REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

PUBLIC SAFETY MUTUAL BENEFIT FUND, INC., Now represented by its President JOSE CHIQUITO M MALAYO (formerly represented by its then President, Joel Napoleon M Coronel), *Petitioner,*	**CTA AC NO. 308**
	Members:
- versus -	**REYES-FAJARDO,** *Chairperson, and* **ANGELES,** *JJ.*
ROSETTE F. LAQUIAN, CITY TREASURER, SAN JUAN CITY, *Respondent.*	Promulgated: FEB 03 2026 4:20 p.m.

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DECISION

ANGELES, J.:

The *Petition for Review*,[1] filed on November 08, 2023, seeks the reversal of the Decision dated January 20, 2023[2] (assailed Decision) and Order dated July 28, 2023[3] (assailed Order), both rendered by the Regional Trial Court (RTC) of Pasig City, Branch 264, stationed in San Juan City (court *a quo*), in Civil Case No. 75587-SJ, entitled *Public Safety Mutual Benefit Fund, Inc. Represented by its President Joel Napoleon M. Coronel v. Rosette F. Laquian, City Treasurer of San Juan City.*

The dispositive portions of the assailed rulings read as follows:

Decision dated January 20, 2023:

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1 Docket, pp. 5 to 25.
2 *Id.* at 34 to 42; RTC Docket (Civil Case No. 75587-SJ), pp. 142 to 150.
3 Docket, pp. 43 to 45; RTC Docket (Civil Case No. 75587-SJ), pp. 159 to 161.

"**WHEREFORE**, premises considered, the Petition is denied and hereby dismissed while the validity of Tax Order of Payment dated 11 January 2022 is hereby affirmed.

SO ORDERED."

Order dated July 28, 2023:

"**WHEREFORE**, the petitioner's *Motion for Reconsideration* is DENIED.

SO ORDERED."

THE PARTIES

Petitioner Public Safety Mutual Benefit Fund, Inc. is a non-stock, non-profit domestic corporation organized as a 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, where it may be served with notices and orders of the Court. It is represented by its President and Director, Jose Chiquito M. Malayo.[4]

Respondent, Rosette F. Laquian, is the City Treasurer of the City Government of San Juan, with postal address at the Office of the City Treasurer, Pinaglabanan St. corner Dr. P.A. Narciso St., Barangay Corazon de Jesus, San Juan City, where she may be served with notices, summons, and orders by the Court.[5] Among her duties, as provided under the Local Government Code of 1991 (LGC), is the issuance of a notice of assessment, specifying the nature of the tax, fee, or charge, as well as the amount of deficiency, surcharges, interests, and penalties due.[6]

THE ANTECEDENTS (ADMINISTRATIVE LEVEL)

On January 11, 2022, petitioner received a copy of the Tax Order of Payment (TOP) dated January 11, 2022,[7] issued by the Office of the City Treasurer of San Juan City for taxable year (TY) 2022. The TOP assessed petitioner for local business tax (LBT) in the amount of

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4 *Id., Petition*, pp. 7 to 8, par. 11.
5 *Id.* at p. 8, par. 12.
6 *Id., Comment (To the Petition for Review dated 07 November 2023)* [*Comment*], p. 153, par. 2.2.
7 *Id.*, Annex "C," pp. 46 to 47.

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₱13,304,426.99 as a "financial institution – insurance companies," out of the total assessment of ₱13,483,664.71.[8]

On February 11, 2022, and within the sixty (60)-day period prescribed under Section 195 of the LGC, petitioner filed an administrative protest[9] against the assessment.[10]

Meanwhile, on March 18, 2022, petitioner paid[11] the amount of ₱13,494,164.71, representing the total LBT liability, including permits, and regulatory fees, for TY 2022.[12]

On April 06, 2022, petitioner sent a Letter to the City Treasurer,[13] reiterating that the payment was made under protest.[14]

The sixty (60)-day period, which expired on April 12, 2022, within which respondent Treasurer was required to act on the administrative protest, lapsed without any action thereon.[15]

PROCEEDINGS BEFORE THE COURT *A QUO*

On May 12, 2022, petitioner filed a *Petition*[16] before the RTC, praying that the court render judgment setting aside and cancelling the TOP dated January 11, 2022, on the ground that it was issued contrary to law and without legal basis, and, consequently, directing the respondent Treasurer to refund the amount of ₱13,304,426.99 paid by petitioner on March 18, 2022.[17]

On May 25, 2022, the Court issued an Order[18] directing respondent to file a comment on the *Petition* within ten (10) days from notice. Said Order was received by respondent on July 04, 2022, following which, respondent submitted a Letter dated July 14, 2022,[19] requesting a copy of the *Petition* and its annexes.

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[8] *Id.*, *Petition*, p. 6, par. 2.
[9] *Id.*, Annex "D," pp. 48 to 94.
[10] *Id.* at par. 3; *Comment*, p. 154, par. 2.6.
[11] *Id.*, Annex "N," p. 146.
[12] *Id.*, *Petition*, p. 16, par. 32.
[13] RTC Docket (Civil Case No. 75587-SJ), Annex "D," p. 72.
[14] *Id.*, *Petition*, pp. 2 to 3, par. 4.
[15] Docket, *Petition*, p. 6, par. 4.
[16] Docket, *Comment*, p. 154, par. 2.6; RTC Docket (Civil Case No. 75587-SJ), pp. 1 to 18.
[17] RTC Docket (Civil Case No. 75587-SJ), pp. 17 to 18.
[18] *Id.* at p. 128.
[19] *Id.* at 129.

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Subsequently, respondent filed a *Motion to Admit Attached Comment [Re: Petition dated 04 May 2022]*[20] on October 28, 2022, with the attached comment/opposition,[21] which the RTC Branch 264, Pasig City, granted in its Order dated December 23, 2022,[22] thereby admitting respondent's *Comment/Opposition (to the Petition dated 04 May 2022).*

On January 20, 2023 the court *a quo* rendered a Decision,[23] denying the *Petition*, and affirming the validity of the TOP dated January 11, 2022.

Aggrieved, petitioner filed a *Motion for Reconsideration*[24] on April 17, 2023 arguing, *inter alia*, that the RTC erred in holding that the local government unit (LGU) has the power to levy LBT on petitioner as an insurance company, and that the TOP constitutes a valid assessment.

However, in an Order dated July 28, 2023,[25] the court *a quo* denied the petitioner's *Motion for Reconsideration.*[26]

PROCEEDINGS BEFORE THIS COURT

On November 08, 2023, petitioner filed the present *Petition.*[27] Prior to giving it due course, the Court, in a Minute Resolution dated December 01, 2023,[28] directed the respondent to file her comment thereto. In the same Resolution, the Branch Clerk of Court of RTC Branch 264 of Pasig City was likewise instructed to transmit the complete original records of the case.

Respondent then filed her *Comment (To the Petition for Review dated 07 November 2023)*[29] on April 01, 2024.

In a Minute Resolution dated April 24, 2024,[30] the Court noted respondent's comment, and reminded the Branch Clerk of Court of the

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[20] *Id.* at 130 to 131.
[21] *Id.* at 132 to 139.
[22] *Id.* at 141.
[23] Docket, *Comment*, p. 154, par. 2.6; pp. 34 to 42; RTC Docket (Civil Case No. 75587-SJ), pp. 142 to 150.
[24] Docket, *Comment*, p. 154, par. 2.6; RTC Docket (Civil Case No. 75587-SJ), pp. 151 to 158.
[25] Docket, pp. 43 to 45; RTC Docket (Civil Case No. 75587-SJ), pp. 159 to 161.
[26] Docket, *Petition*, p. 7, par. 9; *Comment*, p. 154, par. 2.6.
[27] Docket, pp. 5 to 29.
[28] *Id.* at 151.
[29] *Id.* at 152 to 172.
[30] *Id.* at 176.

court *a quo* to elevate the entire records of the case, pursuant to the earlier issued Resolution.

The RTC records were forwarded on July 08, 2024,[31] which was duly noted by the Court in its Minute Resolution dated August 13, 2024.[32] In the same Minute Resolution, the parties were directed to file their respective memoranda within thirty (30) days from notice.

Meanwhile, on August 07, 2024, the undersigned counsel, Atty. Rizalina V. Lumbera (Atty. Lumbera), filed a *Notice of Withdrawal of Appearance as Counsel*,[33] and requested that all subsequent notices and orders of the Court be furnished to the petitioner through its then President and Chief Executive Officer, Trustee Emmanuel B. Peralta.

The Court, in a Minute Resolution dated August 09, 2024,[34] noted the said *Notice of Withdrawal of Appearance as Counsel*, and ordered petitioner to cause the appearance of its new counsel within ten (10) days from notice.

Thereafter, petitioner filed a *Motion and Manifestation*,[35] explaining that, pursuant to its internal corporate procedures, the hiring of a new counsel requires a minimum of thirty (30) days from the vacancy of the position, and that, as of filing, petitioner had not yet engaged a replacement for Atty. Lumbera. Petitioner prayed that it be granted: *(1)* an additional period of thirty (30) days, or until November 02, 2024, to secure the appearance of new counsel; and *(2)* an additional period of thirty (30) days, or until November 02, 2024, to file its Memorandum in the instant case.

In a Minute Resolution dated October 28, 2024,[36] the Court granted and noted petitioner's *Motion and Manifestation*, respectively.

Respondent filed her *Memorandum*[37] on October 29, 2024, which the Court noted through a Minute Resolution dated November 20, 2024.[38]

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[31] *Id.* at 177 to 200.
[32] *Id.* at 206.
[33] *Id.* at 201 to 202.
[34] *Id.* at 205.
[35] *Id.* at 207 to 210.
[36] *Id.* at 217.
[37] *Id.* at 220 to 249.
[38] *Id.* at 275.

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Petitioner, on the other hand, filed its *Entry of Appearance with Motion to Admit Memorandum*[39] *via* accredited courier service provider on November 08, 2024, with the hard copies received by the Court on November 11, 2024.

Finally, in a Minute Resolution dated February 03, 2025,[40] the Court: *(1)* noted petitioner's *Entry of Appearance*; *(2)* granted the *Motion to Admit Memorandum*; and *(3)* admitted said *Memorandum* as part of the case records. Accordingly, the case was submitted for decision.

THE ISSUES

Petitioner enumerated the following Assignment of Errors[41] in its *Petition*:

> i. The Trial Court erred in disregarding [petitioner] as a mutual benefit association which is not subject to local business tax;
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> ii. The Trial Court erred in disregarding that [petitioner] is a mutual benefit association under the:
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> (a) Corporation Code of the Philippines (CCP);
> (b) Articles of Incorporation (AAI) and By Laws (BL);
> (c) Section 430, National Internal Revenue Code (NIRC); and
> (d) Insurance Code of the Philippines (ICP);
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> iii. The Trial Court erred in disregarding that even the San Juan City Revenue Code (*Article B, Section 1B.01*) defers to the definition of "insurance company" in "applicable laws or rules and regulations" such as the CCP, AAI & BL, NIRC, and ICP. When these applicable laws, exclude a [mutual benefit association] such as [petitioner] from the definition of an "insurance company," thus, not a "financial institution," [petitioner] is not liable for LBT;
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> iv. The Trial Court erred in disregarding the [Department of Finance-Bureau of Local Government Finance] (DOF-BLGF) Circular No. 2-93 and Letter-Opinion dated 14 January 2016 which excluded an MBA from the definition of "insurance companies" referred to in Section 143 of the LGC of 1991 and Section 2J.02 (I) of the City of San Juan Revenue Code of 2013; and
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> v. The Trial Court's issuance of the subject TOP is violative of due process as it failed to provide [petitioner] the legal basis of the assessment more so, when prior to 2009, San Juan City

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[39] *Id.* at 254 to 270.
[40] *Id.* at 277.
[41] *Id., Petition*, p. 17.

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> was imposing LBT on [petitioner] based on the gross receipts from its leasing activity or as a commercial entity only.

ARGUMENTS OF THE PARTIES

Petitioner's arguments

First. Petitioner asserts that it qualifies as a mutual benefit association under: *(1)* the Corporation Code, as evidenced by its Amended Articles of Incorporation and Amended By-Laws; *(2)* Section 30 of the NIRC, as amended; and *(3)* Section 403 of the ICP, as amended. Petitioner further maintains that the City of San Juan Revenue Code of 2013, as amended[42] (City of San Juan Revenue Code), defers to the definition of "insurance company" under applicable laws, or rules and regulations, which, under Section 190 of the ICP, as amended, expressly excludes "mutual benefit associations."

Second. Petitioner contends that the DOF-BLGF, through Local Finance Circular No. 2-93, prescribed guidelines on the imposition of business taxes on "insurance companies" under the LGC, and that such coverage likewise excludes mutual benefit associations.

Third. Petitioner emphasizes that the DOF-BLGF itself recognized its exemption from the payment of LBTs as a mutual benefit association, as confirmed in its Letter-Opinion dated January 14, 2016.

Fourth. Petitioner assails the validity of the TOP, asserting that it was issued without any legal basis, and is therefore null and void.

Fifth. As a consequence the payments made, petitioner is entitled to a refund in the amount of ₱13,304,426.99, representing the basic LBT for TY 2022, consistent with the principles enunciated by the Supreme Court in *City Treasurer of Manila v. Philippine Beverage Partners, Inc.*[43]

Respondent's counter-arguments

First. Respondent, for their part, contends that petitioner has failed to cite any legal provision justifying its claim for exemption from LBT. Hence, petitioner cannot overcome the legal presumption that taxation is the rule, and exemption is the exception.

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[42] San Juan City Ordinance No. 0921-13, December 09, 2013.
[43] G.R. No. 233556, September 11, 2019 [Per J.C. Reyes, Jr., Second Division].

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Second. Respondent maintains that the petitioner, being an entity engaged in the business of insurance under Section 2 of the ICP, as amended, derives income from its operations, including the collection of insurance premiums, which constitutes a valid basis for the imposition of LBT. Accordingly, respondent claims that the charitable and benevolent purposes set forth in petitioner's Amended Articles of Incorporation and Amended By-Laws are rendered immaterial under Section 403 of the ICP, as amended.

Third. Respondent counters that Section 190 of the ICP, as amended, does not operate as a tax exemption. In her view, the exclusion of "mutual benefit associations" from the definition of "insurance company" under the ICP, as amended, is limited to purposes of the Insurance Code, given that: *(1)* mutual benefit associations cater exclusively to their members, unlike insurance companies which serve the general public; and *(2)* mutual benefit associations are subject to less stringent capitalizations and equity requirements under Section 194 of the ICP, as amended, reflecting their comparatively smaller-scale operations.

Fourth. In any case, respondent asserts that petitioner qualifies as a financial institution, and may, therefore, be subjected to LBT under both the LGC and the City of San Juan Revenue Code.

Fifth. Respondent posits that DOF-BLGF Circular No. 2-93 and its corresponding Letter-Opinion carry no binding effect in determining petitioner's exemption, as the DOF-BLGF is not an administrative body vested with the authority to implement tax legislation.

Sixth. Respondent argues that the LGC does not authorize the payment under protest of LBT, noting that the only provision permitting payment under protest pertains to real property taxation under Section 252 of the LGC.

RULING OF THE COURT

The *Petition for Review* is impressed with merit.

The Court has jurisdiction over the instant Petition.

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The authority of the Court of Tax Appeals (CTA) to assume jurisdiction over local tax cases is expressly conferred by Section 7(a)(3) of R.A. No. 1125,[44] as amended by R.A. No. 9282,[45] which states:

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

This statutory grant is further echoed in Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals[46] (RRCTA), which categorically vests in the CTA, sitting in Division, exclusive appellate jurisdiction to review decisions, resolutions, and orders of the RTCs in local tax cases rendered in the exercise of their original jurisdiction, *viz.*:

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

Complementing these provisions, Section 11 of R.A. No. 1125,[47] as amended by R.A. No. 9282,[48] prescribes the mode and period of appeal, allowing any party aggrieved by a decision or ruling of the RTC to elevate the matter to the CTA by filing an appeal within thirty (30) days from receipt thereof, to wit:

> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. — Any party adversely affected by a **decision**, ruling or inaction **of**

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[44] An Act Creating the Court of Tax Appeals.
[45] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), elevating its rank to the level of a Collegiate Court with Special Jurisdiction and enlarging its membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, As Amended, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes.
[46] A.M. No. 05-11-07-CTA, November 22, 2005.
[47] *Supra* note 44.
[48] *Supra* note 45.

> **the** Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the **Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein. (Emphases supplied)

Here, petitioner received the assailed Order,[49] denying its *Motion for Reconsideration (for the Petitioner)*[50] on **October 09, 2023**.[51] Reckoned therefrom, petitioner had until **November 08, 2023**, within which to perfect an appeal before this Court.

Petitioners' filing of the instant *Petition*[52] on **November 08, 2023** was therefore well within the reglementary period. Consequently, jurisdiction over the present controversy was validly and properly vested in this Court.

Sections 195 and 196 of the LGC

In the present case, the petitioner timely protested[53] the TOP[54] issued by respondent for TY 2022, and thereafter settled[55] the full amount stated therein. Significantly, such payment was followed by a Letter to respondent,[56] clearly stating that it was made under protest, and was subject to petitioner's pending Protest dated February 10, 2022, a copy of which was duly attached. Upon respondent's failure to act on the Protest within the period prescribed by law, petitioner seasonably elevated the matter to the court *a quo* within thirty (30) days.

From the foregoing, it is evident that petitioner availed itself of the remedies under Sections 195 and 196 of the LGC, which read 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

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[49] Docket, pp. 43 to 45; RTC Docket (Civil Case No. 75587-SJ), pp. 159 to 161.
[50] RTC Docket (Civil Case No. 75587-SJ), pp. 151 to 158.
[51] Docket, *Petition*, p. 7, par. 9.
[52] *Id.* at 5 to 25.
[53] *Id.*, Annex "D," pp. 48 to 94.
[54] *Id.*, Annex "C," pp. 46 to 47.
[55] *Id.*, Annex "N," p. 146.
[56] RTC Docket (Civil Case No. 75587-SJ), Annex "D," p. 72.

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> the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.
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> Section 196. *Claim for Refund of Tax Credit.* - No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

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

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

The distinctions between these two (2) remedies have been exhaustively elucidated by the Supreme Court in *City of Manila v. Cosmos Bottling Corp*:[57]

> [**Section 195**] provides the procedure for contesting an assessment issued by the local treasurer; whereas, [**Section 196**] provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court. In **Section 195**, it is the written protest with the local treasurer that constitutes the

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

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administrative remedy; while in **Section 196**, it is the written claim for refund or credit with the same office. As to form, the law does not particularly provide any for a protest or refund claim to be considered valid. It suffices that the written protest or refund is addressed to the local treasurer expressing in substance its desired relief. The title or denomination used in describing the letter would not ordinarily put control over the content of the letter.

Obviously, the application of **Section 195** is triggered by an assessment made by the local treasurer or his duly authorized representative for nonpayment of the correct taxes, fees or charges. Should the taxpayer find the assessment to be erroneous or excessive, he may contest it by filing a written protest before the local treasurer within the reglementary period of sixty (60) days from receipt of the notice; otherwise, the assessment shall become conclusive. The local treasurer has sixty (60) days to decide said protest. In case of denial of the protest or inaction by the local treasurer, the taxpayer may *appeal* with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable.

On the other hand, **Section 196** may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment. By necessary implication, the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive period but before the judicial action.

Unlike Section 195, however, **Section 196** does not expressly provide a specific period within which the local treasurer must decide the written claim for refund or credit. It is, therefore, possible for a taxpayer to submit an administrative claim for refund very early in the two-year period and initiate the judicial claim already near the end of such two-year period due to an extended **inaction** by the local treasurer. In this instance, the taxpayer cannot be required to await the decision of the local treasurer any longer, otherwise, his judicial action shall be barred by prescription.

Additionally, **Section 196** does not expressly mention an assessment made by the local treasurer. This simply means that its applicability does not depend upon the existence of an assessment notice. By consequence, a taxpayer may proceed to the remedy of refund of taxes even without a prior protest against an assessment that was not issued in the first place. This is not to say that an application for refund can never be precipitated by a previously issued assessment, for it is entirely possible that <u>the taxpayer, who had received a notice of assessment, paid the assessed tax, fee or charge believing it to be **erroneous or illegal**</u>. Thus, under such circumstance, ***the taxpayer may subsequently direct his claim pursuant to Section 196 of the LGC***. (Emphases supplied; underscoring and italics in the original; citation omitted)

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It is likewise apparent from the foregoing—and notably constitutes a significant pronouncement of the Supreme Court—that Section 196 does not bar the assertion of a refund claim arising from a previously issued assessment. Indeed, a taxpayer who, having received an assessment, pays the tax under the belief that it is erroneous or illegal may subsequently invoke Section 196 to recover such payment. These principles were succinctly reaffirmed in *International Container Terminal Services, Inc. v. City of Manila*[58] in the following terms:

> **If the taxpayer receives an <u>assessment</u> and <u>does not pay</u> the tax**, its remedy is strictly confined to **Section 195** of the Local Government Code. Thus, it must file a written protest with the local treasurer within 60 days from the receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent jurisdiction within 30 days from receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest. In this case, as no tax was paid, there is no claim for refund in the appeal.
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> **If the taxpayer <u>opts to pay</u> the <u>assessed tax, fee, or charge</u>**, it must still file the written protest within the 60-day period, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer. **In its court action, <u>the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid</u>.** "Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer."
>
> On the other hand, **if <u>no assessment notice</u> is issued by the local treasurer, and the taxpayer claims that it <u>erroneously paid</u> a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him,** then **Section 196** applies. (Emphases and underscoring supplied; citations omitted)

Having thus delineated the clear distinctions between the two (2) remedies available under local taxation, We shall now examine whether the petitioner duly and properly availed itself of these remedies.

A taxpayer may assail an assessment and seek a refund following payment.

It bears reiterating that, in the context of local taxation, Section 195 recognizes the taxpayer's right to challenge a deficiency assessment

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

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before the local treasurer, even in the absence of payment under protest. This, however, does not preclude the taxpayer from opting to pay the assessed deficiency. Where a taxpayer pays an assessment, it may still challenge its validity and seek a refund. Such action, whether framed under Section 195 or as a claim under Section 196, must first be preceded by a written protest and/or claim for refund filed with the local treasurer within sixty (60) days from receipt of the assessment. Thereafter, judicial action must be instituted within thirty (30) days from the treasurer's denial or inaction. The two (2)-year prescriptive period under Section 196 cannot extend this timeframe once an assessment has been issued. Timely exhaustion of administrative remedies and prompt judicial recourse are conditions *sine qua non* for the recovery of erroneously or illegally collected taxes. Thus:

> In local taxation, an assessment for deficiency taxes made by the local government unit may be protested before the local treasurer without necessity of payment under protest. **But <u>if payment is made simultaneous with or following a protest against an assessment</u>, the taxpayer may subsequently maintain an action in court, whether as an appeal from assessment or a claim for refund**, so long as it is initiated within thirty (30) days from either decision or inaction of the local treasurer on the protest.
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> Needless to say, there is nothing to prevent the taxpayer from paying the tax under protest or simultaneous to a protest. There are compelling reasons why a taxpayer would prefer to pay while maintaining a protest against the assessment. For instance, a taxpayer who is engaged in business would be hard-pressed to secure a business permit unless he pays an assessment for business tax and/or regulatory fees. Also, a taxpayer may pay the assessment in order to avoid further penalties, or save his properties from levy and distraint proceedings.
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> The foregoing clearly shows that a taxpayer facing an assessment may protest it and alternatively: *(1)* appeal the assessment in court, or *(2)* pay the tax and thereafter seek a refund. Such procedure may find jurisprudential mooring in *San Juan v. Castro* wherein the Court described for the first and only time the alternative remedies for a taxpayer protesting an assessment — either appeal the assessment before the court of competent jurisdiction, or pay the tax and then seek a refund. The Court, however, did not elucidate on the relation of the second mentioned alternative option, *i.e.*, pay the tax and then seek a refund, to the remedy stated in Section 196.
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> x x x
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> Where an assessment is to be protested or disputed, the taxpayer may proceed *(a)* without payment, or *(b)* with payment of the assessed tax, fee or charge. Whether there is payment of the assessed tax or not, it is clear that the protest in writing must be made within sixty (60) days from receipt of the notice of assessment; otherwise, the assessment shall become final and conclusive. Additionally, the

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subsequent court action must be initiated within thirty (30) days from denial or inaction by the local treasurer; **otherwise, the assessment becomes conclusive and unappealable**.

(a) Where no payment is made, the taxpayer's procedural remedy is governed strictly by **Section 195**.That is, in case of whole or partial denial of the protest, or inaction by the local treasurer, the taxpayer's only recourse is to *appeal* the assessment with the court of competent jurisdiction. The appeal before the court does not seek a refund but only questions the validity or correctness of the assessment.

(b) **Where payment was made, the taxpayer may thereafter maintain an action in court questioning the validity and correctness of the assessment (Section 195**, LGC) **and at the same time seeking a refund of the taxes.** In truth, it would be illogical for the taxpayer to only seek a reversal of the assessment without praying for the refund of taxes. Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer.

The same implication should ensue even if the taxpayer were to style his suit in court as an action for refund or recovery of erroneously paid or illegally collected tax as pursued under **Section 196** of the LGC. In such a suit for refund, the taxpayer cannot successfully prosecute his theory of erroneous payment or illegal collection of taxes without necessarily **assailing the validity or correctness of the assessment** he had administratively protested.

It must be understood, however, that in such latter case, **the suit for refund is conditioned on the prior filing of a written claim for refund or credit with the local treasurer.** In this instance, what may be considered as the administrative claim for refund is the letter-protest submitted to the treasurer. Where the taxpayer had paid the assessment, it can be expected that in the same letter-protest, he would also pray that the taxes paid should be refunded to him. As previously mentioned, there is really no particular form or style necessary for the protest of an assessment or claim of refund of taxes. What is material is the substance of the letter submitted to the local treasurer.

Equally important is the institution of the judicial action for refund **within thirty (30) days from the denial of or inaction on the letter-protest or claim**, not any time later, even if within two (2) years from the date of payment (as expressly stated in Section 196).Notice that the filing of such judicial claim for refund after questioning the assessment is within the two-year prescriptive period specified in Section

> 196. Note too that the filing date of such judicial action necessarily falls on the beginning portion of the two-year period from the date of payment. Even though the suit is seemingly grounded on Section 196, **the taxpayer could not avail of the full extent of the two-year period within which to initiate the action in court**.
>
> The reason is obvious. This is because an assessment was made, and if not appealed in court within thirty (30) days from decision or inaction on the protest, it becomes conclusive and unappealable. Even if the action in court is one of claim for refund, the taxpayer cannot escape assailing the assessment, invalidity or incorrectness, the very foundation of his theory that the taxes were paid erroneously or otherwise collected from him illegally. Perforce, the subsequent judicial action, after the local treasurer's decision or inaction, must be initiated within thirty (30) days later. It cannot be anytime thereafter because the lapse of 30 days from decision or inaction results in the assessment becoming conclusive and unappealable. In short, the scenario wherein the administrative claim for refund falls on the early stage of the two-year period but the judicial claim on the last day or late stage of such two-year period does not apply in this specific instance where an assessment is issued.

To stress, where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund ***at any time*** within the full period of two years from the date of payment as Section 196 may suggest. If refund is pursued, the taxpayer must administratively question the validity or correctness of the assessment in the 'letter-claim for refund' *within 60 days from receipt of the notice of assessment,* and thereafter bring suit in court *within 30 days from either decision or inaction* by the local treasurer.

Simply put, there are **two conditions** that must be satisfied in order to successfully prosecute an action for refund in case the taxpayer had received an assessment. ***One***, pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund. ***Two***, bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.[59] (Emphases and underscoring supplied; italics in the original; citations omitted)

Applying these principles to the case at bar, it is evident that petitioner faithfully adhered to the procedural requisites enshrined in Sections 195 and 196 of the LGC. Petitioner, for *one*, fully exhausted its

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[59] *City of Manila v. Cosmos Bottling Corp.*, G.R. No. 196681, June 27, 2018 [Per J. Martires, Third Division].

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administrative remedies by timely filing its *(1)* Protest dated February 10, 2022,[60] and the *(2)* Letter dated April 04, 2022,[61] which constituted its written claim for refund. For *another*, the judicial claim was duly instituted before the court *a quo* on May 12, 2022, **both** within thirty (30) days from the expiration of the sixty (60)-day period for the respondent to act on the Protest, and well within the two (2)-year prescriptive period from the payment of the assailed LBT on March 18, 2021.

The TOP is not a 'notice of assessment' contemplated under Section 195 of the LGC.

Jurisprudence is settled that not every demand for payment issued by an LGU constitutes a "notice of assessment" within the contemplation of Section 195. In *Yamane v. BA Lepanto Condominium Corp.*,[62] the Supreme Court clarifies:

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

While neither the law nor jurisprudence demands the citation of the specific provision of the local ordinance, both unequivocally require that a valid notice of assessment must, at the very least, specify: ***(1)*** the nature of the tax, fee, or charge; ***(2)*** the amount of deficiency; and ***(3)*** the corresponding surcharges, interests, and penalties. This

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[60] Docket, Annex "D," pp. 48 to 94.
[61] RTC Docket (Civil Case No. 75587-SJ), Annex "D," p. 72.
[62] G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division].

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requirement is indispensable, for it is the notice of assessment that formally apprises the taxpayer of a deficiency tax liability.

A careful perusal of the TOP,[63] however, reveals that, *first*, although the tax description "FINANCIAL INSTITUTION – INSURANCE COMPANIES" appears therein, the amounts indicated cannot properly be characterized as the "amount of deficiency" for TY 2022, especially considering that the TOP was issued as early as January 11, 2022. Rather, the TOP appears to serve merely as a billing instrument for the petitioner's renewal of business permits for TY 2022, which, under Section 3A.02 of the City of San Juan Revenue Code,[64] are payable within the first twenty (20) days of January each year. *Second*, as the respondent has failed to establish the existence of any deficiency tax at the time the TOP was issued, it necessarily follows that no surcharges, interests, or penalties were likewise due from the petitioner.

For clarity and ready reference, the table[65] enumerating all tax descriptions is reproduced below.

Tax Description	Tax Base	Current Qtr Due	Annual Due	Period Covered
LESSOR (COMMERCIAL)	6,291,483.81	21,995.19	87,980.77	1-4 Qtr 2022
NON-STOCK NONPROFIT (SP)	0.00	25.00	100.00	1-4 Qtr 2022
FINANCIAL INSTITUTION – INSURANCE COMPANIES	2,217,404,498.02	3,326,106.75	13,304,426.99	1-4 Qtr 2022
Mayors Permit Fee – LESSOR (COMMERCIAL) LESSOR (COMMERCIAL)		6,000.00	6,000.00	2022
Mayors Permit Fee – NON-STOCK NON PROFIT (SP) NON-STOCK NON PROFIT (SP)		2,000.00	2,000.00	2022
PROFIT (SP)				
Mayors Permit Fee – FINANCIAL INSTITUTION – INSURANCE COMPANIES		3,000.00	3,000.00	2022
FINANCIAL INSTITUTION – INSURANCE COMPANIES				
Garbage Fee – FINANCIAL INSTITUTION – INSURANCE COMPANIES		900.00	3,600.00	1-4 Qtr 2022
Sanitary Fee NON-STOCK NON PROFIT (SP)		1,440.00	1,440.00	2022
ANNUAL BUILDING INSPECTION FEE		12,818.60	12,818.60	2022
ANNUAL ELECTRICAL INSPECTION FEE		100.00	100.00	2022
ENVIRONMENTAL PROTECTION AND PRESERVATION FEE		3,500.00	3,500.00	2022

63 Docket, Annex "C," pp. 46 to 47.
64 *Supra* note 42.
65 Docket, Annex "C," pp. 46 to 47.

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LOCATIONAL CLEARANCE FEE		44,538.75	44,538.75	2022
ANNUAL SANITARY/PLUMBING INSPECTION FEE		100.00	100.00	2022
FIRE SAFETY INS FEE		11,759.60	11,759.60	2022
FIRE SAFETY SEMINAR FEE		200.00	200.00	2022
ANN. BUILDING CERTIFICATE FEE		200.00	20.00	2022
STICKER		50.00	50.00	2022
BUSINESS BARANGAY CLEARANCE FEE		1,000.00	1,000.00	2022
ANN. BUILDING PROCESSING FEE		250.00	250.00	2022
ANNUAL SIGNAGE INSPECTION FEE		600.00	600.00	2022
Penalty		0.00	0.00	
Interest		0.00	0.00	

As further elucidated in *International Container Terminal Services, Inc. v. City of Manila*,[66] not every demand for payment, billing statement, or statement of account issued by an LGU constitutes a "notice of assessment" within the contemplation of Section 195 of the LGC. A **valid notice of assessment** presupposes the **existence of a deficiency**, and must specify the principal amount due, as well as any applicable surcharges, interests, and penalties. Mere orders of payment, such as those issued as prerequisites for business permit renewal, cannot be equated with a notice of assessment under Section 195. Accordingly:

> Here, no notice of assessment for deficiency taxes was issued by respondent City Treasurer to petitioner for the taxes collected after the first three (3) quarters of 1999. As observed by Court of Tax Appeals Justice Casanova in his Concurring and Dissenting Opinion to the September 5, 2008 Decision:
>
>> **In order to apply Section 195 of the LGC, <u>there is a need for the issuance of a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties</u>.** It is only upon receipt of this notice of assessment that a taxpayer is required to file a protest within sixty (60) days from receipt thereof.
>>
>> Given the nature of a notice of assessment, it is my opinion that no notice pertaining to deficiency taxes for the periods subsequent to the 3rd Quarter of 1999 up to the present were ever issued or sent by respondents to ICTSI.
>>
>> In ICTSI's case, as correctly found by the *Second Division, viz.*:

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[66] *Supra* note 58.

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> > "Records disclose in the instant case that petitioner filed a protest pursuant to Section 195 of the LGC only with respect to the assessment of the amount of P6,224,250.00, which covers the [first three quarters] of 1999. Petitioner protested the said assessment on July 15, 1999 and paid the same amount under protest. This is not controverted by the respondents."
>
> Hence, Section 195 of the LGC cannot apply to the period subsequent to the 3rd Quarter of 1999 because ICTSI did not receive any notice of assessment thereafter that states the nature of the tax[,] amount of deficiency[,] and charges.

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

At this juncture, it bears stressing that, in the absence of a valid assessment issued by the respondent, the petitioner's filing of a protest thereto is of no moment, as such protest cannot breathe life into an assessment that is void from the beginning. Consequently, there is no necessity to address the remaining contentions of the parties, for the imposition of the LBT on the petitioner as an insurance company or financial institution, and the subsequent payment thereof, lack any lawful foundation and are therefore refundable. In any event, by virtue of its nature and the manner in which it conducts its operations as a mutual benefit association, the petitioner remains entitled to the claimed refund, as will be further elaborated hereunder.

Petitioner is not liable for LBT on its operations as a 'mutual benefit association.'

Settled is the rule that the power of LGUs to impose taxes within its territorial jurisdiction derives from the Constitution itself, which recognizes the power of these units "to create its own sources of

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revenue and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy." These guidelines and limitations, as provided by Congress, are in main contained in the LGC, which provides for comprehensive instances when and how LGUs may impose taxes.[67]

Indeed, as pertinent to the instant case, Section 151 of the LGC expressly affirms a city's authority to impose taxes, fees, and charges akin to those which a province or municipality may levy, except as otherwise provided by law, *viz.*:

> Section 151. *Scope of Taxing Powers.* - Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.
>
> The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes.

Corollarily, respondent purportedly exercised its taxing power over the petitioner on the ground that the latter constitutes a financial institution engaged in insurance business, invoking Section 143(f) of the LGC, which provides:

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

Specifically, the respondent relied on Section 2J.02 (I) of the City of San Juan Revenue Code[68] as the legal basis for imposing the subject LBT on petitioner, asserting that the latter likewise falls within the classification of insurance-related financial institutions operating within the territorial jurisdiction of San Juan City, notwithstanding its incorporation as a mutual benefit association.

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[67] *Yamane v. BA Lepanto Condominium Corp.*, G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division].

[68] *Supra* note 42.

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The petitioner, however, maintains that, save for its commercial leasing activities, for which it has duly discharged its tax obligations, it operates solely as a non-stock, nonprofit mutual benefit association, providing financial and material aid to its members without any profit motive.

We resolve.

At the outset, it is imperative for the Court to revisit the definitions of "**business**" and "**banks and other financial institutions**," with particular regard to "**insurance companies**," as provided under the LGC and the City of San Juan Revenue Code.[69] These provisions respectively state:

> Section 131. Definition of Terms. — When used in this Title, the term:
>
> x x x
>
> (d) "**Business**" means trade or commercial activity regularly engaged in as a **<u>means of livelihood or with a view to profit</u>**;
>
> x x x
>
> (e) "**Banks and other financial institutions" include** non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, **<u>insurance companies</u>**, stock markets, stock brokers and dealers in securities and foreign exchange**<u>, as defined under applicable laws, or rules and regulations thereunder</u>**; (Emphases and underscoring supplied)
>
> x x x
>
> SECTION 1B.01. *Definitions.* — When used in this Code, the term:
>
> x x x
>
> *Business* — means trade or commercial activity regularly engaged in **<u>as means of livelihood or with a view to profit</u>**.
>
> *Banks and Other Financial Institutions* — include non-bank financial intermediaries, lending investor, finance and investment companies, pawnshops, money shops, **<u>insurance companies</u>**, stock markets, stock brokers and dealers in securities and foreign exchange, **<u>as define[d] under applicable laws or rules and regulations thereunder</u>**. (Emphases and underscoring supplied)

[69] *Supra* note 42.

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Notably, while the terms "business" and "banks and other financial institutions" are defined in both the LGC and the City of San Juan Revenue Code,[70] the definition of "insurance companies," among others, is expressly made subject to the definitions provided under applicable laws, or their implementing rules and regulations.

Under Section 190 of the ICP, as amended, an **insurance company** is defined as follows:

> Section 190. For purposes of this Code, the term *insurer* or ***insurance company*** shall include all partnerships, associations, cooperatives or corporations, including government-owned or -controlled corporations or entities, engaged as principals in the insurance business, **excepting mutual benefit associations**. Unless the context otherwise requires, the term shall also include professional reinsurers defined in Section 288. *Domestic company* shall include companies formed, organized or existing under the laws of the Philippines. *Foreign company* when used without limitation shall include companies formed, organized, or existing under any laws other than those of the Philippines. (Emphases and underscoring supplied; italics in the original)

It is clear from the foregoing that a "mutual benefit association" is excluded from the definition of an "insurance company." Similarly, as early as the issuance of the DOF-BLGF Local Finance Circular No. 2-93,[71] the DOF likewise defined "insurance companies" in a manner that also excludes "mutual benefit associations," to wit:

> SECTION 1. *Coverage.* — (a) As used herein, the term "insurance companies" shall mean those formed or organized to save any person or persons or other corporations harmless from loss, damage or liability, arising from any unknown or future or contingent event, or to indemnify or to compensate any person or persons or other corporations for any such loss, damage or liability, or to guarantee the performance of or compliance with contractual obligations or the payment of debts of others.
>
> The term "**insurance companies**" shall include all individuals, partnerships, associations, or corporations including government owned or controlled corporations or entities, engaged as principals in the insurance business, including their branches, **except mutual benefit associations** and purely cooperative insurance associations organized under the laws on cooperatives. The term shall also include professional reinsurers. (Emphases and underscoring supplied)

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[70] *Supra* note 42.
[71] SUBJECT: *Prescribing the Guidelines Governing the Power of Municipalities and Cities to Impose a Business Tax on Insurance Companies pursuant to Sections 143 (f) and 151 of Republic Act No. 7160 of 1991, and Its Implementing Rules and Regulations (IRR).*

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In *City of Davao v. Randy Allied Ventures, Inc.*,[72] the Supreme Court clarified that the liability under Section 143(f) of the LGC arises only when the entity sought to be taxed falls squarely within the statutory and regulatory definitions of banks or other financial institutions, and regularly engages in the financial activities contemplated by the provision. Thus:

> "Banks and other financial institutions" are defined under the same Code as to "include **non-bank financial intermediaries**, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder."
>
> Essentially, LBT are taxes imposed by local government units on the **privilege of doing business within their jurisdictions**. To be sure, the phrase "doing business" means some "trade or commercial activity **regularly engaged in** as a **means of livelihood** or **with a view to profit**." Particularly, the LBT imposed pursuant to Section 143 (f) is premised on the fact that the persons made liable for such tax are banks or other financial institutions by virtue of their being engaged in the business as such. This is why the LBT are imposed on their gross receipts from "interest, commissions and discounts from **lending activities**, income from **financial leasing, dividends**, rentals on property and profit from exchange or sale of property, insurance premium."
>
> In this case, it is clear that RAVI is neither a bank nor other financial institution, *i.e.*, an NBFI. In order to be considered as an NBFI under the National Internal Revenue Code, banking laws, and pertinent regulations, the following must concur:
>
> a. The person or entity is authorized by the BSP to perform quasi-banking functions;
>
> b. The principal functions of said person or entity include the lending, investing or placement of funds or evidences of indebtedness or equity deposited to them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others; and
>
> c. The person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis, to wit:
>
>   1. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;

[72] G.R. No. 241697, July 29, 2019 [Per J. Perlas-Bernabe, Second Division].

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> 2. Use principally the funds received for acquiring various types of debt or equity securities;
>
> 3. Borrow against, or lend on, or buy or sell debt or equity securities.
>
> x x x
>
> In sum, since RAVI is not a bank or other financial institution, *i.e.*, an NBFI, it cannot be held liable for LBT under Section 143 (f) of the LGC. x x x (Emphases in the original; citations omitted)

Here, on the basis of the evidence on record, petitioner has established that it is a non-stock, nonprofit mutual benefit association, operating not for profit, but for the specific purpose of providing protection, financial, and material assistance to its members, who are personnel of public safety offices. Pertinently, petitioner's Amended Articles of Incorporation[73] reads:

> Second — That this Fund is formed primarily:
>
> 1. To foster brotherhood and sisterhood and mutual assistance among members;
>
> 2. To encourage the habit of thrift and savings among members;
>
> 3. 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;
>
> 4. To provide retirement pension benefits to members and their families; and
>
> 5. 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 accomplishment of the purpose for which the fund has been organized.

Moreover, petitioner's Amended By-Laws[74] articulate its primary aims as follows:

> **Section 3.** The primary aims of the PSMBFI are:

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[73] Docket, Annex "F," p. 98.
[74] *Id.*, Annex "G," p. 107.

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a. To foster fellowship, camaraderie and mutual assistance among members;

b. To encourage the habit of thrift, savings and enterprise among members;

c. To provide financial and material aid to members and their families in case of losses, disabilities, manmade and natural calamities, injuries, similar occurrences; and

d. To manage and administer a sustainable and viable fund in the pursuit and accomplishment of the purpose for which it has been established. (Emphasis in the original)

This is entirely consistent with the definition of a "mutual benefit association" under the ICP, as amended:

> Section 403. Any society, association or corporation, without capital stock, **formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money, irrespective of whether such aim or purpose is carried out by means of fixed dues or assessments collected regularly from the members, or of providing, by the issuance of certificates of insurance, payment of its members of accident or life insurance benefits out of such fixed and regular dues or assessments**, but in no case shall include any society, association, or corporation with such mutual benefit features and which shall be carried out purely from voluntary contributions collected not regularly and/or no fixed amount from whomsoever may contribute, shall be known as a **mutual benefit association** within the intent of this Code. (Emphases supplied)

Finally, anent the ruling of the court *a quo* and the respondent's contention that the petitioner has failed to cite a specific law granting exemption from the LBT, such argument is equally misplaced and without merit. The rule that **tax exemptions must be strictly construed against the grantee and liberally in favor of the government** has no application in the present case. Petitioner does not claim a refund by virtue of a statutory exemption; rather, it seeks a refund on the ground that it is neither an insurance company nor a financial institution subject to LBT. In other words, petitioner's entitlement to a refund arises from the absence of any provision under the LGC or the City of San Juan Revenue Code[75] imposing an LBT on a mutual benefit association. Accordingly, the controlling principle is the settled doctrine that **tax impositions must be clear, express, and unambiguous**, and that, **where there is doubt, tax laws must be construed strictly against the government and in favor of**

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[75] *Supra* note 42.

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the taxpayer, for no tax burden may be imposed by implication. The Supreme Court shed light on the matter:

> Finally, **the Commissioner's contention that a tax refund partakes the nature of a tax exemption does not apply to the tax refund to which Fortune Tobacco is entitled**. There is parity between tax refund and tax exemption only when the former is based either on a tax exemption statute or a tax refund statute. Obviously, that is not the situation here. Quite the contrary, **Fortune Tobaccos claim for refund is premised on its erroneous payment of the tax, or better still the government's exaction in the absence of a law**.
>
> Tax exemption is a result of legislative grace. And he who claims an exemption from the burden of taxation must justify his claim by showing that the legislature intended to exempt him by words too plain to be mistaken. The rule is that tax exemptions must be strictly construed such that the exemption will not be held to be conferred unless the terms under which it is granted clearly and distinctly show that such was the intention.
>
> A claim for tax refund may be based on statutes granting tax exemption or tax refund. In such case, the rule of strict interpretation against the taxpayer is applicable as the claim for refund partakes of the nature of an exemption, a legislative grace, which cannot be allowed unless granted in the most explicit and categorical language. The taxpayer must show that the legislature intended to exempt him from the tax by words too plain to be mistaken.
>
> Tax refunds (or tax credits), on the other hand, are not founded principally on legislative grace but on the legal principle which underlies all quasi-contracts abhorring a person's unjust enrichment at the expense of another. The dynamic of erroneous payment of tax fits to a tee the prototypic quasi-contract, *solutio indebiti,* which covers not only mistake in fact but also mistake in law.
>
> The Government is not exempt from the application of *solutio indebiti*. Indeed, the taxpayer expects fair dealing from the Government, and the latter has the duty to refund without any unreasonable delay what it has erroneously collected. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, it must hold itself against the same standard in refunding excess (or erroneous) payments of such taxes. It should not unjustly enrich itself at the expense of taxpayers. And so, given its essence, a claim for tax refund necessitates only preponderance of evidence for its approbation like in any other ordinary civil case.
>
> x x x
>
> **What is controlling in this case is the well-settled doctrine of <u>strict interpretation in the imposition of taxes</u>, not the similar doctrine as applied to tax exemptions.** The rule in the interpretation of tax laws is that **<u>a statute will not be construed as imposing a tax unless it does so clearly, expressly, and unambiguously</u>**. A tax cannot be imposed without clear and

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> express words for that purpose. Accordingly, **the general rule of requiring adherence to the letter in construing statutes applies with peculiar strictness to tax laws and the provisions of a taxing act are not to be extended by implication. In answering the question of who is subject to tax statutes, it is basic that in case of doubt, <u>such statutes are to be construed most strongly against the government and in favor of the subjects or citizens</u>** because burdens are not to be imposed nor presumed to be imposed beyond what statutes expressly and clearly import. **As burdens, taxes should not be unduly exacted nor assumed beyond the plain meaning of the tax laws.**[76] (Emphases and underscoring supplied; citations omitted)

In sum, pursuant to the definition of an "insurance company" under the ICP, as amended, and the DOF-BLGF Local Finance Circular No. 2-93, the petitioner, having established itself as a "mutual benefit association," cannot be classified as an insurance company. Consequently, its operations, conducted solely for the mutual benefit of its members and not for profit, fall outside the scope of activities subject to LBT under both the LGC and the City of San Juan Revenue Code.[77]

Stated plainly, petitioner, as a *bona fide* mutual benefit association, is not a financial institution engaged in the insurance business, and, therefore, cannot be held liable for the subject LBT.

Time and again, it bears emphasizing that, "although the power to tax is inherent in the State, the same is not true for the LGUs to whom the power must be delegated by Congress and must be exercised within the guidelines and limitations that Congress may provide."[78] Thus, the scope of an LGU's power to levy taxes is confined to the extent authorized by the Constitution or law.[79] In the exercise of this delegated power, the LGU must act reasonably and in strict adherence to the constitutional guarantee that no person shall be deprived of his or her property without due process of law.[80]

WHEREFORE, in light of the foregoing considerations, the instant *Petition* is hereby **GRANTED**. Accordingly, the assailed *Decision* dated January 20, 2023, and the assailed *Order* dated July 28, 2023, both rendered by RTC Branch 264 of Pasig City, which is stationed in San Juan City, in Civil Case No.75587-SJ, are hereby

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76 *Commissioner of Internal Revenue v. Fortune Tobacco Corp.*, G.R. Nos. 167274-75, July 21, 2008 [Per J. Tinga, Second Division].
77 *Supra* note 42.
78 *City of Manila v. Colet*, G.R. Nos. 120051, 121613, 121675, 121704, 121720-28, 121847-55, 122333, 122335, 122349 & 124855, December 10, 2014 [Per J. Leonardo-De Castro, *En Banc*].
79 *Pelizloy Realty Corp. v. Province of Benguet*, G.R. No. 183137, April 10, 2013 [Per J. Leonen, Third Division].
80 1987 Constitution, Article III, Section 1, par. 1.

/lb

REVERSED and **SET ASIDE**. Respondent is **ORDERED TO REFUND** to petitioner the amount of **₱13,304,426.99**.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

I CONCUR:

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

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice