Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

CHINA BANKING CORPORATION, Petitioner,	**CTA EB CASE NO. 1144** (Civil Case No. 07-116920)
-versus-	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR. BAUTISTA UY CASANOVA FABON-VICTORINO MINDARO-GRULLA COTANGCO-MANALASTAS, and RINGPIS-LIBAN, JJ.**
THE CITY TREASURER OF MANILA, Respondent.	Promulgated: SEP 04 2015 3:02 p.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review for the Court *En Banc* under Rule 4, Section 2 (b) of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA)[1]. Petitioner China Banking Corporation assailed the Decision[2] dated August 14, 2007, rendered by the Regional Trial Court, National Capital Region, Branch 45 of Manila[3] docketed as Civil Case No. 07-116920 and its Order[4] dated March 8,

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[1]
RULE 4
JURISDICTION OF THE COURT

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Sec. 2. *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

xxx xxx

(b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;

[2] En banc Docket, pp.23- 25.
[3] Penned by Judge Marcelino L. Sayo.
[4] En banc Docket, p. 26.

2010, the dispositive portions of which, respectively read as follows:

Decision dated August 14, 2007:

"**WHEREFORE**, premises considered, the Order of the lower court is **AFFIRMED**.

SO ORDERED."

Resolution dated March 8, 2010:

*"**WHEREFORE**, premises considered, the subject Motion For Reconsideration filed by the said plaintiff-appellant is hereby **DENIED** for lack of merit.*

SO ORDERED."

The antecedent facts as alleged in the petition[5] are as follows:

Petitioner bank has a branch located at 956-961 G. Masangkay Street, Binondo, Manila (hereafter, the "Masangkay Branch").

On 11 January 2006, petitioner bank paid under protest, to the Office of the City Treasurer of Manila, the amount of Pesos: One Hundred Thirty Eight Thousand Five Hundred Eighty Nine and Fifty Centavos (₱138,589.50), which was assessed by respondent City Treasurer on the bank's Masangkay Branch. The said assessment was allegedly made pursuant to Section 21 of Ordinance No. 7988, otherwise known as the "Amended Revenue Code of the City of Manila".

In a letter dated 25 January 2006 and received by the Office of the City Treasurer of Manila on 27 January 2006, petitioner bank formally protested respondent's imposition of the tax under Section 21 on the bank, asserting that it is not covered by Section 21 of Ordinance No. 7988. Petitioner

[5] En banc Docket, pp. 6-104.

bank further argued that, even assuming that the bank was intended to be included in Section 21, the imposition of the additional tax upon the bank under said section would constitute double taxation. xxx.

By way of a letter dated 24 February 2006, which was received by the Office of the City Treasurer of Manila on 27 February 2006, petitioner bank formally demanded the refund of the amount it paid under Section 21 of Ordinance No. 7988 xxx.

Respondent denied the bank's request for refund in her letter dated 01 March 2006.

On 29 March 2006, petitioner China Banking Corporation filed a Complaint for the refund of the amount of P138,589.50, against respondent City Treasurer of Manila, with the Metropolitan Trial Court of Manila, Branch 4 (hereinafter referred to as "MTC"). Said Complaint was docketed as Civil Case No. 182194.

On 21 July 2006, respondent filed a Motion to Dismiss the Complaint.

In an Order [6] rendered on 13 November 2006, the Metropolitan Trial Court [7] found that the bank officer who signed the Complaint was duly authorized xxx. The trial court nevertheless dismissed the Complaint "on the grounds of lack of cause of action, pre-maturity and non-exhaustion of administrative remedies".

Thereafter, the MTC denied petitioner bank's Motion for Reconsideration.

Petitioner bank appealed with the Regional Trial Court of Manila, Branch 45 (hereinafter referred to as "RTC"). In a

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[6] Ibid. pp. 64-65.
[7] Penned by Judge Juan O. Bermejo Jr.

Decision[8] dated August 14, 2007, the RTC affirmed the Decision of the MTC, the pertinent portion of which reads as follows:

> *"Section 196 of R.A. 7160 provides:*
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> *"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 the 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."*
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> *xxx xxx xxx.*
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> *In the case at bar, there is no double taxation. Section 21 of City Ordinance No. 7988 provides that the tax shall be made payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter, while Section 19 of the ordinance provides for the rate of percentage tax on banks, insurance companies and other financial institutions. Persons liable for the payment of tax under Section 21 are the bank's clients or customers and not the bank itself. The bank's duty is only to collect said tax for remittance to the taxing authority. On the other hand, Section 19 is the tax imposed on banks, insurance companies and other financial institutions on the gross receipts of the preceding calendar year derived from the interests, commissions and discounts from lending activities, income from financial leasing, dividends, rentals from property and profit from exchange or sale of property. Thus, there is no similarity in the subject or object taxed."*

Thereafter, in an Order[9] dated March 8, 2010, petitioner bank's Motion for Reconsideration was denied. Said Order was claimed to be received on March 14, 2014, hence, the present petition.

Petitioner alleges that the sole issue is whether the RTC erred in ruling on the merits of the present action without

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[8] Supra Note 1

[9] Supra Note 3

affording the parties an opportunity to present evidence on the merits of the case. Petitioner claims that the RTC erred when the merits of the case was discussed particularly the issue of whether double taxation exists, without evidentiary basis. Petitioner argues that the issue regarding the applicability of Section 21 and whether the same constitutes double taxation should not have been resolved by the RTC but rather remanded to the MTC for further proceedings.

On June 5, 2014, the Court received respondent's Comment. Respondent maintains that the petition should be dismissed for the following reasons:

a. Lack of cause of action and prematurity;
b. Non-exhaustion of administrative remedies; and
c. Lack of authority to sue at the trial court level.

On August 22, 2014, the parties were directed to file their respective memoranda. The Court received respondent's Memorandum on September 30, 2014 while that of petitioner was received on October 10, 2014.

We resolve.

In the recovery of any tax, fee, or charge erroneously or illegally collected, a written claim for refund or credit filed with the local treasurer is necessary within two (2) years from the date of the payment.[10] Section 196 of R.A. 7160 otherwise known as the "Local Government Code of 1991" provides as follows:

> *"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*

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[10] METRO MANILA SHOPPING MECCA CORP., SHOEMART, INC., SM PRIME HOLDINGS, INC., STAR APPLIANCES CENTER, SUPER VALUE, INC., ACE HARDWARE PHILIPPINES, INC., HEALTH AND BEAUTY, INC., JOLLIMART PHILS. CORP., and SURPLUS MARKETING CORPORATION vs. MS. LIBERTY M. TOLEDO, in her official capacity as the City Treasurer of Manila, and THE CITY OF MANILA, G.R. No. 190818, June 5, 2013.

> *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."*

Claiming for refund under Section 196 of R.A. 7160, is a remedy different from protest under Section 195[11] of RA 7160. In this case, petitioner was able to file its claim for refund within the two-year period. The business tax appears to have been paid on January 2006 while the claim for refund was filed on February 2006, well within the two-year period. [12] Evidently, respondent's arguments for lack of cause of action, prematurity and non-exhaustion of administrative remedies pursuant to Section 195 of RA 7160 must fail. Furthermore, We find no merit in respondent's argument that Shirley T. Tan as Assistant Vice President, has no authority to sign the Verification and Certification against Forum Shopping of the Complaint before the MTC considering that Shirley T. Tan as Manager, was the one authorized based on the Secretary's Certificate[13]. Thus, we find that the RTC was correct when it ruled as follows:

> *"It is to be noted that the present case is one for refund of sum of money and payment under protest is not necessary, nevertheless, the claim for refund must categorically demand for the reimbursement of the overpaid amount. xxx. This, the plaintiff has accomplished in its letter dated February 24, 2006.*

[11] 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.

[12] Metropolitan Trial Court Docket. pp. 11-23.
[13] Ibid. pp. 9-10.

xxx xxx xxx.

Furthermore, the Secretary's Certificate dated May 14, 2003 shows that Shirley T. Tan is one of the authorized officers who can singly sign complaints and other documents as stated therein for and in behalf of the Bank. As there is no identity of causes of actions among the twenty (20) other cases filed by plaintiff against the defendant, the plaintiff is, therefore, not guilty of forum shopping."

While the RTC was correct in applying Section 196 of R.A. 7160 and sustaining the authority of the signatory in the verification and certification, it erred when it ruled that there was no double taxation. At the outset, Tax Ordinance No. 7988, otherwise known as the Revised Revenue Code of the City of Manila repealing Tax Ordinance No. 7794 entitled, Revenue Code of the City of Manila was already declared void by the Supreme Court in the case of Coca Cola Bottler's Philippines, Inc. vs. City of Manila, GR No. 156252, June 27, 2006. Thus, the controversy of whether there is double taxation is rendered moot when said tax ordinance was declared void and of no legal effect. The Supreme Court ruled as follows:

"It is undisputed from the facts of the case that Tax Ordinance No. 7988 has already been declared by the DOJ Secretary, in its Order, dated 17 August 2000, as null and void and without legal effect due to respondents failure to satisfy the requirement that said ordinance be published for three consecutive days as required by law. Neither is there quibbling on the fact that the said Order of the DOJ was never appealed by the City of Manila, thus, it had attained finality after the lapse of the period to appeal.

Furthermore, the RTC of Manila, Branch 21, in its Decision dated 28 November 2001, reiterated the findings of the DOJ Secretary that respondents failed to follow the procedure in the enactment of tax measures as mandated by Section 188 of the Local Government Code of 1991, in that they failed to publish Tax Ordinance No. 7988 for three consecutive days in a newspaper of local circulation. From the foregoing, it is evident that Tax Ordinance No. 7988 is null and void as said ordinance was published only for one day in the 22 May 2000 issue of the

Philippine Post in contravention of the unmistakable directive of the Local Government Code of 1991.

Despite the nullity of Tax Ordinance No. 7988, the court a quo, in the assailed Order, dated 8 May 2002, went on to dismiss petitioners case on the force of the enactment of Tax Ordinance No. 8011, amending Tax Ordinance No. 7988. Significantly, said amending ordinance was likewise declared null and void by the DOJ Secretary in a Resolution, dated 5 July 2001, elucidating that [I]nstead of amending Ordinance No. 7988, [herein] respondent should have enacted another tax measure which strictly complies with the requirements of law, both procedural and substantive. ***The passage of the assailed ordinance did not have the effect of curing the defects of Ordinance No. 7988 which, any way, does not legally exist.*** *Said Resolution of the DOJ Secretary had, as well, attained finality by virtue of the dismissal with finality by this Court of respondents Petition for Review on Certiorari in G.R. No. 157490 assailing the dismissal by the RTC of Manila, Branch 17, of its appeal due to lack of jurisdiction in its Order, dated 11 August 2003.*

Based on the foregoing, this Court must reverse the Order of the RTC of Manila, Branch 21, dismissing petitioners case as there is no basis in law for such dismissal. The amending law, having been declared as null and void, in legal contemplation, therefore, does not exist. Furthermore, even if Tax Ordinance No. 8011 was not declared null and void, the trial court should not have dismissed the case on the reason that said tax ordinance had already amended Tax Ordinance No. 7988. As held by this Court in the case of People v. Lim, if an order or law sought to be amended is invalid, then it does not legally exist, there should be no occasion or need to amend it."

Clearly, Tax Ordinance No. 7988 and Tax Ordinance No. 8011 are null and void for the following reasons:

(1) Tax Ordinance No. 7988 was enacted in contravention of the provisions of the Local Government Code (LGC) of 1991 and its implementing rules and regulations; and

(2) Tax Ordinance No. 8011 could not cure the defects of Tax Ordinance No. 7988, which did not legally exist.

In addition, in another case involving Coca Cola[14] and Tax Ordinance No. 7988, the Supreme Court found that there is indeed double taxation if a taxpayer is subjected to both the taxes under Sections 14 and 21 of Tax Ordinance No. 7988, to wit:

> *"The pivotal issue raised therein was whether Tax Ordinance No. 7988 and Tax Ordinance No. 8011 were null and void, which this Court resolved in the affirmative. Tax Ordinance No. 7988 was declared by the Secretary of the Department of Justice (DOJ) as null and void and without legal effect due to the failure of herein petitioner City of Manila to satisfy the requirement under the law that said ordinance be published for three consecutive days. Petitioner City of Manila never appealed said declaration of the DOJ Secretary; thus, it attained finality after the lapse of the period for appeal of the same. The passage of Tax Ordinance No. 8011, amending Tax Ordinance No. 7988, did not cure the defects of the latter, which, in any way, did not legally exist.*
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> *By virtue of the Coca-Cola case, Tax Ordinance No. 7988 and Tax Ordinance No. 8011 are null and void and without any legal effect. Therefore, respondent cannot be taxed and assessed under the amendatory laws--Tax Ordinance No. 7988 and Tax Ordinance No. 8011.*
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> *Petitioners insist that even with the declaration of nullity of Tax Ordinance No. 7988 and Tax Ordinance No. 8011, respondent could still be made liable for local business taxes under both Sections 14 and 21 of Tax Ordinance No. 7944 as they were originally read, without the amendment by the null and void tax ordinances.*
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> *Emphasis must be given to the fact that prior to the passage of Tax Ordinance No. 7988 and Tax Ordinance No. 8011 by petitioner City of Manila, petitioners subjected and assessed respondent only for the local business tax under Section 14 of Tax Ordinance No. 7794, but never under*

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[14] THE CITY OF MANILA, LIBERTY M. TOLEDO, in her capacity as THE TREASURER OF MANILA and JOSEPH SANTIAGO, in his capacity as the CHIEF OF THE LICENSE DIVISION OF CITY OF MANILA vs. COCA-COLA BOTTLERS PHILIPPINES, INC., G. R. NO. 181845, AUGUST 4, 2009.

Section 21 of the same. This was due to the clear and unambiguous proviso in Section 21 of Tax Ordinance No. 7794, which stated that all registered business in the City of Manila that are already paying the aforementioned tax shall be exempted from payment thereof. The aforementioned tax referred to in said proviso refers to local business tax. Stated differently, Section 21 of Tax Ordinance No. 7794 exempts from the payment of the local business tax imposed by said section, businesses that are already paying such tax under other sections of the same tax ordinance. The said proviso, however, was deleted from Section 21 of Tax Ordinance No. 7794 by Tax Ordinances No. 7988 and No. 8011. Following this deletion, petitioners began assessing respondent for the local business tax under Section 21 of Tax Ordinance No. 7794, as amended.

The Court easily infers from the foregoing circumstances that petitioners themselves believed that prior to Tax Ordinance No. 7988 and Tax Ordinance No. 8011, respondent was exempt from the local business tax under Section 21 of Tax Ordinance No. 7794. Hence, petitioners had to wait for the deletion of the exempting proviso in Section 21 of Tax Ordinance No. 7794 by Tax Ordinance No. 7988 and Tax Ordinance No. 8011 before they assessed respondent for the local business tax under said section. Yet, with the pronouncement by this Court in the Coca-Cola case that Tax Ordinance No. 7988 and Tax Ordinance No. 8011 were null and void and without legal effect, then Section 21 of Tax Ordinance No. 7794, as it has been previously worded, with its exempting proviso, is back in effect. Accordingly, respondent should not have been subjected to the local business tax under Section 21 of Tax Ordinance No. 7794 for the third and fourth quarters of 2000, given its exemption therefrom since it was already paying the local business tax under Section 14 of the same ordinance.

Petitioners obstinately ignore the exempting proviso in Section 21 of Tax Ordinance No. 7794, to their own detriment. Said exempting proviso was precisely included in said section so as to avoid double taxation.

Double taxation means taxing the same property twice when it should be taxed only once; that is, taxing the same person twice by the same jurisdiction for the same thing. It is obnoxious when the taxpayer is taxed twice, when it should be but once. Otherwise described as direct duplicate taxation, ***the two taxes must be imposed on***

> ***the same subject matter***, *for the* ***same purpose***, *by the* ***same taxing authority***, ***within the same jurisdiction***, ***during the same taxing period***; *and the taxes must be* ***of the same kind or character***.
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> *Using the aforementioned test, the Court finds that there is indeed double taxation if respondent is subjected to the taxes under both Sections 14 and 21 of Tax Ordinance No. 7794, since these are being imposed: (1) on the same subject matter the privilege of doing business in the City of Manila; (2) for the same purpose to make persons conducting business within the City of Manila contribute to city revenues; (3) by the same taxing authority petitioner City of Manila; (4) within the same taxing jurisdiction within the territorial jurisdiction of the City of Manila; (5) for the same taxing periods per calendar year; and (6) of the same kind or character a local business tax imposed on gross sales or receipts of the business.*
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> *The distinction petitioners attempt to make between the taxes under Sections 14 and 21 of Tax Ordinance No. 7794 is specious. The Court revisits Section 143 of the LGC, the very source of the power of municipalities and cities to impose a local business tax, and to which any local business tax imposed by petitioner City of Manila must conform. It is apparent from a perusal thereof that when a municipality or city has already imposed a business tax on manufacturers, etc. of liquors, distilled spirits, wines, and any other article of commerce, pursuant to Section 143(a) of the LGC, said municipality or city may no longer subject the same manufacturers, etc. to a business tax under Section 143(h) of the same Code. Section 143(h) may be imposed only on businesses that are subject to excise tax, VAT, or percentage tax under the NIRC, and that are* ***not otherwise specified in preceding paragraphs.*** *In the same way, businesses such as respondents, already subject to a local business tax under Section 14 of Tax Ordinance No. 7794 [which is based on Section 143(a) of the LGC], can no longer be made liable for local business tax under Section 21 of the same Tax Ordinance [which is based on Section 143(h) of the LGC].*

Records disclosed that the issues were not yet joined and that the parties have yet to present their respective evidence. Thus, We hold that the instant case should proceed to trial for the parties to adduce their respective evidence to support their positions in defense of their asserted rights.

WHEREFORE, this petition is hereby **GRANTED**. The Decision dated August 14, 2007 and Order dated March 8, 2010 of the Regional Trial Court, National Capital Region, Branch 45 of Manila docketed as Civil Case No. 07-116920 are hereby **REVERSED** and **SET ASIDE**. The Orders dated August 20, 2004 and November 11, 2004 of the Metropolitan Trial Court of Manila, Branch 19 are likewise **REVERSED** and **SET ASIDE**. The instant case is hereby **REINSTATED**, and respondent City Treasurer of Manila is **REQUIRED** within the period available pursuant to Section 4, Rule 16 of the 1997 Revised Rules of Civil Procedure **TO FILE** its answer before the Metropolitan Trial Court of Manila Branch 4. The Metropolitan Trial Court is ordered to proceed with dispatch to trial on the merits.

SO ORDERED.

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

WE CONCUR:

(with Concurring & Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen S
MA. BELEN RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation among the members of the Court En Banc before the case was assigned to the writer of the opinion of the Court En Banc.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

CHINA BANKING CORPORATION, *Petitioner,*	**CTA EB CASE NO. 1144** (Civil Case No. 07-116920)
-versus-	Present: **DEL ROSARIO,** *PJ,* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS,** *and* **RINGPIS-LIBAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 04 2015 3:02 p.m.

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CONCURRING & DISSENTING OPINION

DEL ROSARIO, P.J.:

I concur with the *Ponente* in granting the present Petition for Review.

With all due respect, however, I am of the opinion that the Court *En Banc* should grant the claim for refund in the amount of ₱138,589.50 for business taxes paid, pursuant to Section 21 of the Manila Revenue Code (MRC), for taxable year 2006 and there is no more need to remand the case to the Metropolitan Trial Court of Manila Branch 4.

Truth be told, the issue involved in this case is not of first impression. In *Swedish Match Philippines, Inc. v. The Treasurer of the City of Manila,*[1] the taxpayer relying on Section 196 of the Local Government Code of 1991, as amended, assailed the validity of the assessment made by the City

[1] G.R. No. 181277, July 3, 2013.

Treasurer of Manila under **both** Sections 14 and 16 of the MRC – similar to the assessment made in the present case. In resolving the controversy, the Supreme Court declared that payment of taxes under Section 14 exempts the taxpayer from paying the taxes under Section 21. Said the Court:

> "Based on the foregoing reasons, petitioner should not have been subjected to taxes under Section 21 of the Manila Revenue Code for the fourth quarter of 2001, considering that it had already been paying local business tax under Section 14 of the same ordinance.
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> xxx xxx xxx
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> Accordingly, respondent's assessment under both Sections 14 and 21 had no basis. Petitioner is indeed liable to pay business taxes to the City of Manila; nevertheless, **considering that the former has already paid these taxes under Section 14 of the Manila Revenue Code, it is exempt from the same payments under Section 21 of the same code.** Hence, payments made under Section 21 must be refunded in favor of petitioner.
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> **It is undisputed that petitioner paid business taxes based on Sections 14 and 21 for the fourth quarter of 2001 in the total amount of P470,932.21.31 Therefore, it is entitled to a refund of P164,552.0432 corresponding to the payment under Section 21 of the Manila Revenue Code."**

In the case at bar, it is also undisputed that petitioner paid business taxes based on Sections 14 and 21 of the MRC for taxable year 2006 in the amount of ₱217,331.38.[2] Thus, petitioner is entitled to a claim for refund in the amount of ₱138,589.50 corresponding to its payment under Section 21 of the MRC.

All told, I **VOTE** to **GRANT** the Petition for Review and **ORDER** the City Treasurer of Manila to refund the amount of ₱138,589.50 to China Bank Corporation.

ROMAN G. DEL ROSARIO
Presiding Justice

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[2] Official Receipt, Annex "A" of the Complaint filed in the RTC of Manila, RTC records, page 11; Respondent's Motion to Dismiss filed with the RTC of Manila, RTC records, page 20.