Supreme Court E-Library



**WHEREFORE,** premises considered, the petition is **DENIED.** The assailed Decision and Resolution of the Court of Appeals are hereby **AFFIRMED.**

**SO ORDERED.**

*Carpio (Chairperson), Brion, del Castillo,* and *Perlas-Bernabe, JJ.,* concur.

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**FIRST DIVISION**

[G.R. No. 180651. July 30, 2014]

**NURSERY CARE CORPORATION; SHOEMART, INC.; STAR APPLIANCE CENTER, INC.; H & B, INC.; SUPPLIES STATION, INC.; and HARDWARE WORKSHOP, INC.,** *petitioners, vs.* **ANTHONY ACEVEDO, in his capacity as THE TREASURER OF MANILA; and THE CITY OF MANILA,** *respondents.*

**SYLLABUS**

**1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; APPEAL FROM THE DECISIONS OF THE REGIONAL TRIAL COURT; MODES.—** The *Rules of Court* provides three modes of appeal from the decisions and final orders of the RTC, namely: (1) ordinary appeal or appeal by writ of error under Rule 41, where the decisions and final orders were rendered in civil or criminal actions by the RTC in the exercise of original jurisdiction; (2) petition for review under Rule 42, where the decisions and final orders were rendered by the RTC in the exercise of appellate jurisdiction; and (3) petition for review on *certiorari* to the Supreme Court under Rule 45. The first mode of appeal is taken to the CA on questions of fact, or mixed questions of fact and

Supreme Court E-Library



law. The second mode of appeal is brought to the CA on questions of fact, of law, or mixed questions of fact and law. The third mode of appeal is elevated to the Supreme Court only on questions of law.

**2. ID.; ID.; ID.; QUESTION OF LAW AND QUESTION OF FACT, DISTINGUISHED.—** The distinction between a question of law and a question of fact is well established. On the one hand, a question of law arises when there is doubt as to what the law is on a certain state of facts; on the other, there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.

**3. ID.; ID.; ID.; THE DISMISSAL OF AN APPEAL FROM THE DECISION OF THE REGIONAL TRIAL COURT TO THE COURT OF APPEALS RAISING ONLY QUESTIONS OF LAW IS PROPER BUT THE COURT DEEMS IT APPROPRIATE TO ADOPT A LIBERAL APPROACH IN ORDER TO RENDER A JUST AND SPEEDY DISPOSITION OF THE SUBSTANTIVE ISSUE IN CASE AT BAR.—** The nature of the issues to be raised on appeal can be gleaned from the appellant's notice of appeal filed in the trial court, and from the appellant's brief submitted to the appellate court. In this case, the petitioners filed a notice of appeal in which they contended that the April 26, 2002 decision and the order of July 17, 2002 issued by the RTC denying their consolidated motion for reconsideration were contrary to the facts and law obtaining in the consolidated cases. In their consolidated memorandum filed in the CA, they essentially assailed the RTC's ruling that the taxes imposed on and collected from the petitioners under Section 21 of the Revenue Code of Manila constituted double taxation in the strict, narrow or obnoxious sense. Considered together, therefore, the notice of appeal and consolidated memorandum evidently did not raise issues that required the re-evaluation of evidence or the relevance of surrounding circumstances. The CA rightly concluded that the petitioners thereby raised only a question of law. The dismissal of their appeal was proper, strictly speaking, because Section 2, Rule 50 of the *Rules of Court* provides that an appeal from the RTC to the CA raising only questions of law shall be dismissed; and that an appeal erroneously taken to the CA shall be outrightly dismissed. x x x The foregoing notwithstanding, the Court, given the

Supreme Court E-Library



circumstances obtaining herein and in light of jurisprudence promulgated subsequent to the filing of the petition, deems it fitting and proper to adopt a liberal approach in order to render a just and speedy disposition of the substantive issue at hand.

**4. TAXATION; DOUBLE TAXATION; REVENUE CODE OF MANILA; THE IMPOSITION OF THE TAX UNDER SECTION 21 IN ADDITION TO TAXES COLLECTED PURSUANT TO SECTIONS 15 AND 17 THEREOF CONSTITUTES DOUBLE TAXATION, AS ALL THE TAXES WERE IMPOSED ON THE SAME SUBJECT MATTER, FOR THE SAME PURPOSE, BY THE SAME TAXING AUTHORITY, WITHIN THE SAME JURISDICTION IN THE SAME TAXING PERIOD, AND THE TAXES WERE ALL IN THE NATURE OF LOCAL BUSINESS TAXES; CASE AT BAR.—** On the basis of the rulings in *Coca-Cola Bottlers Philippines, Inc*. and *Swedish Match Philippines, Inc.*, the Court now holds that all the elements of double taxation concurred upon the City of Manila's assessment on and collection from the petitioners of taxes for the first quarter of 1999 pursuant to Section 21 of the Revenue Code of Manila. Firstly, because Section 21 of the Revenue Code of Manila imposed the tax on a person who sold goods and services in the course of trade or business based on a certain percentage of his gross sales or receipts in the preceding calendar year, while Section 15 and Section 17 likewise imposed the tax on a person who sold goods and services in the course of trade or business but only identified such person with particularity, namely, the wholesaler, distributor or dealer (Section 15), and the retailer (Section 17), all the taxes – being imposed on the privilege of doing business in the City of Manila in order to make the taxpayers contribute to the city's revenues – were imposed on the same subject matter and for the same purpose. Secondly, the taxes were imposed by the same taxing authority (the City of Manila) and within the same jurisdiction in the same taxing period (*i.e*., per calendar year). Thirdly, the taxes were all in the nature of local business taxes. We note that although *Coca-Cola Bottlers Philippines, Inc*. and *Swedish Match Philippines, Inc.* involved Section 21 *vis-à-vis* Section 14 (*Tax on Manufacturers, Assemblers and Other Processors*) of the Revenue Code of Manila, the legal principles enunciated therein should similarly apply because Section 15 (*Tax on Wholesalers, Distributors, or Dealers*) and Section 17 (*Tax on Retailers*) of

Supreme Court E-Library



the Revenue Code of Manila imposed the same nature of tax as that imposed under Section 14, *i.e.*, local business tax, albeit on a different subject matter or group of taxpayers.

**APPEARANCES OF COUNSEL**

*Chato & Vinzons-Chato* for petitioners.
*Mayo Domingo F. Ramos* for respondents.

## D E C I S I O N

**BERSAMIN, *J.*:**

The issue here concerns double taxation. There is double taxation when the same taxpayer is taxed twice when he should be taxed only once for the same purpose by the same taxing authority within the same jurisdiction during the same taxing period, and the taxes are of the same kind or character. Double taxation is obnoxious.

### The Case

Under review are the resolution promulgated in CA-G.R. SP No. 72191 on June 18, 2007,[1] whereby the Court of Appeals (CA) denied petitioners' appeal for lack of jurisdiction; and the resolution promulgated on November 14, 2007,[2] whereby the CA denied their motion for reconsideration for its lack of merit.

### Antecedents

The City of Manila assessed and collected taxes from the individual petitioners pursuant to Section 15 (*Tax on Wholesalers, Distributors, or Dealers*) and Section 17 (*Tax on Retailers*) of the Revenue Code of Manila.[3] At the same time, the City

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[1] *Rollo*, pp. 74-78; penned by Associate Justice Josefina Guevarra-Salonga with Associate Justice Vicente Q. Roxas and Associate Justice Ramon R. Garcia concurring.

[2] *Id*. at 80-81.

[3] *Id*. at 19.

Supreme Court E-Library



of Manila imposed additional taxes upon the petitioners pursuant to Section 21 of the Revenue Code of Manila,[4] as amended, as a condition for the renewal of their respective business licenses for the year 1999. Section 21 of the Revenue Code of Manila stated:

> Section 21. *Tax on Business Subject to the Excise, Value-Added or Percentage Taxes under the NIRC* — On any of the following businesses and articles of commerce subject to the excise, value-added or percentage taxes under the National Internal Revenue Code, hereinafter referred to as NIRC, as amended, a tax of FIFTY PERCENT (50%) OF ONE PERCENT (1%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed:
>
> A) On person who sells goods and services in the course of trade or businesses; x x x
>
> PROVIDED, that all registered businesses in the City of Manila already paying the aforementioned tax shall be exempted from payment thereof.

To comply with the City of Manila's assessment of taxes under Section 21, *supra*, the petitioners paid under protest the following amounts corresponding to the first quarter of 1999,[5] to wit:

| | |
|---|---|
| (*a*) Nursery Care Corporation | ₱595,190.25 |
| (*b*) Shoemart Incorporated | ₱3,283,520.14 |
| (*c*) Star Appliance Center | ₱236,084.03 |
| (*d*) H & B, Inc. | ₱1,271,118.74 |
| (*e*) Supplies Station, Inc. | ₱239,501.25 |
| (*f*) Hardware Work Shop, Inc. | ₱609,953.24 |

By letter dated March 1, 1999, the petitioners formally requested the Office of the City Treasurer for the tax credit or refund of the local business taxes paid under protest.[6] However,

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[4] *Id*. at 82, 86.

[5] *Id*. at 84, 98.

[6] *Id*. at 86-88.

Supreme Court E-Library



then City Treasurer Anthony Acevedo (Acevedo) denied the request through his letter of March 10, 1999.[7]

On April 8, 1999, the petitioners, through their representative, Cecilia R. Patricio, sought the reconsideration of the denial of their request.[8] Still, the City Treasurer did not reconsider.[9]

In the meanwhile, Liberty Toledo succeeded Acevedo as the City Treasurer of Manila.[10]

On April 29, 1999, the petitioners filed their respective petitions for *certiorari* in the Regional Trial Court (RTC) in Manila. The petitions, docketed as Civil Cases Nos. 99-93668 to 99-93673,[11] were initially raffled to different branches, but were soon consolidated in Branch 34.[12] After the presiding judge of Branch 34 voluntarily inhibited himself, the consolidated cases were transferred to Branch 23,[13] but were again re-raffled to Branch 19 upon the designation of Branch 23 as a special drugs court.[14]

The parties agreed on and jointly submitted the following issues for the consideration and resolution of the RTC, namely:

(a) Whether or not the collection of taxes under Section 21 of Ordinance No. 7794, as amended, constitutes double taxation.

(b) Whether or not the failure of the petitioners to avail of the statutorily provided remedy for their tax protest on the ground of unconstitutionality, illegality and oppressiveness under Section 187 of the Local Government Code renders the

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[7] *Id*. at 90-92.

[8] *Id*. at 93-98.

[9] *Id*. at 99.

[10] *Id*. at 333.

[11] *Id*. at 100-241.

[12] *Id*. at 255.

[13] *Id*. at 26, 266.

[14] *Id*. at 24.

Supreme Court E-Library



present action dismissible for non-exhaustion of administrative remedy.[15]

**Decision of the RTC**

On April 26, 2002, the RTC rendered its decision, holding thusly:

The Court perceives of no instance of the constitutionally proscribed double taxation, in the strict, narrow or obnoxious sense, imposed upon the petitioners under Section 15 and 17, on the one hand, and under Section 21, on the other, of the questioned Ordinance. The tax imposed under Section 15 and 17, as against that imposed under Section 21, are levied against different tax objects or subject matter. The tax under Section 15 is imposed upon wholesalers, distributors or dealers, while that under Section 17 is imposed upon retailers. In short, taxes imposed under Section 15 and 17 is a tax on the business of wholesalers, distributors, dealers and retailers. On the other hand, the tax imposed upon herein petitioners under Section 21 is not a tax against the business of the petitioners (as wholesalers, distributors, dealers or retailers) but is rather a tax against consumers or end-users of the articles sold by petitioners. This is plain from a reading of the modifying paragraph of Section 21 which says:

> "The tax shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter." (Underscoring supplied)

In effect, the petitioners only act as the collection or withholding agent of the City while the ones actually paying the tax are the consumers or end-users of the articles being sold by petitioners. The taxes imposed under Sec. 21 represent additional amounts added by the business establishment to the basic prices of its goods and services which are paid by the end-users to the businesses. It is actually not taxes on the business of petitioners but on the consumers. Hence, there is no double taxation in the narrow, strict or obnoxious sense, involved in the imposition of taxes by the City of Manila under Sections 15, 17 and 21 of the questioned Ordinance. This in effect

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[15] *Id.* at 333.

Supreme Court E-Library



resolves in favor of the constitutionality of the assailed sections of Ordinance No. 7807 of the City of Manila.

Petitioners, likewise, pray the Court to direct respondents to cease and desist from implementing Section 21 of the questioned Ordinance. That the Court cannot do, without doing away with the mandatory provisions of Section 187 of the Local Government Code which distinctly commands that an appeal questioning the constitutionality or legality of a tax ordinance shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee or charge levied therein. This is so because an ordinance carries with it the presumption of validity.

x x x

With the foregoing findings, petitioners' prayer for the refund of the amounts paid by them under protest must, likewise, fail.

Wherefore, the petitions are dismissed. Without pronouncement as to costs.

SO ORDERED.[16]

The petitioners appealed to the CA.[17]

**Ruling of the CA**

On June 18, 2007, the CA denied the petitioners' appeal, ruling as follows:

The six (6) cases were consolidated on a common question of fact and law, that is, whether the act of the City Treasurer of Manila of assessing and collecting business taxes under Section 21 of Ordinance 7807, on top of other business taxes also assessed and collected under the previous sections of the same ordinance is a violation of the provisions of Section 143 of the Local Government Code.

Clearly, the disposition of the present appeal in these consolidated cases does not necessitate the calibration of the whole evidence as there is no question or doubt as to the truth or the falsehood of the facts obtaining herein, as both parties agree thereon. The present case involves a question of law that would not lend itself to an

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[16] *Id*. at 335-337.

[17] *Id*. at 418-419.

Supreme Court E-Library



examination or evaluation by this Court of the probative value of the evidence presented.

Thus the Court is constrained to dismiss the instant petition for lack of jurisdiction under Section 2, Rule 50 of the 1997 Rules on Civil Procedure which states:

> "Sec. 2. Dismissal of improper appeal to the Court of Appeals. – An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.
>
> An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.
>
> WHEREFORE, the foregoing considered, the appeal is DISMISSED.
>
> SO ORDERED.[18]

The petitioners moved for reconsideration, but the CA denied their motion through the resolution promulgated on November 14, 2007.[19]

**Issues**

The petitioners now appeal, raising the following grounds, to wit:

A.

THE COURT OF APPEALS, IN DISMISSING THE APPEAL OF THE PETITIONERS AND DENYING THEIR MOTION FOR RECONSIDERATION, ERRED IN RULING THAT THE ISSUE INVOLVED IS A PURELY LEGAL QUESTION.

B.

THE COURT OF APPEALS ERRED IN NOT REVERSING THE DECISION OF BRANCH 19 OF THE REGIONAL TRIAL COURT OF MANILA DATED 26 APRIL 2002 DENYING PETITIONERS' PRAYER FOR REFUND OF THE AMOUNTS PAID BY THEM UNDER

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[18] *Id.* at 77-78.

[19] *Id.* at 81.

Supreme Court E-Library



PROTEST AND DISMISSING THE PETITION FOR *CERTIORARI* FILED BY THE PETITIONERS.

C.

THE COURT OF APPEALS ERRED IN NOT RULING THAT THE ACT OF THE CITY TREASURER OF MANILA IN IMPOSING, ASSESSING AND COLLECTING THE ADDITIONAL BUSINESS TAX UNDER SECTION 21 OF ORDINANCE NO. 7794, AS AMENDED BY ORDINANCE NO. 7807, ALSO KNOWN AS THE REVENUE CODE OF THE CITY OF MANILA, IS CONSTITUTIVE OF DOUBLE TAXATION AND VIOLATIVE OF THE LOCAL GOVERNMENT CODE OF 1991.[20]

The main issues for resolution are, therefore, (1) whether or not the CA properly denied due course to the appeal for raising pure questions of law; and (2) whether or not the petitioners were entitled to the tax credit or tax refund for the taxes paid under Section 21, *supra*.

**Ruling**

The appeal is meritorious.

**1.**
**The CA did not err in dismissing the appeal; but the rules should be liberally applied for the sake of justice and equity**

The *Rules of Court* provides three modes of appeal from the decisions and final orders of the RTC, namely: (1) ordinary appeal or appeal by writ of error under Rule 41, where the decisions and final orders were rendered in civil or criminal actions by the RTC in the exercise of original jurisdiction; (2) petition for review under Rule 42, where the decisions and final orders were rendered by the RTC in the exercise of appellate jurisdiction; and (3) petition for review on *certiorari* to the Supreme Court under Rule 45.[21] The first mode of appeal is taken to the CA on questions of fact, or mixed questions of

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[20] *Id.* at 27.

[21] RULES OF COURT, Section 2, Rule 41 (1997).

Supreme Court E-Library



fact and law. The second mode of appeal is brought to the CA on questions of fact, of law, or mixed questions of fact and law.[22] The third mode of appeal is elevated to the Supreme Court only on questions of law.[23]

The distinction between a question of law and a question of fact is well established. On the one hand, a question of law arises when there is doubt as to what the law is on a certain state of facts; on the other, there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.[24] According to *Leoncio v. De Vera*:[25]

> x x x For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.[26]

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[22] RULES OF COURT, Section 2, Rule 42, (1997).

[23] Section 1, Rule 45, *Rules of Court* (1997); *Republic v. Malabanan*, G.R. No. 169067, October 6, 2010, 632 SCRA 338, 344-345.

[24] *Latorre v. Latorre*, G.R. No. 183926, March 29, 2010, 617 SCRA 88, 99.

[25] G.R. No. 176842, February 18, 2008, 546 SCRA 180, 184.

[26] See also *First Bancorp, Inc. v. Court of Appeals*, G.R. No. 151132, June 22, 2006, 492 SCRA 221, 238, where the Court issued a similar explanation, to wit:

> A question of fact exists when a doubt or difference arises as to the truth or falsity of alleged facts. If the query requires a reevaluation of the credibility of witnesses or the existence or relevance of surrounding circumstances and their relation to each other, the issue in that query is factual. On the other hand, there is a question of law when the doubt or difference arises as to what the law is on certain state of facts and which

Supreme Court E-Library



The nature of the issues to be raised on appeal can be gleaned from the appellant's notice of appeal filed in the trial court, and from the appellant's brief submitted to the appellate court.[27] In this case, the petitioners filed a notice of appeal in which they contended that the April 26, 2002 decision and the order of July 17, 2002 issued by the RTC denying their consolidated motion for reconsideration were contrary to the facts and law obtaining in the consolidated cases.[28] In their consolidated memorandum filed in the CA, they essentially assailed the RTC's ruling that the taxes imposed on and collected from the petitioners under Section 21 of the Revenue Code of Manila constituted double taxation in the strict, narrow or obnoxious sense. Considered together, therefore, the notice of appeal and consolidated memorandum evidently did not raise issues that required the re-evaluation of evidence or the relevance of surrounding circumstances.

The CA rightly concluded that the petitioners thereby raised only a question of law. The dismissal of their appeal was proper, strictly speaking, because Section 2, Rule 50 of the *Rules of Court* provides that an appeal from the RTC to the CA raising only questions of law shall be dismissed; and that an appeal erroneously taken to the CA shall be outrightly dismissed.[29]

**2.**

**Collection of taxes pursuant to Section 21 of the Revenue Code of Manila constituted double taxation**

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does not call for an existence of the probative value of the evidence presented by the parties-litigants. In a case involving a question of law, the resolution of the issue rests solely on what the law provides on the given set of circumstances. Ordinarily, the determination of whether an appeal involves only questions of law or both questions of law and fact is best left to the appellate court. All doubts as to the correctness of the conclusions of the appellate court will be resolved in favor of the CA unless it commits an error or commits a grave abuse of discretion.

[27] *Tamondong v. Court of Appeals*, G.R. No. 158397, November 26, 2004, 444 SCRA 509, 517.

[28] *Rollo,* p. 418.

[29] *Sevilleno v. Carilo*, G.R. No. 146454, September 14, 2007, 533 SCRA 385, 389.

Supreme Court E-Library



The foregoing notwithstanding, the Court, given the circumstances obtaining herein and in light of jurisprudence promulgated subsequent to the filing of the petition, deems it fitting and proper to adopt a liberal approach in order to render a just and speedy disposition of the substantive issue at hand. Hence, we resolve, bearing in mind the following pronouncement in *Go v. Chaves*:[30]

> Our rules of procedure are designed to facilitate the orderly disposition of cases and permit the prompt disposition of unmeritorious cases which clog the court dockets and do little more than waste the courts' time. These technical and procedural rules, however, are intended to ensure, rather than suppress, substantial justice. A deviation from their rigid enforcement may thus be allowed, as petitioners should be given the fullest opportunity to establish the merits of their case, rather than lose their property on mere technicalities. We held in *Ong Lim Sing, Jr. v. FEB Leasing and Finance Corporation* that:
>
> > Courts have the prerogative to relax procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties' right to due process. In numerous cases, this Court has allowed liberal construction of the rules when to do so would serve the demands of substantial justice and equity.

The petitioners point out that although Section 21 of the Revenue Code of Manila was not itself unconstitutional or invalid, its enforcement against the petitioners constituted double taxation because the local business taxes under Section 15 and Section 17 of the Revenue Code of Manila were already being paid by them.[31] They contend that the proviso in Section 21 exempted all registered businesses in the City of Manila from paying the tax imposed under Section 21;[32] and that the exemption was more in accord with Section 143 of the Local Government Code,[33]

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[30] G.R. No. 182341, April 23, 2010, 619 SCRA 333, 342-343.

[31] *Rollo*, pp. 43-44.

[32] *Id*. at 49.

[33] Section 143. *Tax on Business*. – The municipality may impose taxes on the following businesses:

Supreme Court E-Library



the law that vested in the municipal and city governments the power to impose business taxes.

The respondents counter, however, that double taxation did not occur from the imposition and collection of the tax pursuant to Section 21 of the Revenue Code of Manila;[34] that the taxes imposed pursuant to Section 21 were in the concept of indirect taxes upon the consumers of the goods and services sold by a business establishment;[35] and that the petitioners did not exhaust

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(a) On manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers, and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with the following schedule: xxx

(b) On wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature in accordance with the following schedule: xxx

(c) On exporters, and on manufacturers, millers, producers, wholesalers, distributors, dealers or retailers of essential commodities enumerated hereunder at a rate not exceeding one-half (1/2) of the rates prescribed under subsections (a), (b) and (d) of this Section: xxx

(d) *Provided, however,* That *barangays* shall have the exclusive power to levy taxes, as provided under Section 152 hereof, on gross sales or receipts of the preceding calendar year of Fifty thousand pesos (₱50,000.00) or less, in the case of cities, and Thirty thousand pesos (₱30,000) or less, in the case of municipalities.

(e) On contractors and other independent contractors, in accordance with the following schedule: xxx

(f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.

(g) On peddlers engaged in the sale of any merchandise or article of commerce, at a rate not exceeding Fifty pesos (₱50.00) per peddler annually.

(h) On any business, not otherwise specified in the preceding paragraphs, which the sanggunian concerned may deem proper to tax: *Provided,* That on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.

[34] *Rollo,* p. 485.

[35] *Id.* at 484.

Supreme Court E-Library



their administrative remedies by first appealing to the Secretary of Justice to challenge the constitutionality or legality of the tax ordinance.[36]

In resolving the issue of double taxation involving Section 21 of the Revenue Code of Manila, the Court is mindful of the ruling in *City of Manila v. Coca-Cola Bottlers Philippines, Inc.*,[37] which has been reiterated in *Swedish Match Philippines, Inc. v. The Treasurer of the City of Manila*.[38] In the latter, the Court has held:

> x x x [T]he issue of double taxation is not novel, as it has already been settled by this Court in *The City of Manila v. Coca-Cola Bottlers Philippines, Inc.*, in this wise:
>
> > Petitioners obstinately ignore the exempting proviso in Section 21 of Tax Ordinance No. 7794, to their own detriment. Said exempting proviso was precisely included in said section so as to avoid double taxation.
> >
> > Double taxation means taxing the same property twice when it should be taxed only once; that is, "taxing the same person twice by the same jurisdiction for the same thing." It is obnoxious when the taxpayer is taxed twice, when it should be but once. Otherwise described as "direct duplicate taxation," **the two taxes must be imposed on the same subject matter**, for the **same purpose**, by the **same taxing authority**, **within the same jurisdiction**, **during the same taxing period**; and the taxes must be **of the same kind or character**.
> >
> > Using the aforementioned test, the Court finds that there is indeed double taxation if respondent is subjected to the taxes under both Sections 14 and 21 of Tax Ordinance No. 7794, since these are being imposed: (1) on the same subject matter – the privilege of doing business in the City of Manila; (2) for the same purpose – to make persons conducting business within the City of Manila contribute to city revenues; (3) by the same taxing authority – petitioner City of Manila; (4) within the same

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[36] *Id*. at 486-487.

[37] G.R. No. 181845, August 4, 2009, 595 SCRA 299 and G.R. No. 167283, February 10, 2010.

[38] G.R. No. 181277, July 3, 2013, 700 SCRA 428, 439-442.

Supreme Court E-Library



taxing jurisdiction – within the territorial jurisdiction of the City of Manila; (5) for the same taxing periods – per calendar year; and (6) of the same kind or character – a local business tax imposed on gross sales or receipts of the business.

The distinction petitioners attempt to make between the taxes under Sections 14 and 21 of Tax Ordinance No. 7794 is specious. The Court revisits Section 143 of the LGC, the very source of the power of municipalities and cities to impose a local business tax, and to which any local business tax imposed by petitioner City of Manila must conform. It is apparent from a perusal thereof that when a municipality or city has already imposed a business tax on manufacturers, *etc.* of liquors, distilled spirits, wines, and any other article of commerce, pursuant to Section 143(a) of the LGC, said municipality or city may no longer subject the same manufacturers, *etc.* to a business tax under Section 143(h) of the same Code. Section 143(h) may be imposed only on businesses that are subject to excise tax, VAT, or percentage tax under the NIRC, and that are **"not otherwise specified in preceding paragraphs."** In the same way, businesses such as respondent's, already subject to a local business tax under Section 14 of Tax Ordinance No. 7794 [which is based on Section 143(a) of the LGC], can no longer be made liable for local business tax under Section 21 of the same Tax Ordinance [which is based on Section 143(h) of the LGC].

Based on the foregoing reasons, petitioner should not have been subjected to taxes under Section 21 of the Manila Revenue Code for the fourth quarter of 2001, considering that it had already been paying local business tax under Section 14 of the same ordinance.

x x x x x x x x x

Accordingly, respondent's assessment under both Sections 14 and 21 had no basis. Petitioner is indeed liable to pay business taxes to the City of Manila; nevertheless, considering that the former has already paid these taxes under Section 14 of the Manila Revenue Code, it is exempt from the same payments under Section 21 of the same code. Hence, payments made under Section 21 must be refunded in favor of petitioner.

It is undisputed that petitioner paid business taxes based on Sections 14 and 21 for the fourth quarter of 2001 in the total amount of ₱470,932.21. Therefore, it is entitled to a refund of ₱164,552.04

Supreme Court E-Library



corresponding to the payment under Section 21 of the Manila Revenue Code.

On the basis of the rulings in *Coca-Cola Bottlers Philippines, Inc*. and *Swedish Match Philippines, Inc.*, the Court now holds that all the elements of double taxation concurred upon the City of Manila's assessment on and collection from the petitioners of taxes for the first quarter of 1999 pursuant to Section 21 of the Revenue Code of Manila.

Firstly, because Section 21 of the Revenue Code of Manila imposed the tax on a person who sold goods and services in the course of trade or business based on a certain percentage of his gross sales or receipts in the preceding calendar year, while Section 15 and Section 17 likewise imposed the tax on a person who sold goods and services in the course of trade or business but only identified such person with particularity, namely, the wholesaler, distributor or dealer (Section 15), and the retailer (Section 17), all the taxes – being imposed on the privilege of doing business in the City of Manila in order to make the taxpayers contribute to the city's revenues – were imposed on the same subject matter and for the same purpose.

Secondly, the taxes were imposed by the same taxing authority (the City of Manila) and within the same jurisdiction in the same taxing period (*i.e.*, per calendar year).

Thirdly, the taxes were all in the nature of local business taxes.

We note that although *Coca-Cola Bottlers Philippines, Inc.* and *Swedish Match Philippines, Inc.* involved Section 21 *vis-à-vis Section 14 (Tax on Manufacturers, Assemblers and Other Processors*)[39] of the Revenue Code of Manila, the legal principles enunciated therein should similarly apply because

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[39] Section 14. – *Tax on Manufacturers, Assemblers and Other Processors*. – There is hereby imposed a graduated tax on manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers, and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with any of the following schedule: x x x

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Section 15 (*Tax on Wholesalers, Distributors, or Dealers*) and Section 17 (*Tax on Retailers*) of the Revenue Code of Manila imposed the same nature of tax as that imposed under Section 14, *i.e.*, local business tax, albeit on a different subject matter or group of taxpayers.

In fine, the imposition of the tax under Section 21 of the Revenue Code of Manila constituted double taxation, and the taxes collected pursuant thereto must be refunded.

**WHEREFORE,** the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the resolutions promulgated on June 18, 2007 and November 14, 2007 in CA-G.R. SP No. 72191; and **DIRECTS** the City of Manila to refund the payments made by the petitioners of the taxes assessed and collected for the first quarter of 1999 pursuant to Section 21 of the Revenue Code of Manila.

No pronouncement on costs of suit.

**SO ORDERED.**

*Sereno, C.J. (Chairperson), Leonardo-de Castro, Villarama, Jr., Reyes,* and *Perlas-Bernabe, JJ.,* concur.

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**SECOND DIVISION**

[G.R. No. 184295. July 30, 2014]

**NATIONAL TRANSMISSION CORPORATION,** *petitioner, vs.* **ALPHAOMEGA INTEGRATED CORPORATION,** *respondent.*

**SYLLABUS**

**1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW ON *CERTIORARI* UNDER RULE 45 OF THE RULES OF COURT; SHALL RAISE ONLY QUESTIONS OF**