REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

DOLE PHILIPPINES INC. – STANFILCO DIVISION, *Petitioner*,	**CTA *EB* NO. 2461** (CTA AC No. 215)
	Present:
- versus -	**DEL ROSARIO,** *PJ,* **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** *and* **FERRER-FLORES,** *JJ.*
THE SANGGUNIANG PANLUNGSOD OF THE CITY OF DAVAO AND THE HON. SARA Z. DUTERTE-CARPIO AND BELLA LINDA N. TANJILI, in their respective capacities as Mayor and Treasurer of the City of Davao, *Respondents.*	Promulgated: MAY 12 2023 4:15 pm

x - x

DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*[1] filed by petitioner Dole Philippines Inc. – Stanfilco Division on May 20, 2021, assailing the Decision[2] dated June 25, 2020 (assailed Decision) and the Resolution[3] dated March 1, 2021 (assailed Resolution), rendered by this Court's Second Division (Court in Division) in CTA AC No. 215 entitled "*Dole Philippines Inc. – Stanfilco Division vs. The Sangguniang Panlungsod of the City of Davao, and the Hon. Sara Z. Duterte-Carpio and Bella Linda N. Tanjili, in their respective capacities as Mayor and Treasurer of the City of Davao.*" The dispositive portions of the assailed Decision and Resolution read as follows:

[1] *En Banc (EB)* docket, pp. 1-48.
[2] *EB* docket, pp. 53-61.
[3] *EB* docket, pp. 62-67.

Assailed Decision dated June 25, 2020:

WHEREFORE, the instant Petition for Review is **DENIED**, for lack of jurisdiction.

SO ORDERED.

Assailed Resolution dated March 1, 2021:

In view thereof, the motion is **DENIED** for lack of merit.

SO ORDERED.

THE PARTIES[4]

Petitioner Dole Philippines Inc. is a domestic corporation duly organized and existing by virtue of and under the laws of the Republic of the Philippines with a Stanfilco Division operating its business at Doña Socorro Street, Belisario Heights Subdivision, Lanang, Davao City. Petitioner's Stanfilco Division is primarily engaged in producing and exporting fresh bananas, pineapples, and other agricultural crops out of its offices in several zones in the province of Mindanao, one of which was then internally known as Calinan Zone located in Davao City. It may be served with notices and other court processes through its counsel, Platon Martinez Flores San Pedro and Leaño Law Offices located at 6/F Tuscan Building, 114 V.A. Rufino Street, Legaspi Village, Makati City, Metro Manila.

Respondent Sangguniang Panlungsod of the City of Davao is the local legislative body empowered to enact ordinances levying taxes, fees, and charges upon such conditions and for such purposes as intended to promote the general welfare of the inhabitants of the city. It may be served with summons, notices, and other pertinent processes at City Hall Building, San Pedro Street, Davao City.

Co-respondents Sara Z. Duterte-Carpio and Bella Linda N. Tanjili are sued in their capacities as City Mayor and Treasurer, respectively, of Davao City.

[4] *See* Note 1, p. 2.

THE FACTS AND THE PROCEEDINGS

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

On February 23, 2007, then Mayor Rodrigo R. Duterte approved the Watershed Code, which was enacted by the Sangguniang Panlungsod on January 23, 2007. It took effect fifteen (15) days after completion of its publication in a newspaper of general circulation in Davao City.

Pertinent provision of the Watershed Code provides:

> "**SECTION 17. ENVIRONMENTAL FUND**. — For the purpose of implementing the provisions of this Code, an annual Environmental Tax shall be imposed on all agricultural and other economic undertakings in the Agro-forestry/Non-Tillage Areas and Prime Agricultural Areas of not less than 50 hectares at the rate of Twenty-Five Centavos (Php0.25) per square meter; provided that:
>
> > (i) The Environmental Tax shall also be imposed on corporate entities and persons engaged in agricultural and other economic undertakings on lands covered by growership contracts and other agreements;
> >
> > xxx xxx xxx"

Pursuant thereto, on January 31, 2017, the Office of the City Treasurer of Davao issued an Assessment against petitioner in the amount of Three Million Three Hundred Twenty-Four Thousand Eight Hundred Twenty-Five Pesos (Php3,324,825.00).

On February 6, 2017, petitioner paid the amount of Three Million Three Hundred Twenty-Four Thousand Eight Hundred Twenty-Five Pesos (Php3,324,825.00), as evidenced by Official Receipt No. 8256117B. On March 7, 2017, petitioner filed its protest.

On March 8, 2017, petitioner received a Reply from the Office of the City Treasurer of Davao denying its protest.

On April 7, 2017, petitioner filed an Appeal before the Regional Trial Court of Davao City.

On October 19, 2018, the Lower Court issued the assailed Order dismissing petitioner's Appeal. Its dispositive portion reads:

> "WHEREFORE, finding no merit to plaintiff's Appeal from the City Treasurer's denial of its protest of assessments, this present Appeal is DISMISSED.
>
> SO ORDERED."

Consequently, petitioner filed its Motion for Reconsideration dated November 14, 2018. On November 22, 2018, the Lower Court likewise issued the assailed Order denying the said motion. Its dispositive portion reads:

> "WHEREFORE, for lack of merit, plaintiff's Motion for Reconsideration is hereby DENIED.
>
> SO ORDERED."

On December 20, 2018 and February 19, 2019, petitioner and respondents filed their respective Petition for Review and Comment, where they essentially reiterated their positions before the lower court.

On March 13, 2019, the Court issued a Resolution requiring the parties to file their memoranda. On April 16, 2019, petitioner filed its Memorandum. On the other hand, on April 23, 2019, respondents filed through registered mail their Memorandum.

On May 9, 2019, the Court issued a Resolution submitting the case for decision.

On June 25, 2020, the Court in Division rendered the assailed Decision denying the *Petition for Review* on jurisdictional ground. In arriving at its decision, the Court in Division agrees with the court *a quo's* conclusion that the twenty-five (Php0.25) centavos Environmental Fee is not a tax but a regulation fee. Hence, considering that the imposition is a regulatory fee and not a local tax, the Court in Division ruled that it has no jurisdiction over the case.

Not satisfied, petitioner moved for reconsideration[5] but was denied in the equally assailed Resolution of March 1, 2021.

[5] Division Docket, pp. 489-523.

Undeterred, petitioner filed the instant *Petition for Review* with this Court *En Banc* on May 20, 2021.

On July 15, 2021, the Court *En Banc* issued a Resolution[6] directing respondents to file their comments to petitioner's *Petition for Review* within ten (10) days from notice.

On November 5, 2021, the Court *En Banc* received the *Comments to the Petition for Review*[7] filed by respondents through registered mail on October 11, 2021.

On November 12, 2021, a *Minute Resolution*[8] was issued ordering respondents to submit additional six (6) copies of their comment within ten (10) days from notice.

On February 12, 2022, respondents filed their *Compliance*[9] *via* registered mail, with six (6) additional copies of their comment attached, which the Court *En Banc* noted in a *Minute Resolution*[10] dated March 24, 2022.

On May 4, 2022, the instant *Petition for Review* was submitted for decision.[11]

Hence, this Decision.

THE ISSUES

Petitioner submits the following issues[12] for the Court *En Banc's* resolution:

> **I. Whether the Second Division erred in ruling that it has no jurisdiction over the petition because it is purportedly not a local tax case.**
>
> **II. Whether the Second Division erred in ruling that failure to assail the constitutionality of a tax ordinance bars the filing of a protest of assessment.**
>
> **III. Whether the Second Division erred in holding that the petition does not fall under the**

[6] *EB* docket, pp. 465-466.
[7] *EB* docket, pp. 468-474.
[8] *EB* docket, p. 477.
[9] *EB* docket, pp. 480-481.
[10] *EB* docket, p. 483.
[11] Resolution dated May 4, 2022, *EB* docket, pp. 485-487.
[12] *See* Note 1, pp. 10-11.

recognized exceptions to the doctrine of exhaustion of administrative remedies.

IV. Whether the Second Division erred in not considering the other substantive issues raised by Stanfilco.

a. The Environmental Tax imposed under the Watershed Code is tax ordinance and must therefore comply with the requirements of publication under Section 188 of the Local Government Code of 1991.

b. Granting that the Watershed Code is not a tax ordinance but rather a regulatory fee, the same is invalid for imposing a fee in excess of the cost of regulation.

c. The Environmental Tax is a business tax which is not contemplated under Section 143 in relation to Section 151 of the LGC.

d. The Environmental Tax is excessive, oppressive, confiscatory, arbitrary, and discriminatory.

e. The enactment of the Watershed Code is an ultra vires act of the Local Government of Davao City for failure to comply with the conditions prescribed by the DENR.

f. The actual hectarage within which Stanfilco operates and undertakes its agricultural activities is less than those set by the Office of the City Treasurer.

Petitioner's Arguments:

Petitioner avers that in the assailed Decision of June 25, 2020, the Court in Division held that Section 17 of the Watershed Code is regulatory in nature. Hence, it ruled that it has no jurisdiction over the petition as the imposition is merely a regulatory fee, not a local tax. However, petitioner argues that the action, being an appeal from the Regional Trial Court's (RTC) ruling to uphold respondent City Treasurer's denial of a protest

of assessment under Section 195 of the LGC, is in the nature of a local tax case. According to petitioner, the original petition primarily involves a local tax issue as it emanates from an assessment coupled with Tax Orders of Payment issued by respondent City Treasurer. In fact, according to petitioner, the assessment letter issued a demand from respondent City Treasurer to settle its tax obligation and to refer all its inquiries or concerns to the "Business Tax and Assessment Division" of the local government of Davao City.

Further, petitioner claims that its original Petition for Review is a local tax case because the issues it presented involved a disputed assessment of an Environmental Tax, which tax obligation it paid under protest and sought to refund. For petitioner, the fact that the Court in Division ruled that the Environmental Tax is a regulatory fee does not detract from the nature of the action as a local tax case primarily involving a tax issue or the relief sought, which is to cancel the assessments and refund the taxes paid. Hence, following the Supreme Court's pronouncement in *International Container Terminal Services, Inc. (ICTSA) v. The City of Manila,*[13] where the Supreme Court enunciated that the nature of an action is determined by the allegations in the complaint and the character of the relief sought, petitioner asserts that its original Petition for Review falls within this Court's exclusive appellate jurisdiction over local tax cases. Thus, the Court may take cognizance and rule on the issues presented.

Petitioner likewise argues that the Court in Division erred in ruling that the failure to assail the constitutionality of a tax ordinance bars the filing of a protest of assessment. Allegedly, the Court in Division denied its *Motion for Reconsideration* because it failed to avail itself of the remedy under Section 187 of the LGC, which is the avenue for a taxpayer to question the constitutionality or legality of a local tax ordinance.

According to petitioner, Section 187 is one of two (2) remedies available to taxpayers under the LGC, the other being Section 195. As respondent City Treasurer issued an assessment letter with Tax Orders of Payment, the remedy it took was to protest the assessment in accordance with Section 195 of the LGC. On the other hand, the remedy under section 187 of the LGC need not be preceded by a notice of assessment

[13] G.R. No. 185622, October 17, 2018.

from the local treasurer before the taxpayer may appeal to the Secretary of Justice. For petitioner, nothing in the LGC declares that the remedies under Sections 187 and 195 are mutually exclusive such that failure to exercise one would necessarily bar the other. Here, the instant case arose not as a question of constitutionality or legality of a tax ordinance under Section 187 of the LGC but to dispute a tax assessment issued by respondent City Treasurer against petitioner. Besides, according to petitioner, Section 195 of the LGC does not, in any manner, forbid a taxpayer from also invoking the unconstitutionality or invalidity of a local tax ordinance when protesting the assessment of the local treasurer.

Petitioner added that unless the Court *En Banc* overturns the Court in Division's ruling, the inevitable outcome would be to foreclose a taxpayer's remedy to protest an assessment under Section 195 because it failed to appeal to the Secretary of Justice the legality of the tax ordinance upon which the assessment is based. Petitioner reiterates that apart from raising the procedural and substantive infirmities in the Watershed Code, it contests the assessment based on respondent City Treasurer's erroneous computation of the actual land area that may be taxed. The protest is, therefore, not confined solely to the legality of the ordinance but also to the correctness of its application. Hence, for petitioner, the Court in Division is mistaken in refusing to exercise jurisdiction on the ground that petitioner failed to avail itself of the remedy under Section 187 because its protest involves issues other than the constitutionality of the tax ordinance.

Petitioner also claims that the Court in Division erred in holding that the petition does not fall under the recognized exceptions to the doctrine of exhaustion of administrative remedies. According to petitioner, even assuming that an appeal to the Secretary of Justice is a condition precedent to filing a protest of assessment, it submits that its petition constitutes an exception to the doctrine on exhaustion of administrative remedies given the following reasons: (1)the issues involved are purely legal questions; (2) there is a violation of due process; (3) there is irreparable injury; and (4) to require exhaustion of administrative remedies would be unreasonable and would amount to a nullification of a claim.

Finally, petitioner faults the Court in Division for not considering the other substantive issues raised in its petition. According to petitioner, the Supreme Court, in several cases, allowed direct resort to courts and ruled on the substantive issues raised by the parties despite their failure to exhaust administrative remedies. However, the Court in Division declined to discuss the other substantive issues brought before it when it rendered the assailed Decision and Resolution. Hence, petitioner reiterates the following arguments:

a. The Environmental Tax imposed under the Watershed Code is a tax ordinance and must therefore comply with the requirements of publication under Section 188 of the LGC of 1991;

b. Granting that the Watershed Code is not a tax ordinance but rather a regulatory fee, the same is invalid for imposing a fee in excess of the cost of regulation;

c. The Environmental Tax is a business tax which is not contemplated under Section 143 in relation to Section 151 of the LGC;

d. The Environmental Tax is excessive, oppressive, confiscatory, arbitrary, and discriminatory;

e. The enactment of the Watershed Code is an ultra vires act of the Local Government of Davao City for failure to comply with the conditions prescribed by the Department of Environment and Natural Resources (DENR); and

f. The actual hectarage within which Stanfilco operates and undertakes its agricultural activities is less than those set by the Office of the City Treasurer.

Respondents' Arguments:

In their *Comments to the Petition for Review*, respondents counter that the Court in Division did not err in holding that it has no jurisdiction over the original petition since Ordinance No. 0310-17 (Watershed Code) is not a local tax but merely a regulatory fee. According to respondents, the Watershed Code

was specifically enacted according to the mandate of the City Government as a local government unit to protect the environment, which includes the duty to ensure the conservation of communal forests and watersheds, tree parks, greenbelts, mangroves, and other similar forest development projects as found in Section 458 of the LGC.

For respondents, the Watershed Code is merely an exercise of police power by the City Government of Davao to regulate the conduct of agricultural and economic undertakings in the Agro-forestry/Non-Tillage Areas and Prime Agricultural Areas. It does not prohibit but only regulates trade because the revenue collected is not a tax but a regulation fee imposed by the local government unit under its police power to supervise the trade. As watershed areas are recharged areas for the City's aquifers that are sources of Davao City's drinking water, these must be protected, conserved, and managed for the continued and full enjoyment of the present and future generations. And since the Watershed Code is a valid exercise of police power by the City Government of Davao in its intention to protect the watershed areas in Davao City, respondents assert that the Watershed Code is not a prohibitive but a regulation of trade.

Respondents likewise submit that the Court in Division is correct in holding that the failure to assail the constitutionality of a tax ordinance bars the filing of a protest of assessment, as well as in maintaining that the original petition does not fall under the recognized exceptions to the doctrine of exhaustion of administrative remedies. According to respondents, in the assailed Decision, the Court in Division impressed that under Section 187 of the LGC, aggrieved taxpayers who question the validity or legality of a tax ordinance must file an appeal before the Secretary of Justice before they can seek intervention from the regular courts. As petitioner asserted, it was aggrieved by the Watershed Code. However, it failed to exercise the proper diligence to avail of the appropriate remedies within the prescribed period, particularly raising any objection thereto to the Secretary of Justice.

Respondents added that under the doctrine of exhaustion of administrative remedies, courts must allow administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence. The rationale for this is obvious. It entails lesser expenses and provides for the faster resolution of controversies.

Comity and convenience also impel courts of justice to shy away from a dispute until the system of administrative redress has been completed.[14]

Finally, respondents submit that the Court in Division did not err in not considering the other substantive issues raised by petitioner. According to respondents, in affirming the RTC's decision, the Court in Division saw no valid reason to dwell on the substantive matters raised by petitioner as the only issue left is the validity of the Davao City Ordinance No. 0310-07, which was considered as a regulatory fee and not a local tax. And since it is not a local tax case, the Court in Division has no jurisdiction to decide.

THE COURT'S RULING

The instant *Petition for Review* must fail.

On whether the Court of Tax Appeals (CTA) has jurisdiction over the present case.

The CTA is a court of special jurisdiction and can only take cognizance of matters as are clearly within its jurisdiction.[15]

Section 7, paragraph (a), sub-paragraph (3) of the law vests the CTA with the exclusive appellate jurisdiction over "*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.*" The pertinent portion of the provision reads:

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

[14] *Addition Hills Mandaluyong Civic & Social Organization, Inc. v. Megaworld Properties & Holdings, Inc.*, G.R. No. 175039, April 18, 2012.
[15] *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014.

> original or appellate jurisdiction; (*Emphasis supplied*)

In *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*,[16] the Supreme Court ruled:

> It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. **If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits**.
>
> **The CTA, even if vested with special jurisdiction, is, as courts of general jurisdiction can only take cognizance of such matters as are clearly within its statutory authority**. Relative thereto, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, the court shall dismiss the claim. (*Emphases supplied*)

The question is whether the Regional Trial Court – Branch 11 of Davao City (RTC) resolved a local tax case to fall within the ambit of the CTA's appellate jurisdiction. This question, in turn, ultimately depends on whether the "Environmental Tax" imposed under the Watershed Code of Davao City is a local tax.

Petitioner argues that the CTA must exercise jurisdiction over the instant case because the issue at bar is a local tax case. According to petitioner, jurisdiction is conferred by law and determined from the nature of the action pleaded as appearing in the material averments in the complaint and the character of the relief sought.[17] Allegedly, this case primarily involves a local tax issue as it emanates from an assessment with Tax Orders of Payment issued by respondent City Treasurer, and the Tax Orders of Payment levied an Environmental Tax based on the land area by square meters multiplied by the rate imposed under the Watershed Code to arrive at the Annual Tax Due. Petitioner added that the assessment letter directed it to "*settle [its] tax obligation*" and to refer any inquiries or concerns to the "Business Tax and Assessment Division." For petitioner, its

---

[16] G.R. No. 185666, February 4, 2015.
[17] *Ignacio v. Office of the City Treasurer of Quezon City*, G.R. No. 221620, September 11, 2017.

remedy was to file a protest under Section 195 of the LGC, with a prayer to cancel in full the Environmental Tax and refund the amount paid under the Tax Orders of Payment. Hence, the instant case primarily involves a local tax, asserts petitioner.

Petitioner's assertion failed to convince.

Indeed, jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint, which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The averments in the complaint and the character of the relief sought are the ones to be consulted.[18]

However, while it is true that the imposition is called "Environmental Tax" and the assessment and collection were made pursuant to a "Tax Order of Payment," it is not automatic that it is a local tax case within the original or appellate jurisdiction of the Regional Trial Courts and thereafter within the exclusive appellate jurisdiction of this Court.

In the case of *Progressive Development Corporation vs. Quezon City,*[19] the Supreme Court provided the following distinctions between a tax and a license or permit fee:

> "The term **'tax' frequently applies to all kinds of exactions of monies which become public funds. It is often loosely used to include levies for revenue as well as levies for regulatory purposes such that license fees are frequently called taxes although *license fee* is a legal concept distinguishable from *tax***: the former is imposed in the exercise of police power primarily for purposes of regulation, while the latter is imposed under the taxing power primarily for purposes of raising revenues. **Thus, if the generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.**
>
> 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

[18] *Editha Padlan v. Elenita Dinglasan and Felicisimo Dinglasan*, G.R. No. 180321, March 20, 2013.
[19] G.R. No. 36081, April 24, 1989

> 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."

Clear from the foregoing that if revenue generation is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.

In fact, in *Victorias Milling Co., Inc. v. Municipality of Victorias*,[20] the Supreme Court reiterated that the purpose and effect of the imposition determine whether it is a tax or a fee and that the lack of any standards for such imposition gives the presumption that the same is a tax, *viz.*:

> We accordingly say that **the designation given by the municipal authorities does not decide whether the imposition is properly a license tax or a license fee. The determining factors are the purpose and effect of the imposition as may be apparent from the provisions of the ordinance**. Thus, "[w]hen no police inspection, supervision, or regulation is provided, nor any standard set for the applicant to establish, or that he agrees to attain or maintain, but any and all persons engaged in the business designated, without qualification or hindrance, may come, and a license on payment of the stipulated sum will issue, to do business, subject to no prescribed rule of conduct and under no guardian eye, but according to the unrestrained judgment or fancy of the applicant and licensee, the presumption is strong that the power of taxation, and not the police power, is being exercised."

As correctly pointed out by the lower court, with which the Court in Division agreed, the imposition is called "Environment Tax," but the purpose is not to raise revenue, to wit:

[20] 134 Phil. 180, 189-190 (1968).

"... although the charge is named as Environmental TAX, the purpose for which it is charged is NOT to raise a revenue but as provided in Section 17 of the Watershed Code, quoted hereunder to wit:

'Section 17. *Environmental Fund.* — x x x

xxx xxx xxx

(2) **The Environmental Tax collected** shall accrue to the General Fund and **shall be appropriated** in the Annual Budget **solely for the purpose of the implementation of this Code, the operational expenses of the Watershed Management Council and all its instrumentalities and for watershed protection, conservation and management programs and projects**, subject to the approval of the Davao City Council.'

The ruling in *Romeo Gerochi vs. Department of Energy*, G.R. No. 159796 dated July 17, 2007 is most instructive, to wit:

xxx xxx xxx

The conservative and pivotal distinction between these two powers rests in the purpose for which the charge is made. If generation of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but **if regulation is the primary purpose, the fact that revenue is incidentally raised does not make the imposition a tax**.

Having thus ruled that the twenty five centavos Environmental fee is NOT a tax but a regulation fee, Section 17 of the Watershed Code is VALID."

Further, and to debunk petitioner's contention, the Court in Division pointed out thus:

Petitioner argues that "nowhere in the assailed Watershed Code is a covered entity required to satisfy prescribed standards as prerequisites to inspection, supervision or regulation."

Yet, a perusal of the subject Ordinance reveals that it is replete with rules of conduct to ensure the protection and sustenance of Davao City's watershed areas. Specifically, Article 9 thereof enumerates several prohibited acts to ensure the health and sustainability of

> **the watershed areas. Further, Article 11 thereof provides for protection and conservative measures which are enumerations of the correlative obligations of direct stakeholders, *i.e.*, revocation of tenurial agreements if the stakeholder violates the terms of the agreement, protection of the rights over ancestral domain, protection and conservation of watershed areas, among others.**
>
> Clearly, the Watershed Code of Davao City does not indiscriminately permit the conduct of business without any rule of conduct on the part of stakeholders.
>
> Here, petitioner states that it is engaged in the business of producing and exporting fresh bananas, pineapples and other agricultural crops located in Davao City Zones. Incidentally, as one of Davao City's stakeholders primarily involved in agriculture, petitioner's activity must be regulated in order to ensure the ecological balance of the place where its business is located. Thus, the imposition under Section 17 of the Watershed Code is merely regulatory in nature.

Considering that the Environmental Tax under the Watershed Code of Davao City is not in the nature of local taxes, the Court in Division correctly dismissed the petition for lack of jurisdiction.

It is basic that proceedings conducted or decisions made by a court are void where there is an absence of jurisdiction over the subject matter. A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right or the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect.[21] Thus, a court devoid of jurisdiction can only dismiss the case for want of jurisdiction. The court cannot anymore dwell on the merits of the case.

The foregoing conclusion renders the discussion of the other issues raised by petitioner unnecessary.

WHEREFORE, premises considered, the *Petition for Review* filed by Dole Philippines Inc. – Stanfilco Division is **DENIED** for lack of merit.

[21] *Leonor vs. Court of Appeals*, G.R. No. 112597, April 2, 1996.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

(On Official Business)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(Inhibited)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice