REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

<u>SPECIAL SECOND DIVISION</u>

DOLE PHILIPPINES, INC.- STANFILCO DIVISION, Petitioner,	**CTA AC NO. 325** (RTC Civil Case No. R-DVO-21-05093-CV)
vs.	*Present:*
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.	**RINGPIS-LIBAN**, *P.J., Chairperson,* **MODESTO-SAN PEDRO**, and **FERRER-FLORES,** *<u>JJ.</u>* Promulgated: MAR 11 2026

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DECISION

FERRER-FLORES, <u>J.</u>:

Before this Court is a **Petition for Review** filed by **Dole Philippines, Inc. – Stanfilco Division** on May 27, 2024,[1] praying for the reversal and setting aside of the Decision dated November 29, 2023[2] (assailed Decision) and Order dated March 13, 2024,[3] (assailed Order) promulgated by the Regional Trial Court (RTC) of Davao City – Branch 17, in Civil Case No. R-DVO-21-05093-CV, entitled *"Dole Philippines, Inc. - Stanfilco Division vs. 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,"* the dispositive portions of which read as follows:

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[1] Docket, pp. 14 to 75.
[2] Docket, pp. 77 to 92; RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, pp. 538 to 553.
[3] Docket, p. 93; RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 620.

Assailed Decision:

> **WHEREFORE,** premises considered, the Appeal of **DOLE PHILIPPINES INC. – STANFILCO DIVISION** from the Davao City's Treasurer's Letter dated 01 October 2021 denying DOLE-Stanfilco's Payment under Protest dated 28 September 2021 is hereby **DENIED**. The instant appeal is hereby **DISMISSED**.
>
> **SO ORDERED.**

Assailed Order:

> **WHEREFORE,** premises considered, the Motion for Reconsideration of the Court's Decision dated 29 November 2023 is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

Petitioner likewise prays for the Court to: (1) nullify the Davao City Watershed Code for failure to comply with the procedural requirements to validly enact a tax ordinance or revenue measure under the Local Government Code (LGC) of 1991; (2) declare the collection of the Environmental Tax under Article 17 of the Davao City Watershed Code erroneous and illegal; (3) order the cancellation in full of the Environmental Tax Order of Payment against petitioner for taxable year (TY) 2021; (4) order respondents to refund the amount of ₱3,324,825.00 to petitioner; or in the alternative, refund the amount of ₱2,866,922.50 in excess of the Environmental Tax assessed based on the Environmental Clearance Certificates (ECCs) on record and submissions with the Department of Environment and Natural Resources – Environmental Management Bureau (DENR-EMB); (5) order respondents to cease and desist from issuing further notices of assessment for Environmental Taxes based on the assailed provisions of the Watershed Code; and, (6) order respondents to pay attorney's fees and costs of suit.[4]

THE PARTIES

Petitioner is a domestic corporation duly organized and existing by virtue of and under the laws of the Republic of the Philippines with a Stanfilco Division operating its business at Doña Socorro Street, Belisario Heights Subdivision, Lanang, Davao City.[5] It is engaged in the business of planting, growing, cultivating, harvesting and exporting fresh bananas and

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[4] Prayer, *Petition for Review*, Docket, pp. 68 to 69.

[5] Par. 6, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer with Affirmative Defense*, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 2 to 3 and 277, respectively.

other high-value agricultural crops from out of its offices in Davao City.[6] Its Banana Plantations in the barangays of Tawan-Tawan, Cadalian, Carmen, Tamayong, Tamugan and Malagos, all in Davao City, are situated within the delineated watershed areas identified in the Watershed Code.[7]

Respondent the **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.[8]

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.[9]

Respondent **Hon. Lawrence D. Bantiding** is being sued in his capacity as Acting Treasurer of the City of Davao, who is tasked to collect all taxes and fees imposed by the City, and is the custodian of its funds.[10]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On February 23, 2007, the former Mayor Rodrigo R. Duterte approved the Watershed Code [Ordinance No. 0310-07], which was enacted by the Sangguniang Panlungsod on January 23, 2007.

On September 14, 2021, petitioner received Environmental Tax Order of Payments for TY 2021, all dated September 13, 2021, issued by the Business Tax Assessment Division (BTAD) of the Office of the City Treasurer (OCT) pertaining to the Environmental Tax levied under Article 17 of the Watershed Code and its Implementing Rules and Regulations as follows:[11]

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6 Par. 4, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 359.

7 Par. 1, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 359.

8 Par. 7, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer with Affirmative Defense*, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 6 and 277, respectively.

9 Par. 8, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer with Affirmative Defense*, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 6 and 277, respectively.

10 Par. 9, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer with Affirmative Defense*, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 6 and 277, respectively.

11 Par. 5, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, pp. 359 to 360; Exhibits "D-1" to "D-4", RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 65 to 68.

BUSINESS ADDRESS	**LAND AREA IN HECTARES**	**10,000.00 TOTAL SQ. M.**	**RATE/ SQ. M.**	**ANNUAL TAX (for the Taxable Year 2021)**
Brgy. Malagos	100.00	1,000,000.00	0.25	250,000.00
Brgy. Tamugan	500.00	5,000,000.00	0.25	1,250,000.00
Brgy. Tamayong	329.93	3,299,300.00	0.25	824,825.00
Brgy. Tawantawan, Cadalian and Carmen	400.00	4,000,000.00	0.25	1,000,000.00
TOTAL	**1,329.93**			**₱3,324,825.00**

The OCT based its computations on the alleged hectarage list furnished by the Watershed Management Council, which in turn, derives its data from the Environmental Management Bureau.[12]

The approved total area for each barangay based on the ECCs is as follows:[13]

Address	**ECCs**	**Date**	**Approved Maximum Total Area (in Hectares)**	**Assessed Land Area**
Brgy. Tawantawan	ECC-XI-00-096-1190a	May 22, 2001	150	400
Brgy. Caldalian and Carmen	ECC-XI-00-093-1190c	May 28, 2001	250	
Brgy. Tamayong (Calinan District)	ECC-XI-03-254	Dec. 6, 1999	329.93	329.93
Brgy. Tamugan, Marilog District	ECC-11-04-05-27-0108-1190	June 1, 2004	274.82	500
Brgy. Malagos (Baguio District)	ECC-11-05-02-01-029-1190	February 3, 2005	55	100

On September 28, 2021, petitioner tendered the manager's check with a cover letter stating that the payment was made under protest and without prejudice to the filing of a formal written protest with the OCT.[14] This was accepted by BTAD as payment for the annual environmental tax as

[12] Par. 5, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 360.
[13] Par. 6, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 360.
[14] See par. 16, *Petition for Review*, Docket pp. 18-19.

evidenced by Official Receipt Nos. 5687920, 5687921, 5687922 and 5687923 all dated September 28, 2021.[15]

On October 1, 2021, petitioner received the letter dated September 28, 2021 of the OCT through Acting City Treasurer Lawrence D. Bantiding, denying petitioner's cover letter on the ground that the assessment is proper and made with legal basis. The Acting City Treasurer treated the cover letter as petitioner's formal protest letter and held that, since the assailed Ordinance has not been declared invalid or annulled by any competent court, the Ordinance is enforceable and, it is their mandate to continue to assess and collect said Environmental Tax.[16]

Petitioner filed on October 19, 2021 its formal Payment under Protest dated October 18, 2021 via private courier.[17]

PROCEEDINGS BEFORE THE COURT *A QUO*

On November 11, 2021, petitioner filed an *Appeal* with the RTC of Davao City.[18] The case was initially raffled to the RTC of Davao City – Branch 16. Upon petitioner's motion, however, the case was transferred to Branch 17 of the RTC of Davao City.

After trial, the RTC of Davao City – Branch 17 promulgated the assailed Decision on November 29, 2023.[19]

On February 15, 2024, petitioner filed a *Motion for Reconsideration*.[20] Respondents filed their *Comments/Opposition to the Motion for Reconsideration dated January 23, 2024* on February 28, 2024.[21]

The RTC Davao City – Branch 17 issued the assailed Order dated March 13, 2024,[22] denying petitioner's *Motion for Reconsideration*.

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[15] Par. 8, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 360; Exhibits "E-1" to "E-4", RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 69 to 70.

[16] Par. 9, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, pp. 360 to 361.

[17] Par. 10, Pre-Trial Order dated March 22, 2022, RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 361; Exhibit "B-1", RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 46 to 63.

[18] RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 1, pp. 4 to 39.

[19] RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, pp. 538 to 553.

[20] RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, pp. 554 to 599.

[21] RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, pp. 602 to 618.

[22] RTC Docket (Civil Case No. R-DVO-21-05093-CV) – Vol. 2, p. 620.

PROCEEDINGS BEFORE THIS COURT

Petitioner filed a *Motion for Extension of Time to File Petition for Review* on May 13, 2024,[23] stating that it received the assailed Order denying its *Motion for Reconsideration*, on April 12, 2024, and thus, it has until May 13, 2024,[24] to file a petition for review. Petitioner prays to be given an additional period of 15 days from May 12, 2024, or until May 27, 2024, within which to file its *Petition for Review*.

Petitioner timely filed the present *Petition for Review* on May 27, 2024.[25]

Respondents filed their *Comments/Opposition to the Petition for Review (dated May 22, 2024)* on June 24, 2024 through registered mail, and was received by the Court on July 15, 2024.[26]

In the *Minute Resolution* dated July 16, 2024,[27] the Court ordered the parties to file their memoranda. In compliance therewith, petitioner's *Memorandum* was filed on August 21, 2024,[28] while the *Memorandum (for the Respondents)* was filed on September 18, 2024.[29]

Thereafter, the RTC of Davao City – Branch 17 transmitted to the Court its records of Civil Case No. R-DVO-21-05093-CV, consisting of two volumes, with three folders of Transcript of Stenographic Notes, on February 14, 2025.[30]

The case was considered submitted for decision on March 11, 2025.[31]

THE ISSUES RAISED

Petitioner forwards the following issues for the Court's resolution, to wit:

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[23] Docket, pp. 5 to 12.
[24] May 12, 2024 fell on a Sunday.
[25] Docket, pp. 14 to 75.
[26] Docket, pp. 431 to 449.
[27] Docket, p. 453.
[28] Docket, pp. 454 to 507.
[29] Docket, pp. 510 to 540.
[30] Transmittal dated February 12, 2025, RTC Docket.
[31] Minute Resolution dated March 11, 2025.

A. Procedural Matters

I. Whether the Court of Tax Appeals (CTA) has jurisdiction over the Petition.

II. Whether Stanfilco may change the theory of the case or its cause of action on appeal.

III. Whether the CTA exercises plenary jurisdiction over actions taken by the local treasurer on a protest of assessment.

B. Substantive Matters

I. Whether the RTC erred in failing to hold that the Watershed Code is *ultra vires* act of the Local Government of Davao City for failure to comply with the conditions prescribed by DENR and DILG.

a. The identification, delineation and establishment of the watershed areas are not covered by a DENR Administrative Order.

b. The Watershed Code has not been approved by the DENR.

c. Management and use of environmental resources must be exercised within the parameters established by law.

d. Being an *ultra vires* act of the Sangguniang Panlungsod, the Watershed Code is null and void, producing no legal effect from its inception.

II. Whether the RTC erred in holding that the Environmental Tax imposed by Section 17 of Davao City Ordinance No. 0310-07 entitled 'Watershed Protection, Conservation and Management Ordinance' or the Watershed Code is not a tax primarily intended to generate revenue but a regulatory fee.

a. The Watershed Code does not specify standards for inspection or supervision.

b. The amount of Environmental Tax assessed and collected bears no reasonable relation to the cost of regulation.

III. Whether the RTC erred in ruling that Petitioner was not able to overcome the presumption of validity in favor of local ordinances.

a. The Watershed Code is arbitrary and discriminatory.

b. The Watershed Code is excessive, confiscatory and oppressive.

IV. Whether the RTC erred in failing to consider that as a tax ordinance (insofar as it imposes the Environmental Tax), the Watershed Code must comply with the requirements of publication under Section 188 and Article 277(b) of the Local Government Code of 1991.

V. Assuming that the Watershed Code is valid, the Court erred in holding that Respondents' computation of the Environmental Tax due is correct and reasonable.

a. The assessed land area used by the OCT in computing the Environmental Tax is larger than the maximum allowed total area.

b. The actual hectarage within which Stanfilco operates and undertakes its agricultural activities is considerably less than those assessed by the Office of the City Treasurer.

VI. Granting that the Watershed Code is not a tax ordinance but rather a regulatory ordinance, whether the RTC erred in failing to declare the same invalid and unjust for imposing a fee in excess of the cost of regulation.[32]

Petitioner's arguments:

As to procedural matters, petitioner argues: *first,* that the Court exercises appellate jurisdiction over decisions, resolutions or orders of the RTC in local tax cases consistent with Section 195 of the LGC of 1991 and Revised Rules of the CTA; *second,* that it is barred from changing the theory of the case or its cause of action on appeal; and, *third,* that this Court exercises plenary jurisdiction over actions taken by the local treasurer on a protest of assessment.

[32] Issues, *Petition for Review*, Docket, pp. 21 to 23.

In support of the substantive matters, petitioner asserts that *first,* the Watershed Code is an *ultra vires* ordinance and therefore, null and void; *second,* that the Environmental Tax imposed by the Watershed Code is a tax ordinance and not a regulatory fee; *third,* that the RTC erred in ruling that petitioner was not able to overcome the presumption of validity in favor of local ordinances; *fourth,* that even assuming that the Watershed Code is valid, respondents erroneously computed its Environmental Tax due thereby making the computation unreasonable; and, *lastly,* assuming that the Environmental Tax is a regulatory fee and not a tax ordinance, the Watershed Code is invalid and unjust for imposing a fee in excess of the cost of regulation.

Respondents' counter-arguments:

Procedurally, respondents argue that this Court lacks jurisdiction over the subject matter.

Anent the substantive aspect, respondents submit the following contentions:

First, Section 17 of Ordinance No. 0310-07 imposes Environmental Tax on corporate entities and persons engaged in agricultural and other economic undertakings in the Agroforestry/Non-Tillage area and Prime Agricultural Areas of not less than 50 hectares. The sole purpose of the imposition of Environmental Tax is the implementation of the Watershed Code, thus, cannot be considered as a tax ordinance.

Second, as to the publication, respondents aver that the Ordinance's publication has sufficiently complied with Sections 54, 56 and 59 of the LGC of 1991 and that, compliance with Section 188 is not needed, as the Watershed Code is not a Tax Ordinance.

Third, reliance on the Joint DENR-DILG Memorandum Circular No. 1998-01 and Joint DENR-DILG Memorandum Circular No. 2003-01 to invalidate the Watershed Code is misplaced. Respondents remain firm that the Watershed Code is not an exercise of power in ultra vires as it went through the process outlined in LGC of 1991.

Fourth, the filing of a claim for refund with the intention to have the Watershed Code invalidated is a collateral attack on the said Ordinance, which is not allowed under existing laws and jurisprudence.

Fifth, DENR Administrative Order No. 30, Series of 1992 does not explicitly prohibit LGUs from managing watershed areas found within their jurisdiction. In fact, Joint Memorandum Circular No. 98-01 operationalizes and makes effective the devolution of forest management functions from DENR to the LGUs. Joint Memorandum DENR-DILG Memorandum Circular No. 2003-01 only provides for administrative disciplinary sanctions in cases of non-compliance

Lastly, Section 17 of the Watershed Code of Davao City is imposed based on a valid and reasonable classification, and that the Watershed Code is not unfair and oppressive. The computation assessed by respondent City Treasurer under the said ordinance is correct and reasonable, and all those statements regarding excess of cost of regulation or disparity of charges made against respondents are all speculative in nature.

THE COURT'S RULING

The present *Petition for Review* must be dismissed.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists.[33] Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action. Perforce, it is important that a court or tribunal should first determine whether or not it has jurisdiction over the subject matter presented before it, considering that any act that it performs without jurisdiction shall be null and void, and without any binding legal effects.[34]

This Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[35] Section 7(a)(3) of Republic Act (R.A.) No. 1125,[36] as amended by R.A. No. 9282,[37] confers

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[33] *Foronda-Crystal vs. Son*, G.R. No. 221815, November 29, 2017.
[34] *Bilag, et al. vs. Ay-ay, et al.*, G.R. No. 189950, April 24, 2017.
[35] *Allied Banking Corporation vs. Commissioner of Internal Revenue*, G.R. No. 175097, February 5, 2010.
[36] AN ACT CREATING THE COURT OF TAX APPEALS.
[37] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE

jurisdiction on this Court relative to decisions, orders or resolutions of regional trial courts in local tax cases, to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
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> xxx xxx xxx
>
> (3) **Decisions, orders or resolutions of the Regional Trial Courts <u>in local tax cases</u> originally decided or resolved by them in the exercise of their original or appellate jurisdiction**; *(Emphases and underscoring added)*

Under the foregoing provision, the appellate jurisdiction of this Court over decisions, orders, or resolutions of the RTC becomes operative when the latter has ruled on **a local tax case, i.e., one which is in the nature of a tax or which primarily involves a tax issue.** Local taxes include those involving real property tax (RPT), which is governed by Book II, Title II of R.A. No. 7160, or LGC of 1991, as amended. Among the possible issues are the legality or validity of the RPT assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and, even prescription of assessments.[38]

Moreover, it must be emphasized that when the appeal comes from a judicial remedy which questions the authority of the local government to impose the tax, the aforequoted Section 7(a)(3) applies.[39]

Hence, for purposes of deciding whether this Court has jurisdiction over the present case, it is crucial to determine whether the Environmental Tax imposed under Section 17 of Davao City Ordinance No. 0310-07 is in fact a tax.

We rule in the negative.

CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

[38] *Herarc Realty Corporation vs. The Provincial Treasurer of Batangas, et al.*, G.R. No. 210736, September 5, 2018, citing *Salva vs. Magpile*, G.R. No. 220440, November 8, 2017, and *Ignacio vs. Office of the City Treasurer of Quezon City, et al.*, G.R. No. 221620, September 11, 2017.

[39] *National Power Corporation vs. Municipal Government of Navotas, et al.*, G.R. No. 192300, November 24, 2014.

In *Smart Communications, Inc. vs. Municipality of Malvar, Batangas*,[40] one of the issues raised was: *whether the fees imposed under a particular ordinance are in fact taxes*. The Supreme Court held:

> Since the main purpose of Ordinance No. 18 is to regulate certain construction activities of the identified special projects, which included 'cell sites' or telecommunications towers, the fees imposed in Ordinance No. 18 are ***primarily regulatory in nature, and not primarily revenue-raising***. While the fees may contribute to the revenues of the Municipality, this effect is merely incidental. Thus, the fees imposed in Ordinance No. 18 are not taxes.
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> In *Progressive Development Corporation v. Quezon City*,[41] the Court declared that '**if the generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.**'
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> In *Victorias Milling Co., Inc. v. Municipality of Victorias*,[42] the Court reiterated that the purpose and effect of the imposition determine whether it is a tax or a fee, and that the lack of any standards for such imposition gives the presumption that the same is a tax.
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>> We accordingly say that the designation given by the municipal authorities does not decide whether the imposition is properly a license tax or a license fee. **The determining factors are the purpose and effect of the imposition as may be apparent from the provisions of the ordinance. Thus, '[w]hen no police inspection, supervision, or regulation is provided, nor any standard set for the applicant to establish**, or that he agrees to attain or maintain, but any and all persons engaged in the business designated, without qualification or hindrance, may come, and a license on payment of the stipulated sum will issue, to do business, subject to no prescribed rule of conduct and under no guardian eye, but according to the unrestrained judgment or fancy of the applicant and licensee, **the presumption is strong that the power of taxation, and not the police power, is being exercised.**' (*Emphases added*)

Relative thereto, it has been held that the power to "regulate" means the power to protect, foster, promote, preserve, and control, with due regard for the interests, first and foremost, of the public, then of the utility and of its patrons.[43] The nature and the parameters of the exercise of police power

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[40] G.R. No. 204429, February 18, 2014.
[41] 254 Phil. 635, 643 (1989). See also *City of Iloilo vs. Villanueva*, 105 Phil. 337 (1959).
[42] 134 Phil. 180, 189-190 (1968).
[43] *Gerochi, et al. vs. Department of Energy, et al.*, G.R. No. 159796, July 17, 2007.

were explained by the Supreme Court in *Acebedo Optical Company, Inc. vs. The Honorable Court of Appeals, et al.,*[44] as follows:

> **Police power** as an inherent attribute of sovereignty is the power to **prescribe regulations to promote** the **health**, morals, peace, education, good order or **safety and general welfare of the people. The State, through the legislature, has delegated the exercise of police power to local government units**, as agencies of the State, in order to effectively accomplish and carry out the declared objects of their creation. This delegation of police power is embodied in the general welfare clause of the Local Government Code which provides:
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>> SEC. 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.
>
> The scope of police power has been held to be so comprehensive as to encompass almost all matters affecting the health, safety, peace, order, morals, comfort and convenience of the community. Police power is essentially regulatory in nature and the power to issue licenses or grant business permits, if exercised for a regulatory and not revenue-raising purpose, is within the ambit of this power.
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> xxx xxx xxx
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> ...[T]he issuance of business licenses and permits by a municipality or city is essentially regulatory in nature. **The authority,** which devolved upon local government units **to issue or grant such licenses or permits, is essentially in the exercise of the police power of the State within the contemplation of the general welfare clause of the Local Government Code**. *(Emphases added)*

Additionally, the Supreme Court, in *Progressive Development Corporation vs. Quezon City,*[45] distinguished tax from a license or permit fee in this wise:

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[44] G.R. No. 100152, March 31, 2000.
[45] G.R. No. L-36081, April 24, 1989.

> The term 'tax' frequently applies to all kinds of exactions of monies which become public funds. It is often loosely used to include levies for revenue as well as levies for regulatory purposes such that license fees are frequently called taxes although *license fee* is a legal concept distinguishable from *tax*: the former is imposed in the exercise of police power primarily for purposes of regulation, while the latter is imposed under the taxing power primarily for purposes of raising revenues. Thus, **if generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.**
>
> **To be considered a license fee, the imposition questioned must relate to an** occupation or **activity that so engages the public interest in health**, morals, **safety** and development **as to require regulation for the protection and promotion of such public interest**; the imposition must also bear a reasonable relation to the probable expenses of regulation, taking into account not only the costs of direct regulation but also its incidental consequences as well. **When an activity**, occupation or profession **is of such a character that inspection or supervision by public officials is reasonably necessary for the safeguarding and furtherance of public health,** morals and safety, **or the general welfare, the legislature may provide that such inspection or supervision or other form of regulation shall be carried out at the expense of the persons** engaged in such occupation or **performing such activity**, and that **no one shall engage in the occupation or carry out the activity until a fee or charge sufficient to cover the cost of the inspection or supervision has been paid**. Accordingly, a charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power. *(Emphases added)*

Based on the foregoing jurisprudential pronouncements, it can be deduced 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.[46]

Guided by the foregoing pronouncements, the Court finds that the **Environmental Tax** imposed under Section 17 of Davao City Ordinance No. 0310-07 is **<u>not</u> a tax.**

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[46] *City of Cagayan De Oro vs. Cagayan Electric Power & Light Co., Inc.,* G.R. No. 224825, October 17, 2018.

Indeed, under Section 5, Article X of the 1987 Constitution, LGUs have the power to create their own revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy, to wit:

> Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

Consistent with this constitutional mandate, the LGC of 1991 grants the taxing powers to each LGU. Specifically, Section 151 of the LGC of 1991 grants cities the power to levy taxes, fees, and charges which provinces or municipalities may impose.

Section 143 of the LGC of 1991 provides for the scale of taxes on business that may be imposed by cities and municipalities, while Section 147 of the same law provides for the fees and charges that may be imposed by cities and municipalities on business and occupation, to wit:

> SECTION 147. *Fees and Charges.* — **The municipality may impose and collect such reasonable fees and charges on business** and occupation and, except as reserved to the province in Section 139 of this Code, on the practice of any profession or calling, **commensurate with the cost of regulation, inspection and licensing before any person may engage in such business** or occupation, or practice such profession or calling. *(Emphases added)*

The term *"charges"* in the LGC of 1991 refers to pecuniary liability, as rents or fees against persons or property, while the term *"fee"* means *"a charge fixed by law or ordinance for the regulation or inspection of a business or activity"* as follows:

> SECTION 131. *Definition of Terms.* — When used in this Title, the term:
>
> xxx xxx xxx
>
> (g) 'Charges' refers to pecuniary liability, as rents or fees against persons or property;
>
> xxx xxx xxx
>
> (l) **'Fee'** means a charge fixed by law or ordinance for the **regulation or inspection of a business or activity**;
>
> xxx xxx xxx *(Emphases added)*

In this regard, Section 458 of the LGC grants the *Sangguniang Panlungsod* the power to enact ordinances for the general welfare of the city and its inhabitants, including the regulation to protect the environment as well as to establish, maintain, protect, and conserve watersheds, to wit:

> SECTION 458. *Powers, Duties, Functions and Compensation.* — (a) The sangguniang panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:
>
> xxx xxx xxx
>
> (1) Approve ordinances and pass resolutions **necessary for an efficient and effective city government**, and in this connection, shall:
>
> xxx xxx xxx
>
> (vi) **Protect the environment and impose appropriate penalties for acts which endanger the environment**, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other **activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance**;
>
> (5) Approve ordinances which shall **ensure the efficient and effective delivery of the basic services and facilities** as provided for under Section 17 of this Code, and in addition to said services and facilities, shall:
>
> (i) Provide for the **establishment, maintenance, protection, and conservation of** communal forests and **watersheds**, tree parks, greenbelts, mangroves, and other similar forest development projects; *(Emphases and underscoring added)*

Based on the foregoing provisions, the *Sangguniang Panlungsod* can enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants in the proper exercise of the corporate powers of the city. Further, the *Sangguniang Panlungsod* can enact ordinances necessary for an efficient and effective city government and to ensure the efficient and effective delivery of the basic services and facilities. One of the matters under the scope of such power is the protection of the environment from ecological imbalance and the establishment, maintenance, protection and conservation of watersheds.

In this case, on February 23, 2007, the Sangguniang Panlungsod of Davao City passed Ordinance No. 0310-07 entitled "Watershed Protection, Conservation and Management Ordinance hereinafter referred to as the Watershed Code",[47] with the following declared policies, to wit:

> **ARTICLE 2. DECLARATION OF POLICY** – The City Government of Davao hereby declares the following as its policies:
>
> a. Recognize that a healthy and ecologically sound watershed area is vital to ecological balance where man and nature thrive in perfect harmony with each other;
>
> b. Recognize the watershed areas are central to the aspirations of a livable City for the Dabaweynos who must maintain its sustainability through a participative, empowered and environmentally conscious community;
>
> c. Recognize that the watershed areas are recharge areas for the City's aquifers which are sources of the City's drinking water that must be protected, conserved and managed for the continued and full enjoyment of the present and future generations;

To help implement these policies, Article 17 of the said Ordinance imposed an Environmental Tax on agricultural and other economic undertakings in the Agro-forestry/Non-Tillage Areas and Prime Agricultural Areas, viz.:

> **ARTICLE 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 of Twenty Five Centavos (0.25) 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 appropriate in the Annual Budget **solely for the purpose of the implementation of this Code, the operational expenses of the Watershed Management Council**

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[47] Exhibit "F", RTC Docket (Civil Case No. R-DVO-18-01176-CV) – Vol. 1, pp. 71 to 74.

> **and all its instrumentalities and for watershed protection, conservation and management programs and projects**, subject to the approval of the Davao City Council; *(Emphasis added)*

Considering that the main purpose of Davao City Ordinance No. 0310-07 is to protect, conserve and manage the watershed, the fees imposed thereon are primarily regulatory in nature, and not primarily revenue-raising. While the fees may contribute to the revenues of Davao City, this effect is merely incidental.

In sum, the Environmental Tax imposed by respondents pursuant to Article 17 of Davao City Ordinance No. 0310-07 is <u>not</u> a local tax, for purposes of Section 7(a)(3) of RA No. 1125, as amended by RA No. 9282. Correspondingly, this Court is without jurisdiction to entertain the present appeal of the assailed Decision and Order issued by the Court *a quo*.

To stress, jurisdiction is a matter of substantive law. Thus, an action may be filed only with the court or tribunal where the Constitution or a statute says it can be brought. Objections to jurisdiction cannot be waived and may be brought at any stage of the proceedings, even on appeal. When a case is filed with a court which has no jurisdiction over the action, the court shall *motu proprio* dismiss the case.[48]

ACCORDINGLY, the present **Petition for Review** is **DISMISSED** for this Court's lack of jurisdiction.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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[48] *Non, et al. vs. Office of the Ombudsman, et al.*, G.R. No. 251177, September 8, 2020; See also *Radiowealth Finance Co., Inc. v. Pineda, Jr.*, G.R. No. 227147, July 30, 2018.

MARIA ROWENA MODESTO-SAN PEDRO
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice