REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

ROYAL CARGO INC., *Petitioner,*	**CTA AC No. 270**
-versus-	*Members:* **BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
CITY TREASURER OF PARAÑAQUE CITY, *Respondent.*	Promulgated: FEB 27 2024 9:41 a.m.

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RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration (to the Decision dated December 13, 2023)* filed *via* courier and received by the Court on January 9, 2024, with petitioner's *Comment/Opposition* filed on January 29, 2024.

Respondent prays that the Court reverse and set aside its Decision dated December 13, 2023 (assailed Decision) and issue a new one dismissing the case on the ground of prescription. The *fallo* of the assailed Decision reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **GRANTED**. Accordingly, the Orders dated May 27, 2022, and July 18, 2022, respectively, of the Regional Trial Court, Branch 258, Paranaque City, in Civil Case No. 2022-009, are **REVERSED** and **SET ASIDE,** and the case is **REMANDED** to the court *a quo* for the determination of the amount to be refunded to petitioner, if any.
>
> **SO ORDERED.**

In his *Motion for Reconsideration (Motion)*, respondent argues that the Court's reliance on the case of *International*

Container Terminal Services, Inc. v. City of Manila[1] (*ICTSI* case) is misplaced because the first three (3) assessments therein were considered assessments as contemplated by Section 195 of the Local Government Code (LGC) and ICTSI was able to comply with the periods provided by Section 195 of the LGC; whereas in this case, petitioner disregarded the periods under Section 195 of the LGC. Respondent also insists that the subject Statement of Account (SOA) in this case is an assessment since it is a demand for payment of the local business taxes (LBT) within the prescribed period. Besides, Section 195 of the LGC does not provide any form on how to issue an assessment.

Respondent concludes that the court *a quo* correctly ruled that prescription had already set in due to petitioner's non-compliance with Section 195 of the LGC.

On the other hand, petitioner contends that the Court, in citing the *ICTSI* case, made no mention of any similarity of the circumstances involved except for the similarity of the contents of the SOA, which the Supreme Court did not consider as "notice of assessment" under Section 195 of the LGC. Petitioner explains that the fact that the first three (3) assessments were declared in the *ICTSI* case as proper notices of assessment is irrelevant to this case.

Petitioner further argues that it correctly and timely availed of the remedy under Section 196 of the LGC, which does not require a prior notice of assessment for a claim for refund to prosper; thus, its claim for refund has not yet prescribed.

The *Motion* fails to impress.

After a judicious review of respondent's *Motion*, the Court finds that respondent's arguments have already been considered and passed upon in the assailed Decision.

To reiterate, in the *ICTSI* case, the Supreme Court explained that what determines the appropriate remedy, whether Section 195 or 196 of the LGC, is the local government's basis for the collection of the tax:

> **What determines the appropriate remedy is the local government's basis for the collection of the tax**. It is explicitly stated in **Section 195** that it **is a remedy against a**

[1] G.R. No. 185622, October 17, 2018.

> **notice of assessment issued by the <u>local treasurer</u>**, upon a finding that the correct taxes, fees, or charges have not been paid. **The notice of assessment must state "the nature of the tax, fee, or charge, the amount of <u>deficiency</u>, the <u>surcharges</u>, <u>interests</u> and <u>penalties</u>.**"
>
> ... ...
>
> **No such precondition is necessary for a claim for refund pursuant to <u>Section 196</u>**. [*Emphasis supplied*]

To recall, petitioner seeks a refund of the excess LBT paid amounting to ₱12,334,525.00, that respondent had collected by virtue of a SOA issued by the Business Permits & Licensing Office (BPLO) of the City of Parañaque as a condition for the renewal of petitioner's business permit for 2020.

As found by the Court, "the SOA merely tabulated the amount and nature of the tax and fees assessed but did not contain the amount of deficiency tax, surcharges, interests, and penalties due from petitioner."[2] Following the *ICTSI* case, the SOA cannot be considered the "notice of assessment" required under Section 195 of the LGC.

Considering that respondent issued no notice of assessment for deficiency taxes, petitioner correctly availed of the remedy under Section 196 of the LGC. Further, petitioner filed its administrative and judicial claims within the two-year prescriptive period as Section 196 of the LGC provided.

WHEREFORE, respondent's *Motion for Reconsideration (to the Decision dated December 13, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[2] Decision dated December 13, 2023, p. 12.