REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

The CITY OF TAGUIG and ATTY. MARIANITO D. MIRANDA, in his official capacity as the City Treasurer of the City of Taguig, *Petitioners,*	**CTA AC No. 313** (Civil Case Nos. 73174-TG and 73065-TG)
	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
UNION CEMENT HOLDINGS CORPORATION, *Respondent.*	Promulgated: JUL 29 2025 3:18 p.m.

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DECISION

MANAHAN, *J.*:

This case involves the *Petition for Review*[1] filed on February 12, 2024 by petitioners City of Taguig and its City Treasurer, Atty. Marianito D. Miranda, seeking the reversal and setting aside of the *Omnibus Decision*[2] dated May 16, 2023 (Assailed Decision) and *Omnibus Resolution*[3] dated December 6, 2023 (Assailed Resolution) rendered by the Regional Trial Court (RTC)-Branch 271, Taguig City.

THE PARTIES

Petitioner is a public corporation created by virtue of Republic Act (RA) No. 8487, or the "Charter of the City of Taguig", with seat of authority at the City Hall of Taguig. It is represented by its incumbent Executive Head and Mayor of the City of Taguig, Hon. Maria Laarni Cayetano, and the current City Treasurer of the City of Taguig, Atty. Jonathan Voltaire L. Enriquez, who has the legal function and responsibility to

[1] Docket, CTA AC No. 313, pp. 12-23.
[2] *Id.*, pp. 29-67.
[3] *Id.*, pp. 68-78.

assess and collect taxes, fees and charges from corporate and individual taxpayers as levied and imposed by the tax ordinances of the City of Taguig. Its office is located at Taguig City Hall, Gen. Luna Street, Tuktukan, 1630 Taguig City.[4]

Respondent Union Cement Holdings Corporation (UCHC) is a corporation duly organized and existing under Philippine laws with office address at 7th Floor Two World Square, Mckinley Hill, Fort Bonifacio, Taguig City. It is a holding company.[5]

THE FACTS

On January 17, 2011, respondent UCHC filed a certification indicating their gross receipts/sales for the taxable year (TY) 2010 amounting to Php88,502,169.47. Such filing was relative to respondent's business permit application for the year 2011.[6]

On January 24, 2011, respondent received from petitioners a Tax Order of Payment of the local business tax (LBT) for the first quarter of 2011 amounting to Php400,418.86.[7]

Upon inquiry, respondent learned that it was computed from their 2009 gross receipts/sales on the basis of petitioners' practice of computing the assessment of LBT based on a purported presumptive income level assessment approach (PILAA), which is based on the industry or income from previous years, whichever is higher.[8]

Although in disagreement with such computation, respondent paid the first quarter installment under protest to avoid the delay in the issuance of its business permit and payment of penalties and surcharges.[9]

On March 25, 2011, it filed a protest with the City Treasurer. However, the protest was not acted upon by the City

[4] Docket, Parties, Petition for Review, p. 14.
[5] *Id.*, Omnibus Decision, p. 30.
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*, pp. 30-31.

Treasurer. Hence, respondent filed a refund case before the RTC-Branch 271, Taguig City.

After the trial, the lower court ruled in favor of herein respondent where the dispositive portion of said decision read as follows:[10]

> **WHEREFORE**, premises considered, judgment is hereby rendered herein, thus:
>
> The Petitions for Refund are hereby **GRANTED**.
>
> Let the excess tax payments of the plaintiff (now, respondent) Union Cement Holdings Corporation in these cases in the total amount of **Four Hundred Ninety Four Thousand Seven Hundred Fifteen Pesos and Sixty Eight Centavos (Php494,715.68)** be **REFUNDED** by the defendant (now, petitioner) City of Taguig upon them.
>
> **SO ORDERED.**

Aggrieved by such decision, petitioners moved for the reconsideration of such decision. However, the court denied anew its motion, which the dispositive portion of such resolution reads as follows:[11]

> **WHEREFORE**, premises considered, the Motion for Reconsideration of the 16 May 2023 Omnibus Decision is hereby **DENIED**.
>
> **SO ORDERED.**

Hence, petitioners filed a *Petition for Review*[12] before this Court on February 12, 2024.

On June 3, 2024, respondent was ordered by the Court to file a comment on the said petition.[13]

On June 20, 2024, respondent filed a *Comment (on the Petition for Review dated February 8, 2024)*.[14] Thus, the case was submitted for decision on October 7, 2024.

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[10] *Supra*, Note 2.
[11] *Supra*, Note 3.
[12] *Supra*, Note 1.
[13] Docket, Minute Resolution dated June 3, 2024, p. 96.
[14] *Id*, pp. 97-178.

ISSUE

Whether or not the RTC-Branch 271, Taguig City erred in granting respondent's claim for refund due to petitioners' void assessment.

Petitioners' Arguments

Petitioners argue that they have the right to verify or assess the gross sales or receipts of the taxpayer under the best available evidence upon which the tax may be based on Section 82(d) of Taguig City's Revenue Code.

Respondent's Arguments

Respondent argues that petitioners cannot use respondent's gross sales or receipts for the year 2009 as the basis for assessing the LBT for the first and second quarters of the year 2011 but that of from year 2010 as provided under Section 143 of RA No. 7160, otherwise known as the Local Government Code (LGC) of 1991, and Section 75(o) of the Taguig Revenue Code.

Respondent insists that it presented ample evidence to explain the reduction in its gross sales or receipts from the year 2009 to the year 2010, and proved the correctness of the amount of its gross sales or receipts for the year 2010 as stated in the 2011 Certification.

Respondent further argues that petitioners never controverted UCHS evidence, and even admitted that they did not properly or fully examine the documents which respondent submitted.

RULING OF THE COURT

The Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[15] The jurisdiction of the CTA over local

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[15] *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014.

tax cases is provided under Sections 7(a)(3) & (5) of RA No. 1125, as amended by RA Nos. 9282 and 9503, which provides:

> 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;

Similarly, Section 3(a)(3) of Rule 4 of RRCTA states:

> SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
>
> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
>
> xxx xxx xxx
>
> (3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction;

On the other hand, Section 11 of RA No. 1125, as amended, provides:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any person adversely affected by a** decision, **ruling** or inaction of the Commissioner of Internal Revenue...**may file an appeal with the CTA within thirty (30) days after the receipt of such** decision or **ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
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> xxx xxx xxx. *(Emphasis supplied)*

In the present case, petitioners allege that they received a copy of the assailed Decision on August 16, 2023.[16] Thereafter, they filed a Motion for Reconsideration on the Assailed

[16] Docket, *Petition for Review*, p. 13.

Decision,[17] which the RTC denied in the assailed Resolution received by it on December 27, 2023.[18]

However, the records of the present case failed to establish petitioners' actual date of receipt of the Assailed Decision and Assailed Resolution.

The present *Petition for Review* is likewise unaccompanied by copies of the pleadings and other material portions of the record as would support the allegations therein, as further required by Rule 42, Section 2 of the Rules of Court. This requirement is not a mere technicality that can be overlooked but is an essential requisite for the determination of a *prima facie* basis for giving due course to the petition.[19] The rule is that the reviewing court must be able to determine the merits of the petition solely on the basis of the submissions by the parties, without the use of the records of the court *a quo*.[20]

In any case, even if the foregoing defects are overlooked, the Court finds that the present *Petition for Review* should be denied for lack of merit.

Petitioners argue that they have the right to verify or assess the gross sales or receipts of the taxpayer pursuant to the best available evidence upon which the tax may be based under Section 82(d) of Taguig City's Revenue Code which they equate to the use of PILAA.

As admitted by petitioners in the instant petition, Section 82(d) of Taguig City's Revenue Code reads as follows:[21]

> Section 82-Requirements
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> xxx xxx xxx
>
> (d) Sworn statement of gross receipts or sales Operators of business subject to the taxes on business shall submit a sworn statement of the capital investment before the start of their business operations and upon application for a

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[17] Docket, *Petition for Review*, p. 13.
[18] *Id.*, *Petition for Review*, p. 14.
[19] *Far East Bank and Trust Co. v. Commissioner of Internal Revenue*, G.R. No. 138919, May 2, 2006 [Per J. Tinga, Third Division].
[20] *B.E. San Diego, Inc. v. Alzul*, G.R. No. 169501, June 8, 2007 [Per J. Velasco, Jr., Second Division].
[21] Docket, *Petition for Review*, p. 19.

> Mayor's permit to operate the business. Upon payment of tax levied in this article, any person engaged in business subject to the business tax baes [sic] on gross sales and or receipts shall submit a sworn statement of his gross sales/receipts for the preceding calendar year in such manner and form as may be prescribed by the City Treasurer. Should the taxpayer fail to submit a sworn statement of gross sales or receipts, due among others for his failure to have a book of accounts, records and/or subsidiaries for his business, **the City Treasurer or his/her authorized representatives may verify or assess the gross sales or receipts of the taxpayer under the best available evidence upon which the tax may be based**.

On the other hand, Item B(3) of the Bureau of Local Government Finance (BLGF) Memorandum Circular (MC) No. 01-2020 dated January 2, 2020[22] which was preceded by BLGF MC No. 01-001-2017 provides:

> B. Assessment of LBT for Renewal of Business Permit
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> xxx xxx xxx
>
> 3. The Presumptive Income Level Assessment Approach (PILAA) *may be used in computing the local business tax ONLY if the taxpayer is unable to provide proof of its gross sales or receipts. The PILAA may be used in estimating the gross sales or receipts provided that the PILAA is in the local tax ordinance and has undergone public hearings and publications. This is to ensure that the taxpayers are properly informed of the factors used in determining the presumptive income and for the taxpayers to agree such level of presumptive income applicable to their industry. Absent such ordinance authorizing the use of the PILAA and embodying the presumptive income levels to be used by the Local Treasurer, the collection of additional local business taxes based on such PILAA is illegal and the petitioner may properly claim the refund of the excess business taxes collected.*

As shown above, the use of PILAA has two (2) requisites, namely, that:

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[22] SUBJECT: Updated Reminders in the Assessment of the Local Business Tax (LBT), Registration and Renewal of Business Permits and Licenses, and the Imposition of Local Taxes, Fees and Charges.

1. PILAA is in the local tax ordinance and has undergone public hearings and publications; and

2. PILAA may be used in computing the local business tax **ONLY** if the taxpayer is unable to provide proof of its gross sales or receipts.

In the instant case, both of these requisites are absent.

First, aside from the word "best available evidence" being mentioned in Section 82(d) of Taguig City's Revenue Code, petitioners failed to adduce or present any evidence that PILAA was adopted in the local tax ordinance of Taguig City nor has it conducted public hearings and publications.

Nonetheless, although the aforecited BLGF MCs were issued at a much later period than the TY involved in the case, the ruling of the Court of Tax Appeals in the case of *First Planters Pawnshop, Inc. v. City Treasurer of Pasay City Represented by its former OIC, Ms. Ofelia M. Oliva* (*First Planters* case)[23] is instructive, to wit:

> It is also noted that the use of the PILAA is not provided for in the Local Revenue Code of Pasay City. While the Local Government Code of 1991 (LGC) grants local government units (LGU) the power to create its own sources of revenue, the same is subject to the limitation that the tax be imposed through an appropriate ordinance. Admittedly, the City Treasurer of Pasay is authorized to collect local business taxes under both the LGC and the Pasay Revenue Code. However, if the City Treasurer intended to use the PILAA, the same should have been subject to the procedures provided in the LGC regarding public hearings and publication. This is to ensure that the taxpayers are properly informed of the factors used in determining the presumptive income and for the taxpayers to agree to such level of presumptive income applicable to their industry.
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> Absent such ordinance authorizing the use of the PILAA and embodying the presumptive income levels to be used by the City Treasurer, the collection of additional local business taxes based on such PILAA was illegal and the petitioner may properly claim the refund of the excess business taxes collected.

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[23] CTA EB No. 501, December 10, 2010.

There was no evidence that respondent was properly apprised of the standard used by petitioners in applying the alleged PILAA to which the former should have agreed. Such was very evident when the assessment of LBT for the year 2011 was based on respondent's gross sales or receipts in the year 2009 instead of the TY 2010 as provided under Section 143 of RA No. 7160 that the assessment should be based on "gross sales or receipts of the preceding calendar year."[24]

Lastly, the PILAA can only be used if the taxpayer is unable to provide proof of its gross sales or receipts as ruled in the same *First Planters* case, to wit:

> The PILAA is indeed a tax collection tool which enables the local government units to set a certain income level standard for various business entities based on industry factors. However, the PILAA does not give the respondent a *carte blanche* authority to increase the gross sales/receipts of the taxpayers within its jurisdiction and on that basis, assess the local business tax.
>
> This Court believes that the PILAA may be used by the respondent in computing the local business tax only if the taxpayer is unable to provide proof of its income.
>
> The word "presumptive" is defined as "based on a presumption". A "presumption" is "a legal inference or assumption that a fact exists, based on the known or proven existence of some other fact or group of facts." Based on the foregoing definition, the "presumptive income" is a presumed or assumed income level based on known or proven factors. These factors may include information from the industry such as average customers per day, inventory turnover and mark-ups, and other measurable and verifiable indicators specific to the nature of business.
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> With the petitioner's submission of its sworn declaration of gross income together with its audited financial statements, the respondent could have sufficiently computed the local business tax due without resort to the PILAA. There was no need for the respondent to use a "presumptive income level" since the petitioner has already provided its actual gross income for the taxable years in question.
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> If the respondent believed that the petitioner underdeclared its gross income, the remedy should have been to compute the local business tax on the petitioner's declared income and then subsequently issued a Letter of Authority for the examination and audit of petitioner's books of accounts and other records. If petitioner fails to present its books of

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[24] Sections 143(a) to (h), R.A. No. 7160. *an*

> accounts and other records or if the petitioner has no such records to validate its declared income, then the respondent may use the presumptive income level for the assessment of deficiency taxes.

Such requisite was reiterated by this Court in the case of *City Government of Balanga, Bataan and Joselito R. Evangelista, in his capacity as City Treasurer of Balanga, Bataan v. Smart Communications, Inc., Smart Broadband, Inc. and Pilipino Telephone Corporation* (*Balanga* case),[25] to wit:

> To be sure, in immediately applying the PILAA in computing the local business taxes due from respondents for the years 2010 and 2011 even after respondents have already provided their sworn statements of gross sales or receipts for the preceding calendar years 2009 and 2010 with supporting documents, petitioner acted in gross violation of Section 2M.04 (d) of the Balanga City Revenue Code.

In the same *Balanga* case, citing the *First Planters* case, it provides the following steps in order for a local government unit (LGU) to apply the PILAA in the absence of proof of gross sales or receipts, to wit:

> As outlined in *First Planters Pawnshop*, resort to PILAA may be justified only upon compliance with the following procedure:
>
> (a) Require the taxpayer to declare the amount of its gross sales or receipts;
>
> (b) If the local government unit (LGU) believes that the taxpayer underdeclared its gross sales or receipts, **LGU should proceed in the computation of the taxpayers' local business tax based on the declared amount of gross sales or receipts**;
>
> (c) LGU should issue a Letter of Authority for the examination and audit of the taxpayer's books of accounts and other records;
>
> (d) LGU should validate the amount of declared gross sales or receipts from the taxpayer's books of accounts and records, and re-compute the local business tax after said verification; and,
>
> (e) If the taxpayer fails to present its books of accounts and other records or if it has no such

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[25] CTA AC No. 200, October 22, 2018.

> records to validate its declared gross sales or receipts, the LGU may use the PILAA in computing or re-assessing the local business tax due from the taxpayer. *(Emphasis supplied)*

In the instant case, petitioners failed to comply with the abovementioned procedures. Instead, they imposed arbitrarily an assessment not based on respondent's declared gross sales or receipts for the immediately preceding calendar year but on respondent's 2009 presumptive income level. Hence, it is an invalid assessment.

In *International Container Terminal Services, Inc. v. The City of Manila, et al.*,[26] the Supreme Court ruled that when a taxpayer paid an invalid LBT assessment, the taxpayer may claim for its refund, to wit:

> If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 of the Local Government Code. Thus, it must file a written protest with the local treasurer within 60 days from the 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 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. In this case, as no tax was paid, there is no claim for refund in the appeal.
>
> **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. "Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer. *(Emphasis supplied)*

Thus, RTC-Branch 271, Taguig City properly ruled in granting respondent's claim for refund considering that the latter paid the LBT, filed a timely protest and judicial claim for refund, and appealed the Assailed Decision and Assailed Resolution before the court *a quo* within the prescribed period.

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[26] G.R. No. 185622, October 17, 2018.

WHEREFORE, premises considered, the *Petition for Review* is hereby **DENIED** for lack of merit. Accordingly, the *Omnibus Decision* dated May 16, 2023 and *Omnibus Resolution* dated December 6, 2023 are **AFFIRMED**.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
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.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice