REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SAN MIGUEL FOODS, INC., Petitioner,	**CTA EB NO. 2535** **(CTA AC NO. 210)**
	Present:
- versus -	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJRDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
OFFICE OF THE CITY TREASURER, CITY OF DAVAO, represented by BELLA N. TANJILI, City Treasurer, Respondent.	Promulgated: MAR 04 2024 4:15

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RESOLUTION

RINGPIS-LIBAN, ***J.:***

For resolution is the *Motion for Reconsideration (Of 18 May 2023 Decision)* of San Miguel Foods, Inc. (SMFI) filed by accredited courier on September 15, 2023,[1] with respondent's *Comment (to the Motion for Reconsideration dated September 15, 2023)* filed by registered mail on October 23, 2023.[2]

In the assailed decision, the Court denied SMFI's petition and affirmed the decision of the court *a quo*, which dismissed its appeal for lack of jurisdiction.[3]

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[1] *Rollo,* pp. 141-150.
[2] *Id.,* pp. 157-163.
[3] *Id.,* p. 60.

SMFI prays that the Court reconsider because the phrase "local tax cases" in Section 7(a)(3) of Republic Act No. (RA) 1125, as amended, should be construed in its *generic sense* to include the *permit fee to slaughter* imposed by the local government. It cites *National Power Corporation v. Municipal Government of Navotas, et al.* (NPC)[4] as authority for its position, which is a reiteration of those stated in the petition.[5] Respondent, on the other hand, states that the permit fee is regulatory fee and not a local tax and, thus, the holding that the court *a quo* had no jurisdiction over the appeal from the Regional Trial Court (RTC) is correct.

The Court is *unimpressed* with the arguments of SMFI.

In essence, the issue in *NPC* was whether the CTA Second Division had jurisdiction to review the decision of the RTC which concerned a petition for declaratory relief involving real property taxes. Thus, the Supreme Court ruled in the affirmative and declared that the CTA sitting as Division had jurisdiction to hear appeals from the RTC over local tax cases, which includes real property taxes:

> "Indeed, the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes. This is evident from a perusal of the Local Government Code (LGC) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.
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> xxx xxx xxx
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> Based on the foregoing, the general meaning of 'local taxes' should be adopted in relation to Paragraph (a)(3) of Section 7 of R.A. 9282, which necessarily includes real property taxes. Second, as correctly pointed out by petitioner, when the legality or validity of the assessment is in question, and not its reasonableness or correctness, appeals to the LBAA, and subsequently to the CBAA, pursuant to Sections 226 and 229 of the LGC, are not necessary." (*Underscoring supplied and citations omitted*)

Clearly, the holding in *NPC* does not extend to this case. *NPC* centered on the issue of whether *real property taxes* are embraced by the phrase "local taxes". The issue that was resolved in the Court's assailed decision, however, was whether the *permit fee to slaughter* was a regulatory fee and *not a local tax*. Accordingly, since the Court ruled that it was a *fee*, it lies outside the jurisdiction of the court *a quo*:

[4] G.R. No. 192300, November 24, 2014.
[5] *See* paragraphs 34-47, *Petition for Review, Rollo*, pp. 10-17.

"The **permit fee to slaughter,** ***which is the subject of respondent's orders of payment and assessments and/or petitioner's payments under protest, is in the nature of a license fee and, thus,*** **not a tax.**

Before the Court *a quo*, petitioner SMFI argued that the *permit fee to slaughter* is a fee for the regulation of the slaughter of the animals and, therefore, a direct duplication of the *ante-mortem* and *post-mortem* fees. Petitioner, however, contradicts this position on appeal before the Court *En Banc* by stating that this case involves a "local tax case" or the issue pertains to the exercise of the taxing powers of the local government over which the Court *a quo* has jurisdiction, under Section 7 of RA 1125, as amended.

First, a *fee* is defined as a charge fixed by law for the service of a public officer, while a *tax* is a forced contribution of wealth to the public needs of government. *Taxes* are imposed for the purpose of general revenue, while *license fee* and *other fees* are ordinarily imposed to cover cost and expense of supervision or regulation.

These definitions are consistent with the codal definition laid down by the Local Government Code in Section 131(l), thus:

xxx xxx xxx

More specifically, *The 2005 Revenue Code of the City of Davao* also provides a definition that follows the wording of those provided above:

xxx xxx xxx

Thirdly, Section 367(a) of *The 2005 Revenue Code of the City of Davao*, which imposes the *permit fee to slaughter*, when read together with the other germane provisions in the city ordinance provides the context and reason for the imposition. The purpose of the *permit fee to slaughter* is clearly *to regulate or control the slaughter of animals intended for sale to the public in order to promote public health and safety* within Davao City's territory:

xxx xxx xxx

A reading of Section 367(a) within the context of the other related provisions under Article Twelve – Slaughter and Corral Fees, brings to light the *general welfare* purpose of these provisions. To reiterate, the purpose of these provisions collectively and the imposition of the permit fee is to *regulate* the activities pertaining to the slaughter of animals, in general, and the slaughter of live birds/poultry, in particular.

Based on the foregoing legal authorities, the imposition of Davao City is unmistakably in the nature of a *fee* for the purpose of regulating the business activity of SMFI. The *permit fee to slaughter* is, therefore, *not a tax* to raise revenues for the city but is imposed on SMFI in order for it to engage in a particular trade or business. The *permit fee to slaughter*, which is within the power of respondent to impose, can only be classified as a *fee* for the purpose of regulating a specific business activity imbued with public interest because the activity, *i.e.* the slaughter of live birds/poultry in its Toril and Tugbok dressing plants, can impact public health, hygiene and sanitation.

> Without a doubt, such business activity by its nature warrants close supervision and control by the city in the exercise of *police power* under the general welfare clauses of Section 16 of the Local Government Code and Section 87 of the *The 2005 Revenue Code of the City of Davao*:
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> xxx xxx xxx
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> It bears stressing that the police power delegated to the local government units under the general welfare provision of Section 16 of the Local Government Code subsumes the promotion of *health and safety* within their territory. Evidently, the regulation of the slaughter of live bird/poultry, the activity undertaken in SMFI's dressing plants, is covered within the standards of *health and safety* for the exercise of the city's regulatory powers.
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> All told, the *permit fee to slaughter*, which is the subject of respondent's orders of payment and assessments and/or petitioner's payments under protest, is in the nature of a *license fee* and, thus, *not a tax*."[6] (*Underscoring supplied and citations omitted*)

Accordingly, the Court *En Banc* finds no reason to modify or reverse the decision under reconsideration.

WHEREFORE, premises considered, SMFI's *Motion for Reconsideration (Of 18 May 2023 Decision)* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

[6] *Id.*, pp. 98-106.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice