REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

SAN MIGUEL FOODS, INC.,
Petitioner,

- versus -

OFFICE OF THE CITY TREASURER, CITY OF DAVAO, represented by BELLA LINDA N. TANJILI, City Treasurer,
Respondent.

CTA AC NO. 249

Members:

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

Promulgated:

NOV 0 9 2023
4:06 p.m.

x -- x

RESOLUTION

***RINGPIS-LIBAN, J.*:**

Before this Court is petitioner's *Motion for Reconsideration of 12 October 2022 Decision* filed on January 3, 2023, without respondent's comment through *Records Verification Report* dated September 22, 2023.[1]

On October 12, 2022, the Court promulgated a Decision dismissing petitioner's appeal for lack of jurisdiction for failing to prove that the permit fees imposed by respondent are in fact taxes that are cognizable by this Court, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED**."

In its motion, petitioner seeks reconsideration of the above Decision raising the following grounds as its arguments, *viz.*:

---

[1] Per *Minute Resolution* of the CTA Special Third Division dated October 13, 2023.

I. The Honorable Court seriously erred in declaring that it has no jurisdiction over the subject matter of this petition; *and*,

II. The Honorable Court gravely erred in concluding that, because the Local Government Code empowers local government units (as Davao City is) to regulate activities within its jurisdiction, and to exact regulatory fees (e.g. permit fee to slaughter), it may impose any tax or fee on specific activity even if the Local Tax Code it passed does not expressly state so. To be sure, the exercise of such power must be through an enactment of a clear and unambiguous local ordinance. Sec. 367 of the Davao City Ordinance 158-05 or the 2005 Revenue Code of the City of Davao, which imposes the Permit Fee to Slaughter, evidently does not include in its coverage private slaughterhouses (as SMFI's slaughterhouses are). The City's imposition of a permit fee to slaughter on SMFI's private slaughterhouses is without basis in law.

As to the first ground, petitioner maintains that the Court is a specialized court mandated by law to resolve disputes involving liability for payment of money to the government arising from the administration of laws relative to the exercise of the taxation power of the national or local government. Petitioner expounds that the expanded jurisdiction of the Court includes local taxes which covers taxes, fees, or charges. Petitioner further argues that to constrict the scope of "*local tax cases*" and include only local revenue-raising measures is to defeat the purpose of Republic Act (RA) No. 1125, as amended, and that not only will it render absurd judicial processes, it may also create a legal vacuum.

With regard to the second ground, petitioner asserts that *The 2005 Revenue Code of the City of Davao* clearly and categorically taxes only the slaughter of animals at slaughterhouses owned and operated by the city government, *and not privately owned facilities*, as are petitioner's Toril and Tugbok dressing plants. Petitioner states that under Section 367(a) of the said Revenue Code, the *Permit Fee to Slaughter* is deemed included in the *Slaughterhouse Fee*. As such, petitioner argues that the *Permit Fee to Slaughter* may only be construed as referring to slaughter of animals in facilities operated by the city government. Petitioner insists that this fact is supported when the Sanggunian Panlungsod of Davao City enacted Ordinance No. 0291-17 (the 2017 Revenue Code of the City of Davao) which imposed *Permit Fee to Slaughter* to both city-owned/operated *and privately-owned slaughterhouse*. Petitioner claims that the subsequent amendment only proves that there has been an error in the previous Revenue Tax Code that the city ordinance seeks to correct.

The Court finds petitioner's Motion for Reconsideration bereft of merit.

Notably, the arguments presented by petitioner are essentially rehashes of matters that have already been considered, weighed, and resolved by the Court in the assailed Decision.

To emphasize, the appellate jurisdiction of this Court pursuant to Section 7(a)(3) of RA No. 1125, as amended by RA No. 9282, to review decisions, orders, or resolutions of the Regional Trial Court (RTC) becomes operative only when the latter has ruled on a **local tax case, *i.e.*, one which is in the nature of a tax or which primarily involves a tax issue**. Apropos, the subject *Permit Fee to Slaughter* as well as the *Ante-Mortem and Post-Mortem Fees* imposed under Sec. 367 of *The 2005 Revenue Code of the City of Davao* are **<u>not</u> taxes**. As held in the Court's Decision, to wit:

> "Under *The 2005 Revenue Code of the City of Davao*, the term '*fee*' refers to '*a charge fixed by law or ordinance for the regulation or inspection of a business or activity*' and also includes '*charges fixed by law or agency for the services of a public officer in the discharge of his official duties.*' On the other hand, the term '*tax*' means '*an enforced contribution, usually monetary in form, levied by the law making body on persons and property subject to its jurisdiction for the precise purpose of supporting governmental needs.*' Moreover, the term '*license*' or '*permit*' means '*a right or permission granted in accordance with law or by a competent authority to engage in some business or occupation or to engage in some transactions.*'
>
> To be sure, Section 367 of *The 2005 Revenue Code of the City of Davao* must not be construed in isolation but must be read together with the abovementioned provisions of the LGC, EO No. 137, and RA No. 9296, among others, affecting the regulation of slaughterhouses, meat inspection, and the imposition and collection of fees and other charges rendered thereon.
>
> Thus, in this case, the purpose of the assailed fees under Section 367 of *The 2005 Revenue Code of the City of Davao* is clearly *to regulate the slaughter of animals in City-operated slaughterhouses* or those authorized by the City Government pursuant to Act No. 137, RA No. 9296, and the LGC. The **permit fees to slaughter and ante-mortem and post-mortem fees** are impositions on the activity subject of government regulation, which is the operation of slaughterhouses. In other words, respondent is mandated to implement the provisions of EO No. 137, RA No. 9296, and the LGC pertaining to the regulation of slaughterhouses and collection of fees and charges by imposing the assailed **permit fees to slaughter and ante-mortem and post-mortem fees** under Section 367 of *The 2005 Revenue Code of the City of Davao*, in the exercise of the State's police power in the form of a fee, even though revenue is incidentally generated.
>
> Considering that the purpose of Section 367 of *The 2005 Revenue Code of the City of Davao* is to regulate the operation of slaughterhouses, *the fees imposed thereon are primarily regulatory in nature*, and *not primarily revenue-raising*. While the fees may contribute to the revenues of Davao City, this effect is merely incidental."[2]

[2] Page 20 of the Decision, Docket (CTA No. 249), p. 363.

Furthermore, in the case of *Progressive Development Corporation v. Quezon City*,[3] the Supreme Court had the opportunity to explain the nature and scope of a license fee as follows:

> "**To be considered a license fee, the imposition questioned must relate to an** occupation or **activity that so engages the public interest in health**, morals, **safety** and development **as to require regulation for the protection and promotion of such public interest**; the imposition must also bear a reasonable relation to the probable expenses of regulation, taking into account not only the costs of direct regulation but also its incidental consequences as well. **When an activity, occupation or profession is of such a character that inspection or supervision by public officials is reasonably necessary for the safeguarding and furtherance of public health**, morals and safety, **or the general welfare, the legislature may provide that such inspection or supervision or other form of regulation shall be carried out at the expense of the persons** engaged in such occupation or **performing such activity**, and that **no one shall engage in the occupation or carry out the activity until a fee or charge sufficient to cover the cost of the inspection or supervision has been paid**. Accordingly, a charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power." *(Emphases added)*

Perforce, the levied *Permit Fee to Slaughter* is not a tax but can be classified as a *fee* for the purpose of regulating a specific business activity imbued with public interest. Such business activity, by its very nature, warrants close supervision and control by the city in the exercise of *police power* in order to promote the *general welfare* under Section 16 of the Local Government Code because the activity, *i.e.*, the slaughter of live birds/poultry in petitioner's Toril and Tugbok dressing plants, can impact public health, hygiene and sanitation, thus:

> "SECTION 16. *General Welfare.* — **Every local government unit shall exercise the powers expressly granted, those necessarily implied there from, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall** ensure and support, among other things, the preservation and enrichment of culture, **promote health and safety**, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants." *(Emphases added)*

Accordingly, the *Permit Fee to Slaughter* paid by petitioner under protest is in the nature of a license fee and *is not a tax*. Thus, it lies outside the jurisdiction of the court. Again, when a case is filed with a court which has no jurisdiction over

---
[3] G.R. No. L-36081, April 24, 1989.

the action, the court shall *motu proprio* dismiss the case.[4] The court could not decide the case on the merits.[5] Relative thereto, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, the court shall dismiss the claim.[6]

In view of the foregoing, there being no new matter or substantial issue raised by petitioner in its *Motion for Reconsideration of 12 October 2022 Decision*, the Court finds no compelling reason to reverse, amend, or modify the Decision promulgated on October 12, 2022.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration of 12 October 2022 Decision is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

---

[4] *Non, et al. v. Office of the Ombudsman, et al.*, G.R. No. 251177, September 8, 2020, citing *Radiowealth Finance Co., Inc. v. Pineda, Jr., et al.*, G.R. No. 227147, July 30, 2018.
[5] *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.
[6] *Id.*