REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

UNION CEMENT HOLDINGS CORPORATION, *Petitioner,*	**CTA AC NO. 354**
- versus -	Members:
THE CITY OF TAGUIG AND ATTY. J. VOLTAIRE L. ENRIQUEZ, IN HIS CAPACITY AS THE CITY TREASURER OF THE CITY OF TAGUIG, *Respondents.*	**REYES-FAJARDO,** *Chairperson, and* **ANGELES,** *JJ.* Promulgated: JUN 04 2026 1:00 p.m.

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DECISION

ANGELES, J.:

The *Petition for Review,*[1] personally and electronically filed on January 02, and 03, 2025, respectively, seeks the reversal and setting aside of the Decision dated August 14, 2024[2] (assailed Decision) and the Resolution dated November 22, 2024[3] (assailed Resolution), both rendered by the Regional Trial Court (RTC) of Taguig City, Branch 271, in Civil Case No. 420, entitled *Union Cement Holdings Corporation v. The City of Taguig and Atty. J. Voltaire L. Enriquez, in his capacity as the City Treasurer of the City of Taguig.*

The dispositive portions of the assailed rulings read as follows:

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[1] Docket, pp. 5 to 37.
[2] *Id.* at 43 to 73.
[3] *Id.* at 105 to 131.

Decision dated August 14, 2024:[4]

"**WHEREFORE**, premises considered, Civil Case No. 420 herein is hereby **DISMISSED**.

SO ORDERED."

Resolution dated November 22, 2024:[5]

"**WHEREFORE**, premises considered, the Motion for Reconsideration of the 14 August 2024 Decision is hereby **DENIED**.

SO ORDERED."

THE PARTIES

Petitioner Union Cement Holdings Corporation is a domestic corporation organized and existing under the laws of the Philippines, with principal office located at 7th Floor Two World Square, McKinley Hill, Fort Bonifacio, Taguig City, Philippines. It may be served summons, notices, orders and other processes of the Court through its counsel.[6]

Respondent City of Taguig is a local government unit created by law. It may be served summons, notices, orders, and other processes of the Court through the Office of the City Mayor, Taguig City.[7]

Respondent Atty. J. Voltaire L. Enriquez is the incumbent Acting City Treasurer of Taguig City, empowered to perform the duties of said office, including, *inter alia*, the collection of all local taxes, fees, and charges. He may be served summons, notices, orders, and other processes of the Court at the Office of the City Treasurer, Taguig City.[8]

THE ANTECEDENTS (ADMINISTRATIVE LEVEL)

In connection with its application for the renewal of its business permit and licenses for calendar year (CY) 2018, petitioner executed a

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[4] *Id.* at 43 to 73.
[5] *Id.* at 105 to 131.
[6] *Id.* at 7, par. 8.
[7] *Id.* at par. 9.
[8] *Id.* at par. 10.

Certification dated January 08, 2018,[9] declaring that it "has no gross receipts/sales from January to December 2017."[10]

Subsequently, on January 15, 2018, respondent City of Taguig issued a Billing Statement[11] charging petitioner with: *(i)* business tax for the first quarter in the amount of ₱3,166.72; and *(ii)* deficiency tax in the amount of ₱2,676,389.78, for a total assessed liability of ₱2,679,556.51.[12]

The same Billing Statement classified petitioner as "Holding Companies(Holding Company)."[13]

The alleged deficiency business tax of ₱2,676,389.78 was computed on the basis of the dividend income reflected in petitioner's Audited Financial Statements for the CY ending December 31, 2016.[14]

To secure the renewal of its business permit and licenses, petitioner paid the foregoing amount on January 19, 2018, as evidenced by Official Receipt No. A-3750186[15] issued by respondent City Treasurer on even date.[16]

Thereafter, on March 16, 2018, petitioner filed a Refund Letter[17] before respondent City Treasurer, seeking the refund of the business taxes paid.[18]

However, in a letter dated July 10, 2018,[19] signed by Atty. Clarence S. Santos and noted by the respondent City Treasurer, petitioner's Refund Letter was denied.[20]

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[9] *Id.* at 149, Exhibit "D."
[10] *Id.* at 9, par. 14; RTC Docket – Vol. I (Civil Case No. 420), *Judicial Affidavit (By Way of Direct Testimony) of Ms. Marilou Ballesteros* dated February 26, 2021, pp. 301 to 302, Answer to Question Nos. 12 to 14.
[11] Docket, p. 147, Exhibit "B."
[12] *Id.* at par. 15; p. 430, par. 10; RTC Docket – Vol. I (Civil Case No. 420), *Judicial Affidavit (By Way of Direct Testimony) of Mr. Gabriel G. Cultura* dated February 26, 2021, pp. 292 to 293, Answer to Question No. 5; *Judicial Affidavit (By Way of Direct Testimony) of Ms. Marilou Ballesteros* dated February 26, 2021, pp. 299 to 300, Answer to Question No. 6.
[13] Docket, p. 10, par. 17; p. 147, Exhibit "B;" p. 430, par. 10; RTC Docket – Vol. I (Civil Case No. 420), *Judicial Affidavit (By Way of Direct Testimony) of Mr. Gabriel G. Cultura* dated February 26, 2021, p. 294, Answer to Question No. 11.
[14] Docket, p. 11, par. 20; pp. 194 to 234, Exhibit "F;" RTC Docket – Vol. I (Civil Case No. 420), *Judicial Affidavit (By Way of Direct Testimony) of Ms. Marilou Ballesteros* dated February 26, 2021, p. 301, Answer to Question No. 12.
[15] Docket, p. 148, Exhibit "C."
[16] *Id.* at p. 12, par. 22; RTC Docket – Vol. I (Civil Case No. 420), *Judicial Affidavit (By Way of Direct Testimony) of Mr. Gabriel G. Cultura* dated February 26, 2021, pp. 292 to 293, Answer to Question No. 5.
[17] Docket, pp. 235 to 260; Exhibit "G."
[18] *Id.* at 12, par. 23.
[19] *Id.* at 261 to 261, Exhibit "H."
[20] *Id.* at 12, par. 25.

PROCEEDINGS BEFORE THE COURT *A QUO*

On August 28, 2018, petitioner filed before the RTC a *Petition for Refund*,[21] praying that the court *a quo* render judgment ordering the refund of the erroneously paid deficiency local business tax in the total amount of ₱2,679,556.51, for lack of legal and factual basis.[22]

Summonses[23] were issued by the RTC on September 07, 2018, and were received by respondents on September 20, 2018,[24] directing them to file their Answer within fifteen (15) days from notice.

On October 05, 2018, respondents filed an *Entry of Appearance with Motion for Extension of Time to File Responsive Pleading*,[25] which the RTC granted,[26] allowing them until October 20, 2018 within which to file their Answer. Prior to the expiration of the extended period, however, respondents filed a second motion for extension[27] on October 19, 2018. Respondents eventually filed their *Answer*[28] on October 30, 2018, to which petitioner filed its *Reply (Re: Respondent's ANSWER dated October 29, 2018)*[29] on November 16, 2018.

Thereafter, the RTC issued a Notice of Pre-Trial[30] dated December 10, 2018, setting the case for pre-trial on August 29, 2019.

Petitioner complied by filing its *Pre-Trial Brief*[31] on August 23, 2019, together with the *Judicial Affidavit of Deeryn C Ultra*,[32] executed on August 22, 2019. Respondents, however, failed to file their Pre-Trial Brief and likewise failed to appear during the scheduled pre-trial conference. Consequently, petitioner moved to declare respondents in default and to allow the *ex-parte* presentation of evidence, which the RTC granted[33] in open court, setting the *ex-parte* hearings on May 28, 2020 and August 06, 2020.

The scheduled hearings, however, were cancelled due to the implementation of the Enhanced Community Quarantine. The RTC then issued an *Order*[34] dated August 06, 2020 setting the case anew

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21 *Id.* at 8, par. 27; RTC Docket – Vol. 1 (Civil Case No. 420), pp. 4 to 18.
22 RTC Docket –Vol. 1 (Civil Case No. 420), p. 17.
23 *Id.* at 69.
24 *Id.* at 71.
25 *Id.* at 72 to 74.
26 *Id.* at 75.
27 *Id.* at 76 to 78.
28 *Id.* at 79 to 83.
29 *Id.* at 84 to 91.
30 *Id.* at 92.
31 *Id.* at 93 to 101.
32 *Id.* at 242 to 257.
33 *Id.* at 259.
34 *Id.* at 277.

for pre-trial on March 04, 2021, instead of proceeding with the *ex parte* presentation of petitioner's evidence.

On February 26, 2021, respondents filed their *Pre-Trial Brief*[35] dated February 14, 2021, together with the Judicial Affidavits of their witnesses, Mr. Gabriel G. Cultura[36] (Mr. Cultura) and Ms. Marilou Ballesteros[37] (Ms. Ballesteros), both executed on February 26, 2021.

On March 01, 2021, petitioner posted its *Motion to Cancel Order dated August 06, 2020 and Motion to Expunge Respondents' Pre-Trial Brief dated February 14, 2021 and Judicial Affidavits of Gabriel Cultura and Marilou Ballesteros.*[38] Subsequently, on March 02, 2021, petitioner personally filed a *Manifestation*,[39] furnishing the court *a quo* with an advance copy of the said *Motion*.[40]

During the hearing on March 04, 2021, the RTC, in open court, issued an Order modifying its earlier Order dated August 06, 2020,[41] and setting the *ex-parte* presentation of petitioner's evidence on September 23, 2021. The RTC further observed that, respondents having been declared in default, the filing of the pre-trial brief and judicial affidavits should not have been allowed.

On July 12, 2021, respondents filed an *Omnibus Motion (Motion to Lift Order of Default dated August 29, 2019, Motion for Reconsideration of the Order dated March 04, 2021, Motion to Cancel Petitioner's Ex-Parte Presentation of Evidence, Motion to Admit Pre-Trial Brief and Judicial Affidavit).*[42] Petitioner thereafter filed its *Comment/Opposition*[43] thereto on October 25, 2021.

Meanwhile, on September 23, 2021, the RTC issued an Order[44] resetting the hearing on the pending *Motions* to March 24, 2022. Consequently, the *ex-parte* presentation of petitioner's witness scheduled on March 24, 2022 was reset to May 19, 2022,[45] and thereafter further reset to June 02, 2022.[46]

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[35] *Id.* at 279 to 283.
[36] *Id.* at 290 to 296.
[37] *Id.* at 297 to 304.
[38] *Id.* at 333 to 338.
[39] *Id.* at 307 to 308.
[40] *Id.* at 333 to 338.
[41] *Id.* at 277.
[42] *Id.* at 355 to 364.
[43] *Id.* at 369 to 374.
[44] *Id.* at 368.
[45] *Id.* at 422 to 424.
[46] *Id.* at 426 0 429.

On November 05, 2021, petitioner's counsel filed a *Manifestation*,[47] informing the court *a quo* of its change of address for purposes of service of notices, orders, processes, and pleadings.

On May 13, 2022, petitioner filed a *Motion to Admit*[48] with attached *Supplemental Judicial Affidavit of Deeryn C. Ultra* of even date.[49]

During the hearing on June 02, 2022 hearing, the RTC issued an Order,[50] granting respondent's *Omnibus Motion* and setting the presentation of petitioner's witness on August 04, and 25, 2022, and that of respondents' witnesses on September 15, and 22, 2022. The RTC likewise admitted petitioner's *Supplemental Judicial Affidavit*.

The hearing scheduled on August 04, 2022 was subsequently cancelled and reset to August 25, 2022.[51]

On August 22, 2022, petitioner moved[52] for the resetting of the presentation if its witness on account of the latter's physical inability to attend the hearing. In its Order[53] dated August 25, 2022, the court *a quo* granted the motion and reset the presentation of petitioner's witness to February 02, March 02, and March 16, 2023.

Trial ensued.

During the course thereof, petitioner presented as its sole witness Ms. Deeryn C. Ultra,[54] its authorized representative for tax matters, who testified through her *Judicial Affidavit*[55] dated August 22, 2019, and *Supplemental Judicial Affidavit*[56] dated May 13, 2022.

After petitioner had rested its case, it filed its *Formal Offer of Documentary Exhibits*[57] on February 28, 2023, to which respondents interposed their *Comments and/or Objections*[58] on March 16, 2023.

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[47] *Id.* at 385 to 386.
[48] *Id.* at 395 to 397.
[49] *Id.* at 398 to 404.
[50] *Id.* at 430 to 432.
[51] *Id.* at 433 to 435.
[52] *Id.* at 436 to 438.
[53] *Id.* at 443.
[54] *Id.* at 453.
[55] *Id.* at 242 to 257.
[56] *Id.* at 398 to 404.
[57] RTC Docket – Vol. II (Civil Case No. 420), pp. 455 to 461.
[58] *Id.* at 652 to 657.

In its Order[59] dated May 23, 2023, the RTC admitted petitioner's Exhibits "A" to "L," and, in the same Order, scheduled the presentation of respondents' evidence on August 10, and September 21, 2023.

Pursuant thereto, on August 10, 2023, respondents presented[60] the testimony of their witness, Mr. Cultura,[61] a Revenue Examiner of the City Treasurer's Office of respondent City of Taguig.

On September 15, 2023, respondents filed a *Motion to Reset Presentation of Witness*,[62] which the court *a quo* granted in its Order[63] dated September 21, 2023, resetting the presentation of respondents' last witness to April 11, and April 25, 2024.

On April 11, 2024, however, the RTC issued an Order[64] resetting the hearing to April 25, 2024, in view of the illness of respondents' counsel, Atty. John Michael Zambales.

On April 25, 2024, respondents presented[65] their final witness, Ms. Ballesteros,[66] an Administrative Aide IV (Evaluator) of the Business Permits and Licensing Office of respondent City of Taguig.

After petitioner filed its *Comment/Opposition*[67] on respondents' *Formal Offer of Evidence*,[68] the court *a quo*, in its Order[69] dated July 18, 2024, admitted respondents' Exhibits "2" to "6," and set the case for rebuttal evidence on August 08, 2024. However, on said date, neither party appeared to present rebuttal evidence. Accordingly, in its Order[70] of even date, the court *a quo* deemed the case submitted for decision.

On August 19, 2024, petitioner received the RTC Decision dated August 14, 2024,[71] dismissing its *Petition for Refund*.

Aggrieved, petitioner filed its *Motion for Reconsideration (Re: Decision dated August 14, 2024)*[72] on August 30, 2024, to which

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[59] *Id.* at 658.
[60] *Id.* at 660.
[61] RTC Docket – Vol. I (Civil Case No. 420), pp. 290 to 296.
[62] RTC Docket – Vol. II (Civil Case No. 420), pp. 663 to 664.
[63] *Id.* at 666.
[64] *Id.* at 669.
[65] *Id.* at 674.
[66] RTC Docket – Vol. I (Civil Case No. 420), pp. 297 to 304.
[67] RTC Docket – Vol. II (Civil Case No. 420), pp. 681 to 691.
[68] *Id.* at 680 to 685.
[69] *Id.* at 692.
[70] *Id.* at 696.
[71] *Id.* at 699 to 729.
[72] *Id.* at 732 to 749.

respondents posted their *Comment/Opposition (Petitioner's Motion for Reconsideration dated 30 August 2024)*[73] on September 04, 2024.

On November 08, 2024, the court *a quo* issued an Order,[74] submitting petitioner's *Motion for Reconsideration* for resolution.

On November 28, 2024, petitioner received a copy of the Resolution dated November 22, 2024,[75] which reiterated the findings of the assailed Decision, thereby denying petitioner's *Motion for Reconsideration.*

PROCEEDINGS BEFORE THIS COURT

On January 02,[76] and 03,[77] 2025, petitioner filed the present *Petition*[78] through personal and electronic filing, respectively. Before giving due course thereto, the Court, in a Minute Resolution[79] dated January 20, 2025, directed respondents to file their comment thereon. In the same Resolution, the Branch Clerk of Court of RTC Branch 271 of Taguig City was likewise directed to transmit the complete original records of the case.

On February 03, 2025, in compliance with the foregoing Minute Resolution, the court *a quo*, through its Officer-in-Charge/Legal Researcher II, personally filed a *Certification of Correctness and Completeness*,[80] transmitting the entire original records of the case. However, for failure to electronically file the same,[81] the Court, in its Minute Resolution dated February 13, 2025,[82] directed the Branch Clerk of Court of RTC Branch 271 of Taguig City to electronically transmit the *Certification of Correctness and Completeness*[83] within twenty-four (24) hours from notice, pursuant to CTA *En Banc* Resolution Nos. 8-2024 and 1-2025.

On February 17, 2025, the court *a quo* submitted a Transmittal Letter, forwarding the Transcript of Stenographic Notes in Civil Case No. 420, consisting of forty-two (42) pages, which the Court noted in its Minute Resolution[84] dated February 26, 2025.

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[73] *Id.* at 750 to 758.
[74] *Id.* at 761.
[75] *Id.* at 764 to 790.
[76] Docket, p. 5.
[77] *Id.* at 321 to 322.
[78] *Id.* at 5 to 37.
[79] *Id.* at 323.
[80] *Id.* at 325 to 330.
[81] *Id.* at 418.
[82] *Id.* at 419.
[83] *Id.* at 325 to 330.
[84] *Id.* at 423.

Thereafter, respondents posted[85] and electronically[86] filed their *Comment (To the Petition for Review dated 07 November 2023)*[87] on March 07, 2025.

In a Minute Resolution dated March 24, 2025,[88] the Court noted respondents' comment, and deemed the case submitted for decision.

THE ISSUES

The sole issue submitted for the Court's resolution is stated as follows:

> [W]hether petitioner is entitled to the refund of the amount of Php 2,679,556.51, representing the erroneously paid Q1 BT and Deficiency BT for 2018.[89]

ARGUMENTS OF THE PARTIES

Petitioner's arguments

First. Petitioner asserts that the court *a quo* erred in ruling that the Billing Statement for CY 2018 constitutes an "assessment" within the contemplation of Section 195 of the Local Government Code (LGC). In support thereof, petitioner argues that: *(1)* the Billing Statement dated January 15, 2018 was issued merely in connection with the renewal of its business permit, and, thus, cannot be deemed the assessment contemplated under Section 195 of the LGC; *(2)* the Billing Statement failed to state the factual and legal bases for the alleged deficiency tax, and, therefore does not satisfy the requisites of a valid assessment under the law; and *(3)* its issuance was not in accordance with the due process requirements prescribed under the Local Treasury Operations Manual governing the issuance of assessments.

Second. Petitioner maintains that the RTC erroneously applied Section 195 of the LGC to the instant case. It posits that prevailing jurisprudence recognizes Section 196 as the applicable remedy where no formal assessment has been issued and where payment is made in connection with the renewal of business permits. Accordingly, petitioner insists that its *Petition* filed before the court *a quo* on August

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85 *Id.* at 426.
86 *Id.* at 425.
87 *Id.* at 426 to 443.
88 *Id.* at 447.
89 *Id.* at 16, par. 58.

28, 2018 was timely filed, having been made within the two (2)-year prescriptive period under Section 196 of the LGC.

Third. Petitioner likewise argues that the court *a quo* erred in denying its claim for refund in the total amount of ₱2,679,556.51. It asserts that Section 133(a) of the LGC expressly prohibits the imposition of local business taxes on the income of entities that are neither banks nor financial institutions, and that respondents' imposition of such tax on petitioner's income constitutes an *ultra vires* exercise of taxing power.

Respondents' counter-arguments

First. Respondents, for their part, maintain that the Billing Statement dated January 15, 2018 is a valid notice of assessment. Consequently, they argue that any protest thereto, as well as any judicial action for refund, must be governed by the reglementary periods prescribed under Sections 195 and 196 of the LGC. On this basis, respondents contend that the court *a quo* correctly ruled that the City Treasurer was required to resolve petitioner's protest within sixty (60) days from its filing on March 16, 2018, or until May 15, 2018. Accordingly, petitioner should have elevated the matter to the RTC within thirty (30) days therefrom, or until June 14, 2018.

Second. Respondents likewise assert that the Billing Statement qualifies as an assessment within the contemplation of Section 195 of the LGC.

Third. Respondents further argue that the City of Taguig is vested with the authority to impose local business tax on the income of holding companies within its jurisdiction. In the absence of any law expressly prohibiting such imposition, Ordinance No. 47, Series of 2006, otherwise known as the "*An Ordinance Adopting a Local Government Tax Rate on Holding Companies,*" enjoys the presumption of validity and must be accorded full force and effect absent any judicial declaration to the contrary.

RULING OF THE COURT

The *Petition for Review* is impressed with merit.

The Court has jurisdiction over the instant Petition.

The jurisdiction of the Court of Tax Appeals (CTA) over local tax cases is explicitly vested by Section 7(a)(3) of R.A. No. 1125,[90] as amended by R.A. No. 9282,[91] which states:

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

This statutory conferment of jurisdiction is further reinforced under Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals[92] (RRCTA), which unequivocally vests in the CTA, sitting in Division, exclusive appellate jurisdiction to review decisions, resolutions, and orders of the RTCs in local tax cases rendered in the exercise of their original jurisdiction, *viz.*:

> SEC. 3. Cases within the jurisdiction of the **Court in Division.** — The Court in Division shall exercise:
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> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
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> x x x
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> (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; (Emphases supplied)

Complementing these provisions, Section 11 of R.A. No. 1125,[93] as amended by R.A. No. 9282,[94] prescribes the mode and period for appeal, allowing any party adversely affected by a decision or ruling of

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[90] An Act Creating the Court of Tax Appeals.
[91] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), elevating its rank to the level of a Collegiate Court with Special Jurisdiction and enlarging its membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, As Amended, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes.
[92] A.M. No. 05-11-07-CTA, November 22, 2005.
[93] *Supra* note 90.
[94] *Supra* note 91.

the RTC to elevate the matter to the CTA by filing an appeal within thirty (30) days from receipt thereof, to wit:

> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. – Any party adversely affected by a **decision**, ruling or inaction **of the** Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the **Regional Trial Courts 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. (Emphases supplied)

In the present case, petitioner received the assailed Resolution,[95] denying its *Motion for Reconsideration (Re: Decision dated August 14, 2024)*[96] on **November 28, 2024**.[97] Reckoned therefrom, petitioner had until **December 28, 2024**, within which to perfect an appeal before this Court. Considering, however, that December 28 and 29, 2024 fell on a weekend, while December 30, 2024 and January 01, 2025 were holidays, the filing of the instant *Petition*[98] on **January 02, 2025** was made well within the reglementary period.

Accordingly, jurisdiction over the present controversy was validly and properly acquired by this Court.

Sections 195 and 196 of the LGC

To recall, respondent City of Taguig issued the assailed Billing Statement[99] on January 15, 2018. Thereafter, on January 19, 2018, petitioner paid[100] the amount stated therein. On March 16, 2018, petitioner filed before the respondent City Treasurer a Refund Letter[101] dated the same day, seeking the return of the taxes allegedly erroneously collected form it. Said claim was, however, denied by respondents through a letter dated July 10, 2018.[102] Aggrieved, petitioner instituted a judicial claim[103] before the court *a quo* on August 28, 2018.

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95 Docket, pp. 43 to 45.
96 RTC Docket – Vol. II (Civil Case No. 420), pp. 732 to 746.
97 Docket, p. 16, par. 55; p. 132.
98 *Id.* at 5 to 36.
99 *Id.* at 147, Exhibit "B."
100 *Id.* at 148, Exhibit "C."
101 *Id.* at 235 to 260; Exhibit "G."
102 *Id.* at 261 to 261, Exhibit "H."
103 *Id.* at 8, par. 27; RTC Docket – Vol. I (Civil Case No. 420), pp. 4 to 18.

In the assailed Decision,[104] the RTC dismissed the case on the ground of prescription, ratiocinating as follows:

> Petitioner herein paid the tax on 19 January 2018 and filed the written Protest before the City Treasurer on 16 March 2018 for the 15 January 2018 Billing Statement. The City Treasurer should decide the protest within sixty (60) days from the time of its filing or on 15 May 2018. The respondent herein acted on the letter of protest only on 10 July 2018. This being so, the petitioner herein should have filed an appeal in court within thirty (30) days from 15 May 2018 or on 14 June 2018.
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> This petition for refund was filed on 28 August 2018. It is, therefore, filed beyond the thirty-day (30) period within which to appeal the claims in court. Therefore, the assessment had become conclusive and unappealable. The remedies under either/and/or for Sections 195 and 196 of the Local Government Code had prescribed herein.[105]

The court *a quo* sustained the foregoing pronouncement in the assailed Resolution,[106] thus:

> In this case, the petitioner filed for renewal of its business permit and license for 2018 on 15 January 2018. They attached thereto their 08 January 2018 Certificate of No Gross Receipts/Sales from January to December 2017. Still, the City of Taguig issued the 15 January 2018 Billing Statement for business tax of Three Thousand One Hundred Sixty-Six Pesos and Seventy-Two Centavos (Php 3,166.72) with deficiency of Two Million Six Hundred Seventy-Six Thousand Three Hundred Ninety-Nine Pesos and Seventy-Nine Centavos (Php 2,676,399.79).
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> Petitioner herein paid the tax on 19 January 2018 and filed the written Protest before the City Treasurer on 16 March 2018 for the 15 January 2018 Billing Statement. The City Treasurer should decide the protest within sixty (60) days from the time of its filing or on 15 May 2018. The respondent herein acted on the letter of protest only on 10 July 2018. This being so, the petitioner herein should have filed an appeal in court within thirty (30) days from 15 May 2018 or on 14 June 2018.
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> However, this petition for refund was filed on 28 August 2018. It is, therefore, filed beyond the thirty-day (30) period within which to appeal the claims in court. Therefore, the assessment had become conclusive and unappealable. This is so even if the assessment of the City Treasurer is assailed as being prematurely based on Presumptive Income Level for the Assessment Approach (PILAA) and is, therefore, argued as not an assessment at all. For all intents and purposes, there is an assessment herein. The validity of the said

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[104] *Id.* at 43 to 73.
[105] *Id.* at 72; citations omitted.
[106] *Id.* at 105 to 131.

> assessment could no longer be assailed as the issue thereon was raised beyond the prescriptive period in this petition.[107]

Respondents likewise adopted and reiterated the foregoing findings of the RTC, as reflected in their *Comment (To the Petition for Review dated 27 December 2024).*[108]

Petitioner, however, steadfastly maintains that the RTC erred in applying Section 195 of the LGC, and in reckoning the prescriptive periods thereunder. It argues that Section 196 of the LGC should instead govern, there being no valid notice of assessment to speak of. Thus, petitioner insists that it sufficiently complied with the law by filing both administrative and judicial claims for refund within the two (2)-year prescriptive period under Section 196 of the LGC.[109]

At the core of the controversy, therefore, lies the determination of whether Section 195 or Section 196 of the LGC governs the remedies available to petitioner under the attendant circumstances. Necessarily, the distinctions between the two (2) provisions must first be delineated. They respectively provide:

> Section 195. *Protest of Assessment.* - When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.
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> Section 196. *Claim for Refund of Tax Credit.* - No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

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[107] *Id.* at 129 to 130; Citations omitted.
[108] *Id.* at 426 to 442.
[109] *Id.* at 29 to 30, pars. 92 to 98.

Verily, **Section 195** governs the remedies available against a **local tax assessment**. It requires the taxpayer to file a written protest within sixty (60) days from receipt of the notice of assessment, failing which the assessment becomes final, executory, and unappealable. The local treasurer is likewise obliged to resolve the protest within sixty (60) days from filing, after which the taxpayer may appeal to the court of competent jurisdiction within thirty (30) days from receipt of the denial or from the lapse of the period to act thereon.

In contrast, **Section 196** operates post-payment, and provides a separate and independent remedy for the recovery of taxes, fees, or charges erroneously or illegally collected. It requires the prior filing of a written claim for refund with the local treasurer, and prescribes a two (2)-year prescriptive period reckoned from the date of payment or from the date the taxpayer is entitled to a refund.

The distinction between these remedies was extensively clarified by the Supreme Court in *City of Manila v. Cosmos Bottling Corp*:[110]

> [**Section 195**] provides the procedure for contesting an assessment issued by the local treasurer; whereas, [**Section 196**] provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court. In **Section 195**, it is the written protest with the local treasurer that constitutes the administrative remedy; while in **Section 196**, it is the written claim for refund or credit with the same office. As to form, the law does not particularly provide any for a protest or refund claim to be considered valid. It suffices that the written protest or refund is addressed to the local treasurer expressing in substance its desired relief. The title or denomination used in describing the letter would not ordinarily put control over the content of the letter.
>
> Obviously, the application of **Section 195** is triggered by an assessment made by the local treasurer or his duly authorized representative for nonpayment of the correct taxes, fees or charges. Should the taxpayer find the assessment to be erroneous or excessive, he may contest it by filing a written protest before the local treasurer within the reglementary period of sixty (60) days from receipt of the notice; otherwise, the assessment shall become conclusive. The local treasurer has sixty (60) days to decide said protest. In case of denial of the protest or inaction by the local treasurer, the taxpayer may *appeal* with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable.

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[110] G.R. No. 196681, June 27, 2018 [Per J. Martires, Third Division].

> On the other hand, **Section 196** may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment. By necessary implication, the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive period but before the judicial action.
>
> Unlike Section 195, however, **Section 196** does not expressly provide a specific period within which the local treasurer must decide the written claim for refund or credit. It is, therefore, possible for a taxpayer to submit an administrative claim for refund very early in the two-year period and initiate the judicial claim already near the end of such two-year period due to an extended **inaction** by the local treasurer. In this instance, the taxpayer cannot be required to await the decision of the local treasurer any longer, otherwise, his judicial action shall be barred by prescription.
>
> Additionally, **Section 196** does not expressly mention an assessment made by the local treasurer. This simply means that its applicability does not depend upon the existence of an assessment notice. By consequence, a taxpayer may proceed to the remedy of refund of taxes even without a prior protest against an assessment that was not issued in the first place. This is not to say that an application for refund can never be precipitated by a previously issued assessment, for it is entirely possible that <u>the taxpayer, who had received a notice of assessment, paid the assessed tax, fee or charge believing it to be **erroneous or illegal**</u>. Thus, under such circumstance, ***the taxpayer may subsequently direct his claim pursuant to Section 196 of the LGC***. (Emphases supplied; underscoring and italics in the original; citation omitted)

These principles were succinctly reaffirmed in *International Container Terminal Services, Inc. v. City of Manila*[111] in the following terms:

> 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

[111] G.R. No. 185622, October 17, 2018 [Per J. Leonen, Third Division].

> 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."
>
> On the other hand, **if <u>no assessment notice is issued</u> 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 <u>Section 196 applies</u>.** (Emphasis and underscoring supplied; citations omitted)

Having thus delineated the clear distinctions between the two (2) remedies available under local business taxation, the Court now proceeds to determine whether the petitioner duly and properly availed itself of the remedy afforded by law under the circumstances obtaining in this case.

Petitioner duly complied with the prescriptive period for refund claims of LBT under Section 196 of the LGC.

At the outset, it bears emphasis that petitioner has been consistent—in its Refund Letter[112] filed before respondent City Treasurer, its *Petition for Refund*[113] and *Motion for Reconsideration (Re: Decision dated August 14, 2024)*[114] before the court *a quo*, and in the present *Petition*[115]—that it assails the validity and correctness of the subject Billing Statement, and, as a consequence thereof, seeks the refund of the amounts paid thereunder.

The mere act of protesting the validity and/or correctness of the Billing Statement in petitioner's letter and pleadings filed before respondents and the courts does not, by itself, characterize the action as one falling under Section 195 of the LGC. As settled in *City of Manila v. Cosmos Bottling Corp.*,[116] the Supreme Court elucidated that a taxpayer pursuing a refund under Section 196 of the LGC necessarily assails the propriety of the tax imposition or collection, and cannot successfully maintain such action without, at the same time, impugning the correctness or validity of the underlying assessment, thus:

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[112] Docket, pp. 235 to 260.
[113] RTC Docket – Vol. I (Civil Case No. 420), pp. 4 to 18.
[114] RTC Docket – Vol. II (Civil Case No. 420), pp. 732 to 746.
[115] Docket, pp. 5 to 36.
[116] *Supra* note 110.

> The same implication should ensue even if the taxpayer were to style his suit in court as an action for refund or recovery of erroneously paid or illegally collected tax as pursued under **Section 196** of the LGC. **In such a suit for refund, the taxpayer cannot successfully prosecute his theory of erroneous payment or illegal collection of taxes without necessarily assailing the validity or correctness of the assessment he had administratively protested.**
>
> It must be understood, however, that in such latter case, the suit for refund is conditioned on the prior filing of a written claim for refund or credit with the local treasurer. In this instance, what may be considered as the administrative claim for refund is the letter-protest submitted to the treasurer. Where the taxpayer had paid the assessment, it can be expected that in the same letter-protest, he would also pray that the taxes paid should be refunded to him. As previously mentioned, there is really no particular form or style necessary for the protest of an assessment or claim of refund of taxes. What is material is the substance of the letter submitted to the local treasurer. (Emphasis supplied; emphasis in the original; citation omitted)

Thus, in harmony with the clear mandate of Section 196 of the LGC, the Supreme Court, in *International Container Terminal Services, Inc. v. City of Manila*,[117] laid down the procedural requisites for the proper invocation of a refund claim thereunder, to wit:

> To be entitled to a refund under Section 196 of the Local Government Code, the taxpayer must comply with the following procedural requirements: ***first***, **file a written claim for refund or credit with the local treasurer**; and ***second***, **file a judicial case for refund within two (2) years from the payment of the tax, fee, or charge, or from the date when the taxpayer is entitled to a refund or credit.** (Emphases and underscoring supplied; citation omitted)

From the foregoing, it is evident that, under Section 196 of the LGC, compliance with both the administrative and judicial requirements within the two (2)-year prescriptive period is sufficient. For clarity, the undisputed material dates are as follows:

Date of Payment	Date of Filing the Administrative Claim for Refund	Date of Filing the Judicial Claim for Refund
January 19, 2018[118]	March 16, 2018[119]	August 28, 2018[120]

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[117] *Supra* note 111.
[118] Docket, p. 148, Exhibit "C."
[119] *Id.* at 235 to 260; Exhibit "G."
[120] *Id.* at 8, par. 27; RTC Docket – Vol. I (Civil Case No. 420), pp. 4 to 18.

While it is settled that the nature of an action is determined by the allegations in the complaint and the character of the relief sought[121]—petitioner having clearly anchored its recourse on a claim for refund under Section 196 of the LGC—it is equally settled that the determinative factor in identifying the proper remedy is the very basis of the local government's collection of the tax, particularly whether a notice of assessment was in fact issued.[122]

In view thereof, considering that petitioner opted to pursue the remedy of refund under Section 196 of the LGC, and faithfully complied with its procedural requisites, We now determine whether such recourse is proper. This inquiry ultimately turns on the existence—or absence—of a valid assessment notice, an issue which, as will be shown in the ensuing discussion, must be resolved in the negative.

The subject Billing Statement is not a 'notice of assessment' contemplated under Section 195 of the LGC.

Jurisprudence is settled that not every demand for payment issued by a Local Government Unit (LGU) constitutes a "notice of assessment" within the contemplation of Section 195. In *Yamane v. BA Lepanto Condominium Corp.*,[123] the Supreme Court clarified:

> Ostensibly, **the <u>notice of assessment</u>, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax.** Section 195 of the Local Government Code does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved but **it does require that it state the <u>nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties</u>.** In this case, the notice of assessment sent to the Corporation did state that the assessment was for business taxes, as well as the amount of the assessment. There may have been *prima facie* compliance with the requirement under Section 195. However in this case, the Revenue Code provides multiple provisions on business taxes, and at varying rates. Hence, we could appreciate the Corporation's confusion, as expressed in its protest, as to the exact legal basis for the tax. Reference to the local tax ordinance is vital, for the power of local government units to impose local taxes is exercised through the appropriate ordinance

[121] *Sunny Motors Sales, Inc. v. Court of Appeals*, G.R. No. 119900, August 16, 2001 [Per J. Pardo, First Division].
[122] *International Container Terminal Services, Inc. v. City of Manila*, G.R. No. 185622, October 17, 2018 [Per J. Leonen, Third Division].
[123] G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division].

> enacted by the *sanggunian*, and not by the Local Government Code alone. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body. (Emphases and underscoring supplied; citations omitted)

While neither the law nor jurisprudence requires the citation of the specific provision of the local ordinance, both unequivocally mandate that a valid notice of assessment must, at the very least, specify: ***(1)*** the nature of the tax, fee, or charge; ***(2)*** the amount of deficiency; and ***(3)*** the corresponding surcharges, interests, and penalties. This requirement is indispensable, as the notice of assessment is what formally apprises the taxpayer of the existence and extent of a deficiency tax liability.

A careful perusal of the subject Billing Statement,[124] however, readily discloses that, *first*, it was issued in connection with petitioner's application for the renewal of its business permit. *Second*, while it lists, among others, "Holding Companies(Holding Company)" and "Deficiency Tax" in the amounts of ₱3,166.72 and ₱2,676,389.78, respectively, such entries cannot be treated as a definitive determination of a "deficiency" for CY 2018, especially considering that the Billing Statement was issued as early as January 15, 2018. Rather, the document appears to function merely as a billing instrument for the renewal of petitioner's business permit for CY 2018, which, under The Revenue Code of Taguig,[125] is payable at the beginning of the calendar quarter.

In fact, it is undisputed that the Billing Statement likewise includes various regulatory fees, such as Environmental Impact Fee, Mayor's Permit, Sanitary Inspection Fee, Medical/Health Fee, Building Inspection Fee, Electrical Inspection Fee, Plumbing Inspection Fee, Mechanical Inspection Fee, Fire Permit Fee, Sticker, Form Fee, Signboard, Signage, Fire Code, and Cedula Corporation[126]—thereby underscoring its character as a consolidated billing for business permit renewal, rather than a true notice of assessment for local business tax.

Finally, respondents failed to establish the existence of any validly determined deficiency tax at the time the Billing Statement was issued. Necessarily, no surcharges, interests, or penalties could have accrued thereon.

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[124] Docket, pp. 46 to 47, Annex "C."
[125] Ordinance No. 24-93.
[126] Docket, p. 71; p.430.

As further elucidated in *International Container Terminal Services, Inc. v. City of Manila*,[127] not every demand for payment, billing statement, or statement of account issued by an LGU may be deemed a "notice of assessment" within the contemplation of Section 195 of the LGC. A **valid notice of assessment** presupposes the existence of a tax deficiency, and must specify the principal amount due, as well as any applicable surcharges, interests, and penalties. Mere billing statements issued as prerequisites for business permit renewal do not rise to the level of, nor may they be substituted for, a notice of assessment under Section 195. Accordingly:

> Here, no notice of assessment for deficiency taxes was issued by respondent City Treasurer to petitioner for the taxes collected after the first three (3) quarters of 1999. As observed by Court of Tax Appeals Justice Casanova in his Concurring and Dissenting Opinion to the September 5, 2008 Decision:
>
> > **In order to apply Section 195 of the LGC, <u>there is a need for the issuance of a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties</u>.** It is only upon receipt of this notice of assessment that a taxpayer is required to file a protest within sixty (60) days from receipt thereof.
> >
> > Given the nature of a notice of assessment, it is my opinion that no notice pertaining to deficiency taxes for the periods subsequent to the 3rd Quarter of 1999 up to the present were ever issued or sent by respondents to ICTSI.
> >
> > In ICTSI's case, as correctly found by the *Second Division, viz.*:
> >
> > > "Records disclose in the instant case that petitioner filed a protest pursuant to Section 195 of the LGC only with respect to the assessment of the amount of P6,224,250.00, which covers the [first three quarters] of 1999. Petitioner protested the said assessment on July 15, 1999 and paid the same amount under protest. This is not controverted by the respondents."
> >
> > Hence, Section 195 of the LGC cannot apply to the period subsequent to the 3rd Quarter of 1999 because ICTSI did not receive any notice of assessment thereafter that states the nature of the tax[,] amount of deficiency[,] and charges.

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[127] *Supra* note 111.

> The "assessments" from the fourth quarter of 1999 onwards were **Municipal License Receipts; Mayor's Permit, Business Taxes, Fees & Charges Receipts; and Official Receipts** issued by the Office of the City Treasurer for local business taxes, **which must be paid as prerequisites for the renewal of petitioner's business permit in respondent City of Manila. While these receipts state the amount and nature of the tax assessed, they do not contain any amount of deficiency, surcharges, interests, and penalties due from petitioner. They cannot be considered the "notice of assessment" required under Section 195 of the Local Government Code.** (Emphases and underscoring supplied; citations omitted)

At this juncture, it bears stressing that, there being no valid assessment issued by the respondents, Section 196 of the LGC properly governs the remedy availed of, which petitioner correctly pursued. Consequently, there is no further necessity to pass upon the remaining contentions of the parties, as the imposition of LBT upon petitioner as a holding company, and its subsequent payment thereof, rests on no lawful basis, and is, therefore, properly subject to refund. In any event, by reason of the nature of petitioner's business and the manner by which it conducts its operations as a holding company, in conjunction with the recognized limitations on the taxing power of LGUs, petitioner remains entitled to the refund claimed, as will be further elaborated hereunder.

Petitioner, a holding company, is not liable for local business tax for CY 2018.

To recapitulate, the court *a quo* resolved the controversy solely on procedural grounds, *i.e.*, petitioner's alleged failure to seasonably file its judicial claim. It did not pass upon the substantive issue of whether petitioner, as a holding company, was properly subject to local business tax for CY 2018.

On the other hand, respondents consistently maintain before the RTC and this Court that petitioner, as a holding company, is liable for local business tax pursuant to City of Taguig Ordinance No. 47, Series of 2006,[128] particularly Sections 4 and 5 thereof, which provide:

> "SECTION 4. *Definition of Terms.* — When used in this Ordinance:
>
> (a) '**Holding Company**' is a corporation, partnership or juridical entity that limits its business to the ownership of

[128] *Adopting a Local Government Tax Rate on Holding Companies*, October 11, 2006.

stocks and interests in other companies as passive investments and derives dividend income therefrom. A holding company is one which is organized specifically to hold the stocks and interests in other companies as passive investments and derives dividend income therefrom, but excludes holding companies which are owners or operators of banks and other financial institutions such as banks, offshore banks, non-bank financial intermediaries, lending investors, finance and investment companies, insurance brokers, investment houses, pawnshops, money shops, insurance companies, stock markets, stockbrokers and dealers in securities and foreign exchange including pre-need companies.

x x x

SECTION 5. *Imposition of Business Tax on Dividend Income.* – **There is hereby imposed a rate of 5% of 1% on the dividend income received by Holding Companies as defined above from their investments in shares of stock or interests in other companies.** Nonetheless, said amount of dividend income derived by a holding company as a result of a declaration of dividends shall be taxed only once, and subsequent declaration of the same dividend income to its parent holding company or parent holding companies also within the jurisdiction of City of Taguig shall not be further taxed accordingly. (Emphases supplied)

We are not persuaded.

It is a fundamental precept that the power of LGUs to impose taxes within its territorial jurisdiction derives from the Constitution itself, which recognizes the power of these units "to create its own sources of revenue 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." These guidelines and limitations, as provided by Congress, are in main contained in the LGC, which provides for comprehensive instances when and how LGUs may impose taxes.[129]

Indeed, as pertinent to the instant case, Section 151 of the LGC expressly recognizes the authority of cities to impose taxes, fees, and charges akin to those which provinces or municipalities may levy, except as otherwise provided by law, *viz.*:

Section 151. *Scope of Taxing Powers.* - Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and

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[129] *Yamane v. BA Lepanto Condominium Corp.*, G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division]; *See* LGC, Section 129.

> independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.
>
> The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes.

It thus follows that, in the exercise of such delegated authority, a city such as respondent City of Taguig may impose taxes only upon those businesses enumerated under Section 143 of the LGC, among which, as material to the instant case, are banks and other financial institutions, to wit:

> Section 143. *Tax on Business.* — The municipality may impose taxes on the following businesses:
>
> x x x
>
> (f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.
>
> x x x

Pursuant to such delegated taxing authority, respondent City of Taguig enacted Ordinance No. 24-93, otherwise known as the "*The Revenue Code of Taguig*," as amended by Ordinance No. 085-05[130] (The Revenue Code of Taguig, as amended), prescribing the imposition of local business taxes, the pertinent provisions of which read as follows:

> SECTION 75. Imposition of Tax. — There is hereby levied an annual tax on the following businesses at rates prescribed therefore:
>
> x x x
>
> (e) On Contractors and other independent contractors defined in SECTION 74 of this Code; and on owners or operators of business establishments rendering or offering services such as advertising agencies; x x x business management services; collecting agencies; x x x the following rates shall apply:

Gross Sales/Receipts for the Preceding Calendar Year		Amount of Tax per Annum
LESS than	50,000.00	EXEMPT

[130] December 09, 2005.

50,000.00 or more but less than	75,000.00	924.00
75,000.00 or more but less than	100,000.00	1,386.00
100,000.00 or more but less than	150,000.00	2,079.00
150,000.00 or more but less than	200,000.00	2,772.00
200,000.00 or more but less than	250,000.00	3,812.00
250,000.00 or more but less than	300,000.00	4,851.00
300,000.00 or more but less than	400,000.00	6,468.00
400,000.00 or more but less than	500,000.00	8,663.00
500,000.00 or more but less than	750,000.00	9,713.00
750,000.00 or more but less than	1,000,000.00	10,763.00
1,000,000.00 or more but less than	2,000,000.00	12,075.00
2,000,000.00 or MORE		Plus 65% of 1%

x x x

(j) On owners or operators of banks and other financial institutions which include offshore banking, non-bank, financial intermediaries, lending investors, finance & investment companies, investment house, pawnshops, money shops, insurance companies, stock markets, stock brokers, dealers in securities including pre-need companies, foreign exchange shall be taxed at the rate of EIGHT PERCENT (8%) OF ONE PERCENT (1%) of the gross receipts of the preceding calendar year derived from interests, commissions & discounts from lending activities, income from financial leasing, investments, dividends, insurance premium and profit from exchange or sale of property, provided, however, on gross sales/receipts derived from rental of property during the preceding calendar year shall be subject to the business tax at the rate prescribed under subsection (k) 1 of Section 75, as provided in this code.

x x x

(o) On Holding Company/ies shall be taxed at the rate prescribed either under subsection (e) or (j), of the gross sales and/or receipts during the preceding calendar year.

Subsequently, respondent City of Taguig passed the above-cited Ordinance No. 047-06, which it invokes as the basis for the imposition of local business tax against petitioner for CY 2018. Significantly, the tax sought to be imposed pertains to petitioner's dividend income in its capacity as a holding company.

Notably, and as earlier discussed, the taxing power of LGUs is not absolute. It is circumscribed by limitations expressly imposed by law, among which is the prohibition against the levy of local business tax on income, except insofar as the same is imposed on banks and other financial institutions. Thus:

> SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units.* — Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays **shall not extend to the levy of the following**:
>
> (a) **Income tax, except when levied on banks and other financial institutions**; (Emphases and underscoring supplied)

The pivotal issue, therefore, is whether petitioner, a holding company, may be subjected to local business tax on its dividend income under the foregoing legal framework.

We rule in the negative.

It is undisputed that petitioner is a holding company. For *one*, respondents themselves expressly admitted in their *Comment (To the Petition for Review dated 27 December 2024)*[131] that petitioner "is not being taxed as a nonbank financial intermediary. Rather, [p]etitioner is being taxed as a holding company due to the existence of a valid and existing ordinance of the City of Taguig[,]"[132] referring to Ordinance No. 47, Series of 2006.[133] Respondents further categorically acknowledged that "petitioner is clearly a holding company considering that its primary business is to own stocks and interests in other companies and to derive income therefrom."[134]

For *another*, respondents' own witnesses unequivocally admitted in their respective Judicial Affidavits that petitioner is, in fact, a holding company:

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[131] Docket, pp. 426 to 442.
[132] *Id.* at 439, par. 36.
[133] *Id.* at 439 to 440, pars. 37 to 40; *Adopting a Local Government Tax Rate on Holding Companies*, October 11, 2006.
[134] *Id.* at 439, par. 38.

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Judicial Affidavit (By Way of Direct Testimony) of Mr. Cultura

Q9: **Do you have a copy of Taguig City is Ordinance No. 47 Series of 2006?**

A9: Yes, Sir.

x x x

Q10: **What is the particular provision in this Taguig City Ordinance No. 47 Series of 2006 which you say is the basis of the City for assessing LBT against Plaintiff?**

A10: Section 5 of the Taguig City Ordinance No. 47 Series of 2006. Said section provides that there is hereby imposed a rate of 5% of the 1% on the dividend income received by Holding Companies from their investments in shares of stock or interest in other companies

x x x

Q11: Why do you say that Plaintiff has to pay the LBT for Holding Company?

A11: Plaintiff is clearly a holding company considering that its primary business is to own stocks and interests in other companies and to derive income therefrom. As such, Plaintiff as a holding company falls within the coverage of Ordinance 47, Series of 2006 specifically Section 5.

x x x[135]

Judicial Affidavit (By Way of Direct Testimony) of Ms. Ballesteros

Q7: **What was the City's legal basis for the imposition of the Business Tax amounting to Two Million Six Hundred Seventy-Nine Thousand Five Hundred Fifty-Six Pesos and Fifty-One Centavos (Php 2,679,556.51) on Plaintiff?**

A7: Its basis is Ordinance No. 47 Series of 2006 (An Ordinance Adopting a Local Government Tax Rate on Holding Companies), which provides that there is hereby imposed

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[135] RTC Docket – Vol. I (Civil Case No. 420), *Judicial Affidavit (By Way of Direct Testimony) of Mr. Gabriel G. Cultura* dated February 26, 2021, pp. 293 to 294.

a rate of 5% of the 1% on the dividend income received by Holding Companies from their investments in shares of stock or interest in other companies.

Q8: **Ms. Ballesteros[,] if I show you a copy of Ordinance No. 47 Series of 2006, would you be able to identify the same?**

A8: Yes, Ma'am.

x x x

Q10: What is the particular provision in this Taguig City Ordinance No. 47 Series of 2006 which you say is the basis of the City for assessing LBT against Plaintiff?

A10: **Section 5** of the **Taguig City Ordinance No. 47 Series of 2006.** Said section provides that there is hereby imposed a rate of 5% of the 1% on the dividend income received by Holding Companies from their investments in shares of stock or interest in other companies. Nonetheless, said amount of dividend income derived by a holding company as a result of a declaration of dividends shall be taxed only once, and subsequent declaration of the same dividend income to its parent holding companies also within the jurisdiction of City of Taguig shall not be further taxed accordingly.

x x x[136]

Verily, under Section 131 of the LGC, "banks and other financial institutions" are defined to include specific financial intermediaries, lending investors, insurance companies, and similar entities. Significantly, holding companies are not among those enumerated, *viz.*:

Section 131. *Definition of Terms.* - When used in this Title, the term:

x x x

(e) "Banks and other financial institutions" include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder;

Even respondents' own Revenue Code of Taguig, as amended,[137] recognizes a clear distinction between "banks and other financial

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[136] *Id., Judicial Affidavit (By Way of Direct Testimony) of Ms. Marilou Ballesteros* dated February 26, 2021, pp. 300 to 301.
[137] Taguig City Ordinance No. 085-05, December 09, 2005.

institutions," on the one hand, and "holding companies," on the other. Thus:

> SECTION 74. *Definitions.* —
>
> x x x
>
> *Banks and other financial institution* include banks, offshore banking, non-bank financial intermediaries, lending investors, finance and investment companies, investment houses, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange including pre-need companies, as defined under applicable law, or rules and regulations.
>
> x x x
>
> *Holding Company* a controlling company that has one or more subsidiaries and confines its activities primarily to their management.

This distinction is material. It confirms that a holding company is not, by legislative classification, a bank or other financial institution within the contemplation of the LGC. Consequently, petitioner does not fall within the narrow exception under Section 133(a) thereof—limited to banks and other financial institutions—which alone permits LGUs to impose income-based taxation. Simply put, respondents' imposition of local business tax on petitioner's dividend income constitutes an exercise of taxing power in direct contravention of the clear prohibition under the LGC.

In *City of Davao v. ARC Investors, Inc.*,[138] the Supreme Court held that passive investment income, such as interest, dividends, and gains from the sale of shares received by non-bank and non-financial institutions, does not form part of "gross sales or receipts" subject to local business tax under the LGC. Accordingly, the City of Davao was found to have acted beyond its taxing authority in imposing such tax on respondent therein, notwithstanding its status as a non-bank and non-financial institution, particularly a Coconut Industry Investment Fund holding company. The High Court held:

> Lastly, the Court finds *Bureau of Local Government Finance Opinion* dated February 22, 2011 as enlightening on the matter, thus:
>
>> It is clear from [Section 143(f) of the LGC] that unless imposed on banks and other financial institutions, any tax imposed on interest, dividends, and gains from sale of shares of non-bank and non-financial institutions assume the nature of income tax. The reason for this is

[138] G.R. No. 249668 (Resolution), July 13, 2022 [Per J. Inting, Third Division].

> evident: *while banks and other financial institutions derive gross receipts in the ordinary course of their business as financial institutions, the same cannot be said for non-bank and non-financial institutions*. As to the latter, *interest, dividends, and gains from sale of shares are merely passive investment income.*
>
> In the same Opinion, the Bureau of Local Government Finance added that the definition of "gross sales or receipts" under Section 131 (n) of the LGC neither includes nor mentions passive income (*i.e.*, dividend income received from another domestic corporation) as one of those that are considered part or forming part of the *gross sales or receipts*; hence, such income is not subject to local business tax.
>
> In *fine*, the City of Davao acted beyond its taxing authority in assessing ARCII the questioned LBT on the premise that it is an NBFI. (Italics in the original; citations omitted)

While the Court is likewise mindful of the pronouncement in *City of Davao v. Randy Allied Ventures, Inc.*[139] that an entity's status as a non-bank and non-financial institution does not, by itself, absolutely exempt it from liability for local business tax under Section 143(f) of the LGC—without prejudice to its possible liability for other national or local taxes should it engage in other profit-oriented activities—the records in this case are utterly bereft of any showing that petitioner engaged in any other business activity susceptible to local business taxation.

In sum, absent any showing that petitioner operates as a bank or other financial institution, or engages in any of the businesses enumerated under Section 131(e) of the LGC, or otherwise conducts profit-making activities subject to local business taxation, respondents' imposition of local business tax on petitioner's dividend income finds no statutory basis under the LGC. Consequently, such exercise of taxing authority is patently *ultra vires*.

Time and again, it bears emphasizing that, "although the power to tax is inherent in the State, the same is not true for the LGUs to whom the power must be delegated by Congress and must be exercised within the guidelines and limitations that Congress may provide."[140] Thus, the scope of an LGU's power to levy taxes is confined to the extent authorized by the Constitution or law.[141] In the exercise of this delegated power, the LGU must act reasonably and in strict adherence

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[139] *Ibid.*
[140] *City of Manila v. Colet*, G.R. Nos. 120051, 121613, 121675, 121704, 121720-28, 121847-55, 122333, 122335, 122349 & 124855, December 10, 2014 [Per J. Leonardo-De Castro, *En Banc*].
[141] *Pelizloy Realty Corp. v. Province of Benguet*, G.R. No. 183137, April 10, 2013 [Per J. Leonen, Third Division].

to the constitutional guarantee that no person shall be deprived of his or her property without due process of law.[142]

WHEREFORE, in light of the foregoing considerations, the instant *Petition* is hereby **GRANTED**. Accordingly, the assailed *Decision* dated August 14, 2024, and the assailed *Resolution* dated November 22, 2024, both rendered by RTC Branch 271 of Taguig City in Civil Case No. 420, are hereby **REVERSED** and **SET ASIDE**. Respondents are **ORDERED TO REFUND** to petitioner the amount of **₱2,679,556.51**.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

I CONCUR:

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

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

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[142] 1987 Constitution, Article III, Section 1, par. 1.

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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice