REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

SAN ROQUE POWER CORPORATION,
Petitioner,

vs.

MUNICIPALITY OF SAN MANUEL, PANGASINAN and ELIZABETH T. CORPUZ in her capacity as MUNICIPAL TREASURER OF SAN MANUEL, PANGASINAN,
Respondents.

CTA AC NO. 282
(Civil Case No. U-11601)

Present:

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

Promulgated:

OCT 22 2024 3:00 p.m.

x - x

DECISION

FERRER-FLORES, J.:

Before this Court is a *Petition for Review*[1] filed by **petitioner San Roque Power Corporation** against **respondents Municipality of San Manuel, Pangasinan and Elizabeth T. Corpuz, in her capacity as Municipal Treasurer of San Manuel, Pangasinan**, assailing the Decision dated September 15, 2022[2] (assailed Decision) and the Order dated December 13, 2022[3] (assailed Order) of the Regional Trial Court of Urdaneta City, Pangasinan (RTC) – Branch 47, in Civil Case No. U-11601, the dispositive portions of which respectively read as follows:

Assailed Decision

> **WHEREFORE**, premises considered, this petition is hereby **DISMISSED** for lack of merit.

[1] Docket, pp. 5 to 42.
[2] *Id.*, at 45 to 54; RTC Docket (Civil Case No. U-11601), pp. 615 to 624.
[3] *Id.*, at 55; RTC Docket (Civil Case No. U-11601), p. 685.

SO ORDERED.

Assailed Order

WHEREFORE, the Motion for Reconsideration filed by the petitioner is hereby **DENIED** for lack of merit.

SO ORDERED.

THE PARTIES

Petitioner is a Philippine corporation, with principal office located in respondent Municipality of San Manuel, Pangasinan. It is a power generation company under Republic Act (R.A.) No. 9136, or the Electric Power Industry Reform Act of 2001, and is a contractor under the *Power Purchase Agreement* dated October 11, 1997 with the National Power Corporation, relative to its operation and maintenance of a power-generating facility in Pangasinan.[4]

Respondent Municipality of San Manuel, Pangasinan (respondent Municipality), is the local government unit (LGU) that hosts petitioner's principal office.[5]

Respondent Elizabeth T. Corpuz (respondent Corpuz) is impleaded in her official capacity as San Manuel's Municipal Treasurer.[6]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On February 8, 2021, petitioner received the letter dated February 1, 2021 from the Office of the Municipal Treasurer of San Manuel, demanding the payment of alleged local business tax (LBT) deficiency for calendar year (CY) 2020 in the amount of ₱2,290,384.38.[7] In the said letter, respondent Corpuz stated that petitioner's LBT payment in 2020 was based on the rate of 55% of 1% of petitioner's gross sales, and not 65% of 1% of petitioner's gross sales for CY 2019. As the rate currently imposed by San Manuel is 65% of 1% of gross sales, San Manuel demanded the payment of deficiency LBT.[8]

[4] Par. 9, *Petition* vis-à-vis par. 7, *Answer*, RTC Docket (Civil Case No. U-11601), pp. 5 and 73, respectively.

[5] Par. 10, *Petition* vis-à-vis par. 7, *Answer*, RTC Docket (Civil Case No. U-11601), pp. 5 and 73, respectively.

[6] Par. 11, *Petition* vis-à-vis par. 7, *Answer*, RTC Docket (Civil Case No. U-11601), pp. 5 and 73, respectively.

[7] Par. 16.1, *Petition* vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. U-11601), pp. 9 and 73, respectively.

[8] Par. 16.2, *Petition* vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. U-11601), pp. 9 and 73, respectively.

Petitioner paid the amount of ₱2,290,384.38 on February 11, 2021, representing the difference between the rate of 65% of 1% of its gross sales and the rate of 55% of 1%. The said payment was made with the qualification that petitioner was paying the amounts solely to expedite the renewal of its business permit and without prejudice to its objections to the validity of the demands.[9]

On February 15, 2021, petitioner paid the amount of ₱9,543,979.28 as LBT for the CY 2021 based on 65% of 1% of its gross sales under the same conditions and reservations.[10]

On even date, petitioner filed its written claims for refund of the alleged deficiency LBT for CYs 2020 and 2021 in the amounts of ₱2,290,384.38 and ₱1,468,304.50, respectively, with respondent Municipal Corpuz.[11]

PROCEEDINGS BEFORE THE RTC

On May 14, 2021, petitioner filed a *Petition* before the RTC –Branch 47,[12] praying for the Court to order respondents to grant petitioner's refund claims for the excess LBT that it paid for CYs 2020 and 2021. The case was docketed as Civil Case No. U-11601 and raffled to RTC – Branch 47, Urdaneta City, Pangasinan on May 17, 2021.[13]

Respondents filed their *Answer* on June 23, 2021.[14]

After pre-trial, the parties' counsels jointly moved that a Summary Judgment be rendered in this case as there was no genuine issue raised. Accordingly, both parties were given thirty (30) days from notice to submit their respective position papers.[15] The *Position Paper (for the Respondents)* was then filed on July 21, 2022,[16] while the *Position Paper for the Petitioner* was submitted on July 26, 2022.[17]

---

9 Par. 4, Petition for Review, Docket p. 11.

10 Par. 16.4, *Petition* vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. U-11601), pp. 9 and 73, respectively.

11 Par. 17, *Petition* vis-à-vis par. 9, *Answer*, RTC Docket (Civil Case No. U-11601), pp. 10 and 73, respectively.

12 RTC Docket (Civil Case No. U-11601), pp. 1 to 32.

13 Refer to the *Summons* dated May 18, 2021, RTC Docket (Civil Case No. U-11601), p. 66.

14 RTC Docket (Civil Case No. U-11601), pp. 72 to 91.

15 Minutes of the hearing held on June 14, 2022, RTC Docket (Civil Case No. U-11601), p. 476; Order dated June 14, 2022, RTC Docket (Civil Case No. U-11601, p. 479.

16 RTC Docket (Civil Case No. U-11601), pp. 488 to 517.

17 *Id.*, at 519 to 547.

On September 15, 2022, the RTC – Branch 47 rendered the assailed Decision, dismissing the case for lack of merit.[18] Petitioner's *Motion for Reconsideration (of the Decision dated September 15, 2022)* was likewise denied in the assailed Order.[19]

PROCEEDINGS BEFORE THIS COURT

Aggrieved, petitioner filed the present *Petition for Review* on January 27, 2023.[20]

On April 11, 2023, respondents filed through registered mail their *Comment (to the Petition for Review)*.[21]

In compliance with this Court's Minute Resolution dated April 27, 2023,[22] the RTC – Branch 47 transmitted to the Court, *via* registered mail, its records of Civil Case No. U-11601 on June 29, 2023.[23]

In the Resolution dated July 31, 2023,[24] the Court ordered the parties to file their respective memoranda. Accordingly, the *Memorandum for Petitioner* was filed on September 18, 2023,[25] while the *Memorandum (For the Respondents)* was posted on October 2, 2023 and received by the Court on October 17, 2023.[26]

The case was deemed submitted for decision on October 25, 2023.[27]

On January 16, 2024, petitioner filed its *Motion for Leave To File and To Admit Attached Reply Memorandum*,[28] praying for the Court to grant the same, and to admit the attached *Reply Memorandum (re: Memorandum (for the Respondents) dated September 29, 2023) dated January 12, 2024.*[29] In the Resolution dated May 10, 2024,[30] this Court granted the said Motion, and admitted the said *Reply Memorandum* to form part of the records of this case.

---

[18] RTC Docket (Civil Case No. U-11601), pp. 615 to 624.
[19] *Id.*, at. 685.
[20] Docket, pp. 5 to 42.
[21] *Id.*, at 477 to 506.
[22] Docket, p. 526.
[23] RTC – Branch 47 *Transmittal* dated June 19, 2023 with attached *Index* and *Index of Transcripts*, Docket, pp. 529 to 534.
[24] *Id.*, at. 528.
[25] *Id.*, at. 537 to 570.
[26] *Id.*, at 573 to 606.
[27] Minute Resolution dated October 25, 2023, Docket, p. 610.
[28] Docket, pp. 611 to 613.
[29] *Id.*, at 614 to 633.
[30] *Id.*, at. 635 to 636.

THE ISSUES

Petitioner submits the following issues for this Court's resolution, to wit:

A. Whether or not the RTC- Branch 47 committed grievous and reversible errors, and acted contrary to law and jurisprudence, when it ruled that respondents did not violate the limits provided under Section 191 of the Local Government Code of 1991 (LGC) despite increasing the subject LBT rate in excess of ten percent of the rate imposed under the LGC.

B. Whether or not petitioner is entitled to a refund of the excess LBT that respondents required it to pay for CYs 2020 and 2021 in the amount of ₱2,290,384.38 and ₱1,468,304.50, respectively.[31]

Petitioner's arguments:

Petitioner avers that the assailed Decision and assailed Order are based on a gravely erroneous misinterpretation of Section 191 of the LGC that clearly disregards and violates the Philippine Constitution, the LGC, jurisprudence, and legislative intent. Since respondents unlawfully required petitioner to pay LBT at a rate of 65% of 1% instead of a rate authorized under the LGC, respondents must be ordered to refund to petitioner the excess LBT that petitioner paid in the amounts of ₱2,290,384.38 for CY 2020 and ₱1,486,304.50 for CY 2021.

Anent respondents' position that this case must be dismissed as the elements of *litis pendentia* and forum shopping are present, petitioner counters that the reliefs prayed for are different. In the 2019 refund case, petitioner prays for the refund of excess amounts it paid on January 16, 2019, whereas this case seeks the refund in relation to the amounts paid on February 15, 2021 (covering CYs 2020 and 2021).

Respondents' counter-arguments:

Respondents contend that the LBT rate of 65% of 1% of the gross sales or receipts imposed in Sections 2A.02 (b) and (e) of Municipal

---

[31] Issues, *Petition for Review*, Docket, p. 14.

Ordinance No. 2017-12 is compliant with the provisions of Republic Act (R.A.) No. 7160; that Municipal Ordinance No. 2017-12 was enacted more than five years from the last revenue code. Further, respondents submit that that the phrase "but in no case shall such adjustment exceed ten percent of the rates fixed under this Code" of Section 191 of the LGC means "every adjustment or increase". Therefore, petitioner is not entitled to refund or tax credit in the amount in excess of the LBT paid by petitioner for CYs 2020 and 2021.

Lastly, the elements of *litis pendentia* and forum shopping are present in this case when petitioner filed the present case and Civil Case Nos. U-11239, U-11272, and U-11695.

THE COURT'S RULING

The present *Petition for Review* lacks merit.

Section 5, Article X of the 1987 Constitution reads as follows:

> SECTION 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

Thus, the fundamental law recognizes the power of LGUs to tax. However, such power is clearly *"subject to such guidelines and limitations as the Congress may provide"*. The said guidelines and limitations are embodied in the LGC.

Pertinently, Section 142 of the LGC specifically provides the scope of the taxing powers of municipalities, to wit:

> SEC. 142. ***Scope of Taxing Powers.*** – Except as otherwise provided in this Code, **municipalities may levy the taxes, fees, and charges** not otherwise levied by provinces. *(Emphasis added)*

Relative thereto, Section 143 of the LGC allows, *inter alia*, the imposition by the municipality of taxes on *"wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature"* and on *"contractors and other independent contractors"*, to wit:

> SEC. 143. *Tax on Business* – The municipality may impose taxes on the following business:

xxx xxx xxx

(b) On wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature in accordance with the following schedule:

With gross sales or receipts for the preceding calendar year in the amount of			**Amount of Tax per Annum**
xxx xxx xxx	xxx	xxx	
2,000,000.00	or more		at a rate not exceeding **fifty percent (50%) of one percent (1%)**

xxx xxx xxx

(e) On contractors and other independent contractors, in accordance with the following schedule:

With gross receipts for the preceding calendar year in the amount of			**Amount of Tax per Annum**
xxx xxx xxx	xxx	xxx	
2,000,000.00	or more		at a rate not exceeding **fifty percent (50%) of one percent (1%)**

xxx xxx xxx

The sanggunian concerned may prescribe a schedule of graduated tax rates but in no case to exceed the rates prescribed herein." *(Emphases and underscoring added)*

In addition, Section 191 of the LGC provides as follows:

SEC. 191. *Authority of Local Government Units to Adjust Rates of Tax ordinances.* — Local units shall have the authority to adjust the tax rates as prescribed herein not oftener than once every five (5) years, but **in no case shall such adjustment exceed ten percent (10%) of the rates fixed under this Code**. *(Emphases added)*

Based on the foregoing provision, any corresponding increase in taxes imposed by local governments would have to comply with the frequency and rate of adjustment provided for under Section 191 of the LGC.[32]

Thus, a municipality, such as respondent Municipality, may: (1) tax "wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature" and "contractors and other independent contractors" pursuant

[32] *De Lima vs. City of Manila, et al.*, G.R. No. 222886, October 17, 2018.

to the graduated rates under Sections 143(b) and (e) of the LGC; and, (2) thereafter adjust the tax rates as prescribed in the LGC not oftener than once every five years, but in no case shall such adjustment exceed ten percent of the rates fixed under the LGC.

In *Mindanao Shopping Destination Corporation, et al. vs. Duterte, et al.*,[33] the Supreme Court held that Section 191 of the LGC presupposes that the following requirements are present for the said provision to apply, to wit: (i) there is a tax ordinance that already imposes a tax in accordance with the provisions of the LGC; and, (ii) there is a second tax ordinance that made adjustment on the tax rate fixed by the first tax ordinance.

In the assailed Decision, the RTC aptly described what transpired in this case with regard to the concerned tax ordinances, *viz.*:

> To recall, after the Local Government Code of 1991 took effect in 1992, the respondent municipality enacted four (4) revenue ordinances, to wit:
>
> 1. Municipal Ordinance No. 94-01, imposing a rate not exceeding <u>50% of 1%</u> of the taxpayer's gross sales or receipts;
> 2. Municipal Ordinance No. 2004-08, imposing a rate not exceeding <u>55% of 1%</u> of the taxpayer's gross sales or receipts;
> 3. Municipal Ordinance No. 2012-01, imposing a rate not exceeding <u>60% of 1%</u> of the taxpayer's gross sales or receipts; and
> 4. Municipal Ordinance No. 2017-12 (2018 Revenue Code), imposing a rate not exceeding <u>65% of 1%</u> of the taxpayer's gross sales or receipts.
>
> xxx xxx xxx
>
> In the present case, after the Local Government Code took effect in 1992, San Manuel adjusted its tax rates from 1994 to 2017 in accordance with Section 191 of the LGC, to wit:

Year	No. of Years from Previous Adjustment	Prevailing Tax Rate
1994	-	50% of 1%
2004	10	55% of 1%
2012	8	60% of 1%
2017	5	65% of 1%

> In short, San Miguel is authorized to adjust its LBT rate *not oftener than once in every five years* under the LGC and the basis for the increase would be the prevailing tax rate. However, it may only impose an adjustment not exceeding 10% of the rates fixed under the LGC, which is 50% of 1% of the gross sales or receipts of the local taxpayers. Thus, San

[33] G.R. No. 211093, June 6, 2017.

> Miguel is not violating the limits under the LGC when it repeatedly increased its prevailing tax rate by an additional 5% every adjustment. Indeed, if we are to sustain the petitioner's position that the 10% cap provided under Section 191 of the LGC applies to the **total or aggregate adjustments** that an LGU can make, the provision that allows LGUs 'to adjust the tax rates not oftener than once every five (5) years' will be rendered useless.

We agree with the disposition of the RTC in the assailed Decision.

A cursory reading of Section 191 of the LGC leads this Court to conclude that the RTC's interpretation and application thereof are correct. Clearly, said provision allows LGUs to adjust the tax rates prescribed under the said law, and that they can do so *"not oftener than once every five (5) years"*, which means that the said adjustment may be done more than once, but with an interval of time of at least five years between the first imposition/last adjustment and the next adjustment. In addition, the law further qualifies the adjustment power of LGUs upon the tax rates in that the "adjustment" should not exceed ten percent of the rates fixed under the same law.

The foregoing interpretation is consistent with what was held in *De Lima vs. City of Manila* ("*De Lima* case"),[34] wherein the Supreme Court held as follows:

> The Court is mindful that the interval between the two ordinances is 20 years. Ordinance No. 7807 having been enacted in 1993, and Ordinance No. 8331 in 2013. However, this does not justify the accumulation of allowable increases and then their subsequent one-time imposition. The option to increase the tax rates under the LGC arises every five (5) years reckoned from the enactment of the ordinance sought to be adjusted. The decision of whether or not to exercise such option falls upon the LGU, through their respective *sanggunian* taking into consideration the status of each industry balanced with the needs of their respective territory.
>
> In the event that the LGU fails to make such adjustment within the five (5)-year period, the option to increase the prevailing ordinance remains open until such right is exercised, at which point, the five (5)-year period of limitation starts to run again.
>
> On the other hand, **were the LGU decides to make such adjustment, the basis for the increase would be <u>the prevailing tax rate</u>. Foreseeing that the compounding of interest would invite fear that its eventual accumulation would become unduly burdensome, the taxpayers should be reassured of the <u>built-in measures under the LGC</u> to restrict the power of the LGUs in this regard.**

---

[34] G.R. No. 222886, October 17, 2018.

> **While the LGUs are granted with a wide latitude to determine the classification, tax base, tax rate and its corresponding increase, apart from the aforestated restrictions, <u>the taxing powers of the LGU must be exercised in accordance with fundamental principles set forth under Section 130 of the LGC, and is subjected to the common limitations found under Section 133 and specific restrictions under Section 186 of the same code</u>.** With these, the respondent is strictly reminded of, in making subsequent adjustments of its tax ordinances or in enacting new revenue measures. *(Emphases and underscoring added)*

Based on the foregoing jurisprudential pronouncements, it can be deduced that the Supreme Court interpreted the aforequoted Section 191 in that an LGU may adjust tax rates, and in case it decides to do so, it must be done by observing the five-year interval period, and by limiting the increase to not more than ten percent, and further basing such increase on the "prevailing tax rate". Anent the basis of the said increase, to the mind of this Court, since the phrase "tax rate" was qualified by the word "prevailing", the Supreme Court is referring to the rates stated in the tax ordinance prior to the adjustment(s), and not to rates stated under the pertinent provisions of the LGC.

Notably, the *De Lima* case involves an application and interpretation of Section 191 of the LGC. Relatedly, in *Visayas Geothermal Power Company vs. Commissioner of Internal Revenue*,[35] the Supreme Court said:

> Article 8 of the Civil Code provides that judicial decisions applying or interpreting the law shall form part of the legal system of the Philippines and shall have the force of law. **The interpretation placed upon a law by a competent court establishes the contemporaneous legislative intent of the law. Thus, such interpretation constitutes a part of the law as of the date the statute is enacted.** xxx. *(Emphasis added)*

Needless to state, it is the duty of lower courts to obey decisions of the Supreme Court and render obeisance to its status as to the apex of the hierarchy of courts.[36] Moreover, a becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation. There is only one Supreme Court from whose decision all other courts should take their bearings.[37] Thus, this Court is duty-bound to adhere to the ruling in the *De Lima* case.

We do not agree, however, with petitioner's contention that the *"interpretation would result in there being, effectively, no maximum rate*

---

[35] G.R. No. 197525, June 4, 2014.
[36] *Commissioner on Higher Education vs. Dasig, et al.*, G.R. No. 172776, December 17, 2008.
[37] *Id.*

or limit for LBT and other local taxes and will be a license for LGUs to impose unlimited rate increases that are confiscatory provided that they adjust their rates within the five-year periods provided under Section 191."[38] While it may appear that the said interpretation would give LGUs unbridled or unlimited authority to increase the local tax rates, so long as it is done on a five-year period interval, the same is more apparent than real. This is simply because the same Section 191 should still be read in relation to, or in conjunction with, the other pertinent provisions of the LGC. In other words, as enunciated in the *De Lima* case, any adjustment made by an LGU increasing the tax rates pursuant to Section 191 would still be further subject to the fundamental principles of local taxation under Section 130,[39] the common limitations on the taxing powers of the LGUs under Section 133,[40] and the specific restrictions on the exercise of the latter of the power

---

[38] Par. 53, *Memorandum for Petitioner*, Docket, p. 559.

[39] SEC. 130. *Fundamental Principles.* – The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:
(a) Taxation shall be uniform in each local government unit;
(b) Taxes, fees, charges and other impositions shall:
(1) be equitable and based as far as practicable on the taxpayer's ability to pay;
(2) be levied and collected only for public purposes;
(3) not be unjust, excessive, oppressive, or confiscatory;
(4) not be contrary to law, public policy, national economic policy, or in restraint of trade;
(c) The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;
(d) The revenue collected pursuant to the provisions of this Code shall inure solely for the benefit of, and be subject to disposition by, the local government unit levying the tax, fee, charge or other imposition unless otherwise specifically provided herein; and
(e) Each local government unit shall, as far as practicable, evolve a progressive system of taxation.

[40] SEC. 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:
(a) Income tax, except when levied on banks and other financial institutions;
(b) Documentary stamp tax;
(c) Taxes on estates, inheritance, gifts, legacies and other acquisitions mortis causa, except as otherwise provided herein;
(d) Customs duties, registration fees of vessel and wharfage on wharves, tonnage dues, and all other kinds of customs fees, charges and dues except wharfage on wharves constructed and maintained by the local government unit concerned;
(e) Taxes, fees and charges and other impositions upon goods carried into or out of, or passing through, the territorial jurisdictions of local government units in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees or charges in any form whatsoever upon such goods or merchandise;
(f) Taxes, fees or charges on agricultural and aquatic products when sold by marginal farmers or fishermen;
(g) Taxes on business enterprises certified to by the Board of Investments as pioneer or non-pioneer for a period of six (6) and four (4) years, respectively from the date of registration;
(h) Excise taxes on articles enumerated under the National Internal Revenue Code, as amended, and taxes, fees or charges on petroleum products;
(i) Percentage or value-added tax (VAT) on sales, barters or exchanges or similar transactions on goods or services except as otherwise provided herein;
(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;
(k) Taxes on premiums paid by way of reinsurance or retrocession;
(l) Taxes, fees or charges for the registration of motor vehicles and for the issuance of all kinds of licenses or permits for the driving thereof, except tricycles;
(m) Taxes, fees, or other charges on Philippine products actually exported, except as otherwise provided herein;

of taxation under Section 186,[41] all under the LGC. Thus, petitioner's contention that with the RTC's interpretation, LGUs can impose *"unlimited rate increases that are confiscatory"*, has no leg to stand on.

In any event, it must be emphasized that petitioner has not convincingly shown, in the present case, that the tax rate increase in 2017 (*i.e.*, 65% of 1%) made by respondent Municipality in Municipal Ordinance No. 2017-12 (2018 Revenue Code) is violative of the said Sections 130, 133, and 186 of the LGC. The Court, thus, has no valid ground to strike down the said imposition for CYs 2020 and 2021. Correspondingly, no refund in favor of petitioner is warranted.

The elements of litis pendentia or forum shopping are not present.

The Court cannot lend credence to respondents' contention that the elements of *litis pendentia* and forum shopping are present in this case when petitioner filed the present case and Civil Case Nos. U-11239, U-11272, and U-11695.

Litis pendentia refers to a situation where two (2) actions are pending between the same parties <u>for the same cause of action</u>, so that one of them becomes unnecessary and vexatious.[42] Moreover, forum shopping is said to exist where the elements of *litis pendentia* are present,[43] or where, in the two or more cases pending, there is identity of (a) parties, (b) rights or causes of action, and (c) reliefs sought.[44] Thus, a common element between *litis pendentia* and forum shopping is the identity of causes of action.

In the proceedings *a quo*, respondents have already admitted that the causes of action in Civil Case Nos. U-11272 and U-11239 are different.[45] Moreover Civil Case Nos. U-11272 involves the refund or issuance of tax

---

(n) Taxes, fees, or charges, on Countryside and Barangay Business Enterprises and cooperatives duly registered under R.A. No. 6810 and Republic Act Numbered Sixty-nine hundred thirty-eight (R.A. No. 6938) otherwise known as the "Cooperatives Code of the Philippines" respectively; and

(o) Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units.

41 SEC. 186. *Power to Levy other Taxes, Fees or Charges.* – Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: *Provided*, That the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: *Provided, further*, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.

42 *Jose vs. Quesada-Jose, et al.*, G.R. No. 249434, March 15, 2023.

43 *Land Car, Inc. vs. Bachelor Express, Inc., et al.*, G.R. No. 154377, December 8, 2003.

44 *Id.*

45 Refer to par. 11 (For the Defendants), Stipulation of Admitted Facts, Minutes of the Pre-Trial (Preliminary Conference) held on June 14, 2022, RTC Docket (Civil Case No. U-11601), at p. 312.

credit of alleged excess LBT paid for 2019, whereas this case encompasses CYs 2020 and 2021.

With regard to Civil Case No. U-11695, this Court cannot properly decide on the existence of *litis pendentia* and forum shopping, considering that the pleadings in that case were not presented herein. Such being the case, the allegation of *litis pendentia* and forum shopping cannot similarly be held against petitioner.

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the Decision dated September 15, 2022 and Order dated December 13, 2022, both rendered by the RTC – Branch 47, Urdaneta City, Pangasinan, in Civil Case No. U-11601, are hereby **AFFIRMED**.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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.

ROMAN G. DEL ROSARIO
Presiding Justice