REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FDC MISAMIS POWER CORPORATION,
Petitioner,

CTA EB No. 3104
(CTA AC No. 266)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

- *versus* -

THE MUNICIPALITY OF VILLANUEVA, MISAMIS ORIENTAL, represented by its MUNICIPAL MAYOR and MUNICIPAL TREASURER,
Respondents.

Promulgated:
APR 15 2026
4:00 pm

x - x

DECISION

RINGPIS-LIBAN, *P.J.*:

Before the Court *En Banc* is a *Petition for Review* filed by petitioner FDC Misamis Power Corporation (FDCMPC), posted on March 21, 2025[1] and received by the Court *En Banc* on March 31, 2025. The instant Petition seeks to: (1) reverse and set aside the assailed Decision[2] dated August 22, 2024 and the assailed Resolution[3] dated February 12, 2025; (2) dismiss respondent's Petition for Review before the Court in Division for being filed out of time; and (3) declare the Decision dated June 14, 2022 of Branch 38 of the Regional Trial Court, Misamis Oriental.

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[1] Court *En Banc* Docket, pp. 58-98.
[2] Penned by Associate Justice Lanee S. Cui-David, with Retired Presiding Justice Roman G. Del Rosario and Associate Justice Jean Marie A. Bacorro-Villena concurring, EB Docket, pp. 107-147.
[3] EB Docket, pp. 177-185.

For easy reference, the dispositive portion of the August 22, 2024 Decision reads:

> "**WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, the *Decision* of the Regional Trial Court Branch 38 of Cagayan de Oro City dated January 14, 2022, is **MODIFIED** as follows:
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> 1. Respondent FDCMPC is **DECLARED** exempt from local taxes for a period of six (6) years from August 30, 2013, to August 29, 2019. Therefore, the Municipality of Villanueva, Province of Misamis Oriental, cannot require respondent FDCMPC to pay local business taxes amounting to Sixty Million Six Hundred Sixty-Eight Thousand Five Hundred Sixty-One and 24/100 Pesos (P60,668,561.24) for calendar years 2017 and 2018; and,
>
> 2. Petitioner Municipality of Villanueva, Misamis Oriental is **ENJOINED** from proceeding with the collection of local business taxes against respondent FDCMPC for the period August 30, 2013 to August 29, 2019.
>
> **SO ORDERED.**

On the other hand, the dispositive portion of the February 12, 2025 Resolution reads:

> **WHEREFORE**, in light of the foregoing, respondent FDCMPC's *Motion for Partial Reconsideration (Re: Decision dated August 22, 2024)* is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

FACTS

On November 19, 2012, PHIVIDEC Industrial Authority (PIA) entered into a Registration Agreement[4] with petitioner FDCMPC, where FDCMPC is to operate a power generation plant inside the Phividec Industrial Estate in Misamis Oriental Special Economic Zone (PIEMO-SEZ). On even date, or on November 19, 2012, PIA issued a Certificate of Registration[5] in favor of FDCMPC.

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[4] Annex "A" of plaintiff's [now petitioner] Memorandum, RTC Records, Vol. 4, pp. 470-475.
[5] Annex "B" of plaintiff's [now petitioner] Memorandum, RTC Records, Vol. 4, pp. 476.

On February 12, 2013, PIA sent to the Department of Finance (DOF) a Letter Request for Opinion[6] for the following: (1) the exemption of PIEMO-SEZ registered estate enterprises from payment of local taxes; and (2) the sole and exclusive authority of PIA to issue business permits within the PIEMO-SEZ. Upon referral by the DOF to the Department of the Interior and Local Government (DILG), the DILG, through its Legal Service Reply, issued DILG Opinion No. 22, S. 2013,[7] where it confirmed that the local government units of Tagoloan and Villanueva have no authority to impose taxes on business establishments in PIEMO-SEZ, among others.

Consequently, on August 30, 2013, the Board of Investments (BOI) issued to FDCMPC a Certificate of Registration No. 2013-177[8] to certify its status as a "pioneer" business enterprise. On July 4, 2017, the BOI, through Ms. Evelyn H. Jontarciego, Officer-in-Charge, Compliance Division-B, issued a letter[9] to FDCMPC, where it was noted that FDCMPC's date of actual full commercial operation is on June 26, 2017, which shall also be the reckoning date of the six (6) year Income Tax Holiday.

Meanwhile, on January 18, 2017, respondents allegedly issued a local business tax (LBT) assessment.[10] Consequently, on various dates from April 17, 2017 to February 21, 2019, respondents sent their demand letters to FDCMPC.[11]

Thus, on February 26, 2019, FDCMPC filed a Complaint[12] before the lower court. On April 16, 2019, respondents filed their Answer.[13] In an Order[14] dated October 5, 2021, the lower court stated that during the pre-trial held on June 29, 2021, the parties agreed to dispense with the actual trial in *lieu* of their respective memoranda. Further, the parties were given a final extension until October 15, 2021, within which to submit their memoranda. On October 11, 2021, FDCMPC filed its Memorandum.[15] On the other hand, on October 15, 2021, respondents filed their Memorandum for Defendants Municipality of Villanueva, Municipal Mayor and Municipal Treasurer.[16]

On January 14, 2022, the lower court promulgated a Decision,[17] the dispositive portion of which reads as follows:

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[6] Annex "C" of plaintiff's [now petitioner] Memorandum, RTC Records, Vol. 4, pp. 477-483.
[7] Annex "D" of plaintiff's [now petitioner] Memorandum, RTC Records, Vol. 4, pp. 484-485.
[8] Annex "E" of plaintiff's [now petitioner] Memorandum, RTC Records, Vol. 4, p. 486.
[9] Annex "I" of plaintiff's [now petitioner] Memorandum, RTC Records, Vol. 4, p. 493.
[10] Memorandum for Defendants Municipality of Villanueva, Municipal mayor and Municipal Treasurer, par. 10.a, RTC Records, Vol. 4, p. 374.
[11] Memorandum for Defendants Municipality of Villanueva, Municipal mayor and Municipal Treasurer, pars. 10.b to 10.f, RTC Records, Vol. 4, pp. 374-375.
[12] RTC Records, Vol. 1, pp. 5-33.
[13] RTC Records, Vol. 1, pp. 298-304.
[14] RTC Records, Vol. 4, pp. 176-177.
[15] RTC Records, Vol. 4, pp. 425-468.
[16] RTC Records, Vol. 4, pp. 371-387.
[17] See Note 2, pp. 115-116.

> IN VIEW OF THE FOREGOING, [respondent] Municipality of Villanueva is hereby permanently enjoined from collecting local tax from [petitioner] FDC Misamis Power Corporation, including the availment of tax enforcement remedies such as distraint of personal property and levy on real property.
>
> SO ORDERED.

On June 6, 2022, respondents filed through registered mail its *Appeal by Way of Petition for Review (With Prayer for the Issuance of a Temporary Restraining Order and Writ of Preliminary Injunction).*[18] On the other hand, on June 16, 2022, FDCMPC filed through registered mail its *Motion to Dismiss*, on the ground of lack of jurisdiction.[19]

On December 1, 2022, the Court in Division issued a Resolution[20] denying FDCMPC's *Motion to Dismiss.* On January 16, 2023, the Court in Division received FDCMPC's *Motion for Reconsideration (Re: Resolution dated December 1, 2022) with Motion to Suspend Proceedings.*[21] On June 30, 2023, the Court in Division promulgated a Resolution[22] denying the said motion.

Meanwhile, on September 22, 2023, the Court in Division received a copy of petitioner's *Petition for Certiorari (with Urgent Application for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)* filed with the Supreme Court.[23]

On November 13, 2023, the Supreme Court issued a Resolution in G.R. No. 268880 dismissing the said *Petition for Certiorari*, as follows:

> xxx Considering the Petition for Certiorari (with Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction) assailing the Resolutions dated December 1, 2022 and June 30, 2023 of the Court of Tax Appeals in CTA AC No. 266, the Court resolves to ***DISMISS*** the petition for failure of the petitioner to sufficiently show that any grave abuse of discretion was committed by the Court of tax Appeals in rendering the challenged resolutions which, on the contrary, appear to be in accord with the facts and the applicable law and jurisprudence.

[18] Division Docket, Vol. I, pp. 13-34.
[19] Division Docket, Vol. II, pp. 706-710.
[20] Division Docket, Vol. II, pp. 857-861.
[21] Division Docket, Vol. II, pp. 866-880.
[22] Division Docket, Vol. II, pp. 1073-1081.
[23] Division Docket, Vol. III, pp. 1087-1130.

> Accordingly, the prayer for issuance of a temporary restraining order and/or writ of preliminary injunction is ***DENIED***.

Thereafter, on August 14, 2025, respondents filed through registered mail their Manifestation with Motion,[24] informing the Court that a Resolution was issued by the Supreme Court in G.R. No. 268880 dated February 26, 2025. Said Resolution[25] which pertinently states:

> xxx Acting on the petitioner's Motion for Reconsideration of the Resolution dated November 13, 2023, which dismissed the petition for *certiorari* with temporary restraining order and writ of preliminary injunction, and considering that there is no substantial argument to warrant a modification of this Court's resolution, the Court resolved to ***DENY*** reconsideration with ***FINALITY***.
>
> ***NO FURTHER*** pleadings, motions, letters or other communications shall be entertained herein.
>
> Let an ***ENTRY*** of Judgment in this case be issued immediately.

On August 22, 2024 and February 12, 2025, the Court in Division issued the assailed Decision[26] and Resolution,[27] respectively.

On March 21, 2025,[28] FDCMPC filed the instant Petition for Review. On May 16, 2025, respondents filed through registered mail their *Comment on the Petition for Review*.[29]

On August 14, 2025,[30] the Court *En Banc* issued a Minute Resolution submitting this case for decision. Hence, this Decision.

Meanwhile, the Court notes petitioner's Motion to Admit Attached Supplemental Petition for Review with Notice of Change of Office and Electronic Mail Addresses filed through registered mail on Fevruary 27, 2026 and received by the Court on March 11, 2026.

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[24] EB Docket, Vol. III, pp. 1465-1469.
[25] Notice, EB Docket, p. 1461.
[26] See Note 2.
[27] See Note 3.
[28] See Note 1.
[29] EB Docket, Vol. III, pp. 1414-1424.
[30] EB Docket, Vol. III, p. 1463.

ISSUE

Considering that the issue raised by FDCMPC on jurisdiction was already resolved with finality by the Supreme Court in G.R. SP No. 268880, the sole issue to be resolved by the Court *En Banc* is whether FDCMPC is exempt from LBT.

FDCMPC's Arguments

FDCMPC argues that the 1991 Local Government Code (LGC) did not repeal Sections 8 and 9 of Presidential Decree No. 538 (PD 538) and as such, it is exempt from payment of LBT. Furthermore, if the relevant provisions of PD 538 had been repealed, FDCMPC is exempt from payment of LBT from June 26, 2017 to June 26, 2023 by reason of its entitlement to Income Tax Holiday enjoyed through its BOI registration.

Respondents' Arguments

For their part, respondents counter by reiterating the arguments in their Petition for Review before the Court in Division in CTA AC No. 266. They assert that PD 538 had been repealed by Republic Act No. 7916, or *The Special Economic Zone Act of 1995* (PEZA law). Moreover, respondents assert that the exemption under Section 9 of PD 538 was already withdrawn by the 1991 LGC.

RULING

The Court *En Banc* finds the instant Petition is bereft of merit.

The tax exemptions previously enjoyed by all persons had been withdrawn upon the effectivity of the 1991 LGC under Section 193 thereof

Section 193 of the 1991 LGC provides:

> *SECTION 193. Withdrawal of Tax Exemption Privileges.* — Unless otherwise provided in this Code, **tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations**, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby **withdrawn upon the effectivity of this Code.** *(Emphasis supplied)*

In relation thereto, Section 534 of the 1991 LGC pertinently provides the repealing clause, as follows:

> *SECTION 534. Repealing Clause.* — (a) Batas Pambansa Blg. 337, otherwise known as the Local Government Code, Executive Order No. 112 (1987), and Executive Order No. 319 (1988) are hereby repealed.
>
> xxx xxx xxx
>
> (f) All general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.

The issues revolving around the withdrawal of tax exemptions under Section 193 and the repealing clause under Section 534, both of the 1991 LGC, are not novel.

In the old case of *Manila Electric Company v. Province of Laguna and Benito R. Balazo*,[31] the Supreme Court explained the reason in upholding the withdrawal of tax exemptions under Section 193 of the 1991 LGC, thus:

> Indicative of the legislative intent to carry out the Constitutional mandate of vesting broad tax powers to local government units, the Local Government Code has effectively withdrawn under Section 193 thereof, tax exemptions or incentives theretofore enjoyed by certain entities. This law states:
>
> Sec. 193. *Withdrawal of Tax Exemption Privileges* — xxx
>
> The Code, in addition, contains a general repealing clause in its Section 534; thus:
>
> Sec. 534. Repealing Clause. — xxx
>
> xxx xxx xxx
>
> To exemplify, in *Mactan Cebu International Airport Authority vs. Marcos,* the Court upheld the withdrawal of the real estate tax exemption previously enjoyed by Mactan Cebu International Airport Authority. The Court ratiocinated:
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> . . . These policy considerations are consistent with the State policy to ensure autonomy to local governments and the objective

[31] G.R. No. 131359, May 5, 1999.

> of the LGC that they enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them effective partners in the attainment of national goals. The power to tax is the most effective instrument to raise needed revenues to finance and support myriad activities if local government units for the delivery of basic services essential to the promotion of the general welfare and the enhancement of peace, progress, and prosperity of the people. xxx[32]

Thus, the Supreme Court reasoned in the *Manila Electric Company* case that the withdrawal of tax exemptions is consistent with the policy of the State in ensuring local autonomy. In line with this reasoning, the Supreme Court later declared in *National Power Corporation v. City of Cabanatuan*[33] that Section 193 of the 1991 LGC "is an express, albeit general, repeal of all statutes granting tax exemptions from local taxes." Likewise, in *Philippine Long Distance Telephone Company, Inc. v. City of Davao and Adelaida B. Barcelona*,[34] the Supreme Court also clarified that "the rule that a special law must prevail over the provisions of a later general law does not apply as the legislative purpose to withdraw tax privileges enjoyed under existing laws or charters is apparent from the express provisions of §§ 137 and 193 of the LGC."[35] Finally, in *Capitol Wireless, Inc. v. The Provincial Treasurer of Batangas, et al.*,[36] the Supreme Court provided that without alleging or providing any other privilege or exemption granted by the legislature after the enactment of the 1991 LGC, the presumption that no such privilege or exemption stands.[37]

Considering the foregoing rulings of the Supreme Court, the Court *En Banc* agrees with the pronouncement of the Court in Division that Sections 8 and 9 of PD 538 had been expressly repealed by the provisions of the 1991 LGC.

As a side note, it must be stressed that the Court in Division effectively granted the reliefs prayed for by FDCMPC by declaring that it is exempt from payment of LBT for the years 2017 and 2018. However, FDCMPC elevated this present appeal: (1) to be completely exonerated from LBT payments, or, (2) to be exonerated from paying LBT from June 26, 2017 to June 26, 2023.

Under the above-cited *Capitol Wireless* case, FDCMPC would have been completely absolved from payment of LBT if it has complied with the requisites provided for under the PEZA law, *i.e.*, FDCMPC failed to show that it is a PEZA registered enterprise. On the other hand, FDCMPC is still not exempted from payment of LBT from June 26, 2017 to June 26, 2023 despite its BOI registration, as will be discussed below.

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[32] *Id.*, citing 261 SCRA 667, 690.
[33] G.R. No. 149110, April 9, 2003.
[34] G.R. No. 143867, March 25, 2003.
[35] *Id.*, citing *City Government of San Pablo, Laguna* v. Reyes, 305 SCRA 353 (1999).
[36] G.R. No. 180110, May 30, 2016.
[37] Id., citing *City of Manila v. Colet*, G.R. No. 120051, December 10, 2014.

The Income Tax Holiday (ITH) provision under the Omnibus Investment (OIC) Code pertains to income taxes under the 1997 National Internal Revenue Code (Tax Code)

Section 39 of the OIC provides:

> ARTICLE 39. Incentives to Registered Enterprises. — All registered enterprises shall be granted the following incentives to the extent engaged in a preferred area of investment;
>
> (a) Income Tax Holiday. —
>
> (1) For six (6) years from commercial operation for pioneer firms and four (4) years for non-pioneer firms, new registered firms shall be fully **exempt from income taxes levied by the National Government**. *(Emphasis supplied)*

Section 39 of the OIC expressly provides that the exemption under ITH only involves income taxes *levied by the National Government.* In other words, it only exempts the concerned firms from income taxes under the Tax Code, and not from LBT, as advanced by FDCMPC. Moreover, Section 1(t) of the *Rules and Regulations to Implement Executive Order No. 226, Otherwise Known as the Omnibus Investment Code of 1987* (OIC Rules), defines income subject to ITH as follows:

> t. The "income" of the registered firm entitled to income tax holiday shall be confined to *income* directly derived from registered operations. *(Emphasis supplied)*

On the contrary, the LBT imposed by municipalities under Section 143 of the 1991 LGC is based on gross sales or receipts. Clearly, it is not within the intent of the OIC to include LBT as an incentive covered by the ITH.

Finally, it is also noteworthy that entitlement to ITH does not automatically attach upon registration with the BOI. On this score, Rule VI, Sections 1 and 2 of the OIC Rules respectively provide:

> SECTION 1. Applications for Availment of Incentives. — All **applications for availment** of incentives shall be filed with the Board. *(Emphasis supplied)*
>
> SECTION 2. Income Tax Holiday. —

a. Period of Availment. — Only registered enterprises engaged or proposing to engage in new and expanding projects may avail of the income tax holiday incentive.

Availment shall be as follows:

1) New registered pioneer firms - **6 years from commercial operations**. *(Emphasis supplied)*

xxx xxx xxx

Thus, even if the Court *En Banc* adopts FDCMPC's theory that it is exempt from LBT by reason of its entitlement to ITH, still, FDCMPC's prayer will necessarily fail because there is no showing that: (1) FDCMPC filed an application for availment; and (2) the application for availment was filed within 6 years from commercial operations. At any rate, considering that the ITH incentive merely covers income taxes under the Tax Code, FDCMPC is clearly not entitled to LBT exemption from June 26, 2017 to June 26, 2023.

To end, FDCMPC failed to show that it is exempt from LBT because: (1) the 1991 LGC expressly repealed the tax exemption provisions of PD 538; and (2) the incentives under ITH only cover income tax under the Tax Code. It does not include LBT imposed by municipalities whose tax bases involve gross sales or receipts.

Considering the foregoing, the denial of the instant Petition for Review is in order.

ACCORDINGLY, the instant Petition for Review is **DENIED**, for lack of merit. The Decision dated August 22, 2024 and the Resolution dated February 12, 2025, of the CTA 1st Division are **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice