REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

LIGHT RAIL MANILA CORPORATION,
Petitioner,

CTA AC NO. 267

- versus -

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

HON. JOSEPHINE D. DAZA AND MA. JAZMIN TALEGON in their capacities as the current and former officers-in-charge of the OFFICE OF THE CITY TREASURER OF MANILA and the SANGGUNIANG PANGLUNGSOD NG MAYNILA,
Respondents.

Promulgated:
JAN 04 2024
3:55 p.m.

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D E C I S I O N

FERRER-FLORES, J.:

Assailed in this instant Petition for Review, filed on July 12, 2022, are the Order dated February 14, 2022 (1st assailed Order),[1] and the Order dated May 4, 2022 (2nd assailed Order)[2] of the Regional Trial Court (RTC) Manila, Branch 55 (Court *a quo*), in Civil Case No. R-MNL-22-00530-CV, entitled "*Light Rail Manila Corporation vs. Hon. Josephine D. Daza and Ma. Jazmin Talegon in their capacities as the current and former officers-in-charge of the Office of the City Treasurer of Manila and the Sangguniang Panglungsod ng Maynila,*" which dismissed, for having been filed out of time, the Petition for judicial claim for refund under Section 196 of the Local Government Code

[1] Docket-Vol.1, pp. 30 to 32.
[2] *Id.*, pp. 33 to 37.

(LGC) of 1991 of Light Rail Manila Corporation (LRMC) in the total amount of *Twelve Million Four Hundred Ninety-Five Thousand Eighty-Three Pesos and Seventy-Five Centavos* **(Php12,495,083.75)** ("Subject Claim") representing the local business taxes ("LBT") for the 2nd to 4th quarters of 2019, which were allegedly erroneously and illegally imposed and collected by respondent City Treasurer of Manila against LRMC.

LRMC seeks to annul, reverse, and set aside the foregoing assailed Orders, for being contrary to law. Petitioner prays for the remand of the case to the Court *a quo* for further proceedings and reception of evidence to determine its entitlement to the refund in the total amount of the subject claim.

The dispositive portion of the 1st assailed Order states:

> "**WHEREFORE,** the instant *Petition* for claim for refund under Section 196 of the Local Government Code is hereby **DISMISSED** for having been filed out of time.
>
> Notify the parties and their counsels of this Order.
>
> **SO ORDERED.**"

The dispositive portion of the 2nd assailed Order reads:

> "**WHEREFORE,** the instant *Motion for Reconsideration* is hereby **DENIED** for lack of merit.
>
> Notify the parties and their counsels of this Order.
>
> **SO ORDERED.**"

THE FACTS

LRMC is a domestic corporation duly organized and existing under Philippine laws, with principal office address at the Mezzanine Engineering Building, LRTA Compound, Aurora Boulevard, Pasay City.[3] It is engaged in the development, construction, operation, maintenance, repair, management and other allied business involving railways and railroad projects.[4] It operates and maintains the Manila Light Rail Transit System Line 1 ("LRT1").[5]

Respondents Josephine D. Daza and Ma. Jazmin Talegon, in their capacities as the former and current officer-in-charge of the City Treasurer's Office of Manila ("Respondent City Treasurer") are impleaded in this action

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[3] *Id.*, p. 3.
[4] *Id.*, pp. 123 to 124.
[5] *Id.*, p. 5.

as the officers responsible for the imposition, assessment and collection of local taxes and fees imposed by the City of Manila and for having control and custody of the subject claim sought to be refunded.[6]

Respondent *Sangguniang Panglungsod ng Maynila* ("Respondent Sanggunian") is impleaded in this action as the body in charge of the City of Manila's local government funds.[7]

LRMC operates and maintains twenty (20) stations of LRT1 across various jurisdictions. Twelve (12) of the 20 stations are situated in the City of Manila, namely: R. Papa, Abad Santos, Blumentritt, Tayuman, Bambang, Doroteo Jose, Carriedo, Central Terminal, United Nations, Pedro Gil, Quirino Avenue, and Vito Cruz ("Manila Stations").[8]

From its operations of the Manila Stations, LRMC derives revenues from the following:

1. Revenue from the transportation of its passengers ("Rail Revenue"); and,

2. Revenue from the lease and other commercial arrangements of signboards, stalls, kiosks, and pathways that connect to malls or other establishments located on different stations (Non-Rail Revenue").[9]

As the concessionaire which took over the operations of the Light Rail Transit Authority (LRTA), a common carrier, LRMC pays a common carrier's tax of 3% of its quarterly gross receipts for its Rail Revenue to the National Government, in accordance with Section 117 of the National Internal Revenue Code (NIRC) of 1997, as amended.[10] LRMC also pays LBT on its gross receipts from Non-Rail Revenue.[11]

At the start of every year, LRMC renews its business permits and licenses and pays LBT to the City of Manila.[12]

When LRMC applied for the renewal of the business permits and licenses in 2019, the respondent City Treasurer imposed LBT on LRMC's Rail Revenue. The respondent City Treasurer issued the Statements of

[6] *Supra*, Note 3.
[7] Docket-Vol. 1, p. 3.
[8] *Id.*, p. 5.
[9] *Id.*
[10] *Supra.*, Note 8.
[11] Docket-Vol. 2, p. 616.
[12] Docket-Vol. 1, p. 6.

Accounts (SOAs) for the 1st quarter of 2019, imposing LBT on LRMC's Non-Rail Revenue and Rail Revenue.[13]

LRMC paid the LBT in the total amount of Php3,218,039.09 on February 1, 2019, and subsequently filed a Protest with a prayer for refund/tax credit certificate in the amount of Php3,189,112.34 on February 19, 2019 (1st Quarter Protest).[14]

LRMC thereafter filed a Request for Opinion with the Bureau of Local Government Finance (BLGF) on March 4, 2019, raising the same arguments in its 1st Quarter Protest. On November 28, 2019, the BLGF rendered an Opinion (BLGF Opinion) confirming the exemption of LRMC's Rail Revenue from LBT and local permits, in accordance with Section 133 (j)[15] of the LGC of 1991.[16]

LRMC communicated to the respondents the BLGF Opinion to support its claim that LRMC's rail revenues are not subject to LBT.[17]

Respondents did not act on the administrative claim of LRMC; hence, the latter was constrained to institute a judicial claim for refund for its 2019 first quarter LBT payments on January 29, 2021. Eventually, LRMC and respondents agreed to amicably settle the refund claim case and entered into a compromise agreement.[18]

On January 29, 2020, LRMC applied for the renewal of its business permits and licenses for the year 2020. It received the SOAs from respondent City Treasurer for the year 2020, detailed as follows:[19]

Station	**LBT for 2020**
R. Papa	Php 38,311.50
Abad Santos	41,318.00
Blumentritt	54,318.00
Tayuman	49,805.00
Bambang	34,088.00

[13] Docket-Vol. 2. P. 617.

[14] Docket-Vol. 1, p. 44.

[15] SECTION 133. Common Limitations on the Taxing Powers of Local Government Units. — Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

xxx xxx xxx

(j) Taxes on the gross receipts of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carriers by air, land or water, except as provided in this Code;

[16] *Supra*, Note 14.

[17] *Id.*

[18] *Id.*

[19] *Id.*, p. 6.

Station	LBT for 2020
Doroteo Jose	169,632.91
Carriedo	82,472.00
Central	52,432.50
UN Ave	77,655.00
Pedro Gil	70,205.50
Quirino	43,076.00
Vito Cruz	58,014.00
TOTAL	**Php 771,328.41**

The 2020 SOAs also include the computation of LBT for the 2nd to 4th quarters of 2019 (Subject SOAs), in the total amount of *Twelve Million Four Hundred Ninety-Five Thousand Eighty-Three Pesos and Seventy-Five Centavos* (Php12,495,083.75),[20] detailed as follows:

Station	LBT for 2nd to 4th Quarters of 2019	Penalties	Total
R. Papa	Php 342,317.35	Php 145,484.88	Php 487,802.23
Abad Santos	Php 277,742.71	Php 118,040.66	Php 395,783.37
Blumentritt	Php 603,097.47	Php 256,316.44	Php 859,413.91
Tayuman	Php 713,394.17	Php 303,192.54	Php 1,016,586.71
Bambang	Php 259,365.74	Php 110,230.45	Php 369,596.19
Doroteo Jose	Php 1,236,180.69	Php 525,376.80	Php 1,761,557.49
Carriedo	Php 1,215,933.79	Php 516,771.87	Php 1,732,705.66
Central	Php 677,915.44	Php 288,114.07	Php 966,029.51
UN Ave	Php 1,168,391.23	Php 496,566.27	Php 1,664,957.50
Pedro Gil	Php 1.021,963.28	Php 434,334.40	Php 1,456,297.68
Quirino	Php 583,822.23	Php 248,124.46	Php 831,946.69
Vito Cruz	Php 668,355.65	Php 284,051.16	Php 952,406.81
TOTAL			**Php12,495,083.75**

On January 31, 2020, LRMC paid the total amount of Thirteen Million Two Hundred Sixty-Six Thousand Four Hundred Twelve Pesos and Twenty-Five Centavos (Php13,266,412.25). Of the total amount paid, LRMC sought to request a refund of the amount of Twelve Million Four Hundred Ninety-Five Thousand Eighty-Three Pesos and Seventy-Five Centavos (Php12,495,083.75).[21]

LRMC claims that using the schedule in Section 105, Article K[22] of the 2013 Omnibus Revenue Code of Manila (Manila Revenue Code), the LBT per Manila Station as to the Non-Rail Revenue of LRMC for 2019 should have only amounted to the following:[23]

[20] Docket-Vol. 1, pp. 6 to 7.
[21] *Id.*, p. 7.
[22] Tax on Contractors.
[23] Docket-Vol.1, pp. 7 to 8.

Station	Declared Annual Non-Rail Revenues (based on 2018 gross receipts)	Annual LBT for 2019 following Section 105 (K) of the Manila Revenue Code
R. Papa	Php 282,000.00	Php 7,623.00
Abad Santos	Php 282,000.00	Php 7,623.00
Blumentritt	Php 216,000.00	Php 5,989.50
Tayuman	0	0
Bambang	Php 216,000.00	Php 5,989.50
Doroteo Jose	Php 2,766,446.26	Php 25,298.18
Carriedo	Php 376,377.36	Php 10,164.00
Central Terminal	Php 126,537.36	Php 3,267.00
United Nations	Php 785,090.00	Php 16,912.50
Pedro Gil	Php 735,500.00	Php 15,262.50
Quirino Avenue	Php 16,580.00	Php 907.50

Thereafter, LRMC filed with respondent City Treasurer a **Supplement to the Protest dated 19 February 2019 with Prayer for Refund/TCC** on February 6, 2020.[24] LRMC only filed a supplemental letter since on February 19, 2019, it had already filed a Protest with Prayer for Refund/TCC of 1st quarter of 2019 LBT before the respondent City Treasurer.[25] LRMC's supplemental letter states:

> "On behalf of our client, LIGHT RAIL MANILA CORPORATION ("LRMC"), we write to inform you that LRMC has tendered the payment for Local Business Tax ("LBT") for the 2nd to 4th taxable quarters of 2019, under protest and hereby **requests this Honorable Office to refund and/or immediately issue a tax credit certificate** in the amount of Php 13,266,412.25.
>
> xxx
>
> Based on the foregoing discussions, the City of Manila should have collected LBT based only on LRMC's Non-Rail Revenue. However, **since LRMC already paid for the 1st Quarter of the Disputed Assessment in the amount of Php3,218,039.09 which is over the total LBT due for 2019 and 2020, the City of Manila is obligated to refund** the total amount paid by LRMC for the 2nd to 4th Quarters of 2019 in the amount of Php 13,266,412.25.
>
> xxx
>
> **We trust that you will refund the** amount of Php 13,266,412.25 **and/or immediately issue a tax credit certificate of credit** in the same amount in favor of LRMC."

Respondent City Treasurer failed to act thereon.[26]

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[24] Docket-Vol. 2., p. 620 and p. 642.
[25] Docket-Vol. 1, p. 8.
[26] *Id.*, Docket-Vol. 2., p. 621 and p. 642.

On February 2, 2022, LRMC filed its judicial claim for refund before the Court *a quo*.

On February 14, 2022, the Court *a quo* dismissed the case *motu proprio* for having been filed out of time.[27]

On April 5, 2022, LRMC filed its **Motion for Reconsideration (Re: Order dated 14 February 2022)**.[28]

On April 19, 2022, respondents filed their **Opposition (to the Motion for Reconsideration dated 05 April 2022)**.[29]

On May 4, 2022, the Court *a quo* denied LRMC's motion for reconsideration for lack of merit.[30] A copy thereof was received by LRMC on June 13, 2022.[31]

LRMC then filed the present Petition for Review before this Court on July 12, 2022.

On July 26, 2022, this Court ordered respondents to file their Comment on the Petition for Review within ten (10) days from notice.[32]

Respondents filed their **Comment (To Petitioner's Petition for Review dated 30 June 2022)** on August 25, 2022.[33]

On September 14, 2022, this Court ordered the parties to file their respective memoranda.[34]

LRMC filed its **Memorandum** on October 27, 2022,[35] while respondents filed their **Memorandum** on December 12, 2022.[36]

On January 6, 2023, this case was submitted for decision.[37]

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[27] *Supra*, Note 1.
[28] Docket-Vol. 1, pp. 521 to 530.
[29] *Id.*, pp. 531 to 538.
[30] *Supra*, Note 2.
[31] Docket-Vol. 1, p. 4.
[32] *Id.*, p. 540.
[33] Docket-Vol. 2, pp. 541 to 551.
[34] *Id.*, p. 614.
[35] *Id.*, pp. 615 to 639.
[36] *Id.*, pp. 641 to 652.
[37] *Id.*, p. 700.

ISSUES

LRMC raised the following assignment of errors in its Petition for Review:[38]

I. THE HONORABLE COURT *A QUO* GRAVELY ERRED IN CONCLUDING THAT LRMC'S PETITION FOR A CLAIM FOR REFUND WAS FILED OUT OF TIME.

II. THE COURT *A QUO* GRAVELY MISAPPLIED THE *CITY TREASURER OF MANILA vs. PHILIPPINE BEVERAGE PARTNERS, INC. (Phil. Beverage)*[39] CASE AND THE *CITY OF MANILA vs. COSMOS BOTTLING CORPORATION (Cosmos)*[40] *CASE* TO LRMC'S PETITION.

LRMC's Arguments

As to the first assignment of error, LRMC alleges that an examination of the complete records of its Petition will show that it is similar to the case of *International Container Terminal Services, Inc. vs. City of Manila (ICTSI case)*.[41] The *ICTSI case* involves "assessments" which are prerequisites for the renewal of business permit. LRMC argues that it was merely constrained to pay the LBT due to the erroneous computation of the computer system of the respondent City Treasurer and for the reason that payment was required as a precondition for the issuance of a business permit.

It argues that, in the *ICTSI case*, it was emphasized that a notice of assessment (NOA) is a precondition for the application of Section 195 of the LGC of 1991.

LRMC submits that the subject SOAs issued by respondent City Treasurer do not contain the requirements under Section 195 of the LGC of 1991 that will constitute a NOA. It avers that a plain reading of the subject SOAs reveals no factual or legal basis of the assessment nor a demand to pay within a prescribed period. The subject SOAs cannot be considered a NOA required under Section 195 of the LGC of 1991; thus, this situation is that contemplated under Section 196 of the LGC of 1991.

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[38] Docket-Vol. 1, LRMC's Petition for Review, p. 11.
[39] G.R. No. 233556, September 11, 2019.
[40] G.R. No. 196681, June 27, 2018.
[41] G.R. No. 185622, October 17, 2018.

LRMC insists that it properly pursued the remedy under Section 196 of the LGC because there is no NOA. It emphasizes that there is nothing in the aforesaid provision that requires LRMC to file the judicial action within thirty (30) days from the denial or inaction of the City Treasurer or to first comply with Section 195 of the LGC of 1991. It suffices that LRMC filed its action within two (2) years from payment pursuant to Section 196 of the LGC of 1991.

As to the second assignment of error, LRMC alleges that the Court *a quo* gravely misapplied the *Phil. Beverage case* and the *Cosmos case* to LRMC's Petition. LRMC argues that it did not file a Protest to the City Treasurer that was later on denied, unlike in the *Phil. Beverage case* and the *Cosmos case*. LRMC argues that it filed its Petition under Section 196 of the LGC of 1991 to pray for the refund of the LBT that was erroneously or illegally collected from it, and that there was inaction on the part of the City Treasurer on LRMC's administrative claim for refund.

Respondents' Arguments

In their Comment, respondents counter-argue that the Court *a quo* did not err in finding that LRMC's action is barred by prescription. They allege that LRMC treated the SOAs as NOA.[42]

Respondents aver that the *Phil. Beverage case* and *Cosmos case* apply to this case. They submit that the pronouncements in these cases cannot be considered as *obiter dictum.*[43]

Respondents assert that LRMC is guilty of violating the rule against splitting of causes of action. On February 1, 2021, LRMC filed before the RTC Manila a judicial claim for refund, dated January 29, 2021, involving the same parties and the same issue. It was raffled to RTC Branch 15, Manila. The only difference is that the claim of refund involves the payment for the assessment for the 1st quarter of 2019 in the amount of Php 3,189,112.34. The judicial claim for refund filed before RTC Branch 15, Manila, was terminated by virtue of a Judgment based on Compromise Agreement entered into by the City of Manila and LRMC, on July 19, 2021. It is worth noting that the claim under the instant petition involves the refund of their payment for the assessment for the 2nd to 4th quarters of 2019. When LRMC first filed a Petition for Judicial Claim for refund for 1st quarter of 2019, dated January 29, 2021, which was raffled to RTC Branch 15, their cause of action for their claim under the instant petition already arose, yet they chose to file two (2) separate actions, one year apart.[44] Respondents, thus, argue that there is a clear

[42] Docket-Vol. 2, pp. 542 to 543.
[43] *Id.*, p. 548.
[44] *Id.*, p. 549.

violation of the rule against splitting of causes of action under Section 4, Rule 2 of the 1997 Rules of Civil Procedure, as amended. Respondents allege that LRMC had the duty to join all the causes of action available to them when they first filed their judicial claim for refund, which necessarily included their claim under the instant petition.

RULING

The petition is granted.

This Court has jurisdiction to entertain this appeal

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. Jurisdiction over the subject matter of a case is conferred by law.[45]

The CTA's appellate jurisdiction over RTC decisions, orders, or resolutions may only be invoked over a ruling in a local tax case as provided under Section 7 (a) (3) of Republic Act (R.A.) No. 9282. The action in the RTC must be in the nature of a tax case, or one which primarily involves a tax issue. On the other hand, the jurisdiction of the court is determined by the nature of the action pleaded based on the allegations in the complaint and the character of the relief sought.[46]

A perusal of the petition filed before the RTC shows that it is a "Claim for Refund under Section 196 of the Local Government Code". The allegations therein and the relief sought bolster the view that the case involves a tax case, *i.e,* to seek a refund of the LBT erroneously and illegally imposed, assessed and collected by respondents against LRMC covering the 2nd to 4th quarters of TY 2019 amounting to Twelve Million Four Hundred Ninety-Five Thousand Eighty-Three Pesos and Seventy-Five Centavos (Php12,495,083.75).

Considering that the petition before the Court *a quo* involves a tax issue, undoubtedly, this case falls under the appellate jurisdiction of the CTA.

[45] *City of Iloilo vs. Philippine Ports Authority*, G.R. No. 233861, January 12, 2021.
[46] *Id.*

This instant petition was filed before this Court pursuant to Section 11[47] in relation to Section 7(a) (3)[48] R.A. No. 1125,[49] as amended by R.A. No. 9282.[50]

In this case, the 2nd assailed Order was received by LRMC on June 13, 2022. Thirty (30) days from receipt thereof was on July 13, 2022. Considering that the instant petition was timely filed on July 12, 2022, this Court has jurisdiction to entertain this appeal from the assailed Orders of the RTC in LBT cases.

The Court a quo erred in concluding that LRMC's Petition for Claim for Refund was filed out of time

Pertinent portions of the 1st assailed Order state that:

> "Here, the Statement of Accounts were issued to the petitioner by the respondent City Treasurer of Manila for 2020 and the petitioner paid the assessment on 31 January 2020. Written Protest with Prayer for Refund/TCC was filed on 06 February 2020. 2 years from the date of the filing of the written protest, petitioner filed this Judicial claim for refund on 02 February 2022. Pursuant to Administrative Circular No. 01-2022 and Memorandum Order No. 10-2022, filing periods of any and all pleadings falling within January 13-31, 2022 are extended to 01 February 2022. Considering that 01 February 2022 is a holiday, last day to file is on 02 February 2022. Thus, this judicial claim for refund was filed within the two

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[47] SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the **Regional Trial Courts** may file an appeal with the CTA **within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: xxx xxx *(Emphasis supplied)*

[48] SEC. 7. *Jurisdiction.* — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(3) Decisions, orders or resolutions of the **Regional Trial Courts in local tax cases** originally decided or resolved by them in the exercise of their original or appellate jurisdiction; *(Emphasis supplied)*

[49] AN ACT CREATING THE COURT OF TAX APPEALS,

[50] 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 CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, Effective April 23, 2004.

(2) year period. However, as explained by the Supreme Court in the cases above-cited, the petitioner has to comply with the two (2) conditions. **One, pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund. Two, bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.** Unfortunately, the petitioner failed to comply with the second condition as it filed this judicial claim for refund beyond the 30 day period from inaction by the local treasurer."

The Court *a quo* applied the *Phil. Beverage case* and *Cosmos case*, which stated the two (2) conditions cited therein.

We analyze whether the Court *a quo* erred in dismissing the case at bar.

Sections 195 and 196 of the LGC of 1991 read:

"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.

Section 196. *Claim for Refund of 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."

Section 195 of the LGC of 1991 provides that the taxpayer may file a protest within sixty (60) days from the receipt of the NOA. The local treasurer has sixty (60) days to decide said protest. In case of denial of the protest or inaction by the local treasurer, the taxpayer has thirty (30) days from receipt of the denial, or from the lapse of the 60-day period for the local treasurer to decide, within which to file an appeal with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable.

On the other hand, in case the taxpayer decides to recover any tax, fee, or charge erroneously paid, Section 196 of the LGC of 1991 requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two (2) years from the date of payment.

In the *ICTSI case*, it was discussed that the taxpayer's remedy under Section 195 or 196 of the LGC of 1991 depends upon whether it has received an assessment or not. If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 of the LGC of 1991. On the other hand, if no assessment notice is issued by the local treasurer, and the taxpayer claims that it erroneously paid a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected, then Section 196 of the LGC of 1991 applies.

Section 195 of the LGC of 1991 is clear that a NOA shall be issued by the local treasurer or his duly authorized representative when there is a finding that correct taxes, fees, or charges have not been paid by the taxpayer. The NOA states the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests, and penalties.

The NOA stands as the first instance the taxpayer is officially made aware of the pending tax liability; thus, it should be sufficiently informative to apprise the taxpayer of the legal basis of the tax.[51]

In the case at bar, the subject SOAs failed to comply with the requirements of a NOA under Section 195 of the LGC of 1991. The SOAs do not state the factual and legal bases of the tax, fee, or charge as well as the amount of deficiency, surcharges, interests and penalties. While the SOAs reflect various line items with corresponding amounts (e.g., "xxx COMMON CARRIER", "Garbage Fee", "R E SUB LESSOR"), there are columns without titles or headers to indicate what the amounts stated therein represent. It is only in the official receipts that the particulars, the amount of taxes and fees, surcharge/interest were reflected and became known to the taxpayer. Although the SOAs state that, "This Statement is valid until 1/31/2020", it cannot be considered as the due date for payment. For having failed to comply with the law, the subject SOAs cannot be deemed as NOAs in this case.

Considering the absence of NOA in the instant case, this Court finds that Section 196 of the LGC of 1991 applies instead.

[51] *Luz R. Yamane, in her capacity as the City Treasurer of Makati City vs. BA Lepanto Condominium Corporation,* G.R. 154993, October 25, 2005.

Under Section 196 of the LGC of 1991, the taxpayer must comply with the following procedural requirements: *first,* file a written claim for refund or credit with the local treasurer; and *second,* file a judicial case for refund within two (2) years from the payment of the tax, fee, or charge, or from the date when the taxpayer is entitled to a refund or credit.[52]

In this case, LRMC paid the subject claim on **January 31, 2020.** Counting two (2) years therefrom, the last day to file a judicial claim for refund was originally **January 31, 2022**. Note, however, that the filing periods of any and all pleadings and other court submissions that fell due in the month of January 2022 were extended to February 1, 2022.[53] Furthermore, February 1, 2022 was declared as a special non-working holiday;[54] thus, the last day to file was on **February 2, 2022.** Verily, the judicial claim for refund was timely filed before the Court *a quo* on **February 2, 2022.**

Indeed, the procedural requirements under Section 196 of the LGC of 1991 were complied with by LRMC because it filed a written claim for refund or credit with the local treasurer with respondent City Treasurer on February 6, 2020, and timely filed the judicial claim for refund on February 2, 2022.

Based on the foregoing discussions, the Court *a quo* erred in dismissing the Petition for claim for refund under Section 196 of the LGC of 1991, for having been filed out of time.

There is no violation on the splitting of the cause of action

We agree with LRMC that there was no single cause of action to speak of, as the causes of action of LRMC against the respondents pertained to different taxable quarters which is legally allowed to be treated separately.

A cause of action is the act or omission by which a party violates a right of another.[55] Under the Rules, a party may not institute more than one suit for a single cause of action; and if two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment upon the merits in any one is available as a ground for the dismissal of the others.[56]

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[52] *Supra.,* Note 28.
[53] Administrative Circular No. 01-2022 and Memorandum Order No. 10-2022.
[54] Proclamation No. 1236.
[55] Section 2 of Rule 2 of the 2019 Amendments to the 1997 Rules of Civil Procedure, A.M. No. 19-10-20-SC, October 15, 2019.
[56] Sections 3 & 4 of the 2019 Amendments to the 1997 Rules of Civil Procedure, A.M. No. 19-10-20-SC, October 15, 2019.

Although LRMC filed two (2) cases for a claim for refund for the same TY 2019, the 1st case involves the 1st quarter of TY 2019, whereas the instant case pertains to the 2nd to 4th quarters of TY 2019. This Court, thus, finds that there is no splitting of the cause of action in the instant case.

WHEREFORE, premises considered, the instant Petition for Review is **GRANTED**. Let this case be **REMANDED** to the Regional Trial Court Manila, Branch 55, for further proceedings.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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
Acting Presiding Justice