REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Third Division

THE CITY OF PASIG and THE CITY TREASURER, PASIG CITY, *Petitioners,*	**CTA AC NO. 248** Members:
-versus-	**UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
MANILA ELECTRIC COMPANY (MERALCO), *Respondent.*	Promulgated: APR 19 2023 11:20 a.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review,[1] filed by petitioners City of Pasig and the City Treasurer of Pasig City, against respondent Manila Electric Company (MERALCO), seeking the reversal and setting aside of the Decision, dated 10 October 2020 ("Assailed Decision"), and Resolution, dated 21 December 2020 ("Assailed Resolution"), both rendered by the Regional Trial Court ("RTC") of Pasig City in Civil Case No. R-PSG-19-00459-CV. Petitioners pray that that judgment be rendered allowing them to demand and collect the deficiency local business taxes, including surcharges and penalties, from respondent MERALCO for the years 2014 to 2018.

The Parties

Petitioner City of Pasig is a municipal corporation formed and existing under Philippine laws.[2] Petitioner City Treasurer of Pasig is a public officer and is a party to the instant case by reason of the duties of her office.[3] Petitioners may be served with notices and other court processes through the

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[1] Petition for Review, Records, pp. 5-55, with attachments.
[2] *See* The Parties, Petition for Review, Records, p. 5.
[3] *Ibid.*

Office of the City Legal Officer at 8th Floor, Pasig City Hall, Brgy. San Nicolas, Pasig City.[4]

Meanwhile, respondent MERALCO is a corporation duly organized and existing under Philippine laws with principal office address at the Lopez Building, Ortigas Avenue, Pasig City.[5] It is a grantee of a legislative franchise under ***Republic Act No. 9209*** to construct, operate, and maintain, in the public interest and for commercial purposes, a distribution system for the conveyance of electric power to end-users in the Metropolitan Manila area as well as adjacent provinces, cities, and municipalities.

The Facts

The relevant factual antecedents as found by the Regional Trial Court and culled from the records of the case follow:

On 28 September 2018, respondent received from petitioner City of Pasig, through petitioner City Treasurer, a Notice of Assessment, dated 27 September 2018 (First Notice), advising it to settle the alleged local business tax deficiency for the years 2013 to 2018 in the amount of ₱998,741,117.10, inclusive of surcharges and penalties.[6]

Subsequently, respondent received from petitioners a Second Notice of Assessment, dated 18 October 2018 (Second Notice), assessing it for the same local business tax deficiency for the same period in the sum of ₱1,004,785,471.37, also inclusive of surcharges and penalties.[7]

On 21 November 2018, respondent filed with petitioner City Treasurer a Protest Letter disputing the assessment against it.[8]

On 11 January 2019, respondent filed with petitioner City Treasurer another Letter, dated 9 January 2018, reiterating its request for cancellation of the assessment and resolution of its protest.[9]

On 21 January 2019, respondent received from petitioner City Treasurer a Final Notice of Assessment, dated 19 January 2019 (Final Notice), which reduced the assessment for alleged deficiency local business tax to the total amount of ₱826,944,047.74, inclusive of surcharges and penalties. It was

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4 *See* The Parties, Petition for Review, Records, p. 5.
5 Annex "B-1", Decision, dated 10 October 2020, Records, pp. 39-46; The Parties, Petition for Review, Records, p. 5.
6 Annex "B-1", Decision, dated 10 October 2020, Records, pp. 39-46.
7 *Ibid.*
8 *Ibid.*
9 *Ibid.*

indicated in the Final Notice that the imposition of local business tax on respondent was based on ***Section 19(f) of the Pasig Revenue Code*** for the years 2014 to 2017 and ***Section 58(f) of the 2017 Pasig Revenue Code*** for the year 2018. As the right to collect deficiency local business tax for the year 2013 had already prescribed, the same was no longer included in the Final Notice.[10]

In view of the denial of its protest, respondent filed with the Regional Trial Court of Pasig City on 19 February 2019 a Petition for Declaration of Nullity of Notices of Assessment, which was docketed as R-PSG-19-00459-CV.[11]

In the Petition for Declaration of Nullity of Notices of Assessment, respondent sought to declare as null and void the assessment of petitioners for deficiency LBT for the years 2014 to 2018 based on the following grounds:[12]

a. The City Treasurer of Pasig did not issue a Letter of Authority (LOA) in relation to the assessment for deficiency LBT for the years 2013 to 2018; thus, the assessment was issued in violation of respondent's right to due process of law; and
b. The deficiency LBT assessment is devoid of legal and factual bases as respondent is a holder of a legislative franchise to distribute electricity to end-users, hence, is not subject to LBT.

After the filing of petitioners' Answer, RTC- Branch 157 conducted a Pre-Trial Conference on 25 October 2019. During the said pre-trial conference, the parties entered into a stipulation of facts, identified the issues to be resolved, named their witnesses, and marked their exhibits. The case was then set for presentation of petitioner's evidence on 20 July 2020.[13]

However, at the hearing held on said date, petitioners moved for the case to be decided on the basis of the submissions and pleadings filed by the parties, considering that there were no real factual issues involved in this case. Petitioners likewise admitted all the statements made in the Judicial Affidavit of respondent's witness, Gerardo E. Espiridion, as well as the authenticity and genuineness of the documents attached to the affidavit. Accordingly, and without objection on the part of the respondent, the court granted the oral motion and submitted the case for decision.

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[10] *Ibid.*
[11] Annex "B-1", Decision, dated 10 October 2020, Records, pp. 39-46; *See* par. 16, Petition for Review, Records, pp. 9-10.
[12] *See* Petition for Review, par. 16, Records, pp. 9-10.
[13] Annex "B-1", Decision, dated 10 October 2020, Records, pp. 39-46.

Thus, on 10 October 2020, RTC-Pasig issued the Assailed Decision, granting respondent's Petition for Declaration of Nullity of Notices of Assessment, the dispositive of which reads:

> "**WHEREFORE**, in view of the foregoing, the instant petition is **GRANTED** for being meritorious. The assessment of local business tax deficiency, as well as surcharges and penalties, made by respondents City of Pasig and the City Treasurer of Pasig City against petitioner Manila Electric Company **(MERALCO)** for the years 2014 to 2018 in the total amount of Eight Hundred Twenty Six Million Nine Hundred Forty Four Thousand Forty seven pesos and Seventy Four centavos (Php826,944,047.74) is hereby declared **NULL** and **VOID**. The respondents are thus **ENJOINED** from demanding and collecting the said tax from the petitioner.
>
> **SO ORDERED.**"

Subsequently, petitioners filed a Motion for Reconsideration which RTC-Pasig denied in the Assailed Resolution, the dispositive of which reads:

> "**WHEREFORE**, in view of the foregoing, the Motion for Reconsideration dated October 29, 2020 filed by respondents is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

Aggrieved, petitioners filed the instant Petition for Review before this Court on 2 March 2021. Respondent filed its Comment (To: Petition for Review dated 1 March 2021) on 25 March 2022.[14] The Court then issued a resolution submitting the case for decision on 19 April 2022.

Hence, this Decision.

The Issue[15]

The issues submitted for this Court's resolution are:

(1) Whether the RTC-Pasig committed serious and reversible error in declaring the Notices of Assessment issued by petitioners against respondent for deficiency local business taxes, as well as surcharges and penalties, for the years 2014 to 2018, null and void as the imposition of local business tax in addition to local franchise tax constitutes obnoxious double taxation;

(2) Whether the RTC-Pasig committed serious and reversible error in considering that respondent is not a "contractor" under ***paragraph (h), Section 131 of the LGC*** to be subject to local business taxes; and

[14] Records, pp. 68-99.
[15] *See* Assignment of Errors, Petition for Review, Records, pp. 11-12.

(3) Whether the RTC-Pasig committed serious and reversible error in stating that respondent is a common carrier within the ambit of ***paragraph (j), Section 133 of the LGC*** and therefore not subject to local business taxes under the same code.

Arguments of the Parties

Petitioners' Arguments[16]

Petitioners argue that *first*, it can legally collect from respondent both local business tax in addition to local franchise tax as it does not constitute direct duplicate taxation. It relies on the case of ***Sky Cable Corporation v. Quezon City and the Office of the City Treasurer of Quezon City***[17] ***("Sky Cable Case")***, where the CTA-Second Division upheld the City Government of Quezon City's imposition of both local franchise tax and local business tax. It also cites ***China Banking Corporation v. Court of Appeals, et al. ("China Banking Case")***[18] in support of its view that there is no double taxation if the law imposes different taxes on the same income, business, or property such as in the instant case.

Second, the definition of a "contractor" under ***Section 131(h) of the Local Government Code ("LGC")*** is broad enough to include providing all kinds of services for a fee. Petitioners maintain that respondent's activity of constructing, operating, and maintaining a distribution system for conveyance of electric power for a fee makes it a contractor that is subject to local business tax.

Third, assuming arguendo that respondent is not a "contractor" under the provisions of the ***LGC***, it is still subject to local business taxes under the ***LGC***, the ***Pasig Revenue Code***, and the ***2017 Revised Pasig Revenue Code***.

Fourth, respondent, as an electric distribution utility, is not a common carrier which is exempt from the local government unit's taxing power.

Respondent's Arguments[19]

Respondent maintains that, *first*, the RTC-Pasig correctly ruled that the imposition of LBT on MERALCO, given its unique circumstances, amounts to prohibited double taxation. It argues that the ***Sky Cable Case*** is not applicable in the present case, pointing out the fundamental differences in the

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[16] *See* Arguments and Discussion, Petition for Review, Records, pp. 12-18.
[17] CTA AC No. 102, 10 February 2014.
[18] G.R. No. 146749, 10 June 2003.
[19] *See* Discussion/Arguments, Comment/Opposition (To: Petition for Review dated 1 March 2021), Records, pp. 69-96.

franchise granted to Sky Cable under ***Republic Act No. ("R.A.")7969*** and to MERALCO under ***R.A. No. 9209***. It explains that under ***R.A. No. 7969***, Sky Cable was granted the franchise to operate a cable system and generate content for that system, while under ***R.A. No. 9209***, MERALCO was granted the franchise to distribute electric power. As an electric distribution utility, MERALCO was expressly categorized as a common carrier under ***R.A. No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001 ("EPIRA")***, unlike Sky Cable, which is not a common carrier. Further, in the ***Sky Cable Case***, Sky Cable had been paying local business taxes when it was assessed for local franchise taxes, while in the present case, MERALCO had been dutifully paying local franchise taxes when it was assessed local business taxes. Respondent reasons that payment of local franchise taxes includes payment of local business taxes but that the reverse is not always true, considering that an entity enjoying a franchise will also conduct business but not every business requires a franchise to conduct its trade.

Second, assuming there is no direct double taxation, respondent maintains that MERALCO is not a contractor as defined in the ***Pasig Revenue Code*** and the ***2017 Revised Pasig Revenue Code.***

Third, the RTC-Pasig correctly ruled that MERALCO is a common carrier, and is thus not liable for local business tax. Respondent cites the case of ***First Philippine Industrial Corp. v. Court of Appeals***,[20] which explained the expanded concept of a common carrier.

The Ruling of the Court

The instant Petition for Review is unmeritorious.

Timeliness of the action

Section 11 of R.A. 1125 otherwise known as the An Act Creating the Court of Tax Appeals, as amended by R.A. No. 9282, as amended by ***R.A. No. 1125***, and ***Section 4, Rule 8 of the Revised Rules of the Court of Tax Appeals***[21] ***("RRCTA")*** provide that a party adversely affected by the decision of the Regional Trial Court may appeal with the CTA within thirty (30) days from receipt of such decision or ruling:

> "SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. - **Any party adversely affected by a decision**, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the **Regional**

[20] G.R. No. 125948, 29 December 1998.
[21] A.M. No. 05-11-07-CTA

Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under **Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided**, from the expiration of the period fixed by law to act thereon. **A <u>Division of the CTA</u> shall hear the appeal**: Provided, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*. ..."

"RULE
PROCEDURE IN CIVIL CASES

...

SEC. 4. Where to appeal; mode of appeal. – (a) An appeal from a **decision** or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the **Regional Trial Court in the exercise of their original jurisdiction**, shall be taken to the Court by filing before it a **petition for review** as provided in **<u>Rule 42 of the Rules of Court</u>**. The **<u>Court in Division</u> shall act on the appeal.**

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

(c) An appeal from a **decision** or ruling of the Central Board of Assessment Appeals or the **Regional Trial Court in the exercise of their appellate jurisdiction** shall be taken to the Court by filing before it a **petition for review** as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal."[22]
(Emphasis and underscoring, Ours.)

In the present case, petitioners received the Assailed Resolution on 3 February 2021.[23] Counting thirty (30) days therefrom, petitioners had until 5 March 2021 to appeal to this Court. Thus, petitioners' Petition for Review, filed on 2 March 2021, was timely filed.

[22] Emphasis and underscoring supplied.
[23] Annex A, Division Records, pp. 25-27.

<u>Respondent is a common carrier that is exempt from local business tax.</u>

Of the errors assigned in the instant case, the determination of whether respondent is a common carrier is critical. Common carriers are exempt from the taxing powers of the local government units, as provided in ***Section 133 of the LGC***:

> "SECTION 133. Common Limitations on the Taxing Powers of Local Government Units. - Unless otherwise provided herein, the **exercise of the taxing powers of provinces, cities, municipalities, and Barangays shall <u>not</u> extend to the levy of the following**:
>
> ...
>
> (j) Taxes on the gross receipts of transaction contractors and persons engaged in the transportation of passengers or freight by hire and **<u>common carriers by air, land or water</u>**, except as provided in this Code;" (Emphasis and underscoring, Ours.)

The Supreme Court explained in ***City of Manila v. Colet***,[24] citing ***First Philippine Industrial Corp. v. Court of Appeals***,[25] that the reason for exempting the gross receipts of common carriers from the taxing powers of the local government units is to prevent the duplication of tax:

> "From the foregoing disquisition, there is no doubt that petitioner is a "**common carrier" and, therefore, <u>exempt from the business tax as provided for in Section 133 (j)</u>**, of the Local Government Code . . .
>
> xxx xxx xxx
>
> The deliberations conducted in the House of Representatives on the Local Government Code of 1991 are illuminating:
>
> > "MR. AQUINO (A). Thank you, Mr. Speaker.
> >
> > Mr. Speaker, we would like to proceed to page 95, line 1. It states: "SEC. 121 (now Sec. 131). Common Limitations on the Taxing Powers of Local Government Units." . . .
> >
> > MR. AQUINO (A.). Thank you Mr. Speaker.
> >
> > Still on page 95, subparagraph 5, on taxes on the business of transportation. This appears to be one of those being deemed to be exempted from the taxing powers of the local government units. ***May we know the reason why the transportation business is being excluded from the taxing powers of the local government units?***

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[24] G.R. Nos. 120051, 121613, 121675, 121704, 121720-28, 121847-55, 122333, 122335, 122349 & 124855, 10 December 2014.

[25] G.R. No. 125948, 29 December 1988.

> MR. JAVIER (E.). Mr. Speaker, there is an exception contained in Section 121 (now Sec. 131), line 16, paragraph 5. It states that **local government units may not impose taxes on the business of transportation, <u>except as otherwise provided in this code.</u>**
>
> Now, Mr. Speaker, if the Gentleman would care to go to page 98 of Book II, one can see there that provinces have the power **to impose a tax on business enjoying a franchise at the rate of not more than one-half of 1 percent of the gross annual receipts.** So, transportation contractors who are enjoying a **franchise would be subject to tax by the province. That is the exception, Mr. Speaker.**
>
> ***<u>What we want to guard against here, Mr. Speaker is the imposition of taxes by local government units on the carrier business.</u>*** **Local government units may impose taxes <u>on top of</u> what is already being imposed by the National Internal Revenue Code** which is the so-called "common carriers tax." ***We do not want a duplication of this <u>tax, so we just provided for an exception</u>*** **<u>under Section 125 (now Section 137) that a province may impose this tax at a specific rate.</u>**
>
> MR. AQUINO (A.). Thank you for that clarification, Mr. Speaker. . . .

It is clear that the legislative intent in excluding from the taxing power of the local government unit the imposition of business tax against common carriers is **<u>to prevent a duplication of the so-called "common carrier's tax."</u>**

Petitioner is already paying three (3%) percent common carrier's tax on its gross sales/earnings under the National Internal Revenue Code. To tax petitioner again on its gross receipts in its transportation of petroleum business would defeat the purpose of the Local Government Code." (Citations omitted; emphasis and underscoring, Ours.)

Both law and jurisprudence, then, clearly provide that common carriers are not subject to local taxes.

Petitioners, however, insist that respondent, as an electric distribution utility, is not a common carrier that is exempt from the taxing power of the local government unit.

We disagree.

A "common carrier" is defined in ***Article 1732 of the Civil Code*** as "any person, corporation, firm or association engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public." It may also be defined, broadly, as one who holds itself out to the public as engaged in the business of transporting persons or property from place to place, for compensation, offering its services to the public generally.[26]

As an electric distribution utility, respondent MERALCO is a common carrier, pursuant to ***Section 22 of the EPIRA***:

> "SEC. 22. Distribution Sector. – The distribution of electricity to end-users shall be a **regulated common carrier business** requiring a national franchise. Distribution of electric power to all end-users may be undertaken by private distribution utilities, cooperatives, local government units presently undertaking this function and other duly authorized entities, subject to regulation by the ERC."
> (Emphasis, Ours.)

Indeed, MERALCO's status as a common carrier has been consistently recognized in ***The City of Manila v. The Manila Electric Railroad and Light Company,***[27] ***Antonio Espiritu v. Manila Electric Light Co,***[28] ***Manila Electric Company v. Pasay Transportation Co., Inc.,***[29] ***Manila Electric Company v. The City Assessor and City Treasurer of Lucena City,***[30] and ***Colmenares v. Energy Regulatory Commission.***[31]

Petitioners also point out that respondent failed to claim that it is paying any common carrier's tax. According to petitioners, respondent has been consistently claiming that it had been compliant with paying the local franchise tax under ***Section 89 of the 2017 Revised Pasig Revenue Code.*** Petitioner then concludes that there will be no duplication of common carrier's tax because respondent, as an alleged common carrier, is not subject to common carrier's tax.

Petitioners' conclusion is specious.

Respondent's classification as a common carrier does not depend on its payment of common carrier tax. Whether or not respondent actually pays the common carrier's tax due, it is still a common carrier and remains liable for the said tax as a common carrier. Stated otherwise, respondent's status as a common carrier is not dependent on its payment of common carrier's tax. Respondent's consequent exemption from local business tax as a common carrier is not dependent on its actual payment of common carrier's tax.

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[26] First Philippine Industrial Corp. v. Court of Appeals, G.R. No. 125948, 29 December 1998.
[27] G.R. No. 11639, 18 January 1917.
[28] G.R. Nos. 29605 and 29606, 29 December 1928.
[29] G.R. No. 45239, 28 July 1938.
[30] G.R. No. 166102, 5 August 2015.
[31] G.R. Nos. 210245, 210255 & 210502, 3 August 2021.

<u>The imposition of local business tax on respondent in addition to local franchise tax constitutes obnoxious double taxation.</u>

Even assuming that respondent is not a common carrier, imposing a local business tax on top of tax it already pays to enjoy doing business in the city constitutes direct double taxation.

Double taxation is taxing the same property twice when it should be taxed only once.[32] It is obnoxious when the taxpayer is taxed twice, when it should be but once.[33] Otherwise described as "direct duplicate taxation," the two taxes must be: (1) imposed on the same subject matter; (2) imposed for the same purpose; (3) imposed by the same taxing authority; (4) imposed within the same jurisdiction; (5) imposed during the same taxing period; and (6) of the same kind or character.[34]

In the present case, pursuant to the Final Notice, the imposition of local business tax on respondent was based on ***Section 19(f) of the Pasig City Revenue Code*** for the years 2014 to 2017 and ***Section 58(f) of the 2017 Revised Pasig City Revenue Code*** for the year 2018 in addition to the tax provided in ***Section 89 of the Pasig Revenue Code***.

These provisions are as follows:

SECTION 58. Imposition of Tax. — There is hereby levied an annual tax on business mentioned in this Chapter at rates prescribed thereafter. (a) On manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers, and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with the following schedule: ... (b) On wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature in accordance with the following schedules:	***SECTION 89. Imposition of Tax.*** — Any provision of special laws or grant of exemption to the contrary notwithstanding, any person, corporation, partnership or association enjoying a franchise of doing business in the City of Pasig, shall pay a franchise tax at rate of fifty-five percent (55%) of one percent (1%) of its gross receipts derived from the operations of the business in Pasig during the preceding calendar year.[36]

[32] The City of Manila v. Coca-Cola Bottlers Philippines, Inc. G.R. No. 181845, 4 August 2009; Swedish Match Philippines, Inc. v. Treasurer of the City of Manila, G.R. No. 181277, 3 July 2013.
[33] *Ibid.*
[34] *Ibid.*
[36] Section 89, Article V, 2017 Revised Pasig Revenue Code, Pasig City Ordinance No. 051-17.

... (c) On essential commodities ... (d) On retailers. ... (e) Exporters/Importers. ... (f) On contractors and other independent contractors, such as but not limited to general engineering, ... (g) On Banks. ... (h) On Other Financial Institutions ... (i) On Sari-Sari Stores ... (j) On Carinderias ... (k) On peddlers ... (l) On operators of public utility vehicles with or without booking office maintaining a terminal, or a waiting station ... (m)On any and all business, not otherwise specified in preceding paragraphs, there is hereby imposed a tax at a rate of three percent (3%) annually off the gross sales or receipts of the preceding calendar year, including but not limited to the following establishments: ...[35]	

The side by side presentation of these provisions clearly reveal that the "annual tax on business" under ***Section 58*** and that on "enjoying a franchise of doing business in the City of Pasig" under ***Section 89*** actually cover the same thing: doing business in the City.

As it stands, respondent has been paying taxes under ***Section 89***. This is grounded on its "enjoying a franchise of doing business in the City of Pasig". In other words, it is solely based on its conducting its business in Pasig City and not on any "franchise" conferred upon it by the said city.

Both the ***LGC*** and the ***2017 Revised Pasig Revenue Code*** define "franchise" as follows –

> "“***Franchise***” is a right or privilege, affected with public interest which is conferred upon private persons or corporations, under such terms and conditions as the government and its political subdivisions may impose in the interest of public welfare, security, and safety."[37]

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[35] Section 58, Article 1, Chapter V, 2017 Revised Pasig Revenue Code, Pasig City Ordinance No. 051-17.

[37] Section 131(m), LGC; Section 6, Article IV, 2017 Revised Pasig Revenue Code, Pasig City Ordinance No. 051-17.

While respondent was granted a franchise by the national government to distribute electric power under ***R.A. No. 9209***, no franchise of any nature has been granted to it by the City of Pasig.

Accordingly, and to stress, in paying taxes to petitioner under ***Section 89***, respondent was doing so for "enjoying a franchise of doing business in the City of Pasig". It was not for any "franchise" as defined by the ***LGC*** or even petitioners' own ***Revenue Code***.

Thus, applying the test in determining direct double taxation laid down in jurisprudence,[38] We find that petitioners' imposition of taxes under ***Section 58*** in addition to that already imposed under ***Section 89*** constitutes direct double taxation, given that the two taxes are imposed:

1. On the same subject matter—for doing business in the City of Pasig;
2. For the same purpose—to make persons conducting business within the City of Pasig contribute to city revenues;
3. By the same taxing authority—petitioner City of Pasig;
4. Within the same taxing jurisdiction—the territorial jurisdiction of the City of Pasig;
5. For the same taxing periods—the relevant calendar years; and
6. Of the same kind or character—a local tax on business imposed on gross sales or receipts of the said business.

We further agree with respondent that the ***Sky Cable Case*** is inapplicable to the present case, given the fundamental differences in their factual antecedents. Particularly, unlike Sky Cable, which is an entity engaged in the operation of a cable system and the generation of content for that system, respondent is an electric distribution utility company, which makes it a common carrier, following ***Section 22 of the EPIRA***. As such, as already laid out, above, respondent is expressly exempt from local business tax pursuant to ***Section 133 of the LGC***.

Finally, the ***China Bank Case*** also cannot be applied in the present case for purposes of determining direct double taxation, considering that it involves an internal revenue tax and a local tax. The present case, meanwhile, pertains to taxes that are both local taxes imposed by petitioner.

Having determined that respondent is a common carrier exempt from local business tax, We find it unnecessary to discuss whether it can be considered a "contractor" for purposes of imposing local business tax pursuant to ***Section 58(f) of the 2017 Revised Pasig Revenue Code*** in relation to ***Section 131(h) of the LGC***.

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[38] The City of Manila v. Coca-Cola Bottlers Philippines, Inc. G.R. No. 181845, 4 August 2009; Swedish Match Philippines, Inc. v. Treasurer of the City of Manila, G.R. No. 181277, 3 July 2013.

WHEREFORE, in light of the foregoing considerations, the Petition for Review filed by petitioners the City of Pasig and the City Treasurer, Pasig City is hereby **DENIED** for lack of merit. Accordingly, the Decision, dated 10 October 2020, and Resolution, dated 21 December 2020, both rendered by RTC-Pasig, are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice