**SECOND DIVISION**

[G.R. No. 247331. February 26, 2024]

**HON. LOURDES R. JOSE, in her capacity as CITY TREASURER OF CITY OF CALOOCAN,** *Petitioner, v.* **TIGERWAY FACILITIES AND RESOURCES, INC.,** *Respondent.*

**D E C I S I O N**

**LOPEZ, J., *J.*:**

Sections 195 and 196 of the Local Government Code (LGC) provide avenues for obtaining refunds of local taxes. Section 195 implicitly allows for refunds as a consequence of a successful protest against a tax assessment, while Section 196 explicitly serves as the dedicated remedy for claims of tax refund or credit.[1] In seeking a refund through Section 195, it is essential that the assessment notice from the local treasurer contains the factual and legal basis of the assessment.[2] Without this, there would be no tax assessment to contest. As a result, the provisions of Section 196 would apply.

This Court resolves the Petition for Review[3] under Rule 45 filed by Lourdes R. Jose, in her capacity as the City Treasurer of Caloocan City (City Treasurer), challenging the Decision[4] and

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1 *International Container Terminal Services, Inc. v. City of Manila*, 842 Phil. 173, 207 (2018) [Per J. Leonen, Third Division].

2 *Yamane v. BA Lepanto Condominium Corporation*, 510 Phil. 750, 770 (2005) [Per J. Tinga, Second Division].

3 *Rollo*, pp. 3–29.

4 *Id.* at 32–51. The July 25, 2018 Decision in CTA EB No. 1605 (CTA AC No. 127) was penned by Associate Justice Caesar A. Casanova and concurred in by Associate Justices Roman G. Del Rosario, Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan of the Court of Tax Appeals, *En Banc*, Quezon City.

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the Resolution[5] of the Court of Tax Appeals (CTA) *En Banc*, which affirmed the Decision[6] and the Resolution[7] of the CTA Third Division. These dispositions upheld the Decision[8] and Resolution[9] of the Regional Trial Court (RTC), which ordered the refund of the amount of PHP 485,195.01 in favor of Tigerway Facilities and Resources, Inc. (Tigerway).

In 2005, Tigerway applied for a renewal of its mayor's permit.[10] The Caloocan City Business Permit and Licensing Office (BPLO) then issued an Order of Payment on January 21, 2005 requiring Tigerway to pay local business tax and fees in the amount of PHP 219,429.80. Following the prompt payment of the assessed amount, a mayor's permit was issued to Tigerway.[11]

Remarkably, it was followed by a Final Demand from the BPLO calling for the payment of deficiency business taxes, fees, and charges amounting to PHP 1,220,720.00. This demand stemmed from an alleged ocular inspection conducted at Tigerway's establishment on May 27, 2005,[12] which purportedly brought to light Tigerway's misrepresentations concerning the nature of its business, the number of its employees, and the size of its business area.[13]

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[5] *Id.* at 53–55. The May 10, 2019 Resolution in CTA EB No. 1605 (CTA AC No. 127) was penned by Associate Justice Erlinda P. Uy and concurred in by Associate Justices Roman G. Del Rosario, Juanito C. Castañeda, Jr., Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan (on leave) of the Court of Tax Appeals, *En Banc*, Quezon City.

[6] *Id.* at 34.

[7] *Id.* at 35.

[8] *Id.* at 34.

[9] *Id.*

[10] *Id.* at 5, 49.

[11] *Id.* at 33.

[12] *Id.*

[13] *Id.* at 5–6.

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On July 15, 2005, the BPLO issued a Notice of Deficiency reiterating its earlier demand, which was then followed by a Last and Final Demand on December 2, 2005. A further Order of Payment was issued on December 8, 2005, seeking the same amount and citing another ocular inspection of Tigerway's establishment on June 10, 2005 as basis.[14]

A subsequent Order of Payment was issued on December 29, 2005. Notably, the amount claimed was reduced to PHP 500,000.00. Tigerway paid the reduced amount on the same day.[15]

On December 27, 2007, Tigerway filed a written claim for refund or credit to the City Treasurer, asserting that the additional assessments lacked factual and legal basis. Tigerway maintained that its actual liability for business taxes, fees, and charges for the year 2005 should only have been PHP 234,234.79, which is PHP 14,804.99 more than the BPLO's initial assessment.[16] Given its earlier payments of PHP 219,429.80 on May 27, 2005 and PHP 500,000.00 on December 29, 2005, totaling PHP 719,429.80, Tigerway claimed a refund of PHP 485,195.01 (PHP 719,429.80 – PHP 234,234.79).[17]

On the next day, Tigerway filed a Complaint for Refund or Credit of Local Tax and Fees before the RTC under Section 196 of the LGC, seeking a refund of the amount of PHP 485,195.01 which it claimed was erroneously paid to the City Treasurer.[18]

In response, the City Treasurer argued that the Complaint was baseless since Tigerway had lost its right to contest the assessment for having failed to protest it within 60 days from the receipt of the Order of Payment dated December 29, 2009, as prescribed under Section 195 of the LGC. Consequently, with the assessment becoming final and executory, the City Treasurer insisted that

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[14] *Id.* at 33.

[15] *Id.*

[16] *Id.* at 7.

[17] *Id.* at 33.

[18] *Id.* at 34.

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Tigerway was precluded from alleging any mistake or error in its payment.[19]

The RTC rendered a Decision in Tigerway's favor, disposing as follows:

> WHEREFORE, IN VIEW OF THE FOREGOING, the instant complaint is GRANTED. The defendant Treasurer of the City of Caloocan (petitioner herein) is hereby ORDERED to:
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> A. Refund or credit to plaintiff (respondent herein) the amount Four Hundred Eighty Five Thousand One Hundred Ninety Five Pesos and 1/100 (Php 485,195.01), plus interest at the legal rate at 6% per annum from the time of payment to defendant on 29 December 2005 until actual refund or credit has been made;
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> B. Defendant's counterclaim is DENIED for lack of merit.
>
> SO ORDERED.[20]

The City Treasurer moved for reconsideration, which the RTC later denied.[21] The City Treasurer then filed a Petition for Review to the CTA.[22]

The CTA Third Division subsequently denied the Petition,[23] noting certain discrepancies in the Inspection Slips provided by the City Treasurer to substantiate the additional assessment. It also highlighted the lack of factual and legal basis in these documents upon which the assessment was based, as well as the absence of any explanation on how the floor area of Tigerway's business facility factored into the assessment's computation.[24]

Similarly, the CTA Third Division observed that some documents submitted fell short of providing the factual and legal basis of the assessment. It also drew attention to the

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[19] *Id.* at 7.

[20] *Id.* at 34.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Id.* at 41.

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City Treasurer's failure to establish that these documents were received by Tigerway. Thus, the CTA Third Division concluded that the City Treasurer's assessment was void.[25]

Further, the CTA Third Division held that Tigerway appropriately availed of the remedy in Section 196 and complied with its procedural requisites, as both the written claim and the complaint were filed within two years from the date of payment of the tax on December 29, 2005.[26]

In its subsequent Resolution, the CTA Third Division denied the City Treasurer's motion for reconsideration.[27] Dissatisfied, the City Treasurer elevated the case to the CTA *En Banc*.[28]

The CTA *En Banc*, in its Decision,[29] denied the City Treasurer's Petition for lack of merit, thus:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**.[30] (Emphasis in the original)

The CTA *En Banc* found that the Notice of Deficiency dated July 15, 2005, the Last and Final Demand dated December 2, 2005, the Order of Payment dated December 8, 2005, and the Order of Payment dated December 29, 2005 did not contain any factual or legal basis for the assessment, apart from the mere allegation that the City Treasurer conducted two ocular inspections at Tigerway's establishment on May 27, 2005 and June 10, 2005. It also pointed out the absence of any explanation regarding the computation of the figures. The CTA *En Banc* further highlighted the lack of evidence, other than an undated Final Demand, to support the City

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[25] *Id.* at 35, 42.

[26] *Id.* at 44.

[27] *Id.* at 35.

[28] *Id.*

[29] *Id.* at 32–51.

[30] *Id.* at 50.

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Treasurer's allegation that an ocular inspection was conducted on May 27, 2005.[31]

Likewise, the CTA *En Banc* noted several inconsistencies in the testimony of the City Treasurer's witness, Nestor Cañas, BPLO's Officer-in-Charge, who participated in the tax mapping and inspection on Tigerway's establishment on June 10, 2005. As a result, it did not give probative value to his testimony.[32]

In essence, the CTA *En Banc* concluded that the notices of assessment were void for failing to specify the factual and legal basis of the assessment.[33]

Finally, the CTA *En Banc* upheld the CTA Third Division's conclusion that Tigerway aptly invoked the remedy in Section 196.[34] It declared that a taxpayer is free to choose which remedy to pursue.[35] According to the CTA *En Banc*, Tigerway clearly decided to invoke Section 196, as could be gleaned from the title of its Complaint,[36] rather than pursuing a protest against the assessment. It likewise affirmed that Tigerway adequately complied with the procedural requirements under Section 196.[37]

The CTA *En Banc* later denied the City Treasurer's motion for reconsideration in its Resolution.[38]

Hence, this Petition raising the pivotal issue of whether the CTA *En Banc* erred in upholding the ruling of the CTA Third Division that Tigerway is entitled to a refund of the amount of PHP 485,195.01.

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[31] *Id.* at 37–38.

[32] *Id.* at 38.

[33] *Id.* at 36.

[34] LOCAL GOV'T. CODE, sec. 196.

[35] *Id.* at 43.

[36] *Id.*

[37] *Id.* at 44.

[38] *Id.* at 53–55.

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On July 15, 2019, this Court issued a Resolution[39] requiring Tigerway to submit its Comment to the Petition. This was followed by a June 14, 2021 Resolution[40] requiring Tigerway's counsel, Atty. Gener C. Sansaet (Atty. Sansaet), to show cause why he should not be disciplinarily dealt with or held in contempt for his noncompliance and to submit the required Comment within 10 days from notice.

In a July 4, 2022 Resolution,[41] this Court noted the returned and unserved copy of the Resolution dated June 14, 2021 and directed Tigerway to provide this Court with the complete and updated address of its counsel. Similarly, an April 24, 2023 Resolution[42] directed the Integrated Bar of the Philippines and the Mandatory Continuing Legal Education Office to provide this Court with the current address of Atty. Sansaet.

To date, no Comment has been filed by Tigerway. As a result, this Court deems this as a waiver to file its Comment.

**This Court's Ruling**

For the sake of clarity, Sections 195 and 196 of the LGC expressly 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,

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[39] *Id.* at 56.

[40] *Id.* at 123–124.

[41] *Id.* at 132.

[42] *Id.* at 138–139.

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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 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.

In this case, petitioner reiterated its argument that respondent could not invoke the remedy under Section 196 of the LGC, alleging that the contentions in the Complaint before the RTC lie with the empirical basis of the assessment, and not with the local government units' (LGUs) power of taxation. Petitioner averred that Section 196 is relevant only when the protest revolves around the taxing authority of the LGU. Thus, the CTA *En Banc* should have applied Section 195 in this case. It also emphasized that Section 196 is not a substitute for a lost remedy of protest.[43]

Further, petitioner asserted that Section 195 does not require the inclusion of the factual and legal basis of the assessment in the notice of assessment. According to petitioner, the provision merely requires the notice of deficiency to state the details on the nature of taxes, fees, or charges and the amount of deficiency, all of which were sufficiently complied with in the Notice of Deficiency dated July 15, 2005.[44]

Petitioner likewise maintained that respondent's failure to timely protest within 60 days from receipt of the notice rendered the assessment final and immutable and, thus can no longer be modified by any tribunal or court.[45]

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[43] *Id.* at 17–24.

[44] *Id.* at 11.

[45] *Id.* at 10–17.

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The instant Petition is devoid of merit.

At the onset, this Court must emphasize that it is not a trier of facts.[46] In a Petition for Review under Rule 45 of the Rules of Court, it is settled that questions of fact are generally proscribed.[47] Our purview is confined strictly to questions of law.[48] Relevantly, a question of law arises when there is doubt or difference as to what the law is on a certain set of facts. On the other hand, a question of fact emerges when the doubt or difference pertains to the truth or falsehood of the alleged facts.[49]

It must be reiterated that this Court's jurisdiction is confined to an examination of errors of law that may have been committed by the appellate court.[50] As such, it is not incumbent upon this Court to delve into the veracity of the evidence presented during the trial.[51] Accordingly, the factual findings of the trial court are usually not disturbed on appeal, unless there is an indication that the court may have overlooked, misunderstood, or misinterpreted vital facts or circumstances, which, if properly considered, could impact the result of the case and warrant a reversal of the decision.[52]

While there are exceptions to this rule,[53] the present case does not fall within any of these exceptions.

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[46] *Locsin v. Hizon*, 743 Phil. 420, 428 (2014) [Per J. Velasco, Jr., Third Division].

[47] *Heirs of Montoya v. National Housing Authority*, 730 Phil. 120, 132 (2014) [Per J. Brion, Second Division].

[48] *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 415 (2014) [Per J. Leonen, Second Division].

[49] *Philippine Veterans Bank v. Monillas*, 573 Phil. 384, 389 (2008) [Per J. Nachura, Third Division].

[50] *University of San Agustin Employees' Union-FFW v. Court of Appeals*, 520 Phil. 400, 409 (2006) [Per J. Garcia, Second Division].

[51] *Commissioner of Internal Revenue v. De La Salle University, Inc.*, 799 Phil. 141, 190 (2016) [Per J. Brion, Second Division].

[52] *Commissioner of Internal Revenue v. Philex Mining Corporation,* G.R. No. 218057, January 18, 2021 [Per J. Hernando, Third Division].

[53] *Siasat v. Court of Appeals*, 425 Phil. 139, 145 (2002) [Per J. Pardo, First Division].

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To address the issue at hand, it is necessary for this Court to first ascertain whether Section 195 or 196 of the LGC finds application based on the prevailing facts. In *City of Manila v. Cosmos Bottling Corporation*,[54] this Court comprehensively discussed these two remedies, as follows:

> [Section 195] provides the procedure for contesting an assessment issued by the local treasurer; whereas, [Section 196] provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court. In Section 195, it is the written protest with the local treasurer that constitutes the administrative remedy; while in Section 196, it is the written claim for refund or credit with the same office. As to form, the law does not particularly provide any for a protest or refund claim to be considered valid. It suffices that the written protest or refund is addressed to the local treasurer expressing in substance its desired relief. The title or denomination used in describing the letter would not ordinarily put control over the content of the letter.
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> Obviously, the application of Section 195 is triggered by an assessment made by the local treasurer or his duly authorized representative for nonpayment of the correct taxes, fees or charges. Should the taxpayer find the assessment to be erroneous or excessive, he may contest it by filing a written protest before the local treasurer within the reglementary period of sixty (60) days from receipt of the notice; otherwise, the assessment shall become conclusive. The local treasurer has sixty (60) days to decide said protest. In case of denial of the protest or inaction by the local treasurer, the taxpayer may appeal with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable.
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> On the other hand, Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment. By necessary implication, the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive period but before the judicial action.

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[54] 834 Phil. 371 (2018) [Per J. Martires, Third Division].

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

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

Clearly, when a taxpayer is assessed a deficiency local tax, fee or charge, he may protest it under Section 195 even without making payment of such assessed tax, fee or charge. This is because the law on local government taxation, save in the case of real property tax, does not expressly require "payment under protest" as a procedure prior to instituting the appropriate proceeding in court. This implies that the success of a judicial action questioning the validity or correctness of the assessment is not necessarily hinged on the previous payment of the tax under protest.

Needless to say, there is nothing to prevent the taxpayer from paying the tax under protest or simultaneous to a protest. There are compelling reasons why a taxpayer would prefer to pay while maintaining a protest against the assessment. For instance, a taxpayer who is engaged in business would be hard-pressed to secure a business permit unless he pays an assessment for business tax and/or regulatory fees. Also, a taxpayer may pay the assessment in order to avoid further penalties, or save his properties from levy and distraint proceedings.

The foregoing clearly shows that a taxpayer facing an assessment may protest it and alternatively: (1) appeal the assessment in court, or (2) pay the tax and thereafter seek a refund. Such procedure may find jurisprudential mooring in *San Juan v. Castro* wherein the Court

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described for the first and only time the alternative remedies for a taxpayer protesting an assessment—either appeal the assessment before the court of competent jurisdiction, or pay the tax and then seek a refund. The Court, however, did not elucidate on the relation of the second mentioned alternative option, *i.e.*, pay the tax and then seek a refund, to the remedy stated in Section 196.

. . . .

Where an assessment is to be protested or disputed, the taxpayer may proceed (a) without payment, or (b) with payment of the assessed tax, fee or charge. Whether there is payment of the assessed tax or not, it is clear that the protest in writing must be made within sixty (60) days from receipt of the notice or assessment; otherwise, the assessment shall become final and conclusive. Additionally, the subsequent court action must be initiated within thirty (30) days from denial or inaction by the local treasurer; otherwise, the assessment becomes conclusive and unappealable.

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

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

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

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> It must be understood, however, that in such latter case, the suit for refund is conditioned on the prior filing of a written claim for refund or credit with the local treasurer. In this instance, what may be considered as the administrative claim for refund is the letter-protest submitted to the treasurer. Where the taxpayer had paid the assessment, it can be expected that in the same letter protest he would also pray that the taxes paid should be refunded to him. As previously mentioned, there is really no particular form or style necessary for the protest of an assessment or claim of refund of taxes. What is material is the substance of the letter submitted to the local treasurer.
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> Equally important is the institution of the judicial action for refund within thirty (30) days from the denial of or inaction on the letter-protest or claim, not any time later, even if within two (2) years from the date of payment (as expressly stated in Section 196). Notice that the filing of such judicial claim for refund after questioning the assessment is within the two-year prescriptive period specified in Section 196. Note too that the filing date of such judicial action necessarily falls on the beginning portion of the two-year period from the date of payment. Even though the suit is seemingly grounded on Section 196, the taxpayer could not avail of the full extent of the two-year period within which to initiate the action in court.
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> The reason is obvious. This is because an assessment was made, and if not appealed in court within thirty (30) days from decision or inaction on the protest, it becomes conclusive and unappealable. Even if the action in court is one of claim for refund, the taxpayer cannot escape assailing the assessment, invalidity or incorrectness, the very foundation of his theory that the taxes were paid erroneously or otherwise collected from him illegally. Perforce, the subsequent judicial action, after the local treasurer's decision or inaction, must be initiated within thirty (30) days later. It cannot be anytime thereafter because the lapse of 30 days from decision or inaction results in the assessment becoming conclusive and unappealable. In short, the scenario wherein the administrative claim for refund falls on the early stage of the two-year period but the judicial claim on the last day or late stage of such two-year period does not apply in this specific instance where an assessment is issued.

To stress, where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund at any time within

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the full period of two years from the date of payment as Section 196 may suggest. If refund is pursued, the taxpayer must administratively question the validity or correctness of the assessment in the 'letter-claim for refund' within 60 days from receipt of the notice of assessment, and thereafter bring suit in court within 30 days from either decision or inaction by the local treasurer.

Simply put, there are two conditions that must be satisfied in order to successfully prosecute an action for refund in case the taxpayer had received an assessment. *One*, pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund. *Two*, bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.[55] (Citations omitted; Emphasis supplied)

These guidelines were succinctly reiterated in the case of *International Container Terminal Services, Inc. v. City of Manila*[56] in this wise:

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. lf 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."

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[55] *Id.* at 390–396.

[56] 842 Phil. 173 (2018) [Per J. Leonen, Third Division].

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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.[57] (Citations omitted; Emphasis supplied)

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.[58] To put it differently, Section 195 finds application in 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.

In the case at hand, a *prima facie* analysis suggests the applicability of Section 195, given the notices of assessments issued by petitioner. However, the validity of these notices necessitates closer scrutiny.

Pertinently, Section 195 explicitly states that the notice of assessment must indicate the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests, and penalties. In *Yamane v. BA Lepanto Condominium Corporation*,[59] this Court clarified this requirement:

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

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[57] *Id.* at 205–206.

[58] *International Container Terminal Services, Inc. v. City of Manila*, 842 Phil. 173, 207 (2018) [Per J. Leonen, Third Division].

[59] 510 Phil. 750 (2005) [Per J. Tinga, Second Division].

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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.[60]

Furthermore, in *National Power Corporation v. Province of Pampanga*,[61] this Court elucidated on the significance of the taxing authority's duty to adequately inform the taxpayer of the factual and legal basis for the assessment, thus:

> 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 internal revenue taxes, the Court explained the importance of the notice requirement with due regard to the taxpayers' constitutional rights, to wit:
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> > 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.
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> > The purpose or 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.
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> > *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc*. held that a final assessment notice that only

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[60] *Id.* at 770.

[61] G.R. No. 230648, October 6, 2021 [Per J. M. Lopez, First Division].

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> contained a table of taxes with no other details was insufficient: x x x
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> Any deficiency to the mandated content of the assessment or its process will not be tolerated. x x x
>
> xxx xxx xxx
>
> 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." (Citations omitted; Emphasis in the original)

At this juncture, it must be underscored that "although the power to tax is inherent in the State, the same is not true for the LGUs to whom the power must be delegated by Congress and must be exercised within the guidelines and limitations that Congress may provide."[62] Thus, the scope of an LGU's power to levy taxes is confined to the extent authorized by the Constitution or law.[63] Accordingly, such power must be exercised reasonably and in line with the constitutional mandate that no person shall be deprived of his or her property without due process of law.[64]

Here, we note that the courts *a quo* uniformly held that the notices of assessment issued by petitioner were invalid, due to the absence of both factual and legal basis of the assessment.[65] In fact, the additional documents it presented likewise failed to address this omission. It also does not escape our attention that petitioner

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[62] *City of Manila v. Colet*, 749 Phil. 598, 646 (2014) [Per J. Leonardo-de Castro, *En Banc*].

[63] *Pelizloy Realty Corporation, represented therein by its President, Gregory K. Loy v. Province of Benguet*, 708 Phil. 466, 476 (2013) [Per J. Leonen, Third Division].

[64] CONST., art. III, section 1, par. 1.

[65] *Rollo*, pp. 36–42.

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failed to establish that these additional documents were received by respondent.[66]

A reading of the current Petition would reveal that petitioner has not put forth any compelling argument to successfully challenge the courts *a quo*'s conclusion. To reiterate, petitioner argued that the July 15, 2005 Notice of Deficiency conformed to the requirements under Section 195. However, petitioner restricted its argument only to this notice, without claiming compliance as to its other notices. Petitioner even neglected to attach these notices to the Petition. Nevertheless, this Court must underline that the July 15, 2005 Notice of Deficiency does not reflect the reduced amount paid by respondent, thereby losing its relevance to the instant case.

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.[67] 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.[68]

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. Relevantly, a close reading of Section 196 reveals that to be entitled to a refund or credit of local taxes, two procedural requisites must coincide: (1) the taxpayer needs to submit a written

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[66] *Id.* at 42.

[67] *City Treasurer of Manila v. Philippine Beverage Partners, Inc.*, 862 Phil. 731, 743 (2019) [Per J. Reyes, Jr., Second Division].

[68] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, 841 Phil. 114, 122 (2018) [Per J. Leonen, Third Division].

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claim for refund or credit to the local treasurer; and (2) the case or proceeding for refund must be 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.[69] It is worth highlighting that this provision does not mention a specific period for the submission of written claims for tax refunds or credits, apart from the requirement that such claims and the filing of the suit be within two years from the date of tax payment. This is different from Section 195, which requires the submission of a written protest within 60 days from the receipt of the assessment.

Undoubtedly, both requisites have been satisfied.

To recapitulate, respondent received the Order of Payment on December 29, 2005 and it paid the assessed amount on the same day. Subsequently, on December 27, 2007, within the prescribed 2-year period, respondent submitted a written claim for refund or credit to petitioner, citing the assessment's lack of factual and legal basis. Following this, respondent filed a complaint for refund or credit before the RTC the next day, also within the prescriptive period. Accordingly, this Court finds that respondent aptly complied with the twin conditions for seeking a refund under Section 196.

In light of respondent's admission of its tax liability of PHP 234,234.79, and its payment of PHP 719,429.80, a refund of PHP 485,195.01 (PHP 719,429.80–PHP 234,234.79) is appropriate. All told, the CTA *En Banc* did not err in allowing the refund in favor of respondent.

However, upon further scrutiny of the records, this Court finds that the award of legal interest on the refund is unwarranted. It is settled that interest on tax refunds is only permissible when authorized by law or in instances where the tax collection was attended by arbitrariness.[70] "Arbitrariness presupposes inexcusable

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[69] *Metro Manila Shopping Mecca Corp. v. Toledo*, 710 Phil. 375, 385 (2013) [Per J. Perlas-Bernabe, Second Division].

[70] *Atlas Fertilizer Corp. v. Commissioner of Internal Revenue*, 188 Phil. 546, 557 (1980) [Per J. De Castro, First Division].

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or obstinate disregard of legal provisions."[71] These conditions are notably absent in the present case.

Here, we find neither a legal basis for the imposition of interest on tax refunds nor any indication of arbitrariness in the collection of the tax. Indeed, "[a]n action is not arbitrary when exercised honestly and upon due consideration where there is room for two opinions, however much it may be believed that an erroneous conclusion was reached."[72] Everything considered, the imposition of interest should be set aside.

As a final note, this Court finds it apt to echo our pronouncement in *National Power Corporation v. Province of Pampanga*,[73] thus:

> 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.
>
> 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 of 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.[74] (Citations omitted)

**FOR THESE REASONS,** the Petition is **DENIED**. The July 25, 2018 Decision and the May 10, 2019 Resolution of the Court of Tax Appeals *En Banc* in CTA EB No. 1605 (CTA AC No.

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[71] *Philex Mining Corp. v. Commissioner of Internal Revenue*, 365 Phil. 572, 580 (1999) [Per J. Quisumbing, Second Division].

[72] *Banco De Oro v. Republic*, 793 Phil. 97, 164 (2016) [Per J. Leonen, *En Banc*].

[73] G.R. No. 230648, October 6, 2021 [Per J. M. Lopez, First Division].

[74] *Id.*

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127) are **AFFIRMED WITH MODIFICATION**. Accordingly, petitioner City Treasurer of the City of Caloocan is **ORDERED** to refund or credit to respondent Tigerway Facilities and Resources, Inc. the amount of PHP 485,195.01.

For Atty. Gener C. Sansaet's repeated failure to comply with this Court's Resolutions, he is **ORDERED** to **PAY** a fine in the amount of PHP 1,000.00 and is **STERNLY WARNED** that a repetition of similar acts will be dealt with more severely.

Let a copy of this Decision be attached to the records of Atty. Gener S. Sansaet in the Office of the Bar Confidant.

**SO ORDERED.**

*Leonen, S.A.J. (Chairperson), Lazaro-Javier, M. Lopez*, and *Kho, Jr., JJ.*, concur.

**APPEARANCES OF COUNSEL**

*Office of the City Legal Officer* for petitioner.
*Gener C. Sansaet* for respondent.