REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

DOLE PHILIPPINES, INC.- STANFILCO DIVISION, Petitioner,	**CTA AC NO. 285** (RTC Civil Case No. 18-00176-CV)
vs.	*Present:*
THE SANGGUNIANG PANLUNGSOD OF THE CITY OF DAVAO, and the HON. SARA Z. DUTERTE-CARPIO and BELLA LINDA N. TANJILI, in their respective capacities as Mayor and Treasurer of the City of Davao, Respondent.	**RINGPIS-LIBAN**, *Chairperson*, **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.* Promulgated: OCT 02 2024 4:10 p.m.

x - x

DECISION

FERRER-FLORES, J.:

Before this Court is a *Petition for Review* filed on February 27, 2023,[1] filed by **petitioner Dole Philippines, Inc.- Stanfilco Division** against respondents **The Sangguniang Panlungsod Of The City Of Davao, and the Hon. Sara Z. Duterte-Carpio and Bella Linda N. Tanjili, in their respective capacities as Mayor and Treasurer of the City of Davao,** assailing the Decision dated September 27 2022 (*assailed Decision*)[2] and Order dated January 4, 2023, (*assailed Order*)[3] by the Regional Trial Court (RTC) of Davao City – Branch 16, in Civil Case No. R-DVO-18-01176-CV, the dispositive portions of which read as follows:

[1] Docket, pp. 5 to 51.
[2] *Id.*, at 55 to 65; RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 675 to 685.
[3] *Id.*, at 66; RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 712.

Assailed Decision:

WHEREFORE, premises considered, the Court hereby renders judgment DISMISSING the instant case.

SO ORDERED.

Assailed Order:

Despite the arguments raised in the ***"Motion for Reconsideration"***, the Court finds no cogent reason to alter, modify or set aside the assailed Decision dated September 27, 2022.

As such, the instant ***"Motion for Reconsideration"*** is hereby **DENIED**.

SO ORDERED.

Petitioner prays for the Court to: (1) reverse and set aside the assailed Decision and assailed Order; (2) nullify the Davao City Watershed Code for failure to comply with the procedural requirements to validly enact a tax ordinance or revenue measure under the Local Government Code of 1991 (LGC); (3) declare the collection of the Environmental Tax under Article 17 of the Davao City Watershed Code erroneous and illegal; (4) order the cancellation in full of the Environmental Tax Order of Payment against petitioner for taxable year 2018; (5) order the respondents to refund the amount of ₱3,324,825.00 to petitioner; or in the alternative, refund the amount of ₱1,312,500.00 in excess of the Environmental Tax assessed based on the Environmental Clearance Certificates (ECCs) on record and submissions with the Department of Environment and Natural Resources – Environmental Management Bureau (DENR-EMB); (6) order respondents to cease and desist from issuing further notices of assessment for Environmental Taxes based on the assailed provisions of the Watershed Code; and, (7) order respondents to pay attorney's fees and costs of suit.[4]

THE PARTIES

Petitioner Dole Philippines, Inc. is a domestic corporation duly organized and existing by virtue of and under the laws of the Republic of the Philippines with a Stanfilco Division (DOLE-Stanfilco) operating its business at Doña Socorro Street, Belisario Heights Subdivision, Lanang, Davao City.[5] Petitioner DOLE-Stanfilco is primarily engaged in the business of producing and exporting fresh bananas and other agricultural crops out of

[4] Prayer, *Petition for Review*, Docket, pp. 46 to 47.

[5] Par. 1, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer*, RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 3 and 92, respectively.

its offices in nine (9) zones in the province of Mindanao, one of which is the Calinan Zone located in Davao City.[6]

Respondent The Sangguniang Panlungsod of the City of Davao is the local legislative body empowered to enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the city.[7]

Respondent Hon. Sara Z. Duterte-Carpio is being sued in her capacity as Mayor of the City of Davao, who is mandated to enforce laws and ordinances relative to the governance of and the exercise of corporate powers by the city.[8]

Respondent Hon. Bella Linda N. Tanjili is being sued in her capacity as Treasurer of the City of Davao, and as such is tasked to collect all taxes and fees imposed by the city and is the custodian of its funds.[9]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On February 23, 2007, former Mayor Rodrigo R. Duterte approved the Watershed Code [Ordinance No. 0310-07], which was enacted by the Sangguniang Panlungsod on January 23, 2007.[10]

On December 28, 2017, petitioner received *Tax Orders of Payment* from the Office of the City Treasurer (OCT) pertaining to the Environmental Tax levied under Article 17 of the Watershed Code and its Implementing Rules and Regulations (IRR) as follows:[11]

---

6 Par. 1, Pre-Trial Order dated October 5, 2021, RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 203

7 Par. 2, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer*, RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 4 and 92, respectively.

8 Par. 3, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer*, RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 4 and 92, respectively.

9 Par. 4, The Parties, *Appeal*, *vis-à-vis* par. 2, *Answer*, RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 4 and 92, respectively.

10 Par. 6, *Appeal*, *vis-à-vis* par. 2, *Answer*, RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 4 and 92, respectively; Exhibit "E", RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 57 to 60.

11 Par. 2, Pre-Trial Order dated October 5, 2021, RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 203; Exhibits "C-1" to "C-4", RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 441 to 444, respectively.

ADDRESS	KIND OF TAX	LAND AREA (in HECTARES)	SQUARE METERS	ANNUAL TAX (for Taxable Year 2018)
Brgys. Tawantawan, Cadalian and Carmen (Baguio District)	Environmental Tax 0.25/SQM	400.00	4,000,000.00	₱1,000,000.00
Brgy. Tamayong (Calinan District)	Environmental Tax 0.25/SQM	329.93	3,299,300.00	824,825.00
Brgy. Tamugan (Marilog District)	Environmental Tax 0.25/SQM	500.00	5,000,000.00	1,250,000.00
Brgy. Malagos (Baguio District)	Environmental Tax 0.25/SQM	100.00	1,000,000.00	250,000.00
TOTAL		**1,329.93**		**₱3,324,825.00**

The OCT based its computations on the hectarage list furnished by the Watershed Management Council, which in turn, derives its data from the Environmental Management Bureau.[12] Notably, the said hectarage list is not based on the actual planted areas of petitioner's farms in Davao City.[13]

On January 9, 2018, petitioner paid the amount of **₱3,324,825.00** under protest, as evidenced by Official Receipt Nos. 9161939B, 9161940B, 9161942B and 9161943B.

Petitioner filed a written *Protest* on February 7, 2018, pursuant to Sections 422 in relation to Section 423 of Davao City Ordinance No. 158-05.[14]

On February 12, 2018, the OCT, through respondent Tanjili, denied petitioner's *Protest* on the ground that since the Ordinance has not been declared as invalid or unconstitutional by any competent court and that in the absence of such declaration, it is their mandate to continue to assess and collect the said Environmental Tax.[15]

---

12 Par. 3, Pre-Trial Order dated October 5, 2021, RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 204.

13 Par. 4, Pre-Trial Order dated October 5, 2021, RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 204.

14 Par. 5, Pre-Trial Order dated October 5, 2021, RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 204; Exhibit "B", RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 426 to 440.

15 Par. 6, Pre-Trial Order dated October 5, 2021, RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 204; Exhibit "A", RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 424 to 425.

PROCEEDINGS BEFORE THE RTC

Aggrieved by the denial of its *Protest*, petitioner filed an *Appeal* with the RTC of Davao City on March 14, 2018.[16]

After trial, the RTC of Davao City – Branch 16 promulgated the assailed Decision on September 27, 2022.[17]

Petitioner then filed a *Motion for Reconsideration* on December 15, 2022,[18] which the RTC denied in the assailed Order dated January 4, 2023.[19]

PROCEEDINGS BEFORE THIS COURT

Undeterred, petitioner filed the present *Petition for Review* on February 27, 2023,[20] Respondents filed through registered mail their *Comment/Opposition to the Petition for Review* on June 13, 2023.[21]

In the Resolution dated July 25, 2023,[22] the Court ordered the parties to file their memoranda. In compliance thereof, petitioner's *Memorandum* was filed through registered mail on August 30, 2023,[23] while the *Memorandum for the Respondents* was filed through registered mail on September 7, 2023.[24]

On September 14, 2023, the entire records of Civil Case No. R-DVO-18-01176-CV, consisting of one (1) folder, with 894 pages and three (3) folders of Transcript of Stenographic Notes, were received by this Court.[25]

Thereafter, this case was deemed submitted for decision on October 2, 2023.[26]

THE ISSUES RAISED

Petitioner submits the following issues for this Court's resolution, to wit:

---

16 RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 1 to 31.
17 RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 675 to 685.
18 RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 686 to 710.
19 RTC Docket (Civil Case No. R-DVO-18-01176-CV), p. 712.
20 Docket, pp. 5 to 53.
21 Docket, pp. 264 to 278.
22 Docket, p. 281.
23 Docket, pp. 282 to 326.
24 Docket, pp. 366 to 389.
25 RTC of Davao City – Branch 16 Transmittal Letter dated September 5, 2023, Docket, pp. 354 to 362.
26 Minute Resolution dated October 2, 2023.

A. Procedural Matters

I. Whether the Court of Tax Appeals (CTA) has jurisdiction over the Petition.

II. Whether petitioner may change the theory of the case or its cause of action on appeal.

III. Whether the CTA exercises plenary jurisdiction over actions taken by the local treasurer on a protest of assessment.

B. Substantive Matters

I. Whether the RTC erred in ruling that Ordinance No. 0310-07 met the requirements of a valid ordinance:

a. That Ordinance No. 0310-07 is unfair and oppressive.

b. That Ordinance No. 0310-07 is partial and discriminatory.

c. That Ordinance No. 0310-07 prohibits rather than merely regulates trade.

d. That the computation of the Environmental Tax due is incorrect and unreasonable.

II. Whether the RTC erred in holding that the Environmental Tax imposed by Section 17 of Davao City Ordinance No. 0310-07 entitled 'Watershed Protection, Conservation and Management Ordinance' or the Watershed Code, is a regulatory fee rather than a tax primarily intended to generate revenue.

III. Granting that the Watershed Code is not a tax ordinance but rather a regulatory fee, whether the RTC erred in not declaring the same invalid for imposing a fee in excess of the cost of regulation.

IV. Whether the RTC erred in holding that the publication requirements are complied with.

a. Ordinance No. 0310-07 should have been published within ten (10) days after approval and for three (3) consecutive days in a local newspaper.

V. Assuming that the Watershed Code is valid, whether the RTC failed to consider that the land area assessed by the OCT in

Brgys. Malagos and Tamugan is larger than the granted land areas in the ECC.

a. Respondents incorrectly computed and assessed petitioner excess Environmental Tax based on the ECCs on record and its submissions to the DENR-EMB.[27]

Petitioner's arguments:

Anent the procedural matters, petitioner argues the following: *first*, that the Court exercises appellate jurisdiction to review by appeal decisions, resolutions or orders of the RTC in local taxes consistent with Section 195 of the LGC and Revised Rules of the Court of Tax Appeals (RRCTA); *second*, that from the outset of judicial proceedings at the RTC, it argues that the Environmental Tax is a revenue-raising measure, thus, elevating to the Court of Appeals (rather than to this Court) would entail changing the theory of the case or its cause of action on appeal; *third*, that it is barred from changing the theory of the case or its cause of action on appeal; *fourth*, that this Court exercises plenary jurisdiction over actions taken by the local treasurer on a protest of assessment; and, assuming that the Environmental Tax is a regulatory fee and not a tax, the Court should assume jurisdiction in view of more substantive matter.

As to the substantive facet, petitioner asserts:

First, the Environmental Tax imposed under the Watershed Code is a tax ordinance and not a regulatory fee. As such, the Watershed Code must comply with the requirements of publication under Section 188 of the LGC.

Second, the Environmental Tax is excessive, oppressive, confiscatory, arbitrary and discriminatory.

Third, even assuming that the Watershed Code is valid, the same should only be imposed on its actual area of operations. Petitioner's actual hectarage within which it operates and undertakes its agricultural activities is less than those assessed by the OCT. Even assuming that the Watershed Code is not a tax ordinance but rather a regulatory fee, it should be declared invalid for imposing a fee in excess of the cost of regulation.

Lastly, the enactment of the Watershed Code is an ultra vires act of the local government of Davao City for its failure to comply with the conditions prescribed by the DENR.

---

[27] Issues, *Petition for Review*, Docket, pp. 13 to 14.

Respondents' counter-arguments:

On procedural matters, respondents submit that this Court is not the appropriate court where to file the *Petition for Review* on the ground that it lacks jurisdiction over the subject matter, as it challenges the validity of the Davao City Ordinance No. 0310-07, Series of 2007. While the Court ordinarily exercises plenary jurisdiction over tax matters, this case is outside the Court's jurisdiction since the Environmental Tax imposed by Ordinance 0310-07 partakes of a regulatory fee rather than a tax measure.

With regard to the substantive matters, respondents argue that Ordinance 0310-07 is not unfair and oppressive as it is an exercise of police power by the City Government of Davao to regulate the conduct of agricultural and economic undertakings in the Agro-forestry/Non-Tillage Areas and Prime Agricultural Areas; that the Ordinance is not partial and discriminatory on the basis that it rests on a valid and reasonable classification, because there is a huge difference between a corporate entity engaged in mono-crop agriculture in an area of more than 50 hectares and that of an ordinary farmer engaged in agriculture within a smaller area in terms of its impact to the environment and capacity to pay the Environmental Tax; and, that the Ordinance does not prohibit but only regulate trade, as the RTC correctly ruled that "revenue collected is not a tax but a regulation fee imposed by the local government unit (LGU) under its police power to supervise trade".

THE COURT'S RULING

The present *Petition for Review* must be dismissed.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists.[28] Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action. Perforce, it is important that a court or tribunal should first determine whether or not it has jurisdiction over the subject matter presented before it, considering that any act that it performs without jurisdiction shall be null and void, and without any binding legal effects.[29]

---

[28] *Foronda-Crystal vs. Son*, G.R. No. 221815, November 29, 2017.

[29] *Bilag, et al. vs. Ay-ay, et al.*, G.R. No. 189950, April 24, 2017.

This Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[30] Section 7(a)(3) of RA No. 1125,[31] as amended by RA No. 9282,[32] confers jurisdiction to this Court relative to decisions, orders or resolutions of regional trial courts in local tax cases, to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> xxx xxx xxx
>
> (3) **Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction**; *(Emphases and underscoring added)*

Under the foregoing provision, the appellate jurisdiction of this Court over decisions, orders, or resolutions of the RTC becomes operative when the latter has ruled on **a local tax case, *i.e.*, one which is in the nature of a tax or which primarily involves a tax issue.**[33]

Moreover, it must be emphasized that when the appeal comes from a judicial remedy which questions the authority of the local government to impose the tax, the aforequoted Section 7(a)(3) applies.[34]

Thus, for purposes of deciding whether this Court has jurisdiction over the present case, it is crucial to determine whether the **Environmental Tax** imposed under Section 17 of Davao City Ordinance No. 0310-07 is in fact a tax.

We answer in the negative.

In *Smart Communications, Inc. vs. Municipality of Malvar, Batangas*,[35] one of the issues raised was: *whether the fees imposed under a particular ordinance are in fact taxes*. The Supreme Court held:

---

[30] *Allied Banking Corporation vs. Commissioner of Internal Revenue*, G.R. No. 175097, February 5, 2010.

[31] AN ACT CREATING THE COURT OF TAX APPEALS.

[32] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

[33] *Herarc Realty Corporation vs. The Provincial Treasurer of Batangas, et al.*, G.R. No. 210736, September 5, 2018, citing *Salva vs. Magpile*, G.R. No. 220440, November 8, 2017, and *Ignacio vs. Office of the City Treasurer of Quezon City, et al.*, G.R. No. 221620, September 11, 2017.

[34] *National Power Corporation vs. Municipal Government of Navotas, et al.*, G.R. No. 192300, November 24, 2014.

Since the main purpose of Ordinance No. 18 is to regulate certain construction activities of the identified special projects, which included 'cell sites' or telecommunications towers, the fees imposed in Ordinance No. 18 are ***primarily regulatory in nature, and not primarily revenue-raising***. While the fees may contribute to the revenues of the Municipality, this effect is merely incidental. Thus, the fees imposed in Ordinance No. 18 are not taxes.

In *Progressive Development Corporation v. Quezon City*,[36] the Court declared that **'if the generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.'**

In *Victorias Milling Co., Inc. v. Municipality of Victorias*,[37] the Court reiterated that the purpose and effect of the imposition determine whether it is a tax or a fee, and that the lack of any standards for such imposition gives the presumption that the same is a tax.

> We accordingly say that the designation given by the municipal authorities does not decide whether the imposition is properly a license tax or a license fee. **The determining factors are the purpose and effect of the imposition as may be apparent from the provisions of the ordinance. Thus, "[w]hen no police inspection, supervision, or regulation is provided, nor any standard set for the applicant to establish**, or that he agrees to attain or maintain, but any and all persons engaged in the business designated, without qualification or hindrance, may come, and a license on payment of the stipulated sum will issue, to do business, subject to no prescribed rule of conduct and under no guardian eye, but according to the unrestrained judgment or fancy of the applicant and licensee, **the presumption is strong that the power of taxation, and not the police power, is being exercised."** (*Emphases added*)

Relative thereto, it has been held that the power to "regulate" means the power to protect, foster, promote, preserve, and control, with due regard for the interests, first and foremost, of the public, then of the utility and of its patrons.[38] The nature and the parameters of the exercise of police power were explained by the Supreme Court in *Acebedo Optical Company, Inc. vs. The Honorable Court of Appeals, et al.*,[39] as follows:

> **Police power** as an inherent attribute of sovereignty is the power to **prescribe regulations to promote** the **health**, morals, peace, education, good order or **safety and general welfare of the people. The State, through the legislature, has delegated the exercise of police power to local government units**, as agencies of the State, in order to effectively accomplish and carry out the declared objects of their creation. This

[35] G.R. No. 204429, February 18, 2014.
[36] 254 Phil. 635, 643 (1989). See also *City of Iloilo vs. Villanueva*, 105 Phil. 337 (1959).
[37] 134 Phil. 180, 189-190 (1968).
[38] *Gerochi, et al. vs. Department of Energy, et al.*, G.R. No. 159796, July 17, 2007.
[39] G.R. No. 100152, March 31, 2000.

delegation of police power is embodied in the general welfare clause of the Local Government Code which provides:

> SEC. 16. *General Welfare.* — **Every local government unit shall exercise the powers** expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those **which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall** ensure and support, among other things, the preservation and enrichment of culture, **promote health and safety, enhance the right of the people to a balanced ecology**, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

The scope of police power has been held to be so comprehensive as to encompass almost all matters affecting the health, safety, peace, order, morals, comfort and convenience of the community. Police power is essentially regulatory in nature and the power to issue licenses or grant business permits, if exercised for a regulatory and not revenue-raising purpose, is within the ambit of this power. *(Emphases added)*

Additionally, the Supreme Court, in *Progressive Development Corporation vs. Quezon City*,[40] distinguished a tax from a license or permit fee in this wise:

> The term 'tax' frequently applies to all kinds of exactions of monies which become public funds. It is often loosely used to include levies for revenue as well as levies for regulatory purposes such that license fees are frequently called taxes although *license fee* is a legal concept distinguishable from *tax*: the former is imposed in the exercise of police power primarily for purposes of regulation, while the latter is imposed under the taxing power primarily for purposes of raising revenues. Thus, **if generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.**
>
> **To be considered a license fee, the imposition questioned must relate to an** occupation or **activity that so engages the public interest in health,** morals, **safety** and development **as to require regulation for the protection and promotion of such public interest**; the imposition must also bear a reasonable relation to the probable expenses of regulation, taking into account not only the costs of direct regulation but also its incidental consequences as well. **When an activity**, occupation or profession **is of such a character that inspection or supervision by public officials is reasonably necessary for the safeguarding and furtherance of public health,** morals and safety, **or the general welfare,**

[40] G.R. No. L-36081, April 24, 1989.

> **the legislature may provide that such inspection or supervision or other form of regulation shall be carried out at the expense of the persons** engaged in such occupation or **performing such activity**, and that **no one shall engage in the occupation or carry out the activity until a fee or charge sufficient to cover the cost of the inspection or supervision has been paid**. Accordingly, a charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power. *(Emphases added)*

Based on the foregoing jurisprudential pronouncements, it can be deduced that the purpose of an imposition will determine its nature as either a tax or a fee. If the purpose is primarily revenue, or if revenue is at least one of the real and substantial purposes, then the exaction is properly classified as an exercise of the power to tax. On the other hand, if the purpose is primarily to regulate, then it is deemed an exercise of police power in the form of a fee, even though revenue is incidentally generated. Stated otherwise, if generation of revenue is the primary purpose, the imposition is a tax but, if regulation is the primary purpose, the imposition is properly categorized as a regulatory fee.[41]

The Court finds that the **Environmental Tax** imposed under Section 17 of Davao City Ordinance No. 0310-07 is **<u>not</u> a tax.**

Indeed, under Section 5, Article X of the 1987 Constitution, LGUs have the power to create their own revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy, to wit:

> Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

Consistent with this constitutional mandate, the LGC of 1991 grants the taxing powers to each LGU. Specifically, Section 151[42] of the LGC of 1991 grants cities the power to levy taxes, fees, and charges which provinces or municipalities may impose. ꟸ

---

41 *City of Cagayan De Oro vs. Cagayan Electric Power & Light Co., Inc.*, G.R. No. 224825, October 17, 2018.

42 SECTION 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: *Provided, however*, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.

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.

Section 143 of the LGC of 1991 provides for the scale of taxes on business that may be imposed by cities and municipalities, while Section 147 of the same law provides for the fees and charges that may be imposed by cities and municipalities on business and occupation, to wit:

> SECTION 147. *Fees and Charges.* — **The municipality may impose and collect such reasonable fees and charges on business** and occupation and, except as reserved to the province in Section 139 of this Code, on the practice of any profession or calling, **commensurate with the cost of regulation, inspection and licensing before any person may engage in such business** or occupation, or practice such profession or calling. *(Emphases added)*

The term *"charges"* in the LGC refers to pecuniary liability, as rents or fees against persons or property, while the term *"fee"* means *"a charge fixed by law or ordinance for the regulation or inspection of a business or activity"* as follows:

> SECTION 131. *Definition of Terms.* — When used in this Title, the term:
>
> xxx xxx xxx
>
> (g) 'Charges' refers to pecuniary liability, as rents or fees against persons or property;
>
> xxx xxx xxx
>
> (l) **'Fee'** means a charge fixed by law or ordinance for the **regulation or inspection of a business or activity**;
>
> xxx xxx xxx *(Emphases added)*

In this regard, Section 458 of the LGC grants the Sangguniang Panlungsod the power to enact ordinances for the general welfare of the city and its inhabitants, including regulations to protect the environment as well as to establish, maintain, protect, and conserve watersheds, to wit:

> SECTION 458. *Powers, Duties, Functions and Compensation.* — (a) The sangguniang panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:
>
> xxx xxx xxx
>
> (1) Approve ordinances and pass resolutions **necessary for an efficient and effective city government**, and in this connection, shall:
>
> xxx xxx xxx

(vi) **Protect the environment and impose appropriate penalties for acts which endanger the environment**, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other **activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance**;

(5) Approve ordinances which shall **ensure the efficient and effective delivery of the basic services and facilities** as provided for under Section 17 of this Code, and in addition to said services and facilities, shall:

(i) Provide for the **establishment, maintenance, protection, and conservation of** communal forests and **watersheds**, tree parks, greenbelts, mangroves, and other similar forest development projects;

(Emphases and underscoring added)

Based on the aforementioned provisions, the Sangguniang Panlungsod can enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants in the proper exercise of the corporate powers of the city. Further, the Sanggunian Panlungsod can enact ordinances necessary for an efficient and effective city government and to ensure the efficient and effective delivery of the basic services and facilities. One of the matters under the scope of such power is the protection of the environment from ecological imbalance and the establishment, maintenance, protection and conservation of watersheds.

In this case, on February 23, 2007, the Sangguniang Panlungsod of Davao City passed Ordinance No. 0310-07 entitled "Watershed Protection, Conservation and Management Ordinance hereinafter referred to as the Watershed Code",[43] with the following declared policies, to wit:

ARTICLE 2. DECLARATION OF POLICY – The City Government of Davao hereby declares the following as its policies:

a. Recognize that a healthy and ecologically sound watershed area is vital to ecological balance where man and nature thrive in perfect harmony with each other;

b. Recognize the watershed areas are central to the aspirations of a livable City for the Dabaweynos who must maintain its sustainability through a participative, empowered and environmentally conscious community;

[43] Exhibit "E", RTC Docket (Civil Case No. R-DVO-18-01176-CV), pp. 57 to 60.

c. Recognize that the watershed areas are recharge areas for the City's aquifers which are sources of the City's drinking water that must be protected, conserved and managed for the continued and full enjoyment of the present and future generations;

To help implement these policies, Article 17 of the said Ordinance imposed an Environmental Tax on agricultural and other economic undertakings in the Agro-forestry/Non-Tillage Areas and Prime Agricultural Areas, *viz*:

> **ARTICLE 17. ENVIRONMENTAL FUND** – For the purpose of implementing the provisions of this Code, an annual Environmental Tax shall be imposed on all agricultural and other economic undertakings in the Agro-forestry/Non-Tillage Areas and Prime Agricultural Areas of not less than 50 hectares at the rate of Twenty Five Centavos (0.25) per square meter, provided that:
>
> (i) The Environmental Tax shall also be imposed on corporate entities and persons engaged in agricultural and other economic undertakings on lands covered by growership contracts and other agreements;
>
> (ii) The Environmental Tax collected shall accrue to the General Fund and shall be appropriates in the Annual Budget **solely for the purpose of the implementation of this Code, the operational expenses of the Watershed Management Council and all its instrumentalities and for watershed protection, conservation and management programs and projects**, subject to the approval of the Davao City Council; *(Emphasis added)*

Considering that the main purpose of Davao City Ordinance No. 0310-07 is to protect, conserve and manage the watershed, the fees imposed thereon are primarily regulatory in nature, and not primarily revenue-raising. While the fees may contribute to the revenues of Davao City, this effect is merely incidental.

In sum, the Environmental Tax imposed by respondents pursuant to Article 17 of Davao City Ordinance No. 0310-07 is <u>not</u> a local tax, for purposes of Section 7(a)(3) of RA No. 1125, as amended by RA No. 9282. Correspondingly, this Court is without jurisdiction to entertain the present appeal of the assailed Decision and assailed Order issued by the RTC.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(Inhibited)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice