REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

ATTY. VOLTAIRE ENRIQUEZ in his capacity as the CITY TREASURER OF TAGUIG CITY, Petitioner,	**CTA AC No. 344**
	Members:
	RINGPIS-LIBAN, *P.J.,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
- versus -	
	Promulgated:
JAGJIT HOLDINGS, INC., Respondent.	MAY 12 2026

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DECISION

FERRER-FLORES, J.:

Before this Court is a **Petition for Review** filed on November 4, 2024, praying for this Court to: (1) set aside the Decision dated July 26, 2024,[1] and Order dated September 6, 2024,[2] both rendered by the Regional Trial Court (RTC) of Taguig City – Branch 153, in Civil Case No. 666 (For: Collection of Sum of Money & Damages), entitled "*Jagjit Holdings, Inc., Plaintiff, versus Atty. Voltaire Enriquez in his capacity as the City Treasurer of Taguig City, Defendant*" and, issue a new one dismissing respondent's Complaint for lack of merit; or, in the alternative, (2) hold respondent liable for local business tax (LBT) as a holding company under Section 17, Ordinance No. 34, Series of 2017, which amended Section 75 of the Revenue Code of Taguig, as amended, the dispositive portions of which respectively read as follows, *viz.*:

Decision dated July 26, 2024:

> **WHEREFORE**, premises considered, the instant case for Collection of Sum of Money and Damages, which in essence, is a Claim for Tax Refund is hereby **GRANTED**.

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[1] Docket, pp. 62 to 75; RTC Docket (Civil Case No. 666), pp. 517 to 530.
[2] Docket, pp. 76 to 77; RTC Docket (Civil Case No. 666), pp. 515 to 516.

Accordingly, defendant is **ORDERED** to **REFUND** or **PAY** in favor of plaintiff **JAGJIT HOLDINGS, INC.**, the following amounts:

a. **Php139,064.34** representing the erroneously collected Business Tax for the year 2018; and
b. **Php514,035.47** representing the erroneously collected Business Tax for the year 2019.

SO ORDERED.

<u>Order dated September 6, 2024</u>:

In light of the foregoing, and for reasons already discussed in the assailed Decision, this court finds no reversible error in its Decision dated 26 July 2024.

Thus, the Motion for Reconsideration is **DENIED**.

SO ORDERED.

THE PARTIES

Petitioner **Atty. Voltaire Enriquez** was sued in the Court *a quo* in his capacity as the City Treasurer of Taguig City.[3]

Respondent **Jagjit Holdings, Inc.** is a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at DMCI Complex, Levi B. Mariano Ave., Brgy. Ususan, Taguig City.[4] It is registered with the Bureau of Internal Revenue (BIR) under the classification "FINANCIAL HOLDING COMPANY ACTIVITIES", as shown in its Certificate of Registration dated January 12, 2005 issued by the BIR.[5]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

In the course of renewing its 2018 business permit, respondent received the Billing Statement dated January 18, 2018 from petitioner assessing it, among others, of LBT on dividend income in the amount of ₱139,064.34.[6] On January 20, 2018, respondent fully paid the said tax and other fees.[7]

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[3] Par. 3, *Complaint*, RTC Docket (Civil Case No. 666), p. 4.
[4] Par. 1, *Complaint*, RTC Docket (Civil Case No. 666), p. 4; Exhibits "H" to "H-1", RTC Docket (Civil Case No. 666), pp. 183 to 192.
[5] Exhibit "I", RTC Docket (Civil Case No. 666), p. 309.
[6] Par. 4, *Complaint*, RTC Docket (Civil Case No. 666), p. 4; Exhibit "D", RTC Docket (Civil Case No. 666), p. 305.
[7] Par. 5, *Complaint*, RTC Docket (Civil Case No. 666), p. 4; Exhibit "F", RTC Docket (Civil Case No. 666), p. 307.

Moreover, while renewing its 2019 business permit, respondent received the Billing Statement dated January 17, 2019, from petitioner, which assessed it, among others, of LBT on dividend income in the amount of ₱514,035.47.[8] On January 19, 2019, respondent fully paid the said tax and other fees.[9]

On September 25, 2019, respondent filed an administrative claim for refund dated September 18, 2019, in the aggregate amount of ₱653,099.81, representing the total LBT paid for calendar years (CYs) 2018 and 2019.[10]

PROCEEDINGS BEFORE THE COURT *A QUO*

Respondent filed its Complaint with the RTC of Taguig City on January 20, 2020.[11] The case was raffled to Branch 153 and docketed as Civil Case No. 666.

On February 6, 2020, petitioner received the Summons issued by the Court *a quo* on February 5, 2020, wherein he was ordered to submit an Answer to the said Complaint within 15 days from notice.[12]

Subsequently, respondent filed a Motion to Declare Defendant [herein petitioner] in Default on October 19, 2020,[13] praying that petitioner be declared in default and that respondent be allowed to present evidence *ex-parte.*

On November 19, 2020, petitioner filed an Entry of Appearance With Omnibus Motion (1) to File Comment/Opposition to the Motion to Declare Defendant in Default; and, (2) to Admit Answer to the Complaint dated 11 January 2020,[14] with attached Answer,[15] praying for the Court *a quo*: (1) to admit his Comment/Opposition to respondent's Motion to Declare Defendant in Default; (2) to deny respondent's Motion to Declare Defendant in Default; and, (3) to admit the attached Answer to the Complaint dated January 11, 2020. Respondent filed its Comment thereon on November 24, 2020.[16]

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[8] Par. 6, *Complaint*, RTC Docket (Civil Case No. 666), p. 4; Exhibit "E", RTC Docket (Civil Case No. 666), p. 306.
[9] Par. 7, *Complaint*, RTC Docket (Civil Case No. 666), p. 5; Exhibit "G", RTC Docket (Civil Case No. 666), p. 308.
[10] Par. 10, *Complaint*, RTC Docket (Civil Case No. 666), p. 5; Exhibit "C", RTC Docket (Civil Case No. 666), pp. 284 to 290.
[11] RTC Docket (Civil Case No. 666), pp. 4 to 8.
[12] RTC Docket (Civil Case No. 666), p. 31; Sheriff's Report/Return Summons dated February 11, 2020, RTC Docket (Civil Case No. 666), p. 32.
[13] RTC Docket (Civil Case No. 666), pp. 33 to 35.
[14] RTC Docket (Civil Case No. 666), pp. 38 to 44.
[15] RTC Docket (Civil Case No. 666), pp. 54 to 63.
[16] RTC Docket (Civil Case No. 666), pp. 67 to 69.

Thereafter, the Court *a quo* issued the Order dated December 9, 2020,[17] granting respondent's Motion to Declare Defendant in Default, and denying petitioner's Motion to Admit Answer.

On January 12, 2021, petitioner filed a Motion to Lift Order of Default dated December 9, 2020,[18] praying that the Order dated December 9, 2020 be reversed and set aside. In the Order dated January 22, 2021,[19] however, the Court *a quo* denied petitioner's Motion.

As trial ensued, respondent presented its testimonial and documentary evidence. It offered the testimonies of the following individuals, namely: (1) Ms. Joy B. Fajardo,[20] its Accountant or Accounting Officer; and, (2) Mr. Redencio C. Villarivera,[21] its Corporate Secretary and Legal Officer.

On April 22, 2024, respondent filed its Formal Offer of Evidence.[22] In the Order dated May 6, 2024,[23] the Court *a quo* admitted respondent's offered exhibits.

Thereafter, on July 26, 2024, the Court *a quo* promulgated the assailed Decision,[24] granting respondent's Complaint for Collection of Sum of Money and Damages which, in essence, is a Claim for Tax Refund, and ordering the refund in the aggregate amount of ₱653,099.81.

On August 21, 2024, petitioner then filed his Motion for Reconsideration (of the Decision dated July 26, 2024),[25] to which respondent filed its Comment-Opposition (To the Motion for Reconsideration dated August 13, 2024) on August 27, 2024.[26]

Subsequently, the Court *a quo* issued the assailed Order dated September 6, 2024,[27] denying petitioner's Motion for Reconsideration.

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[17] RTC Docket (Civil Case No. 666), pp. 76 to 79.
[18] RTC Docket (Civil Case No. 666), pp. 80 to 86.
[19] RTC Docket (Civil Case No. 666), pp. 93 to 94.
[20] Exhibit "R", RTC Docket (Civil Case No. 666), pp. 120 to 130; Minutes of the hearing held on, and Order dated, February 2, 2023, RTC Docket (Civil Case No. 666), pp. 367 to 369.
[21] Exhibit "T", RTC Docket (Civil Case No. 666), pp. 377 to 387; Minutes of the hearing held on, and Order dated, April 11, 2024, RTC Docket (Civil Case No. 666), pp. 481 to 482.
[22] RTC Docket (Civil Case No. 666), pp. 484 to 490.
[23] RTC Docket (Civil Case No. 666), p. 514.
[24] RTC Docket (Civil Case No. 666), pp. 517 to 530.
[25] RTC Docket (Civil Case No. 666), pp. 555 to 571.
[26] RTC Docket (Civil Case No. 666), pp. 581 to 590.
[27] RTC Docket (Civil Case No. 666), pp. 515 to 516.

PROCEEDINGS BEFORE THIS COURT

Petitioner filed a *Motion for Extension of Time to File Petition for Review* on October 16, 2024,[28] stating that he received the Order dated September 6, 2024 of the RTC of Taguig City – Branch 153, denying his Motion for Reconsideration, on September 20, 2024. Thus, he has until October 20, 2024, to file his *Petition for Review*. As such, petitioner prays that he be granted an additional period of 15 days from October 20, 2024, or until November 4, 2024, within which to file his *Petition for Review*. This Court granted the said *Motion* in its Resolution dated November 12, 2024.[29]

Subsequently, petitioner filed the present *Petition for Review* on November 4, 2024.[30]

Respondent filed its *Comment (To the Petition for Review dated November 4, 2024)* on December 16, 2024.[31]

In the Resolution dated January 7, 2025,[32] the Court gave the parties 30 days from notice to file their respective memoranda.

On February 25, 2025, respondent filed its *Memorandum*,[33] while the *Memorandum (For the Petitioner)* was filed on February 21, 2025.[34]

Thereafter, the RTC of Taguig City – Branch 153 transmitted its records of Civil Case No. 666, consisting of 675 pages, on May 9, 2025.[35]

The case was considered submitted for decision on May 13, 2025.[36]

ISSUES

Petitioner assigns the following errors supposedly committed by the Court *a quo*, to wit:

A. The lower court committed reversible error in finding that the Billing Statements are not in the nature of Notice of

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[28] Docket, pp. 5 to 8.
[29] Docket, p. 82.
[30] Docket, pp. 30 to 60.
[31] Docket, pp. 85 to 99.
[32] Docket, p. 104.
[33] Docket, pp. 106 to 120.
[34] Docket, pp. 123 to 151.
[35] RTC of Taguig City – Branch 153's Transmittal dated May 9, 2025, Docket, pp. 158 to 162.
[36] Minute Resolution dated May 13, 2025, Docket, p. 182.

Assessment as contemplated under the Local Government Code.

b. The lower court committed reversible error in finding that the instant claim for refund was filed on time.

c. The lower court committed reversible error in finding that plaintiff is entitled to the refund or payment in the total amount of ₱653,099.81 representing local business tax paid for the calendar years 2018 and 2019.[37]

Petitioner's arguments

Petitioner argues that the lower court committed reversible error in finding that the Billing Statements are not in the nature of notice of assessment as contemplated under Section 195 of the Local Government Code (LGC); that the instant claim for refund was filed on time; and, that respondent is entitled to refund or payment in the total amount ₱653,099.81, representing LBT paid for the CYs 2018 and 2019.

Respondent's counter-arguments

Respondent contends that the Billing Statements issued by petitioner are merely Billing Statements and the Claim for Tax Refund filed by respondent for CYs 2018 and 2019 were filed on time; that respondent is not liable to pay LBT as a holding company pursuant to Section 17, Ordinance No. 34, Series of 2017, which amended Section 75 of the Revenue Code of Taguig City; and, that respondent is entitled to interest and attorney's fees.

THE COURT'S RULING

The present *Petition for Review* lacks merit.

The subject Billing Statements issued in this case are not the "notice of assessment" contemplated under Section 195 of the LGC of 1991

[37] Grounds in Support of the Petition (with Assignment of Errors), *Petition for Review*, Docket, pp. 38 to 39.

Petitioner contends that the Billing Statements he issued to respondent on January 18, 2018 and January 17, 2019, are in the nature of notices of assessment as contemplated by Section 195 of the LGC of 1991.[38]

Further, citing the case of *Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation, et al.*[39] ("*Pascor* case") petitioner states that: (1) neither the National Internal Revenue Code (NIRC) of 1997, as amended, nor the regulations governing the protest of assessments provide a specific definition or form of an assessment; (2) an assessment informs the taxpayer that he or she has tax liabilities; and, (3) an assessment must be sent to and received by a taxpayer, and must demand payment of the taxes described therein within a specific period.

Applying the *Pascor* case, petitioner insists that the Billing Statements in question meet these criteria, as demonstrated by the following facts: (a) the subject Billing Statements were given to and received by respondent at the time it applied for the renewal of its business permit for CYs 2018 and 2019 before the Business Permits and Licensing Office of the City of Taguig; (b) these Billing Statements contained all the information about what respondent should pay for CYs 2018 and 2019; and, (c) Section 183 of the Revenue Code of Taguig, as amended, provides for the period within which respondent should pay the amount appearing in the subject Billing Statements, *i.e., "within the first twenty (20) days of the beginning of the calendar year."*[40]

Lastly, petitioner claims that the subject Billing Statements contained the following particulars: the amount and nature of the assessed tax, and the amount of any deficiency, surcharges, interest, and penalties due from the respondent.[41]

On the other hand, respondent contends that petitioner's reliance on the *Pascor* case is misplaced as it involves national taxes, tax evasion, and the filing of a criminal complaint, which are entirely different from the facts of the present case. Accordingly, the main issue in the *Pascor* case is whether a revenue officer's Affidavit-Report can be considered an assessment, and there was no pronouncement therein that a Billing Statement is the same as a notice of assessment.[42]

Respondent also points out that the subject Billing Statements for CYs 2018 and 2019, which petitioner claims to be notices of assessment, are

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[38] Refer to pars. 15 to 17, *Memorandum (For the Petitioner)*, Docket, pp. 132 to 133.
[39] G.R. No. 128315, June 29, 1999.
[40] Pars. 18 to 19, *Memorandum (For the Petitioner)*, Docket, pp. 134 to 135.
[41] Par. 21, *Memorandum (For the Petitioner)*, Docket, p. 135.
[42] Pars. 13 to 14, respondent's *Memorandum*, Docket, pp. 109 to 110.

merely billings for the renewal of its business permits providing for the Mayor's Permit Fee, Sanitary Inspection Fee, Medical/Health Fee, Building Inspection Fee, Electrical Inspection Fee, Fire Permit Fee, and others; and, they do not contain information as to the nature of the deficiency tax, its legal basis, and the amount of surcharge, interest, and penalties.[43]

Furthermore, citing *International Container Terminal Services, Inc. vs. City of Manila, et al.,*[44] respondent asserts that the Supreme Court held that "assessments" for Municipal License Receipts, Mayor's Permit, Business Taxes, Fees & other Charges and Receipts, such as the "Billing Statements" issued by petitioner, could not be considered "Notices of Assessment" contemplated in Section 195 of the LGC. Thus, petitioner cannot rely on the periods stated in Section 195 of the LGC to claim prescription against respondent.[45]

Finally, respondent insists that it timely filed its administrative claim for refund within two years from the date of payment of LBT, pursuant to Section 196 of the LGC of 1991.[46]

We agree with respondent.

The taxpayer's remedies for protesting an assessment and for refund of taxes, except for real property taxes, are set forth in Sections 195 and 196 of the LGC of 1991, which are quoted below:

> SEC. 195. *Protest of 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 <u>notice of assessment</u> 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.**

[43] Par. 15, respondent's *Memorandum*, Docket, p. 110.
[44] G.R. No. 185622, October 17, 2018.
[45] Pars. 20 to 21, respondent's *Memorandum*, Docket, pp. 112 to 114.
[46] Pars. 23 to 24, respondent's *Memorandum*, Docket, pp. 114 to 115.

> SEC. 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. *(Emphases and underscoring added)*

In *City of Manila, et al. vs. Cosmos Bottling Corporation* (*"Cosmos"* case),[47] the Supreme Court distinguished the two remedies as follows, *viz.*:

> **The first provides the procedure for contesting an assessment issued by the local treasurer; whereas, the second provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court.** In Section 195, it is the written protest with the local treasurer that constitutes the administrative remedy; while in Section 196, it is the written claim for refund or credit with the same office. As to form, the law does not particularly provide any for a protest or refund claim to be considered valid. It suffices that the written protest or refund is addressed to the local treasurer expressing in substance its desired relief. The title or denomination used in describing the letter would not ordinarily put control over the content of the letter.
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> Obviously, **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. Should the taxpayer find the assessment to be erroneous or excessive, he may contest it by filing a written protest before the local treasurer within the reglementary period of sixty (60) days from receipt of the notice; otherwise, the assessment shall become conclusive.** The local treasurer has sixty (60) days to decide said protest. In case of denial of the protest or inaction by the local treasurer, the taxpayer may *appeal* with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable.
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> On the other hand, **Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment.** By necessary implication, the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive period but before the judicial action.
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> **Unlike Section 195, however, Section 196 does not expressly provide a specific period within which the local treasurer must decide the written claim for refund or credit. It is, therefore, possible for a taxpayer to submit an administrative claim for refund very early in**

[47] G.R. No. 196681, June 27, 2018.

> **the two-year period and initiate the judicial claim already near the end of such two-year period due to an extended inaction by the local treasurer. In this instance, the taxpayer cannot be required to await the decision of the local treasurer any longer, otherwise, his judicial action shall be barred by prescription.**
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> Additionally, **Section 196 does not expressly mention an assessment made by the local treasurer. This simply means that its applicability does not depend upon the existence of an assessment notice. By consequence, a taxpayer may proceed to the remedy of refund of taxes even without a prior protest against an assessment that was not issued in the first place. This is not to say that an application for refund can never be precipitated by a previously issued assessment, for it is entirely possible that the taxpayer, who had received a notice of assessment, paid the assessed tax, fee or charge believing it to be erroneous or illegal. Thus, under such circumstance,** ***the taxpayer may subsequently direct his claim pursuant to Section 196 of the LGC.***
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> To stress, **where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund *at any time* within the full period of two years from the date of payment as Section 196 may suggest. If refund is pursued, the taxpayer must administratively question the validity or correctness of the assessment in the 'letter-claim for refund' *within 60 days from receipt of the notice of assessment*, and thereafter bring suit in court *within 30 days from either decision or inaction* by the local treasurer.**
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> **Simply put, there are two conditions that must be satisfied in order to successfully prosecute an action for refund in case the taxpayer had received an assessment. *One*, pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund. *Two*, bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.** *(Emphases and underscoring added)*

Moreover, in *International Container Terminal Services, Inc. vs. The City of Manila, et al.* (*"ICTSI"* case),[48] the Supreme Court further clarified what differentiates Sections 195 and 196 of the LGC of 1991, and that a "notice of assessment" is required under Section 195, while the same is not a precondition under Section 196, to wit:

> **If the taxpayer receives an <u>assessment</u> and does not pay the tax, its remedy is strictly confined to Section 195 of the Local Government Code.** Thus, it must file a written protest with the local treasurer within 60 days from the receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent jurisdiction within 30 days from

[48] G.R. No. 185622, October 17, 2018.

receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest. In this case, as no tax was paid, there is no claim for refund in the appeal.

If the taxpayer opts to pay the assessed tax, fee, or charge, it must still file the written protest within the 60-day period, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer. In its court action, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid. 'Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer.'

On the other hand, **if no assessment notice is issued by the local treasurer, and the taxpayer claims that it erroneously paid a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him, then Section 196 applies**.

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What determines the appropriate remedy is the local government's basis for the collection of the tax. 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.' In *Yamane v. BA Lepanto Condominium Corp.*:

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No such precondition is necessary for a claim for refund pursuant to Section 196.

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The 'assessments' from the fourth quarter of 1999 onwards were Municipal License Receipts; Mayor's Permit, Business Taxes, Fees & Charges Receipts; and Official Receipts issued by the Office of the City Treasurer for local business taxes, which must be paid as prerequisites for the renewal of petitioner's business permit in respondent City of Manila. While these receipts state the amount and nature of the tax assessed, they do not contain any amount of deficiency, surcharges, interests, and penalties due from petitioner. They cannot be considered the 'notice of assessment' required under Section 195 of the Local Government Code. *(Emphases and underscoring added)*

To be sure, Section 195 only finds application in cases where a notice of assessment is issued to the taxpayer, thereby presupposing the existence of a valid tax assessment.[49] Relative thereto, in *National Power Corporation*

[49] *Jose vs. Tigerway Facilities and Resources, Inc.*, G.R No. 247331, February 26, 2024.

vs. The Province of Pampanga, et al. (*"NPC"* case),[50] the Supreme Court elucidated on the significance of the taxing authority's duty to adequately inform the taxpayer of the factual and legal basis for the assessment. It held:

> Taxpayers' obligation for deficiency taxes cannot depend on a guessing game. **To stress, the taxpayer must not only be informed of what taxes it is liable to pay <u>and under what authority the obligation to pay is based</u>.** Equally important is that it must be advised how much is the pending tax liability and the period covered. **Without these particulars, taxpayers would be deprived of adequate opportunity to prepare for an intelligent appeal as they would have no way of determining what was considered by the taxing authority in making the assessment.** xxx
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> Tax assessments issued in violation of the due process rights of a taxpayer are null and void and of no force and effect. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution. xxx *(Emphases and underscoring added)*

Also, in *Jose vs. Tigerway Facilities and Resources, Inc.* (*"Tigerway"* case),[51] the Supreme Court ruled as follows:

> Pertinently, **Section 195 explicitly states that the notice of assessment must indicate the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests, and penalties.** In *Yamane v. BA Lepanto Condominium Corporation*, this Court clarified this requirement:
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>> Ostensibly, the notice of assessment, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax. Section 195 of the Local Government Code does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved but it does require that it state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties. In this case, the notice of assessment sent to the Corporation did state that the assessment was for business taxes, as well as the amount of the assessment. There may have been *prima facie* compliance with the requirement under Section 195. However in this case, the Revenue Code provides multiple provisions on business taxes, and at varying rates. Hence, we could appreciate the Corporation's confusion, as expressed in its protest, as to the exact legal basis for the tax. Reference to the local tax ordinance is vital, for the power of local government units to impose local taxes is

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[50] G.R. No. 230648, October 6, 2021.
[51] G.R. No. 247331, February 26, 2024.

> exercised through the appropriate ordinance enacted by the sanggunian, and not by the Local Government Code alone. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body.

Furthermore, in *National Power Corporation v. Province of Pampanga*, **this Court elucidated on the significance of the taxing authority's duty <u>to adequately inform the taxpayer of the factual and legal basis for the assessment</u>**, thus:

> Verily, **taxpayers must be informed of the nature of the deficiency tax, fee, or charge, as well as the amount of deficiency, surcharge, interest, and penalty. Failure of the taxing authority to sufficiently inform the taxpayer of the facts and law used as bases for the assessment will render the assessment void.** In *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, albeit involving national internal revenue taxes, the Court explained the importance of the notice requirement with due regard to the taxpayers' constitutional rights, to wit:
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>> The rationale behind the requirement that taxpayers should be informed of the facts and the law on which the assessments are based conforms with the constitutional mandate that no person shall be deprived of his or her property without due process of law. Between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.
>>
>> The purpose of the written notice requirement is to aid the taxpayer in making a reasonable protest, if necessary. Merely notifying the taxpayer of his or her tax liabilities without details or particulars is not enough.
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>> *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, held that a final assessment notice that only contained a table of taxes with no other details was insufficient: x x x
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>> Any deficiency to the mandated content of the assessment or its process will not be tolerated. x x x
>>
>> xxx xxx xxx
>>
>> A final assessment notice provides for the amount of tax due with a demand for

> payment. This is to determine the amount of tax due to a taxpayer. However, due process requires that taxpayers be informed in writing of the facts and law on which the assessment is based in order to aid the taxpayer in making a reasonable protest. To immediately ensue with tax collection without initially substantiating a valid assessment contravenes the principle in administrative investigations 'that taxpayers should be able to present their case and adduce supporting evidence.' (Citations omitted; Emphasis in the original)
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> xxx xxx xxx (*Emphases and underscoring added)*

Based on the foregoing jurisprudential pronouncements, Section 195 of the LGC of 1991 requires that the notice of assessment must state the nature of the tax, fee, or charge, and the amounts of deficiency, surcharges, interests, and penalties. Furthermore, failure of the taxing authority to sufficiently inform the taxpayer of the facts and law used as bases for the assessment will render the assessment void.

In this case, a perusal of the subject Billing Statements[52] shows that the same were issued not as assessments of LBT, but as a prerequisite for the issuance/renewal of respondent's business permits for CYs 2018 and 2019. The said Billing Statements do not contain any information about the facts and law upon which the supposed assessment is based. There is also no showing that petitioner made a finding that respondent failed to pay correct taxes, fees, or charges, and that petitioner subsequently issued to respondent a notice of assessment, stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties.

Thus, the RTC of Taguig City – Branch 153 correctly found that the subject Billing Statements issued to respondent are not the notices of assessment under Section 195 of the LGC of 1991. Hence, Section 196 governs respondent's claim for refund of the LBT paid in CYs 2018 and 2019.

With regard to the *Pascor* case relied upon by petitioner, the Court finds the same inapplicable to the present case, as there is a whale of a difference between the two cases.

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[52] Exhibits "D" and "E", RTC Docket (Civil Case No. 666), pp. 305 to 306.

For one, *Pascor* case involves a criminal case for tax evasion under the NIRC of 1997, as amended, while the case at bar pertains to a refund of an alleged erroneous payment of LBT.

Second, the main issue in the *Pastor* case is whether the revenue officers' Affidavit-Report, which was attached to the criminal complaint filed before the Department of Justice (DOJ), constituted an assessment that could be questioned before this Court, while one of the main issues in this case is, whether the Billing Statements issued by the City Treasurer of Taguig City are in the nature of notice of assessment, as contemplated by Section 195 of the LGC of 1991.

Third, in the *Pascor* case, the Complaint itself was specifically directed and sent to the DOJ and not to private respondents, which shows the intent of the Commissioner of Internal Revenue to file a criminal complaint for tax evasion, and not to issue an assessment, hence, the Affidavit-Report does not constitute an assessment. That is not so in the present case.

But even granting that this Court ought to consider the *Pascor* case as to the definition of what a *"notice of assessment"* is or what it should be, the jurisprudential pronouncements made by the Supreme Court in the *Cosmos*, *ICTSI*, *NPC*, and *Tigerway* cases, relative to the interpretation of Sections 195 and 196 of the LGC particularly on the existence of a *"notice of assessment"* as applied to local tax cases, cannot simply be ignored or brushed away.

As such, petitioner cannot simply invoke the ruling in the *Pascor* case in justifying the imposition of the LBT against respondent.

Respondent complied with the prescriptive period for filing claims for refund of LBT as provided in Section 196 of the LGC.

Applying the above jurisprudential pronouncements and finding that the Billing Statements are not considered as the notices of assessment contemplated under Section 195 of the LGC, the applicable provision in this case in determining the timeliness of the filing of respondent's administrative and judicial claims for refund should only be Section 196 of the LGC.

To recall, as stated in Section 196 of the LGC, 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 and no case or proceeding shall be entertained in any court after the expiration of two years from the date of payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit. Notably, nowhere from the said provision can one find the requirement that the judicial claim must be filed "**within 30 days from the inaction of the Petitioner on its administrative claim for refund**",[53] contrary to the claim of petitioner, as Section 196 does not expressly provide a specific period within which the local treasurer must decide the written claim for refund or credit. Thus, respondent's judicial claim need not be filed within 30 days from the decision or inaction of petitioner.

In this case, it is shown that respondent paid the LBT on the subject Billing Statements to the City of Taguig on January 20, 2018[54] and on January 19, 2019.[55] Counting two years from the said dates, respondent had until (1) January 20, 2020, for the Billing Statement issued in 2018; and, (2) January 19, 2021, for the Billing Statement issued in 2019, to file its administrative and judicial claims for refund, with the administrative claim for refund initiated first before the judicial claim. Notably, respondent's administrative claim for refund was filed on September 25, 2019[56] before the Office of the City Treasurer, and the judicial claim for refund was filed before the Court *a quo* on January 20, 2020.[57] Hence, the RTC of Taguig City – Branch 153 correctly ruled that respondent's administrative and judicial claims for refund were both filed within the two-year prescriptive period. Had respondent waited for the decision of petitioner on its administrative claim, its judicial action would have been barred by prescription, pursuant to Section 196 of the LGC.

The Court* a quo *was correct in granting the refund to respondent

Petitioner submits that the Court *a quo*, the RTC of Taguig City – Branch 153, transgressed on the police and taxing powers of the City Government of Taguig because it disregarded the fact that the subject LBT assessments are not only sources of revenue of the City Government of Taguig but also license fees so that respondent could validly operate its business therein.[58] Petitioner continues that the lower court exempted respondent from payment of the LBT for CYs 2018 and 2019 and completely ignored the categorical admissions of the latter in its pleadings and during the *ex-parte* presentation of its evidence that it is a holding company. Petitioner, thus, insists that respondent, as a holding company, is liable to pay the LBT under Section 17, Ordinance No. 34, Series of 2017,

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[53] Par. 40, *Memorandum (For the Petitioner),* Docket, p. 141.
[54] Exhibit "F", RTC Docket (Civil Case No. 666), p. 307.
[55] Exhibit "G", RTC Docket (Civil Case No. 666), p. 308.
[56] Exhibit "C", RTC Docket (Civil Case No. 666), pp. 284 to 290.
[57] RTC Docket (Civil Case No. 666), pp. 4 to 8.
[58] Par. 52, *Memorandum (For the Petitioner),* Docket, p. 147.

which amended Section 75 of the Revenue Code of Taguig City, as amended.[59]

On the other hand, regarding the issue of its liability to pay LBT pursuant to Section 17 of Ordinance No. 34, Series of 2017 of Taguig City, respondent claims that this issue, raised as a counterclaim in petitioner's belatedly filed Answer, should be barred because petitioner was already declared in default in the Court's Order dated December 9, 2020.[60] Moreover, respondent stresses that petitioner failed to issue any notice of assessment to collect the business tax and did not allege that it complied with the requirements of Section 195 of the LGC to collect the tax under the said Ordinance.[61] It further contends that making respondent liable without a necessary assessment notice will violate its right to due process of law.[62]

Respondent also argues that the LGC provides that dividends and interest income are not subject to LBT unless levied against banks and other financial institutions. Being a holding company, respondent avers that it is certainly not liable to pay LBT on dividend income.[63]

This Court again agrees with respondent.

We find that the RTC of Taguig City – Branch 153, in ruling against petitioner, did not encroach upon the police and taxing powers of the City Government of Taguig, because its ruling was duly supported by law and jurisprudential doctrine, as shown in the pertinent portions of the assailed Decision,[64] to wit:

> In *City of Davao v. Randy Allied Ventures, Inc.*,[65] the Supreme Court distinguished a holding company from a financial intermediary for purposes of local business taxation, as follows:
>
>> There is a stark distinction between a holding company and a financial intermediary as contemplated under the LGC, in relation to other laws. A 'holding company' is 'organized' and is basically conducting its business by investing substantially in the equity securities of another company for the purpose of controlling their policies (as opposed to directly engaging in operating activities) and 'holding' them in a conglomerate or umbrella structure along with other subsidiaries.' While holding companies may partake in investment activities, this does not per se qualify them as financial intermediaries

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[59] Pars. 53 and 56, *Memorandum (For the Petitioner),* Docket, pp. 147 to 148.
[60] Pars. 26 to 27, respondent's *Memorandum*, Docket, pp. 117 to 118.
[61] Par. 28, respondent's *Memorandum*, Docket, p. 118.
[62] Par. 29, respondent's *Memorandum*, Docket, p. 118.
[63] Par. 30, respondent's *Memorandum*, Docket, p. 118.
[64] Decision dated July 26, 2024, RTC Docket (Civil Case No. 666), at pp. 526 to 529.
[65] G.R. No. 241697, July 29, 2019.

> that are actively dealing in the same. Financial intermediaries are regulated by the BSP because they deal with public funds when they offer quasi-banking functions. On the other hand, a holding company is not similarly regulated because any investment activities it conducts are mere incidental operations, since its main purpose is to hold shares for policy-controlling purposes.

Moreover, 'banks and other financial institutions' are defined under the same Code as to 'include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder.'

Whereas, a 'holding company' is 'organized' and is basically conducting its business by investing substantially in the equity securities of another company for the purpose of controlling their policies (as opposed to directly engaging in operating activities) and 'holding' them in a conglomerate or umbrella structure along with other subsidiaries.' While holding companies may partake in investment activities, this does not per se qualify them as financial intermediaries that are actively dealing in the same. Financial intermediaries are regulated by the BSP because they deal with public funds when they offer quasi-banking functions. On the other hand, a holding company is not similarly regulated because any investment activities it conducts are mere incidental operations, since its main purpose is to hold shares for policy controlling purposes.

Further, *Bureau of Local Government Finance Opinion* dated February 22, 2011 is enlightening on the matter, to wit:

> It is clear from [Section I 43(f) of the LGC] that unless imposed on banks and other financial institutions, any tax imposed on interest, dividends, and gains from sale of shares of non-bank and non-financial institutions assume the nature of income tax. The reason for this is evident: while banks and other financial institutions derive gross receipts in the ordinary course of their business as financial institutions, the same cannot be said for non-bank and non-financial institutions. As to the latter, interest, dividends, and gains from sale of shares are merely passive investment income.

A perusal of the records of this case, shows that plaintiff is neither a bank nor other financial institution. Plaintiff is a holding company. The defendant collected the tax based on the dividend income earned by plaintiff in 2018 and 2019. The plaintiff received dividends from Dacon Corporation. The plaintiff holds 12.46% of the entire capital stock of said corporation. The dividends were received by virtue of the Company holding shares of stock in said corporation. Hence, they are merely passive investment income.

As above-stated, the primary test is regularity of function, not on an isolated basis, with the end in mind for self-profit.

> Verily, the 'power to purchase and sell real and personal property, including shares,' and 'to receive dividends thereon,' are common provisions to all corporations, including holding companies like the plaintiff which undertake investments. The mere fact that a holding company makes investments does not *ipso facto* convert it to an non-bank financial intermediary. Otherwise, there would be absolutely no distinction between a mere holding company and financial intermediaries.

Moreover, as emphasized in the assailed Decision, cities and municipalities may impose LBT on dividends and interest income only when they pertain to the gross receipts of banks and other financial institutions. A holding company does not become a non-bank financial intermediary by its mere receipt of dividends or interest income from investments, *viz.*:

> Finally, the ruling of the Supreme Court in the more recent case of *The City Treasurer of Makati vs. Michigan Holdings, Inc.*, is very instructive, *viz:*
>
>> Based on the foregoing, cities and municipalities are authorized by the law to impose LBT on dividends and interest income **only when** they pertain to the gross receipts of banks and other financial institutions. In this case, however, the parties admit that respondent is a holding company. Further, there is no showing that respondent is authorized by the BSP to perform quasi-banking activities or that respondent is actually engaged in the above-enumerated activities in a regular and recurring basis. In other words, based on the submissions of the parties, respondent cannot be considered a non-bank financial intermediary whose dividends and interest income are subject to LBT under Section 143(±) of the LGC. **As such, petitioner cannot assess and collect from respondent LBT on its dividends**. By doing so, petitioner is effectively imposing on respondent not a tax on the privilege to do business within its territorial jurisdiction, but a tax on the income itself, which Section 133(a) of the LGC explicitly prohibits.
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>> x x x x x x x x x
>>
>> x x x x x x x x x
>>
>> Applying the foregoing ruling to the present case, respondent - **a holding company - does not become a non-bank financial intermediary by its mere receipt of dividends or interest income from investments**. As discussed, there is no indication in this case that respondent is 'doing business' as a bank or other financial institution. Consequently, respondent **cannot be treated as such and be assessed for LBT on its dividends and interest income derived from passive investments**.
>>
>> In sum, while respondent may be subject to LBT on its gross receipts derived from the conduct of its principal

> trade or business, its dividend and interest income derived from investment on shares of stock and other money market placements are not subject to LBT because it is neither a bank nor a non-bank financial intermediary, (emphasis supplied).
>
> In sum, therefore, since the plaintiff is not a bank or other financial institution, it cannot be held liable for LBT.

Unlike the national government, local government units have no inherent power to tax. They merely derive the power from Article X, Section 5 of the 1987 Constitution. Consistent with this provision, the LGC was enacted to give each local government unit (LGU) the power to create its own source of revenue and to levy taxes, fees, and charges subject to statutory guidelines and limitations.[66]

Additionally, it is clear that Section 129 of the LGC empowers each LGU to create its own sources of revenue and to levy taxes, fees, and charges, subject to the provisions of the said Code and consistent with the basic policy of local autonomy.

In other words, the power of an LGU to impose or levy taxes cannot go beyond the limitations set forth by the provisions of the LGC.

The power of a municipality and city to impose business taxes finds basis under Section 143 (e) and (f), *inter alia*, in relation to Section 151, both of the LGC, to wit:

> SEC. 143. *Tax on Business.* — **The municipality may impose taxes on the following businesses**:
>
> 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
Less than 5,000.00		27.50
P5,000.00 or more but less than	10,000.00	61.60
10,000.00 or more but less than	15,000.00	104.50
15,000.00 or more but less than	20,000.00	165.00
20,000.00 or more but less than	30,000.00	275.00
30,000.00 or more but less than	40,000.00	385.00
40,000.00 or more but less than	50,000.00	550.00
50,000.00 or more but less than	75,000.00	880.00
75,000.00 or more but less than	100,000.00	1,320.00

[66] *City of Cagayan De Oro vs. Cagayan Electric Power & Light Co., Inc. (CEPALCO)*, G.R. No. 224825, October 17, 2018.

100,000.00 or more but less than	150,000.00	1,980.00
150,000.00 or more but less than	200,000.00	2,640.00
200,000.00 or more but less than	250,000.00	3,630.00
250,000.00 or more but less than	300,000.00	4,620.00
300,000.00 or more but less than	400,000.00	6,160.00
400,000.00 or more but less than	500,000.00	8,250.00
500,000.00 or more but less than	750,000.00	9,250.00
750,000.00 or more but less than	1,000,000.00	10,250.00
1,000,000.00 or more but less than	2,000,000.00	11,500.00
2,000,000.00 or more		at a rate not exceeding fifty percent (50%) of one percent (1%)

(f) **On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts** of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, **dividends**, rentals on property and profit from exchange or sale of property, insurance premiums. *(Emphases added)*

SEC. 151. *Scope of Taxing Powers.* — Except as otherwise provided in this Code, **the city, may levy the taxes, fees, and charges which the province or municipality may impose**: xxx

The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes. *(Emphases added)*

Thus, a city, such as the City of Taguig, may tax: (1) contractors and other independent contractors pursuant to the graduated rates under Section 143(e); and, (2) banks and other financial institutions, at a rate by not more than 50% of that allowed a municipality to impose, *i.e.*, 50% of one percent on the gross receipts, under Section 143(f).

Pursuant to this taxing power, the City of Taguig adopted Ordinance No. 34, Series of 2017,[67] imposing LBT on holding companies, the pertinent portions of which are quoted hereunder, to wit:

Section 17. TAX ON HOLDING COMPANIES – Section 75 of the Revenue Code of Taguig of 1993, as amended, is hereby amended to include subsection o):

'o) Dividend income received by holding companies from their investments in shares of stocks or interests in other companies shall be taxed at a rate of five percent (5%) of one percent (1%). Said amount of dividend income derived by a holding company as a result of a declaration of

[67] AN ORDINANCE AMENDING CERTAIN PROVISIONS OF ORDINANCE NO. 24, SERIES OF 1993 OTHERWISE KNOWN AS "THE REVENUE CODE OF TAGUIG" AS AMENDED, AND ADOPTING THE NEW RATES OF BUSINESS AND OTHER TAXES PRESCRIBED UNDER THIS ORDINANCE.

> dividends shall be taxed only once; such that, subsequent declaration of the same dividend income to its parent holding company or companies also within the jurisdiction of City of Taguig shall not be further taxed.
>
> Receipts other than such dividend income of holding companies shall be taxed according to the business classification of its sources.

However, Section 133(a) of the LGC expressly provides that the taxing powers of cities shall not extend to the levy of income tax, except when levied on banks and other financial institutions. In relation thereto, Section 143(f) of the LGC expressly allows local taxation on banks and other financial institutions on their income from dividends, based on the preceding calendar year's gross receipts.

Moreover, Bureau of Local Government Finance (BLGF) Memorandum Circular No. 01-001-2017,[68] addressed to all provincial, city and municipal treasurers, and assistant treasurers, among others, states:

> It has come to the attention of this Bureau of reported erroneous assessment of taxes and fees in the local governments during the registration and renewal of business permits and licenses. In order to ease the process and prevent undue harassment on the part of the taxpayers, all concerned are reminded of the following:
>
> xxx xxx xxx
>
> **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 taxpayers 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. If applicable, **the following shall not form part of the gross sales or receipts**:
>
> xxx xxx xxx
>
> iii. Passive income, i.e., interest, **dividends**, and gains from sale of shares; and
>
> xxx xxx xxx *(Emphases added)*

[68] SUBJECT: Reminders in the Assessment of the Local Business Tax (LBT), Registration and Renewal of Business Permits and Licenses and Payment of Community Tax.

As can be gleaned from the foregoing provisions and BLGF Memorandum Circular No. 01-001-2017, dividends do not form part of a taxpayer's gross sales or receipts. Corollarily, the imposition of LBT on respondent's gross dividend income directly contravenes the limitations cited above.

All told, We find no compelling reason to disturb the findings of the Court *a quo* that respondent is indeed entitled to its claim for LBT refund.

Moreover, contrary to petitioner's claim, the Court *a quo* did not exempt respondent from paying LBT. It merely ruled that, because respondent is not categorized as a bank or other financial institution, it cannot be held liable for LBT on its dividend income. Thus, the Court *a quo* correctly ordered petitioner to refund respondent the LBT that it erroneously paid.

Respondent, however, is not entitled to interest and attorney's fees

In its *Memorandum*, respondent avers that since it has been duly established that petitioner is liable to refund to respondent the total amount of ₱653,099.81, representing LBT erroneously paid, petitioner should likewise be held liable to pay six percent of the amount claimed from the time of filing the Complaint until its full payment.[69]

Claiming also that due to petitioner's refusal to refund the LBT that he illegally collected, respondent was accordingly constrained to engage the services of counsel to protect its interest for a fee of ₱100,000.00 plus ₱5,000.00 for every court hearing attended, and, thus, it is but just that the attorney's fees be awarded to respondent.

Respondent's arguments are untenable.

In the *Tigerway* case, the Supreme Court ruled that interest on tax refunds is only permissible when authorized by law or in instances where the tax collection was attended by arbitrariness, to wit:

> However, upon further scrutiny of the records, this Court finds that **the award of legal interest on the refund is unwarranted. It is settled that interest on tax refunds is only permissible when authorized by law or in instances where the tax collection was attended by arbitrariness. 'Arbitrariness presupposes inexcusable or obstinate**

[69] Pars. 31 to 32, respondent's *Memorandum*, Docket, pp. 118 to 119.

> **disregard of legal provisions.'** These conditions are notably absent in the present case.
>
> Here, **we find neither a legal basis for the imposition of interest on tax refunds nor any indication of arbitrariness in the collection of the tax. Indeed, '[a]n action is not arbitrary when exercised honestly and upon due consideration where there is room for two opinions, however much it may be believed that an erroneous conclusion was reached.'** Everything considered, the imposition of interest should be set aside. *(Emphases added)*

Given that no law clearly or expressly directs the payment of interest on LBT refunds and that there is no indication that the collection of the LBT sought to be refunded was arbitrary, the award of legal interest is unwarranted.

As for respondent's alleged entitlement to attorney's fees on the ground that it was constrained to engage the services of counsel to protect its interest, the Supreme Court, in the case of *Philippine National Construction Corporation vs. Apac Marketing Corporation*,[70] explained why attorney's fees are not awarded every time a party wins a suit, to wit:

> Article 2208 of the New Civil Code of the Philippines states the policy that should guide the courts when awarding attorney's fees to a litigant. As a general rule, the parties may stipulate the recovery of attorney's fees. In the absence on such stipulation, this article restrictively enumerates the instances when these fees may be recovered, to wit:
>
> > Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:
> >
> > xxx xxx xxx
> >
> > (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
> >
> > xxx xxx xxx
> >
> > (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
> >
> > xxx xxx xxx
> >
> > (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

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[70] G.R. No. 190957, June 5, 2013.

> In all cases, the attorney's fees and expenses of litigation must be reasonable.

In *ABS-CBN Broadcasting Corp. v. CA*, this Court had the occasion to expound on the policy behind the grant of attorney's fees as actual or compensatory damages:

> (T)he law is clear that in the absence of stipulation, attorney's fees may be recovered as actual or compensatory damages under any of the circumstances provided for in Article 2208 of the Civil Code.
>
> **The general rule is that attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. They are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 demands factual, legal, and equitable justification. Even when a claimant is compelled to litigate with third persons or to incur expenses to protect his rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.**

In *Benedicto v. Villaflores*, we explained the reason behind the need for the courts to arrive upon an actual finding to serve as basis for a grant of attorney's fees, considering the dual concept of these fees as ordinary and extraordinary:

> It is settled that the award of attorney's fees is the exception rather than the general rule; **counsel's fees are not awarded every time a party prevails in a suit because of the policy that no premium should be placed on the right to litigate. Attorney's fees, as part of damages, are not necessarily equated to the amount paid by a litigant to a lawyer.** In the ordinary sense, attorney's fees represent the reasonable compensation paid to a lawyer by his client for the legal services he has rendered to the latter; while in its extraordinary concept, they may be awarded by the court as indemnity for damages to be paid by the losing party to the prevailing party. Attorney's fees as part of damages are awarded only in the instances specified in Article 2208 of the Civil Code. **As such, it is necessary for the court to make findings of fact and law that would bring the case within the ambit of these enumerated instances to justify the grant of such award, and in all cases it must be reasonable.**

We can glean from the above ruling that attorney's fees are not awarded as a matter of course every time a party wins. We do not put a premium on the right to litigate. On occasions that those fees are awarded, the basis for the grant must be clearly expressed in the decision of the court. *(Emphases added)*

It can, thus, be inferred from the foregoing that the award of attorney's fees is the exception rather than the general rule. In this case, apart from the Court *a quo*'s failure to make findings of fact and law that would bring the case within the exception, there was likewise no bad faith on the part of petitioner, as he merely relied on the provision of Section 17, Ordinance No. 34, Series of 2017 of Taguig City, albeit erroneously, when he demanded that respondent pay the subject LBT. Thus, the Court finds no reason to award attorney's fees in favor of respondent.

WHEREFORE, in light of the foregoing considerations, the present **Petition for Review** dated November 4, 2024 is **DENIED** for lack of merit.

Accordingly, the Decision dated July 26, 2024, and the Order dated September 6, 2024, both rendered by the RTC of Taguig City – Branch 153, in Civil Case No. 666, are **AFFIRMED *in toto***.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
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