REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

MALAYAN EDUCATION SYSTEM, INC. (FORMERLY KNOWN AS MALAYAN COLLEGES, INC. AND PRESENTLY OPERATING UNDER THE NAME OF MAPUA UNIVERSITY),	**CTA AC No. 260** (Civil Case No. CV-14-131442)
	Members:
Petitioner,	**DEL ROSARIO**, *P.J., Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.*
-versus-	
CITY OF MANILA, CITY MAYOR, AND CITY TREASURER,	Promulgated:
Respondents.	MAY 10 2023 11:25AM

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DECISION

MANAHAN, *J.*:

This case involves the *Petition for Review*[1] filed on February 3, 2022 by petitioner Malayan Education System, Inc. (MESI) against respondent City of Manila, its City Mayor, and its City Treasurer pursuant to Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, seeking the reversal of the *Decision* dated October 27, 2021[2] (Assailed Decision) and *Order* dated December 15, 2021[3] (Assailed Order) in Civil Case No. CV-14-131442 of the Regional Trial Court (RTC) – Branch 11, Manila City. Petitioner also prays to declare null and void respondents' deficiency tax assessments in the amount of Php82,536,920.97, and to issue an order enjoining the respondents from further imposing local business taxes (LBT) against petitioner.

The dispositive portions of the assailed Decision and Order of RTC-Branch 11, Manila City, read as follows:

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[1] Docket, CTA AC No. 260, pp. 5-29.
[2] *Id.*, Annex "A", pp. 35-56, and at pp. 94-115.
[3] *Id.*, Annex "B", pp. 58-59, and at pp. 116-117.

Decision dated October 27, 2021:[4]

"**WHEREFORE**, premises considered, the Protest is hereby partially GRANTED. The local business tax assessment for the taxable year 2008 is hereby declared INVALID while the local business tax assessment for taxable years 2009 to 2012 is hereby declared VALID but the amount of the deficiency local business tax inclusive of penalty and surcharge is MODIFIED as follows.

Table Year	Amount of Business Tax Deficiency
2009	Php19,136,671.37
2010	Php19,900,488.85
2011	Php20,955,511.16
2012	Php22,544,249.59
TOTAL	Php82,536,920.97

Plaintiff is hereby ordered to pay defendant City of Manila thru the Office of the City Treasurer of Manila the amount of Php82,536,920.97 upon finality of this decision.

SO ORDERED."

Order dated December 15, 2021:[5]

"WHEREFORE, for failure of the plaintiff to put forth any new compelling argument that would convince this Court to amend, modify or reverse its assailed decision, the Motion for Reconsideration is denied for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner MESI is a stock and for-profit domestic corporation duly organized and existing under and by virtue of Philippine Laws with principal business address at Muralla Street, Intramuros, Manila.[6] Petitioner is also a technology-focused educational institution and is one of the biggest engineering schools in the Philippines operating two (2)

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[4] *Supra*, Note 2.
[5] *Supra*, Note 3.
[6] Docket, *Decision* dated October 27, 2021, p. 40, and at p. 99.

campuses or branches in Intramuros, Manila (Manila Campus) and in Makati City (Makati Campus).[7]

Respondent City of Manila is a municipal corporation duly created and existing under and by virtue of the laws of the Philippines; respondent City Mayor is the local chief executive exercising supervision over the City Treasurer of Manila and mandated by law to ensure that all taxes and other revenues of the city are collected; and respondent City Treasurer is the local official who assessed, imposed and attempted to collect the tax in question.[8]

THE FACTS

On November 15, 2012, petitioner received a Letter of Authority (LOA) No. FES-2012-00001418 dated November 13, 2012 from the Office of the City Treasurer of Manila signed by Ms. Marissa C. De Guzman, OIC-City Treasurer requesting for the submission of various business records and/or documents of the plaintiff for taxable year (TY) 2007 to December 31, 2011. In a Letter dated December 12, 2012, petitioner complied with the said LOA.[9]

On August 7, 2013, plaintiff received again another LOA (Desk Audit/Examination) with No. 2013-CTO-0007 dated August 2, 2013 from the Office of the City Treasurer of Manila signed by City Treasurer Ms. Liberty M. Toledo, informing petitioner that her office will conduct an examination of its book of accounts and other pertinent records and documents relative to its business to ascertain, verify, assess and collect the true and correct amount of local taxes, fees and other regulatory charges for the TYs 2008 to 2012.[10]

Petitioner submitted various business records and documents to respondent City Treasurer through the Letter dated August 22, 2013 in compliance with LOA No. 2013-CTO-0007.[11]

On November 7, 2013, petitioner received an Assessment Letter dated November 6, 2013, together with the computation

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[7] Docket, *Decision* dated October 27, 2021, p. 40, and at p. 99.
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] *Id., Decision* dated October 27, 2021, p. 41, and at p. 100.

of the tax base and the tax due, from respondent City Treasurer which stated that the former had an outstanding obligation to the City Government of Manila in the amount of Php119,840,988.30 inclusive of penalty representing LBT deficiencies covering TYs 2007 to 2011 and demanded that it be paid within seven (7) days from receipt thereof. [12]

On January 6, 2014, petitioner filed a letter of protest on the said assessment letter to respondent City Treasurer grounded on the allegation that it violated its right to due process, that the imposition of said LBT will increase the cost of education and that the educational institutions are not subject to LBT.

On January 20, 2014, petitioner through its counsel received a Letter dated January 7, 2014 from respondent City Treasurer wherein the latter denied the former's protest.[13]

On January 22, 2014, petitioner filed a Supplemental Protest to respondent City Treasurer raising the issue of situs of tax and argued that the assessment includes the gross receipt from its Makati campus in violation of Section 150 of the Local Government Code (LGC).[14]

On February 4, 2014, petitioner received a Letter dated January 27, 2014 from respondent City Treasurer denying said Supplemental Protest because it failed to submit any corroborative proof, such as the certified breakdown of income.

Thus, on February 19, 2014, petitioner filed a case against respondents in RTC – Branch 11, Manila City docketed as Civil Case No. CV-14-131442.

After the trial, the lower court partially granted petitioner's protest under the Assailed Decision where it invalidated the LBT assessment for TY 2008 but petitioner was ordered to pay respondents the amount of Php82,536,920.97, representing the LBT assessment for TYs 2009 to 2012.[15]

Aggrieved by such decision, petitioner moved for the partial reconsideration of the same on November 17, 2021, but

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[12] Docket, *Decision* dated October 27, 2021, p. 41, and at p. 100.
[13] *Id.*
[14] *Id.*
[15] *Supra*, Note 4. *am*

was denied anew under the Assailed Order, which petitioner received on December 20, 2021.[16]

On February 3, 2022, petitioner filed its *Petition for Review.*[17]

On March 11, 2022, respondents were directed to submit their comment to the said petition within ten (10) days from receipt of notice.[18]

On April 18, 2022, respondents filed their *Comment.*[19]

On May 5, 2022, the instant case was submitted for decision.[20]

ISSUE

Whether or not petitioner is subject to the payment of LBT and, therefore, liable for the subject assessment.

Petitioner's Arguments[21]

Petitioner argues that the lower court erred in ruling that petitioner's right to due process was not violated even though respondents failed to provide the specific provision in the tax ordinance and that the latter haphazardly denied its protest letter without consideration of the facts and evidence presented by it.

Petitioner also argues that the lower court erred in ruling that respondents have the authority to impose LBT on it since it is an educational institution.

Respondents' Counter-Arguments[22]

Respondents, on the other hand in its *Comment*, argue that they are authorized by law to levy taxes, fees, or charges on any base or subject not otherwise specifically enumerated or

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[16] Docket, Petition for Review, Timeliness of the Petition, p. 7.
[17] *Id.*, Petition for Review, p. 5.
[18] *Id.*, Resolution dated March 11, 2022, p. 66.
[19] *Id.* at pp. 142-150.
[20] *Id.*, Resolution dated May 5, 2022, pp. 155-156.
[21] *Supra.*, Note 1.
[22] *Supra.*, Note 19.

taxed under the 1997 National Internal Revenue Code (NIRC), as amended, or other applicable laws.

RULING OF THE COURT

The Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[23] The jurisdiction of the CTA regarding local tax cases is provided under Section 7(a)(3) of RA No. 1125, as amended by RA Nos. 9282 and 9503, which provides:

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

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

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

The instant petition arose from the partial granting of petitioner's complaint before RTC – Branch 11, Manila City against respondents' assessment on the former's alleged deficiency LBT for TY 2008 to 2012. Thus, the subject matter of the case falls under Section 7(a)(3) of RA No. 1125, as amended, and Section 3(a)(3) of Rule 4 of RRCTA.

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

As admitted by petitioner, the Assailed Decision and Order were received by the petitioner on October 27, 2021 and December 20, 2021, respectively.

Section 3(a), Rule 8 of the RRCTA also provides:

> SEC. 3. *Who may appeal; period to file petition.* –
>
> (a) **A party adversely affected by a decision, ruling** or the inaction **of** the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a **Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the period fixed by Jaw for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review with in the two-year period prescribed by law from payment or collection of the taxes. (*Emphasis supplied*)

Petitioner had thirty (30) days from December 20, 2021 or until January 19, 2021 within which to file its petition. However, under the Supreme Court's Administrative Circular No. 1-2022 dated January 10, 2022, the filing periods of any and all pleadings and other court submissions falling due during the month of January 2022 in all courts were extended up to February 1, 2022.[24]

On the other hand, February 1, 2022 was declared as special non-working holiday,[25] hence, the next official working day is February 2, 2022. The filing of the instant Petition for Review on February 3, 2022 was one day late.

In this instance, the Court adheres to the liberality of application of technical rules in the interest of equity and justice.

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[24] https://sc.judiciary.gov.ph/administrative-circular-no-01-2022, last seen on April 11, 2023.
[25] https://www.officialgazette.gov.ph/nationwide-holidays/2022/, last seen on April 11, 2023. om

In *Subic Bay Metropolitan Authority v. Subic Bay Marine Exploratorium, Inc.*,[26] the Supreme Court ruled that one (1) day delay in the perfection of an appeal may be considered as the rules may occasionally yield to the loftier ends of substantial justice and equity, to wit:

> "Nonetheless, in view of the substantial governmental interest involved in this case, the negligence of the clerk and the handling lawyer should not prejudice the rights of SBMA. In *Remulla v. Manlongat*, the Court declared that the State must not be prejudiced or estopped by the negligence of its agents. The Rules on the perfection of appeals, specifically on the period for filing notices of appeal, must occasionally yield to the loftier ends of substantial justice and equity. Thus, the one-day delay in the filing of the notice of appeal caused by the public prosecutor's dawdling, was given due course."

Also, in *National Grid Corporation of the Philippines v. Getulia A. Gaite, et al.*,[27] the Supreme Court ruled that an appellate court may allow the late filing of an appeal if there is a strong consideration of equity to justify an exception to the procedural rule in the interest of substantial justice, to wit:

> "The question of whether or not to sustain the dismissal of an appeal due to petitioner's failure to file the Appellant's Brief had been raised before this Court in a number of cases. In some of these cases, we relaxed the Rules and allowed the belated filing of the Appellant's Brief. In other cases, however, we applied the Rules strictly and considered the appeal abandoned, which thus resulted in its eventual dismissal. In *Government of the Kingdom of Belgium v. Court of Appeals*, were visited the cases which we previously decided and laid down the following guidelines in confronting the issue of non-filing of the Appellant's Brief:
>
> (1) The general rule is for the Court of Appeals to dismiss an appeal when no appellant's brief is filed within the reglementary period prescribed by the rules;
>
> (2) The power conferred upon the Court of Appeals to dismiss an appeal is discretionary and directory and not ministerial or mandatory;
>
> (3) The failure of an appellant to file his brief within the reglementary period does not have the effect of causing the automatic dismissal of the appeal;

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[26] G.R. No. 237591. November 10, 2021.
[27] G.R. No. 232119. August 17, 2022.

(4) **In case of late filing, the appellate court has the power to still allow the appeal**; however, for the proper exercise of the court's leniency[,] it is imperative that:

(a) the circumstances obtaining warrant the court's liberality;

(b) **that strong considerations of equity justify an exception to the procedural rule in the interest of substantial justice**;

(c) no material injury has been suffered by the appellee by the delay;

(d) there is no contention that the appellee's cause was prejudiced;

(e) at least there is no motion to dismiss filed.

(5) In case of delay, the lapse must be for a reasonable period; and

(6) Inadvertence of counsel cannot be considered as an adequate excuse as to call for the appellate court's indulgence except:

(a) where the reckless or gross negligence of counsel deprives the client of due process of law;

(b) when application of the rule will result in outright deprivation of the client's liberty or property; or

(c) where the interests of justice so require. (Emphasis supplied; citations omitted)

In this case, and as will be further discussed below, the Court finds that there is sufficient reason to relax procedural rules in the interest of substantial justice."

In the case at hand, the interest of the State pertains to the observance and upholding of the Constitutional provision putting primacy on the development and promotion of education, as a vital social good for the Filipino people. The petitioner is a private educational institution which is entitled to be protected by this Constitutional tenet. Hence, the Court shall exercise jurisdiction on this case.

Petitioner's income is subject to LBT

Now, the question is, whether petitioner's income is subject to LBT.

Section 28(3), Article VI and Section 4(3), Article XIV of the 1987 Philippines Constitution provides for exemption from taxation of educational institutions, to wit:

> "SECTION 28. (1) xxx xxx xxx.
>
> (2) xxx xxx xxx.
>
> (3) Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and **all lands, buildings, and improvements, actually, directly, and exclusively used for** religious, charitable, or **educational purposes shall be exempt from taxation**.
>
> xxx xxx xxx
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> SECTION 4. (1) xxx xxx xxx.
>
> (2) xxx xxx xxx.
>
> (3) **All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties.** Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.
>
> Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment." (*Emphasis supplied*)

Based on the first provision aforecited, the exemption from taxation of real properties of any educational institution which are actually, directly, and exclusively used for the said purpose is absolute.

However, in the second provision, the absolute tax exemption of an educational institution is **available only to non-stock, non-profit educational institutions** although it may be extended to proprietary educational institutions subject to further limitations and provisions of law.

Section 1(1.4) of Department of Finance Department Order No. 137-87 dated December 16, 1987, or the "**Rules and Regulations Implementing Section 4 (3), Article XIV of the New Constitution**", defines "Non-Profit" as "no part of the income inures directly or indirectly to any individual or member." m

In *Commissioner of Internal Revenue v. De La Salle University, Inc.*,[28] the Supreme Court laid down the requisites for availing the tax exemption under Section 4(3), Article XIV of the 1987 Philippines Constitution, to wit:

> "The Court then significantly laid down the requisites for availing the tax exemption under Article XIV, Section 4 (3), namely: (1) the taxpayer falls under the classification **non-stock, non-profit educational institution**; and (2) the **income** it seeks to be exempted from taxation is **used actually, directly and exclusively for educational purposes**."

Thus, petitioner must first prove that it is a non-stock, non-profit educational institution. However, in the Assailed Decision, it is an undisputed fact that petitioner is a stock and for-profit educational institution.[29] Thus, its income may be subject to LBT.

Petitioner's right to due process was violated by respondents by not indicating in the letter of assessment the particular provision of law which the former supposedly violated

Petitioner faulted the trial court in ruling that its right to due process was not violated even though respondents failed to specify in the Letter of Assessment dated November 6, 2013 the specific provision of the local tax ordinance allegedly violated.

On the other hand, respondents argued that they are authorized by law to levy taxes, fees, or charges on any base or subject not otherwise specifically enumerated or taxed under the 1997 NIRC, as amended, or other applicable laws.

Section 195 of the LGC provides:

> **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

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[28] G.R. Nos. 196596, 198841, and 198941, November 09, 2016.
[29] Docket, Decision dated October 27, 2021, p. 40.

> 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 canceling 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. (*Additional boldfacing ours*)

The abovementioned provision is akin to Section 228 of the 1997 National Internal Revenue Code, as amended, which requires that, in order for an assessment to be valid, "taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void."

The question is, did respondents properly inform petitioner as to the legal and factual bases of the tax assessment? We rule in the negative.

A strict scrutiny of the subject letter of assessment dated November 6, 2013[30] shall reveal that nowhere in its face or in the accompanying computation sheet[31] shows that the respondents informed petitioner as to the particular law it violated, to wit:

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[30] RTC Docket, Vol. 3, Exhibit E, p. 297.
[31] RTC Docket, Vol. 3, Exhibit E-1, p. 298.

Republic of the Philippines
City of Manila
CITY TREASURER'S OFFICE

EXHIBIT "E"

November 6, 2013

Dr. REYNALDO B. VEA
President
MALAYAN COLLEGES, INC.
Muralla St., Intramuros
M A N I L A

Dear Dr. Vea:

Greetings!

This refers to the audit and examination conducted by this Office in relation to **Notice to Submit Documents issued to your company/institution**

Upon review, this Office has determined that as of this date your company/institution has an outstanding obligation to the City Government of Manila in the amount of <u>One Hundred Nineteen Million Eight Hundred Forty Thousand Nine Hundred Eighty Eight Pesos and Thirty Centavos (Php 119,840,988.30)</u> inclusive of penalty charges representing business tax deficiencies covering the taxable period of 2007-2011. (Please see the attached computation)

In view of the assessment, formal demand is hereby made upon your company/institution to pay the tax deficiencies within seven (7) days from receipt of this Notice. The corresponding Certificate of Examination will be issued in your favor upon full settlement of the assessment.

In case of default, this Office is constrained to avail of legal remedies for the prompt collection of the taxes due. For further inquiries, you may see the undersigned at the City Treasurer's Office, Ground Floor, Manila City Hall or you may call at Tel. No. (02) 527-5020.

Kindly give this matter your immediate attention.

Very truly yours,

LIBERTY M. TOLEDO
City Treasurer

"Assessment"

MALAYAN COLLEGES INC.
(Intramuros, Manila)

COMPUTATION OF TAX BASE

Particulars	2007	2008	2009	2010	2011
Gross:					
Learning Institution	P 1,083,302,360.00	P 1,107,330,370.00	P1,165,816,822.00	P 1,246,442,343.00	P1,332,682,304.00
Rent Income	P 16,331,897.00	P 19,844,630.00	P 22,745,118.00	P 23,713,585.00	P 23,332,435.00

COMPUTATION OF TAX DUE

	2008	2009	2010	2011	2012
Tax Due					
Learning Institution	P 10,833,023.60	P 11,073,303.70	P 11,658,168.22	P12,464,423.43	P 13,376,823.04
Lessor	P 122,489.22	P 148,834.72	P 170,588.40	P 237,175.85	P 174,993.26
Total Tax Due	P 10,955,512.82	P 11,222,135.42	P 11,828,756.62	P 12,701,559.28	P 13,501,816.30
Less: Payments:	P155,187.95	P214,490.74	P220,490.74	P 221,240.74	P 199,116.67
Tax Deficiency:	P 10,800,324.87	P 11,007,647.68	P 11,608,265.88	P 12,480,318.54	P 13,302,699.67
Additional Surcharge: 25%	P 2,700,081.22	P 2,751,911.92	P 2,902,066.47	P 3,120,079.65	P 3,325,674.90
Total	P 13,500,406.09	P 13,759,559.60	P 14,510,332.35	P 15,600,398.19	P 16,628,374.53
	72%	72%	72%	59.5%	39%
Add: Interests	P 9,720,292.40	P 9,906,882.90	P 10,447,439.29	P 9,282,236.92	P 6,485,066.05
	P 23,220,698.47	P 23,666,442.50	P 24,957,771.64	P 24,882,635.11	P 23,113,440.58

P 119,840,988.30

It is true that in the abovementioned computation sheet, respondents indicated the income subject of said assessment. However, it failed to indicate the particular provision of law violated that served as its basis for such assessment.

In *Commissioner of Internal Revenue v. Azucena T. Reyes*[32], the Supreme Court ruled that such observance of due process is not merely formal but a substantive requirement of law, to wit:

> "*Fourth,* petitioner violated the cardinal rule in administrative law that the taxpayer be accorded due process. Not only was the law here disregarded, but no valid notice was sent, either. A void assessment bears no valid fruit.
>
> The law imposes a substantive, not merely a formal, requirement. To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence."

Although this Supreme Court ruling pertains to national internal revenue taxes, the LBT partakes of the same nature as national taxes.

The failure of respondents to indicate the particular provision of the Manila Revenue Code allegedly violated by petitioner in the face of the letter of assessment dated November 6, 2013 violates glaringly the constitutional right to due process of petitioner. Such violation impugns the validity of said assessment.

In *Luz R. Yamane, in her capacity as the City Treasurer of Makati City v. BA Lepanto Condominium Corporation,*[33] the Supreme Court ruled that the assessment issued by the LGU should be sufficiently informative to apprise the taxpayer of the legal basis of the tax, to wit:

> "Our careful examination of the record reveals a highly disconcerting fact. At no point has the City Treasurer been candid enough to inform the Corporation, the RTC, the Court of Appeals, or this Court for that matter, as to what exactly is the precise statutory basis under the Makati Revenue Code for the levying of the business tax on petitioner. We have examined all of the pleadings submitted by the City Treasurer in all the antecedent judicial proceedings, as well as in this present petition, and also the communications by the City Treasurer to the Corporation which form part of the record. **Nowhere therein is there any citation made by the City Treasurer of any provision of the Revenue Code which**

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[32] G.R. Nos. 159694 and 163581, January 27, 2006.
[33] G.R. No. 154993, October 25, 2005.

> **would serve as the legal authority for the collection of business taxes** from condominiums in Makati.
>
> Ostensibly, **the notice of assessment, 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 nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties...." (*Emphasis supplied*)

In the exercise by the state of its power to tax, be it by the national government or by the LGUs, the law should be construed strictly against them and liberally in favor of the taxpayer, as held in *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*[34], to wit:

> It is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution. Thus, while "taxes are the lifeblood of the government," the power to tax has its limits, in spite of all its plenitude. Hence in *Commissioner of Internal Revenue v. Algue, Inc.*, it was said -
>
>> Taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. On the other hand, such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself. It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxation, which is the promotion of the common good, may be achieved.
>>
>> xxx xxx xxx
>>
>> It is said that taxes are what we pay for civilized society. Without taxes, the government would be paralyzed for the lack of the motive power to activate and operate it. Hence, despite the natural reluctance to surrender part of one's hard-earned income to taxing authorities, every

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[34] G.R. No. 185371, December 08, 2010.

> person who is able to must contribute his share in the running of the government. The government for its part is expected to respond in the form of tangible and intangible benefits intended to improve the lives of the people and enhance their moral and material values. This symbiotic relationship is the rationale of taxation and should dispel the erroneous notion that it is an arbitrary method of exaction by those in the seat of power.
>
> **But even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure.** If it is not, then the taxpayer has a right to complain and the courts will then come to his succor. For all the awesome power of the tax collector, he may still be stopped in his tracks if the taxpayer can demonstrate x x x that the law has not been observed. (Emphasis supplied).

WHEREFORE, premises considered, the Petition for Review is hereby **PARTIALLY GRANTED**. The *Decision* dated October 27, 2021 and *Order* dated December 15, 2021, both rendered by the Regional Trial Court – Branch 11, Manila, are **REVERSED** and **SET ASIDE**. Accordingly, the letter of assessment dated November 6, 2013 is hereby **CANCELLED** and **SET ASIDE**.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
MARIAN IVY F. REYES-FAJARDO
Presiding Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ROMAN G. DEL ROSARIO
Presiding Justice