REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PUBLIC SAFETY MUTUAL BENEFIT FUND, INC., REPRESENTED BY ITS PRESIDENT MARIO A. AVENIDO, *Petitioner,*	**CTA AC CASE NO. 245**
	Members:
	RINGPIS-LIBAN, *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
-versus-	
ROSETTE A. LAQUIAN, Acting City Treasurer, San Juan City, *Respondent.*	Promulgated: JUN 11 2024

x -- x

4:30 p.m.

DECISION

MODESTO-SAN PEDRO, J.:

The Case

The instant Petition for Review ("Petition")[1] and the corresponding Amended Petition[2] constitute an appeal by petitioner for the setting aside of the Decision, dated June 2, 2020, ("Assailed Decision"), and Order, dated 6 November 2020 ("Assailed Order"), of the Regional Trial Court ("RTC"), Pasig City, Branch 264 in Case No. 75466-SJ.

The Parties

Petitioner is a non-stock, non-profit domestic corporation organized as a mutual benefit association with business address at No. 318-320 corner 1st and 2nd West Crame Sts., Barangay West Crame, Santolan Road, San Juan City. It is represented by its President, Mr. Mario A. Avenido.[3]

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[1] *See* Nature of the Petition, Petition, *Rollo*, p. 5.
[2] See Nature of the Petition, Amended Petition, *id.* at 418.
[3] See Parties, Petition, Records, p. 7; Annex "E", Petition, *id.* at pp. 75-77.

Meanwhile, respondent Rosette F. Laquian is the Acting City Treasurer of San Juan City with postal address at the Office of the City Treasurer, Pinaglabanan St. corner Dr. P.A. Narcisio St., Barangay Corazon de Jesus, San Juan City.[4]

The Facts

Petitioner's Amended Articles of Incorporation provides that it was primarily formed:[5]

a. To foster brotherhood and sisterhood mutual assistance among members;
b. To encourage the habit of thrift and savings among members;
c. To provide financial material aid and comforts to members and their families in case of losses, disability, necessities, unemployment, old age as may be authorized by statutes or regulations prescribed by competent authority;
d. To provide retirement pension benefits to members and their families;
e. In general, to do such acts and things and to undertake such activities not otherwise prohibited by law which are calculated to help members and necessary for the accomplishments of the purpose for which the fund has been organized.

It realizes gross receipts from the contribution of members to the Equity Plan (Insurance Plan), Premiums from other insurance plans, Investment earnings, and other incomes. In addition, petitioner realizes rental income by leasing a portion of its building to tenants. All of its funds and earnings, however, are utilized for the mutual benefit and protection of its members and their families.[6]

Sometime in the past, the Bureau of Internal Revenue ("BIR") issued an Exemption Ruling from income realized by petitioner as a Mutual Benefits Association.[7]

In 2006, petitioner transferred its main office from Camp Crame to its present address in San Juan City. On July 26, 2006, the Office of the Mayor, Business Permit and Licensing Office, issued petitioner's first ever Permit to Operate.[8]

4 See Parties, Petition, *id.* at p. 7.
5 Annex "J", Petition, *id.* at 102-107.
6 Petition, *id.* at 9.
7 Annex "K", Petition, *id.* at 108-110.
8 Annex "L", Petition, *id.* at 111-112.

From calendar year ("CY") 2006 to CY 2015, petitioner was assessed for local business taxes ("LBT") only on its leasing operations. For said period, petitioner paid a total of Php581,951.33 as LBT.

On October 29, 2015, a Tax Order of Payment ("TOP") (hereinafter referred to as "TOP 1") was issued by respondent requiring petitioner to pay LBT not only on its leasing activity but also on the gross receipts that it received from all its operations as a Mutual Benefits Association, pursuant to *Section 143 (f) in relation to Section 131 of the Local Government Code* ("*LGC*") from CY 2009 to 2015.

On December 1, 2015, petitioner sent a Letter, dated November 24, 2015, to respondent, informing the latter that it is a Mutual Benefits Association and as such is exempt from payment of LBT on "banks and other financial institutions" under *Section 143 (f) in relation to Section 131 of the LGC.*[9] It referenced *Local Finance Circular No. 2-93, dated June 15, 1993,* which provides that Mutual Benefits Associations are not within the scope of the LBT on "banks and other financial institutions."[10]

On December 10, 2015, petitioner requested from the Bureau of Local Government Finance ("BLGF") for a specific ruling on its exemption from LBT. In an Opinion, dated January 14, 2016,[11] the BLGF opined that since petitioner is a Mutual Benefits Association, it is exempt from payment of LBT.

Following this, petitioner filed a Protest against TOP 1, raising the argument that it is a Mutual Benefits Association, and as such, it is not subject to LBT on "banks and other financial institutions."[12]

On January 18, 2017, respondent issued another TOP ("TOP 2") which contained the same assessments for CYs 2009 to 2015 as covered by TOP 1 but with additional LBT assessments for CYs 2016 and 2017 which were made on the same legal basis as TOP 1.[13]

On January 23, 2018, petitioner received a Letter, dated September 5, 2017, effectively denying its Protest against TOP 1. Thereafter, petitioner filed an Appeal with RTC-Branch 160 questioning the propriety of TOP 1 and TOP 2. After RTC-Branch 160 denied the Appeal on the basis that petitioners failed to prove its alleged exemption from the payment of LBT, petitioners then elevated the matter before the Court of Tax Appeals ("CTA").[14] The case

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9 Annex "M", Petition, *id.* at 113-114.
10 Annex "N", Petition, *id.* at 115-121.
11 Annex "O", Petition, *id.* at 122-125.
12 Petition, *id.* at 12.
13 Annex "G", Petition, *id.* at 81-125.
14 Petition, *id.* at 12-13.

was eventually disposed of by the CTA *En Banc* against petitioner, which ruled that the TOPs 1 and 2 had become final, executory, and unappealable as petitioner failed to comply with the provisions of *Section 195 of the LGC.*[15]

Thereafter, and central to this Petition, a TOP, dated January 21, 2019, ("TOP 3") was received by petitioner from respondent on January 28, 2019.[16] TOP 3 covers the period from CY 2009 to 2019 and assessed petitioner the amount of Two Hundred Eight Million One Hundred Thirty Thousand Five Hundred One and 95/100 Pesos for deficiency LBT under the category – "Financial Institution – Insurance Companies."

Petitioner then filed a Protest against the TOP on March 13, 2019 with the Office of the City Treasurer through a Letter, dated March 11, 2019.[17] It reiterated its position that, as a Mutual Benefits Association, it is exempt from payment of LBT.

On May 14, 2019, petitioner received a copy of the Letter, dated May 10, 2019, denying the Protest.[18]

Accordingly, petitioner filed on June 13, 2019 an Appeal before RTC-Branch 264 questioning the denial of its administrative Protest.[19]

On 2 June 2020, the Assailed Decision was promulgated by RTC-Branch 264 denying petitioner's Appeal.[20] Petitioner then filed a Motion for Reconsideration of the said Decision on 4 September 2020.[21] Through the Assailed Order, dated 6 November 2020, petitioner's Motion for Reconsideration was denied.[22]

Thus, on December 14, 2020, petitioner filed the instant Petition.

On January 20, 2021, this Court ordered respondent to file a Comment on the Petition,[23] which respondent filed through registered mail on March 22, 2021.[24]

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15 *Public Safety Mutual Benefit Fund, Inc., represented by its President, Mario A. Avenido v. Rosette F. Laquian, Acting City Treasurer, San Juan City*, C.T.A. *EB* No. 2198, January 15, 2021.
16 Annex "H", Petition, Records, pp. 85-87.
17 Annex "C", Petition, *id.* at 65-72.
18 Annex "D", Petition, *id.* at 73-74.
19 Annex "Q", Petition, *id.* at 126-151.
20 Annex "A", Petition, *id.* at 39-59.
21 Annex "R", Petition, *id.* at 152-177.
22 Annex "B", Petition, *id.* at 60-63.
23 *Id.* at 209-210.
24 *Id.* at 215-226.

On June 10, 2021, petitioner manifested that it paid under protest the LBT assessments contained under TOPs 1, 2, and 3.[25] In response, however, respondent filed a Comment (In Re: Manifestation dated June 9, 2021) indicating that while she confirms the payment made by petitioner of the LBT assessments contained under TOPs 1, 2, and 3, the said payment cannot be considered a payment under protest considering that such manner of payment is not legally available for LBT assessments but is simply allowed by the *LGC* for real property tax assessments.[26]

RTC-Branch 264 elevated the Court Records appurtenant to the present case on April 25, 2022.[27]

On April 29, 2022, petitioner filed its Memorandum for the Petition.[28]

On May 23, 2022, petitioner filed an Urgent Verified Motion for the Lifting of the Warrant of Levy. In said Motion, petitioner alleged that since it already paid the LBT assessments contained under TOPs 1, 2, and 3, there is no legal basis for respondent to continue levying petitioner's real properties.[29] On August 11, 2022, respondent filed her Comment/Opposition (to the Verified Urgent Motion for the Lifting of the Warrant of Levy) counter-arguing that she cannot lift the levy made on petitioner's real properties since petitioner's payment under protest for LBT assessments is not legally sanctioned under the *LGC.* Lifting the Warrant of Levy might estop the City from questioning petitioner's procedural mistake.[30]

On November 10, 2022, respondent filed her Memorandum.[31]

On November 14, 2022, petitioner submitted the Judicial Affidavit of Atty. Rizalina V. Lumbera in support of its Urgent Verified Motion for the Lifting of the Warrant of Levy.[32] On November 22, 2022, Atty. Lumbera was placed on the witness stand. During the said hearing, petitioner was given a chance by the Court to amend its Petition to include the refund aspect of the present case which resulted from petitioner's payment under protest of the LBT assessments contained under TOPs 1, 2, and 3 and which was covered by the testimony of Atty. Lumbera.[33]

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[25] *Id.* at 228-248.
[26] *Id.* at 250-253.
[27] *Id.* at 273-277.
[28] *Id.* at 281-303.
[29] *Id.* at 305-327.
[30] *Id.* at 331-336.
[31] *Id.* at 347-360.
[32] *Id.* at 369-411.
[33] *Id.* at 413-417.

On December 7, 2022, petitioner filed its Amended Petition containing the refund aspect of the instant case that resulted from its payment under protest of the LBT assessments contained in TOPs 1, 2, and 3.[34]

On December 23, 2022, respondent filed through registered mail her Comment (to the Amended Petition dated 06 December 2022), contending that the Amended Petition must be dismissed since petitioner failed to pay the necessary docket fees for the refund element of the Amended Petition.[35]

In a Resolution, dated March 31, 2023, this Court ordered the lifting of the Warrant of Levy considering that petitioners have already paid the LBT due in the TOPs 1, 2, and 3.[36]

Petitioner filed its Memorandum in relation to the Amended Petition on May 11, 2023,[37] while respondent filed her Memorandum on May 12, 2023.[38] Thus, in a Resolution, dated June 15, 2023, the instant case was submitted for Decision.[39]

Hence, this Decision.

The Issues[40]

> Whether or not respondent erred in not considering petitioner as a Mutual Benefits Association, the primary purpose of its creation being for the mutual benefit and protection of its members;
>
> Whether or not respondent erred in disregarding *BLGF Circular No. 2-93* and the Letter Opinion of the BLGF dated January 14, 2016; and
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> Whether or not the assessments made by respondent are violative of due process of law rendering it void.

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[34] *Id.* at 418-449.
[35] *Id.* at 452-458.
[36] *Id.* at 465-467.
[37] *Id.* at 468-495.
[38] *Id.* at 496-526.
[39] *Id.* at 528.
[40] See Assignment of Errors, Memorandum for Petitioner, *id.* at 479.

Arguments of the Parties

Petitioner's Arguments[41]

In support of its case against TOP 3, petitioner posits the following arguments:

Respondent erred in not considering petitioner as a Mutual Benefits Association, the primary purpose of its creation being for the mutual benefit and protection of its members.

In TOP 3, respondent failed to clearly indicate the basis of the assessment. Respondent merely provided that TOP 3 was issued on the basis of *Section 143 (f) of the LGC.* The LBT imposed under said provision is applicable only to "banks and other financial institutions".

Pursuant to *Section 131 of the LGC,* the said term includes "insurance companies." To determine which entities qualify as insurance companies, one must first refer to the *Insurance Code of the Philippines.* Under *Section 190, Title 1, Chapter III of the Insurance Code of the Philippines,* insurance companies do not include Mutual Benefits Associations.

Section 403, Title 1, Chapter VII of the Insurance Code of the Philippines defines a Mutual Benefits Association as "[a]ny society, association or corporation, without capital stock, formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money, irrespective of whether such aim or purpose is carried out by means of fixed dues or assessments collected regularly from the members, or of providing, by the issuance of certificates of insurance, payment of its members of accident or life insurance benefits out of such fixed and regular dues or assessments, but in no case shall include any society, association, or corporation with such mutual benefit features and which shall be carried out purely from voluntary contributions collected not regularly and/or no fixed amount from whomsoever may contribute."

As shown by the purposes found in petitioner's Amended Articles of Incorporation, the Amended By-Laws,[42] the Certificate of Membership issued by the Insurance Commission,[43] and the BIR Certificate of Exemption, petitioner is a duly registered non-stock, non-profit Mutual Benefits

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[41] See Discussion, Memorandum for Petitioner, *id.* at 479-492.
[42] Annex "G".
[43] Annex "S".

Association, engaged in insurance operations, among others, exclusively to its members, who are from public safety offices.

While operating as a Mutual Benefits Association, petitioner realizes receipts from the contribution of members to the Equity Plan (Insurance Plan), premiums from other insurance plans, and investment earnings and other incomes. Also, petitioner leases a portion of its building to tenants realizing rental income from leasing activities. All of its funds and earnings, however, are utilized for the mutual benefit and protection of its members and their families.

The fact that petitioner is engaged in insurance activities, however, does not make petitioner an insurance company outright which is within the purview of the *Insurance Code of the Philippines* in relation to *Section 143 (f) of the LGC.* This is because petitioner is a Mutual Benefits Association where all of its funds and earnings are utilized only for the mutual benefit and protection of its members and their families.

Being a Mutual Benefits Association and not an insurance company, petitioner cannot be deemed within the purview of "banks and other financial institutions" which are subject to LBT under *Section 143 (f) of the LGC.*

Respondent erred in disregarding *Local Finance Circular No. 2-93* and the BLGF's Letter Opinion, dated January 14, 2016. These issuances declare that petitioner is indeed a Mutual Benefits Association not subject to LBT under *Section 143 (f) of the LGC.* While the BLGF cannot grant tax exemption to herein petitioner, it cannot be denied that the BLGF has undoubted expertise on the matter of local taxation. Hence, its issuances deserve weight and credence.

The assessments made by respondent are violative of due process of law, rendering the same null and void. Respondent failed to provide with sufficient particularity the basis of the LBT assessment contained in TOP 3. More importantly, TOP 3 does not contain a definite assessment. It is a mere accumulation of the assessments from CY 2009 to present. As a demand for payment of petitioner's alleged deficiency LBT, TOP 3 should definitely provide what LBT assessment is sought to be collected and should not include those LBT assessments already covered by previous TOPs. By mingling the LBT assessments covered by TOPs 1 and 2, TOP 3 is unnecessarily clouding the whole assessment process with inconsequential matters which may lead to unfounded conclusions. In fact, by mingling the previous assessments covered by TOPs 1 and 2, TOP 3 lacks a definite amount of tax liability, and as such, it does not purport to be a valid demand for payment of tax due.

Petitioner's arguments in support of its prayer for refund, meanwhile, are all hinged on the claimed invalidity of TOPs 1, 2, and 3.

Respondent's Arguments[44]

In refutation, respondent alleges that petitioner is an insurance business. Mutual Benefits Associations are also insurance companies. Thus, the LBT imposed under *Section 143 (f) of the LGC* is equally applicable to petitioner.

Being a non-profit corporation is a non-issue. A Mutual Benefits Association which is non-profit does not mean that it is not doing or transacting an insurance business. It also does not mean that a Mutual Benefits Association should be exempted from the payment of LBT. As long as an entity, whether or not it is a Mutual Benefits Association, or whether or not it is a non-stock, non-profit institution, earns income from doing insurance business, such entity is subject to LBT under *Section 143 (f) of the LGC.*

More importantly, taxation is the rule. As long as there is no law granting petitioner an exemption from LBT, petitioner may be subjected to LBT.

Respondent also raised an issue on the payment under protest made by petitioner considering that the same is not sanctioned by the *LGC.* She also further argued that petitioner's non-payment of additional filing fees with respect to the refund element of the Amended Petition is ground for the dismissal of such Amended Petition.

The Ruling of the Court

The Petition and Amended Petition are **DENIED** for lack of merit.

Procedure for appealing LBT assessments.

Before this Court rules on the substantive arguments set forth by petitioner against the validity of the LBT assessment contained in TOP 3, it must first determine whether or not petitioner complied with the procedure set forth by statute in relation to protests of LBT assessments.

[44] See Discussion, Respondent's Memorandum, Records, pp. 498-509.

Central to this matter is *Section 195 of the LGC,* which provides for the remedies available to a taxpayer in protesting the assessments of business taxes, as follows:

> Section 195. Protest of Assessment. — When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he 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 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 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 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.*
> (Italics, Ours.)

Based on the foregoing provisions, whenever a taxpayer receives a notice of assessment from a local treasurer, he or she can file a protest thereto with the local treasurer within 60 days from receipt of such notice of assessment. Thereafter, the local treasurer has 60 days to decide a protest filed by a taxpayer. Should the local treasurer wholly or partly deny the protest, the taxpayer then has 30 days to file an appeal with the regular courts from (1) the receipt of the denial of the protest; *or* (2) from the lapse of the 60-day period for the local treasurer to decide on the protest. Significantly, the failure of the local treasurer to decide a protest on time is deemed a "denial due to inaction" and as such can be acted upon by the regular courts. The taxpayer *does not* have the option to wait for an actual denial by the local treasurer before filing an appeal.

Failure to file an appeal within the prescribed period makes the assessment conclusive and unappealable.

This was shown in the case of *China Banking Corporation vs. City Treasurer of Manila*[45] when the Supreme Court applied *Section 195 of the LGC* and ruled that the taxpayer there lost its right to appeal when it filed its appeal with the regular court one day late, to wit:

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[45] G.R. No. 204117, July 1, 2015.

Decision of the CTA *En Banc*

On appeal, the CTA *En Banc* affirmed the ruling of the CTA Division in toto, reiterating that the petition for review was filed out of time. It explained that from January 15, 2007, the date when CBC filed its protest, it had sixty (60) days or until March 16, 2007 to await the decision of the City Treasurer. Considering that no action was taken by the City Treasurer, CBC had until April 16, 2007 or 30 days from March 16, 2007, (April 15, 2007 being a Sunday), within which to appeal the inaction of the City Treasurer with the RTC, pursuant to Section 195 of the LGC. Upon examination, however, the CTA *En Banc* found that when CBC filed its petition for review before the RTC, it was already one day late. Thus, it lost its right to appeal and the assessment, dated January 11, 2007, became conclusive and unappealable. The CTA *En Banc* then concluded that CBC was precluded from interposing the defense of legality or validity of the assessment.

. . . .

In its Memorandum, CBC insisted on the invalidity of the City Treasurer's assessment, this time, claiming that its petition for review filed with the RTC was timely filed. It explained that the 60-day period within which the City Treasurer should have acted on the protest, and the consequent 30-day period within which it had to appeal the inaction of the City Treasurer should have been reckoned not from January 15, 2007, when it filed its letter questioning the imposition and paid the assessed amount, but from March 27, 2007, the day it filed the letter reiterating its objection to the City Treasurer imposition of P154,398.50 and demanding the return of the said amount. With the reckoning point being March 27, 2007, CBC argued that the petition for review was filed well within the reglementary period because it had until June 25, 2007 to file the said appeal.

. . . .

The Court, however, is of the view that the period within which the City Treasurer must act on the protest, and the consequent period to appeal a 'denial due to inaction,' should be reckoned from January 15, 2007, the date CBC filed its protest, and not March 27, 2007. Consequently, the Court finds that the CTA *En Banc* did not err in ruling that CBC had lost its right to challenge the City Treasurer's 'denial due to inaction.' On this matter, Section 195 of the LGC is clear:

> SECTION 195. Protest of Assessment. -When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he 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 shall issue a notice canceling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly

> correct, he 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 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.

> Time and again, it has been held that the perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, the Court declares that the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.

In the case of *Team Pacific Corporation v. Josephine Daza,*[46] the Supreme Court, applying *Section 195 of the LGC*, ruled that the inaction of the local treasurer is appealable to a court of competent jurisdiction, to wit:

> A taxpayer dissatisfied with a local treasurer's denial of or inaction on his protest over an assessment has thirty (30) days within which to appeal to the court of competent jurisdiction. Under the law, said period is to be reckoned from the taxpayer's receipt of the denial of his protest or the lapse of the sixty (60)-day period within which the local treasurer is required to decide the protest, from the moment of its filing. This much is clear from Section 195 of the Local Government Code, . . .

Most relevant to this case, however, is the Decision in *Public Safety Mutual Benefit Fund, Inc. v. Rosette F. Laquian, Acting City Treasurer, San Juan City,*[47] where the High Court dealt with petitioner's earlier judicial appeal against TOPs 1 and 2 in this wise:

> As correctly ruled by the CTA *En Banc,* Section 195 of Republic Act No. 7160 or the Local Government Code of 1991 (LGC) provides in no uncertain terms the manner and period for a taxpayer to perfect its appeal from a denial or inaction of the Treasurer from the taxpayer's protest of an assessment against it. Here, it is clear from the records that petitioner filed its protest on the first Tax Order of Payment on December 29, 2015. Respondent had sixty (60) days to resolve the same, or until February 28, 2016. Notably, there was no action on respondent's part. Hence, after the lapse of the sixty (60)-day period, petitioner should have appealed this denial due to inaction within thirty (30) days therefrom, or until March 29, 2016. However, petitioner only filed its petition on February 20, 2018, or almost two (2) years from the last day provided under Section 195 of the LGC. The said provision is clear that failure to do so renders the assessment 'conclusive and unappealable.'

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46 G.R. No. 167732, July 11, 2012.

47 G.R. No. 256741 (Resolution), August 4, 2021.

Therefore, based on the foregoing jurisprudence on *Section 195 of the LGC*, the failure of the local treasurer to act on the taxpayer's protest within the 60-day period is tantamount to a "denial due to inaction." The taxpayer is mandated to elevate the said "denial due to inaction" to a court of competent jurisdiction within 30 days from the lapse of the 60-day period. It bears stressing that the perfection of appeal within the period prescribed under *Section 195 of the LGC* is not only mandatory but also jurisdictional.[48]

Petitioner failed to timely appeal respondent's denial due to inaction with the regular courts. TOP 3 became final, executory and unappealable.

Applying the above discussion, the table below summarizes the relevant dates pertaining to the filing of the Protest against TOP 3 and the judicial appeal for its denial:

Date of Receipt of the TOP 3	Last day for filing a protest (*i.e.*, 60 days from receipt of the Notice of Assessment)	Actual day that petitioner filed the Protest against TOP3	Last day for respondent to decide on the Protest against TOP 3 (*i.e.*, 60 days from filing of the protest)	Date that Protest against TOP 3 is deemed denied due to inaction	Date that petitioner actually received an actual denial of its protest.	Earlier date between denial due to inaction and receipt of actual denial of the Protest against TOP 3	Last day for filing of the appeal before the regular courts (*i.e.*, 30 days from the earlier type of denial)	Date of filing of the Appeal before RTC-Branch 264
January 28, 2019[49]	March 29, 2019	March 13, 2019[50]	May 12, 2019	May 12, 2019	May 14, 2019[51]	May 12, 2019	June 11, 2019	June 13, 2019[52]

Since TOP 3 was received by petitioner on January 28, 2019, petitioner had sixty days from such receipt, or until March 29, 2019, within which to file a protest against such LBT assessment. Since petitioner filed its Protest against TOP 3 on March 13, 2019, it timely filed its protest with respondent.

Upon receipt of such protest on March 13, 2019, respondent then had 60 days from such receipt, or until May 12, 2019, within which to decide on such protest. Since petitioner did not receive an actual denial of its protest within such time period, petitioner's Protest against the TOP 3 is deemed denied due to inaction on May 12, 2019 regardless if petitioner subsequently received an actual denial of such protest on May 14, 2019.

[48] *Supra* note 15.
[49] Annex "H", Petition, Records, pp. 85-87.
[50] Annex "C", Petition, *id.* at 65-72.
[51] Annex "D", Petition, *id.* at 73-74.
[52] Annex "Q", Petition, *id.* at 126-151.

Thus, the 30-day period to file an appeal before the regular courts started to run on May 12, 2019, giving petitioner until June 11, 2019 to file an appeal before the regular courts. Unfortunately, petitioner belatedly filed its Appeal before RTC-Branch 264 on June 13, 2019.

Following such, RTC-Branch 264 never acquired jurisdiction over petitioner's appeal. To the point of being repetitive, *perfection of an appeal under Section 195 of the LGC is not only mandatory but also jurisdictional.* The LBT assessments contained in TOP 3 have consequently become final, executory, and unappealable and this Court can no longer entertain questions on or challenges to the validity of such.

This Court deems it unnecessary to discuss the parties' remaining issues and arguments on TOP 3, given the above.

The prayer for refund must also be denied. The Supreme Court already affirmed the validity of TOPs 1 and 2.[53] As for TOP 3, the same has already become final, executory, and unappealable, as discussed above. Consequently, the validity of all three TOPs can no longer be questioned, and no refund or tax credit can be awarded to petitioner.

ACCORDINGLY, the instant Petition and Amended Petition filed by petitioner **PUBLIC SAFETY MUTUAL BENEFIT FUND, INC.** are hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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[53] *Supra* note 47.

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.

MA. BELEN M. RINGPIS-LIBAN
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
Acting Presiding Justice