REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

TEAM ENERGY CORPORATION,
Petitioner,

-versus-

THE MUNICIPALITY OF PAGBILAO, SHIERRE ANN PORTES-PALICPIC, in her capacity as Municipal Mayor of the Municipality of Pagbilao, CORAZON H. ENCENAREZ, in her capacity as Acting Municipal Treasurer of the Municipality of Pagbilao, and/or RIZALINO P. TIÑA, in his capacity as Assistant Municipal Treasurer of the Municipality of Pagbilao,
Respondents.

CTA AC NO. 255

Members:

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

Promulgated:

MAY 31 2024
11:50 a.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is the *Motion for Reconsideration* filed by respondents on April 21, 2024 through registered mail, with petitioner's *Comment / Opposition (on Respondents' Motion for Reconsideration)*.

Respondents' motion assails the Court's decision, which *partially granted* the petition, *reversed and set aside* the order of the court *a quo* and *remanded* the case for further proceedings on the merits. Specifically, respondents state that the 2019 and 2020 *Statements of Accounts* (SOAs) followed by subsequent letters of communication between the parties *substantially* apprised petitioner of the factual and legal basis of its Local Business Tax (LBT) assessments. Hence, the 2019 and 2020 SOAs are the notices of assessments contemplated in Section 195 of the Local Government Code (LGC) which triggered the application of the same provision in this case. Furthermore, considering the respondents' *substantial compliance* in issuing the SOAs as notices of assessments, Section 195 and 196 are operative in this case. Finally, respondents claim that petitioner failed to comply with the twin requirements under Section 195 rendering its claim for refund baseless.

Petitioner, on the other hand, states that the 2019 and 2020 SOAs and respondent Treasurer's reply letters did *not* substantially apprise it of the factual and legal basis for the LBT assessments and, thus, *cannot* be considered "notices of assessment" contemplated in Section 195. In short, a taxpayer seeking to refund erroneously or illegally collected taxes from Local Government Units (LGUs) under Section 196 is required to comply with the periods prescribed in Section 195 only if the LGU issued a "notice of assessment". If no "notice of assessment" was issued, then only Section 196 will apply.

The motion *lacks* merit.

First, the language of Section 195 of the LGC is clear enough to be understood. It specifies the details that must be contained in the notice of assessment in order to sufficiently apprise a taxpayer of what is still due to the LGU:

> SECTION 195. *Protest of Assessment.* - <u>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*.</u> 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. (*Emphasis supplied*)

The 2019[1] and 2020[2] SOAs, when compared against this Section 195 requirement, clearly falls short of the same. Both SOAs do *not* demand payment

[1] Annex P-4 of the *Petition for Review*, Docket, p. 73.
[2] Annex P-9 of the *Petition for Review*, Docket, p. 91.

of any *deficiency* LBT, *surcharges*, *interests* and *penalties* that were found due from the petitioner as a result of an assessment by respondents:

ANNEX P-4

Republic of the Philippines
MUNICIPALITY OF PAGBILAO
Province of Quezon

OFFICE OF THE MUNICIPAL TREASURER

**STATEMENT OF ACCOUNT OF BUSINESS TAX OF
TEAM ENERGY CORPORATION
FOR THE YEAR 2019**

GROSS RECEIPTS		8,982,813,635.90
Mayors Permit		50,000.00
Sworn Statement		200.00
Sanitary Permit		250.00
Medical fee		50.00
Inspection Fee		50.00
Police Clearance Fee		50.00
Sticker		20.00
Garbage Fee		1,000.00
Business Tax	(Contractor) 1st Quarter	13,474,670.45
Sanitary Inspection Fee		500.00
		P 13,526,790.45

2nd Quarter	13,474,670.45
3rd Quarter	13,474,670.45
4th Quarter	13,474,570.45

Certified Correct:

RIZALINO P. TIÑA
Asst. Municipal Treasurer

ANNEX P-9

Republic of the Philippines
Province of Quezon
MUNICIPALITY OF PAGBILAO

OFFICE OF THE MUNICIPAL TREASURER

STATEMENT OF ACCOUNT OF BUSINESS TAX
of TeaM Energy Corp. (TEC)
For the Year 2020

GROSS RECEIPTS		P 9,392,332,617.72
		<u>Quarterly</u>
Mayor's Permit	P	50,000.00
Sworn Statement		200.00
Sanitary Permit		250.00
Medical Fee		50.00
Inspection Fee		50.00
Police Clearance Fee		50.00
Sticker/Bus Plate		20.00
Garbage Fee		200.00
Business Tax- contractor	P	14,088,948.92
Add: Sanitation Inspection Fee		<u>500.00</u>
TOTAL	P	<u>14,140,268.92</u>

Certified Correct:

CORAZON H. ENCENAREZ
Acting Municipal Treasurer

Rizal Street, Brgy. Sta. Catalina, Pagbilao, Quezon 4302
(042) 797-0298 | quick@pagbilao.gov.ph
pagbilao.gov.ph | facebook.com/pagbilaogov

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The Treasurer's reply letters dated January 23, 2019[3] and March 13, 2020[4] also do *not* provide details of the deficiency LBT, surcharges, interests and penalties or *any explanation on how the amounts in the SOAs were computed and the legal basis of the computations, if any.* These letters merely acknowledge the payments made by petitioner for the particular year and quarter and state that the LGC "does not provide for payments under protest of local business taxes." Accordingly, the SOAs and reply letters *cannot* be considered "notices of assessment" or even substantial compliance thereof in order to trigger the application of the other provisions of Section 195.

[3] Annex P-6-A of the *Petition for Review*, Docket, p. 78.
[4] Annex P-11-A of the *Petition for Review*, Docket, p. 96.

Second, in order to aid a taxpayer in making a reasonable protest, *due process* dictates that it must be informed of the facts and the law on which the assessment is based. This is in keeping 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.[5]

Notices of assessments should be sufficiently informative to apprise the taxpayer of the legal basis of the tax. Specifically, reference to the local tax ordinance is *vital*, for the power of LGU to impose local taxes is 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.[6]

These SOAs that only contain a table of taxes *with no other details* is deficient in carrying out the function of informing the taxpayer of the factual and statutory basis of the tax.[7]

WHEREFORE, premises considered, respondents' *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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5 *Commissioner of Internal Revenue v. Fitness By Design, Inc.*, G.R. No. 215957, November 9, 2016.

6 *Yamane v. BA Lepanto Condominium Corporation*, G.R. No. 154993, October 25, 2005.

7 *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014.