REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

THE GOLDEN LEGACY FINANCING CORPORATION,
Petitioner,

-versus-

CITY TREASURER OF QUEZON CITY (Hon. Edgar T. Villanueva) and LOCAL GOVERNMENT OF QUEZON CITY (represented by its City Mayor, Maria Josefina Tanya "Joy" Go Belmonte Alimurung),
Respondents.

CTA AC NO. 271

Members:

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

Promulgated:

NOV 18 2024 10:05 a.m.

x---x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution are the taxpayer's *Motion for Partial Reconsideration [Re: Decision dated 27 May 2024]* and respondents' *Motion for Reconsideration [To The Decision dated 27 May 2024]*, both filed on June 13, 2024, *with* taxpayer's *Comment / Opposition (Re: Motion for Reconsideration [To The Decision dated 27 May 2024]* filed on July 29, 2024 and without respondents' comment on the taxpayer's *Motion for Partial Reconsideration [Re: Decision dated 27 May 2024]*.[1]

On May 27, 2024, the Court issued a decision which partially granted the taxpayer's *Petition for Review*. The decision reversed the assailed *Judgment Based on the Pleading* and *Resolution* of the Regional Trial Court (RTC) Branch 77, Quezon City insofar as it dismissed the taxpayer's petition and did *not* rule on the issue of whether it is entitled to the refund being claimed. Furthermore, the Court *remanded* the case to the RTC for the proper resolution of said issue.

[1] Report of Records Division dated September 16, 2024.

In its motion, the taxpayer states that the Court erred when it decided to remand the case because it is within the Court's jurisdiction to rule on the correctness of the assessment under Republic Act No. 1123, as amended, Section 7(a)(3) in relation to Rule 4, Section 3(a)(3) of the Revised Rules of the Court of Tax Appeals. In addition, this case does not fall into the category of cases which require to be remanded to a trial court as the Court was in a position to resolve the dispute based on the records before it.

On the other hand, respondents argue that the Court should have *affirmed* the assailed judgement of the RTC since by application of Article 9, Section 23(3)(c) of the Quezon City Revenue Code (QCRC) it can settle that they were correct in issuing the assessment questioned by the taxpayer.

Finally, in its comment, the taxpayer states that respondents have no basis to pray for the modification of the assailed decision as the Court correctly found that the RTC did *not* rule on its refund entitlement based on the facts *admitted by the respondents.* More importantly, the taxpayer agrees with the Court that the constitutionality or legality of Article 9, Section 23(3)(c) of the QCRC does not *ipso facto* mean that the assessment anchored thereon was correct and its payments thereto were valid. The validity of a provision of tax ordinance and the validity of an *assessment* are distinct and separate issues.

Both motions must be denied.

As may be recalled, the RTC issued the assailed *Judgment Based on the Pleading* because the parties moved for the same.[2] Specifically, respondents clearly manifested in their *Position Paper* that they "neither dispute nor deny the factual allegations averred by Petitioner in its Petition nor the authenticity of the documents attached thereto. xxx Accordingly, the Honorable Court [RTC] has the authority to require the parties to submit their respective position papers and render judgement based thereon without the need to conduct a full-blown trial."[3] While admitting the taxpayer's factual allegations in its petition, respondents insist that the taxpayer is mounting a collateral attack on the validity of Article 9, Section 23(3)(c) of the QCRC.

Respondents' position is *unfounded.*

The petition filed by the taxpayer before the RTC[4] is anchored on Section 195 of the Local Government Code (LGC).[5]

---

[2] April 6, 2022 Pre-Trial Order of the RTC, RTC Docket, Vol. 2, p. 711.
[3] RTC Docket, Vol. 2, p. 632.
[4] RTC Docket, Vol. 1, pp. 1-2.
[5] SECTION 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 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 canceling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or

In respondents' *Position Paper*, they themselves admit that the petition was filed to *refund* the alleged erroneously *assessed* business taxes and noted that the taxpayer's prayer did *not* directly or expressly ask to declare the pertinent provisions of the QCRC unconstitutional.[6] In fact, respondents correctly observed that *no* mention has been made in the prayer or the body of the petition for such declaration of unconstitutionality.[7]

Even assuming for the sake of argument that the taxpayer indeed questioned the legality of the QCRC provision, Section 195 of the LGC does *not* enumerate or restrict a protest of assessment to specific grounds. Said section merely stipulates the procedure for filing the protest of assessment and the judicial recourse therefrom. It is silent with respect to the manner or basis of contesting the assessment. Thus, the taxpayer has the right to raise as an issue the constitutionality or legality of the tax ordinance, which became the respondents' basis of the disputed assessment.

In addition, the RTC, as the *trial* court which decided the case, is in the best position to sift through the facts of the case, as stipulated by the parties, and determine whether the taxpayer is entitled to the refund being claimed and, if so entitled, compute the amount to be refunded. In other words, the trial court must sift through evidence to make a proper determination of facts upon which to apply the law. Hence, the remand of the case.

Finally, in *H. Harry L. Roque, Jr., et al. v. Commission on Election, represented by Hon. Chairman Jose Melo, et al.*,[8] the Supreme Court *En Banc* ruled that whenever the issues raised have already been addressed and passed upon in the previous decision, and the motions failed to raise matters which are substantially plausible or compellingly persuasive enough to lead the Court to rule in favor of the desired course of action, then the same will be denied by the Court, thus:

> "Petitioners' above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed. and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again. xxx.
>
> xxx xxx xxx
>
> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered — and this should not be an obstacle for a reconsideration — the hard reality is that petitioners

---

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.

[6] RTC Docket, Vol. 2, p. 637.

[7] RTC Docket, Vol. 2, p. 638.

[8] G.R. No. 188456 (Resolution), February 10, 2010.

> have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> xxx xxx xxx
>
> WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED."

In this case, the other arguments raised in the motions have already been sufficiently threshed out in the assailed decision. The motions presented no other cogent reasons to disturb the findings and conclusions this Court made in said decision.

WHEREFORE, premises considered, the taxpayer's *Motion for Partial Reconsideration [Re: Decision dated 27 May 2024]* and respondents' *Motion for Reconsideration [To The Decision dated 27 May 2024]* are **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