REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SAN MIGUEL FOODS, INC., *Petitioner,*	**CTA AC No. 210**
	Members:
-versus-	**DEL ROSARIO**, *P.J., Chairperson,* **FABON-VICTORINO**, *and* **MANAHAN**, *JJ.*
OFFICE OF THE CITY TREASURER, CITY OF DAVAO, *Respondent.*	Promulgated: JUL 03 2020 ; 11:00 A.M

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DECISION

MANAHAN, J.:

This is a *Petition for Review* filed by San Miguel Foods, Inc. on November 12, 2018, praying for the reversal or modification of the Joint Decision dated July 16, 2018,[1] and Order dated October 8, 2018,[2] both issued by the Regional Trial Court of Davao City – Branch (RTC-Branch) 17, in Civil Case Nos. R-DVO-16-01273-CV, R-DVO-17-02113-CV, R-DVO-17-03158-CV, and R-DVO-17-04010-CV, the dispositive portions of which respectively read:

Joint Decision dated July 16, 2018:

> "**WHEREFORE,** premises considered, the Court finds **IN FAVOR** of respondent Office of the City Treasurer of Davao City and against petitioner San Miguel Foods, Inc.
>
> Accordingly, the Appeals under Section 195 of Republic Act No. 7160, filed by petitioner San Miguel Foods, Inc., against the respondent Office of the City

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[1] Docket (CTA AC No. 210), pp. 28 to 48.
[2] Docket (CTA AC No. 210), pp. 49 to 50.

Treasurer of Davao City, are hereby **DISMISSED**, for lack of merit.

SO ORDERED."

<u>Order dated October 8, 2018</u>:

"**WHEREFORE**, for lack of merit, the 'Motion for Reconsideration' of the Joint Decision of this Court dated July 16, 2018, filed by the petitioner, is hereby **DENIED**.

SO ORDERED."

Petitioner San Miguel Foods, Inc. further prays that this Court: (1) cancel or annul the nineteen (19) tax orders of payment assessing petitioner's Toril and Tugbok dressing plants a Permit Fee to Slaughter; (2) declare the assessments for 2010 and earlier as null and void for having prescribed; and (3) direct respondent City Treasurer to refund to SMFI its payments made under protest for Permit Fee to Slaughter from 2005 to 2017, in the total amount of ₱21,522,672.34, subject of the instant case.

THE PARTIES

Petitioner San Miguel Foods, Inc. is a corporation organized under and existing by virtue of Philippine laws, with principal office at the JMT Corporate Condominium, ADB Avenue, Ortigas Center, Pasig City. It has a branch office in Davao City located at the 3rd Floor, Alpha Bldg., Lanang Business Park, Lanang Davao City.[3]

Petitioner is engaged in poultry operations, livestock farming, processing and selling of meat products, manufacturing and marketing of feed products, selling and distribution of food product and franchising operations.[4] In

[3] Par. 2.1, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 5 and 78, respectively; Par. 2.1, petitioner's *Appeal*, RTC Docket (Civil Case No. R-DVO-17-02113-CV), pp. 4 to 5; Par. 2.1, petitioner's *Appeal*, vis-à-vis Par. 1, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 5 and 61, respectively; Par. 2.1, petitioner's *Appeal*, vis-à-vis Par. 1, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 4 and 44, respectively.

[4] Par. 3.1, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 5 and 78, respectively; Par. 3.1, petitioner's

Davao City, petitioner operates two dressing plants – the Toril Dressing Plant and the Tugbok Dressing Plant,[5] that were separately issued Mayor's Permits for the operation of a processing plant for poultry products.[6] Petitioner also pays to the city government ante-mortem and post-mortem fees for the slaughter of animals, pursuant to Section 367(d) of Davao City Ordinance No. 158-05, otherwise known as *The 2005 Revenue Code of the City of Davao,* considering that in the course of its operations, live birds/poultry products are slaughtered in the dressing plants.[7]

On the other hand, respondent is the Office of the City Treasurer, City of Davao, represented by its City Treasurer, Bella Linda N. Tanjili. The Office of the City Treasurer is located at the Ground Floor of the Davao City Hall, City Hall Drive, Davao City.[8]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On June 10, 2015, petitioner's Toril Dressing Plant received from the Office of the Treasurer, Toril District, the letter dated June 5, 2015 regarding the payment of the **permit**

Appeal, RTC Docket (Civil Case No. R-DVO-17-02113-CV), p. 5; Par. 3.1, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 5 and 61, respectively; Par. 3.1, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 5 and 44, respectively.

[5] Par. 3.1, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 5 and 78, respectively; Par. 3.1, petitioner's *Appeal*, RTC Docket (Civil Case No. R-DVO-17-02113-CV), p. 5; Par. 3.1, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 5 and 61, respectively.

[6] Par. 3.2, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 5 and 78, respectively; Par. 3.2, petitioner's Appeal, RTC Docket (Civil Case No. R-DVO-17-02113-CV), p. 5

[7] Par. 3.2, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 5 and 78, respectively; Par. 3.2, petitioner's *Appeal*, RTC Docket (Civil Case No. R-DVO-17-02113-CV), p. 5; Par. 3.2, petitioner's *Appeal*, vis-à-vis Par. 3, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 5 and 61, respectively; Par. 3.2, petitioner's *Appeal*, vis-à-vis Par. 3, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 5 and 44, respectively.

[8] Par. 2.2, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 5 and 78, respectively; Par. 2.2, petitioner's *Appeal*, RTC Docket (Civil Case No. R-DVO-17-02113-CV), p. 5; Par. 2.2, petitioner's *Appeal*, vis-à-vis Par. 1, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 5 and 61, respectively; Par. 2.2, petitioner's *Appeal*, vis-à-vis Par. 1, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 5 and 44, respectively.

fees to slaughter, assessed against the dressing plant for January 2005 to March 2015, in the total amount of ₱11,063,058.44.[9]

Petitioner then explained, in its letter dated August 12, 2015, which the Toril District Treasurer received on August 18, 2015, that there is no basis for the assessment of the **permit fees to slaughter**, for the following reasons:[10]

(a) petitioner is an AAA meat establishment under the regulatory jurisdiction of the National Meat Inspection Services;
(b) petitioner is using a private, not public, facility in the slaughter of poultry products; and
(c) the assessment for July 2010 and earlier periods has already prescribed.

Subsequently, petitioner's Davao Office (for Tugbok Dressing Plant) received on September 28, 2015 from the Office of the Treasurer, Tugbok District, the letter dated September 21, 2015 and seven (7) *Tax Orders of Payment* (TOPs), all dated September 16, 2015, also assessing **permit fees to slaughter** for 2009 up to 2015.[11] The details of the TOPs are indicated below:[12]

Date	Year	Basic Fee	Surcharge	Interest	Total
9/16/2015	2009	₱94,128.90	₱23,532.23	₱84,716.01	₱ 202,377.14
9/16/2015	2010	482,671.60	120,667.90	434,404.44	1,037,743.94
9/16/2015	2011	607,879.40	151,969.85	547,091.46	1,306,940.71
9/16/2015	2012	699,287.70	174,821.93	629,358.93	1,503,468.56
9/16/2015	2013	825,496.10	206,374.03	681,034.28	1,712,904.41
9/16/2015	2014	794,740.70	198,685.18	417,238.87	1,410,664.74
9/16/2015	2015	488,526.80	122,131.70	109,918.53	720,577.03
				Total	₱7,894,676.53

On September 17, 2015, petitioner received the letter dated September 3, 2015 from respondent, stating that the City Treasurer refused to accept the explanation/justification

[9] Par. 3.4, petitioner's *Appeal*, vis-à-vis Par. 4, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 6 and 78, respectively.
[10] Par. 3.5, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 6 and 78, respectively.
[11] Par. 1.2, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 4 and 78, respectively.
[12] Par. 3.6, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 6 and 78, respectively.

of petitioner on the non-imposition of the **permit fees to slaughter**.[13]

Consequently, petitioner filed with the Office of the City Mayor on October 16, 2015 a *Request for Reconsideration* of respondent's assessment.[14]

Because the issuance of the business permit for 2016 in favor of petitioner's sales offices and facilities was put on hold unless the **permit fees to slaughter** were paid, petitioner was constrained to pay under protest, on January 20, 2016, the following:[15]

Establishment	Year Applicable	Amount
Toril Dressing Plant	2005 to 2015	₱12,421,582.46
Tugbok Dressing Plant	2009 to 2015	8,456,093.28
	Total	₱20,877,675.74

The assessment included interest and surcharges.[16]

On February 11, 2016, petitioner filed with respondent its protest against the payment of the **permit fees to slaughter**, pursuant to *The 2005 Revenue Code of the City of Davao.*[17]

Petitioner then received respondent's letter dated February 15, 2016, denying petitioner's protest against the imposition of the **permit fees to slaughter**, on the ground that *The 2005 Revenue Code of the City of Davao* has not been declared invalid or unconstitutional, to wit:[18]

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[13] Par. 3.7, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 6 and 78, respectively.

[14] Par. 1.3, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 4 and 78, respectively; Par. 3.8, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 7 and 78, respectively.

[15] Par. 3.9, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 7 and 78, respectively.

[16] Par. 3.9, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 7 and 78, respectively.

[17] Par. 3.10, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 7 and 78, respectively; Par. 1.3, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 4 and 78, respectively.

[18] Par. 1.3, petitioner's *Appeal*, vis-à-vis Par. 2, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 4 and 78, respectively; Par. 3.11, petitioner's *Appeal*, vis-à-

> "xxx we, however, presume regularity in the performance of their duties by the Sangguniang Panlungsod members and the City Mayor in enacting and approving City Ordinance known as the 'The 2005 Revenue Code of the City of Davao.'
>
> Our basis in the issuance of assessment for permit fee to slaughter is in the enforceability of the xxx ordinance, which was not declared invalid or unconstitutional nor annulled by a competent court thus enforceable.
>
> Thus, in the absence of such declaration, and with Legal Opinion No. 26 Series of 2016, dated January 19, 2016, xxx we will fulfil our mandate continue to assess and collect permit fee to slaughter."

Subsequently, petitioner, through its dressing plants indicated below, received between January and February 2017 *Orders of Payment* from respondent, assessing **permit fees to slaughter** in the total amount of ₱232,150.70 for the months of December 2016 and January 2017, as follows:[19]

Dressing Plant	***Month***	***Amount***
Toril Plant	December 2016	₱ 45,268.10
Tugbok Plant	December 2016	64,393.70
Toril Plant	January 2017	49,946.00
Tugbok Plant	January 2017	72,542.90
	Total	**₱ 232,150.70**

Consequently, petitioner filed with respondent on March 1, 2017, a written protest against the assessment.[20]

Petitioner then received the letter dated March 8, 2017 from respondent, stating that it would no longer entertain questions on the assessment, to wit:[21]

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vis Par. 5, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 7 and 78, respectively; Par.4.1, petitioner's *Appeal*, vis-à-vis Par. 7, respondent's *Answer*, RTC Docket (R-DVO-16-01273-CV), pp. 9 and 79, respectively.

[19] Par. 1.1, petitioner's *Appeal*, RTC Docket (R-DVO-17-02113-CV), p. 4.

[20] Par. 1.2, petitioner's *Appeal*, RTC Docket (Civil Case No. R-DVO-17-02113-CV), p. 4.

[21] Par. 1.2, petitioner's *Appeal*, RTC Docket (Civil Case No. R-DVO-17-02113-CV), p. 4.

> "This is in relation to your letter dated March 1, 2017, relative to the Orders of Payment received on January and February of this year protesting the permit to slaughter for the period of December 2016 and January 2017 respectively.
>
> We will refrain from entertaining any and all questions that are now under the purview of the Courts. This issue is now for the courts to decide but this does not preclude us from asking you to pay the aforementioned fees as there is still ongoing activities in both slaughterhouses, thus the charges.
>
> Kind[ly] also be reminded that pursuant to the Local Revenue Code, Article 1, Section 89, renewal of business permits maybe refused on the grounds of unsettled obligations.
>
> Hope we have you properly informed on the matter."

Thereafter, petitioner, through its dressing plants, received from respondent between March and April 2017, *Orders of Payment*, assessing **permit fees to slaughter** in the amount of ₱200,081.00 for the months of February and March 2017, broken down as follows:[22]

Dressing Plant	***Month***	***Amount***
Toril Plant	February 2017	₱ 40,068.60
Tugbok Plant	February 2017	57,276.90
Toril Plant	March 2017	29,563.40
Tugbok Plant	March 2017	73,172.10
	Total	**₱200,081.00**

On April 27, 2017, petitioner filed with respondent a written protest against the assessment.[23]

Subsequently, petitioner received respondent's letter dated April 28, 2017, stating the following, to wit:[24]

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[22] Par. 1.1, petitioner's *Appeal*, vis-à-vis Par. 1, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 4 and 61, respectively.

[23] Par. 1.2, petitioner's *Appeal*, vis-à-vis Par. 1, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 4 and 61, respectively.

[24] Par. 1.2, petitioner's *Appeal*, vis-à-vis Par. 1, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 4 and 61, respectively.

> "This is in relation to your letter dated April 27 2017, relative to the Orders of Payment received on January and February of this year protesting the permit to slaughter for the period of December 2016 and January 2017 respectively.
>
> We will refrain from entertaining any and all questions that are now under the purview of the Courts. This issue is now for the courts to decide but this does not preclude us from asking you to pay the aforementioned fees as there is still ongoing activities in both slaughterhouses, thus the charges.
>
> Kind[ly] also be reminded that pursuant to the Local Revenue Code, Article 1, Section 89, renewal of business permits maybe refused on the grounds of unsettled obligations.
>
> Hope we have you properly informed on the matter."

Petitioner then received on May 1, 2017 the *Order of Payment* dated April 30, 2017, assessing a **permit fee to slaughter**, among others, in the amount of ₱60,661.80 for the Tugbok Dressing Plant, and ₱33,412.20 for the Toril Dressing Plant, both for April 2017. On June 1, 2017, petitioner received *Orders of Payment* also assessing **permit fees to slaughter**, among others, in the amount of ₱67,301.40 for the Tugbok Dressing Plant, and ₱51,389.50 for the Toril Dressing Plant, both for May 2017.[25] The above assessments have a total amount of ₱212,764.90, broken down as follows:

Dressing Plant	***Month***	***Amount***
Toril Plant	April 2017	₱ 33,412.20
Tugbok Plant	April 2017	60,661.80
Toril Plant	May 2017	51,398.50
Tugbok Plant	May 2017	67,301.40
	Total	**₱212,764.90**

Petitioner, through its letter dated June 28, 2017, protested the assessment, on the following principal grounds:[26]

[25] Par. 3.4, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 5 and 44, respectively.

[26] Par. 3.5, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 5 and 44, respectively.

(a) *The 2005 Revenue Code of the City of Davao* clearly and categorically taxes only the slaughter of animals and slaughterhouses owned and operated by the City Government, not privately owned facilities;

(b) That petitioner is not liable for permit fee to slaughter has been confirmed by the Bureau of Local Government Finance of the Department of Finance;

(c) Even assuming that the City Government of Davao has the authority to impose a **permit fee to slaughter** on privately owned slaughterhouse, the assessment is still void, as the same is tantamount to a double taxation proscribed by law; and

(d) Payment under protest is not required for local business tax assessment before the protest may be acted upon.

Thereafter, petitioner received on July 3, 2017, respondent's letter dated June 30, 2017, stating that they will refrain from entertaining any and all questions that are now under the purview of the courts, but such does not preclude them from asking petitioner to pay the **permit fees to slaughter** as there are still ongoing activities in both slaughterhouses; thus, the charges.[27]

PROCEEDINGS BEFORE THE RTC – DAVAO CITY

On March 18, 2016, petitioner filed an *Appeal* against respondent with the RTC-Branch 10, Davao City, praying that the RTC: (1) reverse and set aside the findings of respondent as embodied in its letter dated February 15, 2016; (2) cancel or annul the seven (7) separate TOPs, all dated September 16, 2016, assessing the petitioner **permit fees to slaughter**; (3) enjoin the government of Davao City from implementing Section 367(d) of *The 2005 Revenue Code of Davao City*, against petitioner and other privately owned and operated slaughterhouses, it being a direct duplicate taxation.[28] The case was docketed as Civil Case No. R-DVO-16-01273-CV.

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[27] Par. 3.6, petitioner's *Appeal*, vis-à-vis Par. 5, respondent's *Answer*, RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 5 and 44, respectively

[28] RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 2 to 25.

In its Order dated April 7, 2016, RTC-Branch 10 ordered that the records of Civil Case No. R-DVO-16-01273-CV be returned to the Office of the Clerk of Court for assignment to a designated branch of the RTC to handle tax cases, reasoning that the appeal involves a disputed assessment, which properly belongs to the exclusive jurisdiction of the Tax Court.[29]

Subsequently, another *Appeal* was filed by petitioner on May 30, 2017 with the RTC-Branch 10, docketed as Civil Case No. R-DVO-17-02113-CV, wherein it prayed that the RTC render judgment cancelling or annulling the two separate *Orders of Payment*, dated January 3, 2017 and February 1, 2017, assessing petitioner **permit fees to slaughter** in the total amount of ₱232,150.70; and permanently enjoining the government of Davao City from implementing Section 367(a) of *The 2005 Revenue Code of Davao City*, simultaneously with Section 367(d) of the same Code, against petitioner and other privately-owned and operated slaughterhouses.[30]

On July 26, 2017, petitioner filed an *Appeal* with RTC-Branch 53, praying that RTC-Branch 53 render judgment: (a) cancelling or annulling the four (4) separate *Orders of Payment*, dated March 2, 3, and 30 March 2017 and April 5, 2017, assessing petitioner **permit fees to slaughter** in the total amount of ₱200,081.00; and (b) permanently enjoining the government of Davao City from implementing Section 367(a) of *The 2005 Revenue Code of Davao City*, simultaneously with Section 367(d) of the same Code, against petitioner and other privately owned and operated slaughterhouses.[31] The case was docketed as Civil Case No. R-DVO-17-03158-CV.

A *Motion for Consolidation of Trial* was filed by petitioner on September 19, 2017 with RTC-Branch 10 in Civil Case No. R-DVO-16-01273-CV,[32] wherein it stated that on May 30, 2017, petitioner filed a similar appeal with the RTC-Branch 17, in the total amount of ₱232,150.70, docketed as R-DVO-17-02113-CV, and that both appeals are pending before RTC-Branch 17. Thus, petitioner moved that RTC-Branch 17 allow the consolidation of the trial of the twin cases before it.

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[29] RTC Docket (Civil Case No. R-DVO-16-01273-CV), p. 72.
[30] RTC Docket (Civil Case No. R-DVO-17-02113-CV), pp. 2 to 21.
[31] RTC Docket (Civil Case No. R-DVO-17-03158-CV), pp. 2 to 21.
[32] RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 122 to 124.

Petitioner then filed an *Appeal* on September 26, 2017 with RTC-Branch 17, docketed as Civil Case No. R-DVO-17-04010, wherein petitioner prayed that RTC-Branch 17 render judgment: (a) cancelling or annulling the four (4) separate *Orders of Payment*, dated May 1 and June 1, 2017, assessing petitioner **permit fees to slaughter** in the total amount of ₱212,764.90; and (b) permanently enjoining the government of Davao City from implementing Section 367(a) of *The 2005 Revenue Code of Davao City*, simultaneously with Section 367(d) of the same Code, against petitioner and other privately owned and operated slaughterhouses.[33]

In the Order dated October 2, 2017,[34] RTC-Branch 17 granted the *Motion for Consolidation of Trial* and ordered that Civil Case No. R-DVO-16-01273-CV be jointly tried with Civil Case No. R-DVO-17-02113-CV.

Subsequently, RTC-Branch 17 issued the Order dated February 1, 2018,[35] which granted the *Motion for Consolidation of Trial* of Civil Case Nos. R-DVO-16-01273, R-DVO-16-02113, R-DVO-17-03158, R-DVO-17-04010, and ordered that these four cases be consolidated.

Thereafter, both parties manifested that the issues in these cases are purely legal, except for the issue on the interest; and that they intend to move that these cases be submitted for summary judgment.[36]

On February 28, 2018, petitioner manifested: (1) that in Civil Case No. R-DVO-16-01273-CV it paid under protest the disputed **permit fees to slaughter** in the total amount of ₱20,877,675.74 for the years 2005 to 2015 for Tugbok and Toril Dresing Plants on January 20, 2016; (2) that on January 18, 2018, petitioner wrote a letter to the City Treasurer claiming refund of the above-stated payments; and (3) that by its February 5, 2018 letter, which petitioner received on February 6, 2018, respondent denied petitioner's claim for refund to await the final decision of the Court in these cases.[37]

[33] RTC Docket (Civil Case No. R-DVO-17-04010-CV), pp. 2 to 22.
[34] RTC Docket (Civil Case No. R-DVO-16-01273-CV), p. 126.
[35] RTC Docket (Civil Case No. R-DVO-16-01273-CV), p. 130 to 131.
[36] RTC Docket (Civil Case No. R-DVO-16-01273-CV), p. 142.
[37] RTC Docket (Civil Case No. R-DVO-16-01273-CV), p. 144.

Thereafter, RTC-Branch 17 issued its Pre-Trial Order dated April 26, 2018,[38] stating that the parties manifested that the issues in these cases are purely legal and that they will not anymore present any evidence and granting the parties a period of thirty (30) days from April 26, 2018 to file their respective memoranda.

On July 16, 2018, RTC-Branch 17 promulgated the assailed Joint Decision in Civil Case Nos. R-DVO-16-01273-CV, R-DVO-17-02113-CV, R-DVO-17-03158-CV, R-DVO-17-04010-CV,[39] pertinent portions of which read:

> "This has reference to the Appeals, filed by petitioner San Miguel Foods, Inc., (SMFI, for brevity) from the denial of its protests by respondent Office of the City Treasurer of Davao City (City Treasurer, for brevity); pursuant to Section 195 of Republic Act No. 7160, otherwise known as the 'Local Government Code of 1991.'
>
> In these four (4) Appeals, petitioner SMFI protests the City Treasurer's assessment of the 'Permit Fee to Slaughter,' in SMFI's dressing plants in Sirawan, Toril District and Los Amigos, Tugbok District, both in Davao City, as provided under paragraph (a), Section 367, Article 12, of the Davao City Ordinance No. 158-05, also known as the 2005 Revenue Code of the City of Davao (Local Tax Code, for brevity); and seeks the refund of its payments under protest for the said fee from 2005 to 2017, in the total amount of Twenty One Million Five Hundred Twenty Two Thousand Six Hundred Seventy Two Pesos and Thirty Four Centavos (₱21,522,672.34), broken down as follows:

Case Number	Periods Covered	Amount
R-DVO-16-01273-CV	2005-2015	₱20,877,675.74
R-DVO-17-02113-CV	December 2016 – January 2017	232,150.70
R-DVO-17-03158-CV	February – March 2017	200,081.00
R-DVO-17-04010-CV	April – May 2017	212,764.90
	TOTAL	₱21,522,672.34

[38] RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 156 to 157.
[39] RTC Docket (Civil Case No. R-DVO-16-01273-CV), pp. 193 to 213.

xxx xxx xxx

WHEREFORE, premises considered, the Court finds **IN FAVOR** of respondent Office of the City Treasurer of Davao City and against petitioner of San Miguel Foods, Inc.

Accordingly, the Appeals under Section 195 of Republic Act No. 7160, filed by petitioner San Miguel Foods, Inc., against the respondent Office of the City Treasurer of Davao City, are hereby **DISMISSED**, for lack of merit.

SO ORDERED."

Petitioner moved for reconsideration of the assailed Joint Decision.[40] Thereafter, respondent filed its comment.[41] However, petitioner's motion was denied by the court *a quo* in the assailed Order dated October 8, 2018.[42]

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the instant *Petition for Review* on November 12, 2018.[43]

In the November 26, 2018 Resolution,[44] this Court ordered respondent to file its comment, not a motion to dismiss, within ten (10) days from receipt thereof.

On November 11, 2019, respondent filed its *Comment (to the Petition for Review dated November 7, 2018).*[45]

In the Resolution dated February 1, 2019,[46] the Court gave due course to the *Petition for Review*, giving the parties a

[40] *Motion for Reconsideration of 16 July 2018 Joint Decision* filed on August 1, 2018, RTC Docket (Civil Case No. R-DVO-16-01273), pp. 215 to 226.
[41] *Comment (to the Petitioner's Motion for Reconsideration)* filed on September 10, 2018, RTC Docket (Civil Case No. R-DVO-16-01273), pp. 228 to 229.
[42] Civil Case No. R-DVO-16-01273), pp. 231 to 232.
[43] Docket (CTA AC No. 210), pp. 8 to 27.
[44] Docket (CTA AC No. 210), pp. 55 to 56.
[45] Docket (CTA AC No. 210), pp. 57 to 60.
[46] Docket (CTA AC No. 210), pp. 63 to 64.

period of thirty (30) days from notice, within which to file their respective memoranda.

Thereafter, the Court ordered the Branch Clerk of Court of RTC-Branch 17, in the Resolution dated February 20, 2019,[47] to elevate the entire original records of a) Civil Case No. R-DVO-16-01273-CV [Appeal]; (b) Civil Case No. R-DVO-17-02113-CV [Appeal]; (c) Civil Case No. R-DVO-17-03158-CV [Appeal]; and (d) Civil Case No. R-DVO-17-04010-CV [Appeal], within ten (10) days from notice, pursuant to Section 5(b), Rule 6, *Revised Rules of the Court of Tax Appeals.* On April 4, 2019, the said Branch Clerk of Court of RTC–Branch 17 elevated and transmitted the said entire original records of Civil Case Nos. R-DVO-16-01273-CV,[48] R-DVO-17-02113-CV,[49] R-DVO-17-03158-CV,[50] and R-DVO-17-04010-CV.[51]

Respondent's *Memorandum* was filed on March 20, 2019,[52] while the *Memorandum for Petitioner* was filed on May 7, 2019.[53]

The Court submitted the instant case for decision on May 31, 2019.[54]

ASSIGNMENT OF ERRORS

In the instant *Petition for Review*, petitioner assigns the following errors supposedly committed by the Court *a quo*, to wit:

"I

THE *COURT A QUO* SERIOUSLY ERRED IN GIVING AN ISOLATED INTERPRETATION OF THE PERMIT FEE TO SLAUGHTER AND CONCLUDED THAT IT IS NOT A COMPONENT OF THE SLAUGHTERHOUSE FEE UNDER SECTION 367(A) OF THE 2005 LOCAL TAX CODE.

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[47] Docket (CTA AC No. 210), p. 67.
[48] Docket (CTA AC No. 210), p. 79.
[49] Docket (CTA AC No. 210), p. 81.
[50] Docket (CTA AC No. 210), p. 78.
[51] Docket (CTA AC No. 210), p. 80.
[52] Docket (CTA AC No. 210), pp. 68 to 76.
[53] Docket (CTA AC No. 210), pp. 96 to 113.
[54] Resolution dated May 31, 2019, Docket (CTA AC No. 210), p. 118.

II

THE *COURT A QUO* ERRONEOUSLY AND RECKLESSLY RULED THAT THE SIMULTANEOUS IMPOSITION OF PERMIT FEE TO SLAUGHTER AND ANTE- AND POST-MORTEM FEE DOES NOT CONSTITUTE DOUBLE TAXATION, WHEN ALL REQUISITES FOR ITS EXISTENCE ARE OBTAINING IN THE CASE.

III

THE *COURT A QUO* SERIOUSLY ERRED IN HOLDING THAT [PETITIONER] SMFI INTENDS TO EVADE PAYMENT OF TAXES, WITHOUT PROOF THAT [IT] ACTED FRAUDULENTLY OR IN BAD FAITH. CONSEQUENTLY, IT CONCLUDED THAT TAXES PAID FOR YEARS PRIOR TO 2010 HAVE NOT YET PRESCRIBED."[55]

Petitioners' arguments:

Petitioner argues that the Court *a quo* seriously erred in giving an isolated interpretation of Par. 2 of Section 367(a) of the 2005 Davao City Revenue Code to justify its conclusion that the **permit fee to slaughter** is not a component of the slaughterhouse fee; that the court *a quo*'s ruling that the simultaneous imposition of a **permit fee to slaughter and ante- and post-mortem fees** does not constitute double taxation has no legal basis because both fees are imposed on the privilege to slaughter animals, by the government of Davao City, to ensure that the animals killed are fit for human consumption within the area of the city; and that without evidence of fraud or bad faith on the part of the petitioner presented before it, the court *a quo* seriously erred in holding that petitioner intended to evade payment of taxes, thus, taxes assessed for years prior to 2010 have not yet prescribed.

Respondents' counter-arguments:

On the other hand, respondent argues that the **permit fee to slaughter** should not be confused with the slaughter fee; that its right to assess petitioner for the payment of

[55] Grounds for Petition, *Petition for Review*, Docket (CTA AC No. 210), p. 15; cc: Issues, *Memorandum for Petitioner*, Docket (CTA AC No. 210), p. 238.

permit fee to slaughter for taxable year 2010 and earlier has not yet prescribed; and that there is no double taxation in this case.

RULING OF THE COURT

The instant *Petition for Review* must be dismissed.

To obviate the possibility that its decision may be rendered void, the Court can, by its own initiative, raise the question of jurisdiction, although not raised by the parties. As a corollary thereto, to inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings. Therefore, even if there was no jurisdictional issue raised by any party, the Court may look into it at anytime of the proceedings, even during this appeal.[56]

To be sure, the matter of jurisdiction may be ruled upon regardless of the stage of the proceedings, considering that a judgment rendered without jurisdiction is null and void, and a void judgment cannot be the source of any right whatsoever.[57]

Thus, this Court shall first determine whether it has jurisdiction to entertain the present appeal.

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. Thus, **when a court has no jurisdiction over the**

[56] *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 185969, November 19, 2014.

[57] Refer to *El Greco Ship Manning and Management Corporation vs. Commissioner of Customs*, G.R. No. 177188, December 4, 2008.

subject matter, the only power it has is to dismiss the action.[58]

Section 7(a)(3) of RA No. 1125[59], as amended by RA No. 9282[60], 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 <u>in local tax cases</u> originally decided or resolved by them in the exercise of their original or appellate jurisdiction**;" *(Emphases and underscoring ours)*

Under the foregoing provision, the appellate jurisdiction of this Court over decisions, orders, or resolutions of the regional trial court 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.** Local taxes include those involving real property tax (RPT), which is governed by Book II, Title II of RA No. 7160, or Local Government Code of 1991. Among the possible issues are the legality or validity of the RPT assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.[61]

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[58] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

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

[60] 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

[61] *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*, G.R. No. 221620, September 11, 2017.

Furthermore, if the action before the regional trial court involves a prayer to restrain the collection of RPT, the same may also be treated as a local tax case, since in ruling as to whether to restrain the collection, the regional trial court must first necessarily rule on the propriety of the assessment. In other words, in filing an action for injunction to restrain collection, the concerned taxpayer was in effect also challenging the validity of the RPT assessment.[62]

Moreover, 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.[63]

The question then is whether the Court *a quo*, RTC-Branch 17, resolved a local tax case, in order to fall within the ambit of this Court's exclusive appellate jurisdiction. This question, in turn, depends ultimately and particularly on whether the **permit fees to slaughter and ante-mortem and post-mortem fees** imposed under Sec. 367 of Davao City Ordinance No. 158-05 or *The 2005 Revenue Code of the City of Davao* are in fact taxes.

We answer both issues in the negative.

In *Smart Communications Inc. vs. Municipality of Malvar, Batangas*,[64] one of the issues raised was: *whether the fees imposed under a particular ordinance are in fact taxes*. The Supreme Court held:

> "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.

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[62] Refer to *CE Casecnan Water and Energy Company, Inc. vs. The Province of Nueva Ecija, et al.*, G.R. No. 196278, June 17, 2015.

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

[64] G.R. No. 204429, February 18, 2014.

> In *Progressive Development Corporation v. Quezon City*, 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*, 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 supplied*)

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.[65] The nature and the parameters of the exercise of police power were explained by the High Court in *Acebedo*

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[65] *Gerochi, et al. vs. Department of Energy*, G.R. No. 159796, July 17, 2007, citing *Philippine Association of Service Exporters, Inc. vs. Hon. Ruben D. Torres*, G.R. No. 101279, August 6, 1992, citing *Philippine Communications Satellite Corporation v. Alcuaz*, 180 SCRA 218 (1989). an

Optical Company, Inc. vs. The Honorable Court of Appeals, et al.,[66] 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 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.
>
> xxx xxx xxx

[66] G.R. No. 100152, March 31, 2000.

> (T)he issuance of business licenses and permits by a municipality or city is essentially regulatory in nature. **The authority,** which devolved upon local government units to **issue or grant such licenses or permits, is essentially in the exercise of the police power of the State within the contemplation of the general welfare clause of the Local Government Code.**" (*Emphases supplied*)

Additionally, the Supreme Court, in *Progressive Development Corporation vs. Quezon City*,[67] distinguished 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, 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**

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[67] G.R. No. 36081, April 24, 1989.

occupation or carry out the activity until a fee or charge sufficient to cover the cost of the inspection or supervision has been paid." (*Emphases supplied*)

Based on the foregoing, it can be surmised 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.[68] 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.[69] 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.[70]

The Court finds that the **permit fees to slaughter** as well as the **ante-mortem and post-mortem fees** imposed under Sec. 367 of Davao City Ordinance No. 158-05 or *The 2005 Revenue Code of the City of Davao* are **not taxes**.

Under Section 5, Article X of the 1987 Constitution, local government units (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."

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[68] *City of Cagayan De Oro vs. Cagayan Electric Power & Light Co., Inc.*, G.R. No. 224825, October 17, 2018, citing *Philippine Airlines, Inc. vs. Edu*, G.R. No. L-41383, August 15, 1998.

[69] *City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc.*, G.R. No. 224825, October 17, 2018, citing *Chevron Philippines, Inc. vs. Bases Conversion Development Authority*, G.R. No. 173863, September 15, 2010.

[70] *City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc.*, G.R. No. 224825, October 17, 2018, citing *Gerochi, et al. vs. Department of Energy*, G.R. No. 159796, July 17, 2007.

Consistent with this constitutional mandate, the Local Government Code of 1991 (LGC) grants the taxing powers to each LGU. Specifically, Section 151 of the LGC grants cities the power to levy taxes, fees, and charges which provinces or municipalities may impose.

Section 143 of the LGC 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 supplied*)

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 supplied*)

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 the regulation of the slaughter of animals, 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
>
> (4) **Regulate activities** relative to the use of land, buildings and structures within the city **in order to promote the general welfare** and for said purpose shall:
>
> xxx xxx xxx
>
> (viii) Provide for the impounding of stray animals; **regulate the keeping of animals** in homes or **as part of a business, and <u>the slaughter</u>, sale or <u>disposition of the same</u>**; and adopt measures to prevent and penalize cruelty to animals;" (*Emphases and underscoring supplied*)

Section 489(b)(3)(i) of the LGC,[71] on the other hand, provides that the City Veterinarian shall advise the mayor on

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[71] SECTION 489. *Qualifications, Powers and Duties.* — xxx

The appointment of a veterinarian officer is mandatory for the provincial and city governments.

(b) The veterinarian shall take charge of the office for veterinary services and shall:

xxx xxx xxx

(3) In addition to the foregoing duties and functions, the veterinarian shall:

(i) Advise the governor or the mayor, as the case may be, on all matters pertaining to the slaughter of animals for human consumption and **the regulation of slaughterhouses**;

xxx xxx xxx" *(Emphasis ours)*

all matters pertaining to the slaughter of animals and the regulation of slaughterhouses.

Furthermore, the city is tasked with authorizing the establishment and operations of private slaughterhouses, whether for public use or exclusively as part of a meat processing complex, pursuant to Section 1 of Executive Order (EO) No. 137, series of 1993,[72] to wit:

> "SECTION 1. ***Construction, Improvement, Expansion, and Operation of Slaughterhouses.*** – To prevent wastage in terms of time and valuable logistics and to maintain a uniform, high standard of sanitation in the operation and maintenance of slaughterhouses, the NWIC and the LGUs concerned shall perform the following:
>
> (a) The city or municipality:
>
> xxx xxx xxx
>
> (4) shall authorize the establishment and operations of private slaughterhouses, whether for public use or exclusively as part of meat processing complex;"

Furthermore, LGUs may also impose fees and charges related to meat inspection, through an appropriate ordinance, pursuant to Section 7 of the same EO No. 137, to wit:

> "SEC. 7. ***Fees and Charges.*** – (a) The LGU concerned, thru an appropriate ordinance, may impose fees and charges related to meat inspection in accordance with the rules and regulations of the LG Code.
>
> (b) The twenty five (25) per cent of the veterinary inspection fees (ante and post mortem) collected by the city and municipalities in Class 'AAA' shall be shared and remitted by the city or municipal treasurer to the NMIC on a quarterly basis but not beyond five (5) days

[72] PROVIDING FOR THE IMPLEMENTING RULES AND REGULATIONS GOVERNING THE DEVOLUTION OF CERTAIN POWERS AND FUNCTIONS OF THE NATIONAL MEAT INSPECTION COMMISSION TO THE LOCAL GOVERNMENT UNITS PURSUANT TO REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991.

after the end of each quarter. As in the case of Class 'AA', the same shall accrue to whoever is directly supervising the inspection service as mentioned in Section 3 of this Order."

In addition, Sections 10 to 12, Chapter III of RA No. 9296[73], otherwise known as *"The Meat Inspection Code of the Philippines"*, clearly provides for the mandate of LGUs to **regulate** slaughterhouses, **including the collection of fees and charges**, to wit:

"CHAPTER III
RESPONSIBILITIES OF THE LOCAL GOVERNMENT UNITS

Section 10. *Regulation by Local Government Units.* – **The local government units**, pursuant to the provisions of Republic Act 7160 otherwise known as the Local Government Code and Executive Order No. 137, **shall regulate the construction, management and operation of slaughterhouses, meat inspection, meat transport and post-abattoir control, monitor and evaluate and collect fees and charges** in accordance with the national policies, procedures, guidelines, rules and regulations and quality and safety standards as promulgated by the Secretary.

Section 11. *Implementation by the Local Government Units.* – The local government units shall have full and complete authority over the activities mentioned in the immediately preceding section as the authority to evaluate and implement duly prescribed national meat standards within their respective territorial jurisdiction.

In order to improve slaughter facilities and strengthen local meat inspection services, the share of the local government units with regard to ante- and post-mortem fees collection pursuant to the provision of the Local Government Code and Executive Order No. 137 **shall be retained**.

For the same purposes, an amount equivalent to twenty percent (20%) of amounts collected from fees, fines and other charges by the NMIS mentioned in Sections 46 and 56 hereof in the enforcement and implementation of

[73] AN ACT STRENGTHENING THE MEAT INSPECTION SYSTEM IN THE COUNTRY, ORDAINING FOR THIS PURPOSE A "MEAT INSPECTION CODE OF THE PHILIPPINES" AND FOR OTHER PURPOSES.

> national meat standards shall, except for a reasonable fee for services rendered, automatically inure to local government units which shall retain said amount at source.
>
> **Section 12. *Incentive for Local Government Units.*** – The local government units shall endeavor to improve existing meat facilities to comply with national standards. The national government shall allocate funds as incentive equivalent to the funds available from local government units for this purpose." (*Emphases supplied*)

Based on the foregoing provisions, local governments are statutorily sanctioned **to regulate the operation of slaughterhouses and to collect fees and charges, including but not limited to ante- and post-mortem fees**.

Accordingly, the City of Davao, through Section 367 of Davao City Ordinance No. 158-05 or *The 2005 Revenue Code of the City of Davao*,[74] imposes fees on the slaughter of animals, as follows, to wit:

> "ARTICLE TWELVE
> *Slaughter and Corral Fees*
>
> SECTION 367. *Imposition of Fees.* — There shall be imposed the following:
>
> (a) *Slaughterhouse Fee.* — There shall be collected fees for the slaughter of animals and the use of corals in accordance with the provisions of this article at the slaughterhouse operated by the City Government.
>
> ***Permit Fee to Slaughter.*** — Before any animal is slaughtered, a permit therefore shall first be secured from the City Veterinarian or his duly authorized representative, and the corresponding permit fee collected by the City Treasurer's Office, as follows:

			Per Head
Large cattle			P17.50
Hogs	a.)	For Lechon	5.25
	b.)	Others	8.50
Goat/Sheep & All Others			5.25
Chickens & Fowls			0.10

[74] Enacted on November 16, 2005.

xxx xxx xxx

(e) ***Ante-Mortem and Post-Mortem Fees.*** — There is hereby collected ante-mortem and post-mortem fees for the slaughter of animals in City operated slaughterhouses or those authorized by the City Government, as follows:

		Per Head
1.	Ante-Mortem Fees	
	Cattle	P5.00
	Carabao, Buffaloes	5.00
	Horses	5.00
	Swine	3.00
	Goats, Sheeps/Deer	1.50
	Poultry	0.15
2.	Post-Mortem Fees:	0.25/Kg.

xxx xxx xxx."

Under *The 2005 Revenue Code of the City of Davao*, the term *"fee"* refers to *"a charge fixed by law or ordinance for the regulation or inspection of a business or activity"* and also includes *"charges fixed by law or agency for the services of a public officer in the discharge of his official duties."* [75] On the other hand, the term *"tax"* means *"an enforced contribution, usually monetary in form, levied by the law making body on persons and property subject to its jurisdiction for the precise purpose of supporting governmental needs."* [76] Moreover, the term *"license"* or *"permit"* means *"a right or permission granted in accordance with law or by a competent authority to engage in some business or occupation or to engage in some transactions."* [77]

To be sure, Section 367 of *The 2005 Revenue Code of the City of Davao* must not be construed in isolation but must be read together with the abovementioned provisions of the LGC, EO No. 137, and RA No. 9296, among others, affecting the regulation of slaughterhouses, meat inspection, and the imposition and collection of fees and other charges rendered thereon.

Thus, in this case, the purpose of the assailed fees under Section 367 of *The 2005 Revenue Code of the City of Davao* is

[75] Sec. 5(f2), Davao City Ordinance No. 158-05.
[76] Sec. 5(t), Davao City Ordinance No. 158-05.
[77] Sec. 5(16), Davao City Ordinance No. 158-05.

clearly to regulate the slaughter of animals in City-operated slaughterhouses or those authorized by the City Government pursuant to Act No. 137, RA No. 9296, and the LGC. The **permit fees to slaughter and ante-mortem and post-mortem fees** are impositions on the activity subject of government regulation, which is the operation of slaughterhouses. In other words, respondent is mandated to implement the provisions of EO No. 137, RA No. 9296, and the LGC pertaining to the regulation of slaughterhouses and collection of fees and charges by imposing the assailed **permit fees to slaughter and ante-mortem and post-mortem fees** under Section 367 of *The 2005 Revenue Code of the City of Davao*, in the exercise of the State's police power in the form of a fee, even though revenue is incidentally generated.[78]

Considering that the purpose of Section 367 of *The 2005 Revenue Code of the City of Davao* is to regulate the operation of slaughterhouses, 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 permit fees to slaughter and ante-mortem and post-mortem fees imposed by respondent pursuant to Section 367 of *The 2005 Revenue Code of the City of Davao* are <u>not</u> local taxes, 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.

It has long been established that this Court is a court of special jurisdiction. As such, it can only take cognizance of such matter as are clearly within its jurisdiction. Hence, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, the court shall dismiss the claim.[79]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DISMISSED**.

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[78] *City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc.*, G.R. No. 224825, October 17, 2018, citing *Chevron Philippines, Inc. vs. Bases Conversion Development Authority*, G.R. No. 173863, September 15, 2010.

[79] *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice