**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***THIRD DIVISION***

**PUBLIC SAFETY MUTUAL BENEFIT FUND, INC., Now represented by its President JOSE CHIQUITO M MALAYO (formerly represented by its then President, JOEL NAPOLEON M CORONEL),**
*Petitioner,*

**CTA AC No. 310**

Members:

**MANAHAN,** *Chairperson,*
**REYES-FAJARDO,** *and*
**ANGELES,** *JJ.*

*-versus-*

**ROSETTE F. LAQUIAN, CITY TREASURER, SAN JUAN CITY,**
*Respondent.*

Promulgated:

MAY 16 2025
11:50 a.m.

x - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - x

# RESOLUTION

**MANAHAN, *J.*:**

For resolution of this Court is respondent's *Motion for Reconsideration (of the Decision promulgated on 19 December 2024)* filed on January 24, 2025, with petitioner's *Comment/Opposition (to the Motion for Reconsideration Dated 24 January 2025)* sent through accredited courier service on February 11, 2025 and received by the Court on February 12, 2025.

For easy reference, the dispositive portion of the assailed Decision[1] states:

> "**ACCORDINGLY**, the instant Petition is **GRANTED**. For the above-stated reasons, the subject Tax Order of Payment dated January 18, 2023 is **DECLARED VOID**. Respondent is **ORDERED TO REFUND** the amount of **Fifteen Million Four Hundred Fourteen Thousand Five Hundred Forty and 74/100 (P15,414,540.74)**, representing petitioner's erroneously or illegally collected Local Business Tax.

---

[1] Docket, pp. 219-232.

**SO ORDERED.**"

Respondent raises the following arguments in the subject motion: (1) petitioner is a financial institution engaged in insurance business; (2) petitioner is not exempt from business tax even if it is a non-profit entity; and (3) There is no law that exempts mutual benefit associations from local business tax.

On the other hand, petitioner counters that: (1) a mutual benefit association is an exception to the definition of an insurance company; and (2) it does not distribute profits to its members or specific persons, among others.

After careful consideration of the merits, the Court finds the instant motion unmeritorious.

**Petitioner is not a financial institution engaged in insurance business. Thus, it is not subject to Local Business Tax (LBT)**

In this regard, respondent argues that petitioner operates in a manner analogous to insurance companies doing insurance business. It intends to earn profit regularly through financial transactions as a financial institution.

This issue was already addressed in the assailed Decision, as follows:

> "Section 403, Chapter VII of Republic Act (RA) No. 10607, otherwise known as the *Insurance Code, as amended,* defines a Mutual Benefit Association as follows:
>
> > 'Section 403. Any society, association or corporation, without capital stock, formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money, irrespective of whether such aim or purpose is carried out by means of fixed dues or assessments collected regularly from the members, or of providing, by the issuance of

> certificates of insurance, payment of its members of accident or life insurance benefits out of such fixed and regular dues or assessments, but in no case shall include any society, association, or corporation with such mutual benefit features and which shall be carried out purely from voluntary contributions collected not regularly and/or no fixed amount from whomsoever may contribute, shall be known as a mutual benefit association within the intent of this Code.'

Meanwhile, the Insurance Code categorically declares that a Mutual Benefit Association is an exception to the definition of an insurer or an insurance company. Section 190, Chapter III of the said law states:

> 'Section 190. For purposes of this Code, the term *insurer* or *insurance company* shall include all partnerships, associations, cooperatives or corporations, including government-owned or -controlled corporations or entities, engaged as principals in the insurance business, **excepting mutual benefit associations**. Unless the context otherwise requires, the term shall also include professional reinsurers defined in Section 288. *Domestic company* shall include companies formed, organized or existing under the laws of the Philippines. *Foreign company* when used without limitation shall include companies formed, organized, or existing under any laws other than those of the Philippines.'

Interestingly, even prior to the amendments introduced by RA No. 10607 to the Insurance Code on July 23, 2012, the Department of Finance (DOF) issued DOF Local Finance Circular No. 2-93 dated June 16, 1993, where a Mutual Benefit Association is also considered as an exception to the definition of insurance companies, thus:

> '*SECTION 1. Coverage.* - (a) As used herein, the term 'insurance companies' shall mean those formed or organized to save any person or persons or other corporations harmless from loss, damage or liability, arising from any unknown or future or contingent event, or to indemnify or to compensate any person or persons or other corporations for any such loss, damage or liability, or to guarantee the performance of or compliance with contractual obligations or the payment of debts of others.

> The term 'insurance companies' shall include all individuals, partnerships, associations, or corporations including government-owned or -controlled corporations or entities, engaged as principals in the insurance business, including their branches, *except mutual benefit associations* and purely cooperative insurance associations organized under the laws on cooperatives. The term shall also include professional reinsurers.'

Based on the above-quoted provisions, a Mutual Benefit Association is any non-stock, non-profit society, association, or corporation, organized not for profit but mainly for the purpose of giving several benefits to its members whether by fixed dues or assessments, or by issuance of certificates of insurance. Such entity is not considered as an insurer or an insurance company doing insurance business.

In this case, PSMBFI's Amended Articles of Incorporation (AAOI) pertinently reads:

> 'Second – That this Fund is formed primarily:
>
> xxx xxx xxx
>
> 3. To provide financial material aid and comforts to members and their families in case of losses, disability, necessities, unemployment, old age as may be authorized by statutes or regulations prescribed by competent authority;
>
> 4. To provide retirement pension benefits to members and their families; and
>
> 5. In general to do such acts and things and to undertake such activities not otherwise prohibited by law which are calculated to help members and necessary for the accomplishment of the purpose for which the fund has been organized.'

Based on the above enumeration, PSMBFI's fund is primarily formed for the purpose of giving several benefits to its members, *i.e.*, financial and material aid to members and their families, retirement pension benefits, and other activities calculated to help the members for the accomplishment of the purpose for which the fund was organized. Considering that PSMBFI is a non-stock, non-profit association undertaking the said purposes, PSMBFI fits the definition of a Mutual

> Benefit Association under Section 403, Chapter VII of the Insurance Code.
>
> Considering that PSMBFI is a Mutual Benefit Association as discussed above, it necessarily follows that it is not an insurer or an insurance company doing insurance business, as provided for under Section 190, Chapter III of the Insurance Code and DOF Local Finance Circular No. 2-93."[2]

Simply put, to be considered as an insurer or as an insurance company, the entity must be defined as such under the Insurance Code. Meanwhile, the Insurance Code categorically declares that a Mutual Benefit Association is not an insurer or an insurance company. Therefore, respondent's classification of petitioner as an insurer or as an insurance company, clearly, has no basis in law.

Consequently, since petitioner is not an insurer or an insurance company, it necessarily follows that it is not liable to pay LBT as an insurance company. Therefore, the Court finds no reason to deviate from its earlier ruling.

**Respondent failed to present the basis for petitioner's LBT**

In this regard, even if the Court assumes that petitioner is subject to LBT, still, the imposition of the same is invalid for failure of respondent to lay the basis for the amount assessed.

The pertinent provisions of Memorandum Circular No. 001-2020 issued by the Bureau of Local Government Finance are instructive:

> "B. Assessment of LBT for Renewal of Business Permit
>
> 1. In the absence of audited Financial Statement, the LBT shall be based on the Sworn declaration of gross sales or receipts by the taxpayer or its Income Tax Returns (ITR). In case of suspected underdeclaration of gross sales/receipts, the application shall be tagged by the LGU, and the business may be subjected to the examination of books of accounts by the local treasurer, which shall be done after the business renewal period.

---

[2] See Note 1, pp. 228-230.

xxx xxx xxx

> 3. The Presumptive Income Level Assessment Approach (PILAA) may be used in computing the local business tax ONLY if the taxpayer is unable to provide proof of its gross sales or receipts. The PILAA may be used in estimating the gross sales or receipts provided that the PILAA is in the local tax ordinance and has undergone public hearings and publications. This is to ensure that the taxpayers are properly informed of the factors used in determining the presumptive income and for the taxpayers to agree such level of presumptive income applicable to their industry. Absent such ordinance authorizing the use of the PILAA and embodying the presumptive income levels to be used by the Local Treasurer, the collection of additional local business taxes based on such PILAA is illegal and the petitioner may properly claim the refund of the excess business taxes collected.
>
> 4. The automatic application of an additional fixed percentage, e.g. 10% to 15% increase, on the previous year's gross receipts as basis for LBT to meet LGU target or achieve higher collection efficiency without legal basis shall not be practiced."
>
> As previously discussed, Section 1B.01, Article B of the City Ordinance empowers City of San Juan to impose LBT on banks and other financial institutions, including insurance companies. In fact, the TOP dated January 18, 2023 imposed the subject assessment amount to PSMBFI for being categorized under "Financial Institution – Insurance Companies."[3] However, considering that PSMBFI is not considered as an insurance company under the above-quoted provisions, respondent's imposition of LBT is therefore improper."

Here, an examination of the subject Tax Order of Payments reveals that respondent failed to provide the basis for the computation of petitioner's alleged LBT liabilities, *i.e.*, audited financial statements, sworn declaration of gross sales or receipts, income tax returns, or PILAA. Thus, the imposition of LBT against petitioner is improper.

In sum, respondent failed to present any meritorious argument to justify the reconsideration of the assailed Decision. Hence, the denial of the instant motion is in order.

---

[3] See Note 8.

**FOR THESE REASONS**, respondent's *Motion for Reconsideration (of the Decision promulgated on 19 December 2024)* is **DENIED**, for lack of merit.

**SO ORDERED.**

Catherine T. Manahan

**CATHERINE T. MANAHAN**
Associate Justice

**WE CONCUR:**

Marian Ivy F. Reyes-Fajardo

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**HENRY S. ANGELES**
Associate Justice