REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

DOLE Philippines Inc. – Stanfilco Division,
Petitioner,

- versus -

The Sangguniang Panlungsod of the City of Davao, and the Hon. Sara Z. Duterte-Carpio and Hon. Lawrence D. Bantiding, in their respective capacities as Mayor and Acting Treasurer of the City of Davao,
Respondents.

CTA AC No. 286
(Civil Case No. R-DVO-20-02052-CV)

Members:

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

Promulgated:

JUN 07 2024 4:00 p.m.

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DECISION

REYES-FAJARDO, *J*.:

We resolve the Petition for Review[1] dated February 27, 2023, challenging the Decision[2] dated September 27, 2022 and Order[3] dated January 4, 2023 in Civil Case No. R-DVO-20-02052-CV, whereby the Regional Trial Court of the City of Davao (RTC-Davao)[4] dismissed petitioner's Appeal from respondent Acting City Treasurer (ACT)'s denial of its protest dated February 7, 2020.

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1 Docket, pp. 5-49.

2 *Id.* at pp. 55-65. Said Decision was erroneously numbered as "CASE NO. R-DVO-19-02052-CV." The Appeal before the RTC-Davao was docketed as "CASE NO. R-DVO-20-02052-CV." Such error was rectified in the Order dated January 4, 2023, *infra* note 3.

3 *Id.* at p. 66.

4 Branch 16.

FACTS[5]

Petitioner DOLE Philippines Inc. (DPI) is a domestic corporation duly organized and existing under Philippine laws. DPI has a Stanfilco Division, operating its business at Doña Socorro Street, Belisario Heights Subdivision, Lanang, Davao City. Petitioner may be served with court notices and processes, through its legal counsel Platon Martinez Flores San Pedro and Leaño Law Offices, located at 6/F Tuscan Building, 114 V.A. Rufino Street, Legaspi Village, Makati City, Metro Manila.[6]

Respondent Sangguniang Panlungsod of the City of Davao is the local legislative body empowered to enact ordinances, levying taxes, fees, and charges, upon such conditions and for such purposes, intended to promote the general welfare of the inhabitants of the city. It may be served with summons, notices, and other pertinent processes at the City Hall Bldg., San Pedro Street, Davao City.[7]

Respondent Hon. Sara Z. Duterte-Carpio is being sued in her capacity as Mayor of the City of Davao, who is mandated to enforce laws and ordinances relative to the governance of, and the exercise of corporate powers by the city. She may be served with summons, notices, and other processes at the City Hall Bldg., San Pedro Street, Davao City.[8]

Respondent Hon. Lawrence D. Batinding is being sued in his capacity as Acting Treasurer of the City of Davao, and as such is tasked to collect all taxes and fees imposed by the city, and is the custodian of its funds. He may be served with summons, notices, and other court processes at the Office of the City Treasurer, San Pedro Street, Davao City.[9]

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5 Exhibits "A" to "BB," offered by plaintiff-appellant (now petitioner), were admitted by the RTC-Davao, through Order dated January 3, 2022, RTC Records, p. 721.

These pieces of evidence are found in pages 484-708 of the RTC Records. See Index of Plaintiff-Appellant (now petitioner)'s Formal Offer of Exhibits prepared by the Clerk of Court of the RTC-Davao, docket (CTA AC No. 286), pp. 339-340.

6 See Par. 10, Appeal, RTC Records, p. 5. Admitted in par. 2, Answer/Comment, *id.* at p. 370.

7 See Par. 11, Appeal, *id.* at p. 5. Admitted in par. 2, Answer/Comment, *id.* at p. 370.

8 See Par. 12, Appeal, *id.* at p. 5. Admitted in par. 2, Answer/Comment, *id.* at p. 370.

9 See Par. 13, Appeal, *id.* at p. 6. Admitted in par. 2, Answer/Comment, *id.* at p. 370.

On January 3, 2020, petitioner received respondent ACT's Tax Order Payments, demanding payment of environmental taxes for Taxable Year (TY) 2020, in the total amount of ₱3,324,825.00, the details of which are as follows:

ADDRESS	KIND OF TAX	LAND AREA (IN HECTARES)	SQUARE METERS	ANNUAL TAX (FOR TY 2020)
Barangay Tamayong (Calinan District)	Environmental Tax ₱0.25/SQM	329.93	3,299,300	₱824,825.00[10]
Barangay Tamugan (Marilog District)	Environmental Tax ₱0.25/SQM	500	5,000,000	1,250,000.00[11]
Barangay Malagos (Baguio District)	Environmental Tax ₱0.25/SQM	100	1,000,000	250,000.00[12]
Barangays Tawan-Tawan, Cadalian, and Carmen (Baguio District)	Environmental Tax ₱0.25/SQM	400	4,000,000	1,000,000.00[13]
TOTAL		**1329.93**		**₱3,324,825.00**

On January 10, 2020, petitioner paid under protest said environmental tax assessments for TY 2020, based on the following Official Receipts:

ADDRESS	OR No.	Amount Paid
Barangay Tamayong (Calinan District)	3297030[14]	₱824,825.00
Barangay Tamugan (Marilog District)	3297031[15]	1,250,000.00
Barangay Malagos (Baguio District)	3297032[16]	250,000.00
Barangays Tawan-Tawan, Cadalian, and Carmen (Baguio District)	3297033[17]	1,000,000.00
TOTAL		**₱3,324,825.00**

On February 7, 2020, petitioner filed its protest before respondent ACT, impugning the environmental tax assessments for

10 Exhibit "D-1." *Id.* at p. 505.
11 Exhibit "D-2." *Id.* at p. 506.
12 Exhibit "D-3." *Id.* at p. 507.
13 Exhibit "D-4." *Id.* at p. 508.
14 Exhibit "E-1." *Id.* at p. 509.
15 Exhibit "E-2." *Ibid.*
16 Exhibit "E-3." *Id.* at p. 510.
17 Exhibit "E-4." *Ibid.*

TY 2020 issued by the latter, and praying for the refund of the environmental taxes it paid on said year.[18]

Through Letter dated March 5, 2020, respondent ACT denied petitioner's protest of February 7, 2020.[19]

On June 30, 2020, petitioner filed an Appeal before the RTC-Davao, docketed as Civil Case No. R-DVO-20-02052-CV.[20]

On September 27, 2022, the RTC-Davao rendered the challenged Decision,[21] the *fallo* of which states:

> **WHEREFORE, premises considered**, the Court hereby renders judgment[,] DISMISSING the instant case.
>
> **SO ORDERED.**

On November 10, 2022, petitioner posted[22] its Motion for Reconsideration,[23] praying that the challenged Decision dated September 27, 2022 be overturned.

On January 4, 2023, the RTC-Davao issued the assailed Order, denying petitioner's Motion for Reconsideration, as follows:

> Despite the arguments raised in the **"Motion for Reconsideration"**, the Court finds no cogent reason to alter, modify[,] or set aside the assailed Decision dated September 27, 2022.
>
> As such, the instant **"Motion for Reconsideration"** is hereby **DENIED.**
>
> **SO ORDERED.**

On February 27, 2023, petitioner filed a Petition for Review,[24] docketed as CTA AC No. 286, *sans* respondents' comment.[25]

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18 Exhibit "B." *Id.* at pp. 486-503.
19 Exhibit "A." *Id.* at pp. 484-485.
20 *Id.* at pp. 3-38.
21 *Supra* note 2.
22 RTC Records, p. 792.
23 *Id.* at pp. 768-792.

Under Resolution dated June 9, 2023, this case was submitted for decision.[26]

ISSUE

Do we have jurisdiction over CTA AC No. 286?

ARGUMENTS

Petitioner argues that the CTA in Division possesses jurisdiction over CTA AC No. 286, because the subject matter of the challenged Decision and Order rendered by the RTC-Davao is a local tax case. This is bolstered by: (1) the Watershed Code and its IRR named the exaction being challenged as "environmental tax"; and (2) the Orders of Payment indicate that the amount being collected are environmental taxes.

Petitioner further states that the assessed environmental taxes covering TY 2020, which it paid under protest, were imposed pursuant to Ordinance No. 0310-07, s. 2007. For petitioner, respondents illegally and erroneously collected said environmental taxes from it. The reasons are: (1) it is oppressive and confiscatory as it was based on land area, regardless of the taxpayer's trade and commercial activities; (2) it restrains trade; (3) the computation of such exaction is erroneous and unreasonable; and (4) such Ordinance failed to comply with the publication requirements.

Granting, the environmental taxes are indeed fees, petitioner nonetheless insists that collection thereof against it is improper, because the amounts it paid far exceeded the cost of regulation.

Petitioner likewise ascribes fault on respondent ACT's inclusion of a fragment of land in the computation of said environmental taxes for TY 2020. Particularly, the calculation of environmental taxes must be based on the land area per *approved* Environment and Management Bureau (EMB)'s Environmental Compliance Certificate

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24 Docket, pp. 5-49.
25 Records Verification dated May 3, 2023. *Id.* at p. 333.
26 *Id.* at p. 346.

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(ECC), and *not* on the land area per *applied* EMB-ECC, as inaccurately used by respondent ACT.

To end its protestations, petitioner declares that it is entitled to a refund of alleged erroneously or illegally collected environmental taxes for TY 2020 in the amount of ₱3,324,825.00, or, in the alternative, a refund of the amount of ₱1,312,500.00, corresponding to excessively assessed environmental taxes for said year.

RULING

The Petition must be dismissed.

Section 7(a)(3) of Republic Act (RA) No. 1125, as amended by RA No. 9282, provides for the jurisdiction of the Court of Tax Appeals (CTA) on local tax cases:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> ...
>
> 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;[27]

Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals clarified that the CTA in Division has jurisdiction over the decisions, orders, or resolutions of the RTC in local tax cases decided or resolved by them in the exercise of their original jurisdiction.[28] In this regard, *Mactel Corporation v. The City Government of Makati, et al.*

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27 Boldfacing supplied.

28 SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:

...

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

(Mactel)[29] held that "... the CTA's appellate jurisdiction over decisions, orders or resolutions of the RTC becomes operative only when the RTC has ruled on a local tax case." In reverse, if the RTC's final decision, order, or resolution does *not* pertain to a local tax case, then the CTA is bereft of jurisdiction to entertain the same.

The Petition for Review in CTA AC No. 286 challenges the Decision dated September 27, 2022 and Order dated January 4, 2023 rendered by the RTC-Davao. True, said Decision and Order relate to the merits of respondent ACT's environmental tax assessments for TY 2020, paid by petitioner under protest. Likewise true is that the exaction is termed environmental tax. Equally recognized is that the Order of Payments issued by respondent ACT against petitioner repetitively state environmental taxes as the description of said imposition. Yet, these observations are *not* indicative of whether an exaction is really a tax. Instead, it is the object of the charge which is the true test in the determination thereof. *Bases Conversion and Development Authority, et al. v. City Government of Baguio City (BCDA)*,[30] citing *Calalang v. Lorenzo*[31] ruled:

> This Court has likewise explained that the nomenclature in a statute given to an exaction is not necessarily indicative of whether it is a tax or a fee. In *Calalang v. Lorenzo*:
>
>> The charges prescribed by the Revised Motor Vehicle Law for the registration of motor vehicles are in Section 8 of that law called "fees." But the appellation is no impediment to their being considered taxes if taxes they really are. **For not the name but the object of the charge determines whether it is a tax or a fee.** Generally speaking, taxes are for revenue, whereas fees are exactions for purposes of regulation and inspection and are for that reason limited in amount to what is necessary to cover the cost of the services rendered in that connection. Hence, "a charge fixed by statute for the service to be performed by an officer, where the charge has no relation to the value of the services performed and where the amount collected eventually finds its way into the treasury of the branch of the government whose officer or officers collected the charge, is not a fee but a tax."
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> ...[32]

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29 See *Mactel Corporation v. The City Government of Makati, et al.*, G.R. No. 244602, July 14, 2021.

30 G.R. No. 192694, February 22, 2023.

31 97 Phil. 212 (1955).

32 Boldfacing supplied.

Relevantly, *City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc. (CEPALCO)*[33] drew the distinction between a tax and a fee, as well as provided the standard in the proper determination thereof, in the following fashion:

> The term "taxes" has been defined by case law as "the enforced proportional contributions from persons and property levied by the state **for the support of government and for all public needs**." While, under the Local Government Code, a "fee" is defined as "any charge fixed by law or ordinance **for the regulation or inspection of a business or activity**."
>
> From the foregoing jurisprudential and statutory definitions, it can be gleaned that the **purpose of an imposition will determine its nature as either a tax or a fee**. If the purpose is primarily revenue, or if revenue is at least one of the real and substantial purposes, then the exaction is properly classified as an exercise of the power to tax. On the other hand, if the purpose is primarily to regulate, then it is deemed an exercise of police power in the form of a fee, even though revenue is incidentally generated. **Stated otherwise, if generation of revenue is the primary purpose, the imposition is a tax but, if regulation is the primary purpose, the imposition is properly categorized as a regulatory fee.**

As it stands, if generation of revenue is the primary purpose, the imposition is a tax but, if regulation is the primary purpose, the imposition is a regulatory fee. To accurately classify these exactions, the objectives and purposes of the pertinent tax ordinance must be consulted.[34]

Here, the environmental taxes for TY 2020, paid by petitioner under protest, were tethered on Section 17(i) and (ii) of Ordinance No. 0310-07,[35] s. 2007 (Watershed Code), which reads:

> **SECTION 17. ENVIRONMENTAL FUND. – For the purpose of implementing the provisions of this Code**, an annual Environmental Tax shall be imposed on all agricultural and other economic undertakings in the Agro-forestry/Non-Tillage Areas and Prime Agricultural Areas of not less than 50 hectares at the rate

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33 G.R. No. 224825, October 17, 2018. Boldfacing in the original.

34 *Municipality of San Mateo, Isabela v. Smart Communications, Inc.*, G.R. No. 219506, June 23, 2021; *City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc., supra* note 33; and *Smart Communications, Inc. v. Municipality of Malvar, Batangas*, G.R. No. 204429, February 18, 2014.

35 WATERSHED PROTECTION, CONSERVATION AND MANGEMENT ORDINANCE HEREINAFTER REFERRED TO AS THE WATERSHED CODE.

> of Twenty[-]Five Centavos (Php0.25) per square meter; provided that:
>
> (i) The Environmental Tax shall also be imposed on corporate entities and persons engaged in agricultural and other economic undertakings on lands covered by growership contracts and other agreements;
>
> (ii) The Environmental Tax collected shall accrue to the General Fund and shall be appropriated in the Annual Budget **solely for the purpose of the implementation of this Code**, the **operational expenses of the Watershed Management Council and all its instrumentalities and for watershed protection, conservation and management programs and projects**, subject to the approval of Davao City Council.[36]

We then glossed over the provisions of the Watershed Code, and found that the environmental taxes imposed under Section 17 thereof are fees, and *not* taxes, as the object and nature thereof are mainly one for regulation. Ponder on these points:

First. As explicitly intimated on Section 17 of the Watershed Code, said environmental taxes are exacted for the purpose of watershed protection, conservation, management programs and projects. This is reinforced by Section 3 thereof, stating that the underlying principles for the enactment of the Watershed Code are primarily to protect, conserve, and manage watershed areas to achieve a balance ecosystem, foster public health and welfare, and sustain the City of Davao's water source:

> **ARTICLE 3. UNDERLYING PRINCIPLES**-The underlying principles of [the Watershed] Code are as follows:
>
> a. That [healthy] watershed areas are crucial to a balanced eco-system;
>
> b. That the watershed areas are sources of life-giving water that is vital to public health and welfare[,] and economic growth and development;
>
> c. That water[,] despite its abundance is not an infinite resource that must be protected, conserved[,] and managed to maintain its sustainability.

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36 Boldfacing and character in brackets supplied.

To achieve these purposes and objectives, Section 9 of the Watershed Code demonstrates the regulatory nature of said ordinance, by proscribing certain acts of persons or entities engaged in agricultural or other activity in environmentally critical areas,[37] to ensure health and sustainability of the watershed areas:

> ARTICLE 9. PROHIBITED ACTS. - **To ensure the health and sustainability of the Watershed Areas, the following shall be prohibited acts in the Environmentally Critical Areas,** immediately upon effectivity of this Code:
>
> (a) CONSERVATION AREAS -
>
> (i) Land conversion to whatever classification;
> (ii) Commercial tree farming except those related to reforestation;
> (iii) Water drilling except for household use;
> (iv) Hunting, destroying, disturbing or mere possession of any plant or animal or products derived therefrom without permit from the Watershed Management Council;
> (v) Dumping or disposing of any waste products detrimental to plants and animals and inhabitants thereon;
> (vi) Use of motorized equipment without permit from the Watershed Management Council;
> (vii) Mutilating, defacing or destroying objects of natural beauty, burial grounds, religious sites, artifacts or other objects belonging to cultural communities;
> (viii) Damaging or destroying roads and trails;
> (ix) Squatting, mineral exploration illegal occupation;
> (x) Constructing or maintaining the any kind of structure, fence or enclosure and conducting any business enterprise;
> (xi) Altering, removing, destroying or defacing boundary marks or signs;
> (xii)Exploitation of quarry resources and commercial sand and gravel resources
>
> (b) AGRO-FORESTRY AREAS/AGRICULTURAL NON-TILLAGE AREAS -
> (i) Land conversion to whatever classification;
> (ii) Agri-business and other industrial undertaking without Environmental Compliance Certificate (ECC) as provided in Presidential Decree No. 1586 establishing the Environmental Impact Assessment System and Proclamation No. 2146;
> (iii) Water drilling for industrial use except those issued with an ECC pursuant to Presidential Decree No. 1586 and Proclamation No. 2146 and the Davao City Water Resources Management Ordinance;

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37 Under Article 5(g) of the Watershed Code, the term "Environmentally critical areas" are those areas declared by law as national parks, watershed reserves, wildlife, wildlife preserves and sanctuaries.

(iv) Construction of any vertical structures for commercial, industrial, institutional, religious purposes without an ECC except for research and scientific studies, educational purposes and community chapels and churches;
(v) Exploitation of quarry resources and commercial sand and gravel resources;
(vi) Monocrop agriculture activities, including but not limited to, banana and pineapple plantations, …;
(vii) Aerial spray application of all kinds of farm production inputs and crop protection agents;
(viii) Use of any kind of inorganic fertilizer, pesticide, herbicide and other farm production inputs and crop protection agents.[38]

Second. Said environmental taxes would defray the operational expenses of, among others, the Watershed Management Council, who, under Article 13 of the same Ordinance, is "… the **monitoring and evaluation** council of relevant stakeholders and interest groups by common vision of ensuring the **protection, conservation[,] and management** of the watershed areas."[39]

Third. Batangas CATV, Inc. v. The Court of Appeals, et al.[40] pronounced that the general welfare clause found under Section 16[41] of the Local Government Code (LGC)[42] is the delegation in statutory form of the *police power* of the State to Local Government Units. Among the facets thereof found in Watershed Code, in aiming to protect, conserve, and manage watersheds, are promotion of the general welfare, health, and safety, enhancement of the right of the people to a balanced ecology.

Ergo, the environmental taxes levied under Section 17 of the Watershed Code are for the principal purpose of regulating the watershed areas in the City of Davao and sustaining its water source.

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38 Boldfacing supplied.
39 Boldfacing supplied.
40 G.R. No. 138810, September 29, 2004.
41 **Section 16.** *General Welfare.* - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the **promotion of the general welfare**. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, **promote health and safety, enhance the right of the people to a balanced ecology**, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and **preserve the comfort and convenience of their inhabitants**. (Boldfacing supplied)
42 Republic Act No. 7160.

Measured against the yardstick forged by jurisprudence, though named as a tax, said environmental taxes are fees. *A fortiori*, the Decision dated September 27, 2022 and Order dated January 4, 2023 rendered by the RTC-Davao pertain to a local *fee* case, and *not* a local tax case. Consistent with *Mactel*, our jurisdiction over the Decision and Order rendered by the RTC-Davao never became operative; precisely, dismissal of CTA AC No. 286 must ensue.

In precis, a party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.[43] Petitioner turned deaf to this injunction.

WHEREFORE, the Petition for Review dated February 27, 2023, filed by DOLE Philippines Inc. – Stanfilco Division, is **DISMISSED**, for lack of jurisdiction.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice

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43 See *Herarc Realty Corporation v. The Provincial Treasurer of Batangas*, G.R. No. 210736, September 25, 2018.

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.

ROMAN G. DEL ROSARIO
Presiding Justice