REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

CITY TREASURER OF PARAÑAQUE CITY,
Petitioner,

CTA EB No. 2908
(CTA AC No. 270)

- versus -

Present:

DEL ROSARIO, *PJ,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, *JJ.*

ROYAL CARGO INC.,
Respondent.

Promulgated:
APR 15 2025 9:40am

x- -x

DECISION

DEL ROSARIO, PJ.:

This is a Petition for Review filed by the City Treasurer of Parañaque City, praying for the Court *En Banc* to reverse and set aside the Decision dated December 13, 2023 and the Resolution dated February 27, 2024 rendered by the Court of Tax Appeals (CTA) Second Division[1] (Court in Division) in CTA AC No. 270, entitled *Royal Cargo Inc. vs. City Treasurer of Parañaque City.* The assailed Decision and Resolution granted respondent's Petition for Review, reversed and set aside the Orders dated May 27, 2022 and July 18, 2022 of the Regional Trial Court (RTC), Branch 258, Parañaque City in Civil Case No. 2022-009, and remanded the same to the court *a*

---

[1] Composed of Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David.

quo for the determination of the amount to be refunded to respondent. The dispositive portions of the assailed Decision and assailed Resolution are as follows:

Decision dated December 13, 2023:

> "**WHEREFORE**, premises considered, the instant *Petition for Review* is **GRANTED**. Accordingly, the Orders dated May 27, 2022, and July 18, 2022, respectively, of the Regional Trial Court, Branch 258, Parañaque City, in Civil Case No. 2022-009, are **REVERSED** and **SET ASIDE,** and the case is **REMANDED** to the court *a quo* for the determination of the amount to be refunded to petitioner, if any.
>
> **SO ORDERED**."[2]

Resolution dated February 27, 2024:

> "**WHEREFORE**, respondent's *Motion for Reconsideration (to the Decision dated December 13, 2023)* is **DENIED** for lack of merit.
>
> **SO ORDERED**."[3]

THE PARTIES

Petitioner is an official of the Local Government Unit (LGU) of Parañaque City and is vested with the authority to collect all local taxes, fees, and charges due to the City Government of Parañaque. Respondent holds office at the Parañaque City Hall, Hernandez Avenue, San Antonio Valley 1, Parañaque City .[4]

Respondent is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines. It is primarily engaged in international and domestic freight forwarding, transporting, conveying, and carrying of goods, wares merchandise, products, and all kinds of cargoes or freights of any size, weight and dimension either by land, sea and air to any point or place of destination outside the Philippines, with principal office address at Royal Cargo, No. 4 Sta. Agueda Avenue, Pascor Drive, Brgy. Sta. [*sic*] Niño, Parañaque City. [5]

---

[2] *CTA En Banc Docket*, p. 52.
[3] *CTA En Banc Docket*, p. 57.
[4] Par. 6, respondent's Petition dated August 23, 2022, *CTA Division Docket Vol. I*, p. 6.
[5] Par. 5, *id.*

THE FACTS[6]

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

"In January 2020, upon petitioner's application for renewal of its business permit for calendar year (CY) 2020, respondent issued a Statement of Account (SOA) with Bill No. 200419139 dated January 18, 2020, indicating the local business tax (LBT), among others, to be paid by petitioner in the amount of ₱24,119,556.79.

Petitioner paid the assessed LBT so as not to delay the renewal of its business permit, broken down as follows:

Period	Date of Payment	OR Number	Amount
1st Quarter	January 28, 2020	2295118	₱ 6,001,299.96
2nd Quarter	July 16, 2020	2418359	6,001,299.96
3rd Quarter	July 16, 2020	2418360	6,001,299.96
		TOTAL	₱ 18,003,899.88

Petitioner was issued Mayor's Permits for CY 2020 for every installment paid.

On November 24, 2021, petitioner filed a written claim for a refund with respondent in the amount ₱12,334,525.00, allegedly representing its excess LBT paid.

On January 12, 2022, the Supreme Court issued Memorandum Order No. 10-2022, physically closing the courts in the National Capital Region from January 13, 2022, until January 31, 2022, due to the increasing rise of COVID-19 cases and extending the filing periods of any pleadings that will fall due on January 2022 until February 1, 2022, as per Administrative Circular No. 01-2022.

On February 2, 2022, petitioner filed its judicial claim for refund by way of a *Complaint* with the RTC Parañaque City. The case was docketed as Civil Case No. 2022-009 and was raffled to the court *a quo*.

On February 9, 2022, the court *a quo* issued a *Summons* to respondent and was served on March 4, 2022.

On April 1, 2022, respondent filed a *Motion for Extension to File Answer*, praying for an additional period of 30 days from April 4, 2022, or until May 3, 2022, to file Answer. The said motion was granted by the court *a quo* on April 4, 2022.

On May 2, 2022, respondent filed an *Answer (with Special and Affirmative Defenses)*.

---

[6] City Treasurer of Parañaque City is the respondent, and Royal Cargo Inc. is the petitioner in CTA AC No. 270.

On May 27, 2022, the court *a quo* rendered the *first* assailed Order disposing of the case as follows:

> All told, the instant case for Collection of a Sum of Money is hereby dismissed on the ground of prescription.
>
> SO ORDERED.

The court *a quo* declared that the questioned tax assessment dated January 18, 2020, is considered final for petitioner's failure to file a written protest thereto within 60 days from receipt under Section 195 of the Local Government Code (LGC).

On June 15, 2022, petitioner filed a *Motion for Reconsideration (Re: Order dated May 27, 2022)*, which the court *a quo* denied in the *second* assailed Order on July 18, 2022. The dispositive part reads:

> After going over the allegations in the instant motion as well as the arguments raised in the Opposition thereto, this Court resolves to maintain the Order being assailed. This Court reiterates its assessment in the Order dated May 27, 2022.
>
> In view thereof, the instant motion is hereby DENIED. The Order dated May 27, 2022 stands.
>
> SO ORDERED.

On August 25, 2022, petitioner filed the present Petition for Review.

On September 8, 2022, the Court ordered respondent to file a comment within ten (10) days from notice.

On October 10, 2022, respondent filed his *Opposition (to Petition for Review dated 23 August 2022)*.

On October 18, 2022, the Court gave the parties thirty (30) days from notice to file their respective memoranda and ordered the Branch Clerk of Court or the Officer-In-Charge of the court *a quo* to elevate the entire original records of the case within ten (10) days from notice.

On November 14, 2022, the Court received the transmittal letter dated November 11, 2022 from Atty. Jelly A. Sarmiento, Branch Clerk of the court *a quo*, forwarding the entire original records of the case, consisting of two (2) volumes with 970 pages, which the Court noted on November 22, 2022.

On December 22, 2022, petitioner filed its Memorandum.

On January 23, 2023, the Court submitted the case for decision considering petitioner's Memorandum and considering further the

Report dated January 17, 2023 of the Records Division that respondent failed to file a memorandum.

On January 26, 2023, the Court received respondent's Manifestation with the attached Memorandum filed *via* courier.

On February 9, 2023, the Court issued a Resolution noting and admitting respondent's Memorandum and Manifestation filed *via* courier."[7]

On December 13, 2023, the Court in Division rendered the assailed Decision granting respondent's Petition for Review.[8]

On January 8, 2024, petitioner filed its "Motion for Reconsideration (to the Decision dated December 13, 2023)".[9]

On February 27, 2024, the Court in Division issued the assailed Resolution denying petitioner's "Motion for Reconsideration (to the Decision dated December 13, 2023)".[10]

On April 30, 2024, petitioner filed a "Motion for Extension of Time to File Petition for Review" before the Court *En Banc*.[11] The same was granted in the Minute Resolution[12] dated May 2, 2024, and petitioner was given until May 15, 2024, within which to file its Petition for Review.

Petitioner posted the present Petition for Review *via* registered mail on May 14, 2024.[13]

With the filing of respondent's "Comment/Opposition"[14] on July 26, 2024, the Petition for Review was submitted for decision on August 6, 2024.[15]

THE ISSUES

As culled from the present Petition for Review, the issues for the Court *En Banc*'s resolution are the following:

---

[7] *CTA Division Docket Vol. II*, pp. 532 to 535.
[8] *CTA Division Docket Vol. II*, pp. 531 to 546.
[9] *CTA Division Docket Vol. II*, pp. 547 to 564.
[10] *CTA Division Docket Vol. II*, pp. 576 to 579.
[11] *CTA En Banc Docket*, pp. 1 to 4.
[12] *CTA En Banc Docket*, p. 5.
[13] *CTA En Banc Docket*, pp. 7 to 26.
[14] *CTA En Banc Docket*, pp. 65 to 71.
[15] *CTA En Banc Docket*, p. 72.

1. Whether or not the Court in Division erred in granting the Petition for Review in CTA AC No. 270, reversing and setting aside the Orders dated May 27, 2022 and July 18, 2022 of the court *a quo*, in Civil Case No. 2022-009, and remanding the case to the court *a quo* for the determination of the amount to be refunded to respondent, if any;

2. Whether or not the Statement of Account (SOA) issued by petitioner is an assessment contemplated under the Local Government Code (LGC), as amended; and,

3. Whether or not respondent availed of the wrong remedy in filing a written claim for refund of the LBT paid to petitioner pursuant to Section 196 of the LGC.

THE PARTIES' ARGUMENTS

Petitioner's arguments

Petitioner contends that the assailed Decision's reliance on the ruling in *International Container Terminal Services Inc. vs. City of Manila*[16] *(ICTSI)* is misplaced as it is not applicable to the present case. Petitioner asserts that in *ICTSI*, the Supreme Court treated the SOAs for the 1st, 2nd, and 3rd quarters of 1999 as notices of assessment.

Petitioner insists that the SOA issued to respondent is a notice of assessment. Petitioner points out that the subject SOA states the nature of the tax and fees assessed and the amount of delinquency tax; specifically, the bottom part of the SOA clearly contains the phrase, "Surcharges and penalty applies if the SOA is not paid on or before the given date".

Petitioner further asserts that the assailed Decision of the Court in Division violates petitioner's right to due process of law when it found that the SOA is not the assessment contemplated by Section 195 of the LGC. Petitioner adds that this issue was only raised by respondent for the first time on appeal in violation of petitioner's right to due process of law.

---

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

According to petitioner, the court *a quo* correctly ruled that extinctive prescription has already set in which bars respondent's belatedly filed appeal before the court *a quo*.

Respondent's counter-arguments

In its Comment/Opposition, respondent counter-argues that the Court in Division correctly ruled that the SOA dated January 18, 2020 is not the assessment that is contemplated under Section 195 of the LGC.

Respondent maintains that the Court in Division correctly ruled that the action before the court *a quo* has not yet been barred by prescription.

RULING OF THE COURT *EN BANC*

The Court *En Banc* finds the present Petition for Review bereft of merit.

The Petition for Review is timely filed with the Court En Banc

Before delving into the merits of the case, the Court shall first determine the timeliness of the filing of the Petition for Review.

The Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> "Rule 8
> Procedure in Civil Cases
>
> xxx xxx xxx
>
> SEC. 3. *Who may appeal; period to file petition.* –
>
> xxx xxx xxx
>
> (b) A party adversely affected by a decision or resolution of a Division of the Court on motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution.** xxx" *(Boldfacing supplied)*

As afore-stated, petitioner received the assailed Resolution of the Court in Division on April 15, 2024. Petitioner had fifteen (15) days therefrom or until April 30, 2024 within which to file its Petition for Review before the Court *En Banc*. On April 30, 2024, petitioner, however, filed a "Motion for Extension of Time to File Petition for Review". In a Minute Resolution dated May 2, 2024, the Court *En Banc* granted petitioner's Motion for Extension, and gave petitioner an additional period of fifteen (15) days or until May 15, 2024, within which to file its Petition for Review. The Petition for Review was posted on May 14, 2024 *via* registered mail, well within the extended period.

As the present Petition for Review was filed within the reglementary period, the Court *En Banc* is vested with jurisdiction to take cognizance of the same.

The SOA issued by petitioner is not an assessment contemplated by the LGC

The next issue that the Court shall settle is whether the SOA received by respondent is the notice of assessment contemplated under Section 195 of the LGC, as amended. Resolving this issue will help address the related issue of whether respondent availed of the wrong remedy in filing a written claim for refund of the LBT paid to petitioner pursuant to Section 196 of the LGC.

Sections 195 and 196 of the LGC, as amended, state:

> "**Section 195.** *Protest of Assessment.* - When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

> **Section 196.** *Claim for Refund or 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."

Section 195 of the LGC provides the procedure for contesting an assessment issued by the local treasurer while Section 196 of the LGC lays down the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 of the LGC mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court. In Section 195 of the LGC, it is the written protest with the local treasurer that constitutes the administrative remedy; while in Section 196 of the LGC, it is the written claim for refund or credit with the same office.[17]

If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 of the LGC. 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. 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. [18]

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 the taxpayer, then Section 196 of the LGC applies.[19]

---

[17] *City of Manila vs. Cosmos Bottling Corporation,* G.R. No. 196681, June 27, 2018.
[18] *International Container Terminal Services, Inc. vs. City of Manila,* G.R. No. 185622, October 17, 2018.
[19] *Id.*

The SOA is not the notice of assessment contemplated under Section 195 of the LGC

In resolving whether the SOA is in the nature of the notice of assessment under Section 195 of the LGC, the Court finds the pronouncement in *National Power Corporation v. Province of Pampanga*[20] (*NPC*) enlightening. In *NPC,* the Supreme Court emphasized the details that must appear in the notice of assessment. Said the Supreme Court:

> "Article 285 of the rules implementing the LGC reiterates the language used in Section 195. Thus, in *Yamane v. BA Lepanto Condominium Corp.*, **the Court stressed the details that must be contained in the notice of assessment:**
>
> > Ostensibly, the **notice of assessment 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 nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties**. 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. *(Emphasis supplied)*
>
> "Verily, taxpayers must be informed of the nature of the deficiency tax, fee, or charge, as well as the amount of deficiency, surcharge, interest, and penalty. Failure of the taxing authority to sufficiently inform the taxpayer of the facts and law used as bases for the assessment will render the assessment void. In *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, albeit involving national

[20] G.R. No. 230648, October 06, 2021 (Resolution).

internal revenue taxes, the Court explained the importance of the notice requirement with due regard to the taxpayers' constitutional rights, to wit:

> The rationale behind the requirement that taxpayers should be informed of the facts and the law on which the assessments are based conforms with the constitutional mandate that no person shall be deprived of his or her property without due process of law. Between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.
>
> The purpose of the written notice requirement is to aid the taxpayer in making a reasonable protest, if necessary. Merely notifying the taxpayer of his or her tax liabilities without details or particulars is not enough.
>
> Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc. held that **a final assessment notice that only contained a table of taxes with no other details was insufficient**; xxx
>
> Any deficiency to the mandated content of the assessment or its process will not be tolerated. xxx
>
> xxxx
>
> A final assessment notice provides for the amount of tax due with a demand for payment. This is to determine the amount of tax due to a taxpayer. However, due process requires that taxpayers be informed in writing of the facts and law on which the assessment is based in order to aid the taxpayer in making a reasonable protest. To immediately ensue with tax collection without initially substantiating a valid assessment contravenes the principle in administrative investigations "that taxpayers should be able to present their case and adduce supporting evidence." (Emphasis supplied; citations omitted)

Without doubt, the mandate of providing the taxpayer with notice of the facts and laws used as bases for the assessment is not to be mechanically applied. The purpose of this requirement is to adequately inform the taxpayer of the basis of the assessment to enable him to prepare for an intelligent or 'effective' protest or appeal of the assessment or decision. Thus, substantial compliance with the law is allowed if the taxpayer is later fully apprised of the basis of the deficiency taxes assessment, which enabled him to file an effective protest.

xxx xxx xxx

Moreover, it cannot escape our attention that the Provincial Treasurer was given opportunity to furnish NPC with the computation of the deficiency franchise tax when NPC raised the issue of non-compliance with the formal requirements in its Reply. The Provincial

> Treasurer, however, ignored NPC's argument and insisted on NPC's liability. The Provincial Treasurer lost its chance to cure the defective assessment.
>
> Taxpayers' obligation for deficiency taxes cannot depend on a guessing game. To stress, the taxpayer must not only be informed of what taxes it is liable to pay and under what authority the obligation to pay is based. Equally important is that it must be advised how much is the pending tax liability and the period covered. Without these particulars, taxpayers would be deprived of adequate opportunity to prepare for an intelligent appeal as they would have no way of determining what was considered by the taxing authority in making the assessment. In the present case, NPC was deprived of its right to due process of law.
>
> Tax assessments issued in violation of the due process rights of a taxpayer are null and void and of no force and effect. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution. Thus, this Court need not belabor on the other issues raised, for it is well-settled that a void assessment bears no valid fruit." *(Citations omitted* and *additional boldfacing supplied)*

Here, the SOA was not issued pursuant to an audit or examination of respondent's books of accounts as provided under Section 171 of the LGC.[21] The SOA was issued when respondent was in the process of renewing its Mayor's Permit and Business License. Respondent paid the same and as a consequence, petitioner issued respondent's Mayor's Permit for calendar year 2020.

In *ICTSI,* the Supreme Court clarified that "assessments" issued to taxpayers which are required to be paid prior to the renewal of their

---

[21] SECTION 171. *Examination of Books of Accounts and Pertinent Records of Businessmen by Local Treasurer.* — The provincial, city, municipal or barangay treasurer may, by himself or through any of his deputies duly authorized in writing, examine the books, accounts, and other pertinent records of any person, partnership, corporation, or association subject to local taxes, fees and charges in order to ascertain, assess, and collect the correct amount of the tax, fee, or charge. Such examination shall be made during regular business hours, only once for every tax period, and shall be certified to by the examining official. Such certificate shall be made of record in the books of accounts of the taxpayer examined.

In case the examination herein authorized is made by a duly authorized deputy of the local treasurer, the written authority of the deputy concerned shall specifically state the name, address, and business of the taxpayer whose books, accounts, and pertinent records are to be examined, the date and place of such examination and the procedure to be followed in conducting the same.

For this purpose, the records of the revenue district office of the Bureau of Internal Revenue shall be made available to the local treasurer, his deputy or duly authorized representative.

business permits cannot be considered the "notice of assessments" contemplated under Section 195 of the LGC, sans any amount of deficiency LBT, surcharge, interest and penalties, *viz.*:

> "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**." *(Boldfacing supplied)*

In the assailed Decision, the Court in Division ruled that the SOA is not the notice of assessment contemplated under the LGC, as amended. The pertinent portions of the assailed Decision reads:

> "In this case, the SOA pertains to the payment of LBT and other regulatory fees such as Mayor's permit fee, sanitary permit fees, inspection fees, barangay clearance, and processing fees that were issued by the Business Permits & Licensing Office (BPLO) of the City of Parañaque as a condition for the renewal of petitioner's business permit for 2020. **The SOA merely tabulated the amount and nature of the tax and fees assessed but did not contain the amount of deficiency tax, surcharges, interests, and penalties due from petitioner. The SOA also did not indicate the period covered for purposes of prescription** and was signed by the Chief of the BPLO and not the local treasurer." (*Boldfacing supplied*)

Indeed, after a meticulous examination of the SOA, the Court *En Banc* finds that SOA does not state the pertinent facts and laws on which the billed amounts were based. The findings of the Court in Division in its assailed Decision anent the nature of the SOA must perforce be sustained.

To be clear, the SOA (Exhibit "B") is produced hereunder:

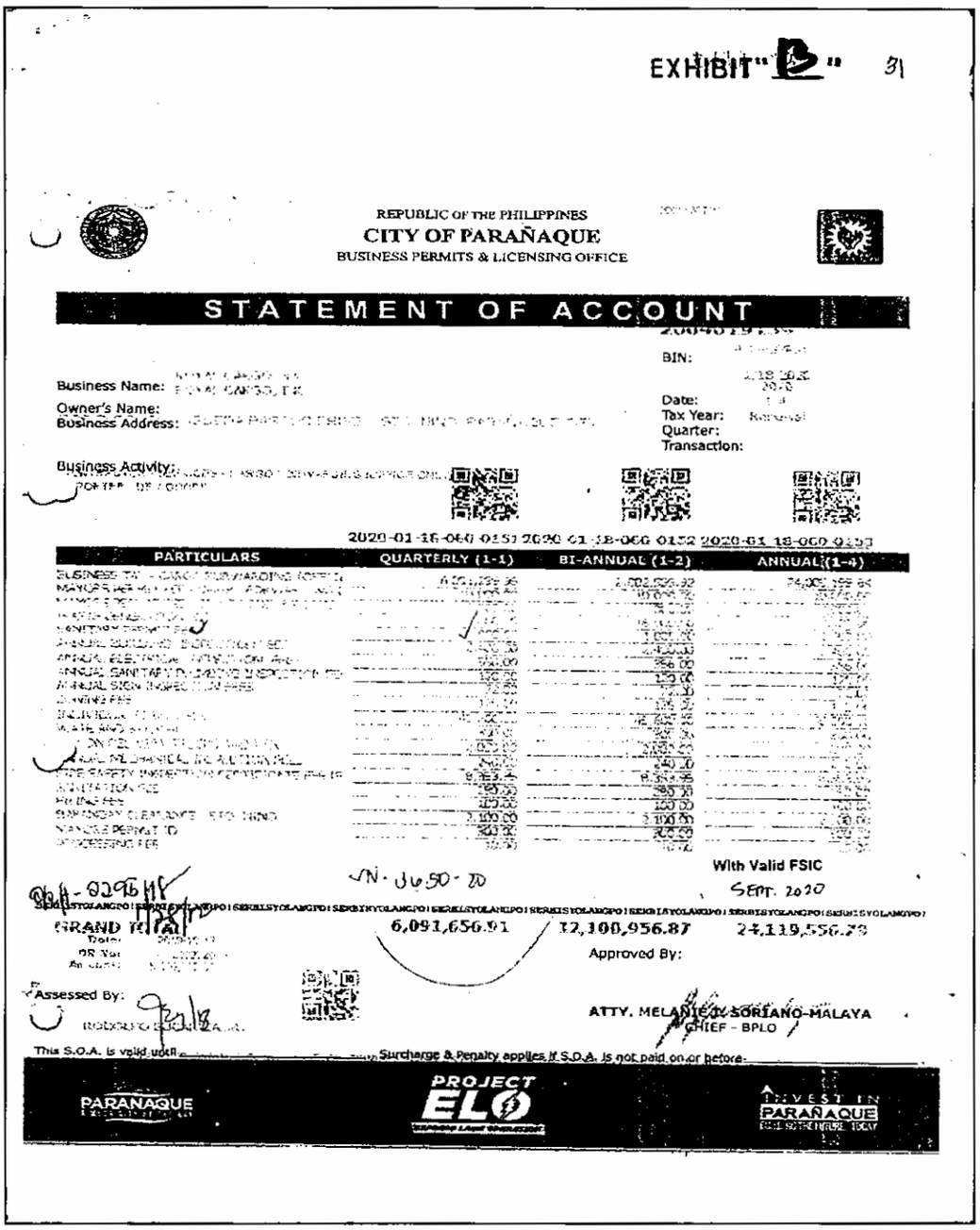

EXHIBIT "B" 31

REPUBLIC OF THE PHILIPPINES
CITY OF PARAÑAQUE
BUSINESS PERMITS & LICENSING OFFICE

STATEMENT OF ACCOUNT

BIN:
Business Name:
Owner's Name:
Business Address:
Date:
Tax Year: Renewal
Quarter:
Transaction:
Business Activity:

2020-01-16-060-0152 2020-01-18-060-0152 2020-01-18-060-0152

PARTICULARS	QUARTERLY (1-1)	BI-ANNUAL (1-2)	ANNUAL (1-4)
BUSINESS TAX - GROSS SALES/EARNINGS (CY)			
MAYOR'S PERMIT FEE			
SANITARY FEE			
ANNUAL BUILDING INSPECTION FEE			
ANNUAL ELECTRICAL INSPECTION FEE			
ANNUAL SANITARY/HEALTH INSPECTION FEE			
ANNUAL SIGN INSPECTION FEE			
ZONING FEE			
INDUSTRIAL FEE			
WATER WKS FEE			
ENVIRONMENTAL PROTECTION FEE			
ANNUAL ENVIRONMENTAL PROTECTION FEE			
FIRE SAFETY INSPECTION FEE			
ADMINISTRATION FEE			
PENALTY FEE			
BARANGAY CLEARANCE - BRGY. HEAD			
VEHICLE PERMIT ID			
PROCESSING FEE			

With Valid FSIC
SEPT. 2020

GRAND TOTAL	6,091,656.91	12,100,956.87	24,119,556.79

Approved By:

Assessed By:

ATTY. MELANIE V. SORIANO-MALAYA
CHIEF - BPLO

This S.O.A. is valid until _____ Surcharge & Penalty applies if S.O.A. is not paid on or before: _____

PARANAQUE PROJECT ELO INVEST IN PARAÑAQUE

The said SOA reveals that while it indeed tabulated the nature and amount of the tax and fees assessed, the same did not contain the amount of deficiency tax, surcharges, interests, and penalties due from respondent as well as the period covered for purposes of prescription. The absence of these requirements in the SOA issued by petitioner against respondent is indicative of petitioner's failure to inform respondent of the facts and law used as bases for the assessment. In view of all these deficiencies in the SOA issued by petitioner against respondent, the Court *En Banc* cannot consider the same as the notice of assessment contemplated under Section 195 of the LGC, as amended.

Respondent correctly availed of the remedy under Section 196 of the LGC

Since Section 195 of the LGC, as amended is inapplicable, what then is the remedy of the taxpayer to recover its alleged excess LBT payment?

Hon. Lourdes R. Jose, in her capacity as City Treasurer of City of Caloocan vs. Tigerway Facilities and Resource, Inc.[22] (*Tigerway*) is instructive. In the aforesaid case, the Supreme Court upheld the findings of the court *a quo* that the Notice of Deficiency issued by the City of Caloocan, requiring Tigerway Facilities and Resource, Inc. to pay deficiency local business tax and fees, is not the assessment contemplated under Section 195 of the LGC, as amended; and that the remedy applicable to Tigerway Facilities and Resource, Inc. is the remedy specified under Section 196 of the LGC. Said the Supreme Court:

> "In sum, it cannot be concluded that the notices issued by petitioner qualify as the envisaged notice of assessment under Section 195. Once more, it bears emphasis that the notice of assessment is not only a requirement of due process, but also serves as the initial notice to the taxpayer about the pending tax liability. It is settled that tax assessments issued in violation of the due process rights of a taxpayer are void and of no force and effect.
>
> As a result of petitioner's failure to put forth any substantial arguments, this Court is compelled to concur with the courts *a quo*'s conclusion that the notices of assessment issued by petitioner are void. Hence, we determine that **Section 195 is not applicable here, given the absence of a valid assessment**.
>
> Under these circumstances, **Section 196 of the LGC must be applied**. xxx" (*Boldfacing* supplied)

Applying *Tigerway*, the Court *En Banc* finds that filing a claim for refund under Section 196 of the LGC, as amended, is the proper remedy to recover respondent's alleged excess LBT payment.

The next issue is whether respondent complied with the requirements of Section 196 of the LGC.

---

[22] G.R. No. 247331, February 26, 2024 citing *Yamane vs. BA Lepanto Condominium Corporation*, G.R. No. 154993, October 25, 2005, and *National Power Corporation vs. Province of Pampanga*, G.R. No. 230648, October 6, 2021.

In *Tigerway,*[23] the Supreme Court clarified that to avail of the remedy under Section 196 of the LGC, as amended, two (2) requisites must coincide: (1) the taxpayer submitted a written claim for refund or credit to the local treasurer; and (2) the case or proceeding for refund was initiated within two years from the date of the payment of the tax, fee, or charge, or from the date the taxpayer becomes entitled to a refund or credit or from the date of payment.

Undoubtedly, in the present case, respondent was able to show that it was able to comply with the two (2) requisites shown as illustrated hereunder:

Date of Payment	Date of Filing of the Written Administrative Claim	Date of Filing of the Judicial Claim	End of two-year period
January 28, 2020	November 24, 2021	February 2, 2022	February 2, 2022
July 16, 2020			July 16, 2022
July 16, 2020			July 16, 2022

To recapitulate, the date of payment is the reckoning date of the two-year prescriptive period within which to file the administrative and judicial claims. Respondent paid the LBT for the 1st quarter on January 28, 2020, [24] and the 2nd and 3rd quarters on July 16, 2020,[25] all for calendar year (CY) 2020. It has two years therefrom or until February 2, 2022[26] for the 1st quarter and July 16, 2022 for the 2nd and 3rd quarters, all for CY 2020 to file an administrative claim and a judicial claim. Respondent was able to file its administrative claim for refund on November 24, 2021, well within the two-year prescriptive period. As for its judicial claims, respondent seasonably filed them on **February 2, 2022** before the court *a quo*. Given the foregoing, the court *a quo* clearly erred in dismissing respondent's judicial claims on the ground of prescription.

---

[23] *Id.*
[24] Annex "G", CTA Division Docket, Vol. I, p. 44.
[25] Annexes "G1 and "G2", CTA Division Docket, Vol. I, pp. 45 and 46, respectively.
[26] The Supreme Court issued Memorandum Order No. 10-2022 on January 12, 2022, physically closing the courts in the National Capital Region from January 13, 2022, until January 31, 2022, due to the increasing rise of COVID-19 cases and extending the filing periods of any pleadings that will fall due on January 2022 until February 1, 2022, as per Administrative Circular No. 01-2022.

The Court in Division did not violate petitioner's right to due process when it resolved the nature of the SOA

Petitioner argues that the assailed Decision of the Court in Division violates petitioner's right to due process of law when it found that the SOA is not the assessment contemplated under Section 195 of the LGC. Petitioner posits that this issue was only raised by respondent for the first time on appeal in violation of petitioner's right to due process of law.

The Court disagrees with petitioner.

A plain reading of the judicial claim[27] filed by respondent before the court a quo revealed that it was proceeding on the theory that the SOA issued by petitioner is not the notice of assessment referred to under Section 195 of the LGC. This is the precise reason why respondent opted to file a written administrative claim for refund and judicial claim for refund under Section 196 of the LGC. In petitioner's Answer,[28] petitioner was insisting that the remedy that should have been pursued by respondent was that provided for under Section 195 of the LGC as petitioner was insisting that the SOA was in the nature of an assessment.

Clearly, the matter of whether the SOA is a notice of assessment was not raised for the first time on appeal by respondent before the Court in Division. Thus, petitioner's right to due process was not violated when the Court in Division made a definitive ruling as to the nature of the SOA and the correctness of the remedy pursued by respondent.

Considering that there has been no trial on the merits and the court *a quo* has yet to receive any evidence on the factual issues of the case, the Court *En Banc* holds that the Court in Division did not commit any reversible error when it remanded the case to the court *a quo* for the reception of evidence in order to determine whether respondent is entitled to its claim for refund.

WHEREFORE, in light of the foregoing, the Petition for Review filed by petitioner City Treasurer of Parañaque City is hereby

---

[27] Court *a quo* Docket, Vol. 1, pp. 6 to12.
[28] Court a quo Docket, Vol. 1, pp. 454 to 468.

DENIED. The assailed Decision dated December 13, 2023 and the assailed Resolution dated February 27, 2024 of the Court in Division are hereby **AFFIRMED.**

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice