amended. Thus, the imposition of local business tax rates that are *higher* than those prescribed by the LGC of 1991, as amended, is allowed, on the basis of the subject provision.

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[30] Order dated January 11, 2018, RTC Docket (R-ANG-16-01034-CV), Vol. II, pp. 424 to 426.
[31] *Manila Electric Company vs. City of Muntinlupa and Nelia A. Barlis,* G.R. No. 198529, February 9, 2021.
[32] *Id.*

We are not swayed.

Section 191 of the LGC of 1991, as amended, reads as follows:

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

Based on the foregoing provision, a local government unit is authorized to adjust the tax rates as prescribed in the local government code, for a maximum of once every five (5) years, but in no case shall it exceed ten percent (10%) of the rates fixed under the LGC.

In other words, a local government unit may impose taxes, provided that the same is *less than*, or *equal to*, the rates therein provided. Any corresponding increase thereafter would have to comply with the frequency and rate of adjustment provided for under Section 191 of the LGC, as amended.[33]

In the case of *Mindanao Shopping Destination Corporation, et al., vs. Hon. Rodrigo R. Duterte, etc., et al.,*[34] it was held that the application of Section 191 of the LGC of 1991, as amended, presupposes that presence of two (2) requirements, for it to apply, to wit:

> "Section 191 of the LGC presupposes that the following requirements are present for it to apply, to wit:
>
> (i) there is a tax ordinance that already imposes a tax in accordance with the provisions of the LGC; and
>
> (ii) there is a second tax ordinance that made adjustment on the tax rate fixed by the first tax ordinance."

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[33] *Honorable Leila M. De Lima, vs. City of Manila,* G.R. No. 222886, October 17, 2018.
[34] G.R. No. 211093, June 6, 2017.

In other words, Section 191 contemplates a situation where there is already an existing tax as authorized under the LGC *and* only a change in the tax rate would be effected.[35]

In this case, records show that both elements are absent. First, there is no showing that there is a *tax ordinance that already imposes a tax* in accordance with the provisions of the LGC. Second, there is no *second tax ordinance* that made an adjustment on the tax rate fixed by the first tax ordinance.

Considering that petitioners never presented a second tax ordinance before the court *a quo*, Section 191 of the LGC of 1991, as amended, finds no application in this case.

Assuming *arguendo,* that there exists a prior tax ordinance, and the subject tax ordinance, Tax Ordinance No. 61, Series of 2011 (PO-667-12-11), is merely one that makes an adjustment on the tax rate fixed by a prior ordinance, it is incumbent upon the petitioners to prove the existence thereof.

As a rule, while courts are required to take judicial notice of the laws enacted by Congress, the rule with respect to local ordinances is different. Ordinances are *not* included in the enumeration of matters covered by mandatory judicial notice[36] under Section 1, Rule 129 of the Rules on Evidence.[37] Thus, in the absence of proof of a second ordinance, Section 191 of the LGC of 1991, as amended, cannot be invoked in this case.

The court a quo's computation of tax refund is supported by law and jurisprudence, and therefore valid, albeit with slight modifications.

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[35] *Id.*

[36] *Social Justice Society (SJS), et al., vs. Hon. Jose L. Atienza, Jr., etc.,* G.R. No. 156052, February 13, 2008.

[37] **Rule 129, Section 1.** ***Judicial notice, when mandatory.*** - A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, official acts of the legislative, executive and judicial departments of the **National** Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

Petitioners argue that the court *a quo* erred in computing the amount of respondents' tax refund, as it was without basis and is violative of Section 14, Article VIII of the 1987 Constitution.

We disagree.

Section 14, Article VIII of the 1987 Constitution, reads as follows:

> "**Section 14.** No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.
>
> No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor."

The purpose of Article VIII, Section 14 of the Constitution is to inform the person reading the decision, and especially the parties involved in the case, of how the decision was reached by the court after consideration of the pertinent facts and examination of the applicable laws. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached. It is especially prejudicial to the losing party who is unable to pinpoint the possible errors of the court for review by a higher tribunal.[38]

In this case, a review of assailed Order dated September 9, 2019, specifically with regard to the court a *quo*'s computation of the amount of tax refund, shows that it is consistent with the purpose of Section 14, Article VIII of the 1987 Constitution.

The assailed computation in the subject Order, particularly with regard to the items in "*Column F*," are clearly supported by the factual findings and legal basis, especially if it is read in conjunction with the assailed Decision dated December 27, 2018.

As discussed in the assailed Decision, the imposition of local business taxes by the City of Angeles on the retailers of essential commodities, exceed the allowable rates provided for in the LGC of

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[38] *Domilos v. Spouses Pastor,* G.R. No. 207887, March 14, 2022.

1991, as amended. Accordingly, it follows that the same must be reduced to the correct percentage. Thus, in the assailed Order, the court *a quo* recomputed the tax refund due, and explained the basis of its computation, step by step, as follows:

Column	Item	Formula
a	Gross sales per assessment per year	
b	Amount of Taxes paid with O.R. Nos.	
c	Under 3%	(400,000 x 3%)
d	Under 1.5%	[(b-400,000) x 1.5%]
e	Total	(c + d)
f	½ Rate	e x ½
g	Tax Refund	b - f

The foregoing table used by the court *a quo* clearly explains the basis of its computation.

First, *columns A and B* indicate the amounts of sales per year and amount of taxes paid, in accordance with the evidence presented by the respondents.

Second, *columns C and D* provide for the *correct* computation of taxes due, based on the maximum tax rates imposable on ***retailers*** stated in Section 143 (d), in relation to Section 151 LGC of 1991, as amended. To be specific, the court *a quo* used the 3% and 1.5% maximum tax rates for retailers, instead of the 3.3% and 1.65% imposed under Sections 3.H.02 (c) and (d) of the Angeles City Revenue Code. Meanwhile, column E is merely the sum of the total tax due for ***retailers***, by adding columns C and D.

Meanwhile, in *column F*, the court *a quo* used the maximum correct rate for ***retailers of essential commodities,*** which is one half (1/2) of the rates prescribed for ***retailers,*** as stated in Section 143 (c), in relation to Section 151 LGC of 1991, as amended. As earlier discussed, the rate that the petitioners insist on, *i.e.,* three fourths (3/4) of the rate prescribed under Sec. 3.H.02 (d) of the Revenue Code, is *ultra vires* and cannot be upheld.

Finally, *column G* contains the amount of tax refund due to the respondents, by subtracting the correct amount of tax due for ***retailers of essential commodities***, from the amount of taxes paid by the respondents.

Clearly, the assailed Order is not wanting in stating the basis for the court *a quo's* computation. Considering that the foregoing computation allows petitioners to specifically pinpoint the errors of the court *a quo* for review by this Court, it is sufficiently compliant with Section 14, Article VIII of the 1987 Constitution.

Upon further review and examination of the evidence adduced, however, this Court finds that while the computation of the lower court is mostly correct, a slight modification is in order. To be specific, the amounts for "column F" for the year 2016 should be modified to conform to the formula used therein, *i.e.,* [f = (e x 1/2)], as follows:

2016		
	RTC Order	**Correct Amount**
Super Shopping Market, Inc.	4,405,064.80	8,810,129.60
Sanford Marketing Corporation	55,142,63	220,570.52

Hence, the computation is hereby *modified* as follows:

Year	Qtr	Date	Total (e) e= (c+d)	Sec 3. H.02.c (f) 1/2 Rate f = (e x 1/2)	Tax Refund (g) g = b - f	
SUPER SHOPPING MARKET INC.						
2014	1st					
	2nd	4/15/14				
	3rd	7/21/14				
	4th	10/20/14				
Total			16,070,062.28	8,035,031.14	5,222,770.24	
2015	1st	1/22/15				
	2nd	4/20/15				
	3rd	7/16/15				
	4th	10/13/15				
Total			17,550,952.51	8,775,476.25	5,704,059.57	
2016	1st	1/18/16				
	2nd	1/18/16				
	3rd					
	4th	-				
Total			17,620,259.19	8,810,129.60	(1,541,772.68)	
Total for 3 years			51,241,273.98	25,620,636.99	9,385,057.13	
Less: 2014 1st Qtr Non-Refundable					3,302,806.95	
TOTAL SSMI						6,082,250.18
SANFORD MARKETING CORPORATION						
2014	1st					
	2nd	4/15/14				

	3rd	7/21/14				
	4th	10/20/14				
Total			639,675.92	319,837.96	207,894.70	
2015	1st	1/22/15				
	2nd	4/13/15				
	3rd	-				
	4th	7/20/15				
Total			607,927.71	303,963.86	197,576.50	
2016	1st	1/19/16				
	2nd	-				
	3rd	-				
	4th	-				
Total			441,141.03	220,570.52	- 129,585.18	
Total for 3 years			1,688,744.66	844,372.33	275,886.03	
Less: 2014 1st Qtr Non-Refundable					140,538.95	
TOTAL SMCo						135,347.08
GRAND TOTAL						6,217,597.26

In light of the foregoing considerations, the assailed *Order* dated September 9, 2019 by the Regional Trial Court Branch 58 is modified as to entitlement of respondents' claim for tax refund of excess Local Business Taxes in the aggregate amount of ₱6,217,597.26.

WHEREFORE, the instant *Petition for Review* is hereby **DENIED** for lack of merit.

The assailed *Decision* dated December 27, 2018, and *Order* dated September 9, 2019 rendered by the Regional Trial Court (RTC) – Branch 58, Angeles City, in Civil Case R-ANG-16-01034-CV, is hereby **AFFIRMED with MODIFICATION** as follows: judgment is hereby rendered **ORDERING** petitioner Angeles City through the City Treasurer:

1. To issue Tax Credit Certificate in favor of Super Shopping Market, Inc. in the amount of ₱6,082,250.18.

2. To issue Tax Credit Certificate in favor of Sanford Marketing Corporation in the amount of ₱135,347.08.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

ERLINDA P. UY
Associate Justice
Chairperson, Special 3rd Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ROMAN G. DEL ROSARIO
Presiding Justice