REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SAN MIGUEL FOODS, INC.,
Petitioner,

CTA EB NO. 2474
(CTA AC NO. 209)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJRDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

\- versus -

OFFICE OF THE CITY TREASURER, CITY OF DAVAO, represented by BELLA LINDA N. TANJILI, City Treasurer,
Respondent.

Promulgated:

AUG 04 2023
4:10 p.m.

x--x

RESOLUTION

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

For resolution is petitioner's *Motion for Reconsideration (Of 31 January 2023 Decision)* filed by registered mail on March 14, 2023 and respondent's *Comment (to the Motion for Reconsideration dated March 13, 2023)* filed by registered mail on April 24, 2023.

In its motion, petitioner reiterates that the *Permit Fee to Slaughter* was imposed under the taxing authority of respondent Local Government Unit (LGU), which falls under the jurisdiction of the court *a quo* in Section 7(a)(3) of Republic Act No. (R.A.) 1125, as amended. Furthermore, it cites the case of *National Power Corporation v. Municipal Government of Navotas, et al.* (Napocor),[1] where the Supreme Court pronounced that the term "local tax case" used in Section 7(a)(3) of R.A. 1125 must be taken in its generic sense.

[1] G.R. No. 192300, November 24, 2014.

If only to lay to rest these issues that were already passed upon by the Court in its assailed decision, it bears stressing that the *Permit Fee to Slaughter* paid by petitioner under protest is in the nature of a license fee and *is not a tax.* Thus, it lies outside the jurisdiction of the court *a quo.*

The Supreme Court explained the nature and scope of a *license fee* in *Progressive Development Corporation v. Quezon City*:[2]

> "To be considered a license fee, the imposition questioned must relate to an occupation or activity that so engages the public interest in health, morals, safety and development as to require regulation for the protection and promotion of such public interest; the imposition must also bear a reasonable relation to the probable expenses of regulation, taking into account not only the costs of direct regulation but also its incidental consequences as well. When an activity, occupation or profession is of such a character that inspection or supervision by public officials is reasonably necessary for the safeguarding and furtherance of public health, morals and safety, or the general welfare, the legislature may provide that such inspection or supervision or other form of regulation shall be carried out at the expense of the persons engaged in such occupation or performing such activity, and that no one shall engage in the occupation or carry out the activity until a fee or charge sufficient to cover the cost of the inspection or supervision has been paid. Accordingly, a charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power." (*Citations omitted and underscoring supplied*)

Section 367(d) of Ordinance No. 158-05 (An Ordinance Approving the 2005 Revenue Code of the City of Davao, As Amended), which imposed ante mortem and post mortem fees for the slaughter of animals along with the other germane provisions in the city ordinance, was enacted *to regulate or control the slaughter of animals intended for sale.*

Accordingly, the *Permit Fee to Slaughter* is *not a tax* but one imposed on petitioner in order for it to engage in a particular trade or business. The *Permit Fee to Slaughter* can be classified as a *fee* for the purpose of regulating a specific business activity imbued with public interest because the activity, *i.e.* the slaughter of live birds/poultry in its Toril and Tugbok dressing plants, can impact public health, hygiene and sanitation. Such business activity, by its very nature, warrants close supervision and control by the city in the exercise of *police power* in order to promote *general welfare* found in Section 16 of the Local Government Code:

> "SECTION 16. *General Welfare.* - Every local government unit shall exercise the powers expressly granted, those necessarily implied there from, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social

[2] G.R. No. L-36081, April 24, 1989.

justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants." (*Underscoring supplied*)

Finally, the *Napocor* case cited by petitioner is *inapplicable* to this case.

In essence, the issue that was decided by the Supreme Court in *Napocor* was whether or not the Court of Tax Appeals (CTA) Second Division had jurisdiction to review the decision of the Regional Trial Court (RTC) which concerned a petition for declaratory relief involving *real property taxes*. The Supreme Court ruled in the affirmative and explained why the CTA had jurisdiction, thus:

> "Indeed, the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes. This is evident from a perusal of the Local Government Code (LGC) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.
>
> We, therefore, disagree with the conclusion of the CTA *En Banc* that real property taxes have always been treated by our laws separately from local taxes. The fact that a separate chapter is devoted to the treatment of real property taxes, and a distinct appeal procedure is provided therefor does not justify an inference that Section 7(a)(3) of R.A. 9282 pertains only to local taxes other than real property taxes. Rather, the term 'local taxes' in the aforementioned provision should be considered in its general and comprehensive sense, which embraces real property tax assessments, in line with the precept *Generalia verba sunt generaliter inteligencia*—what is generally spoken shall be generally understood. Between the restricted sense and the general meaning of a word, the general must prevail unless it was clearly intended that the restricted sense was to be used. In the words of the Court in *Marcos v. Chief of Staff*:
>
>> Where words are used which have both, a restricted and a general meaning, the general must prevail over the restricted unless the nature of the subject matter of the context clearly indicates that the limited sense is intended.
>
> Here, the context in which the word 'local taxes' is employed does not clearly indicate that the limited or restricted view was intended by the legislature. In addition, the specification of real property tax assessment under Paragraph (a)(5) of Section 7 of R.A. 9282, in relation to the decisions of the CBAA, is only proper given that the CBAA has no jurisdiction, either original or appellate, over cases involving local taxes other than real property taxes.
>
> Based on the foregoing, the general meaning of 'local taxes' should be adopted in relation to Paragraph (a)(3) of Section 7 of R.A. 9282, which necessarily includes real property taxes.
>
> Second, as correctly pointed out by petitioner, when the legality or validity of the assessment is in question, and not its reasonableness or correctness, appeals to the LBAA, and subsequently to the CBAA, pursuant

> to Sections 226 and 229 of the LGC, are not necessary." (*Underscoring supplied; citations omitted*)

Napocor, therefore, held that the term "local tax case" in Section 7(a)(3) of R.A. 1125, as amended, should embrace "real property taxes" over which the court *a quo* had jurisdiction. However, petitioner cannot rely on *Napocor* to establish that the court *a quo* has jurisdiction over issues pertaining to *license fees* imposed by respondent LGU. License fees are clearly outside the ambit of the term "local tax case".

WHEREFORE, finding no reversible error in the assailed decision, the instant motion is hereby **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

On official business

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

On leave

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice