REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

THE TREASURER OF THE CITY OF MANILA, Represented by its current in Charge of Office MARISA C. DE GUZMAN, Petitioner,	C.T.A. EB CASE NO. 867 (C.T.A. AC NO. 69)
	Present:
- versus -	DEL ROSARIO, *PJ* CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, *and* RINGPIS-LIBAN, *JJ.*
CHINA BANKING CORPORATION, Respondent.	Promulgated: SEP 2 7 2013 2:30 pm

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DECISION

***Fabon-Victorino, J.*:**

Not convinced, petitioner Treasurer of the City of Manila filed the instant Petition for Review dated February 17, 2012, assailing the Decision dated October 20, 2011 and the Resolution dated January 12, 2012, both rendered by the Court in Division which read as follows:

Decision dated October 20, 2011:

> **WHEREFORE**, the instant Petition for Review is hereby **GRANTED**. The Decision dated April 14, 2010 and Order dated

> August 9, 2010 rendered in the Civil Case No. 06-115494 are **REVERSED** and **SET ASIDE**. Accordingly, respondent, the Treasurer of the City of Manila, is hereby **ORDERED TO CANCEL THE ASSESSMENT** and **TO REFUND** to petitioner, China Banking Corporation, the amount of One Million Six Hundred Forty Four Thousand Eight Hundred Forty-Two Pesos & 84/100 (P1,644,842.84), plus interest, representing the erroneously paid local business taxes for first and second quarters of taxable year 2006.
>
> **SO ORDERED**.
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> Resolution dated January 12, 2012:
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> **WHEREFORE**, there having no new matters or issues advanced by respondent in its Motion which may compel this Court to reverse, modify or amend the Assailed Decision of the CTA Second Division, the instant **Motion for Reconsideration** is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**.

First, the undisputed facts.

Petitioner was the Treasurer of the City of Manila at the time the subject tax was imposed and paid, with office address at the Ground Floor of the City Hall of Manila.

Respondent, on the other hand, is a universal banking corporation, organized under the laws of the Philippines, with corporate office at 8745 Paseo de Roxas corner Villar Street, Makati City.

In January 2006, while respondent was in the process of renewing its local business permits, petitioner, without issuing a written assessment, informed respondent's Binondo Business Center (BBC) branch that the amount of

P5,388,799.58 in taxes, charges, and fees was due from it payable to the city government of Manila pursuant to Section 21 of the Manila City Ordinance 7988, otherwise known as the Manila Revenue Code (MRC).

The amount of P5,338,799.58 included tax on respondent as a commercial bank in the amount of P1,973,811.40, and tax due pursuant to Section 21 of Manila City Ordinance No. 7988 for its operations in BBC in the amount of P3,289,685.68. The total amount of P5,388,799.58 was to be paid on a quarterly basis, broken down, as follows:

	Total Amount Payable	**Section 21 Tax**
1st Quarter	P1,388,529.27	P822,421.42
2nd Quarter	P1,388,529.27	P822,421.42
3rd Quarter	P1,388,529.27	P822,421.42
4th Quarter	P1,388,529.27	P822,421.42
Total	**P5,338,799.58**	**P3,289,685.68**

On January 20, 2006, respondent's BBC branch paid under protest the amount of P1,388,529.27 for taxes and fees for the 1st quarter of 2006. On even date, respondent sent a letter to petitioner questioning the additional tax assessed under Section 21 of the MRC, stressing that it paid the amount due to avoid penalties or surcharges, and the threat of closure. In a subsequent letter dated February 20, 2006, respondent requested petitioner for the refund of the amount paid under protest.

On April 18, 2006, respondent's BBC branch again paid under protest the amount of P1,316,756.77 imposed as taxes and fees for the 2nd quarter of 2006 and filed with petitioner a letter similar in tenor as its January 20, 2006. On June 20, 2006, respondent sent petitioner a request to refund the amount paid under protest for the said quarter.

In the letter dated June 26, 2006, petitioner acknowledged receipt of respondent's letter of June 20, 2006 without resolving the latter's request for refund.

Petitioner merely stated that the imposition of Section 21 of the MRC does not constitute double taxation.

This prompted respondent to elevate the matter via a Petition for Review to the Regional Trial Court (RTC) on July 17, 2006. Respondent prayed for the refund of the local business taxes it paid under Section 21 of the MRC, as amended by City Ordinance No. 7988. Respondent likewise sought the cancellation of all assessments against it invoking the same provision.

After trial, the RTC rendered a Decision dated April 14, 2010, dismissing the case "for failure of respondent to establish a cause of action and for lack of merit." Subsequently, the RTC denied respondent's motion for reconsideration in the Order dated August 9, 2010.

Aggrieved, respondent appealed the ruling of the RTC to the Court in Division via a Petition for Review on October 7, 2010.

On October 20, 2011, the Court in Division promulgated the assailed Decision which was effectively affirmed when petitioner's motion for reconsideration was denied by the Court in Division in the Resolution dated January 12, 2012.

Hence, this Petition for Review before the Court *En Banc* with the following issues raised by petitioner, to wit:

1. The 2nd Division committed reversible error when it ruled that Ordinance No. 7988 and 8011 had no legal effect.
2. The 2nd Division gravely erred in ruling that registered business (sic) in the City of Manila that are already taxed under Section 19 may no longer be taxed under Section 21 as the same constitutes double taxation.
3. The 2nd Division gravely erred in not ruling that the amount paid by petitioner on January 20, 2006, which

> is an assessment for the first quarter of the year 2006 was already final and unappealable.

Petitioner posits that the taxes subject of the claim for refund were paid by respondent in January and April of 2006 or before the decision in the *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, et al.*[1] *(Coca Cola case),* invalidating Manila City Ordinance Nos. 7988 and 8011 was promulgated on June 27, 2006.

Since Ordinance Nos. 7988 and 8011 which enabled petitioner to impose business taxes on respondent under Section 21 of the MRC were valid at the time of the imposition and payment under protest by respondent, then it follows that such imposition and payment of the said business taxes now subject of the claim for refund were as well valid and legal and should not be adversely affected by the subsequent ruling in the *Coca Cola case.* Citing *Tan Beng v. City Sheriff of Manila,*[2] petitioner argues that retroactive invalidity is no longer followed in this jurisdiction.

Petitioner also finds the ruling that businesses in the City of Manila taxed under Section 19 of the MRC may no longer be taxed under Section 21 of the same Code for it constitutes double taxation flawed. According to petitioner, double taxation is not *per se* prohibited by law. Double taxation only becomes prohibited when it violates the equal protection clause of the Philippine Constitution or when it is not uniformly applied to members of the same class which are not obtaining in the present case. The City of Manila provides no exemption to any class who are liable for business tax under Section 21.

Further, there is no prohibited double taxation in the simultaneous imposition under Sections 19 and 21 of the MRC since the two provisions are distinct tax impositions. Section 21 is based on Section 143(h), while Section 19, on Section 143(f), both of the Local Government Code (LGC). Section 19 is the tax imposed on banks while Section 21 is

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[1] G.R. No. 156252, June 27, 2006.
[2] 83 SRCA 229, May 18, 1978.

the tax imposed on any other business not otherwise specified under Section 143(a) to (f) of the LGC. Moreover, the tax in Section 21 is imposed upon respondent as a business enterprise subject to excise, value-added or percentage taxes under the National Internal Revenue Code (NIRC), while Section 19 of the MRC covers the business of respondent as a bank. In other words, Sections 19 and 21 pertain to different objects and not of the same kind and character.

Petitioner as well argues that Section 21 is an indirect tax while the tax subject of the claim for refund had been collected by respondent as a mere withholding agent from its customers or end-users. *A fortiori*, respondent has no right to claim for refund of the taxes that it never paid in the first place.

Finally, respondent is already barred from assailing the assessment for the 1st quarter of 2006 which became final and executory when it failed to file its Petition for Review with the RTC within the 30-day period to appeal as mandated under Section 195 of the Local Government Code (LGC). Pursuant to the said provision, respondent had to wait for sixty (60) days from the date of payment of taxes under protest on January 20, 2006, or until March 21, 2006 for petitioner to act on the protest. There being no decision rendered on the protest, respondent had 30 days from March 21, 2006, or until April 20, 2006, to appeal the matter to the RTC. However, respondent belatedly filed its Petition for Review with the RTC on July 17, 2006, rendering the assessment for the 1st quarter of 2006 final and executory, thus, no longer appealable.

In rejecting petitioner's protestation, respondent counters that the simultaneous impositions under Sections 21 and 19 of the MRC had been invalidated when Ordinance Nos. 7988 and 8011 were declared null and void and without any legal effect by no less than the Final Arbiter in the case of *City of Manila, et al. vs. Coca-Cola Bottlers Philippines, Inc.*[3] That being the case, Ordinance Nos. 7988 and 8011 were deemed not to have existed thereby directly rejecting petitioner's argument that the imposition of business taxes

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[3] G.R. No. 181845, August 4, 2009.

in Section 21 on respondent, prior to the declaration of nullity, was valid and enforceable. Respondent posits that when a provision of law is declared null and void for being *ultra vires*, such law acquired no legal effect and conferred no rights from its inception.

Contrary to petitioner's claim, Sections 19 and 21 of the MRC are not distinct tax impositions and to impose them simultaneously constitutes double taxation. For Section 143(h) of the LGC, from which Section 21 was derived, states that those already taxed pursuant to Section 143(a) to (f), from which Section 19 was derived, can no longer be taxed under Section 143(h).

Further, petitioner's contention that the taxes collected pursuant to Section 21 of the MRC were indirect taxes which it merely collected from its customers is also fallacious. Allegedly, petitioner hinged this theory on Section 21 which states that "the tax shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter." Per respondent, the said paragraph in Section 21 applies to sub-section C - on the tax imposed on electronically transmitted communication services, while the sub-section applicable to respondent is sub-section A - on persons who sell goods and services in the course of trade or business. Since the paragraph which designates the tax imposed as an indirect tax pertains to sub-section C, and that sub-section A is the one applicable to respondent, then the business tax paid by respondent is not an indirect tax and can properly be the subject of refund, as correctly held by the Court in Division.

That the taxes paid by respondent is not an indirect tax is further supported by Section 130(c) of the LGC which states that "[T]he collection of local taxes, fees, charges and other impositions shall in no case be let to any private person." Evidently, local government units are prohibited from delegating the collection of taxes to any private person. Therefore, respondent cannot be designated as a withholding agent by the City of Manila to collect business tax pursuant to Section 21 of the MRC. This was the ruling of the Court in the case of *The Treasurer of the City of Manila vs. Unilever Philippines, Inc.*[4]

Lastly, respondent totally disagrees with the allegation that the Petition for Review was belatedly filed with the RTC in violation of Section 195 of the LGC. It argues that Section 196 and not 195 of the LGC is applicable to the instant case as held by the Court in Division in the assailed Decision for the said provision applies only when an assessment has been issued, which is not attendant in this case.

THE RULING OF THE COURT *EN BANC*

The arguments traded by the parties crystalize the real issues for the determination of the Court, as follows: (1) whether the City of Manila may validly impose Sections 19 and 21 of the Manila Revenue Code simultaneously against respondent; and (2) whether respondent is entitled to the refund sought.

Sections 19 and 21 of the MRC also known as City Ordinance No. 7794, respectively provide, as follows:

> SECTION 19. *Tax on Banks, Insurance Companies and Other Financial Institutions*. - A percentage tax is hereby imposed on banks and other financial institutions, at the rate of seventy-five percent (75%) of one percent (1%) on the gross receipts of the preceding calendar year derived from the interests, commissions and discounts from lending activities, income from financing leasing, dividends, rentals from property and profit from exchange or sale of property, insurance premium.

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[4] CTA AC No. 43, February 8, 2009.

SECTION 21. *Tax on Business Subject to the Excise, Value-Added or Percentage Taxes Under the NIRC.* — On any of the following businesses and articles of commerce subject to the excise, value-added or percentage taxes under the National Internal Revenue Code hereinafter referred to as NIRC, as amended, a tax of fifty percent (50%) of one percent (1%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed:

A) On persons who sell goods and services in the course of trade or business; and those who import goods whether for business or otherwise, as provided for in Sections 100 to 103 of the NIRC as administered and determined by the Bureau of Internal Revenue pursuant to the pertinent provisions of the said Code.

B) On the gross receipts of keepers of garages, cars for rent or hire driven by the lessee, transportation contractors, persons who transport passengers or freight for hire, and common carriers land, air or water, except owners of bancas and owners of animal-drawn two-wheel vehicle.

C) On the amount paid on every overseas dispatch, message or conversation transmitted from the Philippines by telephone, telegraph, telewriter exchange, wireless and other communication equipment services, except amounts paid by the government, its political subdivisions or instrumentalities; diplomatic services; public international organizations or any of their agencies based in the Philippines and news services.

The tax shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter.

D) Exciseable goods subject to VAT

(1) Distilled spirits
(2) Wines
(3) Tobacco products (other than cigarettes, cigar and chewing tobacco)
(4) Tobacco specially prepared for chewing
(5) Fireworks
(6) Cinematographic film
(7) Saccharine
(8) Coal and Coke
(9) Fermented liquor, brewer's wholesale price, excluding the ad valorem tax
(10) Automobiles, manufacturers or importers selling price
(11) Non-essential goods based on the wholesale price, net of excise tax and vat

(a) Jewelry, whether real or imitation, pearls, precious and semi-precious stones and imitation thereof; goods made of, or ornamented, mounted or fitted with precious metals or imitation thereof or ivory (not including surgical and dental instruments, silver-plated wares, frames or mounting for spectacles of eyeglasses, and dental gold or gold alloys and other precious metals used in filling, mounting or fitting of teeth.)
(b) Perfumes and toilet waters.

(c) Yacht and other vessels intended for pleasure or sports.

(12) Mineral products, based on actual market value of the annual gross output the time of removal

(E) Excisable goods not subject to vat

(1) Naptha when used as a raw material for production of petrochemical products

(2) Asphalt

PROVIDED, that all registered businesses in the City of Manila that are already paying the aforementioned tax shall be exempted from payment thereof. *(Emphasis supplied)*

The proviso in Section 21 of the MRC or Ordinance No. 7794, which exempt all registered businesses in the City of Manila already paying business tax from paying the imposition under this section was deleted when the City of Manila enacted City Ordinance No. 7988.

Subsequently however, Ordinance Nos. 7988, together with Ordinance No. 8011, was declared null and void for failure to comply with the publication requirement mandated under Section 188 of the LGC by no less than the Supreme Court in the case of *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, Liberty M. Toledo-City Treasurer and Joseph Santiago-Chief, Licensing Division,*[5] in this wise:

It is undisputed from the facts of the case that Tax Ordinance No. 7988 has already been declared by the DOJ Secretary, in its Order, dated 17 August 2000, as null and void and without legal effect due to respondents' failure to satisfy the requirement that said ordinance be published for three consecutive days as required by law. Neither is there quibbling

[5] G.R. No. 156252, June 27, 2006.

on the fact that the said Order of the DOJ was never appealed by the City of Manila, thus, it had attained finality after the lapse of the period to appeal.

Furthermore, the RTC of Manila, Branch 21, in its Decision dated 28 November 2001, reiterated the findings of the DOJ Secretary that respondents failed to follow the procedure in the enactment of tax measures as mandated by Section 188 of the Local Government Code of 1991, in that they failed to publish Tax Ordinance No. 7988 for three consecutive days in a newspaper of local circulation. From the foregoing, it is evident that **Tax Ordinance No. 7988 is null and void** as said ordinance was published only for one day in the 22 May 2000 issue of the Philippine Post in contravention of the unmistakable directive of the Local Government Code of 1991.

Despite the nullity of Tax Ordinance No. 7988, the court *a quo*, in the assailed Order, dated 8 May 2002, went on to dismiss petitioner's case on the force of the enactment of **Tax Ordinance No. 8011,** amending Tax Ordinance No. 7988. Significantly, said amending ordinance was **likewise declared null and void** by the DOJ Secretary in a Resolution, dated 5 July 2001, elucidating that *"[I]nstead of amending Ordinance No. 7988, [herein] respondent should have enacted another tax measure which strictly complies with the requirements of law, both procedural and substantive.* ***The passage of the assailed ordinance did not have the effect of curing the defects of Ordinance No. 7988 which, any way, does not legally exist.****"* Said Resolution of the DOJ Secretary had, as well, attained finality by virtue of the dismissal with finality by this Court of respondents' Petition for Review on *Certiorari* in G.R. No. 157490 assailing the dismissal by the RTC of Manila, Branch 17, of its appeal due to

> lack of jurisdiction in its Order, dated 11 August 2003.
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> Based on the foregoing, this Court must reverse the Order of the RTC of Manila, Branch 21, dismissing petitioner's case as there is no basis in law for such dismissal. The amending law, having been declared as null and void, in legal contemplation, therefore, does not exist. Furthermore, even if Tax Ordinance No. 8011 was not declared null and void, the trial court should not have dismissed the case on the reason that said tax ordinance had already amended Tax Ordinance No. 7988. As held by this Court in the case of *People v. Lim*, if an order or law sought to be amended is invalid, then it does not legally exist, there should be no occasion or need to amend it.

With the ruling declaring Ordinance No. 7988 as null and void, the exempting proviso in Section 21 of Ordinance No. 7794 was reinstated and remained effective and enforceable. Thus, the tax imposed under Section 21 of Ordinance No. 7794 upon the taxpayer who is already burdened under Section 19 became illegal as was the rule before the passage of the invalidated Ordinance No. 7988.

On the issue of whether double taxation in its permissible sense exists in this case, the Court of Last Resort, in the case of *The City of Manila, et al. vs. Coca-Cola Bottlers Philippines, Inc.*[6] has ruled that double taxation in its prohibited form indeed exists in this kind of case. Pertinent parts of the decision are quoted as follows:

> Double taxation means taxing the same property twice when it should be taxed only once; that is, 'taxing the same person twice by the same jurisdiction for the same thing.' It is obnoxious when the taxpayer is taxed twice, when it should be

[6] G.R. No. 181845, August 4, 2009.

but once. Otherwise described as 'direct duplicate taxation,' **the two taxes must be imposed on the same subject matter**, for the **same purpose**, by the **same taxing authority, within the same jurisdiction, during the same taxing period**; and the taxes must be **of the same kind or character**.

Using the aforementioned test, **the Court finds that there is indeed double taxation if respondent is subjected to the taxes under both Sections 14 and 21 of Tax Ordinance No. 7794, since these are being imposed: (1) on the same subject matter – the privilege of doing business in the City of Manila; (2) for the same purpose – to make persons conducting business within the City of Manila contribute to city revenues; (3) by the same taxing authority – petitioner City of Manila; (4) within the same taxing jurisdiction – within the territorial jurisdiction of the City of Manila; (5) for the same taxing periods – per calendar year; and (6) of the same kind or character – a local business tax imposed on gross sales or receipts of the business**.

The distinction petitioners attempt to make between the taxes under Sections 14 and 21 of Tax Ordinance No. 7794 is specious. The Court revisits Section 143 of the LGC, the very source of the power of municipalities and cities to impose a local business tax, and to which any local business tax imposed by petitioner City of Manila must conform. It is apparent from a perusal thereof that when a municipality or city has already imposed a business tax on manufacturers, *etc.* of liquors, distilled spirits, wines, and any other article of commerce, pursuant to Section 143(a) of the LGC, said municipality or city may no longer subject the same manufacturers, *etc.* to a business tax under Section 143(h) of the same Code. Section 143(h) may be

> imposed only on businesses that are subject to **excise tax, VAT, or percentage tax under the NIRC, and that are 'not otherwise specified in preceding paragraphs.'** In the same way, businesses such as respondent's, already subject to a local business tax under Section 14 of Tax Ordinance No. 7794 [which is based on Section 143(a) of the LGC], can no longer be made liable for local business tax under Section 21 of the same Tax Ordinance [which is based on Section 143(h) of the LGC]. (*Emphasis supplied*)

From the foregoing disquisition, it is evident that direct duplicate taxation indeed exists in this case. Respondent was taxed twice - first under Section 19, and second, under Section 21; for the same subject matter - on gross receipts derived from its business of operating a bank; by the same taxing authority - the City of Manila; within the same taxing jurisdiction - within the territorial jurisdiction of the City of Manila. Finally, respondent was taxed for the same taxing periods, for the 1st and 2nd quarters of year 2006.

Moreover, perusal of Section 143 of the LGC, the provision from which the power of cities and municipalities to impose local business tax emanates, will show that when a municipality or city imposes local business tax on a bank or financial institution pursuant to Section 143(f)[7], the same municipality or city may no longer subject the same bank or financial institution to local business tax under Section 143(h)[8] of the same Code. In the same manner, banks and financial institutions already made liable to local business

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[7] SECTION. 143. *Tax on Business.* – The municipality may impose taxes on the following businesses: xxx
(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 premium.

[8] (h) On any business, not otherwise specified in the preceding paragraphs, which the sanggunian concerned may deem proper to tax: *Provided*, That on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.
The Sanggunian concerned may prescribe a schedule of graduated tax rates but in no case to exceed the rates prescribed herein.

tax under Section 19 of the MRC, which is based on Section 143(f) of the LGC, may no longer be subjected to local business tax pursuant to Section 21 of the MRC, which is based on Section 143(h) of the LGC.[9]

In view of the foregoing, considering that the imposition of Section 21 simultaneous with Section 19 of the MRC constitutes prohibited double taxation, petitioner's contention that Ordinance Nos. 7988 and 8011 should be considered valid at least at the time prior to its nullification on June 27, 2006 in the *Coca-Cola case,*[10] cannot certainly be sustained.

The same is true with the allegation that the imposition for the 1st quarter of 2006, already paid by respondent, has become final and executory for failure to appeal the same to this Court within the 30-day period of appeal as provided in Section 195 of the LGC, hence, cannot be refunded.

Under the circumstances, Section 195 of the LGC[11] is not the law applicable in this case. A scrutiny of the provision reveals that it applies to cases where the taxpayer failed to pay the correct taxes, fees and charges, and the local treasurer issues a notice of assessment stating the deficiencies and the required payment, including the penalties and surcharges. Under those circumstances, the taxpayer is mandated to file a written protest with the local treasurer contesting the assessment and follow the procedure provided therein; otherwise, such assessment shall become final and executory.[12]

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[9] *China Banking Corporation vs. Hon. Liberty M. Toledo*, CTA AC Case No. 69, October 20, 2011 .

[10] G.R. No. 156252, June 27, 2006.

[11] SECTION. 195. *Protest of Assessment.* — When the local treasurer or his duly authorized representative finds that the 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-day (60) period prescribed herein within which to appeal with the court of competent jurisdiction, otherwise the assessment becomes conclusive and unappealable.

[12] *China Banking Corporation vs. Hon. Liberty M. Toledo*, CTA AC Case No. 69, October 20, 2011.

Clear from the record that petitioner did not issue any formal notice of assessment for the payment of unpaid taxes by respondent. Petitioner merely informed the latter, which was then applying for the renewal of its business permits and licenses, the amount due from it in taxes, charges and fees payable to the City Government of Manila. Said amount included the local business tax imposed by petitioner pursuant to Section 21 of the MRC, as amended by Manila City Ordinance No. 7988. Thus, the Court finds that the procedure and periods prescribed in Section 195 of the LGC inapplicable in the instant case.

Under the factual milieu, the more applicable provision is Section 196 of the LGC, which provides for the procedure and the period for claiming a refund or tax credit of local business taxes erroneously or illegally collected. It provides, thus:

> 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.

It is plain under the foregoing provision that respondent is not required to file a written protest. To pursue a claim for refund of erroneously or illegally collected local tax, fee, or charge, respondent needs only to comply with the following requirements, to wit:

1. to file a written claim for refund or tax credit with the local treasurer; and,

2. the case for refund has to be filed in court within two (2) years from the date of payment

of the tax, fee, or charge or from the date the taxpayer is entitled to a refund or credit.[13]

Evidence show that respondent paid the local business taxes due for the 1st and 2nd quarters of 2006 on January 20, 2006 and April 18, 2006, respectively. The written claims for refund of the taxes paid for the 1st and 2nd quarters of the year 2006 were respectively filed in February and June of 2006. Further, respondent filed its Petition for Review with the RTC of Manila on July 17, 2006.

In fine, respondent's claim for refund, both at the administrative and judicial levels, were filed within two (2) years from the date of payment of the taxes subject of the claim for refund, hence, both were seasonably filed.

WHEREFORE, the instant Petition for Review dated February 17, 2012 filed by The Treasurer of the City of Manila, is hereby **DENIED**, for lack of merit. Consequently, the assailed Decision dated October 20, 2011 as well as the Resolution dated January 12, 2012, both rendered by the Court in Division, are **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

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[13] *China Banking Corporation vs. City Treasurer of Manila*, CTA EB No. 182, July 27, 2006; *City of Manila, et al. vs. ACE Hardware Phils, Inc., et al.*, CTA AC No. 52, September 29, 2008.

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice