REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

NATIONAL GRID CORPORATION OF THE PHILIPPINES,

Petitioner,

- versus -

CITY GOVERNMENT OF QUEZON CITY, as represented by **EDGAR T. VILLANUEVA**, in his official capacity as City Treasurer of Quezon City,
Respondent.

CTA AC NO. 273

Members:

BACORRO-VILLENA, *Acting Chairperson,*
CUI-DAVID, *and*
FERRER-FLORES*, *JJ.*

Promulgated:
AUG 1 2025

4:30 p.m.

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RESOLUTION

CUI-DAVID, J.:

On May 29, 2024, the Court promulgated a Decision, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* filed by National Grid Corporation of the Philippines is **PARTIALLY GRANTED**. The assailed Decision dated July 12, 2022 and Resolution dated September 8, 2022, both rendered by the Regional Trial Court, Branch 225, Quezon City in Civil Case No. R-QZN-21-07791, are **REVERSED** and **SET ASIDE**.
>
> Let this case be **REMANDED** to the Regional Trial Court, Branch 225, Quezon City, for further proceedings, more particularly, for reception of evidence and

* Designated as Special Member.

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determination of the amount to be refunded to petitioner, if any.

SO ORDERED.

Not satisfied with the ruling, respondent filed the instant *Motion for Reconsideration (To the Decision dated 29 May 2024)* on June 16, 2024, claiming that while the Court has jurisdiction over tax-related issues, it does not have authority over regulatory fees such as the mayor's fee. Respondent claims the Court committed reversible errors in its other dispositions, which should be reversed and set aside on the following grounds:

I. PETITIONER ASSENTED TO THE SUBMISSION OF THE CASE FOR SUMMARY JUDGMENT; and,

II. PETITIONER FAILED TO ESTABLISH THAT IT IS EXEMPTED FROM LOCAL TAXES.

Respondent stresses that both parties voluntarily agreed to submit the case for summary judgment, fully aware of its implications. For respondent, having acquiesced to summary judgment, the parties assumed the risk of a judgment based solely on the evidence presented.

In the instant case, respondent claims that the totality of petitioner's evidence, more particularly the BIR Certifications, failed to meet the required preponderance of evidence in a civil case and did not sufficiently prove petitioner's exemption from taxation or entitlement to a refund. On this ground alone, respondent asserts that the *Petition for Review* should have been dismissed.

Respondent further contends that the Court may have erred in holding that "*the parties in the court a quo never raised the issue of payment of the 3% franchise tax. In fact, the BIR Certifications presented by petitioner to prove payment of the 3% franchise tax were never controverted by respondent.*" According to respondent, the fact that the payment of the 3% franchise tax of petitioner was not specifically raised during the proceedings before the court *a quo* does not preclude the latter from ruling on the issue, as it is encompassed within the general prayer of the complaint. Allegedly, the prayer for other reliefs equitable and just in the premises justifies the grant of relief not otherwise specifically prayed for.

Moreover, even assuming that petitioner was able to formally offer the additional BIR Certifications and that these were admitted by the court *a quo*, respondent asserts that the Court misappreciated the additional BIR Certifications' relevance in the determination of petitioner's claim for refund as petitioner allegedly failed to prove that the subject gross receipts form part of its gross receipts subjected to 3% franchise tax. Hence, for respondent, allowing the remand of the case to the court *a quo* would not only serve as advisory guidance to petitioner on how to substantiate its claim for tax exemption and refund, but would also allow the introduction of what procedural rules refer to as "forgotten evidence."

Finally, respondent claims that petitioner failed to establish that it is exempt from local taxes. According to respondent, in the proceedings before the court *a quo*, petitioner failed to offer sufficient supporting evidence demonstrating that the several franchise taxes it paid equate to 3% of its gross receipts from operations under its franchise, as required under Section 9 of Republic Act (RA) No. 9511. Allegedly, the BIR Certifications presented by petitioner did not sufficiently establish the correlation required under Section 9 of RA No. 9511 to justify its claim for exemption from local taxes.

In its *Opposition/Comment (To respondent's Motion for Reconsideration dated 18 June 2024),* filed on July 8, 2024, petitioner counters that summary judgment is permitted only if there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.

Petitioner avers that, in submitting the case to summary judgment, it was of the view that the parties only had legal issues to be resolved, with no factual issues remaining. In fact, according to petitioner, respondent did not adduce evidence to controvert the pieces of evidence (*i.e.*, BIR Certifications) it presented during the pre-trial conference, which serve as proof of payment of the 3% franchise tax. Hence, the failure on the part of respondent to controvert the same is tantamount to an admission that the payment of the 3% franchise tax by

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petitioner is no longer an issue to be resolved by the court *a quo*.

However, instead of deciding only the legal issues identified during the pre-trial, the court *a quo* rendered a summary judgment denying the petition on the ground that petitioner failed to submit proof of updated payment of its 3% franchise tax for calendar year 2021, a factual issue not raised by either party.

Hence, for petitioner, the Court correctly ruled that the court *a quo* erred when it required petitioner to show proof of payment of the 3% franchise tax for calendar year 2021, considering that for petitioner to be exempted from business tax for calendar year 2021, it must prove payment of 3% franchise tax based on its gross receipts for calendar year 2020.

Petitioner likewise submits that the Court correctly ruled when it remanded the case to the court *a quo* for reception of evidence and determination of the amount to be refunded to it. According to petitioner, the Court aptly observed that "*to deny outright petitioner's claim for refund on the ground that the BIR Certifications failed to indicate the tax base or the 3% franchise tax amount of gross receipts on which the franchise tax should have been based is completely unjust, considering that the payment of 3% franchise tax was never raised as issue by the parties before the court a quo.*" Citing *BPI v. CA*,[1] petitioner contends that remanding the case will not cause irreparable harm but will instead allow for a truthful determination of whether the 3% franchise tax was paid in accordance with its franchise.

Lastly, petitioner submits that the BIR Certifications marked as Exhibits "I-3", "I-4", and "I-5" during the pre-trial conference are sufficient to prove its payment of the 3% franchise tax.

Meanwhile, on November 25, 2024, petitioner filed a *Notice of Appearance*, providing the Court with the valid and pertinent email addresses of its counsels, in compliance with A.M. No. 10-3-SC and A.M. No. 11-9-4-SC (*Guidelines on*

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[1] G.R. No. 122480, April 12, 2000.

Submission of Electronic Copies of Pleadings and other Court Submissions being filed before the Lower Courts pursuant to the Efficient Use of Paper Rule).

THE COURT'S RULING

Respondent's *Motion for Reconsideration (To the Decision dated 29 May 2024)* must fail.

As correctly pointed out by petitioner, summary judgment is appropriate only when there are no questions of fact or where the material allegations of the pleadings are not disputed. Otherwise stated, summary judgment may be availed to resolve only questions of law.

Records reveal that during the pre-trial conference before the court *a quo*, the previous petition was submitted for summary judgment after the parties agreed that there were no more controverted facts that would have required the presentation of evidence. Accordingly, the court *a quo* should have confined its resolution to legal issues. However, it did not.

Instead, the court *a quo* rendered a summary judgment denying the petition on the ground that petitioner failed to submit proof of updated payment of its 3% franchise tax for calendar year 2021, a factual matter that was no longer raised by the parties.

Hence, at the risk of being repetitive, the Court reiterates its ruling as follows:

> It must be emphasized that the parties in the court *a quo* never raised the issue of payment of the 3% franchise tax. In fact, the BIR Certifications presented by petitioner to prove payment of the 3% franchise tax were never controverted by respondent. Hence, what was left for resolution was the legal issue of whether petitioner is exempt from the payment of the business tax pursuant to its franchise under RA No. 9511.
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> In the case of *NGCP v. Oliva*, the Supreme Court declared that petitioner's **payment of the 3% franchise tax based on the gross receipts it derived from the exercise**

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of its franchise is sufficient for petitioner to invoke its tax exemption set forth in Section 9 of RA No. 9511, to wit:

xxx xxx xxx

Evidently, the BIR Certifications issued by the BIR, which is the agency tasked with the collection of all national internal revenue taxes, enjoy the presumption of regularity in the performance of official duties and are sufficient to prove the fact of payment of the 3% franchise tax for the period stated in the BIR Certifications.

However, in still denying petitioner's claim for exemption, the court *a quo* ruled in the equally assailed Resolution of September 8, 2022, as follows:

> "Moreover, the information indicated in all the BIR Certifications, failed to demonstrate that: *first,* the amounts collected from petitioner were the very same franchise taxes referred in Section 9 of RA No. 9511; and *second,* the franchise taxes collected from petitioner in 2021 corresponds to 3% of its gross receipts derived from its operations under its franchise as mandated in Section 9 of RA No. 9511."

Indeed, the BIR Certifications do not provide the tax base or the amount of gross receipts on which the franchise tax should have been based, as the BIR Certifications only showed the **total** franchise tax paid or remitted to the BIR. However, the BIR Certifications state that petitioner paid the 3% franchise tax from exercising its franchise. Thus, to deny outright petitioner's claim for refund on the ground that the BIR Certifications failed to indicate the tax base or the amount of gross receipts on which the franchise tax should have been based is completely unjust, considering that the payment of the 3% franchise tax was never raised as an issue by the parties before the court *a quo*. Besides, during the pre-trial conference, the parties were led to believe that there were no *factual* issues to be tried and that only *legal* issues remained for the court *a quo's* determination.

Given the pronouncement in the assailed Resolution on establishing the *factual* basis of petitioner's refund claim, the ends of justice would be better served if this Court remands the instant case to the court *a quo* for reception of evidence. This will allow petitioner to prove that the gross receipts of ₱2,573,935,608.86, on which respondent based its local tax assessments, were indeed subjected to the 3% franchise tax, as certified in the aforesaid BIR Certifications. Following this, the court *a quo* can already proceed to

> determine whether petitioner is entitled to its claim for refund. (*Emphasis on the original*)

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (To the Decision dated 29 May 2024)* is **DENIED** for lack of merit.

Meanwhile, the *Notice of Appearance* filed by petitioner on November 25, 2024, is **NOTED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

(I reiterate my Concurring and Dissenting Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice