REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION
****

CITY OF MANILA AND CITY TREASURER OF THE CITY OF MANILA, Petitioners,	**CTA AC No. 148** (Civil Case No. 09-120622) ***Members:***
- versus -	**DEL ROSARIO,** Chairperson, **UY,** and **MINDARO-GRULLA,** JJ.
RIZAL COMMERCIAL BANKING CORPORATION, AND HON. PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 20, MANILA, Respondents.	***Promulgated:*** JAN 27 2017 3:41pm

x - x

DECISION

UY, J.:

Before this Court is a Petition for Review[1] filed on September 28, 2015 by petitioners, City of Manila and the City Treasurer of the City of Manila, against private respondent, Rizal Commercial Banking Corporation, and public respondent Hon. Presiding Judge, Regional Trial Court, Branch 20, Manila, praying for a reversal and/or modification of the Decision dated April 28, 2015 and the Order dated August 24, 2015 denying the Motion for Reconsideration, in Civil Case No. 09-120622, entitled *"Rizal Commercial Banking Corporation, Plaintiff, vs. The City of Manila and City Treasurer, Defendants,"* the dispositive portions of which respectively read:

Decision dated April 28, 2015:

"PREMISES CONSIDERED, the defendants City of

[1] Docket (CTA AC No. 148), pp. 8 to 20.

Manila and City Treasurer are directed to refund to the plaintiff the amount of P3,030,455.99 representing the additional local tax it paid in 2007 pursuant to Tax Ordinance Nos. 7988 and 8011, which, however, were declared null and void.

SO ORDERED."

<u>Order dated August 24, 2015:</u>

"PREMISES CONSIDERED, for being unmeritorious, defendant's Motion for Reconsideration is DENIED.

SO ORDERED."

THE FACTS

Petitioner City of Manila is a local government unit created by law;[2] while petitioner City Treasurer of Manila is empowered to perform the duties of said office including, among others, the collection of all local taxes, fees and charges, and the power to decide, approve and grant refunds or tax credits of erroneously or excessively paid taxes with office address at the City Hall of Manila.[3]

On the other hand, private respondent Rizal Commercial Banking Corporation (RCBC) is a corporation duly organized and existing under the laws of the Republic of the Philippines with office address at RCBC Head Office, Yuchengco Tower, RCBC Plaza, 6819 Ayala Avenue, Makati City.[4] As a bank, private respondent is primarily engaged in the business of banking. Its branches or business centers conduct business operations within the jurisdiction of the City of Manila. Hence, it is subject to local business taxes as a commercial/universal bank, under the Revenue Code of the City of Manila.[5]

Public respondent Hon. Presiding Judge of the Regional Trial

---

[2] Par. 2, Complaint vis-à-vis Par. 1, Answer, RTC Docket (Civil Case No. 09-120622), pp. 2, and 41.
[3] Par. 3, Complaint vis-à-vis Par. 1, Answer, RTC Docket (Civil Case No. 09-120622), pp. 2 and 41.
[4] Par. 1, Complaint vis-à-vis Par. 1, Answer, RTC Docket (Civil Case No. 09-120622), pp. 1 to 2, and 41
[5] Par. 4, Complaint vis-à-vis Par. 1, Answer, RTC Docket (Civil Case No. 09-120622), pp. 2 to 3, and 41.

Court of Manila, Branch 20, is impleaded as a nominal party, with office address at 5th Floor, City Hall Building, Arroceros Street, Manila.

Section 21 of the Revenue Code of the City of Manila was amended by Ordinance No. 7988 dated February 25, 2000, which was in turn amended by Ordinance No. 8011 dated February 22, 2009.[6] It reads (as amended) as follows:

> "Section 21. — *Tax on Business Subject to the Excise, Value-Added or Percentage Taxes Under the NIRC* — On any of the following business and articles of commerce subject to the excise, value-added or percentage taxes under the National Internal Revenue Code hereinafter [referred] to as NIRC, as amended, a tax of fifty percent (50%) of one percent (1%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed:
>
> A) On persons who sell goods and services in the course of trade or business; and those who import goods whether for business or otherwise, as provided for in sections 100 to 103 of the NIRC as administered and determined by the Bureau of Internal Revenue pursuant to the provisions of the said code.
>
> B) On the gross receipts of keepers of garages, cars for rent or hire driven by the lessee, transportation contractors, persons who transport passengers or freight for hire, and common carriers land, air or water, except owners of bancas and owners of animal-drawn two-wheel vehicles.
>
> C) On the amount paid on every overseas dispatch, message or conversation transmitted from the Philippines by telephone, telegraph, telewriter exchange, wireless and other communication equipment services, except amounts paid by the government, its political subdivisions or instrumentalities; diplomatic services; public international organizations or any of their agencies based in the Philippines; and news services.

[6] Par. 4.2, Complaint vis-à-vis Par. 1, Answer, RTC Docket (Civil Case No. 09-120622), pp. 4 and 41.

MO

The tax shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter.

D) Excisable goods subject to VAT

(1) Distilled spirits
(2) Wine
(3) Tobacco products (other than cigarettes, clear and chewing tobacco)
(4) Tobacco specially prepared for chewing
(5) Fireworks
(6) Cinematographic film
(7) Saccharine
(8) Coal and Coke
(9) Fermented liquor, brewer's wholesale price, excluding the ad valorem tax
(10) Automobiles, manufacturer's or importers selling price
(11) Non-essential goods based on wholesale price, net of excise tax and VAT
(a) Jewelry, whether real or imitation, pearls, precious and semi-precious stones and imitations thereof; goods made of or ornamented, mounted or fitted with precious metals or imitation thereof or ivory (not including surgical and dental instruments, silver-plated wares, frames or mountings for spectacles or eyeglasses, and dental gold or gold alloys and other precious metals used in filling or mounting or fitting of teeth.)
(b) Perfumes and toilet waters
(c) Yacht and other vessels intended for pleasure or sports.
(12) Mineral products, based on actual market value of the annual gross output at the time of removal

E) Excisable goods not subject to VAT

(1) Naptha when used as raw material for production of petrochemical products
(2) Asphalt".[7]

---

[7] Par. 5, Complaint vis-à-vis Par. 3.1, Answer, RTC Docket (Civil Case No. 09-120622), pp. 5 and 41

ᵐᴰ

Due to its business operations within the City of Manila, private respondent RCBC, through its branches or business centers, paid its local business taxes imposed pursuant to the Revenue Code of the City of Manila.[8] Furthermore, under Section 21 of the Revenue Code of the City of Manila, private respondent RCBC paid additional tax in order to secure the respective Business Permits of its branches or business centers from the City of Manila which would allow them to continue their business operations within the said City. The details of said payment are as follows, to wit:[9]

Name of Business Center	Amount Paid	Date Paid
A. Mabini	₱ 22,424.12	16 January 2007
Arrangue	206,375.21	08 January 2007
Binondo	1,937,593.24	10 January 2007
Divisoria	167,599.96	08 January 2007
El Cano	293,751.12	20 January 2007
Ermita	41,266.38	05 January 2007
Morayta	28,267.24	30 January 2007
Otis	23,329.10	18 January 2007
Padre Rada	79,267.02	16 January 2007
Raon-Sales	33,129.48	11 January 2007
South Harbor	18,000.00	10 January 2007
T. Alonzo	52,602.33	12 January 2007
T. Mapua	62,761.82	16 January 2007
Tutuban	64,079.97	05 January 2007
Total	**₱3,030,455.99**[10]	

On December 19, 2008, private respondent RCBC filed with petitioner City Treasurer a consolidated administrative claim for the refund of the foregoing additional business taxes, pursuant to Section 196 of the Local Government Code (LGC) of 1991 and Section 286 of Rules and Regulations Implementing the LGC of 1991.[11] In the said consolidated administrative claim, private respondent RCBC invokes the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*,[12] wherein the Supreme Court held:

> "Despite the nullity of Tax Ordinance No. 7988, the court *a quo*, in the assailed Order, dated 8 May 2002, went on to dismiss petitioner's case on the force of the enactment of Tax Ordinance No. 8011, amending Tax

---

[8] Par. 4.1, Complaint vis-à-vis Par. 1, Answer, RTC Docket (Civil Case No. 09-120622), pp. 3 and 41.
[9] Par. 6, Complaint vis-à-vis Par. 3.2, Answer, RTC Docket (Civil Case No. 09-120622), pp. 7 and 41.
[10] The total amount should be ₱3,030,446.99.
[11] Exhibit "O", RTC Docket (Civil Case No. 09-120622), pp. 315 to 318.
[12] G.R. No. 156252, June 27, 2006.

Ordinance No. 7988. Significantly, said amending ordinance was likewise declared null and void by the DOJ Secretary in a Resolution, dated 5 July 2001, elucidating that *'[I]nstead of amending Ordinance No. 7988, [herein] respondent should have enacted another tax measure which strictly complies with the requirements of law, both procedural and substantive.* ***The passage of the assailed ordinance did not have the effect of curing the defects of Ordinance No. 7988 which, any way, does not legally exist.'*** Said Resolution of the DOJ Secretary had, as well, attained finality by virtue of the dismissal with finality by this Court of respondent's Petition for Review on *Certiorari* in G.R. No. 157490 assailing the dismissal by the RTC of Manila, Branch 17, of its appeal due to lack of jurisdiction in its Order, dated 11 August 2003.

Based on the foregoing, this Court must reverse the Order of the RTC of Manila, Branch 21, dismissing petitioner's case as there is no basis in law for such dismissal. The amending law, having been declared as null and void, in legal contemplation, therefore, does not exist. Furthermore, even if Tax Ordinance No. 8011 was not declared null and void, the trial court should not have dismissed the case on the reason that said tax ordinance had already amended Tax Ordinance No. 7988. As held by this Court in the case of *People v. Lim*, if an order or law sought to be amended is invalid, then it does not legally exist, there should be no occasion or need to amend it."

Considering that the said administrative claim has not been acted upon and since the two-year period under Section 196 of the LCG of 1991 is about to expire, private respondent RCBC was constrained to file a *Complaint*[13] before the Regional Trial Court (RTC) of the City of Manila on January 5, 2009.[14] The case was docketed as Civil Case No. 09-120622. In its *Complaint*, private respondent RCBC prayed for the refund or alternatively, for the issuance of a tax credit certificate in the amount of ₱3,030,455.99, representing payment of taxes under Section 21 of the Revenue Code of the City of Manila, for the 1st to 4th quarters of 2007.

In their *Answer* filed on March 16, 2009 in Civil Case No. 09-

[13] RTC Docket (Civil Case No. 09-120622), pp. 1 to 20.
[14] Par. 8, Complaint, RTC Docket (Civil Case No. 09-120622), p. 8.

120622, petitioners raised the following Affirmative and Special defenses[15], *inter alia*, to wit:

(1) private respondent RCBC has no cause of action;

(2) while City Ordinances 7988 and 8011 were declared as null and void by the Highest Court in the case entitled *'Coca Cola Bottlers Philippines, Inc. versus City of Manila, et. al.,'* the assessment of appropriate taxes on the plaintiff under Section 21 is still allowed and finds anchor on Manila Tax Ordinance Nos. 7794 and 7807;

(3) private respondent RCBC is liable for local business taxes as a bank under Section 19 of the Manila Revenue Code;

(4) private respondent RCBC is likewise assessed under Section 21 of the Manila Revenue Code, as amended;

(5) the local business taxes assessed against private respondent RCBC may thus be categorized into two groups: business taxes as a bank, except that imposed under Section 21, and the other is limited to Section 21 only;

(6) these two types of taxes are of different nature;

(7) Section 19 is a tax on banks, insurance companies and other financial institutions, while Section 21 refers to tax on business subject to the excise, value-added and percentage taxes under the NIRC;

(8) as it relates to private respondent RCBC, the tax assessed against them under Section 21 is a tax on *'persons who sell goods and services in the course of trade or business'*;

(9) as a mere withholding agent, private respondent RCBC has no personality at all to claim for a refund of what it had remitted to the City, on behalf of the parties who paid the same;

(10) to refund private respondent RCBC for the tax it collected from its end-users would amount to unjust enrichment, since it did not shoulder the burden of the tax;

(11) to grant the tax refund claimed by private respondent RCBC would even work injustice to the City of Manila and its constituents, more so in the light of the fact that the tax so collected from private respondent RCBC and other taxpayers are used to defray the expenses of the local government;

---

[15] RTC Docket (Civil Case No. 09-120622), pp. 41 to 59.

(12) even assuming, for the sake of argument that there is double taxation, it is nevertheless not prohibited;

(13) Section 21 of the subject of the Manila Revenue Code, as amended, is in consonance with the LGC, a and it is therefore undeniable that the City of Manila has a statutory right to impose the taxes specified in Section 21;

(14) by seeking a refund, private respondent RCBC, in effect is seeking exemption under Section 21 of the Revenue Ordinance;

(15) tax refunds are frowned upon by the Supreme Court;

(16) private respondent RCBC is barred to seek redress via the present case for its failure to observe Section 187; and

(17) the failure of private respondent RCBC to exhaust the administrative remedy provided for by law renders the present case vulnerable to dismissal for lack of cause of action.

Thereafter, private respondent RCBC filed on April 16, 2009, its *Motion for Leave to File Attached Reply*[16] attaching thereto its *Reply*[17], arguing, among others, as follows:

1. Sections 19 and 21 of the Manila Revenue Code involve (a) two local taxes of similar nature – a business tax; (b) imposed on the same business activity by only one public authority – the City of Manila; (c) enforced within the same taxing jurisdiction; (d) for the purpose of raising revenue for the city; and (e) to regulate the conduct of the business which accrued and became due on the taxing period. Thus, there is double taxation.

2. Section 195 of the LGC is not a condition precedent before the plaintiff can avail of a tax refund. Moreover, it has strictly complied with the two (2) elements: (a) prior demand and (b) the prescriptive period of two (2) years under Section 196 of the LGC. The plaintiff filed the administrative claim for tax refund or credit before the Office of the City Treasurer on December 19, 2008. Due to inaction by defendants and to comply with the essential prescriptive period allowed under Section 196, the plaintiff filed a complaint before the court on January 5, 2009, seeking refund of the taxes illegally or erroneously collected by the defendants.

[16] RTC Docket (Civil Case No. 09-120622), pp. 60 to 62.
[17] RTC Docket (Civil Case No. 09-120622), pp. 63 to 83.

3. Moreover, the imposition of tax under Section 21 is not an indirect tax by virtue of the clause therein.

On August 10, 2008, private respondent RCBC filed its *Pre-Trial Brief*,[18] while petitioners filed their *Pre-Trial Brief* on September 25, 2009.[19] Thus, the case was set for Pre-trial conference on several dates for varied reasons, and most specifically for the reason that there was an ongoing settlement between the parties, to wit: August 12, 2009[20]. September 28, 2009[21]; November 4, 2009[22]; September 27, 2010[23]; November 15, 2010[24]; February 16, 2011[25]; May 18, 2011.

On May 18, 2011,[26] the Court *a quo* dismissed the case due to the absence of the parties, their representatives, and their respective counsel during the scheduled pre-trial conference on said date.

With the filing of a *Motion for Reconsideration* by private respondent RCBC on June 27, 2011 in Civil Case No. 09-120622,[27] and petitioner's *Comment and/or Opposition to the Motion for Reconsideration, Motion for Leave of Court, and Motion for Judgment on the Pleadings*[28] on April 12, 2011,[29] the Court *a quo* granted private respondent's *Motion for Reconsideration*, reinstated the case, and set the case anew for pre-trial conference on March 8, 2012 in the Order dated January 5, 2012.[30] However, the said pre-trial conference was reset to May 3, 2012 due to the lack of appropriate authority of Atty. Karen Peralta to appear for and on behalf of herein petitioners, City of Manila and City Treasurer.[31]

Subsequently, during the hearing held on May 3, 2012, the case was again dismissed for failure of the parties to appear during the scheduled pre-trial conference.[32]

---

[18] RTC Docket (Civil Case No. 09-120622), pp. 86 to 105.
[19] RTC Docket (Civil Case No. 09-120622), pp. 111 to 115.
[20] Order dated August 12, 2009, RTC Docket (Civil Case No. 09-120622), p. 107
[21] Order dated September 28, 2009, RTC Docket (Civil Case No. 09-120622), p. 116
[22] Order dated November 4, 2009, RTC Docket (Civil Case No. 09-120622), p. 1119
[23] Order dated September 27, 2010, RTC Docket (Civil Case No. 09-120622), p. 124
[24] Order dated November 15, 2010, RTC Docket (Civil Case No. 09-120622), p. 1127
[25] Order dated February 16, 2011, RTC Docket (Civil Case No. 09-120622), p. 131
[26] Order dated May 18, 2011, RTC Docket (Civil Case No. 09-120622), p. 137
[27] RTC Docket (Civil Case No. 09-120622), pp. 139 to 161.
[28] RTC Docket (Civil Case No. 09-120622), pp. 133 to 135.
[29] This is the date that appears on the stamp of the RTC.
[30] RTC Docket (Civil Case No. 09-120622), pp. 169 to 170.
[31] Order dated March 8, 2012, RTC Docket (Civil Case No. 09-120622), pp. 179-180
[32] Order dated May 3, 2012, RTC Docket (Civil Case No. 09-120622), p. 184.

On June 6, 2012, private respondent RCBC filed a *Motion for Reconsideration (Re: Order dated 3 May 2012)*,[33] which was granted by public respondent on June 15, 2012.[34]

On October 16, 2014, the Court *a quo* issued a Pre-Trial Order,[35] stating that counsels for the parties agreed that there was no dispute on the factual issues and that they were going to submit their position papers within thirty (30) days, without prejudice to an amicable settlement. Pursuant thereto, private respondent RCBC filed its *Position Paper* on December 22, 2014,[36] and the case was submitted for decision on January 26, 2015.[37]

Thereafter, public respondent rendered the assailed Decision,[38] directing petitioners to refund to RCBC the amount of ₱3,030,455.99, representing the additional local tax it paid in 2007 pursuant to Tax Ordinance Nos. 7988 and 8011, which were declared null and void.

Aggrieved, petitioners filed a *Motion for Reconsideration* on May 25, 2015,[39] to which private respondent RCBC filed its *Opposition (Re: Motion for Reconsideration dated 25 May 2015)* on July 9, 2015.[40]

On August 24, 2015, the Court *a quo*, issued the assailed Order,[41] denying petitioners' Motion for Reconsideration for being unmeritorious.

Undaunted, petitioners filed the instant *Petition for Review*[42] before this Court on September 28, 2015, docketed as CTA AC No. 148, praying for the reversal and/or modification of the assailed Decision and the assailed Order issued by public respondent, the RTC of Manila, Branch 20, in Civil Case No. 09-120622.

In the Resolution dated October 13, 2015,[43] private respondent was ordered to file its *Comment*, not a motion to dismiss, within ten

---

[33] RTC Docket (Civil Case No. 09-120622), pp. 187 to 194.
[34] RTC Docket (Civil Case No. 09-120622), p. 198.
[35] RTC Docket (Civil Case No. 09-120622), pp. 322 to 326.
[36] RTC Docket (Civil Case No. 09-120622), pp. 333 to 361.
[37] RTC Docket (Civil Case No. 09-120622), p. 363.
[38] RTC Docket (Civil Case No. 09-120622), pp. 365 to 376.
[39] RTC Docket (Civil Case No. 09-120622), pp. 380 to 394.
[40] RTC Docket (Civil Case No. 09-120622), pp. 412 to 432.
[41] RTC Docket (Civil Case No. 09-120622), pp. 437 to 439.
[42] Docket, pp. 8 to 20.
[43] Docket, p. 88.

(10) days from notice, after which petitioners may file their reply within five (5) days from receipt of the comment. Pursuant thereto, private respondent RCBC filed its *Comment on the Petition for Review* on November 10, 2015.[44] Thereafter, both parties were directed to file their respective memorandum within thirty (30) days receipt.[45]

Considering the records verification dated January 12, 2016 stating that petitioners failed to file their Memorandum, and in view of the filing of private respondent RCBC's *Memorandum* on January 1, 2016,[46] the case was submitted for decision in the Resolution dated January 28, 2016.[47]

It appears however that on January 27, 2016, petitioners filed a *Manifestation,* alleging that they are adopting the instant *Petition for Review* as their *Memorandum.*[48] Said Manifestation was noted by the Court on February 4, 2016.[49]

Subsequently, this Court directed the Court *a quo*, the RTC of Manila, Branch 20, to elevate the entire original records of in Civil Case No. 09-120622, pursuant to Section 5(b), Rule 6 of the Revised Rules of the Court of Tax Appeals in the Resolution dated October 13, 2016.[50] In view thereof, the Resolution dated January 28, 2016, submitting this case for decision was recalled and set aside.

On October 21, 2016, the RTC of Manila, Branch 20, transmitted the entire original records of Civil Case No. 09-120622.[51] Correspondingly, the instant case was submitted for decision anew in this Court's Resolution dated November 9, 2016.[52]

Hence, this Decision.

THE ISSUES

Petitioners raise the following issues for the Court's resolution,

---

[44] Docket, pp. 93 to 107.
[45] Resolution dated December 1, 2015, Docket, p. 114.
[46] Docket, pp. 115 to 131.
[47] Resolution dated January 28, 2016, Docket, pp. 136 to 137.
[48] Docket, pp. 133 to 134.
[49] Resolution dated February 4, 2016, Docket, pp. 139 to 140.
[50] Docket, p. 141.
[51] Docket, p. 142.
[52] Docket, p. 149.

to wit:

> "1. WHETHER OF NOT THE PUBLIC RESPONDENTERRED IN ORDERING THE REFUND OF PRIVATE RESPONDENT;
>
> 2. WHETHER OR NOT PRIVATE RESPONDENT SHOULD HAVE APPEALED THE DENIAL OF ITS PROTEST PURSUANT TO SECTION 19(5) OF THE LGC INSTEAD OF CLAIMING FOR REFUND OR TAX CREDIT UNDER SECTION 196 OF THE LGC."

Petitioners' arguments:

Petitioners contend that the public respondent erred in ordering the refund instead of tax credit, which is the alternative prayer for the respondent, who voluntarily paid the additional taxes. They point out that the assailed Decision ordering the refund, instead of just tax credit, as alternatively prayed for by respondent needs this Court's power to reverse, in the interest of justice, equity and fair play.

Moreover, petitioners argue that private respondent RCBC's action is premature, because it failed to exhaust administrative remedies before filing the instant case, such as filing an administrative protest as contemplated under Section 195 of the Local Government Code.

In this case, private respondent RCBC merely sent a letter for refund, without protesting the tax that they paid; and that it did not appeal the inaction of petitioner City Treasurer, but instead filed a complaint for refund before the RTC of Manila.

Finally, granting without admitting that private respondent RCBC's claim for refund is correct, petitioner claims that public respondent should have granted the compromise agreement prepared by the private respondent, who was amenable to a tax credit.

Private respondent RCBC's counter-arguments:

For its part, private respondent RCBC counters that contrary to petitioners' claim, the Court *a quo* correctly ordered the tax refund instead of a mere tax credit.

Although the alternative remedies of either a tax refund or tax credit in relation to the additional local business taxes previously assessed and collected by the City of Manila for Taxable Year 2007 was specifically prayed for in its *Complaint* filed on January 5, 2009 before the Court *a quo*, private respondent RCBC contends that the public respondent had discretion to rule on the reliefs prayed for by private respondent RCBC.

As regards petitioners' claim that it failed to exhaust administrative remedies before filing a complaint for refund, respondent submits that the same is without merit. A plain reading of Sections 195 and 196 of the LGC would allegedly suggest that these two (2) provisions cover different remedies available to a taxpayer.

Under Section 195, the remedy available to a taxpayer is to protest the assessment by filing a written notice or to file an appeal with the court of competent jurisdiction, as the case may be, while Section 196 involves the remedies of refund or tax credit for tax erroneously or illegally collected. However, nowhere in the 1991 LGC is it allegedly required that a prior resort to Section 195 must be had before availing of the remedy under Section 196 of the same Code. These are independent remedies covering different causes of action.

In this case, while it was aware of the invalidity of the City Ordinances amending Section 21 of the Manila Revenue Code, private respondent opted not to question the validity of the assessment for business expediency, since it had another remedy after payment, which was to file a claim for tax refund or tax credit under Section 196.

Thus, private respondent RCBC submits and opines that the filing of an administrative protest as contemplated under Section 195 of the LGC was not necessary, as a condition *sine qua non*, for purposes of claiming a tax refund or credit under Section 196 thereof.

Finally, according to private respondent RCBC, there is no dispute that it complied with the first requisite for a claim for refund of local taxes under Section 196, when it filed before the City Treasurer of Manila its Consolidated Administrative Claim dated December 13, 2008, while the second requirement was likewise complied with, as the case was filed within the two (2) year period.

THE COURT'S RULING

The instant Petition for Review must fail for lack of merit.

The Court* a quo *did not err in granting the tax refund, instead of a tax credit.

Petitioners argue that public respondent, *i.e.*, the Court *a quo*, erred in ordering the refund, instead of a tax credit.

We disagree.

The law is silent as to the instances when a taxpayer is entitled either to a tax refund or a tax credit. In fact, Section 196 of the LGC of 1991, the provision which governs the claiming of refund or tax credit of local taxes, does not specify when the grant of tax refund or a tax credit is warranted. It reads:

> "SEC. 196. *Claim for Refund or Tax Credit.* — No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit."

Thus, We see no reversible error committed by the Court *a quo* in granting a tax refund, instead of a tax credit, in favor of private respondent.

Private respondent is not in error to avail of the Section 196 of the LGC of 1991, instead of Section 195 thereof.

Petitioners argue that the private respondent RCBC's action is premature, because it failed to exhaust administrative remedies before filing the instant case, such as filing an administrative protest as contemplated under Section 195 of the LGC of 1991. According to petitioners, the filing by private respondent RCBC of a claim for refund pursuant to Section 196 of the same Code on January 5, 2009 is a wrong cause of action as the private respondent RCBC should have availed of the remedy under the said Section 195.

The argument of petitioners is untenable.

Private respondent RCBC is free to choose which remedy to enforce.[53] The only matter that ought to be inquired into is whether private respondent RCBC observed the procedures laid down by law for the availment of the said chosen remedy.

After careful consideration of the antecedent circumstances in the instant case, We find that private respondent RCBC observed the procedures laid down by Section 196 of the LGC of 1991.

Under Section 196, an action for the recovery of any local tax erroneously or illegally collected will prosper in court, provided the following requisites are present: (1) a written claim for refund must have been filed with the local treasurer, and (2) the case for the said recovery of the local tax, *i.e.*, both at the administrative and judicial levels, must have been filed within two (2) years from the date of payment thereof, or from the date the taxpayer is entitled to a refund or credit.

In this case, it is undisputed that private respondent RCBC filed its administrative claim for refund for the subject local tax with the Office of the City Treasurer of Manila (one of the petitioners herein) on December 19, 2008;[54] and that the dates of payment thereof are as follows, to wit:

Name of Business Center	Amount Paid	Date Paid
A. Mabini	₱ 22,424.12	January 16, 2007[55]
Arrangue	₱ 206,375.21	January 8, 2007[56]
Binondo	₱1,937,593.24	January 10, 2007[57]
Divisoria	₱ 167,599.96	January 8, 2007[58]

[53] Refer to *Parker vs. Panlilio, et al.*, G.R. No. L-4961, March 5, 1952.
[54] Exhibit "O", RTC Docket (Civil Case No. 09-120622), pp. 315 to 318.
[55] Exhibit "A", RTC Docket (Civil Case No. 09-120622), p. 268.
[56] Exhibit "B", RTC Docket (Civil Case No. 09-120622), p. 269.
[57] Exhibit "C", RTC Docket (Civil Case No. 09-120622), p. 270.
[58] Exhibit "D", RTC Docket (Civil Case No. 09-120622), p. 271.

El Cano	₱ 293,751.12	January 20, 2007[59]
Ermita	₱ 41,266.38	January 5, 2007[60]
Morayta	₱ 28,267.24	January 30, 2007[61]
Otis	₱ 23,329.10	January 18, 2007[62]
Padre Rada	₱ 79,267.02	January 16, 2007[63]
Raon-Sales	₱ 33,129.48	January 11, 2007[64]
South Harbor	₱ 18,000.00	January 10, 2007[65]
T. Alonzo	₱ 52,602.33	January 12, 2007[66]
T. Mapua	₱ 62,761.82	January 16, 2007[67]
Tutuban	₱ 64,079.97	January 5, 2007[68]

Subsequently, private respondent filed its judicial claim for refund for the foregoing tax payments on January 5, 2009.

Counting from the foregoing dates of payments vis-à-vis the date of filing of private respondent's administrative and judicial claims, the said respective filing were done within the two-year period prescribed by Section 196 of the LGC of 1991.

Considering that private respondent observed the procedures in availing the remedy under the said Section 196, We find no legal obstacle for private respondent to successfully obtain the refund being claimed under the same provision.

While it may be true that the remedy under Section 195 of the LGC of 1991 was available to private respondent RCBC in questioning the subject local tax assessment, the law does not prohibit private respondent RCBC to avail of the remedy provided under Section 196 of the same Code. This is especially true since the subject local tax has already been *"erroneously or illegally collected"* by petitioners, pursuant to the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[69]

[59] Exhibit "E", RTC Docket (Civil Case No. 09-120622), p. 272.
[60] Exhibit "F", RTC Docket (Civil Case No. 09-120622), p. 273.
[61] Exhibit "K", RTC Docket (Civil Case No. 09-120622), p. 278.
[62] Exhibit "L", RTC Docket (Civil Case No. 09-120622), p. 279.
[63] Exhibit "M", RTC Docket (Civil Case No. 09-120622), p. 280.
[64] Exhibit "J", RTC Docket (Civil Case No. 09-120622), p. 277.
[65] Exhibit "I", RTC Docket (Civil Case No. 09-120622), p. 276.
[66] Exhibit "N", RTC Docket (Civil Case No. 09-120622), p. 281.
[67] Exhibit "G", RTC Docket (Civil Case No. 09-120622), p. 274.
[68] Exhibit "H", RTC Docket (Civil Case No. 09-120622), p. 275.
[69] G.R. No. 156252, June 27, 2006.

There was no compromise agreement entered into by and between petitioners and private respondent. Thus, the Court* a quo *had nothing to approve.

Petitioners claim that public respondent should have granted the compromise agreement prepared by private respondent, who was amendable to a tax credit.

The reasoning of petitioners is specious.

In *California Manufacturing Company, Inc. vs. City of Las Piñas, et al.*,[70] the Supreme Court held:

> "**Article 1306 of the Civil Code of the Philippines provides that contracting parties may establish such stipulations, clauses, terms, and conditions, as they may deem convenient, provided that they are not contrary to law, morals, good customs, public order, or public policy. <u>A compromise agreement is a contract</u> whereby the parties make reciprocal concessions, avoid litigation, or put an end to one already commenced.** It is an accepted, even desirable and encouraged, practice in courts of law and administrative tribunals.
>
> A compromise agreement intended to resolve a matter already under litigation is a judicial compromise. Having judicial mandate and entered as its determination of the controversy, it has the force and effect of a judgment. It transcends its identity as a mere contract between the parties as it becomes a judgment that is subject to execution in accordance with the Rules of Court. Thus, a compromise agreement that has been made and duly approved by the court attains the effect and authority of *res judicata*, although no execution may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed." *(Emphasis and underscoring supplied)*

It is clear from the foregoing jurisprudential pronouncement that

---

[70] G.R. No. 178461, June 22, 2009.

a compromise agreement is a contract. Thus, in a compromise agreement, there must be a meeting of the minds between the concerned parties.

In this case, it was not shown in the proceedings *a quo* that the petitioners and private respondent RCBC have reached a compromise agreement anent the subject local tax being refunded.

Records show that in the Pre-Trial Order dated October 16, 2014,[71] the parties were ordered as follows:

> "As the issues to be resolved are merely questions of law, counsels agreed to submit their position papers within thirty (30) days from receipt of this Pre-Trial Order, **without prejudice however to an amicable settlement. If an amicable settlement is reached before counsels could submit their position papers, they are directed to file their Compromise Agreement, otherwise, they should submit their position papers within the said period.**" *(Emphasis supplied)*

Subsequently, private respondent filed a *Motion For Time* on November 28, 2014,[72] stating that given the organizational constraints on the City of Manila, private respondent RCBC foresee the impossibility of completing the process within the allotted time given by the Court *a quo*, and thus, prayed for an additional twenty (20) days, for the parties to execute the Compromise Agreement, or until December 20, 2014, or in the alternative, submit its *Position Paper*.

In the Order dated November 28, 2014,[73] the Court *a quo* granted private respondent's *Motion For Time*, as prayed for therein. However, instead of a Compromise Agreement between the parties, private respondent filed its *Position Paper* on December 22, 2014.[74] Thereafter, the case was submitted for Decision by the Court *a quo*.[75] Correspondingly, there was no Compromise Agreement for the said Court to approve.

---

[71] RTC Docket (Civil Case No. 09-120622), pp. 322 to 326.
[72] RTC Docket (Civil Case No. 09-120622), pp. 327 to 329.
[73] RTC Docket (Civil Case No. 09-120622), p. 332.
[74] RTC Docket (Civil Case No. 09-120622), pp. 333 to 360.
[75] Order dated January 26, 2015, RTC Docket (Civil Case No. 09-120622), p. 363.

Nevertheless, the amount of refund granted by the Court *a quo* must be reduced.

***There was a slight mathematical error in the computation of the amount of refund granted by the Court* a quo.**

There is no question that public respondent granted the amount of **₱3,030,455.99**. However, a careful computation of the items paid by private respondent RCBC, as additional local business tax pursuant to Section 21 of the Revenue Code of the City of Manila, would reveal that the amount of refund should only be **₱3,030,446.99**, or lesser by a minimal amount of **₱9.00,** as shown below:

Name of Business Center	**Amount Paid**	**Date Paid**
A. Mabini	₱ 22,424.12	January 16, 2007[76]
Arrangue	206,375.21	January 8, 2007[77]
Binondo	1,937,593.24	January 10, 2007[78]
Divisoria	167,599.96	January 8, 2007[79]
El Cano	293,751.12	January 20, 2007[80]
Ermita	41,266.38	January 5, 2007[81]
Morayta	28,267.24	January 30, 2007[82]
Otis	23,329.10	January 18, 2007[83]
Padre Rada	79,267.02	January 16, 2007[84]
Raon-Sales	33,129.48	January 11, 2007[85]
South Harbor	18,000.00	January 10, 2007[86]
T. Alonzo	52,602.33	January 12, 2007[87]
T. Mapua	62,761.82	January 16, 2007[88]
Tutuban	64,079.97	January 5, 2007[89]
Total	**₱3,030,446.99**	

[76] Exhibit "A", RTC Docket (Civil Case No. 09-120622), p. 268.
[77] Exhibit "B", RTC Docket (Civil Case No. 09-120622), p. 269.
[78] Exhibit "C", RTC Docket (Civil Case No. 09-120622), p. 270.
[79] Exhibit "D", RTC Docket (Civil Case No. 09-120622), p. 271.
[80] Exhibit "E", RTC Docket (Civil Case No. 09-120622), p. 272.
[81] Exhibit "F", RTC Docket (Civil Case No. 09-120622), p. 273.
[82] Exhibit "K", RTC Docket (Civil Case No. 09-120622), p. 278.
[83] Exhibit "L", RTC Docket (Civil Case No. 09-120622), p. 279.
[84] Exhibit "M", RTC Docket (Civil Case No. 09-120622), p. 280.
[85] Exhibit "J", RTC Docket (Civil Case No. 09-120622), p. 277.
[86] Exhibit "I", RTC Docket (Civil Case No. 09-120622), p. 276.
[87] Exhibit "N", RTC Docket (Civil Case No. 09-120622), p. 281.
[88] Exhibit "G", RTC Docket (Civil Case No. 09-120622), p. 274.
[89] Exhibit "H", RTC Docket (Civil Case No. 09-120622), p. 275.

Thus, the amount of refund must be reduced accordingly.

It appearing however that the difference is based on a minor mathematical error, and not based on legal grounds, it is the considered opinion of this Court that the same is not sufficient basis to partially grant the instant petition for review just for the purpose of correcting this slight error in computing the refund claim. Hence the Court is constrained to deny the instant petition for review but the amount of refund claim shall be reduced by **₱9.00.**

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The assailed Decision is hereby **AFFIRMED WITH MODIFICATION** to rectify a slight mathematical error in the computation of the total amount of refund claim.

Accordingly, the Decision dated April 28, 2015 rendered by RTC Branch 20 of the City of Manila in Civil Case No. 09-120622 is hereby **MODIFIED** as follows:

> "**PREMISES CONSIDERED**, the defendants City of Manila and City Treasurer are directed to refund to the plaintiff the amount of **₱3,030,446.99**, representing the additional local tax it paid in 2007 pursuant to Tax Ordinance Nos. 7988 and 8011, which, however, were declared null and void.
>
> **SO ORDERED**."

The Order dated August 24, 2015, also rendered by RTC Branch 20 of the City of Manila in Civil Case No. 09-120622, is **AFFIRMED** consistent with the above-stated modification.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
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
Chairperson
Presiding Justice