REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PUBLIC SAFETY MUTUAL BENEFIT FUND, INC., REPRESENTED BY ITS PRESIDENT EMMANUEL B. PERALTA, *Petitioner,*	**CTA *EB* NO. 3003** (CTA AC No. 245) *Present*: **RINGPIS-LIBAN**, *P.J.*, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
-versus-	
ROSETTE F. LAQUIAN, ACTING CITY TREASURER, SAN JUAN CITY, *Respondent.*	Promulgated: DEC 22 2025 3:40 pm

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*,[1] filed on October 28, 2024, by petitioner Public Safety Mutual Benefit Fund, Inc. (**petitioner** or **PSMBFI**), seeking to reverse and set aside the *Decision* dated June 11, 2024[2] (**assailed *Decision***) and the *Resolution* dated September 12, 2024[3] (**assailed *Resolution***), both issued by the Court's *Second Division* (**Court in Division**) in CTA AC No. 245.

The dispositive portions of the assailed *Decision* and *Resolution* state:

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[1] *En Banc* (*EB*) Docket, pp. 8–34.
[2] *Id.* at 40–54.
[3] *Id.* at 56–58.

Assailed Decision

> "**ACCORDINGLY**, the instant Petition and Amended Petition filed by petitioner **PUBLIC SAFETY MUTUAL BENEFIT FUND, INC.** are hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

Assailed Resolution

> "**ACCORDINGLY**, petitioner's *Motion for Reconsideration (of the Decision promulgated on June 11, 2024)* is hereby **DENIED** for lack of merit. The Decision, dated June 11, 2024, is hereby **AFFIRMED**.
>
> **SO ORDERED.**"

Petitioner further prays that this Court set aside and cancel the Tax Order of Payment (**TOP**) dated January 21, 2019, and received on January 28, 2019 (**TOP 3**), for being contrary to law and without factual basis, or, at the very least, remand the case to the court *a quo* for factual determination prior to a ruling on the merits.[4]

THE PARTIES

Petitioner PSMBFI is a registered non-stock, non-profit mutual benefit association with business address at No. 318-320, corner 1st and 2nd West Crame Sts., Barangay West Crame, Santolan Road, San Juan City. It is represented by its President, Mr. Emmanuel B. Peralta.[5]

Respondent Rosette F. Laquian (**respondent** or **Laquian**) is the Acting City Treasurer of San Juan City with postal address at the Office of the City Treasurer, Pinaglabanan St., corner Dr. P.A. Narcisio St., Barangay Corazon de Jesus, San Juan City.[6]

THE FACTS AND PROCEEDINGS

The relevant facts, as found by the Court in Division, are as follows:

[4] *Id.* at 33, Petition for Review, Prayer.
[5] *Id.* at 10, Petition for Review, par. III (15).
[6] *Id.* at 10, Petition for Review, par. III (16).

Petitioner's Amended Articles of Incorporation provides that it was primarily formed:

a. To foster brotherhood and sisterhood mutual assistance among members;
b. To encourage the habit of thrift and savings among members;
c. To provide financial material aid and comforts to members and their families in case of losses, disability, necessities, unemployment, old age as may be authorized by statutes or regulations prescribed by competent authority;
d. To provide retirement pension benefits to members and their families;
e. In general, to do such acts and things and to undertake such activities not otherwise prohibited by law which are calculated to help members and necessary for the accomplishments of the purpose for which the fund has been organized.

It realizes gross receipts from the contribution of members to the Equity Plan (Insurance Plan), Premiums from other insurance plans, Investment earnings, and other incomes. In addition, petitioner realizes rental income by leasing a portion of its building to tenants. All of its funds and earnings, however, are utilized for the mutual benefit and protection of its members and their families.

Sometime in the past, the Bureau of Internal Revenue ("BIR") issued an Exemption Ruling from income realized by petitioner as a Mutual Benefits Association.

In 2006, petitioner transferred its main office from Camp Crame to its present address in San Juan City. On July 26, 2006, the Office of the Mayor, Business Permit and Licensing Office, issued petitioner's first ever Permit to Operate.

From calendar year ("CY") 2006 to CY 2015, petitioner was assessed for local business taxes ("LBT") only on its leasing operations. For said period, petitioner paid a total of Php581,951.33 as LBT.

On October 29, 2015, a Tax Order of Payment ("TOP") (hereinafter referred to as "TOP 1") was issued by respondent requiring petitioner to pay LBT not only on its leasing activity but also on the gross receipts that it received from all its operations as a Mutual Benefits Association, pursuant to *Section 143 (f) in relation to Section 131 of the Local Government Code ("LGC")* from CY 2009 to 2015.

On December 1, 2015, petitioner sent a Letter, dated November 24, 2015, to respondent, informing the latter that it is a Mutual Benefits Association and as such is exempt from payment of LBT on "banks and other financial institutions" under *Section 143 (f) in relation to Section 131 of the LGC*. It referenced *Local Finance Circular No. 2-93, dated June 15, 1993*, which provides that Mutual Benefits Associations are not within the scope of the LBT on "banks and other financial institutions."

On December 10, 2015, petitioner requested from the Bureau of Local Government Finance ("BLGF") for a specific ruling on its exemption from LBT. In an Opinion, dated January 14, 2016, the BLGF opined that since petitioner is a Mutual Benefits Association, it is exempt from payment of LBT.

Following this, petitioner filed a Protest against TOP 1, raising the argument that it is a Mutual Benefits Association, and as such, it is not subject to LBT on "banks and other financial institutions."

On January 18, 2017, respondent issued another TOP ("TOP 2") which contained the same assessments for CYs 2009 to 2015 as covered by TOP 1 but with additional LBT assessments for CYs 2016 and 2017 which were made on the same legal basis as TOP 1.

On January 23, 2018, petitioner received a Letter, dated September 5, 2017, effectively denying its Protest against TOP 1. Thereafter, petitioner filed an Appeal with RTC-Branch 160 questioning the propriety of TOP 1 and TOP 2. After RTC-Branch 160 denied the Appeal on the basis that petitioners failed to prove its alleged exemption from the payment of LBT, petitioners then elevated the matter before the Court of Tax Appeals ("CTA"). The case was eventually disposed of by the CTA *En Banc* against petitioner, which ruled that the TOPs 1 and 2 had become final, executory, and unappealable as petitioner failed to comply with the provisions of *Section 195 of the LGC*.

Thereafter, and central to this Petition, a TOP, dated January 21, 2019, ("TOP 3") was received by petitioner from respondent on January 28, 2019. TOP 3 covers the period from CY 2009 to 2019 and assessed petitioner the amount of Two Hundred Eight Million One Hundred Thirty Thousand Five Hundred One and 95/100 Pesos for deficiency LBT under the category – "Financial Institution-Insurance Companies."

Petitioner then filed a Protest against the TOP on March 13, 2019 with the Office of the City Treasurer through a Letter, dated March 11, 2019. It reiterated its position that, as a

Mutual Benefits Association, it is exempt from payment of LBT.

On May 14, 2019, petitioner received a copy of the Letter, dated May 10, 2019, denying the Protest.

Accordingly, petitioner filed on June 13, 2019 an Appeal before RTC-Branch 264 questioning the denial of its administrative Protest.

On 2 June 2020, the Assailed Decision was promulgated by RTC-Branch 264 denying petitioner's Appeal. Petitioner then filed a Motion for Reconsideration of the said Decision on 4 September 2020. Through the Assailed Order, dated 6 November 2020, petitioner's Motion for Reconsideration was denied.

Thus, on December 14, 2020, petitioner filed the instant Petition.

On January 20, 2021, this Court ordered respondent to file a Comment on the Petition, which respondent filed through registered mail on March 22, 2021.

On June 10, 2021, petitioner manifested that it paid under protest the LBT assessments contained under TOPs 1, 2, and 3. In response, however, respondent filed a Comment (In Re: Manifestation dated June 9, 2021) indicating that while she confirms the payment made by petitioner of the LBT assessments contained under TOPs 1, 2, and 3, the said payment cannot be considered a payment under protest considering that such manner of payment is not legally available for LBT assessments but is simply allowed by the *LGC* for real property tax assessments.

RTC-Branch 264 elevated the Court Records appurtenant to the present case on April 25, 2022.

On April 29, 2022, petitioner filed its Memorandum for the Petition.

On May 23, 2022, petitioner filed an Urgent Verified Motion for the Lifting of the Warrant of Levy. In said Motion, petitioner alleged that since it already paid the LBT assessments contained under TOPs 1, 2, and 3, there is no legal basis for respondent to continue levying petitioner's real properties. On August 11, 2022, respondent filed her Comment/Opposition (to the Verified Urgent Motion for the Lifting of the Warrant of Levy) counter-arguing that she cannot lift the levy made on petitioner's real properties since petitioner's payment under protest for LBT assessments is not legally sanctioned under the *LGC*. Lifting the Warrant of Levy

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might estop the City from questioning petitioner's procedural mistake.

On November 10, 2022, respondent filed her Memorandum.

On November 14, 2022, petitioner submitted the Judicial Affidavit of Atty. Rizalina V. Lumbera in support of its Urgent Verified Motion for the Lifting of the Warrant of Levy. On November 22, 2022, Atty. Lumbera was placed on the witness stand. During the said hearing, petitioner was given a chance by the Court to amend its Petition to include the refund aspect of the present case which resulted from petitioner's payment under protest of the LBT assessments contained under TOPs 1, 2, and 3 and which was covered by the testimony of Atty. Lumbera.

On December 7, 2022, petitioner filed its Amended Petition containing the refund aspect of the instant case that resulted from its payment under protest of the LBT assessments contained in TOPs 1, 2, and 3.

On December 23, 2022, respondent filed through registered mail her Comment (to the Amended Petition dated 06 December 2022), contending that the Amended Petition must be dismissed since petitioner failed to pay the necessary docket fees for the refund element of the Amended Petition.

In a Resolution, dated March 31, 2023, this Court ordered the lifting of the Warrant of Levy considering that petitioners have already paid the LBT due in the TOPs 1, 2, and 3.

Petitioner filed its Memorandum in relation to the Amended Petition on May 11, 2023, while respondent filed her Memorandum on May 12, 2023. Thus, in a Resolution, dated June 15, 2023, the instant case was submitted for Decision.

On June 11, 2024, the Court in Division rendered the assailed *Decision* denying the petition on the ground of prescription.[7]

On July 9, 2024, petitioner filed a *Motion for Reconsideration (of the Decision promulgated on June 11, 2024)*,[8] to which respondent filed a *Comment (To the Motion for Reconsideration dated 8 July 2024)* on August 8, 2024.[9] The Court in Division denied the motion in the assailed *Resolution*.[10]

[7] Division Docket – Vol. II, pp. 337–351.
[8] *Id.* at 352–366.
[9] *Id.* at 368–384.
[10] *Id.* at 389–391.

Upon receipt of the assailed *Resolution* on September 25, 2024, petitioner filed a *Motion for Extension of Time to File Verified Petition for Review (Pursuant to Rule 8, Sec. 3(b) of the Revised Rules of the Court of Tax Appeals)*[11] before the Court *En Banc* on October 8, 2024, which the Court granted in a Minute Resolution dated October 10, 2024,[12] giving petitioner until October 25, 2024 to file its petition for review.

On October 28, 2024, petitioner filed the instant *Petition for Review.*

In compliance with the Court *En Banc*'s directive,[13] respondent filed a *Comment (To the Petition for Review dated 21 October 2024)* on February 5, 2025.[14]

Thereafter, on February 27, 2025, the Court *En Banc* submitted the case for decision.[15]

THE ISSUE

As culled from the present *Petition for Review*, the sole issue for resolution is:

> [WHETHER] THE HONORABLE COURT SECOND DIVISION ERRED IN RULING THAT THE PETITIONER'S RIGHT TO APPEAL BEFORE THE REGIONAL TRIAL COURT THE RESPONDENT'S DENIAL OF THE PROTEST ON TOP 3 HAS ALREADY BEEN PRESCRIBED.[16]

Petitioner's arguments

Petitioner contends that the Court in Division erred in ruling that it failed to timely appeal to the Regional Trial Court (**RTC**)-Branch 264, San Juan City, respondent's denial due to inaction, thereby rendering TOP 3 final, executory, and unappealable.

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11 *EB* Docket, pp. 1–4.
12 *Id.* at 7, Notice of Resolution dated October 10, 2024.
13 *Id.* at 61, Notice of Resolution dated January 17, 2025.
14 *Id.* at 62–80.
15 *Id.* at 86, Notice of Resolution dated February 27, 2025.
16 *Id.* at 21, Petition for Review, par. IV.

Petitioner further contends that the Court in Division's reliance on *China Banking Corporation v. City Treasurer of Manila*[17] (***China Banking***) was misplaced since, unlike in *China Banking* where no action was taken by the City Treasurer on the protest, respondent herein issued a denial within the 60-day period, although petitioner received the denial only after the period had already lapsed.

Moreover, petitioner maintains that under Section 195 of the Local Government Code[18] (**LGC**), the 30-day period to file an appeal to a court of competent jurisdiction may be reckoned from (1) the receipt of the denial, **or** (2) the lapse of the 60-day period for the local treasurer to decide on the protest. Nothing in Section 195 requires the use of an earlier date between the two alternatives. According to petitioner, the Court in Division's interpretation of Section 195 improperly imposed a condition that the denial should be received before the lapse of the 60-day period, which is not found in the simple wording of the law.

Additionally, petitioner asserts that the interpretation of Section 228 of the National Internal Revenue Code (**NIRC**), in *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*[19] (***Lascona***) can be logically applied in interpreting Section 195.

From the foregoing circumstances, petitioner urges the Court *En Banc* to apply equity jurisdiction in the instant case. It likewise claims that the assessment is void, without legal basis, and that compelling circumstances warrant an exception to the doctrine of immutability of final judgments.

Respondent's counter-arguments

Respondent refutes petitioner's proposition to apply equity jurisdiction, which is inapplicable to the instant case, since it can be applied only in the absence of statutory law, judicial rules, or procedure. Here, respondent contends that there is a law that already governs the period for filing protests on local business tax (**LBT**) assessments.

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[17] G.R. No. 204117, July 1, 2015 [Per J. Mendoza, Second Division].
[18] Republic Act No. 7160 or otherwise known as "Local Government Code of 1991".
[19] G.R. No. 171251, March 5, 2012. [Per J. Peralta, Third Division].

Citing *Viva Shipping Lines, Inc. v. Keppel Philippines Mining, Inc.,*[20] respondent argues that the liberality in the application of the rules must be pleaded with a factual basis and must be allowed for equitable ends, which petitioner failed to provide. It likewise failed to mention that the assailed *Decision* and *Resolution* were primarily based on the most relevant case, *Public Safety Mutual Benefit Fund, Inc. v. Laquian* (***2021 PSMBFI* case**),[21] in which the Supreme Court already affirmed the earlier assessments covered by TOPs dated October 29, 2015 (**TOP 1**) and January 18, 2017 (**TOP 2**), respectively.

Respondent further asserts that the principle of "denial by inaction" was correctly interpreted and applied by the Court in Division, and that *Lascona* is inapplicable because Section 228 of the NIRC and Section 195 of the LGC are fundamentally different.

Finally, respondent maintains that TOP 3 is a valid assessment as petitioner is clearly engaged in the insurance business, earning income from the receipt of insurance premiums, thus, it is a financial institution subject to LBT.

THE COURT *EN BANC*'S RULING

The instant *Petition for Review* is bereft of merit.

The Court En Banc has jurisdiction over the present Petition for Review.

Before delving into the substantive issue, the Court must first determine the timeliness of the *Petition for Review.*

Petitioner received the assailed *Resolution* denying its *Motion for Reconsideration (of the Decision promulgated on June 11, 2024)* on September 25, 2024.[22]

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[20] G.R. No. 177382, February 17, 2016 [Per J. Leonen, Second Division].

[21] G.R. No. 256741 (Notice), August 4, 2021 [Per Resolution, Second Division]; Division Docket – Vol. I, pp. 321–322; See also Division Docket – Vol. I, pp. 323–324, Entry of Judgment certifying that the August 4, 2021 Resolution of the Supreme Court has become final and executory and is recorded in the Book of Entries of Judgments on November 24, 2021.

[22] Division Docket – Vol. II, p. 388; *EB* Docket, p. 1, Motion for Extension of Time to File Verified Petition for Review (Pursuant to Rule 8, Sec. 3(b) of the Revised Rules of the Court of Tax Appeals), par. 3; *EB* Docket, p. 10, Petition for Review, par. II (11).

Under Section 3(b), Rule 8[23] of the Revised Rules of the Court of Tax Appeals (**RRCTA**), petitioner had fifteen (15) days from receipt of the assailed *Resolution,* or until October 10, 2024, to appeal to the Court *En Banc.*

On October 8, 2024, petitioner filed a *Motion for Extension of Time to File Verified Petition for Review (Pursuant to Rule 8, Sec. 3(b) of the Revised Rules of the Court of Tax Appeals),*[24] praying for an extension of 15 days from October 10, 2024, or until October 25, 2024, to file its Petition for Review.

On October 10, 2024, the Court *En Banc* granted petitioner a final and non-extendible period of 15 days, counted from the expiration of the original period on October 10, 2024, or until October 25, 2024, to file the Petition for Review.[25]

Due to work suspension on October 25, 2024,[26] caused by Tropical Storm "Kristine," the deadline was moved to the next working day, October 28, 2024. Petitioner filed the present *Petition for Review* on October 28, 2024.

Accordingly, the *Petition for Review* was timely filed, and the Court *En Banc* is properly vested with jurisdiction to take cognizance of the case.

The Court in Division did not err in holding that TOP 3 had become final, executory, and unappealable.

TOP 3 pertains to respondent's assessment of petitioner for deficiency LBT for calendar years (**CYs**) 2009 to 2019 in the aggregate amount of ₱208,130,500.95, under the category – "Financial Institution – Insurance Companies."

[23] SEC. 3. *Who May Appeal; Period to File Petition.* – ...
(b) A party adversely affected by a decision or resolution of a division of the court on a motion for reconsideration or new trial may appeal to the court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

[24] *EB* Docket, pp. 1–4.

[25] *Id.* at 7, Notice of Resolution dated October 10, 2024.

[26] CTA Memorandum dated October 24, 2024. Re: Work Suspension on October 25, 2024.

In the assailed *Decision,* the Court in Division denied the *Petition* and *Amended Petition* for lack of merit, ruling that TOP 3 had become final, executory, and unappealable because petitioner's appeal to the RTC was filed beyond the 30-day period prescribed under Section 195 of the LGC.

Petitioner, however, insists that its appeal to the RTC was timely, arguing that the 30-day period under Section 195 should be counted from its receipt of respondent's denial on May 14, 2019. It contends that the use of the disjunctive term "or" in the provision gives it the option to choose between (a) receipt of denial or (b) the lapse of the 60-day period for the treasurer to decide, as the reckoning point.[27]

Respondent counters that the reckoning point is the lapse of the 60-day period on May 12, 2019.[28] Thus, petitioner had only until June 11, 2019 to appeal. Its filing on June 13, 2019 was late, rendering TOP 3 final, executory, and unappealable.

The Court *En Banc* finds petitioner's arguments devoid of merit.

Section 195 of the LGC outlines the remedies available to a taxpayer protesting the assessments of local business taxes, as follows:

> 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

[27] *EB* Docket, pp. 8–34, Petition for Review, pars. 40–45.
[28] *Id.* at 62–80, Comment (To the Petition for Review dated 21 October 2024), par. 3.10.

> assessment becomes conclusive and unappealable. *(Emphasis supplied)*

Section 195 provides three material periods:

1. **Sixty (60) days** from receipt of the assessment to file a written protest;

2. **Sixty (60) days** from filing of the protest for the local treasurer to decide; and

3. **Thirty (30) days** from either (a) receipt of the denial, or (b) the lapse of the 60-day period to decide, within which to appeal to the court of competent jurisdiction.

Failure to comply renders the assessment final, conclusive, and unappealable.

As held by the Court in Division in the assailed *Decision*, the failure of the local treasurer to act within 60 days constitutes a **denial due to inaction.** This deemed denial immediately triggers the 30-day appeal period. A taxpayer has no option to wait for an actual denial by the local treasurer issued beyond the 60-day period.

The material dates relevant in determining whether petitioner's appeal to the RTC was timely or, stated differently, whether the RTC validly acquired jurisdiction over said appeal, are as follows:

Date	Particulars
January 28, 2019[29]	Petitioner received TOP 3 issued by respondent on January 21, 2019.
March 13, 2019[30]	Petitioner filed its protest against TOP 3.
May 12, 2019	End of the 60-day period for the local treasurer to decide on the protest.
May 14, 2019[31]	Petitioner received respondent's letter dated May 10, 2019 denying the protest.
June 11, 2019	End of the 30-day period to file an appeal before a court of competent jurisdiction.
June 13, 2019[32]	Petitioner filed its appeal before the RTC.

[29] Division Docket – Vol. I, p. 85–86, Petition, Annex "H".
[30] *Id.* at 65–71, Petition, Annex "C".
[31] *Id.* at 73–74, Petition, Annex "D".
[32] *Id.* at 127–151, Petition, Annex "Q".

Petitioner timely filed its protest. After receiving TOP 3 on **January 28, 2019**, it filed its protest on **March 13, 2019**, well within the 60-day period prescribed by law.

Respondent, however, failed to act within the 60-day period. Thus, petitioner's protest was deemed denied due to inaction on **May 12, 2019**, regardless of its subsequent receipt of an actual denial on **May 14, 2019**.

Consequently, petitioner had 30 days from May 12, 2019, or until **June 11, 2019,** to appeal to the RTC. Considering that petitioner filed its Petition for Review before RTC-Branch 264, San Juan City, only on **June 13, 2019**, the appeal was indisputably filed out of time.

Petitioner's contention that the 30-day period should be reckoned from its receipt of respondent's denial letter on May 14, 2019, rather than from the lapse of the 60-day period on May 12, 2019, is without merit.

This conclusion finds support in the Supreme Court's ruling in the ***2021 PSMBFI* case**,[33] which affirmed the CTA *En Banc's* Decision and Resolution in **CTA *EB* No. 2198** involving the same parties and substantially similar factual circumstances concerning two earlier Tax Orders of Payment (TOP 1 and TOP 2, respectively covering CYs 2009–2015 and 2009–2017). In that case, the Supreme Court sustained the CTA *En Banc's* construction of Section 195 of the LGC, holding that the 30-day period to appeal must be counted from the lapse of the 60-day period for the treasurer to act, not from the taxpayer's subsequent receipt of an actual denial.

It bears noting that, based on the records, the assessments under TOP 1 and TOP 2 have already been upheld with finality by the Supreme Court.[34] In contrast, TOP 3 covers a broader period, CYs 2009 to 2019, which overlaps with the years previously adjudicated with finality in the earlier TOPs. Thus, the only remaining years at issue in this case are **CYs 2018 and 2019**, as the assessments for CYs 2009 to 2017 were already definitively resolved by the Supreme Court.

In **CTA AC No. 214**, upheld by the CTA *En Banc* in **CTA *EB* No. 2198** and later by the Supreme Court in the ***2021***

[33] *Supra* note 21.
[34] See Division Docket – Vol. I, pp. 323–324, Entry of Judgment certifying that the August 4, 2021 Resolution of the Supreme Court in G.R. No. 256741 has become final and executory and is recorded in the Book of Entries of Judgments on November 24, 2021.

PSMBFI* case**, the CTA Division clarified that the phrase "denial of the protest" in Section 195 refers only to a denial issued within the 60-day period. Thus, the taxpayer must file an appeal within 30 days either from receipt of the treasurer's decision issued within the 60-day period or from the lapse of that period, ***whichever comes earlier, *viz.*:[35]

> It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, i.e., that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment. Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law. ...
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> **Applying the foregoing rule, the "denial of the protest" mentioned in the last paragraph of the provision should be read in reference to the notice of denial/cancellation <u>issued by the local treasurer within the 60-day period within which to act on the protest.</u>**
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> **As such, the filing of an appeal should be made within thirty (30) days from either receipt of the decision issued before the lapse of the sixty (60) day period or from the lapse of the said period, <u>whichever comes earlier.</u>** Thus, petitioner's appeal filed on February 22, 2018 with the RTC, when it should have been filed on March 26, 2016, was filed out of time, which as a result, deprives the said court of its jurisdiction. (*Emphasis and underscoring supplied*)

In **CTA *EB* No. 2198,** the CTA *En Banc* categorically rejected arguments substantially identical to those raised by petitioner here—namely: that Section 195 is merely directory in nature; that a taxpayer may still appeal a decision of the local treasurer issued after the 60-day period to act on petitioner's protest; that Section 195 should be interpreted in the same manner as Section 228 of the NIRC of 1997, as amended; and that the interpretation of the Supreme Court in the case of *Lascona* may be applied by analogy to the instant case. The CTA *En Banc* held:

> Petitioner, however, claims that the provision under Section 195 of the LGC is merely directory in nature and should not be strictly applied against the taxpayer. **Petitioner further insists that it can still appeal the decision of the local treasurer even if the same was issued beyond the 60-day period to act on petitioner's protest**. Relying on the Lascona case, petitioner argues that TOP1 did not become

[35] *Public Safety Mutual Benefit Fund, Inc. v. Laquian*, CTA AC No. 214 (Resolution), November 22, 2019.

final, executory and demandable despite its failure to appeal the inaction of the local treasurer. ...

The foregoing contentions deserve scant consideration.

In the China Banking case, the Supreme Court recognized that the failure of the local treasurer to act on the protest is tantamount to a "denial due to inaction," to wit: ...

Further, in the case of Team Pacific Corporation v. Josephine Daza, the Supreme Court ruled that the inaction of the local treasurer is appealable to a court of competent jurisdiction, to wit: ...

Based on the foregoing jurisprudential pronouncements, it is evident that under Section 195 of the LGC, **the failure of the local treasurer to act on the taxpayer's protest within the 60-day period is tantamount to a "denial due to inaction."** <u>**The taxpayer is mandated to elevate the said "denial due to inaction" to a court of competent jurisdiction, within a period of thirty (30) days reckoned from the lapse of the 60-day period.**</u> It bears stressing that the perfection of appeal within the period prescribed under Section 195 of the LGC is not only mandatory but also jurisdictional.

Further, it is relevant to take note of **the use of the word "shall" in Section 195 of the LGC, as the word "shall" underscores the mandatory character thereof**. It is a word of command, one which always has or must be given a compulsory meaning, and is generally imperative or mandatory. Thus, contrary to petitioner's stance, the provision under Section 195 of the LGC as well as the period indicated therein are mandatory and not merely directory in nature.

As to petitioner's reliance on the Lascona case, the same deserves scant consideration. The Lascona case involves the application of Section 228 of the Tax Code as amended, particularly on the period for the CIR to act on a taxpayer's disputed assessment. It is therefore erroneous for petitioner to insist on the application of the said jurisprudence, considering that the present case involves the assessment of local business tax under Section 195 of the LGC, and not disputed assessment under Section 228 of the NIRC of 1997.

In sum, considering petitioner's failure to properly observe the procedure set forth under Section 195 of the LGC, the subject assessments have thus become final, executory and unappealable. ... (*Emphasis and underscoring supplied*)

The Supreme Court, in affirming the CTA *En Banc* in **CTA *EB* No. 2198 (CTA AC No. 214)**, categorically held that the reckoning point for the 30-day appeal period is the lapse of the 60-day period for the treasurer to act, regardless of any subsequent written denial. Failure to perfect an appeal within the prescribed period renders the assessment "conclusive and unappealable."

The Supreme Court stated:

> After a judicious study of the case, the Court resolves to **DENY** the instant petition and **AFFIRM** the Decision dated January 15, 2021 and the Resolution dated June 8, 2021 of the Court of Tax Appeals (CTA) En *Banc* in CTA EB No. 2198 for **failure of petitioner to show any reversible error committed by the CTA *En Banc* in holding that the subject assessments issued by respondent Rosette F. Laquian, Acting City Treasurer of San Juan City (respondent) against it for local business taxes had already become final and unappealable.**
>
> As correctly ruled by the CTA En *Banc,* Section 195 of Republic Act No. 71604 or the Local Government Code of 1991 (LGC) provides in no uncertain terms the manner and period for a taxpayer to perfect its appeal from a denial or inaction of the Treasurer from the taxpayer's protest of an assessment against it. **Here, it is clear from the records that petitioner filed its protest on the first Tax Order of Payment on December 29, 2015. Respondent had sixty (60) days to resolve the same, or until February 28, 2016. Notably, there was no action on respondent's part. Hence, after the lapse of the sixty (60)-day period, petitioner should have appealed this denial due to inaction within thirty (30) days therefrom, or until March 29,2016.** However, petitioner only filed its petition on February 20, 2018, or almost two (2) years from the last day provided under Section 195 of the LGC. **The said provision is clear that failure to do so renders the assessment 'conclusive and unappealable. ...** *(Emphasis and underscoring supplied; Citations omitted)*

The above interpretation was likewise applied in *Service Resources, Inc. v. Pasig City,*[36] where the CTA *En Banc* held:

> Thus, the proper interpretation of Section 195 of the LGC should be that if a protest has been filed by a taxpayer, the Local Treasurer must decide the same within 60 days from receipt of such protest. If the Local Treasurer issues an adverse

[36] CTA *EB* Case No. 2719 (CTA AC No. 243), April 23, 2024.

> decision on the protest **within such period**, then the taxpayer can file an action before the appropriate RTC within 30 days from receipt of such adverse decision. However, if the Local Treasurer fails to decide within the 60-day period, such that the protest is deemed denied, the taxpayer must then elevate such deemed denial of its protest before the appropriate RTC within 30 days from the expiration of such 60-day period. **The taxpayer is not given the option to wait for an actual adverse decision from the Local Treasurer after the expiration of the 60-day period.** *(Emphasis supplied)*

Applying the foregoing pronouncements, petitioner had 30 days from May 12, 2019, or until **June 11, 2019**, to file an appeal. The filing of the appeal before RTC-Branch 264, San Juan City on June 13, 2019, was therefore late, rendering TOP 3 final, conclusive, and unappealable.

The subsequent receipt of respondent's denial on May 14, 2019 is immaterial. The lapse of the 60-day period without action constituted a **denial due to inaction**, which triggered the prescriptive period for judicial appeal under Section 195. The Supreme Court in the ***2021 PSMBFI case*** affirmed that the 30-day period runs from the lapse of the 60-day period, not from the later receipt of an actual denial.

In fine, petitioner's arguments merely reiterate those previously resolved by the Court in Division and reinforced in its denial of reconsideration. The Court *En Banc* finds no cogent reason to disturb the findings of the Court in Division.

Equity jurisdiction is not applicable in the instant case.

Petitioner invokes equity jurisdiction, arguing that the 30-day period to appeal should be reckoned from its receipt of the denial of protest, allegedly in accordance with substantive law. It claims that treating its appeal as prescribed violates its right to due process and asserts that the assessment is void. It further contends that disregarding the supposed nullity of the assessment in adherence to the doctrine of immutability of final judgments would defeat substantial justice.

This argument is untenable. As earlier discussed, Section 195 of the LGC clearly and unequivocally governs the manner and period for perfecting an appeal from the denial or inaction of the local treasurer. Where the law provides a specific procedure and timeline, equity cannot be invoked to disregard the statute.

It is well-settled in jurisprudence that equity is applied only in the absence, and never in contravention, of statutory law.[37] As aptly cited by respondent, the Supreme Court held in *Spouses Garcia v. Spouses Soriano*:[38]

> Finally, petitioners invoke the equity jurisdiction of the Court to allow them to make a belated payment under the subject compromise agreement. However, as we have often ruled, **equity, which has been aptly described as "justice outside legality," is only applied in the absence of, and never against statutory law or judicial rules of procedure.** *(Emphasis supplied)*

In *Regulus Development, Inc. v. Dela Cruz*,[39] the Supreme Court explained that equity jurisdiction exists to provide complete justice where rigid application of the law would result in legal inflexibility, to wit:

> [E]quity jurisdiction aims to provide complete justice in cases where a court of law is unable to adapt its judgments to the special circumstances of a case because of a resulting legal inflexibility when the law is applied to a given situation. The purpose of the exercise of equity jurisdiction, among others, is to prevent unjust enrichment and to ensure restitution.

In the present case, Section 195 prescribes the manner and period for perfecting an appeal from the denial or inaction of the local treasurer. There is no gap in the law that warrants resort to equity. Contrary to petitioner's claim, enforcement of these provisions does not violate its right to due process.

As found by this Court, petitioner failed to comply with Section 195 in elevating the LBT assessments to the RTC. Such failure to timely perfect an appeal before the RTC cannot be dismissed as a mere technicality, for it is jurisdictional. To reiterate, perfection of an appeal in the manner and within the period permitted by law is **mandatory and jurisdictional.**[40]

While courts may exercise equity jurisdiction to relax procedural rules in exceptional cases to prevent manifest

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[37] *Agra, et al. v. Philippine National Bank*, G.R. No. 133317, June 29, 1999 [Per J. Panganiban, Third Division].
[38] G.R. No. 219431, August 24, 2020 [Per J. Inting, Second Division].
[39] G.R. No. 198172, January 25, 2016 [Per J. Brion, Second Division].
[40] *Commissioner of Internal Revenue v. Script2010, Inc.*, G.R. No. 266641, February 17, 2025 [Per J. Caguioa, Third Division].

injustice, jurisdiction over the subject matter is a fundamental requirement. Without it, a court cannot validly act on a case. Equity cannot be stretched to circumvent the law or be exercised beyond the scope of legality. Absent any compelling reason, the Court cannot relax the rules.

In *Velasquez, Jr. v. Lisondra Land Incorporated,*[41] jurisdiction is defined as the power and authority to hear, try, and decide a case. It is axiomatic that jurisdiction over the subject matter is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists.[42] Where jurisdiction is lacking, the Court's only power is to **dismiss** the case.

ACCORDINGLY, in light of the foregoing, the instant *Petition for Review* is **DENIED** for lack of merit.

Accordingly, the assailed *Decision* dated June 11, 2024, and *Resolution* dated September 12, 2024 of the Court's Second Division in CTA AC No. 245 are **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

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41 G.R. No. 231290, August 27, 2020 [Per J. Lopez, First Division]; See also *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015 [Per J. Perez, First Division].
42 *Id.*

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

CORAZON G. FERRER-FLORES
Associate Justice

(With due respect, please see my Dissenting Opinion)

HENRY S. ANGELES
Associate 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PUBLIC SAFETY MUTUAL BENEFIT FUND, INC. REPRESENTED BY ITS PRESIDENT EMMANUEL B. PERALTA, *Petitioner,*	**CTA EB NO. 3003** (CTA AC No. 245)
- *versus* -	Present: **RINGPIS-LIBAN**, *P.J.*, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
ROSETTE F. LAQUIAN, ACTING CITY TREAURER, SAN JUAN CITY, *Respondent.*	Promulgated: DEC 2 2 2025 3:40 PM

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DISSENTING OPINION

ANGELES, *J.*:

With due respect, I am constrained to withhold my concurrence from the pronouncement of the majority, which denies petitioner's *Petition for Review* for lack of merit. The ruling of the *ponencia* rests primarily on the conclusion that the Tax Order of Payment dated January 21, 2019 (TOP 3) had already attained finality, having allegedly been appealed out of time before the Regional Trial Court (RTC)-Branch 264, San Juan City.

The *ponencia* anchors this conclusion on its reading of Section 195 of the Local Government Code (LGC), holding that a "taxpayer must file an appeal within thirty (30) days either from receipt of the treasurer's decision issued within the sixty (60)-day period or from the lapse of that period, ***whichever comes earlier***."[1]

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[1] Decision, pp. 13 to 14.

I respectfully set forth the reasons for my dissent.

At the core of the present controversy lies the proper interpretation of Section 195 of the LGC, which 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 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 <u>or</u> 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. (Emphasis and underscoring supplied)

Well-entrenched in jurisprudence is the cardinal rule of statutory construction that **if the language of the law is clear, explicit, and unequivocal, it admits no room for interpretation but requires mere application.** Only statutes with an ambiguous or doubtful meaning may be the subject of statutory construction.[2]

A statute is deemed ambiguous if it admits of two (2) or more possible meanings, in which case, the Court is called upon to exercise one of its judicial functions, which is to interpret the law according to its true intent.[3] Otherwise, from the words of a statute there should be no departure.[4]

In this case, the language of Section 195 of the LGC is **straightforward, uncomplicated, and unambiguous** so much so that the letter and intent thereof cannot be mistaken. The

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[2] *Miramar Fish Co., Inc. v. Commissioner of Internal Revenue*, G.R. No. 185432, June 04, 2014 [Per J. Perez, Second Division].
[3] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018 [Per J. Peralta, Second Division].
[4] *Camp John Hay Development Corp. v. Central Board of Assessment Appeals*, G.R. No. 169234, October 02, 2013 [Per J. Perez, Second Division].

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provision unequivocally grants the taxpayer a period of thirty (30) days reckoned **either** *(1)* from receipt of the denial of the protest, **or** *(2)* from the lapse of the sixty (60)-day period within which the local treasurer is mandated to act thereon. The legislature deliberately uses the disjunctive term "**or**," which unmistakably denotes disassociation or independence.[5]

Put succinctly, the petitioner may seek judicial recourse within thirty (30) days from an express denial of the protest, or, in the event of inaction, within thirty (30) days from the expiration of the statutory period for the local treasurer to decide. This construction flows directly from the clear wording of the statute, and, therefore, must be applied as written. To construe the provision as requiring the appeal period to be reckoned from whichever of these two (2) contingencies occurs first—as the *ponencia* holds—would amount to judicial legislation, a function that lies beyond the constitutional authority of the courts.

In *Team Pacific Corp. v. Daza*,[6] the Supreme Court construed Section 195 of the LGC in straightforward terms, and made no reference to, nor imposed, a "whichever comes earlier" qualification. Thus:

> A taxpayer dissatisfied with a local treasurer's denial of or inaction on his protest over an assessment has thirty (30) days within which to appeal to the court of competent jurisdiction. Under the law, said period is to be reckoned from the taxpayer's receipt of the denial of his protest or the lapse of the sixty (60) day period within which the local treasurer is required to decide the protest, from the moment of its filing. This much is clear from Section 195 of the Local Government Code x x x

Significantly, the *ponencia* itself expressly identified and articulated the three (3) material periods contemplated under Section 195 of the LGC, namely:

1. **Sixty (60) days** from receipt of the assessment to file a written protest;

2. **Sixty (60) days** from filing of the protest for the local treasurer to decide; and

3. **Thirty (30) days** from **either** **(a) receipt of the denial, or (b) the lapse of the 60-day period to**

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[5] Agpalo, *Statutory Construction*, (4th Ed. 1998), p. 201.
[6] G.R. No. 167732, July 11, 2012 [Per J. Perez, Second Division].

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> **decide**, within which to appeal to the court of competent jurisdiction.[7] (Emphasis and underscoring supplied)

Here, the pertinent dates material to the computation of periods under Section 195 of the LGC are as follows:

Date	Particulars
January 18, 2019	Petitioner received TOP 3, which was issued by respondent on January 21, 2019.
March 13, 2019	Petitioner filed its written protest against TOP 3.
May 12, 2019	Expiration of the sixty (60)-day period for the local treasurer to decide on the protest. *Accordingly, reckoning from this date, the thirty (30)-day period to file an appeal before the court of competent jurisdiction would expire on* ***June 11, 2019***.
May 14, 2019	Petitioner received respondent's letter dated **May 10, 2019** denying the protest. *Correspondingly, the petitioner may appeal the matter to the court on or before* ***June 13, 2019***.
June 13, 2019	Petitioner filed its appeal with the RTC-Branch 264, San Juan City

Applying the plain wording of the statute to the undisputed facts, petitioner received TOP 3 on January 18, 2019, and timely filed its protest on March 13, 2019. While the sixty (60)-day period for the local treasurer to act would have lapsed on May 12, 2019, petitioner in fact received an express denial on **May 14, 2019** issued on May 10, 2019—well within the statutory period. Reckoned from receipt of such denial, petitioner had until June 13, 2019 to appeal. Its filing before the RTC on that date was therefore timely and proper.

The *ponencia*'s reliance on the Minute Resolution in *Public Safety Mutual Benefit Fund, Inc. v. Laquian*, docketed as G.R. No. 256741 (***2021 PSMBFI case***) does not alter this conclusion. If at all, such resolution is binding only on the parties involved in the same subject matter (*i.e.*, TOPs 1 and 2, covering the calendar years 2009-2015 and 2009-2017, respectively). As consistently held by the Supreme Court, minute resolutions, signed solely by the Clerk of Court by authority of the Justices and devoid of a statement of facts and laws, do not constitute binding precedent. Doctrinal pronouncements arise only from decisions duly signed by the members of the High Court and certified by the Chief Justice, *viz.*:

[7] Decision, p. 12.

> Besides, there are substantial, not simply formal, distinctions between a minute resolution and a decision. The constitutional requirement under the first paragraph of Section 14, Article VIII of the Constitution that the facts and the law on which the judgment is based must be expressed clearly and distinctly applies only to decisions, not to minute resolutions. A minute resolution is signed only by the clerk of court by authority of the justices, unlike a decision. It does not require the certification of the Chief Justice. Moreover, unlike decisions, minute resolutions are not published in the Philippine Reports. Finally, the proviso of Section 4 (3) of Article VIII speaks of a decision. Indeed, **as a rule, this Court lays down doctrines or principles of law which constitute binding precedent in a decision duly signed by the members of the Court and certified by the Chief Justice.**[8] (Emphasis supplied; citation omitted)

The same holds true for the Court of Tax Appeal (CTA) rulings cited, which lack binding precedential effect.[9]

Thus, neither the cited minute resolution in the ***2021 PSMBFI case*** nor the CTA cases may be deemed authoritative in redefining clear statutory command of Section 195 of the LGC.

In light of the foregoing, and considering further that the taxable periods from 2009 to 2017 were already the subject of TOPs 1 and 2, which have attained finality[10] following their affirmation by the Supreme Court in the ***2021 PSMBFI case***, I vote to **GRANT** the *Petition for Review*, albeit only for the limited purpose of resolving on the merits the remaining taxable years covered by TOP 3, namely, the calendar years **2018** and **2019**.

HENRY S. ANGELES
Associate Justice

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[8] *Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 167330 (Resolution), September 18, 2009 [Per J. Corona, Special First Division].

[9] *Commissioner of Internal Revenue v. San Roque Power Corp.*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013 [Per J. Carpio, *En Banc*]; citations omitted.

[10] Division Docket – Vol. 1, Entry of Judgment, pp. 323 to 324.