REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITY OF TAGUIG AND J. VOLTAIRE ENRIQUEZ IN HIS CAPACITY AS TREASURER OF THE CITY OF TAGUIG, Petitioners,	**CTA EB NO. 2471** (CTA AC No. 227)
	Present:
- versus -	**DEL ROSARIO,** ***P.J.*****, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** ***JJ.***
LAFARGE HOLDINGS (PHILIPPINES) INC., substituted by CEMCO HOLDINGS, INC., Respondent.	Promulgated: APR 26 2024 11:56am

x - x

RESOLUTION

***BACORRO-VILLENA, J.*:**

For the Court *En Banc*'s resolution is the "Motion for Reconsideration"[1] (**MR**) filed by the City of Taguig and J. Voltaire Enriquez[2], in his capacity as Treasurer of the City of Taguig (**petitioners**) on 02 January 2024, with "Comment/Opposition (Re: Petitioners' Motion for Reconsideration dated December 29, 2023)"[3] (**Comment/Opposition**) filed by respondent Cemco Holdings, Inc.[4] (**respondent/CHI**) on 22 January 2024.

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1 *Rollo*, pp. 487-497.

2 Also referred to in the records to be Atty. J. Voltaire L. Enriquez, see Petition for Review; Id., p. 36.

3 Id., pp. 504-509.

4 Substituting Lafarge Holdings (Philippines) Inc. as the surviving corporation in an approved plan

The MR seeks the reversal of the Court *En Banc*'s Decision dated 24 November 2023[5] (**assailed Decision**) which denied petitioners' Petition for Review.[6] The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, in view of the foregoing, the instant Petition for Review filed by petitioners City of Taguig and J. Voltaire Enriquez, in his capacity as Treasurer of The City of Taguig, on 24 May 2021 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 24 July 2020 and 18 February 2021, respectively, of the Third Division in CTA AC No. 227, entitled *Lafarge Holdings (Philippines), Inc. v. The City of Taguig and Atty. J. Voltaire L. Enriquez, in his capacity as the City Treasurer of the City of Taguig*, are **AFFIRMED**.
>
> **SO ORDERED.**
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> ...

In the MR, petitioners argue that the procedure for protesting an assessment under Section 195 of the Local Government Code (**LGC**) of 1991 applies to respondent's claim, and not Section 196 of the same law. They add that the purported assessment has lapsed into finality when respondent failed to comply with Section 195. They also insist that Billing Statements issued by Taguig City's Business Permit and Licensing Office (**BPLO**) are equivalent to assessments contemplated in the same section.

Moreover, petitioners assert that an assessment is not exclusively issued by the city treasurer and the latter's duly authorized representative may also do so. They find error in the Court *En Banc*'s finding that refund claims for different quarters of a year are independent from each other. According to them, they should be treated as installments upon the same assessment.

On the other hand, respondent points out that petitioners' MR reiterates many of their previous arguments which the Court has resolved and passed upon extensively.

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of merger *per* Articles of Merger, Annex "B" attached to the Comment/Opposition (Re: Manifestation with Motion to Grant Petition dated August 31, 2022) with Manifestation and Motion, id., pp. 342-352.

5 Id., pp. 449-482.

6 Filed on 24 May 2021, id., pp. 34-54.

Respondent agrees with the Court *En Banc*'s declaration that the procedure in Section 196 of the LGC of 1991 is applicable to its claim, considering that there is no valid assessment. It further agrees that the billings and corresponding refund claims are distinct and separate.

We resolve.

At the onset, We readily observe that petitioners merely recycled their previous arguments before the Third Division and before Us. Nevertheless, for emphasis, We will briefly revisit the discussion in the assailed Decision to further enlighten petitioners as to why the Court could not validly sustain the assessment against respondent.

To recall, in attacking the procedural validity and timeliness of respondent's refund claim, petitioners insistently cling unto their own interpretations of the Supreme Court's disquisitions in *City of Manila, et al. v. Cosmos Bottling Corporation*.[7] They point out respondent's supposed failure to meet the twin conditions set forth therein, to wit:

> ...
>
> Simply put, there are **two conditions** that must be satisfied in order to successfully prosecute an action for **refund in case the taxpayer had received an assessment**. *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.[8]
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> ...

A closer read of the above declaration yields a clear guideline limiting the scope of its application. As stated, the set of conditions presupposes that the taxpayer has received an assessment. It is but logical that, as regards the first condition, there ought to be an actual assessment to assail. In *International Container Terminal Services, Inc. v. The City of Manila, et al.*[9], the Supreme Court explained emphatically:

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[7] G.R. No. 196681, 27 June 2018.
[8] Emphasis and underscoring supplied, italics in the original text.
[9] G.R. No. 185622, 17 October 2018.

> ...
>
> If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 of the Local Government Code. Thus, it must file a written protest with the local treasurer within 60 days from the receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent jurisdiction within 30 days from receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest. In this case, as no tax was paid, there is no claim for refund in the appeal.
>
> If the taxpayer opts to pay the assessed tax, fee, or charge, it must still file the written protest within the 60-day period, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer. In its court action, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid. "Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer."
>
> 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 from him, then Section 196 applies**.[10]
>
> ...

As the records indisputably reveal, no valid assessment was done in this case. Thus, the procedure under Section 196 of the LGC of 1991 is applicable and *not* Section 195 thereof.

On another note, petitioners, in the MR, also forward their position that "it would not be correct to assert that it is exclusively the city treasurer who can issue the assessment".[11] Petitioners missed the point. The assailed Decision did not state that such power lies exclusively with the city treasurer. We quote for petitioners' guidance the pertinent discussions in the assailed Decision[12]:

> ...
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> Verily, there must be a finding by the local treasurer or a duly authorized representative, embodied in a NOA issued against the concerned taxpayer. ...
>
> ...

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10 Citations omitted, emphasis and underscoring supplied.
11 Par. 23, supra at note 1.
12 Supra at note 5.

> A closer scrutiny of the Billing Statements would also reveal that a clear statement that such was carried out in petitioner City Treasurer's behalf (by his duly authorized representative) is wanting. ...
>
> ...

Considering the nature of petitioners' arguments, We do not find it worthwhile to make further exposition. In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[13], the Supreme Court ruled:

> ...
>
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
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> ...

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[14] held:

> ...
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> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and

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[13] G.R. Nos. 109645 & 112564, 04 March 1996.

[14] G.R. No. 159938, 22 January 2007.

> that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.**[15]
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> ...

It is the movant's duty to convincingly show grounds for a reconsideration of an assailed judgment or order, or at the least give its previous arguments a fresh perspective in such a way that would warrant a re-examination of its case. Unfortunately for petitioners, they had failed to do so.

WHEREFORE, the foregoing premises considered, petitioners' "Motion for Reconsideration" filed on 02 January 2024 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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15 Citation omitted and emphasis supplied.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice