REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

NATIONAL TRANSMISSION CORPORATION (TRANSCO), Petitioner,	**CTA AC NO. 239**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
PROVINCE OF DAVAO DEL SUR, REPRESENTED BY ITS PROVINCIAL TREASURER MR. ABEL A. GUINARES, Respondent.	Promulgated: 2:45 PM

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RESOLUTION

FERRER-FLORES, J.:

For this Court's resolution is respondent's **Motion for Reconsideration** filed via registered mail on March 14, 2025, and received by the Court on March 25, 2025, with petitioner's **Comment/Opposition (to Respondent's 14 March 2025 Motion for Reconsideration)** filed via registered mail on July 7, 2025, and received by the Court on July 14, 2025.

On October 31, 2024, the Court promulgated the assailed Decision setting aside the Judgment dated July 1, 2019 and the Order dated March 9, 2020 rendered by the Regional Trial Court of Digos City, Davao del Sur – Branch 19 (RTC/court *a quo*), in Civil Case No. 4989, finding that the local franchise tax assessments for the years 2002 to 2008 imposed by respondent against petitioner have no legal bases, the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the present *Petition for Review* is **GRANTED**.
>
> Accordingly, the assailed Judgment dated July 1, 2019 and assailed Order dated March 9, 2020, both rendered by Regional Trial Court of Digos City, Davao del Sur – Branch 19, in Civil Case No. 4989, entitled *'National Transmission Corporation (TransCo) versus Province of Davao del Sur,*

> *represented by its Provincial Treasurer, Mr. Abel A. Guinares'*, are **REVERSED** and **SET ASIDE**. Consequently, the *Revised Assessment Notice* dated November 4, 2009 is hereby declared **NULL** and **VOID**.
>
> **SO ORDERED.**

In its *Motion*, respondent seeks reconsideration of the assailed Decision and raises the following grounds as bases for its arguments, viz.:

I. The case of *City of Iriga v. Camarines Sur III Electric Cooperative, Inc. (CASURECO III),*[1] *(City of Iriga)* cited by the Court should not apply in the present case because it does not sufficiently address the specific circumstances surrounding respondent's tax collection from petitioner;

II. Petitioner is exercising its franchise within the territorial jurisdiction of Davao del Sur; and,

III. The lifeblood doctrine reinforces the principle that local governments rely on taxes to refund essential services, and to deprive respondent from collecting franchise tax from petitioner clearly violates this doctrine and would undermine the delivery of public service to its constituents including petitioner.

As to the *first* ground, respondent insists that *City of Iriga* is not on all fours with the circumstances in the present case since the entity being assessed for franchise tax therein was an electric cooperative, while, in the present case, petitioner is engaged in the transmission of electricity. Respondent further asserts that, by operating and maintaining a substation in Matanao, Davao del Sur, which is crucial for its operations in the province, it is within its legal right to impose franchise tax on petitioner. Respondent continues that, since petitioner provides services, particularly, in supplying power to its customer, Davao Del Sur Electric Cooperative (DASURECO), and earns income therefrom, petitioner exercised its franchise within the Province of Davao del Sur and, therefore, can be subject to local franchise tax.

Anent the *second* ground, respondent reiterates that the existence of petitioner's substation in Matanao is a clear indication that it is operating within the province of Davao del Sur which justifies respondent's right to collect franchise tax from petitioner, pursuant to Section 137 of Republic Act (R.A.) No. 7160,[2] or the Local Government Code (LGC) of 1991. Respondent

[1] G.R. No. 192945, September 5, 2012.
[2] *An Act Providing for a Local Government Code of 1991*, took effect on January 1, 1992.

further cites the case of *National Power Corporation vs. City of Cabanatuan,*[3] wherein the Supreme Court enumerated the requisites to determine whether an entity exercises a franchise, to wit: *(i)* that the entity has franchise tax in the sense of secondary or special franchise; and, *(ii)* it is exercising its rights and privileges under this franchise within the territory of the local government unit who seeks payment of franchise tax. Based therefrom, respondent maintains that petitioner allegedly fulfilled both requisites—the first requisite based on its charter, Commonwealth Act No. 120, as amended by R.A. No. 6395,[4] and the second requisite as shown by the fact that petitioner exercised its franchise within the Province of Davao del Sur through its Matanao substation.

Lastly, regarding the *third* ground, respondent alleges that taxes are the lifeblood of government which must be collected without unnecessary delays or hindrances. Respondent submits that, since petitioner has a substation within the Province of Davao del Sur, and derives benefit from the infrastructure, protection, and services provided by the provincial government, it is but proper that petitioner should share the burden by supporting respondent through payment of franchise tax.

On the other hand, in its *Comment*, petitioner maintains that the Court correctly held that respondent cannot impose franchise tax on petitioner's gross receipts from DASURECO or any portion thereof, absent proof that its principal office is indeed situated in the Province of Davao del Sur. Petitioner posits that there is no bearing that the electricity transmitted to DASURECO was subsequently distributed to end users in certain municipalities of Davao del Sur as petitioner derived its gross receipts from DASURECO, and not from the end users. Petitioner further avers that the payment of DASURECO for the power bills were all recorded in its regional office located in Davao City, and not in the Province of Davao del Sur, and that it has no branch, sales, or office within the territory of the Province of Davao del Sur through which petitioner possibly conducted any business activity.

Lastly, petitioner avers that, while taxes may be the lifeblood of the government, it must be assessed and collected in the manner provided for by the law. Petitioner explains that the limitation on the power of local government units to impose franchise tax through a legislative enactment must not be inconsistent with the constitutional principle that the power to tax, while inherent, is subject to such limitations and guidelines provided by law. Petitioner, thus, submits that it bears no legal obligation to pay franchise tax to the Province of Davao del Sur.

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3 G.R. No. 149110, April 9, 2003.
4 *An Act Revising the Charter of the National Power Corporation*, approved on September 10, 1971.

After due consideration, the Court finds respondent's *Motion for Reconsideration* bereft of merit.

As discussed in the assailed Decision, Section 137 of the LGC of 1991 indeed provides that the province may impose a tax on businesses enjoying a franchise. Such power of the province, however, cannot extend to those businesses enjoying franchise operating within the territorial limits or jurisdiction of any city located in the province, Section 151 of the LGC of 1991 and Article 226 (a) and (b) of the Implementing Rules and Regulations (IRR) of the said code,[5] provide as follows:

Section 151, LGC of 1991

> **Section 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**: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.
>
> The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes. *(Emphasis supplied)*

Article 226, IRR of the LGC of 1991

> **ARTICLE 226.** *Franchise Tax.* — (a) Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts, which shall include both cash sales and sales on account realized during the preceding calendar year within its territorial jurisdiction, **excluding the territorial limits of any city located in the province**.
>
> (b) The province shall not impose the tax on business enjoying franchise operating within the territorial jurisdiction of any city located within the province. *(Emphasis supplied)*

Notably, the LGC and its IRR do not expressly provide for any guidelines in determining the situs of a local franchise. As such, the Court has to resort to the judicial interpretation of the Supreme Court in *City of Iriga* of the phrase "tax on businesses enjoying a franchise" under Sections 137 to ascertain which between the *province* and the *city* has the right to impose and collect the same. We quote again the pertinent portion of the said case for ready reference:

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[5] Administrative Order No. 270, approved on February 21, 1992.

> It should be stressed that what the [City of Iriga] seeks to collect from CASURECO III is a franchise tax, which as defined, is a tax on the exercise of a *privilege*. **As Section 137 of the LGC provides, franchise tax shall be based on gross receipts precisely because it is a tax on business, rather than on persons or property. Since it partakes of the nature of an excise tax, <u>the *situs* of taxation is the place where the privilege is exercised, in this case in the City of Iriga, where CASURECO III has its principal office and from where it operates</u>, regardless of the place where its services or products are delivered.** Hence, franchise tax covers all gross receipts from Iriga City and the Rinconada area. *(Emphasis and underscoring supplied)*

Considering that the present case has the exact legal issue with that of *City of Iriga* (*i.e.*, situs of taxation for local franchise tax), the doctrine of *stare decisis* finds application. The principle of *stare decisis et non quieta movera* ("to adhere to precedents and not to unsettle things which are established") is a bar to any attempt to re-litigate the same issue where the same questions relating to the same event have been put forward by parties similarly situated as in a previous case litigated and decided by a competent court.[6] Clearly, the Court properly applied *City of Iriga* to the present case.

On respondent's claim that the Matanao substation is *akin* to a branch or sales office, the Court finds no new issue raised by the respondent which merits the attention of this Court. Notably, this Court has exhaustively discussed the same issue in the assailed Decision, to wit:[7]

> Similarly, we find unmeritorious respondent's assertion that petitioner exercised its franchise within the Province of Davao del Sur through the Matanao substation, which can be considered a branch or sales office.
>
> Article 243 of the IRR of the LGC of 1991 defined a *branch* or *sales* office in the following manner:
>
> ARTICLE 243. *Situs of the Tax*. - (a) Definition of terms
>
> 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 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. M

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6 *Commissioner of Internal Revenue vs. Federation of Golf Clubs of the Philippines, Inc.*, G.R. No. 226449, July 28, 2020, citing *Tala Realty Corp., Inc. vs. Banco Filipino Savings & Mortgage Bank*, G.R. No. 181369, June 22, 2016.

7 Decision dated October 31, 2024, Docket.

> It is worth noting that this matter has already been settled and addressed by the RTC, as admitted by the parties in their respective memorandum, thus: "*two facts were established in/by the RTC: First, TransCo had no customers and, as such, received no payment from customers within the territory of the Province of Davao del Sur. Second, Trans Co had no branch, sales outlet or office within the territory of the Province of Davao del Sur where Trans Co could possibly conduct its business activity.*"
>
> Considering also that petitioner's substation in Matanao hardly fall under the afore-quoted definition of branch or sales office, respondent Province therefore cannot collect franchise tax from petitioner given that tax situs does not lie within of the Province of Davao del Sur from the years 2002 to 2008. *(Citations omitted)*

As to respondent's *second* argument, that petitioner's substation in Matanao is an essential part of its operations and is directly related to its ability to provide electrical services in Davao del Sur, the Court reiterates that the same does not automatically imply the exercise of a franchise and imposition of franchise tax by respondent. Again, local franchise tax is imposed on the privilege of operating a franchise, and not on ownership of the transmission facilities.[8] DASURECO's distribution of electricity to its customers in the province of Davao del Sur cannot be considered as an indication that petitioner is exercising the privileges of its franchise within the territory of the Province of Davao de Sur since the subject gross receipts were derived from its transmission of electricity to its customer—DASURECO, which is an entity separate and distinct from DASURECO's customers.

Lastly, while this Court recognizes that the power to tax is the most potent instrument to raise the needed revenues to finance and support myriad activities of local government units for the delivery of basic services essential to the promotion of the general welfare and the enhancement of peace, progress, and prosperity of the people,[9] such power has its limitations.[10] It equally bears noting that the power of taxation is also sometimes called the power to destroy and, therefore, should be exercised with caution to minimize injury to the proprietary rights of the taxpayer.[11] The Court cannot shirk from its responsibility of protecting the right of the taxpayer if the imposition thereof would unduly deprive the latter of its property without due process of law, as in the present case.

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[8] *National Power Corporation vs. Provincial Government of Bataan, et al.*, G.R. No. 180654, April 21, 2014.
[9] *National Power Corp. vs. Province of Pangasinan*, G.R. No. 210191, March 4, 2019.
[10] *Commissioner of Internal Revenue vs. Algue, Inc.*, G.R. No. L-28896, February 17, 1988.
[11] *Commissioner of Internal Revenue vs. Yumex Philippines Corp.*, G.R. No. 222476, May 5, 2021.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in its *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on October 31, 2024.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice