REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

THE CITY OF MANILA AND HON. RIZAL Y. DEL ROSARIO IN HIS CAPACITY AS OIC-CITY TREASURER, *Petitioners,*	**CTA *EB* NO. 2987** (CTA AC NO. 276)
	Present:
-*versus*-	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
CTF HOTEL AND ENTERTAINMENT, INC., *Respondent.*	Promulgated: SEP 19 2025 3:21 p.m.

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D E C I S I O N

MANAHAN, *J.*:

Before the Court is a *Petition for Review* ("***Petition***")[1] filed on September 19, 2024, seeking to reverse and set aside the Court in Division's *Decision* dated February 9, 2024[2] ("**assailed *Decision***") and *Resolution* dated August 5, 2024[3] ("**assailed *Resolution***") in CTA AC No. 276.

THE PARTIES

Petitioners are the City of Manila, a local government unit ("**LGU**") created by law and vested with the authority to impose taxes and fees within its jurisdiction, and Hon. Rizal Y. Del Rosario, then duly appointed officer-in-charge treasurer of the

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[1] *EB* Docket, pp. 11-35.
[2] *Id.*, pp. 37-60.
[3] *Id.*, pp. 62-75.

City of Manila ("**OIC City Treasurer**") empowered to perform the duties of said office, including the collection of all local taxes, fees, and charges.[4]

Respondent CTF Hotel and Entertainment, Inc. ("**CTF Hotel**") is a corporation organized for the primary purpose of owning, operating, leasing, or managing hotels, inns, resorts, and all adjuncts and accessories thereto, and any other businesses as may be necessary and desirable in connection therewith. Respondent alleged that it is not engaged in any other business apart from holding the shares of stock of New Coast Hotel, Inc., which owns "New Coast Hotel Manila" (formerly "New World Manila Bay Hotel")[5].

THE ANTECEDENT FACTS

On July 9, 2015, CTF Hotel received from the OIC City Treasurer a *Letter of Assessment* dated June 22, 2015,[6] with *Data and Assessment Form*,[7] ("***Assessment Notice***") demanding the payment of deficiency local business taxes ("**LBT**") for taxable years ("**TYs**") 2011 and 2013 in the amount of P410,896.85, inclusive of surcharge, interest, and penalties.[8]

On September 7, 2015, CTF Hotel filed a protest against the *Assessment Notice* with the Office of the OIC City Treasurer.[9] The latter did not act upon it within 60 days;[10] thus, pursuant to Section 195 of the Local Government Code ("**LGC**"), CTF Hotel filed its judicial protest with the Regional Trial Court, Branch 17 - Manila ("**RTC**") on December 4, 2015.[11]

In a decision dated June 29, 2019,[12] the RTC dismissed CTF Hotel's judicial protest. The RTC found that: 1.) there was no violation of due process in the issuance of the assessment for TYs 2011 and 2013, since the LGC does not limit the

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[4] *Decision, CTA AC No. 276, EB* Docket, pp. 38-39; *Petition for Review, EB* Docket, p. 12.
[5] *Id.*
[6] RTC Records, pp. 207-209, Exhibit "F".
[7] *Id.*, p. 210, Exhibit "F-1".
[8] *Petition for Review, EB* Docket, p. 14; *Decision*, CTA AC No. 276, *EB* Docket, p. 39.
[9] RTC Records, pp. 211-220, Exhibit "G".
[10] *Decision*, CTA AC No. 276, *EB* Docket, p. 41.
[11] *Complaint*, RTC Records, pp. 2-45.
[12] *Decision, Civil Case No. 15-135085, Id.*, pp. 377-385.

examination of a taxpayer to the immediately preceding taxable year only; and 2.) CTF Hotel is an investment company subject to LBT as a "financial institution" under Section 133(a) of the LGC.

CTF Hotel filed a motion for reconsideration of the RTC's decision on November 6, 2019.[13] In an order dated September 7, 2022, the RTC denied the same.[14]

PROCEEDINGS BEFORE THE COURT IN DIVISION

On October 28, 2022, CTF Hotel filed a petition for review docketed as CTA AC No. 276,[15] seeking that the Court of Tax Appeals ("**CTA**") reverse and set aside the RTC's judgment, declare the *Assessment Notice* null and void, and order herein petitioners to cancel the subject deficiency LBT assessments for calendar years 2011 and 2013. Petitioners filed their comment thereto on December 9, 2022.[16] Meanwhile, the RTC forwarded the entire records of the case on December 7, 2022.[17]

On December 27, 2022, the Court in Division gave the parties a period of 30 days from receipt of notice to file their memoranda.[18] Herein petitioners filed their memorandum on January 27, 2023,[19] while CTF Hotel filed its memorandum on February 3, 2023.[20] The Court in Division submitted the case for decision on February 9, 2023.[21]

On February 9, 2024, the Court in Division rendered the assailed *Decision* which reversed and set aside the RTC's decision. The Court in Division declared the *Assessment Notice* void for failure to comply with the due process requirements under the law and jurisprudence.

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[13] *Motion for Reconsideration (Re: Decision dated June 29, 2019)*, RTC Records, pp. 386-399.
[14] RTC Records, pp. 434-435.
[15] Division Docket, pp. 5-36.
[16] *Comment to the Petition for Review*, *Id.*, pp. 83-93.
[17] *Resolution* dated January 12, 2023, *Id.*, p. 97.
[18] *Resolution* dated December 27, 2022, *Id.*, p. 95.
[19] *Memorandum for the Respondent*, *Id.*, pp. 98-113.
[20] *Memorandum*, *Id.*, pp. 114-144.
[21] Division Docket, p. 146.

On March 6, 2024, herein petitioners filed a *Motion for Reconsideration*.[22] CTF Hotel filed its comment thereto on April 1, 2024.[23]

On August 5, 2024, the Court in Division rendered the assailed *Resolution* denying the *Motion for Reconsideration* for lack of merit and for being *pro forma*.[24] Herein petitioners received the same on August 21, 2024.[25]

PROCEEDINGS BEFORE THE COURT *EN BANC*

Pursuant to Rule 8, Section 4(b) of the Revised Rules of the CTA, in relation to Rule 43, Section 4 of the Rules of Court, petitioners had fifteen (15) days from August 21, 2024—or until September 5, 2024—within which to file a petition for review. On September 4, 2024, petitioners filed a *Motion for an Extension of Time to File Petition for Review CTA En Banc*,[26] requesting for an additional period of fifteen (15) days from September 5, 2024, or until September 19, 2024.[27] The Court granted them until September 20, 2024 within which to file their petition for review.[28]

On September 19, 2024, petitioners filed the instant *Petition*.[29] Herein respondent CTF Hotel filed its comment thereto on November 6, 2024.[30] In a *Resolution* dated December 5, 2024, the Court submitted the case for decision.[31]

ISSUE

The issue in this case is whether the Court in Division erred in finding the *Assessment Notice* void for non-compliance with the due process requirement that taxpayers should be informed in writing of the law and the facts on which the assessment is based.

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[22] Division Docket, pp. 147-162.
[23] *Comment (Re: Motion for Reconsideration dated March 4, 2024), Id.*, pp. 190-207.
[24] Division Docket, p. 225.
[25] *Id.*, p. 210.
[26] *EB* Docket, pp. 1-7.
[27] Fifteen (15) days from September 5, 2024 is September 20, 2024.
[28] *EB* Docket, p. 10.
[29] *Id.*, pp. 11-35.
[30] *Comment (Re: Petition for Review dated September 18, 2024), EB* Docket, pp. 80-93.
[31] *EB* Docket, p. 95.

Petitioners' arguments

Petitioners assert that the requirement under the 1997 National Internal Revenue Code, as amended ("**Tax Code**") that taxpayers should be informed in writing of the law and the facts on which the assessment is made does not have a counterpart provision in the LGC, which is the applicable law in this case. Section 195 of the LGC only requires that the nature of the tax; the tax due, fee, or charge; and the amount of deficiency, surcharge, interest, and penalty be indicated in the assessment notice. According to petitioner, said details are stated in the subject *Assessment Notice* as follows:

Nature of the tax :	Business tax as holding co.
Tax due :	P112,567.33 for 2011 P131,282.51 for 2013
Fee or charge :	P198,547.18 for 2011 P212,349.67 for 2013
Amount of deficiency :	P92,317.53 for 2011 P111,032.51 for 2013
Surcharges, interests, and penalties :	P106,199.65 for 2011 P101,317.16 for 2013

Petitioners argue that the LGC does not mandate that specific provisions of law or ordinance be cited in the assessment notice, therefore to impose such condition is tantamount to amending the said law.

Petitioners also note that the respondent's protest to the *Assessment Notice* contains a discussion on the contractor's tax on holding companies, indicating that respondent was aware of the ordinance imposing the said tax. That respondent was able to make such protest and discussion is sufficient compliance with due process standards.

Respondent's arguments

Respondent maintains that the *Assessment Notice* failed to inform it of the nature of the tax assessed, particularly since there is no provision in the Manila Revenue Code which imposes a "Business tax as holding co." Although Section 195 of the LGC does not explicitly require that the assessment notice cite the specific provision of the applicable law or ordinance, jurisprudence provides that there must be a statutory basis for levying the business tax. Respondent notes that the petitioners did not even bother to put in the *Assessment Notice* the tax rate applied in computing the alleged tax due from it.

Respondent also points out that the petitioners have taken inconsistent positions as to the basis of the assessed tax. In their comment to respondent's petition for review before the Court in Division, the petitioners invoked Sections 105 and 106 of the Omnibus Revenue Code of the Manila City. Then, in the present *Petition*, the petitioners take on a different track and cite Section 18 of Ordinance No. 7794 (*i.e.* tax on contractors). According to the respondent, this lack of clear legal basis violates its right to due process.

RULING OF THE COURT *EN BANC*

We rule for the respondent. The *Petition* is without merit.

Section 195 of the LGC governs the assessment of local taxes:

> **Section 195. Protest of Assessment.** - When the local treasurer or his [or her][32] duly authorized representative finds that correct taxes, fees, or charges have not been paid, he [or she][33] shall issue a notice of assessment ***stating the nature of the tax, fee, or charge***, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he [or she][34] shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he [or she][35] shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the

[32] A.M. No. 21-11-25-SC (Re: Proposed Rules on the Use of Gender-Fair Language in the Judiciary and Gender-Fair Courtroom Etiquette).
[33] *Id.*
[34] *Id.*
[35] *Id.*

> lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

Meanwhile, Section 151 in relation to Section 143 of the LGC enumerates the types of businesses on which cities may impose a tax. These include contractors,[36] banks and other financial institutions,[37] and "any business, not otherwise specified in the preceding paragraphs, which the *sanggunian* concerned may deem proper to tax."[38]

In the present case, the City of Manila imposed a "**business tax as holding co.**" on respondent CTF Hotel for TYs 2011 and 2013. However, nowhere can it be seen from the assessment what the legal basis or nature of such tax is. Notably, Ordinance No. 7794[39] and Ordinance No. 8331[40] do not include holding companies as one of the businesses liable for local business tax.

An LGU's power to tax is not inherent. It is derived from constitutional grant, which expressly subjects it to such guidelines and limitations as the Congress may provide.[41] Pertinently, Section 132 of the LGC provides that the power to tax shall be exercised by the *sanggunian* of the LGU concerned through an appropriate ordinance. As held in *Guialani v. Court of Appeals*.[42]

> The imposition of tax and the grant of tax reliefs are legislative functions and as such, cannot be left to the discretion of the City Mayor or City Treasurer. ***An ordinance must be enacted by the Sanggunian under such terms and conditions as may be necessary such that there is nothing left to do but to enforce it*** in accordance with the agreed terms and conditions set therein. Without any such authority, respondents Moreno and Bañez, on their own, have the power to settle a tax deficiency or enter into settlement agreements or compromise with a taxpayer. To do so would only make the agreement susceptible to corruption

[36] LOCAL GOVERNMENT CODE, Sec. 143(e).
[37] LOCAL GOVERNMENT CODE, Sec. 143(f).
[38] LOCAL GOVERNMENT CODE, Sec. 143(h).
[39] Revenue Code of the City of Manila (1993).
[40] 2013 Omnibus Revenue Code of the City of Manila.
[41] CONST., Art. X, Sec. 5.
[42] G.R. Nos. 221253-54, April 26, 2021 [Per J. Carandang, First Division].

> since the amount of settlement would rest entirely upon the discretion of the City Mayor or the City Treasurer.

Without a duly enacted ordinance imposing a business tax on holding companies, it is therefore improper for herein petitioners to assess respondent CTF Hotel of such tax. To permit the same is not just contrary to law but also sanctions corruption and arbitrariness, since the tax assessment would rest entirely upon the discretion of the petitioners. Here, such arbitrariness is apparent from the *Assessment Notice* which does not even contain the tax rate applied to arrive at the alleged deficiency tax due.

While the LGC indeed does not require that the legal basis of the tax be specifically indicated in the notice of assessment—only that the "nature of the tax" be stated—reference to the ordinance is logically necessary in order to ascertain the nature of the tax imposed. Moreover, as explained by the Supreme Court in *Yamane v. BA Lepanto Condominium Corporation*:[43]

> Reference to the local tax ordinance is vital, for the power of local government units to impose local taxes is exercised through the appropriate ordinance enacted by the *sanggunian*, and not by the Local Government Code alone. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body.

With regard to petitioners' explanations before the court *a quo* that the tax imposed is in the nature of a contractors' tax or a LBT on financial institutions, the fact remains that a perusal of the subject *Assessment Notice* does not describe the nature of the tax as required by Section 195 of the LGC. On this score, we affirm the findings in the assailed *Decision*:[44]

> As can be gleaned from the foregoing, even [petitioner] City of Manila is uncertain about whether the assessments were based on [CTF Hotel's] business activities as a 'financial institution' or as a 'contractor'. It should be noted that [CTF Hotel] cannot be subjected to local taxes under both Sections 105 and 106 of the Manila Revenue Code, as a 'contractor' and 'financial institution', respectively, since that would amount to double taxation...

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[43] G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division].
[44] *EB* Docket, pp. 56-58. *Citations omitted.*

...

...it is noteworthy that ***even this Court is unable to recompute how [petitioner] OIC-City Treasurer of Manila determined the "Tax Due" per Assessment Notice*** under the Manila Revenue Code (or Ordinance No. 8331), as shown below:

	CY 2011	CY 2013
Gross Receipts *per* Assessment Notice	14,709,004.00	17,204,335.00
Tax Due *per* Assessment Notice	112,567.53	131,282.51
Tax Due under Section 105... as a 'contractor'	123,824.28	144,410.76
Tax Due under Section 106... as a 'financial institution'	32,359.81	37,849.54

The foregoing highlights a fatal flaw in the Assessment Notice, as it clearly failed to fully apprise [CTF Hotel] of the legal basis for the assessments as required under Section 195 of the [Local Government Code] of 1991. ***This omission constitutes a violation of [CTF Hotel's] right to due process, thereby rendering the subject deficiency LBT assessments for CYs 2011 and 2013 void.***

The rationale behind the requirement that taxpayers should be informed of the facts and the law on which an assessment is based is no less than the constitutional mandate that no person shall be deprived of his or her property without due process of law.[45] Such constitutional mandate obtains regardless of whether the assessment is issued pursuant to the Tax Code or the LGC. Thus, an assessment which does not sufficiently inform the taxpayer of the facts and the law on which it is based, such as the subject *Assessment Notice*, must be struck down as void for violating the taxpayer's right to due process.

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[45] *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, G.R. No. 215957, November 09, 2016 [Per J. Leonen, Second Division].

ACCORDINGLY, the instant *Petition for Review* filed on September 19, 2024 is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(With Separate Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

THE CITY OF MANILA AND HON. RIZAL Y. DEL ROSARIO IN HIS CAPACITY AS OIC-CITY TREASURER, *Petitioners,*	**CTA EB NO. 2987** *(CTA AC No. 276)*
	PRESENT:
-versus-	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
CTF HOTEL AND ENTERTAINMENT, INC., *Respondent.*	Promulgated: SEP 19 2025 3:21 p.m.

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SEPARATE CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur in the denial of the present Petition for Review.

I, however, wish to state that the absence of an ordinance imposing a business tax on holding companies is irrelevant as a local government unit (LGU) may not enact an ordinance imposing Local Business Tax (LBT) on passive investment income of holding companies.

LBT are taxes levied on the privilege of doing business within the territorial jurisdiction of the concerned LGU. The phrase doing business is defined as some "trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit." The business entities enumerated under Section 143 of the Local Government Code (LGC) are made liable for LBT by virtue of their being regularly engaged in their business as such within the city or municipality's locality. This is why LBT under Section 143 of the LGC is levied on the entity's gross receipts derived from the conduct of its principal trade or business.[1]

A "holding company" is organized and is basically conducting its business by investing substantially in the equity securities of another company for the purpose of controlling their policies (as opposed to directly engaging in operating activities) and 'holding' them in a conglomerate or umbrella structure along with other subsidiaries. Any investment activities it conducts are mere incidental operations since its main purpose is to hold shares for policy-controlling purposes.[2]

By its nature, a holding company does not derive any gross receipts from managing shares. The declaration in *City of Davao et al. v. ARC Investors, Inc.*[3] is instructive, *viz.:*

> Lastly, the Court finds Bureau of Local Government Finance Opinion dated February 22, 2011 as enlightening on the matter, thus:
>
>> It is clear from [Section 143(f) of the LGC] that unless imposed on banks and other financial institutions, **any tax imposed on interest, dividends, and gains from sale of shares of non-bank and non-financial institutions assume the nature of income tax**. The reason for this is evident: while banks and other financial institutions derive gross receipts in the ordinary course of their business as financial institutions, the same cannot be said for non-bank and non-financial institutions. As to the latter, **interest, dividends, and gains from sale of shares are merely passive investment income**.
>
> In the same Opinion, the Bureau of Local Government Finance added that the definition of "gross sales or receipts" under Section 131(n) of the **LGC neither includes nor mentions passive income *(i.e., dividend income received from another domestic corporation)* as one of those that are considered part or forming part of the gross sales or receipts; hence, such income is not subject to local business tax**. *(Boldfacing supplied)*

To be sure, the interest, dividends, and gains from sales of shares derived by a holding company are merely passive investment income, which are not part of the gross sales or receipts, as defined under Section 131(n) of LGC, and are not subject to LBT.

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[1] *The City Treasurer of Makati City v. Michigan Holdings, Inc.*, G.R. No. 224322, March 24, 2021.
[2] *City of Davao v. Randy Allied Ventures, Inc.*, G.R. No. 241697, July 29, 2019.
[3] G.R. No. 249668, July 13, 2022.

To subject to LBT the interest, dividends and gains from sale of shares derived by holding companies *(which are not banks and financial institutions, like herein respondent)* would violate the prohibition under Section 133 of LGC which states:

> **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 not extend to the levy of** the following:
>
> (a) **Income tax**, except when levied on banks and other financial institutions;
>
> xxx" *(Boldfacing supplied)*

Petitioners' assessment and collection from respondent of LBT on the latter's passive income is tantamount to imposing on respondent a tax on the income itself, which Section 133 (a) of the LGC explicitly prohibits.[4]

IN VIEW OF THE FOREGOING, I vote to **DENY** the Petition for Review filed by petitioners on September 19, 2024 for lack of merit.

ROMAN G. DEL ROSARIO
Presiding Justice

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[4] Note 1, supra.