

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**THE CITY TREASURER
AND THE CITY
GOVERNMENT OF TAGUIG
CITY,**

Petitioners,

CTA EB Case No. 3147
(Formerly RTC SCA Case No. 327
and MeTC Civil Case No. 23-4663)

Present:

- versus -

**RINGPIS-LIBAN, P.J.;
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES,
ANGELES,
TESTON, and
CENTENO-DIJAMCO, JJ.**

**ROYAL PALM RESIDENCES
CONDOMINIUM CORP.,**
Respondent.

Promulgated:

SEP 02 2026

X ----- X

DECISION

ANGELES, J.:

Before the Court *En Banc* is a *Petition for Review*¹ seeking the reversal and setting aside of the Decision dated July 10, 2024² (Assailed RTC Decision) and the Order dated August 30, 2024³ (Assailed RTC Order) promulgated by the Regional Trial Court, Branch 267, Taguig City (RTC) in SCA Case No. 327 which affirmed the Decision dated December 20, 2023⁴ (MeTC Decision) of the Metropolitan Trial Court, Branch 116, Taguig City (MeTC) in the case entitled "*Royal Palm Residences Condominium Corp. v. The City Treasurer and the City Government of Taguig City.*" The dispositive

¹ *En Banc* (EB) Docket, *Petition for Review* dated May 29, 2025, pp. 10 to 28.

² EB Docket, pp. 33 to 34.

³ EB Docket, p. 35.

⁴ EB Docket, pp. 38 to 62.

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portions of the MeTC Decision, Assailed RTC Decision, and Assailed RTC Order respectively read:

MeTC Decision:

WHEREFORE, premises considered, the instant Complaint is **PARTIALLY GRANTED**.

Accordingly, defendant Taguig City Government is hereby **ORDERED** to **REFUND** or issue **TAX CREDIT** in the amount of two hundred ninety-four thousand one hundred eighty-seven pesos and twelve centavos (**Php294,187.12**) representing the erroneously collected local business tax for the year 2021. As to the claim for environmental impact fee and business plate (sticker) fee, as well as the claim for attorney's fees, litigation expenses, and cost of suit, the same are hereby **DENIED**.

So Ordered.⁵

Assailed RTC Decision:

Upon review of the dissertation of the court *a quo* involving the matter, subject of the Partial Appeal, as shown in pages 17 to 22 thereof, as it appeared that the opinion of the Court on the matter was consistent with the law and jurisprudence, the Partial Appeal of Defendant-Appellant, The City Treasurer and The City Government of Taguig City, is **DENIED**.

SO ORDERED.⁶

Assailed RTC Order:

Therefore, the Motion for Reconsideration of herein appellants are **DENIED**.

SO ORDERED.⁷

THE PARTIES

Petitioner City Government of Taguig is a public corporation created by virtue of Republic Act (R.A.) No. 7160 and R.A. No. 8487, the Charter of the City of Taguig, with seat of authority at the City Hall of Taguig. It is represented by its current Executive Head and Mayor of

⁵ EB Docket, pp. 61 to 62.

⁶ EB Docket, p. 34.

⁷ EB Docket, p. 35.

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the City of Taguig, Hon. Maria Laarni L. Cayetano. Its office is located at Taguig City Hall, Gen. Luna Street, Tuktukan, 1630 Taguig City.⁸

Petitioner City Treasurer of Taguig is represented by the incumbent City Treasurer, Atty. Jonathan Voltaire L. Enriquez, who is vested with the authority to exercise the functions of his office, including the implementation of the Revenue Code of the City of Taguig and the pertinent provisions of R.A. No. 7160, as well as the assessment and collection of local taxes, fees, and charges within the territorial jurisdiction of Taguig City. His office is located at the Taguig City Hall, General Luna Street, Tuktukan, 1630 Taguig City.⁹

Respondent Royal Palm Residences Condominium Corporation is a domestic condominium corporation and a corporate taxpayer of the City of Taguig with principal office at Acacia Estates, Brgy. Ususan, Taguig City.¹⁰

THE FACTS

The facts as found by the MeTC are as follows:

Brief facts Based on the Complaint

On January 6, 2021, Plaintiff sought to renew its business permit with the City Government of Taguig City for the year 2021. Pursuant to Plaintiff's application for renewal, the Office of the City Treasurer of Taguig City issued Billing Statement dated January 6, 2021, imposing against Plaintiff a business renewal fee in the total amount of Three Hundred Nine Thousand Three Hundred Forty-Four and 62/100 (Php309,344.62).

On 14 January 2021, plaintiff paid the entirety of the business permit renewal fee in full in order to avoid any additional surcharges and penalties. Realizing that Defendants should not have collected local business tax, environmental fee, and business plate fee from Plaintiff since it is not considered an entity engaged in business, but rather a condominium corporation designated as the management body of the condominium project, Plaintiff filed a *Letter* dated 14 January 2022 with the Office of the City Treasurer of Taguig City on 17 January 2022 praying for the cancellation of the Local Business Taxes, environmental and Business Plate (Sticker) Fees imposed and the refund of the amount already paid for the same.

⁸ EB Docket, p. 12.

⁹ EB Docket, p. 12.

¹⁰ EB Docket, p. 12.

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On 22 June 2022, Plaintiff received a *Letter* dated 16 June 2022 from Defendant City Treasurer denying its claim for refund, ruling that the Local Government Code and the Taguig Revenue Code mandate the imposition and collection of taxes against all establishments engaged in activities subject to local government regulation based on their gross sales or receipts, and that there exists no basis for Plaintiff's exemption from local taxes.

Believing that it erroneously paid the subject taxes and fees collected from them, Plaintiff thus filed the instant *Complaint for Refund and/or Tax Credit of the Illegally Collected Local Business Taxes and Plate and Sticker Fees* after filing the above-mentioned written claim for refund with the Office of the City Treasurer of Taguig City.¹¹

X X X

Facts based on Answer

In its Answer, the defendant avers that plaintiff alleged that it filed a *Letter* praying for the cancellation of the Y2021 Local Business Taxes and refund of the amount already paid (hereinafter, the "Protest") before defendants on 14 January 2022. The Protest was denied by Defendant in a letter dated 16 June 2022 which was received by Plaintiff on 22 June 2022.¹²

PROCEEDINGS BEFORE THE METC AND RTC

On January 11, 2023, respondent filed a *Complaint for Refund and/or Tax Credit of Illegally Collected Local Business Tax and Plate and Sticker Fee (Complaint)* before the MeTC,¹³ claiming that the subject taxes and fees were erroneously collected.

On December 20, 2023, the MeTC rendered the Assailed MeTC Decision, partially granting the *Complaint* and ordering petitioners to refund, or alternatively issue a tax credit, in the amount of **₱294,187.12**, representing the local business tax erroneously collected for taxable year (TY) 2021, but denying respondent's claims for refund of the environmental impact fee and business plate (sticker) fee, as well as its claims for attorney's fees, litigation expenses, and costs of suit.¹⁴

Aggrieved by the MeTC Decision insofar as it ordered herein petitioners to refund or issue a tax credit for the erroneously collected

¹¹ EB Docket, pp. 38 to 39.

¹² EB Docket, p. 42.

¹³ EB Docket, p. 54.

¹⁴ EB Docket, pp. 61 to 62.

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local business tax to herein respondent, petitioners, on March 05, 2025, filed a *Notice of Partial Appeal* before the RTC.¹⁵

On July 10, 2024, the RTC rendered the Assailed RTC Decision, denying petitioners' partial appeal and affirming *in toto* the Assailed MeTC Decision.¹⁶

Aggrieved, petitioners moved for reconsideration on August 14, 2024.¹⁷ The RTC, however, denied the same in its Assailed Order.¹⁸

Thereafter, on March 17, 2025, the RTC issued an Order directing the Process Server to serve upon petitioners both said Order and the Assailed Order.¹⁹ Petitioners received the same on April 14, 2025.²⁰

PROCEEDINGS BEFORE THE CTA EN BANC

On May 14, 2025, petitioners filed a *Motion for Extension of Time to File Petition for Review*,²¹ Thereafter, on May 29, 2025, petitioners filed the instant *Petition for Review*.²²

Consequently, on July 24, 2025, respondent filed its *Comment (to the Petition for Review dated 29 May 2025)*.²³

In a Resolution dated September 02, 2025, the Court *En Banc* submitted the instant case for decision.²⁴

ASSIGNMENT OF ERRORS

The issues submitted by petitioners for the Court's resolution are as follows:

1. Whether or not the Honorable RTC Branch 267 of Taguig City committed reversible error in holding that Sec. 196 and not Sec. 195 of the Local Government Code, as amended, is applicable in

¹⁵ EB Docket, p. 13.

¹⁶ EB Docket, p. 13.

¹⁷ EB Docket, p. 13.

¹⁸ EB Docket, p. 35.

¹⁹ EB Docket, p. 36.

²⁰ EB Docket, p. 14.

²¹ EB Docket, pp. 1 to 3.

²² EB Docket, p. 10.

²³ EB Docket, pp. 68 to 84.

²⁴ EB Docket, p. 132.

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reckoning the period for filing an appeal of the denial of tax protest.²⁵

2. Whether or not the Honorable RTC Branch 267 of Taguig City committed reversible error in holding respondent Royal Palm exempt from payment of business tax.²⁶

ARGUMENTS OF THE PARTIES

Petitioners' arguments

Petitioners principally argue that the RTC erred in affirming the MeTC's ruling granting respondent's claim for refund. They contend that respondent's claim had already prescribed because the controversy is governed by Section 195, and not Section 196, of the Local Government Code (LGC). According to petitioners, the payment of local business tax was made pursuant to an assessment, and respondent's failure to timely protest the assessment rendered it final, executory, and unappealable.

Petitioners likewise maintain that respondent is subject to local business tax because it engages in business by rendering services for a fee through the collection of association dues, membership fees, and special assessments. Consequently, they assert that respondent falls within the definition of a contractor under the Taguig Revenue Code and is therefore liable for local business tax.

Finally, petitioners argue that respondent failed to establish its entitlement to a refund. They submit that respondent's claim is, in essence, one for tax exemption, which must be strictly construed against the taxpayer. Since respondent failed to prove a clear statutory exemption from local business tax, petitioners contend that its claim for refund should have been denied.

Respondent's counter-arguments

Respondent, on the other hand, maintains that the RTC correctly affirmed the MeTC's ruling. It argues that its claim for refund was timely filed under Section 196 of the LGC because no notice of assessment contemplated under Section 195 was ever issued. According to respondent, the subject *Billing Statement* merely reflected the taxes and fees due for the renewal of its business permit

²⁵ EB Docket, *Petition for Review dated May 29, 2025*, p. 14.

²⁶ EB Docket, *Petition for Review dated May 29, 2025*, p. 14.

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and did not assess any deficiency tax, surcharge, interest, or penalty. Hence, its claim properly falls under Section 196.

Respondent further contends that it is not subject to local business tax because, as a condominium corporation organized under the Condominium Act, it exists solely to administer and maintain the condominium's common areas. It maintains that the association dues, membership fees, and special assessments it collects merely finance the performance of its statutory functions and do not constitute consideration for services rendered for profit. Corollarily, respondent asserts that it cannot be classified as a contractor under the Taguig Revenue Code because it neither renders services for compensation nor engages in trade or business with a view to profit.

Lastly, respondent argues that petitioners fundamentally misconstrue the nature of its claim. It emphasizes that it does not invoke a tax exemption but merely asserts that it does not fall within the class of entities subject to local business tax. Consequently, respondent maintains that petitioners' reliance on the rule requiring the strict construction of tax exemptions is misplaced.

THE COURT'S RULING

Before addressing the substantive issues raised by petitioners, the Court must first determine whether the instant *Petition* falls within its appellate jurisdiction and whether such jurisdiction was timely invoked.

The Court En Banc has jurisdiction over the instant Petition.

Section 7(a)(3) of R.A. No. 1125, as amended by R.A. No. 9282,²⁷ expressly vests the Court of Tax Appeals (CTA) with exclusive appellate jurisdiction over decisions, orders, or resolutions of the RTCs in local tax cases decided or resolved by them in the exercise of their original or appellate jurisdiction. Said Section provides:

SECTION 7. Section 7 of the same Act is hereby amended to read as follows:

²⁷ Expanding the Jurisdiction of the Court of Tax Appeals, March 30, 2004.

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Sec. 7. *Jurisdiction.* — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x

(3) **Decisions, orders or resolutions of the Regional Trial Courts** in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction; (Emphasis and underscoring supplied)

Section 11 of the same law, in turn, prescribes the period to appeal from decisions or rulings of the RTC:

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

The foregoing statutory provisions are implemented by Section 2(b), Rule 4 and Section 3(c), Rule 8 of the RRCTA, which respectively define the Court *En Banc*'s appellate jurisdiction and prescribe the period within which the petition must be filed, *viz.*:

**RULE 4
JURISDICTION OF THE COURT**

SEC. 2. *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

x x x

(b) Decisions, resolutions or orders of the **Regional Trial Courts in local tax cases decided or resolved by them** in the exercise of their **appellate jurisdiction**; (Emphasis and underscoring supplied)

x x x

**RULE 8
PROCEDURE IN CIVIL CASES**

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X X X

SEC. 3. Who May Appeal; Period to File Petition. –

X X X

(c) A party adversely affected by a **decision or ruling** of the Central Board of Assessment Appeals and the **Regional Trial Court in the exercise of their appellate jurisdiction** may appeal to the Court by filing before it a petition for review within **thirty days from receipt of a copy of the questioned decision or ruling.** (Emphasis and underscoring supplied)

In this case, the MeTC rendered its Decision in an action involving the refund of local business tax collected by the City of Taguig. On appeal, the RTC rendered the Assailed RTC Decision affirming the MeTC Decision and, thereafter, issued the Assailed RTC Order denying petitioners' *Motion for Reconsideration*. Considering that the assailed rulings were issued by the RTC in the exercise of its appellate jurisdiction over a local tax case, the present appeal falls squarely within the exclusive appellate jurisdiction of the Court *En Banc*.

In their *Petition for Review*, petitioners alleged that they received the Assailed RTC Order on **April 14, 2025**.²⁸ This date of receipt was not controverted by respondent.

Subsequently, on **May 14, 2025**, or on the last day of the thirty (30)-day reglementary period to file the instant appeal, petitioners filed a *Motion for Extension of Time to File Petition for Review (Motion)*,²⁹ praying for an additional fifteen (15) days, or until **May 29, 2025**, within which to file the instant *Petition for Review* before the Court *En Banc*. In its Resolution dated July 07, 2025, the Court *En Banc* deemed the *Motion* granted. On **May 29, 2025**, or within the extension sought, petitioners filed the instant *Petition for Review*.³⁰

Accordingly, the instant *Petition for Review* was timely filed.

Having established its jurisdiction over the instant *Petition* and petitioners' timely invocation of the same, the Court *En Banc* now proceeds to resolve the substantive issues raised therein.

²⁸ EB Docket, p. 11.

²⁹ EB Docket, pp. 1 to 3.

³⁰ EB Docket, *Petition for Review* dated May 29, 2025, p. 10.

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The RTC correctly upheld the MeTC's ruling that the subject Billing Statement is not the Notice of Assessment contemplated under Section 195 of the LGC.

In its Assailed Decision and Assailed Order, the RTC sustained the MeTC's ruling that the subject *Billing Statement* was not the notice of assessment contemplated under Section 195 of the LGC. The MeTC had found that the subject *Billing Statement*, issued in connection with respondent's application for the renewal of its business permit, was distinct from the deficiency tax assessment provided under said section.

Undeterred, petitioners now allege in their *Petition for Review* that the RTC committed reversible error in so ruling. They maintain that respondent's payment of local business tax was made pursuant to an assessment and that respondent's failure to protest the same within the period prescribed under Section 195 of the LGC rendered the assessment final and executory.

Petitioners' argument fails at its premise.

For the protest period under Section 195 of the LGC to apply here, the subject *Billing Statement* must first qualify as the notice of assessment contemplated therein. Said section 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 or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent

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jurisdiction otherwise the assessment becomes conclusive and unappealable.” (Emphasis and underscoring supplied)

The statutory text is clear. A notice of assessment under Section 195 proceeds from a finding by the local treasurer, or the treasurer’s duly authorized representative, that the correct taxes, fees, or charges have not been paid. More importantly, it must state not only the nature of the imposition, but the amount of the resulting deficiency and the corresponding surcharges, interests, and penalties.³¹

The existence of a deficiency liability is therefore integral to the assessment contemplated under Section 195. The provision does not speak of a mere computation of taxes or fees presently payable. It contemplates a determination that the taxpayer has failed to pay the correct amount and an assertion of the deficiency liability arising from that underpayment.

This distinction was squarely recognized by the Supreme Court in *International Container Terminal Services, Inc. v. City of Manila, et al.*³² (*ICTSI*), where it categorically held:

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, they do not contain any amount of deficiency, surcharges, interests, and penalties due from petitioner. They cannot be considered the “notice of assessment” required under Section 195 of the Local Government Code.** (Emphasis and underscoring supplied)

The factual setting in *ICTSI* closely parallels the present case. There, as here, the questioned document was issued in connection with the renewal of a business permit and merely reflected the taxes and charges payable, without any determination of deficiency, surcharge, interest, or penalty.

Thus, the same legal conclusion obtains here. The subject *Billing Statement* merely stated the taxes and fees payable for the renewal of respondent’s business permit. It contained no finding of

³¹ *Yamane v. BA Lepanto Condominium Corp.*, G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division].

³² G.R. No. 185622, October 17, 2018 [Per J. Leonen, Third Division].

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underpayment, identified no deficiency liability, and imposed no corresponding surcharges, interests, or penalties. **Accordingly, the subject Billing Statement did not constitute the notice of assessment contemplated under Section 195 of the LGC and, consequently, did not trigger the protest mechanism prescribed therein.**

The consequence of this finding is equally settled. In *ICTSI*, the Supreme Court likewise delineated the remedies available under Sections 195 and 196 according to whether a notice of assessment had been issued and whether the assessed tax had been paid:

If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 or 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.

If the taxpayer opts to pay the assessed tax, fee, or charge, 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, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid. "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 no assessment notice is issued by the local treasurer, and the taxpayer claims that it erroneously paid a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him, then Section 196 applies.**³³ (Emphasis and underscoring supplied)

The same framework was reiterated by the High Court in *Hon. Lourdes R. Jose v. Tigerway Facilities and Resources, Inc.*³⁴ (*Tigerway*) where it ruled in this wise:

Reflecting on our rulings in *Cosmos* and *International Container*, it becomes evident that the key factor in determining whether Section 195 or 196 is applicable hinges on the LGU's basis for the collection of the tax. To put it differently, **Section 195 finds application in**

³³ Supra at note 32.

³⁴ G.R. No. 247331, February 26, 2024 [Per J. J.Y. Lopez, Second Division].

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cases where a tax assessment is issued to the taxpayer, thereby presupposing the existence of a valid tax assessment. On the other hand, **Section 196 assumes relevance in instances where no such assessment exists.** (Emphasis and underscoring supplied)

The applicability of Section 195 or Section 196 thus turns on whether a notice of assessment exists. Where such assessment exists, the taxpayer must proceed through the protest mechanism prescribed therein. Conversely, where no such assessment exists and the taxpayer seeks the recovery of a tax allegedly erroneously or illegally paid or collected, Section 196 governs.

Accordingly, the RTC correctly upheld the MeTC's ruling that the subject *Billing Statement* did not constitute the notice of assessment contemplated under Section 195 of the LGC.

Respondent's claim for refund was timely pursued within the two-year prescriptive period under Section 196 of the LGC.

Having determined that Section 196 governs respondent's claim, the Court now turns to whether the remedies prescribed therein were timely pursued. The provision states:

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.** (Emphasis and underscoring supplied)

The provision is straightforward. A written claim for refund or credit must first be filed with the local treasurer, and the judicial action for recovery must be commenced within two (2) years from payment of the tax, fee, or charge, or from the date the taxpayer became entitled to the refund or credit.

Here, respondent paid the subject local business tax on **January 14, 2021**. Thereafter, on **January 17, 2022**, respondent filed with

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petitioner City Treasurer a *Letter* dated January 14, 2022, seeking the refund of the amount paid on the ground that the local business tax had been erroneously collected. Following the denial of its administrative claim, respondent instituted its *Complaint* before the MeTC on **January 11, 2023**.

The chronology and timeline leaves no room for doubt. The administrative claim preceded the judicial action, and both were undertaken within two (2) years from payment of the subject local business tax.

Accordingly, respondent's claim for refund was timely pursued within the prescriptive period prescribed under Section 196 of the LGC and has, therefore, not prescribed.

The RTC correctly upheld the MeTC's ruling that respondent is not engaged in business, and is therefore not subject to local business tax.

Petitioners likewise fault the RTC for upholding the MeTC's ruling that respondent is not subject to local business tax. They contend that the association dues, membership fees, and special assessments collected by respondent allegedly constitute consideration for services rendered to its unit owners, thereby bringing respondent within the concept of a "contractor."

The Court is not convinced.

Petitioners conflate the statutory administration of common property with the commercial sale of services. Section 131(d) of the LGC defines "business" as "trade or commercial activity regularly engaged in as a means of livelihood or **with a view to profit.**" Section 131(h), in turn, defines a "contractor" as including "persons, natural or juridical, not subject to professional tax under Section 139 of this Code, whose activity consists essentially of the sale of all kinds of services **for a fee** x x x." Correlatively, Section 143(e) authorizes the imposition of local business tax upon contractors and other independent contractors.

Read together, these provisions make clear that a person, natural or juridical, may be taxed as a contractor under the LGC only where the

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activity relied upon constitutes “business” and, at the same time, **essentially involves the sale of services for a fee**. Neither element may be presumed from the mere performance of functions for another, much less supplied by petitioners’ unilateral characterization of respondent’s condominium-management functions as ‘services.’

This is precisely the framework applied by the Supreme Court in *Yamane v. BA Lepanto Condominium Corporation*³⁵ (*Yamane*), where it held that “ **x x x in order that the Corporation may be subjected to business taxes, its activities must fall within the definition of business** as provided in the Local Government Code.”

Verily, Section 10 of R.A. No. 4726, otherwise known as the Condominium Act, provides that when the common areas are held by a condominium corporation, such corporation serves as the management body of the project, with its corporate purposes limited to the holding of the common areas, the management of the condominium project, and such other purposes as may be necessary, incidental, or convenient to the accomplishment thereof. Consistent therewith, Section 9(d) of the same law expressly contemplates the collection of reasonable assessments upon the condominium units to meet authorized expenditures.

Against this statutory backdrop, the Supreme Court in *Yamane* explained why the ordinary functions and collections of a condominium corporation do not, by themselves, amount to the conduct of business:

We can elicit from the Condominium Act that **a condominium corporation is precluded by statute from engaging in corporate activities other than the holding of the common areas, the administration of the condominium project, and other acts necessary, incidental or convenient to the accomplishment of such purposes**. Neither the maintenance of livelihood, nor the procurement of profit, fall within the scope of permissible corporate purposes of a condominium corporation under the Condominium Act.

x x x

x x x **Even though the Corporation is empowered to levy assessments or dues from the unit owners, these amounts collected are not intended for the incurrence of profit** by the Corporation or its members, but to shoulder the multitude of

³⁵ G.R. No. 154993, October 25, 2005 [Per J. Tinga, Second Division].

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necessary expenses that arise from the maintenance of the Condominium Project. x x x³⁶ (Emphasis and underscoring supplied)

It was on this statutory and doctrinal basis that the Supreme Court ultimately concluded:

Accordingly, and with a significant degree of comfort, **we hold that condominium corporations are generally exempt from local business taxation under the Local Government Code, irrespective of any local ordinance that seeks to declare otherwise.**³⁷ (Emphasis and underscoring supplied)

The ruling, however, was not premised on a statutory tax exemption peculiar to condominium corporations. It proceeded from the more fundamental conclusion that their ordinary statutory activities do not constitute “business” within the contemplation of the LGC.

The Supreme Court made the point even more explicit in *Bureau of Internal Revenue v. First E-Bank Tower Condominium Corporation*³⁸ (*First E-Bank*):

x x x **For when a condominium corporation manages, maintains, and preserves the common areas in the building, it does so only for the benefit of the condominium owners. It cannot be said to be engaged in trade or business,** thus, the collection of association dues, membership fees, and other assessments/charges is not a result of the regular conduct or pursuit of a commercial or an economic activity, or any transactions incidental thereto.

Neither can it be said that a condominium corporation is rendering services to the unit owners for a fee, remuneration or consideration. Association dues, membership fees, and other assessments/charges form part of a pool from which a condominium corporation must draw funds in order to bear the costs for maintenance, repair, improvement, reconstruction expenses and other administrative expenses. (Emphasis and underscoring supplied)

This pronouncement squarely disposes of petitioners’ “contractor” theory. Section 131(h) contemplates the sale of services for a fee. Yet, as *First E-Bank* makes clear, a condominium corporation does not render such services merely by managing and maintaining the common areas for its unit owners. The assessments it

³⁶ *Ibid.*

³⁷ *Id.*

³⁸ G.R. Nos. 215801 & 218924, January 15, 2020 [Per J. Lazaro Javier, First Division].

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collects are intended to defray the expenses of condominium administration, not gross receipts from business transactions or collections arising from a profit-oriented commercial activity.³⁹

This conclusion was later reaffirmed in *Fritz Bryn Anthony M. Delos Santos v. Commissioner of Internal Revenue*⁴⁰ (*Delos Santos*), where the Supreme Court again emphasized that “[a]ssociation dues are not intended for profit, but for the maintenance of the condominium project” and that their collection is “purely for the benefit of the condominium owners.”

Applied here, petitioners rely on the very activities which *Yamane*, *First E-Bank*, and *Delos Santos* have distinguished from trade or business and from the sale of services for a fee.

Even petitioners’ reliance on respondent’s supposed classification as a “contractor” under the Taguig Revenue Code⁴¹ does not alter that conclusion. Section 74 of the Code defines a “contractor” as one who “includes persons, natural or juridical, not subject to professional tax **whose activity consists essentially of the sale of all kinds of services for a fee** regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees.” Section 75(d) of the Code, as amended by Ordinance No. 34, Series of 2017, imposes local business tax upon “[t]he business of Contractors, including persons, natural or juridical, whose activity consists essentially in the sale of all kinds of services for a fee x x x.”

The classification therefore depends on the nature of the activity actually undertaken. Before respondent may be taxed as a contractor, the activity relied upon must itself amount to the sale of services for a fee in the course of trade or business. Here, respondent’s collection of dues and assessments merely funds the management and maintenance of the condominium project. It does not represent consideration for services commercially rendered to its unit owners.

To be sure, *Yamane* does not confer upon condominium corporations an absolute immunity from local business taxation. The Supreme Court, in that case, recognized that business tax liability may arise where unit owners actually engage in profit-oriented activities under the shelter of the condominium corporation.⁴² That qualification

³⁹ *Ibid.*

⁴⁰ G.R. No. 222548, June 22, 2022 [Per J. Leonen, Second Division].

⁴¹ Taguig City Ordinance No. 085-05, December 09, 2005.

⁴² *Supra* at Note 31.

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confirms that taxability turns on the actual activities undertaken, not on the corporate form alone.

Accordingly, respondent's management of the condominium project and its collection of dues and assessments to defray the expenses attendant thereto constitute neither trade nor commercial activity within the contemplation of Section 131(d) of the LGC nor the sale of services for a fee within the meaning of Section 131(h) of the same Code. There is, therefore, no taxable business activity to which the local business tax may attach. Respondent does not become a taxable "contractor" merely because petitioners characterize it as such, for that characterization cannot substitute for the statutory requisites that must first be established before the tax may be imposed.

Respondent's claim involves non-taxability, not tax exemption.

Finally, petitioners contend that respondent's claim for refund is, in substance, a claim for tax exemption and must therefore be strictly construed against respondent.

Again, the Court finds petitioners' position unavailing.

Respondent does not invoke an exemption from a local business tax that otherwise applies to it. Its position is anterior to exemption. The local business tax did not attach in the first place because the activity sought to be taxed does not constitute "business" within the contemplation of the LGC.

The distinction is fundamental. A tax exemption presupposes that the person, property, or activity is otherwise within the reach of the taxing provision but is relieved therefrom by law. Non-taxability presents the logically prior inquiry of whether the taxing provision reaches the person, property, or activity at all.

The Supreme Court has consistently recognized this distinction. In *Commissioner of Internal Revenue v. Philippine American Accident Insurance Company, Inc.*,⁴³ (PAAICI) it explained that the rule requiring strict construction of tax exemptions against the taxpayer presupposes that the taxpayer is, in the first place, clearly subject to the tax sought to be imposed. Where the statute does not

⁴³ G.R. No. 141658, March 18, 2005 [Per J. Carpio, First Division].

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clearly, expressly, and unambiguously impose the tax, the imposition cannot simply be presumed, for taxes are burdens on the taxpayer and should not be unduly imposed beyond what the law expressly and clearly provides.

The same principle was applied in *Petron Corporation v. Commissioner of Internal Revenue*,⁴⁴ where the Supreme Court clarified that not every claim for tax refund partakes of the nature of a tax exemption. A refund claim founded on an exemption from a tax otherwise due is distinct from one premised on the taxpayer's erroneous payment of a tax or on the Government's exaction of a tax in the absence of a law authorizing such exaction. In the latter instance, the governing rule is not strict construction of tax exemptions against the taxpayer, but strict interpretation of the imposition of taxes against the Government and in favor of the taxpayer.

Although *PAAICI* and *Petron* involved national internal revenue taxes, the governing principle is equally applicable to local taxation. Taxability must first be established before any question of exemption can arise.

This distinction finds direct support in Section 5(b) of the LGC itself. Under said provision, **any doubt concerning a tax ordinance or revenue measure is construed strictly against the local government unit and liberally in favor of the taxpayer**, while any tax exemption, incentive, or relief granted by a local government unit is construed strictly against the person claiming it. The two rules operate at different stages of the inquiry. The latter presupposes that the tax applies and that the taxpayer seeks relief therefrom. Where the dispute concerns whether the taxing measure reaches the taxpayer or the activity at all, it is the former rule that governs.

Applied here, respondent's claim for refund is not founded on any statutory exemption. It rests on the assertion that the local business tax was imposed upon activities that do not fall within the taxable concepts of "business" under Section 131(d) of the LGC or the sale of services for a fee under Section 131(h). **Respondent therefore does not seek release from a tax otherwise due. It disputes the existence of the tax liability itself.**

As already determined, respondent's collection of association dues, membership fees, and special assessments, together with its

⁴⁴ s, March 20, 2023 [Per J. Hernando, First Division].

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condominium-management functions, constitute neither trade or commercial activity within the contemplation of Section 131(d) of the LGC nor the sale of services for a fee within the meaning of Section 131(h). Petitioners' reliance on the rule of strict construction against claims for tax exemption therefore rests on a premise that has never been established. Petitioners failed to show that respondent is subject to the local business tax in the first place.

In fine, the Court finds no reversible error in the Assailed RTC Decision affirming the MeTC Decision, which ordered petitioners to refund to respondent, or alternatively issue a tax credit in its favor, in the amount of **P294,187.12**, representing the local business tax erroneously collected for TY 2021. Neither is there any basis to disturb the Assailed RTC Order denying petitioners' *Motion for Reconsideration*.

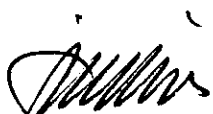
WHEREFORE, the instant *Petition* is **DENIED** for lack of merit. The Decision dated July 10, 2024 and the Order dated August 30, 2024 of the Regional Trial Court, Branch 267, Taguig City are **AFFIRMED**.

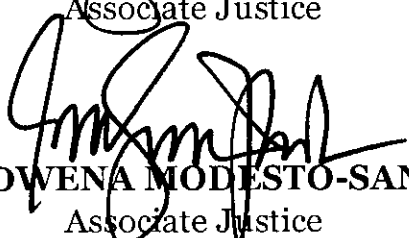
SO ORDERED.


HENRY S. ANGELES
Associate Justice

WE CONCUR:

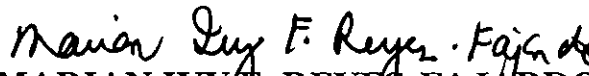

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice


PAOLO S. TESTON
Associate Justice


DEBBIE JEAN I. CENTENO-DIJAMCO
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