REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

**SECOND DIVISION**
************

**CITY OF MANILA, ET.AL.,**
Petitioners,

**C.T.A. AC No. 51**
(Civil Case No. 05-0051-CFM)

**Present:**

-versus-

**Castañeda, Jr., Chairperson**
**Uy,** and
**Palanca-Enriquez,** ***JJ.:***

**SM LAND, INC., ET AL.,**
Respondents.

**Promulgated:**
JUL 0 3 2009
1:50 p.m.

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# DECISION

**CASTAÑEDA, JR., J.:**

## THE CASE

Before this Court is a Petition for Review seeking the reversal of the Order promulgated on July 10, 2007 and the subsequent Order dated December 14, 2007 denying herein petitioners' Motion for Reconsideration of the earlier Order, penned by Presiding Judge Francisco G. Mendiola of Branch 115, Regional Trial Court, National Capital Judicial Region, Pasay City in Civil Case No. 05-0051-CFM entitled "SM Mart, *et al.* vs. City of Manila, *et al.*" gc

## THE FACTS

Petitioner City of Manila is a local government unit organized and existing under Republic Act No. 409 and is represented in this case by the City Mayor of Manila, Hon. Alfredo S. Lim.

Petitioners Liberty M. Toledo and Joseph Santiago are the Treasurer and the Chief of License Division of the City of Manila, respectively, with office address at the Ground Floor, Manila City Hall, Taft Avenue, Manila.

Respondents SM Mart, Inc.; SM Prime Holdings, Inc.; Shoemart, Inc.; Star Appliances Center; Supervalue, Inc.; Ace Hardware Philippines, Inc.; Watson Personal Care Stores, Phils., Inc.; Jollimart Philippines Corp.; Surplus Marketing Corporation; and Signature Lines; are corporations organized and existing under Philippine Law, with principal address at SM Building, Roxas Boulevard Extension, Pasay City.[1] All of them maintain offices within the jurisdiction of the City of Manila.

The circumstances of respondents are summarized as follows:

| Respondent | Type of Business | Taxed under Ordinance No. 7794 (Section) |
|---|---|---|
| SM Mart, Inc. | Sells general merchandise of all kinds on wholesale or retail basis. | 15[2], 16[3], 17[4], 18[5], 19[6], and 21[7] |

[1] Petition for Review, Annex "D", *rollo*, pp. 37-38.
[2] Tax on Wholesalers, Distributors, or Dealers.
[3] Tax on Essential Commodities.

| | | |
|---|---|---|
| SM Prime Holdings, Inc. | Develops, operates, and maintains the business of modernized commercial shopping centers. It also maintains pay parking areas, cinemas, snackbars, kiddie rides. It sells beers and leases stalls in its foodcourt. | 15, 16, 17, 18, 19, 23[8], 24[9], 25[10], and 21 |
| Shoemart, Inc. (now called as SM Land, Inc.)[11] | Sells general merchandise of all kinds, such as shoes, dry goods and wearing apparels, either by retail or wholesale, imports and exports, and acquires such goods as shall be necessary and expedient in conducting the business of the corporation; leases real estate and provides management services. | 18, 24, and 21 |
| Star Appliances Center | Sells, markets, and buys, whether wholesale or retail, home and office appliances, electric supplies and equipment, communication devices, hardware, machinery and other allied products, including their repair and service. | 17 and 21 |
| Supervalue, Inc. | Conducts, operates, and maintains the business of a modernized supermarket and all businesses appurtenant thereto within the compound or premises of its establishment; offers photo developing services and leases food stalls in its premises. | 17, 18, 24, and 21 |
| Ace Hardware Philippines, Inc. | Conducts and carries on a general hardware business, whether wholesale or retail. | 17 and 21 |
| Watson Personal Care Stores Phils., Inc. | Sells general merchandise of cosmetics, beauty, and health products, both wholesale and retail. | 17 and 21 |
| Jollimart Philippines, Corp. | Trades, imports and exports goods such as food stuff, canned goods and other general merchandise on wholesale or retail basis. | 17 and 21 |
| Surplus Marketing Corporation | Engages in general merchandising business, whether on wholesale or retail, and disposes of any or all kinds of Philippine or foreign-made commercial products generally without limitations | 17 and 21 |
| Signature Lines | Engages in general merchandise and retail of ready-to-wear clothing of any and all kinds, without any limitations. | 17 and 21 |

Petitioners imposed local business taxes on respondents pursuant to Ordinance No. 7794, as amended by Ordinance Nos. 7807, 7988, and 8011. The amendments introduced by the two latter ordinances (7988 and 8011) increased the rates of the local business taxes applicable to respondents under Sections 15, 16, 17, 18, 19, 23, 24, and 25 of Ordinance No. 7794, also known as the Revenue Code of Manila (RCM). Moreover, Ordinance No. 7988 amended Section 21 of the RCM by

[4] Tax on Retailers.
[5] Tax on Contractors.
[6] Tax on Banks and Other Financial Institutions.
[7] Tax on Businesses Subject to the Excise, Value-Added or Percentage Taxes under the NIRC.
[8] Caterer's Tax.
[9] Tax on Real Estate Developers, Dealers and Lessors.
[10] Tax on Privately-Owned Public Markets and Shopping Centers.
[11] Resolution dated May 27, 2009.

imposing additional business tax on respondents and other taxpayers situated in Manila.

The same were paid by respondents on various dates.[12]

Respondents, despite reservations on the propriety of the tax imposition under Section 21 of the RCM, paid the additional tax under protest in order to secure their respective business permits and so that they may be allowed to continue their business operations within the City of Manila.[13]

On June 15, 2004[14] and July 19, 2004[15], respondents through Cecilia R. Patricio of SM Group of Companies, formally requested the Office of petitioner Toledo a tax credit or refund of the business taxes paid under the Revenue Code of Manila for the year 2003 and for the first to third quarters of 2004. The details of the claim for refund are as follows:

| Respondent | Taxed under Ordinance No. 7794 (Section) | Amount of tax paid |
|---|---|---|
| SM Mart, Inc. | 15,16, 17, 18, and 19 | 3,543,318.97 |
| | 21 | 17,519,133.16 |
| SM Prime Holdings, Inc. | 15,16, 17, 18, 19 | 667,377.21 |
| | 21 | 6,711,068.38 |
| Shoemart, Inc. | 17 | 691,887.07 |
| | 21 | 2,954,520.24 |
| Star Appliances Center | 17 | 700,974.98 |
| | 21 | 3,459,812.76 |
| Supervalue, Inc. | 17 and 18 | 1,360,948.69 |
| | 21 | 2,774,859.82 |
| Ace Hardware Philippines, Inc. | 17 | 202,175.67 |
| | 21 | 988,347.16 |

[12] Civil Case No. 05-0051-CFM, Complaint, Annexes "A" to "A-252", RTC Records, pp 43-289.
[13] *Rollo*, p. 44.
[14] Civil Case No. 05-0051-CFM, Complaint, Annex "C", RTC Records, pp. 292-296.
[15] Civil Case No. 05-0051-CFM, Complaint, Annex "C-1", RTC Records, pp. 297-302.

| | | |
|---|---|---|
| Watson Personal Care Stores Phils., Inc. | 17 | 214,667.73 |
| | 21 | 636,857.15 |
| Jollimart Philippines, Corp. | 17 | 98,223.61 |
| | 21 | 296,178.13 |
| Surplus Marketing Corporation | 17 | 84,494.76 |
| | 21 | 399,942.81 |
| Signature Lines | 17 | 49,566.91 |
| | 21 | 222,565.79 |

On July 8, 2004[16] and August 24, 2004[17], petitioner Toledo denied respondents' claim for refund.

On September 1, 2004[18] respondents requested petitioner Toledo a tax credit or refund of the overpaid business taxes in the amount of P5,910,850.21 for the year 2003 and P5,220,515.53 for the first and third quarters of the year 2004, resulting from the alleged erroneous implementation of the assessment and collection of local business taxes under Ordinance Nos. 7988 and 8011.

On October 14, 2004, petitioner Toledo informed respondents of the denial of their claim for refund.[19]

Respondents filed their Complaint (with Application for Preliminary Injunction and Temporary Restraining Order)[20] with the Regional Trial Court, National Capital Judicial Region, Branch 115, Pasay City on January 21, 2005, and was docketed as Civil Case No. 05-0051-CFM entitled "SM

[16] Civil Case No. 05-0051-CFM, Complaint, Annex "D", RTC Records, p. 390.
[17] Civil Case No. 05-0051-CFM, Complaint, Annex "D1", RTC Records, p. 391.
[18] Civil Case No. 05-0051-CFM, Complaint, Annex "E", RTC Records, pp. 393-405.
[19] Civil Case No. 05-0051-CFM, Complaint, Annex "F", RTC Records, pp. 406-407.
[20] Petition for Review, Annex "D", *rollo*, pp. 36-75.

Mart, Inc., *et al.* vs. City of Manila, *et al.*" Petitioners filed their Answer (With Motion to Dismiss)[21] thereto on February 21, 2005.

Upon motion of herein respondents on the ground that there is no genuine issue as to any material fact and that the only issue involved is purely question of law that can be resolved based on the pleadings and records of the case without trial, the Court *a quo* opted for a summary judgment under Rule 35 of the Rules of Court.[22]

The Court *a quo* rendered the questioned Order[23] on July 10, 2007, finding for herein respondents. A Motion for Reconsideration was later filed by herein petitioners against the assailed Order on July 31, 2007. However, the same was denied through an Order[24] promulgated on December 14, 2007.

On February 18, 2008, petitioners moved for an extension of time to file their Petition for Review, which was granted by this Court on March 3, 2008.[25]

Hence, this Petition for Review filed on March 4, 2007.

This Court ordered respondents to file their Comment within ten (10) days and petitioners their reply within five (5) days from receipt of the copy of respondents' Comment. Respondents, in their "Comment/Opposition *Ad Cautelam* (Re: Petition for Review Dated March

[21] Petition for Review, Annex "E", *rollo*, pp. 76-100.
[22] Petition for Review, Annex "A", *rollo*, p. 26.
[23] *Rollo*, pp. 25-26.
[24] *Rollo*, p. 29.
[25] *Rollo*, p. 10.

2, 2008)" filed on April 11, 2008 stated that the instant Petition for Review fails in form and in substance. Respondents argued that the instant Petition is a mere dilatory tactic employed by petitioners to delay the refund of illegally collected local business taxes against them; hence, does not merit the time and attention of this Court.

On July 17, 2008, the case was submitted for decision, considering petitioners' Memorandum filed on June 30, 2008 and respondents' Memorandum filed on July 14, 2008.[26]

## THE ISSUES

Petitioners raised the following assignment of errors for this Court's resolution:

"i. The Honorable Court *a quo* gravely erred in entertaining the case despite the fact that it has no jurisdiction over the case.

ii. The Honorable Court *a quo* gravely erred in its failure to dismiss the case despite failure of plaintiffs to observe a condition sine qua non before resort to court may be had.

iii. The Honorable Court *a quo* gravely erred in its failure to dismiss the case for plaintiffs' failure to state cause of action.

[26] *Rollo*, p. 188.

iv. The Honorable Court *a quo* gravely erred in its failure to dismiss the case despite violation by plaintiffs of Section 4, Rule 8 of the 1997 Rules of Court.

v. The Honorable Court *a quo* erred in applying the case of Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, Liberty M. Toledo, City Treasurer, and Joseph Santiago, Chief, Licensing Division of Manila, docketed as G.R. No. 156252, June 27, 2006."

## THE COURT'S RULING

***Sections 187 and 195 of the Local Government Code do not apply to the present case***

The first three assigned errors will be resolved jointly.

Petitioners claim that respondents were barred from filing an action before the Court *a quo* since the requirement or procedure stated in Section 187 of the Local Government Code (LGC) is a condition *sine qua non* before resort to a court of component jurisdiction may be allowed. Petitioners submit that respondents failed to appeal the revenue measure within thirty (30) days from its enactment, pursuant to Section 187 of the LGC, which reads as follows:

> **SEC. 187.** *Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings.* – The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided*, That

> the public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided further*, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: *Provided, however*, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee or charge levied therein: Provided, finally, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction.

They argue that the Court *a quo* has no jurisdiction over the subject matter of the claim and respondents' failure to observe the requirement of the said Section is fatal to their cause as they failed to exhaust administrative remedy before going to the regular courts.

In addition, petitioners assert that respondents' Complaint is flawed for its failure to state a valid cause of action since they failed to observe Section 195 of the LGC, which states:

> **SEC. 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 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 protest or from the lapse of sixty (60) day period prescribed herein within which to appeal with the court of competent

jurisdiction otherwise the assessment becomes conclusive and unappelalable.

From the foregoing, petitioners maintain that the assailed assessments have become final and executory; thus, respondents are estopped from claiming that petitioners committed illegal and erroneous exactions.

This Court disagrees with petitioners' arguments.

Sections 187 and 195 of the Local Government Code of 1991 do not apply to the present case.

An appeal to the Secretary of Justice in accordance with Section 187 of the LGC is not necessary where there is no question on the legality and constitutionality of a tax ordinance or a revenue measure.[27]

Section 187 of the LGC specifically provides that "any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days..." In the present case, respondents did not question the legality of Sections 15, 16, 17, 18, 19, and 21. Neither did they question the legality or constitutionality of Ordinance Nos. 7988 and 8011. Respondents were merely requesting a refund of business taxes erroneously assessed and

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[27] *The Treasurer of the City of Manila vs. Zarcon Development Corporation*, CTA EB No. 309, December 18, 2008; *The Treasurer of the City of Manila vs. Unilever Philippines, Inc.*, CTA AC No. 28, November 28, 2007; *City of Manila, et al. vs. Columbia Pictures Industries, Inc.*, CTA AC No. 29; August 30, 2007; *Zarcon Development Corporation vs. The City Treasurer of Manila*, CTA AC No. 24, May 16, 2007.

collected under the said ordinances. Accordingly, Section 187 of the LGC is not applicable to the instant case.

Anent the claim of petitioners that respondents are estopped from claiming a refund because they failed to file a protest or to appeal the assessment under Section 195 of the LGC, the Court again finds the same untenable.

This Court has held in *Alcan Packaging Starpack Corporation (formerly Starpack Philippines Corporation) vs. The Treasurer of the City of Manila*[28] that Section 195 of the LGC refers to protests on the assessment issued by the local treasurer against a taxpayer who has been found not to have paid its correct taxes, fees and charges.

It must be noted that the present case involves a claim for refund. Clearly, a refund is not the same as a case of disputed assessment which is referred to in Section 195 of the LGC. Respondents in the instant case did not raise any issue regarding incorrect assessment since there was no notice of assessment issued by petitioners requiring them to pay their taxes. There was no assessment against which they can file a protest.

Clearly, petitioners' reliance on Sections 187 and 195 of the Local Government Code are unfounded.

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[28] CTA AC No. 17, September 11, 2006.

The applicable provision under the Local Government Code pertaining to claims for refund is Section 196, which is quoted hereunder for ready reference, thus:

> **SEC. 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.

From the aforequoted provision, the following must be done to successfully sue/claim in court a refund of any local tax, fee or charge:

1. the taxpayer concerned must file a written claim for refund or credit with the local treasurer; and
2. the case or proceeding must be filed within two years from the date of payment of the tax, fee or charge or from the date the taxpayer is entitled to a refund or credit.[29]

Perusal of the records transmitted from the Court *a quo* reveals that respondents complied with both requirements. The earliest of the payments respondents made to petitioners was on January 24, 2003.[30] Respondents filed their written claim for refund with petitioner Toledo on June 15, 2004 and July 19, 2004. Due to petitioner Toledo's denial of respondents' claims, they sought judicial relief before the Court *a quo* on

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[29] *China Banking Corporation vs. City Treasurer of Manila*, CTA EB No. 182, July 27, 2006.
[30] *Rollo*, p. 44.

January 21, 2005. Counting from the said dates, respondents filed their protests with respondent Toledo and their claims for refund with the Court *a quo* within the prescribed period. *Ergo*, the Court *a quo* did not err in taking cognizance of this case.

**Atty. Rex Enrico V. Cruz III is authorized to file the complaint for refund for SM Mart, Inc.; SM Prime Holdings, Inc.; Star Appliances Center; Supervalue, Inc.; Ace Hardware Philippines, Inc.; Jollimart Phils., Corp.; Surplus Marketing Corporation; and Signature Lines**

The Court now proceeds to tackle the fourth assigned error.

Petitioners also claim that the Court a quo gravely erred in its failure to dismiss the case because Atty. Cruz III had no legal capacity to represent the respondents in the proceedings before the lower court in violation of Section 4, Rule 8 of the 1997 Rules of Court, which states:

> **SEC. 4.** *Capacity.* – Facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred.

We partly agree with petitioners.

A corporation cannot act on its own but through its board of directors. All corporate powers are exercised and all business conducted, and all properties controlled by the board of directors. A corporation has a separate and distinct personality from its directors and officers and can only exercise its corporate powers through the board of directors. Thus, an individual corporate officer cannot solely exercise any corporate power pertaining to the corporation without authority from the board of directors.[31] In the same manner, Atty. Cruz III is empowered to represent respondents in the court a quo provided such authority emanates from the board of directors evidenced by a secretary's certificate.

The Court is convinced of the absence of authority of Atty. Cruz III to file an action for and in behalf of Shoemart Inc. and Watson Personal Care Stores, Phils.

An inspection of the records transmitted to this Court, particularly, the attached Secretary's Certificate[32] of respondents, proves that Atty. Cruz III was authorized to file the claim for refund for the following respondents: SM Mart, Inc.; SM Prime Holdings, Inc.; Star Appliances Center; Supervalue, Inc.; Ace Hardware Philippines, Inc.; Jollimart Phils., Corp.; Surplus Marketing Corporation; and Signature Lines.

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[31] *Cagayan Valley Drug Corporation vs. Commissioner of Internal Revenue*, G.R. No. 151413, February 13, 2008, 545 SCRA 10. See Section 23 of the Corporation Code.
[32] Civil Case No. 05-0051-CFM, RTC Records, pp. 32-34; 37-42.

This Court also found however that in the list of the corporations (respondents in the instant case) being represented by Atty. Cruz III in the Verification and Certification of Non-Forum Shopping [33], respondent Shoemart, Inc. was not included. Likewise, there was no Secretary's Certificate of respondent Shoemart, Inc. that authorizes Atty. Cruz III to represent said corporation in the instant case.

Similarly, there was no Secretary's Certificate attached to the Complaint and Amended Complaint of respondent Watson Personal Care Stores, Phils. that authorizes Atty. Cruz III to sign on behalf of the corporation in matters involving suits for or against the corporation.

In such cases, the Supreme Court held in *Shipside Incorporated vs. The Honorable Court of Appeals [Special Former Twelfth Division], et. al.*[34], that Certifications against Forum Shopping signed by the person on behalf of a corporation which are unaccompanied by proof that said signatory is authorized to file a petition on behalf of the corporation shall be sufficient ground for the dismissal thereof.

Respondents Shoemart, Inc. and Watsons Personal Care Stores, Phils. failed to comply with the requisite specified in Section 4, Rule 8 of the 1997 Rules of Civil Procedure, as amended. Consequently, the Complaint with respect to the claim of these two respondents must be denied. The Court a quo erred in not dismissing the case against their

[33] Civil Case No. 05-0051-CFM, RTC Records, pp. 35-36.
[34] G.R. No. 143377, February 20, 2001.

respective claims. As to the other respondents, they are all found to have substantially complied with said requirement.

***The Court a quo correctly applied the Coca Cola Bottlers decision to the present case***

Anent the last issue of whether or not the Court *a quo* erred in applying the case of *Coca Cola Bottlers Philippines, Inc. vs. City of Manila, Liberty M. Toledo-City Treasurer and Joseph Santiago-Chief Licensing Division of Manila*[35], this Court rules in the negative.

The Court *a quo*, in its assailed Orders[36] stated that the nullity of Ordinance Nos. 7988 and 8011 had been established beyond doubt by the Supreme Court in the case of *Coca Cola Bottlers* and to argue that things are still vague is to ignore the obvious. In the later Order, the Court *a quo* further said that by applying the doctrine of *stare decisis*, there is no more need for further discussion and argument on the matter since the same questions relating to the same event have long been settled.

In the *Coca Cola Bottlers* decision, the High Court declared Tax Ordinance No. 7988 as amended by Tax Ordinance No. 8011, from which the City of Manila based its power to tax respondents, null and void for failure to comply with the publication requirements of ordinances as prescribed by the LGC, to wit:

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[35] G.R. No. 156252, June 27, 2006.
[36] Dated July 10, 2007 and December 14, 2007.

> **SEC. 188**. *Publication of Tax Ordinances and Revenue Measures.* – Within ten (10) days after their approval, certified true copies of all provincial, city and municipal tax ordinances or revenue measures shall be published in full for three (3) consecutive days in a newspaper of local circulation: *Provided, however*, That in provinces, cities, and municipalities where there are no newspapers or local circulation, the same may be posted in at least two (2) conspicuous and publicly accessible places.

Petitioners contend that such declaration by the High Tribunal is merely doctrinal in so far as Section 21 is concerned and has no bearing in the instant case. Moreover, petitioners submit that the invalidity of Ordinance Nos. 7988 and 8011 was only for the purpose of determining whether the Regional Trial Court of Manila was correct in dismissing the case on the ground that the case was rendered moot in view of the enactment of Ordinance No. 8011, thereby amending Ordinance No. 7988.

Petitioners' argument is unmeritorious.

The *Coca Cola Bottlers* case is a *stare decisis* to the case at bench.

The Supreme Court defined *stare decisis* in its previous rulings in the following manner:

> *Stare decisis et non quieta movere.* Stand by the decision and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by parties similarly situated as in a previous case

> litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.[37]

The principle of *stare decisis* is further explained in the case of *Ayala Corporation vs. Rosa-Diana Realty Corporation*[38] in this wise:

> "Under the doctrine of *stare decisis*, once a point of law has been established by the court, that point of law will, generally, be followed by the same court and by all courts of lower rank in subsequent cases where the same legal issue is raised. *Stare decisis* proceeds from the first principle of justice that, absent powerful countervailing considerations, like cases ought to be decided alike."

The subjects of the instant Petition are Sections 15, 16, 17, 18, 19, and 21 of Ordinance No. 7988, as amended by Ordinance No. 8011. As declared by the Supreme Court in the *Coca Cola Bottlers* case, Ordinance No. 7988, as amended by Ordinance 8011 are null and void. An invalid ordinance does not, in legal contemplation, exist.

Since the *Coca Cola Bottlers* case is a *stare decisis* to the present case, the ruling of the High Court, will, generally, be followed by the same court and by all courts of lower rank in subsequent cases where the same legal issue is raised. Thus, petitioner is not correct in stating that it has no doctrinal effect on the instant Petition. This Court affirms the decision of the Court *a quo* in relying on the case of *Coca Cola Bottlers Philippines, Inc. vs. City of Manila, et. al.*[39] to resolve the case before it.

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[37] *Grand Placement and General Services Corporation vs. Court of Appeals, et al.*, G.R. No. 142358, January 31, 2006.
[38] G.R. No. 134284, December 1, 2000.
[39] *Supra.*

**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. The appealed Order dated July 10, 2007 and Order dated December 14, 2007 of the Regional Trial Court of Pasay City, Branch 115, in Civil Case No. 05-0051-CFM are hereby **MODIFIED**. Accordingly, with the exception of Shoemart, Inc. and Watsons Personal Care Stores, Phils., petitioners are hereby **ORDERED to REFUND** the rest of the respondents, their erroneously paid local business taxes for taxable year 2003 and for the first to third quarters of taxable year 2004 in the aggregate amount of **THIRTY NINE MILLION SEVENTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-EIGHT PESOS AND 81/100 (P39,078,988.81)**, detailed as follows:

| Respondent | Taxed under Ordinance No. 7794 (Section) | Amount of tax paid |
|---|---|---|
| SM Mart, Inc. | 15,16, 17, 18, and 19 | 3,543,318.97 |
| | 21 | 17,519,133.16 |
| SM Prime Holdings, Inc. | 15,16, 17, 18, and 19 | 667,377.21 |
| | 21 | 6,711,068.38 |
| Star Appliances Center | 17 | 700,974.98 |
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| Supervalue, Inc. | 17 and 18 | 1,360,948.69 |
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| Ace Hardware Philippines, Inc. | 17 | 202,175.67 |
| | 21 | 988,347.16 |
| Jollimart Philippines, Corp. | 17 | 98,223.61 |
| | 21 | 296,178.13 |
| Surplus Marketing Corporation | 17 | 84,494.76 |
| | 21 | 399,942.81 |
| Signature Lines | 17 | 49,566.91 |
| | 21 | 222,565.79 |

**SO ORDERED.**

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**WE CONCUR:**

**ERLINDA P. UY**
Associate Justice

**OLGA PALANCA-ENRIQUEZ**
Associate Justice

## ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice
Chairperson, Second Division

## 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.

**ERNESTO D. ACOSTA**
Presiding Justice