REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

CASAS+ ARCHITECTS,
Petitioner,

-versus-

THE CITY OF MAKATI AND **JESUSA E. CUNETA,** IN HER CAPACITY AS THE CITY TREASURER OF THE CITY OF MAKATI,
Respondents.

CTA AC Case No. 259

Members:

BACORRO-VILLENA, *Acting Chairperso*
CUI-DAVID, *JJ.*

Promulgated:

MAY 29 2023 4:05 p.m.

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RESOLUTION

CUI-DAVID, J.:

For this Court's resolution is respondents' ***Motion for Reconsideration (Re: Decision dated 24 November 2022)*** ("**Motion**") filed on 2 December 2022, with petitioner's ***Comment/Opposition*** filed on 14 March 2023.

Respondents' *Motion* seeks reconsideration of the *Decision* of the Court promulgated on 24 November 2022. The dispositive portion reads:

> **WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **PARTIALLY GRANTED**. The assailed Order of the RTC Makati in Civil Case No. R-MKT-17-02275-CV dated 4 November 2021 is **REVERSED** and **SET ASIDE,** and its Decision dated 30 July 2021 is **REINSTATED.**
>
> Accordingly, respondents are **ORDERED** to refund or credit in favor of petitioner Casas+ Architects the reduced amount of ₱835,151.26 representing its erroneously or illegally paid local business tax for the 3rd and 4th quarters of the taxable year 2015.

SO ORDERED.

Respondents assert that petitioner did not file the proper protest. Respondents maintain their position that the billing assessments issued by them to petitioner in relation to the latter's renewal of business permits are the assessments contemplated under Section 195 of the Local Government Code ("**LGC**"),[1] stating that local business taxes are within the ambit of the said provision.[2] It is respondents' theory that, considering petitioner's admission that it was constrained to pay the taxes indicated in the billing assessments for the issuance of business permits,[3] petitioner had the opportunity to protest it being assessed as a contractor.[4]

Respondents further state that petitioner "cannot successfully prosecute [its] theory of erroneous payment or illegal collection of taxes without necessarily assailing the validity or correctness of the assessment."[5] Thus, respondents maintain that the proper procedure is to pay the tax and administratively assail the assessment within sixty (60) days before the local treasurer and to bring an action in Court within thirty (30) days from the decision or inaction by the local treasurer.[6]

Respondents further assert that petitioner is not purely a general professional partnership ("**GPP**"); its admission that it hired a significant number of workers and even admitted to outsourcing some aspects of its service contracts makes it not a purely general professional partnership;[7] even if petitioner is a GPP, under Section 147 of the LGC, a Mayor's Permit Fee should still be secured to operate a business involving the exercise of a profession.[8]

In its *Comment*, petitioner argues that the billing assessments sent to it by respondents are not the assessments contemplated by Section 195 of the LGC.[9] Invoking the phraseology of Section 195 of the LGC, petitioner posits that an assessment must be triggered or preceded by a "finding," which

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[1] Motion for Reconsideration (Re: Decision dated 24 November 2022), par. 1.
[2] *Id.*, par. 3.
[3] *Id.*, par. 7.
[4] *Id.*, par. 8.
[5] *Id.*, par. 12.
[6] *Id.*, par. 15.
[7] *Id.*, pars. 5-7.
[8] *Id.*, par. 2.
[9] Comment/Opposition, pars. 3-4

presupposes an examination of the taxpayer. [10] Petitioner submits that the billing assessments were only issued in relation to its application for renewal of its business permits and not issued or made after an examination.[11] Thus, according to petitioner, it has a two-year period under Section 196 of the LGC, which it contends to be the applicable provision.[12]

Petitioner also forwards that it is a GPP based on the testimonies of its witnesses[13] and its *Articles of Partnership.*[14] According to petitioner, interior decorating and landscaping services are "related services" and should not be taken apart from its architectural services. [15] Petitioner finds fault in respondents' conclusion that it hires "laborers and construction workers."[16]

An examination of respondents' *Motion for Reconsideration* shows that the arguments therein are mere reiterations of the arguments already passed upon by this Court.

When there is no new issue, there is no need for further judicial determination. There is no necessity to discuss and rule again since "this would be a useless formality of ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant."[17]

This Court resolves to maintain its ruling that Section 196 of the LGC is the applicable law in the instant case. We reiterate our finding that no assessment notice has been issued and that the billing statements issued are not the assessment notices required by Section 195 of the LGC. We quote:

> The ruling of the Supreme Court in *Cosmos Bottling* and *ICTSI* is clear and unequivocal. If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 of the LGC. Thus, it must file a written protest with the local treasurer within 60 days from receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent

[10] *Id.*, par. 5.
[11] *Id.*, par. 6.
[12] *Id.*, pars. 9-14.
[13] *Id.*, par. 15.
[14] *Id.*, par. 16.
[15] *Id.*, par. 17.
[16] *Id.*, par. 18.
[17] *People v. Agacer*, G.R. No. 177751 (Resolution), 7 January 2013, 701 SCRA 37-44.

jurisdiction within 30 days from receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest.

If the taxpayer opts to pay the assessed tax, fee, or charge, it must still file the written protest within the 60-day period, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer. In its court action, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid.

On the other hand, if *no assessment notice* is issued by the local treasurer, and the taxpayer claims that it erroneously paid a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him, then Section 196 applies.

Here, petitioner correctly invoked that these billing statements/assessments do not constitute "assessments" within the ambit of Section 195 of the LGC. Hence, Section 196 of the LGC governs petitioner's claim for refund from the second quarter of 2014 to the fourth quarter of 2015.

To reiterate, the billing statements/assessments were issued by respondents after petitioner's renewal of its business permit for the years 2014 and 2015. Petitioner's Head of Finance and Accounting, Bernadith Bersabe Nañaga, testified on direct examination by way of her *Judicial Affidavit* that the billing statements were in fact issued for local business taxes covering the years 2014 and 2015, and not for deficiency taxes, *viz.*:

...

It is clear from the foregoing that there was no prior investigation or examination of petitioner's books of accounts that resulted in a "finding" of deficiency taxes. Neither was there any letter of authority authorizing the examination of petitioner's books before the billing statements/assessments were issued. In fine, their issuance was not triggered or preceded by a "finding" of deficiency or incorrect tax payments by the local treasurer after an examination of its books was conducted.

Given the foregoing, petitioner properly applied Section 196 in the present claim for refund. To reiterate, the billing statements/assessments are not the assessments contemplated under Section 195 of the LGC. ...

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We likewise reiterate our ruling that petitioner was able to prove that it is a GPP. Thus, it is not subject to the local business tax ("**LBT**") imposed under Section 3A.02(g) of the Revised Makati Revenue Code ("**RMRC**"). We quote our findings:

> As culled from the allegations of petitioner and from the *Decision*[18] of the court *a quo* dated 30 July 2021, respondents do not dispute that petitioner is a GPP. It is not liable for any income tax, but its individual partners who are all licensed architects are subject to individual income taxes. Petitioner was not taxed as GPP but as the owner or operator of a business rendering or offering services for interior decorating and landscaping. Respondents anchor their claim on their impression, upon review of petitioner's financial statements for 2013 and 2014 during the renewal of its business permit, that petitioner was not purely engaged as a GPP but that it was also engaged in services other than in the exercise of its profession. Respondents contend that petitioner's Statement of Comprehensive Income manifests that it was maintaining a significant number of laborers and construction workers. Respondents did not present any proof that petitioner employed laborers and construction workers. On the other hand, petitioner presented evidence to prove that it is not involved in interior decoration but in interior design and that they do not employ laborers and construction workers.
>
> As observed by the court *a quo,* the pieces of evidence do not show that petitioner is engaged in interior decorating. It is involved in interior design and landscaping, which, as provided in RA 9266 and its IRR, as adequately alleged, and proven by petitioner, are encompassed by the practice of architecture.

Further, contrary to respondents' argumentation, the Mayor's Permit Fee is an imposition separate and distinct from the LBT imposed under Section 3A.02(g) of the RMRC. To be clear, petitioner does not question the authority of respondents to impose a mayor's permit fee, nor did this Court's decision rule on such matter.

Guided by the foregoing, this Court finds no reason to disturb its *Decision.*

WHEREFORE, in light of the foregoing, respondents' *Motion for Reconsideration (Re: Decision dated 24 November 2022)* is **DENIED**.

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[18] Decision dated 30 July 2021 in Civil Case No. R-MKT-17-02275-CV, *Rollo*, pp. 49-61.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice