REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ALASKA MILK CORPORATION, *Petitioner,*	**CTA AC NO. 272**
	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
OFFICE OF THE CITY TREASURER and/or DAVAO CITY, *Respondents.*	Promulgated: OCT 2 2 2025 3:52 p.m.

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DECISION

MANAHAN, *J.*:

THE CASE

Before the Court is a *Petition for Review* filed by Alaska Milk Corporation (AMC),[1] praying for the reversal and setting aside of the Decision dated January 4, 2022,[2] and the Order dated August 4, 2022,[3] both rendered by the Regional Trial Court (RTC) of Davao City – Branch 16, in Civil Case No. R-DVO-20-02072-CV, captioned as "*Alaska Milk Corporation, Petitioner, versus Office of the City Treasurer and/or Davao City, Respondent*".

For easy reference, the dispositive portions of the challenged Decision and Order, respectively, read as follows:

[1] Docket, pp. 5 to 51.
[2] Docket, pp. 53 to 59; RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 817 to 823.
[3] RTC Docket (Civil Case No. R-DVO-20-02072-CV), p. 839.

Decision dated January 4, 2022:

"**WHEREFORE, premises considered**, the instant Petition for Review of the Petitioner is hereby **DENIED** and **DISMISSED**.

SO ORDERED."

Order dated August 4, 2022:

"Despite the arguments raised in the ***'Motion for Partial Reconsideration'***, the Court finds no cogent reason to alter, modify or set aside the assailed Decision dated January 4, 2022.

As such, the instant ***'Motion for Partial Reconsideration'*** is hereby **DENIED**.

SO ORDERED."

THE PARTIES

Petitioner AMC is a domestic corporation, duly organized and existing under Philippine laws, with principal office address at 4th and 5th Floors S & L Building, Dela Rosa corner Esteban Streets, Legaspi Village, Makati City.[4]

Respondent Office of the City Treasurer of Davao City is a department of the City Government of Davao City, which is tasked to verify, assess and collect taxes, fees, and charges.[5]

Respondent Davao City is a political corporation organized and existing under Philippine laws.[6]

THE FACTS

Petitioner sent a letter dated April 15, 2019 to respondent Treasurer, where it asserted that it is not liable for Local Business Taxes (LBT) considering that it only maintains a warehouse in Davao City for storage purposes. After a series

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[4] Par. 1, *Petition for Review*, vis-à-vis par. 1, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 4 and 473, respectively.
[5] Par. 2, *Petition for Review*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 4 and 473, respectively.
[6] Par. 3, *Petition for Review*, vis-à-vis par. 2, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 4 and 473, respectively.

of exchanges, respondent Treasurer maintained that petitioner is liable for LBTs.[7]

On January 17, 2020, petitioner received from respondent Treasurer a Tax Order of Payment, finding petitioner liable for LBTs for the year 2019, and the 1st quarter of 2020, in the total amount of ₱1,857,602.58, broken down as follows:[8]

Business tax for 2019	₱ 1,498,273.11
Business tax for 2020	340,284.47
Regulatory fees for 2020	18,115.00
Charges for 2020	930.00
Total Amount Payable	**₱1,857,602.58**

Fearing the possible repercussions of non-payment and desiring to continue with the lawful and legitimate operations of its business in the City, petitioner paid under protest City the assessed amount of ₱1,857,602.58.[9] On January 31, 2020,[10] petitioner filed its Supplemental Protest Letter dated January 30, 2020.

On March 23, 2020, petitioner received a Notice of Denial dated March 5, 2020.[11] In the said letter, respondent Treasurer argued that petitioner had been doing business in Davao City and had continuously paid the corresponding LBTs due, thereby negating its claim that its Davao warehouse was purely utilized for storage purposes. Respondent Treasurer likewise insists that petitioner had sales in Davao City, considering that: (a) petitioner's goods or products, which are the subject of its sales, were delivered to customers in Davao City; and (b) said goods were sourced from the Davao warehouse. In this regard, respondent Treasurer, concludes

[7] Par. 18, *Petition for Review*, vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 10 and 474, respectively.
[8] Par. 19, *Petition for Review*, vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 10 and 474, respectively; and pars. 4 and 5, *Petition for Review*, vis-à-vis par. 3, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 4 to 5, and 473, respectively.
[9] Par. 20, *Petition for Review*, vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 10 and 474, respectively; and par. 7, *Petition for Review*, vis-à-vis par. 4, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 5, and 473 to 474, respectively.
[10] Par. 7, *Petition for Review*, vis-à-vis par. 4, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 5 to 6, and 473 to 474, respectively.
[11] Par. 8, *Petition for Review*, vis-à-vis par. 5, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 6 and 474, respectively.

that said sales or transactions were consummated in Davao City and therefore taxable therein, pursuant to Ordinance No. 158-05, entitled *"An Ordinance Approving the 2005 Revenue Code of the City of Davao, as amended"*.[12]

Petitioner then filed a *Petition for Review* before the RTC of Davao City on July 1, 2020.[13]

Within the extended period,[14] respondents filed their *Answer* on September 25, 2020,[15] stating the following special and affirmative defenses:

> (a) the assessment made by respondent has legal basis, particularly, Sections 76 and 79(b) of Ordinance No. 0291-17, otherwise known as 2017 Local Revenue Code of the Davao City;
>
> (b) plaintiff had been paying local business tax since 1998 and yet there was no protest made since the inception of its business in Davao City until 2018;
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> (c) it was only in the 2nd quarter of 2019 that plaintiff manifested that their warehouse situated in Barangay Panacan, does not accept orders and does not issue sales invoices, hence, there is doubt that the petition is a mere afterthought;
>
> (d) plaintiff had consummated their business transactions in Davao City, specifically, the aspect of delivery of the products where the consummation stage of the contract transaction was attained;
>
> (e) all sales or transactions consummated in Davao City are subject to local business tax;
>
> (f) the warehouse of plaintiff situated in Davao City is considered as a branch or sales office rendering it liable to pay local business tax under the 2017 Local Revenue Code of the Davao City;
>
> (g) the 2017 Local Revenue Code of Davao City enjoys the presumption of validity as it went through the process for the enactment, approval and effectivity of ordinances outlined in the LGC; and

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[12] Par. 21, *Petition for Review*, vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 10 to 11, and 474, respectively.
[13] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 3 to 31.
[14] *Motion for Extension of Time to File Answer to the Petition of the Plaintiffs*, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 468 to 471; Order dated September 1, 2020, RTC Docket (Civil Case No. R-DVO-20-02072-CV), p. 472.
[15] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 473 to 482.

(h) the Supreme Court has continuously upheld the basic principle that a collateral attack on a presumably valid law is not allowed.

Pursuant to the Order dated September 30, 2020,[16] the case was referred to mediation on December 2, 2020, and the parties underwent mediation proceedings as scheduled. However, the parties failed to settle amicably before the Philippine Mediation Center.[17]

The case was set for pre-trial on November 3, 2020,[18] but was reset and held on January 19, 2021.[19] Meanwhile, the *Pre-Trial Brief for the Respondents* was filed on November 25, 2020,[20] while the *Pre-Trial Brief* for the petitioner was filed on January 12, 2021.[21]

Since referral to Judicial Dispute Resolution (JDR) proceeding of Civil Case No. R-DVO-20-02072-CV proved futile, the parties were directed to file their respective memoranda within thirty (30) days from notice.[22]

The *Memorandum for the Respondents* was submitted on March 15, 2021,[23] while petitioner's *Memorandum* was filed on May 11, 2021.[24]

On June 29, 2021, petitioner filed a *Motion to Admit Supplement to the Petition,* with an attached *Supplement [To the Petition dated 22 June 2020],*[25] praying for additional refund of LBT in the amount of ₱828,074.42, representing the 1st and 2nd quarters of taxable year 2021. The RTC granted the said *Motion*, and admitted the said *Supplement*, in the Order dated

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[16] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 492 to 493.
[17] Mediator's Report dated January 18, 2021, RTC Docket (Civil Case No. R-DVO-20-02072-CV), p. 544.
[18] Notice of Pre-Trial Conference dated September 30, 2020, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 494 to 496.
[19] Notice of Cancellation and Resetting (Pre-Trial) dated November 3, 2020, RTC Docket (Civil Case No. R-DVO-20-02072-CV), p. 497; Order dated January 19, 2021, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 546 to 547.
[20] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 501 to 511.
[21] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 518 to 543.
[22] Order dated January 19, 2021, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 546 to 547.
[23] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 600 to 610.
[24] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 660 to 689.
[25] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 760 to 784.

June 15, 2021.[26] Hence, the total claim for refund increased from ₱1,857,602.58 to ₱2,685,677.00.

The lower court promulgated the assailed Decision on January 4, 2022.[27]

On June 2, 2022, petitioner filed a *Motion for Partial Reconsideration.*[28] However, the lower court issued the assailed Order[29] denying petitioners' *Motion for Partial Reconsideration.*

Undeterred, petitioner filed with the Court of Tax Appeals (CTA) the present *Petition for Review* on October 7, 2022,[30] and the same was raffled to this Court's Second Division.

In the Resolution dated November 10, 2022,[31] the Court: (1) ordered petitioner to submit a compliant *Verification and Certification of Non-Forum Shopping* in accordance with A.M. No. 19-10-20-SC; and directed the Branch Clerk of Court of RTC of Davao City – Branch 16 to elevate the entire records of Civil Case No. R-DVO-20-02072-CV to this Court within five (5) days from notice.

On December 6, 2022, petitioner filed a *Compliance with Submission.*[32] In the Resolution dated January 4, 2023,[33] the Court directed respondents to file their comment on the *Petition for Review* within ten (10) days from notice.

Subsequently, on February 27, 2023, the records of Civil Case No. R-DVO-20-02072-CV were transmitted to this Court.[34]

Respondents then posted their *Comment* on March 10, 2023.[35]

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[26] RTC Docket (Civil Case No. R-DVO-20-02072-CV), p. 759.
[27] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 817 to 823.
[28] RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 824 to 837.
[29] RTC Docket (Civil Case No. R-DVO-20-02072-CV), p. 839.
[30] Docket, pp. 5 to 51.
[31] Docket, pp. 65 to 66.
[32] Docket, pp. 67 to 71.
[33] Docket, pp. 76 to 77.
[34] Docket, pp. 78 to 81.
[35] Docket, pp. 88 to 91. *cm*

On May 2, 2023, petitioner filed its *Memorandum*;[36] while the *Memorandum for the Respondents* was posted on July 4, 2023.[37]

In the meantime, the present case was transferred to this Court's Third Division, pursuant to Administrative Circular No. 01-2023 dated May 23, 2023 entitled "Reorganizing the Divisions of the Court".[38]

Thereafter, the case was deemed submitted for decision on August 7, 2023.[39]

On August 2, 2024,[40] the Court issued a Decision dismissing the Petition for lack of jurisdiction, where it found that petitioner failed to provide proof of its receipt of the assailed Order.

On August 20, 2024, petitioner filed its *Motion for Reconsideration*, where it attached its proof of receipt of the assailed Order. On October 29, 2024, respondents filed their *Comment to the Motion for Reconsideration by the Petitioner dated August 20, 2024*. On January 28, 2025, the Court issued a Resolution[41] granting petitioner's motion and submitting the case anew for decision.

Hence, this Decision.

THE ISSUE

Petitioner raised the following issue for this Court's resolution:

> WHETHER THE COURT *A QUO* CORRECTLY RULED THAT PETITIONER IS LIABLE FOR LOCAL BUSINESS TAXES FOR ITS ACTIVITIES IN THE DAVAO WAREHOUSE, WHICH WAS THE BASIS OF RESPONDENTS' 2020 AND

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[36] Docket, pp. 98 to 138.
[37] Docket, pp. 202 to 208.
[38] Notice, Docket, p. 189.
[39] Minute Resolution dated August 7, 2023, Docket, p. 210.
[40] Docket, pp. 213-225.
[41] Docket, pp. 279-281. *an*

2021 ASSESSMENTS FOR DEFICIENCY TAXES AGAINST PETITIONER.[42]

Petitioner's arguments:

Petitioner argues that it has no "branch" or "sales office" in Davao City, as it did not, and does not, conduct or transact sales in its Davao Warehouse, as shown by the evidence on record; that the assessments issued by respondents are without legal basis; and that respondents' assessment of LBTs on petitioner is an *ultra vires* act for being violative of Section 150 of the 1991 Local Government Code (LGC), and thus, the 2020 and 2021 assessments are null and void.

Respondents' counter-arguments:

Respondents contend that the legal basis of the tax assessment against petitioner is Section 79 of Davao City Ordinance No. 0291-17, Series of 2017; that it is well-within its authority and duty to assess and collect taxes against petitioner based on a valid law, in this case, the said Ordinance; that the enforceability of a valid local tax ordinance has been repeatedly upheld by the Supreme Court; and that hence, the assailed Decision of the Court *a quo* dated January 4, 2022 dismissing and denying petitioner's petition under Section 195 of the LGC should stand.

THE RULING

The Court shall now proceed to examine the merits of this case.

The pertinent provisions of Sections 143(a), 150(a), and 151 of the LGC of 1991, and of Section 243(a) and (b) of the Implementing Rules and Regulations (IRR) of the LGC, respectively provide:

> "SEC. 143. *Tax on Business.* — The municipality may impose taxes on the following businesses:
>
> (a) On manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers, and compounders

[42] Issue, *Petition for Review*, Docket, p. 24.

of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with the following schedule:

xxx xxx xxx"

"SEC. 150. *Situs of the Tax.* — (a) For purposes of collection of the taxes under Section 143 of this Code, manufacturers...maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction was made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality.

xxx xxx xxx"

"SEC. 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: xxx."

"Article 243. *Situs of the Tax.* — (a) Definition of Terms –

(1) *Principal Office* — the head or main office of the business appearing in the pertinent documents submitted to the Securities and Exchange Commission, or the Department of Trade and Industry, or other appropriate agencies, as the case may be.

The city or municipality specifically mentioned in the articles of incorporation of official registration papers as being the official address of said principal office shall be considered as the situs thereof.

xxx xxx xxx

(2) *Branch or Sales Office* — a fixed place in a locality which conducts operations of the business as an extension of the principal office. Offices used only as display areas of the products where no stocks or items are stored for sale, although orders for the products may be received thereat, are not branch or sales offices as herein contemplated. A warehouse which accepts orders and/or issues sales invoices independent of a branch with sales office shall be considered as a sales office.

> (3) *Warehouse* – a building utilized for the storage of products for sale and from which goods or merchandise are withdrawn for delivery to customers or dealers, or by persons acting in behalf of the business. A warehouse that does not accept orders and/or issue sales invoices as aforementioned shall not be considered a branch or sales office.
>
> xxx xxx xxx
>
> (b) Sales Allocation –
>
> (1) All sales made in a locality where there is a branch or sales office or warehouse shall be recorded in said branch or sales office or warehouse and the tax shall be payable to the city or municipality where the same is located.
>
> (2) In cases where there is no such branch, sales office, or warehouse in the locality where the sale is made, the sale shall be recorded in the principal office along with the sales made by said principal office and the tax shall accrue to the city or municipality where said principal office is located."

Applying the above-quoted provisions in the instant case, respondent Davao City is empowered to impose LBT on manufacturers, among others. However, such power to impose LBT is subject to the rule on tax situs under Section 150 of the 1991 LGC, in relation to Article 243 of the IRR.

Thus, when a manufacturer maintains or operates a branch or sales outlet elsewhere, the recording of the sale shall be in made in such branch or sales outlet, and the corresponding business tax shall accrue and be paid to the municipality or city where the same branch or sales outlet is located. However, in case there is no such a branch or sales outlet in the city or municipality where the sale or transaction was made, the sale shall be duly recorded in the principal office of the manufacturer and the business tax shall accrue to the city where the said principal office is located.

Hence, to determine whether petitioner is subject to LBT, it is imperative upon the Court to examine the pieces of evidence presented by the parties during the trial *a quo*, to determine whether the alleged warehouse maintained by petitioner is used either: (1) exclusively for storage purposes; (2) for manufacturing its products; or (3) as a branch or sales office.

However, a perusal of the records shows that the lower court merely directed the parties to submit their memoranda and it decided to dispense with the presentation of evidence.[43] Unfortunately, without any evidence to examine, this Court cannot determine the merits of the parties' respective arguments.

At any rate, the Court deems it proper to remand this case to the lower court for trial and presentation of evidence, to determine the factual and legal issues involved in this case.

ACCORDINGLY, Civil Case No. R-DVO-20-02072-CV, entitled *"Alaska Milk Corporation, Petitioner, versus Office of the City Treasurer and/or Davao City, Respondent"* is **REMANDED** to the RTC of Davao City – Branch 16, for trial and presentation of evidence, to determine the factual and legal issues involved in this case.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

(Kindly, with Dissenting Opinion)
HENRY S. ANGELES
Associate Justice

[43] Order dated January 19, 2021, RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 546 to 547.

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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

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's Division.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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THIRD DIVISION

ALASKA MILK CORPORATION,
Petitioner,

- *versus* -

OFFICE OF THE CITY TREASURER and/or DAVAO CITY,
Respondents.

CTA AC No. 272

Members:

MANAHAN, Chairperson,
REYES-FAJARDO, and
ANGELES, *JJ*.

Promulgated:

OCT 2 2 2025
3:52 p.m.

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DISSENTING OPINION

ANGELES, *J*.:

With due respect, I am constrained to withhold my concurrence from the pronouncement of the *ponencia*, which "*remanded* to the Regional Trial Court (RTC) of Davao City – Branch 16, for trial and presentation of evidence, to determine the factual and legal issues involved in this case."[1]

While I share the *ponencia*'s recognition that the determination of petitioner's liability for local business tax (LBT) necessarily calls for an examination of the evidence adduced before the court *a quo*, I am, with due respect, constrained to dissent from the conclusion that the mere directive of the trial court requiring the parties to file their respective memoranda is tantamount to an outright dispensation with the presentation of evidence, thereby leaving this Court bereft of any evidentiary basis to resolve the merits of the parties' respective arguments.[2]

I respectfully set forth the reasons for my dissent.

[1] Decision, p. 11.
[2] *Id.* at 10-11.

Having conducted trial on the merits, the assailed rulings of the RTC of Davao City warrant review by this Court

First, the *ponencia* anchors its conclusion that the RTC of Davao City "merely directed the parties to submit their memoranda and decided to dispense with the presentation of evidence"[3] on the Order dated January 19, 2021.[4] A careful scrutiny of said Order, however, discloses otherwise. The pertinent portion thereof reads:

> When called for pre-trial, the parties thru their respective lawyers agree that the following ***legal issues raised by the petitioner, can be resolved without testimonial evidence***:
>
> *(1) Whether or not the subject assessment should be annulled for lack of legal basis;*
> *(2) Whether or not the Davao Warehouse should be considered a "BRANCH" of "SALES OFFICE," as defined under Section 243(a)(2) of implementing rules and regulations (IRR) of the LGC;*
> *(3) Whether or not AMC's activities in the Davao Warehouse are that of a "Manufacturer," as defined under Section 131(o) of the LGC; and*
> *(4) Whether or not AMC Is liable for local business taxes in Davao City.*
>
> x x x
>
> As such, the parties are directed within thirty (30) days from receipt of this order to file their ***respective memoranda*** *(to address the legal issues above-cited)* ***which should not exceed 30 pages***. Thereafter, the petition is submitted for resolution.[5] (Emphasis supplied)

From the foregoing, it becomes clear that the court *a quo*, with the express agreement of the parties, merely circumscribed the issues to the above-enumerated legal questions. Thus, the stipulation that these may be resolved "without testimonial evidence" cannot be construed as an abandonment of the presentation of evidence altogether. What it signifies, rather, is that the case was submitted for resolution after the filing of the parties' respective memoranda and on the basis of the **documentary evidence** already on record—documents whose authenticity, faithful reproduction, and due execution had been the subject of stipulation during pre-trial.

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[3] *Id.* at 10.
[4] USB, Annex "LL;" RTC Docket (Civil Case No. R-DVO-20-02072-CV), pp. 546-547.
[5] *Ibid.*

Indeed, this is one of the principal purposes of pre-trial: to obtain stipulations that narrow the factual matters in dispute and dispense with the need for unnecessary proof. This is made explicit in Sections 2(c) and 2(g)(3), Rule 18 of the Revised Rules of Civil Procedure, as adopted by CTA *En Banc* Resolution No. 9-2020, which provides:

RULE 18

PRE-TRIAL

> Section 2. *Nature and purpose.* – The pre-trial is mandatory and should be terminated promptly. The court shall consider:
>
> x x x
>
> (c) The possibility of obtaining **stipulations or admissions of** facts and **<u>documents</u> to avoid unnecessary proof**;
>
> x x x
>
> (g) The requirement for the parties to:
>
> x x x
>
> 3. Manifest for the record **stipulations regarding the faithfulness of the reproductions and the genuineness and due execution of the adverse parties' evidence**; x x x (Emphasis and underscoring supplied)

I am, therefore, of the considered view that the RTC of Davao City did not dispense with the presentation of evidence in its entirety. What it did, consistent with the express agreement of the parties, was to dispense only with the reception of testimonial evidence. Far from abdicating its duty to receive and consider evidence, the trial court in fact evaluated the documentary evidence submitted, and it was upon such evidence that its judgment rested, as will be discussed in the succeeding portion of this dissent.

Second, remand is not warranted where the trial court has already conducted a trial on the merits and rendered judgment accordingly, as in the present case. Thus:

> Indeed, **remand is necessary only when there has been no trial on the merits.** *Black's Law Dictionary defines* ***trial on merits as a trial on the substantive issues of a case****, as opposed to a motion hearing or interlocutory matter.* **It is a trial where the parties had the opportunity to present their evidence, which was duly examined and considered by the court in resolving the issues presented before it.**

> As a rule, remand is avoided in the following instances: (a) where the ends of justice would not be subserved by a remand; or (b) where public interest demands an early disposition of the case; or (c) where the trial court had already received all the evidence presented by both parties, and the Supreme Court is in a position, based upon said evidence, to decide the case on its merits. Under these circumstances, remand of the case to the lower court for further reception of evidence is no longer necessary.[6] (Emphasis supplied; citations omitted)

The *ponencia* asserts that "it [is] proper to remand this case to the lower court for trial and presentation of evidence, to determine the factual and legal issues involved in this case."[7] While this principle is doctrinally sound—as remand is indeed appropriate where the trial court failed to conduct a trial on the merits—such rule does not find application in the case at bar. As earlier discussed, the court *a quo* squarely adjudicated the case on its merits in the assailed Decision, expressly considering and relying upon the documentary evidence submitted by the parties, including Sales Invoices[8] and Business Tax Orders of Payment issued by the Office of the City Treasurer of the City of Davao.[9]

In *Algarin v. Navarro*[10] (*Algarin*), the Supreme Court comprehensively discussed the concept of "**trial on the merits**." There, the defendant moved to dismiss the case before the Municipal Trial Court (MTC) for failure to state a cause of action. While the MTC granted the motion, it nonetheless ruled on the merits. On appeal, the RTC reversed the MTC's ruling and remanded the case for further proceedings, holding that the defendant had been prematurely deprived of the opportunity to present evidence. However, when this "remand order" was elevated to the Supreme Court, it ruled that remand was improper where the court *a quo* had already conducted a trial on the merits.

In determining whether there was already a "trial on the merits," the Supreme Court made clear that the mere circumstance that the defendant did not present evidence because the court deemed it unnecessary did not negate the existence of a valid trial. It is sufficient that the court has squarely addressed and resolved the factual issues tendered in the pleadings. "Remand," therefore, is warranted only when the lower court has altogether failed to conduct a trial on the merits. Otherwise, it is incumbent upon the appellate court to assume its task of resolving the case.

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6 *Sioland Development Corp. v. Fair Distribution Center Corp.*, G.R. No. 199539, August 09, 2023 [Per C.J. Gesmundo, First Division].

7 Decision, p. 11.

8 RTC Docket (Civil Case No. R-DVO-20-02072-CV), Exhibit "N-2," p. 130, as cited in the assailed Decision.

9 *Id.*, Exhibit "B," p. 45, as cited in the assailed Decision; USB, Annex "P."

10 G.R. No. L-5257, April 14, 1954 [Per J. Labrador, *En Banc*].

Thus, in *Algarin*, since the MTC had already adjudicated the issues on the merits, the Supreme Court directed the RTC to proceed with the case in the exercise of its appellate jurisdiction, dispensing entirely with any notion of remand. As the Supreme Court explained:

> The issues involved in this appeal, therefore, are: (1) Was the action disposed of in the municipal court upon a question of law? and (2) Was there a valid trial upon the merits in the municipal court, as defined in the above-quoted section? There is no question that there was a trial. **That trial was held after issues of fact had been joined by the filing of an answer. And the case was not terminated solely on a question of law, because the court found that the facts proved do not entitle the plaintiffs to recover.** Moreover, the mere fact that the municipal court found that there was absence of allegations necessary to entitle the plaintiffs to recover, or evidence to establish said allegations of essential facts, does not mean that there was no valid trial upon the merits.
>
> **What Section 10 of Rule 40 considers as termination of a case without a valid trial upon the merits is a dismissal without trial and/or determination of any of the issues of fact raised in the pleadings.** Thus, if the hearing is had merely on the lack of jurisdiction or improper venue, without introduction of evidence on the merits, or on the issues of fact which entitle the plaintiff to recover or the defendant to be absolved from the action, there would not be a valid trial on the merits. As stated by Justice Moran, the said section is a restatement of the rulings laid down by the Supreme Court. He cites as example of the application of the rule a case where there is no trial in the inferior court and the case is disposed of upon a question of law, such as the lack of jurisdiction to try the case. In this instance, upon appeal to the Court of First Instance, the only question to be decided in the appeal is the jurisdiction of the inferior court, and if the Court of First Instance finds that the municipal court has jurisdiction, the case is remanded thereto for trial upon the merits, otherwise the dismissal is affirmed. Another example is where the inferior court sustains a motion to dismiss on the ground of failure of plaintiff's complaint to state a cause of action, in which case the appellate power of the Court of First Instance is to review the order of the inferior court sustaining the motion. And if the Court of First Instance finds the order to be wrong, the case has to be remanded to the inferior court for trial upon the merits. (1 Moran, 1952 Rev. ed., pp. 889-890.)
>
> It is pertinent to add, by way of clarification, that **the existence of a trial on the merits is the determining factor for the application of the rule. Even if the case is decided on a question of law, i.e., lack of jurisdiction, provided there was a trial, the case may not be remanded to the inferior court.**
>
> In the case at bar, there was a trial upon the issue as to whether or not the plaintiffs should be entitled to recover. **Even if the**

> **defendants did not present their evidence for the reason that the court found that the plaintiffs had failed to establish a cause of action, it does not mean thereby that the case was terminated on a question of law, and that there was no valid trial upon the merits.** There was a valid trial, only that the court found that the trial was of no advantage to the plaintiffs, because they failed to prove the facts necessary to entitle them to recover. **The mere fact that the defendant did not present his evidence, because the court found it unnecessary, is no reason for holding that there was no valid trial at all.** As the trial on the merits was held, no matter what the result thereof may have been, whether the court rendered judgment for plaintiff or absolved the defendant or denied the remedy to the plaintiff, **as the court has considered the evidence on the merits of the case, there was a valid trial on the merits within the meaning of section 10, Rule 40 of the Rules of Court, and the case may not be remanded for trial.**
>
> It will be noted that the purpose of section 10 of Rule 40 is to prohibit the trial of a case originating from an inferior court by the Court of First Instance on appeal, without the said inferior court having previously tried the case on the merits. If there was no such trial on the merits, the trial in the Court of First Instance is premature, because the trial therein on appeal is a trial *de novo*, a new trial. There can not be a new trial unless a trial was already held in the court below. It might happen that after the trial on the merits in the lower court the parties may be satisfied with is judgment. **So the evident purpose of the rule is to give the opportunity to the inferior court to true the case first upon the merits, and only thereafter should be Court of First Instance be allowed to retry the case, or to conduct another trial thereof on the merits.**
>
> For the foregoing considerations, the order appealed from should be, as it is hereby, reversed, and the **Court of First Instance of Cavite is hereby ordered to proceed with the trial of the case by virtue of its appellate jurisdiction.**[11] (Emphasis and underscoring supplied)

To reiterate, I find no basis for the *ponencia*'s conclusion that this Court is precluded from resolving the case on the merits. Not only does the record contain sufficient evidence for this Court's consideration, but, more importantly, the court *a quo* had, in fact, adjudicated the case on the merits. Succinctly put, with due respect, the *ponencia* failed to take into account that the RTC of Davao City had, in its assailed Decision[12] and Order,[13] expressly evaluated the very evidence whose authenticity and admissibility had been stipulated by the parties.

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[11] *Algarin v. Navarro*, G.R. No. L-5257, April 14, 1954 [Per J. Labrador, *En Banc*].
[12] USB, Annex "A," Division Docket, pp. 53-59.
[13] *Id.*, Annex "B."

Third, considering that the RTC of Davao City had already tried on the merits, it falls squarely within this Court's appellate jurisdiction under Section 7(a)(3) of the Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282,[14] pursuant to Rule 43 of the Rules of Court,[15] to undertake a review thereof. In like manner, in *Sioland Development Corp. v. Fair Distribution Center Corp.*,[16] the Supreme Court held that the Court of Appeals acted well within its authority when it proceeded to make the necessary factual determinations, the appeal having been brought before it under Rule 41 of the Rules of Court, which empowers it to resolve not only questions of law but also those involving fact, or mixture of both. This course of action ensured that the disposition of the case would not be needlessly delayed. Thus:

> To reiterate, petitioner's failure to present its own evidence was due to its own omissions. Remanding the present case would not promote the ends of justice, and is thus, not necessary. Furthermore, **the CA correctly took it upon itself to make the necessary factual findings, considering that the appeal was filed under Rule 41 of the Rules of Court where it has the authority to resolve questions of fact or mixed questions of fact and of law, to prevent further delay in the expeditious resolution of the case.** Hence, contrary to petitioner's submission, **the CA was not obligated to remand the case to the RTC**. Relatedly, petitioner cannot also claim that the CA "cured" or "validated" the void RTC Decision as the CA embarked on its own determination of the merits of respondent's claims, albeit arriving at the same conclusion as the RTC.[17] (Emphasis supplied)

It bears emphasis that, in this case, had the Court in Division deemed it necessary to further clarify the factual and/or legal issues, it was well within its authority to conduct a trial-type hearing, consonant with its power under Rule 43 of the Rules of Court to resolve questions of fact and/or of law. Significantly, however, in its *Resolution* dated March 24, 2023[18] and June 22, 2023,[19] the Court in Division itself concluded that such a hearing was not warranted. Instead, it expressly

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[14] Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282, Section 7(a)(3) provides:

"Sec. 7. Jurisdiction. - The CTA shall exercise:

"a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x

"3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction; x x x

[15] Revised Rules of the Court of Tax Appeals, Rule 8, Section 4(c).

[16] G.R. No. 199539, August 09, 2023 [Per C.J. Gesmundo, First Division].

[17] *Sioland Development Corp. v. Fair Distribution Center Corp.*, G.R. No. 199539, August 09, 2023 [Per C.J. Gesmundo, First Division].

[18] Division Docket, p. 86.

[19] *Id.* at 201.

directed the parties to submit their respective memoranda, after which the Petition for Review would be deemed submitted for resolution.

This demonstrates, in no uncertain terms, that the Court in Division did not consider the conduct of a trial-type hearing indispensable to the resolution of the case. Simply put, the Court recognized that the pleadings and submissions of the parties were sufficient for it to discharge its appellate function of reviewing the assailed Decision[20] and Order[21] of the RTC, together with the evidence upon which those rulings were based.

Notably, in *Spouses Lorbes v. Court of Appeals*,[22] the Supreme Court declined to remand the case to the trial court notwithstanding that the private respondents, having been declared in default, failed to file an answer and present their own evidence before the RTC. The Supreme Court held that a remand was unwarranted, as the affirmative defenses and pertinent evidence had already been adequately ventilated and judiciously resolved at the appellate level, *viz.*:

> Under the factual milieu of this case, the RTC was indeed remiss in denying private respondents' motion to lift the order of default and to strike out the evidence presented by petitioners *ex parte*, especially considering that an answer was filed, though out of time. We thus sustain the holding of the Court of Appeals that the default order of the RTC was immoderate and in violation of private respondents' due process rights. However, **we do not think that the violation was of a degree as to justify a remand of the proceedings to the trial court, first, because such relief was not prayed for by private respondents, and second, because the affirmative defenses and evidence that private respondents would have presented before the RTC were capably ventilated before respondent court, and were taken into account by the latter in reviewing the correctness of the evaluation of petitioners' evidence by the RTC and ultimately, in reversing the decision of the RTC.** This is evident from the discussions in the decision of the Court of Appeals, which cited with approval a number of private respondents' arguments and evidence, including the documents annexed to their opposition to the issuance of a writ of preliminary injunction filed with the RTC. To emphasize, the reversal of respondent court was not simply on due process grounds but on the merits, going into the issue of whether the transaction was one of equitable mortgage or of sale, and so we find that we can properly take cognizance of the substantive issue in this case, while of course bearing in mind the inordinate manner by which the RTC issued its default order.[23] (Emphasis supplied)

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[20] *Supra* note 12.
[21] *Supra* note 13.
[22] G.R. No. 139884, February 15, 2001 [Per J. Gonzaga-Reyes, Third Division].
[23] *Spouses Lorbes v. Court of Appeals*, G.R. No. 139884, February 15, 2001 [Per J. Gonzaga-Reyes, Third Division].

Finally, in *Gokongwei, Jr. v. Securities and Exchange Commission,*[24] the Supreme Court emphasized that courts must, as a rule, endeavor to resolve the entire controversy within a single proceeding, leaving no root or branch from which future litigation may arise. Accordingly, remand to the court *a quo* is unwarranted where: *(1)* the ends of justice would not be served thereby; *(2)* public interest calls for the early disposition of the case; or *(3)* the trial court has already received and considered the evidence of the parties, such that the reviewing court is in a position to resolve the case on the merits. In that case, the Supreme Court declared:

> It is an accepted rule of procedure that the Supreme Court **should always strive to settle the entire controversy in a single proceeding, leaving no root or branch to bear the seeds of future litigation.** Thus, in *Francisco v. City of Davao,* this Court resolved to decide the case on the merits instead of remanding it to the trial court for further proceedings since the ends of justice would not be subserved by the remand of the case. In *Republic v. Security Credit and Acceptance Corporation, et al.,* this Court, finding that the main issue is one of law, resolved to decide the case on the merits "because public interest demands an early disposition of the case", and in *Republic v. Central Surety and Insurance Company,* this Court denied remand of the third-party complaint to the trial court for further proceedings, citing precedents where this Court, in similar situations, **resolved to decide the cases on the merits, instead of remanding them to the trial court where (a) the ends of justice would not be subserved by the remand of the case; or (b) where public interest demands an early disposition of the case; or (c) where the trial court had already received all the evidence presented by both parties and the Supreme Court is now in a position, based upon said evidence, to decide the case on its merits.**[25] x x x (Emphasis supplied; citations omitted)

There is, to my mind, no justifiable reason why this long-settled principle should not equally govern the case at bar. The *ponencia* would remand the case to the RTC "for the presentation of evidence to determine the factual and legal issues involved."[26] However, these very matters had already been definitively addressed by the RTC of Davao City in the above-cited Order,[27] where it: *(1)* confined the issues to purely legal questions; and *(2)* categorically held that testimonial evidence was unnecessary for their resolution. Thus, it is beyond cavil that the matters which the *ponencia* now seeks to reopen through remand had, in fact, already been passed upon by the court *a quo*.

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[24] G.R. No. L-45911, April 11, 1979 [Per J. Antonio, *En Banc*].
[25] *Gokongwei, Jr. v. Securities and Exchange Commission,* G.R. No. L-45911, April 11, 1979 [Per J. Antonio, *En Banc*].
[26] Decision, p. 11.
[27] *Supra* note 4.

A remand under these circumstances serves no legitimate purpose other than to unduly protract the proceedings and needlessly delay the final disposition of the case.

In sum, I am of the considered view that the proper course of action is not to remand, but for this Court to resolve the case on the merits, by reviewing the correctness of the RTC's assailed Decision[28] and Order[29] in light of the evidence on record. To do less would be to abdicate Our judicial duty in favor of procedural formalism at the cost of substantial justice. Accordingly, I shall undertake to address this matter in the discussion that follows.

The court a quo erred in ruling that petitioner is liable for LBT on its Davao warehouse activities, which formed the basis of respondent's 2020 and 2021 assessments

The sole issue that confronts this Court for determination is as follows:

> WHETHER THE COURT *A QUO* CORRECTLY RULED THAT PETITIONER IS LIABLE FOR LOCAL BUSINESS TAXES FOR ITS ACTIVITIES IN THE DAVAO WAREHOUSE, WHICH WAS THE BASIS OF RESPONDENTS' 2020 AND 2021 ASSESSMENTS FOR DEFICIENCY TAXES AGAINST PETITIONER.[30]

The court *a quo*, in upholding petitioner's supposed liability for LBT for taxable years (TYs) 2020 and 2021, anchored its ruling primarily on Davao City Ordinance No. 02917-17, Series of 2017, An Ordinance Amending the 2005 Revenue Code of the City of Davao, Otherwise Known as the 2017 Revenue Code of the City of Davao[31] (2017 Davao City Revenue Code). In particular, the RTC of Davao City relied on sub-paragraph 2, paragraph (b), Section 79 thereof, which provides:

> SECTION 79. *Situs of the Tax.*—
>
> x x x

[28] *Supra* note 12.
[29] *Supra* note 13.
[30] Division Docket, p. 24.
[31] October 09, 2017.

2. If the business concerned has no branch office or sales outlet in Davao City, the sale or transaction may be recorded in the place where the principal office of the said business is located. The taxes, however, shall accrue and be paid to Davao City where the sale or transaction was made or consummated, associated with the delivery of the articles, commodities or things which are the subject matter of the contract of sale.

On this basis, the court *a quo* concluded that, notwithstanding the fact that petitioner's sales invoices uniformly bear the heading-address of its principal office at the 6th Floor Corinthian Plaza, Paseo de Roxas, Makati City, the sales transactions were in truth effected and consummated in Davao City, as evidenced by the subsequent delivery of the goods therein and the sales invoices presented in support thereof.

In addition, the RTC of Davao City held that the respondent City Treasurer merely relied on petitioner's own declaration of "gross sales" in the course of renewing its business permit, as reflected in the Business Tax Orders of Payment issued by the City Treasurer's Office of the City of Davao. Consequently, the court *a quo* pronounced that petitioner is now barred, by the doctrine of estoppel, from repudiating the existence of sales transactions in Davao City.

A judicious scrutiny of the foregoing, together with the evidence on which the assailed rulings were anchored, compels the conclusion that the court *a quo* gravely erred in its determination.

The Court may not take judicial notice of an ordinance not fully presented in evidence

Notably, nowhere in the records is there any evidence showing that any of the parties, especially the respondent, presented the full text or the relevant provision of the 2017 Davao City Revenue Code. In the recent *En Banc* case of *Quezon City Government v. Manila Seedling Bank Foundation, Inc.*,[32] the Supreme Court held that ordinances are not among the matters subject to mandatory judicial notice under Section 1, Rule 129 of the Rules of Court. Even when there is a statute which requires courts sitting in a city to take judicial notice of its ordinances, this does not oblige the Court to procure a copy of the ordinance on its own. The duty to present the full text rests on the party invoking it. Thus:

[32] G.R. Nos. 208788 & 228284, July 23, 2024 [Per J. Hernando, *En Banc*].

Preliminarily, We note that **the records are bereft of any evidence of the full text or any part of the assailed Zoning Ordinance**. An ordinance or a part of it is not included in the enumeration of matters covered by mandatory judicial notice under the 1997 Rules of Court, specifically under Rule 129, Sec. 1. Even with the enactment of Republic Act No. 409, in which Sec. 50 thereof states that "[a]ll courts sitting in the city shall take judicial notice of the ordinances passed by the *[Sangguniang Panlungsod]*," **this does not mean that this Court, which has a seat in Quezon City, should procure a copy of the ordinance on its own, which is the duty of the party.**

Neither is the court *a quo* required to take judicial notice of municipal or city ordinances that are not before it, and to which it does not have access. The intent of Republic Act No. 409 is to remove any discretion a court might have in determining whether to take notice of an ordinance, and *not to direct the court to act on its own in obtaining evidence for the record.* **<u>It is the obligation of the party to supply the court with the full text or any part of the ordinance if they so desire for the court to take cognizance thereof.</u>** Thus, we held in *Social Justice Society v. Atienza, Jr.*:

> 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 under [Rule 129, Sec. 1], of the Rules of Court.
>
> Although, Section 50 of [Republic Act No.] 409 provides that:
>
>> SEC. 50. Judicial notice of ordinances. — All courts sitting in the city shall take judicial notice of the ordinances passed by the *[Sangguniang Panlungsod]*.
>
> this cannot be taken to mean that this Court, since it has its seat in the City of Manila, should have taken steps to procure a copy of the ordinance on its own, relieving the party of any duty to inform the Court about it.
>
> *Even where there is a statute that requires a court to take judicial notice of municipal ordinances, a court is not required to take judicial notice of ordinances that are not before it and to which it does not have access.* ***The party asking the court to take judicial notice is obligated to supply the court with the full text of the rules the party desires it to have notice of. Counsel should take the initiative in requesting that a trial court take judicial notice of an ordinance even where a statute requires courts to take judicial notice of local ordinances.***
>
> *The intent of a statute requiring a court to take judicial notice of a local ordinance is to remove any discretion a court might have in determining whether or not to take notice of an ordinance. Such a statute does not direct the court to act on its own in obtaining evidence for the record and a party must make the ordinance available to the court*

> *for it to take notice.*[33] (Emphasis supplied; citations omitted)

The Davao warehouse neither accepts orders nor issues sales invoices

Even assuming *arguendo* that such procedural lapse may be momentarily set aside, I am still constrained to find that the court *a quo* nonetheless erred in holding petitioner liable for the subject assessments. In this regard, I turn to a careful examination of the purported taxability of petitioner's warehouse in Davao City (Davao warehouse), guided by the controlling provisions of Section 150 of the Local Government Code (LGC), which reads:

> **Section 150.** *Situs of the Tax.* –
>
> (a) For purposes of collection of the taxes under Section 143 of this Code, <u>**manufacturers**</u>, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, contractors, banks and other financial institutions, and other businesses, **maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and <u>the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located</u>. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, <u>the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality</u>.** (Emphasis and underscoring supplied)

Said statutory mandate finds concrete application in Section 243 (a) and (b) of the Administrative Order No. 270, or the Implementing Rules and Regulations (IRR) of the LGC, which provides:

> Article 243. *Situs of the Tax.* — (a) Definition of Terms —
>
> (1) ***Principal Office*** — the head or main office of the business appearing in the pertinent documents submitted to the Securities and Exchange Commission, or the Department of Trade or Industry, or other appropriate agencies, as the case may be.

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[33] *Quezon City Government v. Manila Seedling Bank Foundation, Inc.*, G.R. Nos. 208788 & 228284, July 23, 2024 [Per J. Hernando, *En Banc*]; Emphasis supplied; citations omitted.

> **The city or municipality specifically mentioned in the articles of incorporation of official registration papers as being the official address of said principal office shall be considered as the situs thereof.**
>
> x x x
>
> (2) ***Branch or Sales Office*** — a fixed place in a locality which conducts operations of the business as an extension of the principal office. Offices used only as display areas of the products where no stocks or items are stored for sale, although orders for the products may be received thereat, are not branch or sales offices as herein contemplated. **A warehouse which accepts orders and/or issues sales invoices independent of a branch with sales office shall be considered as a sales office.**
>
> (3) ***Warehouse*** — a building utilized for the storage of products for sale and from which goods or merchandise are withdrawn for delivery to customers or dealers, or by persons acting in behalf of the business. **A warehouse that does not accept orders and/or issue sales invoices as aforementioned shall not be considered a branch or sales office.**
>
> x x x
>
> (b) Sales Allocation —
>
> (1) **All sales made in a locality where there is a branch or sales office or warehouse shall be recorded in said branch or sales office or warehouse and the tax shall be payable to the city or municipality where the same is located.**
>
> (2) In cases where there is no such branch, sales office, or warehouse in the locality where the sale is made, the sale shall be recorded in the principal office along with the sales made by said principal office and the tax shall accrue to the city or municipality where said principal office is located. (Emphasis supplied)

From the foregoing framework, it is evident that, as a general rule, the situs of the LBT is fixed with the city or municipality where the taxpayer, such as a manufacturer, maintains its principal office—that address formally stated in its articles of incorporation or other official registration documents. By way of exception, however, when sales or transactions are effected through a branch or sales outlet situated in another locality, the corresponding business tax is attributable to such latter city or municipality. The IRR of the LGC further elucidates that a warehouse, ordinarily intended as a mere storage facility from which goods are withdrawn for delivery to customers, assumes the character of a sales office if it accepts orders and/or issues sales invoices, in which case the tax liability properly accrues to the city or municipality where said warehouse is located.

The pivotal issue for resolution is whether the Davao warehouse partakes of the character of a branch or sales office for purposes of LBT. To so qualify, it must be affirmatively established that, during the period in question, petitioner in fact conducted business therein—that is, that within such fixed place or establishment, trade or commercial activity was habitually pursued by petitioner as a means of livelihood or with intent to derive profit,[34] whether by the acceptance of orders and/or the issuance of sales invoices.

On this score, I am of the considered view that the proper conclusion must be in the negative.

As clearly articulated under Article 243 of the IRR of the LGC, a **branch or sales office** is defined as a fixed place in a locality which conducts operations of the business as an extension of the principal office, whereas a **warehouse** is generally merely a building utilized for the storage of products for sale and from which goods or merchandise are withdrawn for delivery to customers or dealers, or by persons acting on behalf of the business. By such definition, a warehouse may partake of the character of a sales office only when it is, in fact, a fixed establishment where taxable business activity is conducted. Conversely, where the warehouse neither accepts orders nor issues sales invoices, it cannot, by any fair construction, be deemed a branch or sales office for purposes of LBT.

Here, petitioner avers that its Davao warehouse is situated at Wooden Door Beside #4, CLC Complex, C.P. Garcia Highway, Barangay Panacan, Bunawan District, Davao City.[35] Notably, this very address was made the basis of respondent City Treasurer's assessments through the Tax Orders of Payment dated January 17, 2020[36] and April 19, 2021,[37] whereby petitioner was directed to remit LBTs for TYs 2020 and 2021, respectively.

It therefore becomes imperative to ascertain whether the Davao warehouse performed the essential acts of accepting orders and/or issuing sales invoices.

First, from both the allegations of the parties and the evidence on record, it is beyond cavil that **the Davao warehouse does not issue sales invoices**. Indeed, the court *a quo* itself acknowledged

[34] Local Government Code, Section 131(d).
[35] Division Docket, p. 8, par. 9.
[36] USB, Annex "P."
[37] *Id.*, Annex "W."

that the invoices of petitioner uniformly bear the heading-address of its principal office at the 6th Floor Corinthian Plaza, Paseo de Roxas, Makati City—the same address reflected in petitioner's Amended Articles of Incorporation dated January 26, 2021.[38]

Second, on the question of whether the Davao warehouse accepts orders, it becomes necessary to examine the Contract Standalone for Procurement Services[39] executed between petitioner and ADSIA Logistics, Inc. (ADSIA), a third-party provider duly engaged by petitioner for the specific purpose of providing warehousing and distribution services in Davao City.

In this regard, Schedule 3.3 Specifications (Key Activities Handled by Supplier), particularly Item No. 4[40] thereof, explicitly delineates the scope of services to be performed by ADSIA in connection with order picking and outbound logistics, as follows:

> **4. Order picking, pre-assembly and outbound**
>
> i. SUPPLIER shall receive the orders from ALASKA MILK CORPORATION Sales Administrative Team (or Sales Order Desk) via SAP system on a daily basis by 4 pm.
> ii. Pick list shall then be generated according to FEFO (for items with expiry dates) then by FIFO (for items without expiry date) and with preference given to outstation followed by local delivery.
> iii. SUPPLIER must be ready and have capacity to accommodate any urgent/ ad hoc shipment requirement as advised by ALASKA MILK CORPORATION.
> iv. SUPPLIER shall perform quality and quantity checks to ensure that the KPI for picking accuracy levels are achieved.
> v. SUPPLIER should deliver to locations specified by ALASKA MILK CORPORATION, such as customers' warehouses, outlets, etc. within the agreed delivery dates and lead times.
> vi. Delivery activities should follow the instruction from ALASKA MILK CORPORATION including delivery window and unloading instruction.
> vii. All deliveries should be supported by POD (proof of delivery). SUPPLIER should keep copies to return to AMC office or plant. In the absence of POD, total goods will be deemed lost and shall be charged to the SUPPLIER at List Price to Trade (LPT).
> viii. Deliverymen should be appropriately dressed, be polite and helpful and in full compliance to the requirements of AMC.

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[38] USB, Annex "E."
[39] *Id.*, Annex "F."
[40] *Id.* at 13.

Evidently, nothing in the foregoing stipulations demonstrates that the Davao warehouse is vested with the authority to accept orders. Neither does it issue sales invoices. Absent these essential attributes, the warehouse cannot, by any fair or reasonable construction, be deemed a branch or sales office for purposes of the imposition of LBT. Accordingly, the situs of taxation must remain with the petitioner's principal office in Makati, such that all business activities involving goods merely stored in and dispatched from the Davao warehouse are taxable solely by the local government of Makati City.

Third, the respondent has failed to adduce any evidence to controvert petitioner's position. No showing whatsoever has been made that the Davao warehouse has issued sales invoices or accepted orders. This material point was likewise left unaddressed in the assailed Decision[41] of the court *a quo*. Instead, both the respondent Treasurer—in his *Comment*[42] and Notices of Denial dated March 05, 2020[43] and April 21, 2021[44]—and the RTC of Davao City, in its assailed Decision,[45] mainly relied upon the 2017 Davao City Revenue Code, a local issuance which, as earlier explained, cannot be the subject of judicial notice.

The 2017 Davao City Revenue Code cannot serve as a valid basis for the LBT assessment, as it conflicts with the LGC and its IRR

Nevertheless, even granting, for the sake of argument, that this Court may properly take judicial notice of the 2017 Davao City Revenue Code, I remain of the humble view that the court *a quo* committed reversible error in invoking the same as a legal basis, for it stands in direct conflict with the clear provisions of the LGC and its IRR.

For clarity and precision, I reproduce below a comparative presentation of the LGC, its IRR, and the contested Davao City Ordinance.

LGC	**IRR of LGC**	**2017 Davao City Revenue Code**
Section 150. *Situs of the Tax.* –	ARTICLE 243. *Situs of the Tax.* — (a) *Definition of Terms* —	SECTION 79. *Situs of the Tax.*—

[41] *Supra* note 12.
[42] Division Docket, pp. 93-96.
[43] USB, Annex "S."
[44] *Id.*, Annex "Y."
[45] *Supra* note 12.

(a) For purposes of collection of the taxes under Section 143 of this Code, manufacturers, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, contractors, banks and other financial institutions, and other businesses, **maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet <u>making the sale or transaction</u>, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located.** In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality. (Emphasis and underscoring supplied)	(1) *Principal Office* – the head or main office of the business appearing in the pertinent documents submitted to the Securities and Exchange Commission, or the Department of Trade and Industry, or other appropriate agencies, as the case may be. The city or municipality specifically mentioned in the articles of incorporation of official registration papers as being the official address of said principal office shall be considered as the situs thereof. x x x (2) *Branch or Sales Office* – a fixed place in a locality which conducts operations of the business as an extension of the principal office. Offices used only as display areas of the products where no stocks or items are stored for sale, although orders for the products may be received thereat, are not branch or sales offices as herein contemplated. **A warehouse <u>which accepts orders and/or issues sales invoices</u> independent of a branch with sales office shall be considered as a sales office.** (3) *Warehouse* – a building utilized for the storage of products for	(a) For purposes of collection of the business tax under the "situs" of the tax law, the following definition of terms and guidelines shall be strictly observed: 1. The city or municipality specifically mentioned in the Articles of Incorporation or official registration papers as being the official address or said principal office shall be considered as the situs thereof. x x x 2. Branch or Sales Office – a fixed place in a locality which conducts operations of the businesses as an extension of the principal office. **A warehouse <u>which accepts orders and/or issues sales invoices</u> independent of a branch with sales office shall be considered as a sales office.** 3. Warehouse – a building utilized for the storage of products for sale, from which goods or merchandise are withdrawn for delivery to customers or dealers, or by persons acting on behalf of the business. **A warehouse that <u>does not accept orders and/or issue sales invoices</u> as aforementioned shall not be considered a branch or sales office.** x x x (b) Sales Allocation

	sale and from which goods or merchandise are withdrawn for delivery to customers or dealers, or by persons acting in behalf of the business. **A warehouse that does not accept orders and/or issue sales invoices as aforementioned shall not be considered a branch or sales office.** x x x (b) *Sales Allocation —* (1) **All sales made in a locality where there is a branch or sales office or warehouse shall be recorded in said branch or sales office or warehouse** and the tax shall be payable to the city or municipality where the same is located. (2) **In cases where there is no such branch, sales office, or warehouse in the locality where the sale is made,** the sale **shall be recorded in the principal office** along with the sales made by said principal office and **the tax shall accrue to the city or municipality where said principal office is located**. (Emphasis and underscoring supplied)	1. **All sales made in Davao City where there is branch or sales office or warehouse** shall be recorded in said branch or sales office or warehouse and the tax shall be payable to the City where the same is located. 2. **If the business concerned has no branch office or sales outlet in Davao City,** the sale or transaction **may be recorded in the place where the principal office** of the said business is located. **The taxes, however, shall accrue and be paid to Davao City where the sale or transaction was made or consummated, associated with the delivery of the articles, commodities or things which are the subject matter of the contract of sale.** (Emphasis and underscoring supplied)

It bears reiterating, and as can be gleaned from the foregoing, that the crucial factor under the LGC is **whether the branch or sales outlet makes the sale or transaction**. Where such is the case, the resulting tax obligation indisputably accrues to, and must be remitted in favor of, the city or municipality where the branch or sales outlet is established. The IRR on *Sales Allocation*, merely reaffirms this statutory rule: when sales are made in the locality where a branch, sales office, or warehouse—which is deemed a branch or sales office—operates, such transactions must be recorded therein, and the corresponding tax becomes payable to the city or municipality of that situs. Conversely, where there exists no branch, sales office, or warehouse where the sale is made, the transaction must be recorded in the principal office, and the attendant tax shall accrue exclusively to the city or municipality of the principal office.

In stark contrast, the 2017 Davao City Revenue Code introduces a provision which unmistakably departs from the mandate of the LGC. Item No. 1 of its *Sales Allocation* provision appears to conform with the law in requiring that sales transacted in a branch, sales office, or warehouse, located within Davao City be recorded there, and the tax paid to the same city. The divergence, however, arises under Item No. 2. While its first sentence recognized that, in the absence of a branch or sales outlet in Davao City, sales must be recorded in the principal office—presumably situated elsewhere—it nevertheless compels that taxes should still accrue to Davao City, solely on the basis that the **sale or transaction was made <u>or consummated, associated with the delivery of articles, commodities or things</u>** within its territorial jurisdiction. This formulation is not a mere variance but a direct contravention of the LGC and its IRR, for it arrogates unto its city a taxing authority beyond that granted by law.

To dispel any doubt, I deem it imperative to highlight the material inconsistencies in the provisions on *Sales Allocation*, which I set forth below.

IRR of LGC	**2017 Davao City Revenue Code**
A. Sales made in a branch, sales office, or warehouse	A. Sales made in Davao City where there is a branch, sales office, or warehouse
i. Recorded in the branch, sales office, or warehouse; and ii. Tax shall be payable to the city or municipality where the branch, sales office, or warehouse is located	i. Recorded in the branch, sales office, or warehouse located in Davao City; and ii. Tax shall be payable to the Davao City where the branch, sales office, or warehouse is located

B. No branch, sales office, or warehouse in the locality where the sale is made	C. No branch, sales office, or warehouse in Davao City where the sale is made
i. **<u>Shall</u> be recorded** in the **principal office**; and ii. **Tax shall be payable to the city or municipality where said <u>principal office</u> is located.**	i. **<u>May</u> be recorded** in the **principal office**; and ii. **Tax shall be payable to <u>Davao City</u>, where the sale or transaction was made <u>or consummated, associated with the delivery of the articles, commodities or things</u>** which are the subject matter of the contract of sale

It is evident that the 2017 Davao City Revenue Code impermissibly exceeds the bounds set by, or expands, the LGC and its IRR. While it appears to recognize that sales may be recorded in the principal office where no branch, sales office, or warehouse exists in Davao City, it nonetheless compels the payment of taxes to Davao City not only where a sale is actually perfected, but also whenever a transaction is deemed consummated in connection with the delivery of goods. Such a construction cannot be sustained. It produces the untenable result wherein sales duly recorded in the principal office are still subjected to LBT in Davao City—a jurisdiction where no sales transaction was ever perfected, but which merely served as the point of dispatch. In practical effect, this exposes the taxpayer to a dual burden: *first*, to the city or municipality of the principal office, where the sale is in fact made, and *second*, to Davao City, where the goods are delivered. This situation finds no sanction in the LGC, which has already definitively and exclusively delineated the situs of taxation. Any deviation therefrom is patently inconsistent with both the LGC and its IRR, and therefore cannot be countenanced.

The records unmistakably reveal that respondent was not only cognizant of the inconsistency between the IRR of the LGC and the 2017 Davao City Revenue Code, but also conveniently invoked such conflict to its advantage. This is evidenced by the Notices of Denial dated March 05, 2020[46] and April 21, 2021,[47] both issued by then

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[46] *Supra* note 43.
[47] *Supra* note 44.

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Acting City Treasurer Atty. Lawrence D. Bantiding (Atty. Bantiding), which pertinently state:

> Additionally, assuming that as per your contention, the warehouse of Alaska Milk situated in Davao City is not considered as a branch/sales office after applying Section 243 of the Implementing Rules and Regulations of the Local Government Code, the taxes shall still accrue to the City Government of Davao for sales or transaction which are made or consummated herein pursuant to Section 79 (b) par. 2 of the 2017 Revenue Code of Davao City, to wit:
>
>> Section 79. Situs of Tax. xxxx
>>
>> (b) xxxx
>>
>> 2. If the business concerned has no branch office or sales outlet in Davao City, the sale or transaction may be recorded in the place where the principal office of the said business is located. **The taxes, however, shall accrue and be paid to Davao City where the sale or transaction was made or consummated, associated with the delivery of the articles, commodities or things which are the subject matter of the contract of sale.**
>
> A contract of sale is consummated once both parties to the contract has complied with their respective obligations, which are to deliver the goods and the other, to pay. In this case, it is our considered view that the transactions made by your company to Davao City customers or consumers are consummated herein. Obviously, the goods delivered to the said customers emanate from your warehouse situated in the City. Accordingly, all sales or transactions consummated in Davao City are subject to local business tax herein.

Settled is the rule that local ordinances must not contravene existing statutes enacted by Congress, such as the LGC, for Local Government Units (LGUs) derive their legislative authority solely from a valid delegation of legislative power granted by the national legislature. In this regard, LGUs are not autonomous sovereigns, but merely agents vested with subordinate legislative authority. As the Supreme Court has held:

> LGUs are able to legislate only by virtue of a valid delegation of legislative power from the national legislature; they are mere agents vested with what is called the power of subordinate legislation. "Congress enacted the LGC as the implementing law for the delegation to the various LGUs of the State's great powers, namely: the police power, the power of eminent domain, and the power of taxation. The LGC was fashioned to delineate the specific parameters and limitations to be complied with by each LGU in the exercise of these delegated powers with the view of making each LGU a fully functioning subdivision of the State subject to the constitutional and statutory limitations."

x x x

> Indeed, LGUs have no inherent power to tax except to the extent that such power might be *delegated* to them either by the basic law or by the statute. "Under the now prevailing Constitution, where there is neither a grant nor a prohibition by *statute*, the tax power must be deemed to exist although Congress may provide statutory limitations and guidelines. The basic *rationale* for the current rule is to safeguard the viability and self-sufficiency of local government units by directly granting them general and broad tax powers. Nevertheless, the fundamental law did not intend the delegation to be absolute and unconditional; the constitutional objective obviously is to ensure that, while the local government units are being strengthened and made more autonomous, the legislature must still see to it that (a) the taxpayer will not be over-burdened or saddled with multiple and unreasonable impositions; (b) each local government unit will have its fair share of available resources; (c) the resources of the national government will not be unduly disturbed; and (d) local taxation will be fair, uniform, and just."[48] (Citations omitted)

Accordingly, in *Batangas CATV, Inc. v. Court of Appeals*,[49] the Supreme Court unequivocally held that municipal ordinances are subordinate to national legislation. Any ordinance that conflicts with, contravenes, or is inconsistent with a general law is invalid.

> It is a fundamental principle that **municipal ordinances are inferior in status and subordinate to the laws of the state. An ordinance in conflict with a state law of general character and statewide application is universally held to be invalid.** The principle is frequently expressed in the declaration that municipal authorities, under a general grant of power, cannot adopt ordinances which infringe the spirit of a state law or repugnant to the general policy of the state. In every power to pass ordinances given to a municipality, there is an implied restriction that the ordinances shall be consistent with the general law.[50] (Emphasis supplied; citations omitted)

Adhering to the hierarchy of legal rules—municipal ordinances are inferior in status and subordinate to the laws of the State, in case of conflict between an ordinance and a statute, the ordinance must be set side.[51] Thus, the provision of the 2017 Davao City Revenue Code directing the tax to accrue to Davao City based on the consummation of the sale or transaction, associated with the delivery of the goods, is clearly inconsistent with the LGC and its IRR, and must therefore be set aside. It necessarily follows that the assessments for TYs 2020 and

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[48] *Ferrer, Jr. v. Bautista*, G.R. No. 210551 , June 30, 2015 [Per J. Peralta, *En Banc*].
[49] G.R. No. 138810, September 29, 2004 [Per J. Sandoval-Gutierrez, *En Banc*].
[50] *Batangas CATV, Inc. v. Court of Appeals*, G.R. No. 138810, September 29, 2004 [Per J. Sandoval-Gutierrez, *En Banc*].
[51] *Municipality of Tupi v. Faustino*, G.R. No. 231896, August 20, 2019 [Per J. Lazaro-Javier, *En Banc*].

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2021, which rest primarily on this infirm provision, are without legal basis and should be declared null and void.

The doctrine of estoppel holds no application against petitioner

With respect to the contention that petitioner is estopped by its alleged declaration of gross sales generated in Davao City, as purportedly reflected in the "Gross Sales" column of the Business Tax Orders of Payment issued by the City Treasurer of Davao City, this assertion is entirely belied by the evidence of record.

First, it is worth noting that the document relied upon by the court *a quo* (*i.e.,* Tax Order of Payment dated January 17, 2020[52]), upon which it predicates petitioner's alleged estoppel with respect to gross sales generated by its Davao warehouse is, in fact, an issuance of the respondent Office of the City Treasurer, and not a declaration made by petitioner itself.

Second, as early as April 15, 2019, petitioner formally notified the then City Treasurer of Davao City, through a Letter,[53] that while it had been remitting business taxes to Davao City purportedly based on "sales" generated by its Davao warehouse, the City of Makati had brought to its attention the provisions of Section 150 of the LGC. Although initially disputed, petitioner, after consultation with its legal counsels, reached an agreement with Makati City in accordance with Section 150 of the LGC. Consequently, petitioner requested the Office of the City Treasurer of Davao City to permit an amendment of its prior declaration of gross sales and to issue an amended assessment of business tax payable for 2018, if any. Petitioner further explained that, under the relevant provisions of the LGC, no business tax was due from its Davao warehouse, as it neither accepts orders nor issues sales invoices—activities conducted exclusively at its principal office in Makati City.

Third, the Tax Order of Payment dated January 17, 2020[54] (2020 Assessment) was paid under protest, as evidenced by its Protest Letter dated January 20, 2020,[55] and Supplemental Letter Protest dated January 30, 2020,[56] which were received by the respondent City

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[52] *Supra* note 9.
[53] USB, Annex "N."
[54] *Supra* note 36.
[55] USB, Annex "Q."
[56] *Id.*, Annex "R."

Treasurer on January 21[57] and 31,[58] 2020, respectively. The protest was ultimately denied by the then Acting City Treasurer, Atty. Bantiding, in his Notice of Denial dated March 05, 2020.[59]

Similarly, the Tax Order of Payment dated April 19, 2021[60] (2021 Assessment) was also paid under protest through petitioner's Protest Letter dated April 20, 2021,[61] which was received by the respondent on even date,[62] and was subsequently denied by the same Acting Treasurer, Atty. Bantiding, in his Notice of Denial dated April 21, 2021.[63]

In *Commissioner of Internal Revenue v. Yumex Philippines Corp.*,[64] the Supreme Court recognized that the mere payment of taxes cannot, by itself, be construed as a waiver of the taxpayer's right to challenge the validity of the assessment, particularly where the taxpayer has consistently lodged protests against it.

> Neither does the payment by respondent of the other items in the FLD/FAN, particularly, the basic deficiency income and fringe benefits taxes and compromise penalty, preclude it from questioning the validity of the issuance of the assessment notices. The manner by which the assessment is issued is a distinct matter in itself from the contents of the assessment. **Respondent's voluntary payment, while it may be viewed as acknowledgement of its tax deficiencies for some of the assessed items, is not necessarily an outright waiver of its right to question the impropriety of the issuance of the assessment notices, especially in this case wherein respondent consistently protested the IAET assessment against it.** The fact that respondent's right to due process was violated because it was denied the opportunity to respond to the PAN remains glaringly evident and cannot be deemed erased or cured by respondent's volitional payment of other assessed items.[65] (Emphasis and underscoring supplied)

Fourth, the assertion that petitioner should be estopped by the "gross sales" it allegedly "voluntarily" and "intentionally" declared for the relevant taxable years is further refuted by the Certification dated April 19, 2021,[66] attached to petitioner's Protest Letter of April 20, 2021,[67] which was received by the then Assistant District Treasurer,

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[57] *Supra* note 55.
[58] *Supra* note 56.
[59] *Supra* note 43.
[60] *Supra* note 37.
[61] USB, Annex "X."
[62] *Ibid.*
[63] *Supra* note 44.
[64] G.R. No. 222476, May 05, 2021 [Per C.J. Gesmundo, First Division].
[65] *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, G.R. No. 222476, May 05, 2021 [Per C.J. Gesmundo, First Division].
[66] *Supra* note 61, p. 2.
[67] *Id.*

Virginia T. Gocela, on April 19, 2021.[68] The substance of this Certification is reproduced below.

> This is to certify that the Davao Warehouse of Alaska Milk Corporation (the Company) located at Wooden Door Beside Dr #4 CIc Complex Cp Garcia Highway Brgy. Panacan Davao City is a warehouse utilized purely for storage purposes where no sales were made, no orders were accepted, and no sales invoices are issued. As such, Davao Warehouse does not have gross sales for the year 2020.
>
> However, as per your request for the total sales value of the goods sold in Makati City which were withdrawn from Davao Warehouse, the Company is constrained to declare the following total sales value of the goods sold in Makati City which were stored and later withdrawn from its Davao Warehouse:
>
> **Year 2020:** PHP 590,666,869.41
>
> For clarity, the foregoing amount was already declared as part of the gross sales of the principal office in Makati City following the provisions set forth under the LGC and its implementing rules and regulations. Hence, the business tax due for the aforementioned sales was already included in 2021 business tax paid by the Company in Makati City.

While I am aware that no similar Certification was issued for TY 2020 payment under protest, pertaining to gross sales for 2019, I am nonetheless of the view that petitioner cannot be estopped by the alleged declaration of its 2019 gross sales. As discussed earlier, the Tax Order of Payment dated January 17, 2020[69] cannot serve as a basis for estoppel, precisely because it was issued by the respondent City Treasurer, not by petitioner, and especially when other documents on record demonstrate that the payment was made under protest. In the absence of any evidence showing that petitioner intentionally declared its 2019 gross sales for purposes of computing its LBT for TY 2020, the doctrine of estoppel cannot be invoked against petitioner in this case.

Finally, and in any event, insofar as a provision of the 2017 Davao City Revenue Code conflicts with the LGC and its IRR—the very foundation of the subject assessments—the doctrine of estoppel cannot be invoked to validate an act that is otherwise null and void or *ultra vires*. Estoppel cannot confer legality on an act prohibited by law or contrary to public policy.

> x x x As we have often said, the doctrine of estoppel is predicated on, and has its origin in, equity which, broadly defined, is justice according to natural law and right. As such, **the doctrine of estoppel cannot give validity to an act that is prohibited by**

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[68] *Ibid.*
[69] *Supra* note 36.

> **law or one that is against public policy.** It should be resorted to solely as a means of preventing injustice and should not be permitted to defeat the administration of the law, or to accomplish a wrong or secure an undue advantage, or to extend beyond the requirements of the transactions in which they originate. Simply put, the doctrine of estoppel must be sparingly applied.[70] (Emphasis supplied)

In fine, applying the clear mandate of Section 150 of the LGC and its IRR, and considering the uncontroverted evidence that the Davao warehouse neither issued sales invoices nor accepted orders for TYs 2020 and 2021, no valid levy or collection of LBT can be attributed to the said years.

All told, I vote to *(1)* **NOT REMAND** the case to the court *a quo*; and *(2)* **GRANT** the Petition.

HENRY S. ANGELES
Associate Justice

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[70] *Republic v. First Gas Power Corp.*, G.R. No. 214933, February 15, 2022 [Per J.Y. Lopez, First Division], citing *Commissioner of Internal Revenue v. Kudos Metal Corporation*, G.R. No. 178087, May 05, 2010 [Per J. Del Castillo, Second Division].