REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ATTY. VOLTAIRE ENRIQUEZ, in his capacity as the CITY TREASURER OF TAGUIG,	**CTA AC CASE NO. 322** (RTC Civil Case No. 663)
Petitioner,	Members:
- versus -	**RINGPIS-LIBAN**, *Chairperson,* **MODESTO-SAN PEDRO**, *and* **FERRER-FLORES**, *JJ.*
RICE CREEK HOLDINGS, INC.,	Promulgated:
Respondent.	3:1 p.m.

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DECISION

***MODESTO-SAN PEDRO, J.*:**

The Case

This *Petition for Review* under *Section 3(a) of Rule 8 of the 2005 Revised Rules of Court of Tax Appeals* ("*RRCTA*") seeks to reverse and set aside the Decision dated December 6, 2023 ("Assailed Decision") and the Order dated March 20, 2024 ("Assailed Order"), both rendered by the Regional Trial Court of Taguig City, Branch 70 ("the RTC" or "the Lower Court"), in Civil Case No. 663, which granted respondent's claim for refund of the local business tax that it paid covering the taxable years 2018 and 2019 to the City of Taguig in the total amount of ₱653,099.81, and imposing legal interest thereon at the rate of six percent (6%) per annum.[1]

[1] Petition for Review, Docket, pp. 11 to 12.

The Parties

Petitioner Atty. Jonathan Voltaire L. Enriquez, is of legal age and with office address at the City Hall of Taguig, Brgy. Tuktukan, Gen. Luna St., 1630 Taguig City, and presently the City Treasurer of Taguig City. Among others, he has the legal function and responsibility to assess and collect taxes, fees, and charges from corporate and individual taxpayers as levied and imposed by the Local Government Code and the tax ordinances of the City of Taguig.[2]

Respondent Rice Creek Holdings, Inc. is a corporation duly organized and existing under, and by virtue of the laws of the Republic of the Philippines, with principal office address at No. 2281 Pasong Tamo Extension, Makati City.[3]

The Facts

On January 18, 2018 and January 17, 2019, petitioner issued Billing Statements for the taxable years ("TYs") 2018 and 2019,[4] respectively, requiring respondent to pay local business tax ("LBT") on its dividend income in the amount of ₱139,064.34 and ₱514,035.47, respectively, or in the total amount of ₱653,099.81, in order to renew respondent's business permits in both years. Respondent paid said LBT on the same dates the Billing Statements were issued.[5]

On September 25, 2019, respondent filed with petitioner a Claim for Refund dated September 18, 2019 of the alleged erroneously or illegally collected LBT for TYs 2018 and 2019.[6]

Due to petitioner's inaction on its claim, respondent filed a Complaint before the RTC on January 20, 2020,[7] praying for the refund of the erroneously or illegally collected LBT in the total amount of ₱653,099.81 for the TYs 2018 and 2019, plus 12% legal interest thereon and attorney's fees.

On December 6, 2023, the RTC promulgated the Assailed Decision,[8] partially granting respondent's Complaint, as follows:

> **WHEREFORE**, premised considered, the Complaint for Sum of Money and Damages filed by the plaintiff Rice Creek is hereby

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[2] *Id.* at 12.
[3] *Id.*
[4] Exhibits "D" and "F", RTC Docket, pp. 236 and 238.
[5] Exhibits "E" and "G", *id.* at 237 and 239.
[6] Exhibit "C", *id.* at 214 to 221.
[7] *Id.* at 5 to 9.
[8] Docket, pp. 32 to 55.

> **PARTIALLY GRANTED**. Consequently defendant Atty. Voltaire Enriquez, in his capacity as the City Treasurer of Taguig City, is ordered to **REFUND** plaintiff Rice Creek Holdings, Inc. the total amount of Six Hundred Fifty-Three Thousand Ninety-Nine Pesos and Eighty-One Centavos (Php653,099.81), with legal interest of 6% per annum from the finality of this Decision until its full satisfaction; and the costs of suit.
>
> **SO ORDERED**.

Petitioner filed his motion for reconsideration on the foregoing decision, but was denied by the RTC in the Assailed Order dated March 20, 2024.[9]

On May 9, 2024, petitioner filed his Motion for Extension of Time to File Petition for Review[10] before the Court praying for an additional period to file its petition for review until May 27, 2024, which was granted by the Court in a Minute Resolution dated May 14, 2024.[11]

On May 27, 2024, petitioner filed the instant *Petition for Review*,[12] to which respondent filed its Comment on July 5, 2024.[13] Thereafter, petitioner filed his Reply to respondent's Comment on August 15, 2024.[14]

On August 20, 2024, the RTC transmitted to this Court the records of Civil Case No. 663 consisting of three folders.[15]

Respondent filed its Memorandum on October 7, 2024,[16] while petitioner's Memorandum was submitted on October 9, 2024.[17] Thus, in a Minute Resolution dated November 12, 2024, the case was deemed submitted for decision.

Hence, this Decision.

The Issues

Petitioner raised the following issues for the Court's resolution:[18]

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[9] *Id.* at 56 to 59.
[10] *Id.* at 5 to 7.
[11] *Id.* at 10.
[12] *Id.* at 11 to 29.
[13] *Id.* at 74 to 84.
[14] *Id.* at 90 to 93.
[15] *Id.* at 97 to 102.
[16] *Id.* at 142 to 156.
[17] *Id.* at 160 to 177.
[18] Issues, Petition for Review, *id.* at 15.

(1) Whether or not the Lower Court erred in holding that the claim for tax refund on the local business taxes that the respondent had paid for the taxable years 2018 and 2019 was filed on time.

(2) Whether or not the Lower Court transgressed the police power and the taxing power of the City Government of Taguig, and exempted the respondent from payment of the local business tax for the taxable years 2018 and 2019 when it granted the latter a full refund thereof.

Arguments of the Parties

Petitioner's Arguments:

Petitioner argues that the Complaint should have been denied by the RTC as it was filed beyond the prescriptive period. Anchoring on its assertion that the Billing Statements are notices of assessment, the periods prescribed under *Section 195 of the Local Government Code* ("*LGC*") should apply and not those under *Section 196* of the same Code. Further, by granting the refund, petitioner argues that the Lower Court brushed aside the City of Taguig's power to levy taxes and promote general welfare in its territorial jurisdiction since the LBT assessments in the Billing Statements are not only sources of revenues but also license fees for respondent to validly operate its business in the city.

Lastly, even granting that respondent is not liable for LBT as a bank or other financial institution under *Section 75(h) of the Revenue Code of Taguig*, its dividend income is nevertheless liable for LBT under *Section 5 of City Ordinance No. 47, Series of 2006*.

Respondent's Counter-arguments:

Respondent counter-argues that its claim for refund and Complaint were timely filed in accordance with *Section 196 of the LGC* and that the Billing Statements are not notices of assessment; that the grant of refund was proper as it is not a bank, nor a financial institution for it to be liable to pay LBT under *Section 75(h) of the Revenue Code of Taguig*; and it also cannot be made liable for LBT on its dividend income as a holding company under *Section 5 of City Ordinance No. 47, Series of 2006* without the proper assessment procedures conducted by petitioner.

The Ruling of the Court

The *Petition* must be denied.

The Court Division has jurisdiction over the Petition.

Section 7(a)(3) of Republic Act ("RA") No. 1125, as amended by RA No. 9282, ("*the CTA Law*") empowers the Court of Tax Appeals ("CTA") to exercise exclusive appellate jurisdiction to review by appeal decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction.

Meanwhile, *Section 11 of the CTA Law* prescribes the period as to when a matter within its jurisdiction must be brought before it and whether a matter should be acted upon by the CTA Division or *En Banc*, to wit:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal. - Any party adversely affected by a decision, ruling* or inaction *of the* Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the *Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling* or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
>
> *Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling* or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. *A Division of the CTA shall hear the appeal*: *Provided*, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction, appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*.
> (Italics, Ours.)

The foregoing provisions are echoed in *Rule 4, Section 3(a)(3) of the RRCTA*, which provides that the *Court in Division shall exercise* exclusive original or *appellate jurisdiction to review by appeal* decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their *original jurisdiction.*

Meanwhile, *Rule 8, Section 3(a) of RRCTA* prescribes the following:

> SEC. 3. Who may appeal; period o file petition. —

> (a) *A party adversely affected by a decision, ruling or the inaction of* the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or *a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling*, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.
> (Italics supplied)

As such, in order for this Court to acquire jurisdiction in the instant case, the petition for review by the aggrieved party must be filed before the Court within 30 days from the date of receipt of the order of the RTC in local tax cases resolved by them in the exercise of their original jurisdiction.

In this case, petitioner received the RTC's Assailed Order on his timely filed Motion for Reconsideration on April 12, 2024,[19] giving him until May 12, 2024 to file a petition for review before this Court.

However, petitioner instead filed a Motion for Extension of Time to File Petition for Review on May 9, 2024, requesting for additional 15 days from the expiration of the original 30-day period to file the petition for review. This was granted by this Court on May 14, 2024, giving petitioner until May 27, 2024 to file his petition for review.

It is notable, however, that the *RRCTA* does not authorize the grant of additional 15 days in filing the petition for review before the Court in Division on cases involving the decisions, resolutions, or orders of the RTC in the exercise of its *original jurisdiction*. Said permissible period of extension of 15 days to file petition for review is available only on the decision or resolution of a Division of the Court on a motion for reconsideration or new trial under *Rule 8, Section 3(b)* for civil cases and *Rule 9, Section 9(b)* for criminal cases *of the RRCTA*.

But then, *Section 11 of the CTA Law* and *Rule 8, Section 4(a) of the RRCTA* state that the mode of appeal from a decision or ruling of the RTC in the exercise of their original jurisdiction before the Court in Division is by filing a petition for review as provided in *Rule 42 of the 1997 Rules of Civil Procedure*. *Section 1* thereof provides that the Court of Appeals may grant an additional period of fifteen days within which to file the petition for review

[19] Registry Return Receipt, RTC Docket, p. 514.

upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period.

Consequently, an extension of time to file of a petition for review before this Court in Division on cases involving the decisions, resolutions, or orders of the RTC in the exercise of its *original jurisdiction* may be authorized pursuant to *Rule 42, Section 1 of the 1997 Rules of Civil Procedure*.

The Motion for Extension of Time to File Petition for Review on May 9, 2024 was timely filed. Petitioner then filed their Petition for Review on May 27, 2024, well-within the 15-day extension granted by the Court. Thus, this Court acquired jurisdiction over the same.

Respondent availed the proper remedy under Section 196 of the LGC and the grant of refund is warranted.

With respect to the matter of timeliness of filing the claims, respondent filed a Complaint before the RTC for the refund of erroneously or illegally collected LBT by petitioner for the years 2018 and 2019 pursuant to *Section 196 of the LGC*, which provides as follows:

> Section 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.
> (Italics supplied.)

From respondent's point of view, the LBT it paid on January 18, 2018 and January 17, 2019 for the taxable years 2018 and 2019 were erroneously or illegally collected as it were erroneously charged with LBT on banks and other financial institutions even if it is not in its nature to operate as such. Respondent thus filed an administrative claim for refund before petitioner on September 25, 2019 and, eventually, a judicial claim before the RTC on January 20, 2020, when the administrative claim was not acted upon by petitioner.

Since the administrative claim, followed by the judicial claim, for refund were made within the two-year prescriptive period to file the same pursuant to *Section 196 of the LGC*, which ended on January 18, 2020 (which fell on a Saturday), respondent's claim for refund were timely filed.

On the other hand, petitioner considers the case as a protest against an assessment under *Section 195 of the LGC*, which provides:

> Section 195. Protest of the 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 the 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 the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.
> (Italics supplied.)

From petitioner's point of view, the Billing Statements for the taxable years 2018 and 2019 are notices of assessment; hence, respondent should have protested these within 60 days from notice. Accordingly, since respondent belatedly protested the assessments on September 25, 2019,[20] petitioner asserts that the assessments for 2018 and 2019 were already final and executory, thereby unappealable.

Petitioner is gravely mistaken. The RTC correctly ruled that the case before it is a claim for refund under *Section 196 of the LGC* and not a protest on an assessment under *Section 195* of the same.

In *City of Manila and Office of the City Treasurer of Manila vs. Cosmos Bottling Corporation*,[21] the Supreme Court clarified that the application of *Section 195* is triggered by an assessment made by the local treasurer or his duly authorized representative for nonpayment of the correct taxes, fees or charges.

Consistently, *International Container Terminal Services, Inc. vs. City of Manila*,[22] pronounced that it is explicitly stated in *Section 195* that it is a remedy against a notice of assessment issued by the local treasurer, *upon a finding that the correct taxes, fees, or charges have not been paid*. The notice of assessment must state "the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties."

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[20] The 60-day periods to protest the alleged assessment of LBT from January 18, 2018 and January 17, 2019 ended on March 19, 2018 and March 18, 2019, respectively.
[21] G.R. No. 196681, June 27, 2018.
[22] G.R. No. 185622, October 17, 2018.

As correctly found by the RTC, the Billing Statements failed to qualify as notices of assessment in order for *Section 195 of the LGC* to apply in this case. Accordingly, the Billing Statements were issued not as an assessment for any *unpaid* LBT, but merely for renewal of respondent's business permit.

Since no notice of assessment was issued in this case, the payment of the LBT for the taxable years 2018 and 2019, which were allegedly made erroneously or illegally, falls within the coverage of the remedy provided under *Section 196 of the LGC*.

Verily, the RTC was correct in ruling that respondent availed the proper remedy under *Section 196 of the LGC*.

Now, with respect to the argument that the RTC allegedly transgressed the police power and taxing authority of the City Government of Taguig when it essentially exempted respondent from the payment of LBT by granting its full refund, We find the same gravely misplaced.

Petitioner misunderstood the RTC's ruling in granting the refund claimed by respondent. The RTC did not exempt respondent from LBT. It ruled that the LBT paid by respondent as a "bank or other financial institution" was erroneous after finding that respondent is not classified as such.

The issue resolved by the RTC is not a matter of tax exemption, but rather an erroneous classification of respondent committed by petitioner in charging the LBT for the taxable years 2018 and 2019. Since respondent was classified erroneously as a "bank or other financial institution" under *Section 75(h) of the Revenue Code of Taguig*, any payment of LBT pursuant to such erroneous classification warrants a refund.

As correctly found by the RTC, respondent's primary purpose based on its Articles of Incorporation, which is "to own, hold, purchase, acquire, lease contract of otherwise, within the limits allowed by law, any all real and personal properties of every kind and description", is consistent with being a holding company and not as bank or other financial institution.

Verily, petitioner was erroneous in charging respondent with LBT on banks or other financial institutions under *Section 75(h) of the Revenue Code of Taguig* for the taxable year 2018 and 2019. Logically then, the payment thereof by respondent was likewise erroneous.

Lastly, petitioner's argument that the refund must not be granted since respondent is nevertheless liable for LBT on its dividend income as a holding company under *Section 5 of City Ordinance No. 47, Series of 2006* is untenable. As the alleged LBT on dividend income as a holding company allegedly remain unpaid by respondent, the proper remedy of petitioner is to issue an assessment pursuant to its remedy under *Section 194 of the LGC* and not in this forum.

ACCORDINGLY, the instant *Petition for Review* is hereby **DENIED** for lack of merit and the Assailed Decision dated December 6, 2023 and Assailed Order dated March 30, 2024 are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
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
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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice