Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BASES CONVERSION AND DEVELOPMENT AUTHORITY and JOHN HAY MANAGEMENT CORPORATION, Petitioners,	**G.R. No. 192694** Present:
-versus-	LEONEN, *J., Chairperson,* LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.*
CITY GOVERNMENT OF BAGUIO CITY, as represented by its Mayor, City Treasurer, and City Legal Officer, Respondent.	**Promulgated:** FEB 22 2023

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DECISION

LEONEN, *J.*:

The payment of fees for the issuance of business permits is regulatory in nature under the local government unit's police power. It is not a tax for revenue generation. Tax-exempt entities, therefore, cannot claim to be exempted from paying fees for business permits.

This Court resolves a Petition for Review on *Certiorari*[1] assailing the Decision[2] and Order[3] of the Regional Trial Court, which upheld Baguio

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1 *Rollo*, pp. 50–107. The Petition is erroneously captioned as a "Petition for *Certiorari*." The body, however, states that it is a Petition for Review on *Certiorari* under Rule 45.

2 Id. at 108–140. The May 13, 2010 Decision was penned by Presiding Judge Cleto R. Villacorta III of Branch 6, Regional Trial Court, Baguio City.

3 Id. at 141–146. The June 24, 2010 Order is penned by Presiding Judge Cleto R. Villacorta III of Branch 6, Regional Trial Court, Baguio City.

City Administrative Order No. 102, series of 2009.[4] Administrative Order No. 102 required establishments within the John Hay Special Economic Zone to secure business permits and pay the corresponding fees to continue their business operations.

On March 13, 1992, Congress enacted Republic Act No. 7227, or the Bases Conversion and Development Act of 1992, which created the Bases Conversion and Development Authority (the Authority) to develop and convert former United States military bases in the country to productive civilian use.[5]

Camp John Hay[6] was one of these former military bases. In 1993, John Hay Development Corporation, later called the John Hay Poro Point Development Corporation, was created. As a subsidiary of the Authority,[7] the corporation became its implementing arm in converting Camp John Hay into a "tourism, human resource development center[,] and multiple[-]use forest watershed reservation[.]"[8] In 2002, it would later be renamed as the John Hay Management Corporation.[9]

Earlier, on July 5, 1994, then President Fidel V. Ramos had issued Proclamation No. 420.[10] Among others, it designated a special economic zone on a portion of Camp John Hay, known as the John Hay Special Economic Zone, to be administered by the John Hay Poro Point Development Corporation.[11] The Proclamation provides, among others, that the tax incentives available to the Subic Special Economic Zone, which was created under Section 12 of Republic Act No. 7227, would also be available to the John Hay Special Economic Zone.[12] Section 3 of Proclamation No. 420 reads:

> SECTION 3. Investment Climate in John Hay Special Economic Zone. — Pursuant to Sections 5 (m) Section 15 of Republic Act No. 7227, the John Hay Poro Point Development Corporation shall implement all necessary policies, rules, and regulations governing the zone, including investment incentives, in consultation with pertinent government departments. Among others, the zone shall have all the applicable incentives of the Special Economic Zone under Section 12 of Republic

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4 Id. at 161–163. Entitled "An Order Creating a Task Force to Implement Tax Ordinance 2000-01 to All Business Establishments/Locators Operating Inside the John Hay Special Economic Zone and Providing Guidelines for the Purpose."

5 Republic Act No. 7227 (1992), sec. 2.

6 Also referred in laws and other issuances as Club John Hay.

7 *See* Executive Order No. 103 (1993). Authorizing the Establishment of the John Hay Development Corporation as the Implementing Arm of the Bases Conversion Development Authority for Club John Hay, and Directing All Heads of Departments, Bureaus, Offices, Agencies and Instrumentalities of Government to Support the Program.

8 Executive Order No. 102 (1993), Fourth Whereas Clause.

9 Executive Order No. 132 (2002).

10 Entitled "Creating and Designating a Portion of the Area Covered by the Former Camp John Hay as the John Hay Special Economic Zone Pursuant to Republic Act No. 7227."

11 Proclamation No. 420 (1994), sec. 2.

12 Proclamation No. 420 (1994), sec. 3.

> Act No. 7227 and those applicable incentives granted in the Export Processing Zones, the Omnibus Investment Code of 1987, the Foreign Investment Act of 1991, and new investment laws that may hereinafter be enacted.

Under Proclamation No. 420, establishments inside the John Hay Special Economic Zone shall, instead of paying taxes, remit 3% of all gross income to the national government, 1% to the local government units affected, and 1% for the development of contiguous areas.[13] The Omnibus Investments Code of 1987[14] likewise provides for additional incentives, such as exemption from local taxes and licenses:

> ARTICLE 78. Additional Incentives. — A zone registered enterprise shall also enjoy all the incentive benefits provided in Article 39 hereof under the same terms and conditions stated therein. In addition zone registered enterprises shall also be entitled to the following:
>
> (a) Exemption from Local Taxes and Licenses. — Notwithstanding the provisions of law to the contrary, zone registered enterprise shall, to the extent of their construction, operation or production inside the zone be exempt from the payment of any and all local government imposts, fees, licenses or taxes except real estate taxes which shall be collected by the Province/City/Municipality responsible for the collection thereof under the provisions of the Real Property Tax Code: Provided, That machineries owned by zone registered enterprises which are actually installed and operated in the Zone for manufacturing, processing or for industrial purposes shall not be subject to the payment of real estate taxes for the first three (3) years of operation of such machineries: Provided, further, That fifty percent (50%) of the proceeds of the real estate taxes collected from all real properties located in the Zone and such other areas owned or administered by the Authority shall be remitted to the Authority by the province/city/municipality responsible for the collection of such taxes under the provisions of the Real Property Tax Code. All real estate taxes accruing to the Authority as herein provided shall be expanded for such community facilities, utilities and/or services as the Authority may determine.

In line with Proclamation No. 420, the Baguio City government's

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[13] *See* Republic Act No. 7227 (1992), sec. 12(c), which states:
The provisions of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed within the Subic Special Economic Zone. In lieu of paying taxes, three percent (3%) of the gross income earned by all businesses and enterprises within the Subic Special Economic Zone shall be remitted to the National Government, one percent (1%) each to the local government units affected by the declaration of the zone in proportion to their population area, and other factors. In addition, there is hereby established a development fund of one percent (1%) of the gross income earned by all businesses and enterprises within the Subic Special Economic Zone to be utilized for the development of municipalities outside the City of Olongapo and the Municipality of Subic, and other municipalities contiguous to be base areas.
In case of conflict between national and local laws with respect to tax exemption privileges in the Subic Special Economic Zone, the same shall be resolved in favor of the latter[.]

[14] Executive Order No. 226 (1987).

Sangguniang Panlungsod passed Resolution No. 362, series of 1994,[15] setting the conditions for the Authority in formulating the Master Development Plan for Camp John Hay. Under Condition 9 of Resolution No. 362,[16] an equitable sharing agreement shall be provided between the Authority and the Baguio City government from the gross income obtained from the operations within the John Hay Special Economic Zone, particularly: 3% for the national government, 3% for the Baguio City government, and 1% for the community development fund jointly administered by the Baguio City government and the Authority. In addition, Condition 10 provides that the Authority shall allocate 25% of John Hay Poro Point Development Corporation's lease rentals or 30% of its net income from operations within the John Hay Special Economic Zone, whichever is higher, to be used for development projects.[17]

On February 24, 1995, Congress enacted Republic Act No. 7916, or the Special Economic Zone Act of 1995. Among others, the Act provided for tax exemptions to special economic zones. Section 24 states:

> SECTION 24. Exemption from Taxes Under the National Internal Revenue Code. — Any provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu of paying taxes, five percent (5%) of the gross income earned by all businesses and enterprises within the ECOZONE shall be remitted to the national government. This five percent (5%) shall be shared and distributed as follows:
>
> (a) Three percent (3%) to the national government;
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> (b) One percent (1%) to the local government units affected by the declaration of the ECOZONE in proportion to their population, land area, and equal sharing factors; and
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> (c) One percent (1%) for the establishment of a development fund to be utilized for the development of municipalities outside and contiguous to each ECOZONE: Provided, however, That the respective share of the affected local government units shall be determined on the basis of the following formula:

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15 *Rollo*, pp. 147–149.

16 Baguio City Resolution No. 362 (1994), sec. 9 states:
9. REVENUE EARNING FOR THE CITY GOVERNMENT
The BCDA shall provide for an equitable sharing arrangement for the Baguio City Government from the gross income of operations within the Zone, subject to Presidential or Congressional authorization, if warranted, under the following income apportionment:
a. 3% for the National Government
b. 3% for the Baguio City Government
c. 1% for the community development fund jointly administered by the Baguio City Government and the BCDA.

17 Baguio City Resolution No. 362 (1994), sec. 10 states:
10. ADDITIONAL EARNINGS FOR THE CITY GOVERNMENT
In addition to the above-cited provision, the BCDA shall allocate 25% from JPDC's lease rentals, or 30% from JPDC's net income from all operations within the Zone, whichever is higher, at any given time during the lease period to be used for development projects such as basic infrastructure, socialized housing, peace and order measures and environmental preservation under the joint management of the JPDC and the Baguio City Government.

(1) Population — fifty percent (50%);

(2) Land area — twenty-five percent (25%); and

(3) Equal sharing — twenty-five percent (25%).

On June 1, 1999, Congress enacted Republic Act No. 8748, which amended Republic Act No. 7916. Section 24 now reads:

> SECTION 4. Chapter III, Section 24 of Republic Act No. 7916 is hereby amended to read as follows:
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> "SEC. 24. Exemption from National and Local Taxes. — Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:
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> "(a) Three percent (3%) to the National Government;
>
> "(b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located."[18]

Section 50, however, limits Republic Act No. 8748's application to economic zones created after Republic Act No. 7227:

> SECTION 50. Non-Applicability on Areas Covered by Republic Act. No. 7227. — This Act shall not be applicable to economic zones and areas already created or to be created under Republic Act No. 7227 or other special laws, and governed by authorities constituted pursuant thereto.

On October 24, 2003, this Court, in *John Hay Peoples Alternative Coalition v. Lim*,[19] nullified the second sentence[20] of Proclamation No. 420, Section 3, insofar as it granted tax exemptions and financial incentives to businesses in the John Hay Special Economic Zone. This Court, however, stated that if the statutory basis for the grant of these exemptions and incentives exists, qualified persons may avail of it.

On March 20, 2007, Congress enacted Republic Act No. 9399 and Republic Act No. 9400. Republic Act No. 9399 provided a one-time tax

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18 Republic Act No. 8748 (1999), sec. 4.

19 460 Phil. 530 (2003) [Per J. Carpio Morales, *En Banc*].

20 The second sentence states:
Among others, the zone shall have all the applicable incentives of the Special Economic Zone under Section 12 of Republic Act No. 7227 and those applicable incentives granted in the Export Processing Zones, the Omnibus Investment Code of 1987, the Foreign Investment Act of 1991, and new investment laws that may hereinafter be enacted.

amnesty to all registered business enterprises operating within the special economic zones and freeports created under Republic Act No. 7227 before the law took effect. Its Section 1 provides:

> SECTION 1. Grant of Tax Amnesty. — Registered business enterprises operating prior to the effectivity of this Act within the special economic zones and freeports created pursuant to Section 15 of Republic Act No. 7227, as amended, such as the Clark Special Economic Zone created under Proclamation No. 163, series of 1993; Poro Point Special Economic and Freeport Zone created under Proclamation No. 216, series of 1993; John Hay Special Economic Zone created under Proclamation No. 420, series of 1994; and Morong Special Economic Zone created under Proclamation No. 984, series of 1997, may avail themselves of the benefits of remedial tax amnesty herein granted on all applicable tax and duty liabilities, inclusive of fines, penalties, interests and other additions thereto, incurred by them or that might have accrued to them due to the rulings of the Supreme Court in the cases of *John Hay People's* [sic] *Coalition v. Lim, et al.*, G.R. No. 119775 dated 23 October 2003 and *Coconut Oil Refiners Association, Inc. v. Torres*, et al., G.R. No. 132527 dated 29 July 2005, by filing a notice and return in such form as shall be prescribed by the Commissioner of Internal Revenue and the Commissioner of Customs and thereafter, by paying an amnesty tax of Twenty-five thousand pesos (P25,000.00) within six months from the effectivity of this Act: Provided, That the applicable tax and duty liabilities to be covered by the tax amnesty shall refer only to the difference between: (i) all national and local tax impositions under relevant tax laws, rules and regulations; and (ii) the five percent (5%) tax on gross income earned by said registered business enterprises as determined under relevant revenue regulations of the Bureau of Internal Revenue and memorandum circulars of the Bureau of Customs during the period covered: Provided, however, That the coverage of the tax amnesty herein granted shall not include the applicable taxes and duties on articles, raw materials, capital goods, equipment and consumer items removed from the special economic zone and freeport and entered in the customs territory of the Philippines for local or domestic sale, which shall be subject to the usual taxes and duties prescribed in the National Internal Revenue Code (NIRC) of 1997, as amended, and the Tariff and Customs Code of the Philippines, as amended.

Republic Act No. 9400, on the other hand, amended several portions of Republic Act No. 7227. It provided that all registered business enterprises within the John Hay Special Economic Zone would be entitled to the same tax and duty incentives under Republic Act No. 7916. John Hay Management Corporation would only engage in "acquiring, holding, administering, or leasing real properties," since the Philippine Economic Zone Authority would remain the entity that would "register, regulate, and supervise" all registered business enterprises within the special economic zone.[21] In case national or local law conflicts with the grant of these special tax exemption privileges, doubt would be resolved in favor of the special economic zone.[22]

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21 Republic Act No. 9400 (2007), sec. 5.

22 Republic Act No. 9400 (2007), sec. 6.

Since 1994, priority and other related projects of the Baguio City government called the Baguio, La Trinidad, Itogon, Sablan, and Tuba (BLIST) Projects have been financed by the Authority.[23] The amount remitted for the BLIST Projects were the proceeds of the lease rentals that the local government received from its locator, Camp John Hay Development Corporation.[24] Locators are sole proprietorships, partnerships, corporations, or other entities duly registered with special economic zones.[25]

Camp John Hay Development Corporation, in the meantime, entered into subleases with other locators and business entities within the John Hay Special Economic Zone. The lease payments from these sublessees were not included in what the Authority remitted to the Baguio City government.[26]

On August 6, 2004, the Baguio City government, through then Mayor Braulio D. Yaranon, issued a Memorandum[27] holding in abeyance the processing and issuance of business permits to Camp John Hay Development Corporation until it has complied with Condition 10 of Resolution No. 362, that is, to remit 25% of its lease rentals from its sublessees to the Baguio City government.

As a result, the Authority formed the One Stop Action Center to accredit and regulate business establishments within the John Hay Special Economic Zone. From then on, locators have secured their certificates of accreditation and permits to operate from the One Stop Action Center.[28]

On June 15, 2009, the Baguio City government issued Administrative Order No. 102, series of 2009,[29] creating the John Hay Special Economic Zone Task Force to implement City Tax Ordinance No. 2000-001.[30] City Tax Ordinance No. 2000-001 has been requiring establishments inside Baguio City to secure business permits or licenses from the city government. Administrative Order No. 102 now included businesses within the John Hay Special Economic Zone.[31]

On July 28, 2009, the Baguio City government, through its City Treasurer Thelma B. Manaois (Manaois), wrote Ma. Cristina R. Corona, then president and chief operating officer of John Hay Management Corporation, requesting a list of all business establishments within Camp

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23 *Rollo*, p. 633.
24 Id.
25 Customs Administrative Order No. 11-2019 (2019), sec. 3.5.
26 Id. at 345–346.
27 Id. at 160.
28 Id. at 634.
29 Id. at 161–163.
30 Id. at 442–452.
31 Id. at 161–162.

John Hay.[32]

On October 15, 2009, John Hay Management Corporation, through its Operations Group Manager Frank L. Daytec, Jr., informed Manaois that her request could not be acted upon as the issue of the legality of Administrative Order No. 102 was being endorsed to the Office of the Government Corporate Counsel.[33]

This prompted Atty. Melchor Carlos R. Rabanes, the Baguio City legal officer, to issue a Legal Opinion[34] dated June 12, 2008. He opined that business establishments and locators operating within the John Hay Special Economic Zone were not exempt from securing business permits from the city government since their fiscal incentives only extended to national and local taxes, and not to local business or license fees and charges.[35]

On January 21, 2010, Manaois wrote John Hay Management Corporation again, asserting that her office would implement Administrative Order No. 102 and warning that it would inspect the businesses and close down those without business permits.[36]

The Authority alleged that the city mayor had advised John Hay Management Corporation that he would not issue any closure orders pending the issuance of the Office of the Government Corporate Counsel's legal opinion on Administrative Order No. 102.[37] But on February 16, 2010, the Authority's locators in the John Hay Special Economic Zone received Notices to Stop Business Operation[38] from the Office of the City Treasurer.

This was the same day that the Authority issued its third check for PHP 50 million to the Government Service Insurance System to partially settle the purchase of the Baguio Convention Center.[39] The payment was pursuant to a February 18, 2003 Memorandum of Agreement[40] and a January 23, 2004 Supplemental Agreement[41] that the Baguio City government had entered into with the Government Service Insurance System to purchase the Baguio Convention Center for PHP 250 million, charged against the Baguio City government's 25% share in the lease rentals over Camp John Hay.[42] Under the terms, PHP 50 million would be paid upon its signing, then PHP 35 million every year for 11 years, including a 12% interest on the

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32 Id. at 164.
33 Id. at 165.
34 Id. at 166–172.
35 Id. at 170.
36 Id. at 173.
37 Id. at 721.
38 Id. at 198–223.
39 Id. at 197.
40 Id. at 180–182.
41 Id. at 183–185.
42 Id. at 181.

diminishing balance.[43] Two other PHP 50 million checks had been issued earlier, on February 11, 2004 and August 3, 2008.[44]

However, the Government Service Insurance System did not accept the check issued by the Authority due to the Baguio City government's failure to pay its yearly amortizations from 2005 to 2008, which was considered a breach of the Memorandum of Agreement.[45]

On March 12, 2010, the Authority and John Hay Management Corporation filed before the Regional Trial Court of Baguio City a Petition[46] for declaratory relief, with a prayer for a writ of preliminary injunction.

On March 17, 2010, the Regional Trial Court issued an Order[47] stating that the parties have agreed that the Baguio City government would send notices to the locators to secure their business permits within a week from receipt of the notice. The city mayor may only issue a closure order if the locators fail to comply with the notices.[48]

On March 22, 2010, the Baguio City government issued Notices to Secure Business Permit[49] to the Authority's locators.

The Authority later filed an Amended Petition,[50] to which the Baguio City government filed its Comment/Answer.[51]

On May 13, 2010, the Regional Trial Court rendered a Decision[52] dismissing the Petition. It held that business permits and the payment of fees to the local government unit are of a different character than that of taxes and duties,[53] as revenue generation was not their sole or primary purpose.[54] Moreover, these were so minimal that they could only be used to defray the expenses for regulatory purposes.[55] The trial court concluded that the John Hay Special Economic Zone was exempt from paying local and national taxes, but not from the requirement of business permits.[56]

The trial court further held that neither the Authority nor John Hay

43 Id. at 184.
44 Id. at 721.
45 Id. at 194.
46 Id. at 248–275.
47 Id. at 303. The Order was penned by Judge Cleto R. Villacorta III of Branch 6, Regional Trial Court, Baguio City.
48 Id. at 303.
49 Id. at 224–247.
50 Id. at 308–334.
51 Id. at 339–366.
52 Id. at 108–140.
53 Id. at 120.
54 Id. at 127.
55 Id. at 129–130.
56 Id. at 130.

Management Corporation possessed any police power.[57] Thus, they were not exempted from the local government units' power to require business permits and exact regulatory fees for their issuance.[58]

The Authority and John Hay Management Corporation filed a Motion for Reconsideration,[59] but the Regional Trial Court later issued a June 24, 2010 Order[60] denying it. Aggrieved, they filed before this Court a Petition for Review on *Certiorari*[61] against the Baguio City government.

After the parties had filed their respective Memoranda,[62] petitioners filed a Motion with Leave of Court for the Issuance of a Status Quo Order and/or Injunction.[63] In it, petitioners sought to enjoin respondent from issuing building permits and all other licenses on establishments operating within the John Hay Special Economic Zone while awaiting this Court's resolution on the Petition.[64] They claimed that respondent kept on issuing building permits and occupancy permits to enterprises inside the John Hay Special Economic Zone even if the Philippine Economic Zone Authority should be the one enforcing the provisions of the National Building Code.[65] This act, petitioners said, "invalidly encroaches upon the powers and prerogatives given by law to [the Philippine Economic Zone Authority]."[66]

Respondent countered that the Petition was only dealing with the issuance of business permits, not other permits.[67] They also pointed out that the real party-in-interest to question the city building official's acts was the Philippine Economic Zone Authority, not petitioner Authority.[68]

On August 5, 2013, this Court denied the Motion with Leave of Court for the Issuance of a Status Quo Order and/or Injunction.[69]

In their Memorandum,[70] petitioners argue that the issuance of business permits under City Tax Ordinance No. 2000-001 is "primarily revenue-raising"[71] since before it can be issued, establishments must pay the applicable fees based on their "gross receipts for the fiscal year[.]"[72]

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57 Id. at 130.
58 Id. at 134.
59 Id. at 531–539.
60 Id. at 141–146. The Order is penned by Presiding Judge Cleto R. Villacorta III of Branch 6, Regional Trial Court, Baguio City.
61 Id. at 50–107.
62 Id. at 616–660, 661–703.
63 Id. at 755–764.
64 Id. at 762.
65 Id. at 756–757.
66 Id. at 761.
67 Id. at 783.
68 Id.
69 Id. at 797. The Motion was denied with finality on February 5, 2014.
70 Id. at 620–660.
71 Id. at 645.
72 Id.

Petitioners further claim that the regulation of establishments inside the John Hay Special Economic Zone is exercised by the Philippine Economic Zone Authority, not the local government unit.[73]

Petitioners insist that establishments in the John Hay Special Economic Zone have preferential tax treatment under the law, "neither subject to internal revenue laws and regulations nor to any local tax."[74] They refer to Republic Act No. 7916, which exempts all establishments operating within special economic zones from paying taxes,[75] and Republic Act No. 9399, which declared a one-time amnesty on certain tax and duty liabilities, inclusive of fees, fines, penalties, and interest, to certain business enterprises operating within special economic zones.[76] They also point out that Republic Act No. 9400 categorically granted tax exemptions to the John Hay Special Economic Zone.[77]

Petitioners maintain that in lieu of paying taxes, they practice an income-sharing arrangement with respondent. Through this arrangement, respondent was allegedly able to acquire the Baguio Convention Center and fund its BLIST Projects.[78] They argue that respondent cannot avail of its share in the arrangement and impose business taxes at the same time.[79]

Respondent, on the other hand, claims that the Petition must be denied for raising questions of fact that cannot be addressed in a petition for review on *certiorari*.[80] It also points out that petitioners violated the doctrine of hierarchy of courts since they should have first brought the case before the Court of Appeals.[81]

Respondent asserts that the business permit fees were regulatory in nature since their main purpose "is to regulate trade for efficient and effective governance, and for the promotion of the general welfare[.]"[82] It maintains that since Republic Act No. 7227 did not grant police power to petitioner Authority, respondent has police power over establishments in Baguio City, including establishments in Camp John Hay.[83] Respondent concludes that all businesses within its jurisdiction without business permits are illegally conducting their operations.[84]

From these arguments, this Court first resolves the procedural issue of

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73 Id. at 649.
74 Id. at 652.
75 Id. at 653.
76 Id. at 629.
77 Id. at 653.
78 Id. at 654.
79 Id. at 655.
80 Id. at 676.
81 Id. at 682.
82 Id. at 684.
83 Id. at 690–692.
84 Id. at 692.

whether the Petition for Review on *Certiorari* should be denied for presenting questions of fact and violating the doctrine of hierarchy of courts.

As to the substantive issues, this Court resolves the following:

first, whether statutory exemptions cover exemptions from business permits and license fees;

second, whether the exactions under City Tax Ordinance No. 2000-001, as implemented by Administrative Order No. 102, series of 2009, is a tax, not a regulatory fee; and

finally, assuming that the exactions under City Tax Ordinance No. 2000-001 are fees, whether the Baguio City government has waived collections by virtue of Resolution No. 362, series of 1994.

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The Petition does not present questions of fact.

Generally, a petition for review on *certiorari* under Rule 45 of the Rules of Court must only present questions of law.[85] The exceptions to this rule are stated in *Medina v. Mayor Asistio, Jr.*:[86]

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.[87] (Citations omitted)

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[85] *See* RULES OF COURT, Rule 45, sec. 1, which states:
SECTION 1. Filing of petition with the Supreme Court. — A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

[86] 269 Phil. 225 (1990) [Per J. Bidin, Third Division].

[87] Id. at 232.

Respondent points out that the Petition requires a review of the gross receipts used to compute the license fees.[88]

The issue in this case, however, is whether the payment of fees for a business permit in a special economic zone amounts to a payment of local taxes. Its resolution requires the examination of applicable laws. Reviewing gross receipts to resolve whether entities in a special economic zone are required to pay the fees is unnecessary.

In any case, this Court has full discretion to deny a petition in due course. Rule 45, Section 5 of the Rules of Court states:

> SECTION 5. Dismissal or denial of petition. — . . .
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> The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.

A petition under Rule 45 of the Rules of Court is denominated as a petition for review on *certiorari*, where this Court's review is completely discretionary. *Kumar v. People*[89] explains:

> [Q]uestions raised in a Rule 45 Petition must be of such substance as to warrant consideration is to say that judicial review shall proceed "only when there are special and important reasons." The use of the conjunctive "and" vis-à-vis the adjectives "special" and "important" means that the reasons invoked for review must be of distinctly significant consequence and value. Rule 45, Section 6 (a) and (b) illustrate the gravity of reasons which would move this Court to act:
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> > (a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or
> >
> > (b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.
>
> From these, this Court is better advised to stay its hand and not entertain the appeal when there is no novel legal question involved, or when a case presents no doctrinal or pedagogical value whereby it is opportune for this Court to review and expound on, rectify, modify and/or clarify existing legal policy, or lay out novel principles and delve into unexplored areas of law.

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88 *Rollo*, p. 678.

89 G.R. No. 247661, June 15, 2020 [Per J. Leonen, Third Division].

> This Court may decline to review cases when all that are involved are settled rules for which nothing remains but their application. Also, when there is no manifest or demonstrable departure from legal provisions and/or jurisprudence. So too, when the court whose ruling is assailed has not been shown to have so wantonly deviated from settled procedural norms or otherwise enabled such deviation.
>
> Litigants may very well aggrandize their petitions, but it is precisely this Court's task to pierce the veil of what they purport to be questions warranting this Court's sublime consideration. It remains in this Court's exclusive discretion to determine whether a Rule 45 Petition is attended by the requisite important and special reasons.[90] (Citation omitted)

Nonetheless, since this Petition only presents questions of law, a resort to Rule 45 of the Rules of Court is proper.

Respondent, however, takes exception to petitioners' direct recourse to this Court, arguing that they should have first come to the Court of Appeals to question the Regional Trial Court's ruling.[91]

Under the principle of hierarchy of courts, regional trial court decisions are generally appealable to the Court of Appeals, either through an ordinary appeal under Rule 41 of the Rules of Court or a petition for review under Rule 42.[92] *Aala v. Uy*[93] explains the rationale:

> The doctrine on hierarchy of courts is a practical judicial policy designed to restrain parties from directly resorting to this Court when relief may be obtained before the lower courts. The logic behind this policy is grounded on the need to prevent "inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction," as well as to prevent the congestion of the Court's dockets. Hence, for this Court to be able to "satisfactorily perform the functions assigned to it by the fundamental charter[,]" it must remain as a "court of last resort." This can be achieved by relieving the Court of the "task of dealing with causes in the first instance."[94] (Citations omitted)

This principle applies especially in petitions that present primarily questions of fact or even mixed questions of fact and law. While the trial court, the Court of Appeals, and this Court share original and concurrent jurisdiction over petitions for *certiorari*,[95] each court has a specific and clear

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90 Id. at 6–7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

91 *Rollo*, p. 682.

92 *See Barcenas v. Spouses Tomas*, 494 Phil. 565 (2005) [Per J. Panganiban, Third Division].

93 803 Phil. 36 (2017) [Per J. Leonen, *En Banc*].

94 Id. at 54–55.

95 Batas Pambansa Blg. 129 (1981), secs. 9 and 21. The Judiciary Reorganization Act of 1980.

task under the constitutional order. In *Diocese of Bacolod v. Commission on Elections*:[96]

> The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.
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> The Court of Appeals is primarily designed as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.
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> This court, on the other hand, leads the judiciary by breaking new ground or further reiterating — in the light of new circumstances or in the light of some confusions of bench or bar — existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role.[97] (Citation omitted)

As this Court is not a trier of facts, parties should not resort to us at the first instance in cases where the trial court and the Court of Appeals are better suited to address the factual issues.

The principle of hierarchy of courts, however, is not an unyielding rule of law. Parties may resort directly to this Court "when there are compelling reasons clearly set forth in the petition, or when what is raised is a pure question of law."[98] In *Barcenas v. Spouses Tomas*:[99]

> Section 1 of Rule 45 clearly states that the following may be appealed to the Supreme Court through a petition for review by certiorari:

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96 751 Phil. 301 (2015) [Per J. Leonen, *En Banc*].

97 Id. at 329–330.

98 *Aala v. Uy*, 803 Phil. 36, 57 (2017) [Per J. Leonen, *En Banc*]. (Citations omitted)

99 494 Phil. 565 (2005) [Per J. Panganiban, Third Division].

1) judgments; 2) final orders; or 3) resolutions of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or similar courts, whenever authorized by law. The appeal must involve only questions of law, not of fact.

This Court has, time and time again, pointed out that it is not a trier of facts; and that, save for a few exceptional instances, its function is not to analyze or weigh all over again the factual findings of the lower courts. There is a question of law when doubts or differences arise as to what law pertains to a certain state of facts, and a question of fact when the doubt pertains to the truth or falsity of alleged facts.

Under the principle of the hierarchy of courts, decisions, final orders or resolutions of an MTC should be appealed to the RTC exercising territorial jurisdiction over the former. On the other hand, RTC judgments, final orders or resolutions are appealable to the CA through either of the following: an ordinary appeal if the case was originally decided by the RTC; or a petition for review under Rule 42, if the case was decided under the RTC's appellate jurisdiction.

Nonetheless, *a direct recourse to this Court can be taken for a review of the decisions, final orders or resolutions of the RTC, but only on questions of law*. Under Section 5 of Article VIII of the Constitution, the Supreme Court has the power to

> (2) Review, revise, reverse, modify, or affirm on appeal or *certiorari* as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
>
> . . . .
>
> (e) All cases in which only an error or question of law is involved.

This kind of direct appeal to this Court of RTC judgments, final orders or resolutions is provided for in Section 2(c) of Rule 41, which reads:

> SEC. 2. Modes of appeal. —
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> . . . .
>
> (c) Appeal by *certiorari*. — In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45.[100] (Emphasis supplied, citations omitted)

The doctrine of hierarchy of courts likewise applies in the *immediate* and *direct* resort to this Court, excluding all other tribunals capable of giving relief.

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[100] Id. at 576–577.

Here, however, petitioners invoked this Court's *appellate* jurisdiction through a petition for review on *certiorari* under Rule 45 of the Rules of Court. They had previously resorted to the Regional Trial Court. Thus, the principle of hierarchy of courts would have limited applicability here.

II

Police power and taxation, together with eminent domain, are inherent State powers.[101] These powers may be delegated to local government units through the Constitution or law.[102]

Article X, Section 5 of the Constitution grants local government units the power to levy taxes. The provision reads:

> SECTION 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

The Local Government Code,[103] meanwhile, grants local government units the powers necessary to promote the general welfare. Section 16 provides:

> SECTION 16. General Welfare. — Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Not only can local government units levy local taxes, but they can also impose all other fees necessary to promote the general welfare.

In this case, to resolve the issue of whether a tax-exempt entity can be statutorily exempt from paying business permits or license fees to the local

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[101] *See Land Transportation Office v. City of Butuan*, 379 Phil. 887, 900 (2000) [Per J. Vitug, Third Division].

[102] Id.

[103] Republic Act No. 7160 (1991).

government, it is first necessary to distinguish taxes, business permits, and license fees from one another.

In *Manila Electric Company v. El Auditor General y La Comision de Servicios Publicos*,[104] this Court defined "taxes" as "an enforced contribution of money or other property assessed in accordance with some reasonable rule of apportionment by authority of a sovereign state, on persons or property within its jurisdiction, for the purpose of defraying the public expenses"[105] or "a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or state; burdens or charges imposed by the legislative power upon persons or property to raise money for public purposes."[106] Meanwhile, it defined "fees" as "a reward or compensation allowed by law to an officer for specific services performed by him in the discharge of his official duties; a sum certain given for a particular service; the sum prescribed by law as charge for services rendered by public officers."[107]

Compañia General de Tabacos de Filipinas v. City of Manila[108] further refined these definitions:

> The term "tax" applies — generally speaking — to all kinds of exactions which become public funds. The term is often loosely used to include levies for revenue as well as levies for regulatory purposes. Thus license fees are commonly called taxes. Legally speaking, however, license fee is a legal concept quite distinct from tax; the former is imposed in the exercise of police power for purposes of regulation, while the latter is imposed under the taxing power for the purpose of raising revenues.[109]

In that case, the City of Manila had issued several ordinances: Ordinance No. 3358 required municipal license fees for the privilege to engage in selling liquor or alcoholic beverages, while Ordinance Nos. 3634, 3301, and 3816 imposed taxes on the sales of general merchandise, whether wholesale or retail. Tabacalera, a company duly licensed as a wholesale and retail liquor seller, filed for a refund in what it believed was an overpayment, since it had paid both license fees under Ordinance No. 3358 and sales taxes of its general merchandise under Ordinance Nos. 3634, 3301, and 3816.[110]

This Court explained that the fees exacted in Ordinance No. 3358 were different from those exacted in Ordinance Nos. 3634, 3301, and 3816. Ordinance No. 3358 imposed license fees, which are "for purposes of regulation, and are justified, considering that the sale of intoxicating liquor

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104 73 Phil. 128 (1941) [Per J. Diaz, *En Banc*].
105 Id. at 133 *citing* 26 R. C. L., par. 2, page 13.
106 Id. *citing* 61 C. J., 65.
107 Id. *citing* 25 C. J., 1009.
108 118 Phil. 380 (1963) [Per J. Dizon, *En Banc*].
109 Id. at 383 *citing* MacQuillin, Municipal Corporations, Vol. 9, 3rd Edition, p. 26.
110 Id. at 381.

is, potentially at least, harmful to public health and morals, and must be subject to supervision or regulation by the state and by cities and municipalities authorized to act in the premises."[111] Meanwhile, sales taxes imposed under the other ordinances were "revenue measures enacted by the Municipal Board of Manila by virtue of its power to tax dealers for the sale of such merchandise."[112] Both could be validly imposed on a single entity:

> That Tabacalera is being subjected to double taxation is more apparent than real. As already stated, what is collected under Ordinance No. 3358 is a license fee for the privilege of engaging in the sale of liquor, a calling in which — it is obvious — not anyone or anybody may freely engage, considering that the sale of liquor indiscriminately may endanger public health and morals. On the other hand, what the three ordinances mentioned heretofore impose is a tax for revenue purposes based on the sales made of the same article or merchandise. It is already settled in this connection that both a license fee and a tax may be imposed on the same business or occupation, or for selling the same article, this not being in violation of the rule against double taxation. This is precisely the case with the ordinances involved in the case at bar.[113] (Citation omitted)

This Court has likewise explained that the nomenclature in a statute given to an exaction is not necessarily indicative of whether it is a tax or a fee. In *Calalang v. Lorenzo*:[114]

> The charges prescribed by the Revised Motor Vehicle Law for the registration of motor vehicles are in section 8 of that law called "fees". But the appellation is no impediment to their being considered taxes if taxes they really are. For not the name but the object of the charge determines whether it is a tax or a fee. Generally speaking, taxes are for revenue, whereas fees are exactions for purposes of regulation and inspection and are for that reason limited in amount to what is necessary to cover the cost of the services rendered in that connection. Hence, "a charge fixed by statute for the service to be performed by an officer, where the charge has no relation to the value of the services performed and where the amount collected eventually finds its way into the treasury of the branch of the government whose officer or officers collected the charge, is not a fee but a tax."
>
> From the data submitted in the court below, it appears that the expenditures of the Motor Vehicle Office are but a small portion — about 5 per centum — of the total collections from motor vehicle registration fees. And as proof that the money collected is not intended for the expenditures of that office, the law itself provides that all such money shall accrue to the funds for the construction and maintenance of public roads, streets and bridges. It is thus obvious that the fees are not collected for regulatory purposes, that is to say, as an incident to the enforcement of regulations governing the operation of motor vehicles on public highways, for their express object is to provide revenue with which the Government

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111 Id. at 384. (Citations omitted)

112 Id. *citing* MacQuillin, Municipal Corporations, Vol. 9, 3rd Edition, p. 445.

113 Id. at 384–385 *citing Bentley Gray Dry Goods Co. vs. City of Tampa*, 137 Fla. 641, 188 So. 758 and MacQuillin, Municipal Corporations, Vol. 9, 3rd Edition, p. 83.

114 97 Phil. 212 (1955) [Per J. A. Reyes, *En Banc*].

> is to discharge one of its principal functions — the construction and maintenance of public highways for everybody's use. They are veritable taxes, not merely fees.[115]

Republic v. Philippine Bus Lines[116] likewise clarifies that regulatory fees are a manifestation of police power, rather than of taxation:

> As distinguished from other pecuniary burdens, the differentiating factor is that the purpose to be subserved is the raising of revenue. A tax then is neither a penalty that must be satisfied or a liability arising from contract. Much less can it be confused or identified with a license or a fee as a manifestation of an exercise of the police power. It has been settled law in this jurisdiction as far back as *Cu Unjieng v. Patstone*, decided in 1962, that this broad and all-encompassing governmental competence to restrict rights of liberty and property carries with it the undeniable power to collect a regulatory fee. Unlike a tax, it has not for its object the raising of revenue but looks rather to the enactment of specific measures that govern the relations not only as between individuals but also as between private parties and the political society. To quote from Cooley anew: "Legislation for these purposes it would seem proper to look upon as being made in the exercise of that authority . . . spoken of as the police power."[117] (Citations omitted)

In *Progressive Development Corporation v. Quezon City*,[118] Quezon City adopted Ordinance No. 9236, series of 1972, which imposed upon public market operators a 5% tax on gross receipts on rentals in privately owned public markets in the city. Progressive Development Corporation, the operator of Farmers Market & Shopping Center, contested this tax, arguing that it was a tax on income, which, under the Local Autonomy Act of 1959, Quezon City had no power to do.[119]

This Court held that under the Local Autonomy Act of 1959, local governments had "broad taxing authority extending to almost 'everything, excepting those which are mentioned therein,' provided that the tax levied is 'for public purposes, just and uniform,' does not transgress any constitutional provision and is not repugnant to a controlling statute."[120] It concluded that the 5% tax on gross receipts was not a "tax," but a license fee for the regulation of the business that the payee was engaged in:

> To be considered a license fee, the imposition questioned must relate to an occupation or activity that so engages the public interest in health, morals, safety and development as to require regulation for the protection and promotion of such public interest; the imposition must also bear a reasonable relation to the probable expenses of regulation, taking

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115 Id. at 213–214 *citing* Cooley on Taxation, Vol. 1, 4th ed., p. 110.
116 143 Phil. 158 (1970) [Per J. Fernando, *En Banc*].
117 Id. at 163.
118 254 Phil. 635 (1989) [Per J. Feliciano, Third Division].
119 Id. at 642–643.
120 Id. at 642. (Citation omitted)

into account not only the costs of direct regulation but also its incidental consequences as well. When an activity, occupation or profession is of such a character that inspection or supervision by public officials is reasonably necessary for the safeguarding and furtherance of public health, morals and safety, or the general welfare, the legislature may provide that such inspection or supervision or other form of regulation shall be carried out at the expense of the persons engaged in such occupation or performing such activity, and that no one shall engage in the occupation or carry out the activity until a fee or charge sufficient to cover the cost of the inspection or supervision has been paid. Accordingly, a charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power.

In the case at bar, the "Farmers Market & Shopping Center" was built by virtue of Resolution No. 7350 passed on 30 January 1967 by respondents' local legislative body authorizing petitioner to establish and operate a market with a permit to sell fresh meat, fish, poultry and other foodstuffs. The same resolution imposed upon petitioner, as a condition for continuous operation, the obligation to "abide by and comply with the ordinances, rules and regulations prescribed for the establishment, operation and maintenance of markets in Quezon City."

The "Farmers Market and Shopping Center" being a public market in the sense of a market open to and inviting the patronage of the general public, even though privately owned, petitioner's operation thereof required a license issued by the respondent City, the issuance of which, applying the standards set forth above, was done principally in the exercise of the respondent's police power. The operation of a privately owned market is, as correctly noted by the Solicitor General, equivalent to or quite the same as the operation of a government-owned market; both are established for the rendition of service to the general public, which warrants close supervision and control by the respondent City, for the protection of the health of the public by insuring, *e.g.*, the maintenance of sanitary and hygienic conditions in the market, compliance of all food stuffs sold therein with applicable food and drug and related standards, for the prevention of fraud and imposition upon the buying public, and so forth.

We believe and so hold that the five percent (5%) tax imposed in Ordinance No. 9236 constitutes, not a tax on income, not a city income tax (as distinguished from the national income tax imposed by the National Internal Revenue Code) within the meaning of Section 2 (g) of the Local Autonomy Act, but rather a license tax or fee for the regulation of the business in which the petitioner is engaged. While it is true that the amount imposed by the questioned ordinances may be considered in determining whether the exaction is really one for revenue or prohibition, instead of one of regulation under the police power, it nevertheless will be presumed to be reasonable. Local governments are allowed wide discretion in determining the rates of imposable license fees even in cases of purely police power measures, in the absence of proof as to particular municipal conditions and the nature of the business being taxed as well as other detailed factors relevant to the issue of arbitrariness or unreasonableness of the questioned rates.[121] (Citations omitted)

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[121] Id. at 643–645.

The power to tax may also be exercised in the performance of a police power, if done so to raise revenue. Regulatory fees may still be considered taxes if their purpose was primarily to generate revenue. In *Philippine Airlines v. Edu*:[122]

> Fees may be properly regarded as taxes even though they also serve as an instrument of regulation. As stated by a former presiding judge of the Court of Tax Appeals and writer on various aspects of taxes:
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> > "It is possible for an exaction to be both tax and regulation. License fees are often looked to as a source of revenue as well as a means of regulation. This is true, for example, of automobile license fees. In such case, the fees may properly be regarded as taxes even though they also serve as an instrument of regulation. If the purpose is primarily revenue, or if revenue is at least one of the real and substantial purposes, then the exaction is properly called a tax."
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> Indeed, taxation may be made the implement of the state's police power.
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> If the purpose is primarily revenue, or if revenue is, at least, one of the real and substantial purposes, then the exaction is properly called a tax.[123] (Citations omitted)

However, taxes that accrue to a special fund, while denominated as "tax" and may incidentally earn revenue, are not necessarily taxes if the exaction was due to a primarily regulatory purpose in the exercise of police power. In *Gaston v. Republic Planters Bank*,[124] the issue was whether stabilization fees levied against sugar producers were in the nature of a levy in the exercise of the power to tax. This Court held:

> The stabilization fees collected are in the nature of a tax, which is within the power of the State to impose for the promotion of the sugar industry. They constitute sugar liens. The collections made accrue to a "Special Fund," a "Development and Stabilization Fund," almost identical to the "Sugar Adjustment and Stabilization Fund" created under Section 6 of Commonwealth Act 567. The tax collected is not in a pure exercise of the taxing power. It is levied with a regulatory purpose, to provide means for the stabilization of the sugar industry. The levy is primarily in the exercise of the police power of the State.
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> > "The protection of a large industry constituting one of the great sources of the state's wealth and therefore directly or indirectly affecting the welfare of so great a portion of the population of the State is affected to such an extent by public interests as to be within the police power of the sovereign."

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122 247 Phil. 283 (1988) [Per J. Gutierrez, Jr., *En Banc*].
123 Id at 292.
124 242 Phil. 377 (1988) [Per J. Melencio-Herrera, *En Banc*].

> The stabilization fees in question are levied by the State upon sugar millers, planters and producers for a special purpose — that of "financing the growth and development of the sugar industry and all its components, stabilization of the domestic market including the foreign market." The fact that the State has taken possession of moneys pursuant to law is sufficient to constitute them state funds, even though they are held for a special purpose. Having been levied for a special purpose, the revenues collected are to be treated as a special fund, to be, in the language of the statute, "administered in trust" for the purpose intended. Once the purpose has been fulfilled or abandoned, the balance, if any, is to be transferred to the general funds of the Government. That is the essence of the trust intended.[125] (Citations omitted)

This Court resolved a similar issue in *Osmeña v. Orbos*,[126] which resolved whether the Energy Regulatory Board's order to increase pump prices of petroleum products to answer for the deficits in the oil price stabilization fund was in the nature of taxation. This included the issue of whether the oil price stabilization fund was a tax levied for revenue raising measures. This Court, however, clarified:

> [I]t seems clear that while the funds collected may be referred to as taxes, they are exacted in the exercise of the police power of the State. Moreover, that the OPSF is a special fund is plain from the special treatment given it by E.O. 137. It is segregated from the general fund; and while it is placed in what the law refers to as a "trust liability account," the fund nonetheless remains subject to the scrutiny and review of the COA. The Court is satisfied that these measures comply with the constitutional description of a "special fund." Indeed, the practice is not without precedent.
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> . . . .
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> What petitioner would wish is the fixing of some definite, quantitative restriction, or "a specific limit on how much to tax." The Court is cited to this requirement by the petitioner on the premise that what is involved here is the power of taxation; but as already discussed, this is not the case. What is here involved is not so much the power of taxation as police power. Although the provision authorizing the ERB to impose additional amounts could be construed to refer to the power of taxation, it cannot be overlooked that the overriding consideration is to enable the delegate to act with expediency in carrying out the objectives of the law which are embraced by the police power of the State.[127] (Citation omitted)

Gerochi v. Department of Energy[128] summarizes the distinction between a tax and a fee:

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125 Id. at 382–383.
126 292-A Phil. 848 (1993) [Per CJ. Narvasa, *En Banc*].
127 Id. at 856–857.
128 554 Phil. 563 (2007) [Per J. Nachura, *En Banc*].

> The power to tax is an incident of sovereignty and is unlimited in its range, acknowledging in its very nature no limits, so that security against its abuse is to be found only in the responsibility of the legislature which imposes the tax on the constituency that is to pay it. It is based on the principle that taxes are the lifeblood of the government, and their prompt and certain availability is an imperious need. Thus, the theory behind the exercise of the power to tax emanates from necessity; without taxes, government cannot fulfill its mandate of promoting the general welfare and well-being of the people.
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> On the other hand, police power is the power of the state to promote public welfare by restraining and regulating the use of liberty and property. It is the most pervasive, the least limitable, and the most demanding of the three fundamental powers of the State. The justification is found in the Latin maxims *salus populi est suprema lex* (the welfare of the people is the supreme law) and *sic utere tuo ut alienum non laedas* (so use your property as not to injure the property of others). As an inherent attribute of sovereignty which virtually extends to all public needs, police power grants a wide panoply of instruments through which the State, as *parens patriae*, gives effect to a host of its regulatory powers. We have held that the power to "regulate" means the power to protect, foster, promote, preserve, and control, with due regard for the interests, first and foremost, of the public, then of the utility and of its patrons.
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> The conservative and pivotal distinction between these two powers rests in the purpose for which the charge is made. If generation of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that revenue is incidentally raised does not make the imposition a tax.[129] (Citations omitted)

For a fee to be a valid exercise of police power, therefore, the revenue incidentally generated must not exceed the cost of regulation. In *Ferrer v. Bautista*,[130] this Court nullified a Quezon City ordinance imposing a garbage collection fee, even if it was for a legitimate regulatory purpose, since the ordinance did not consider "factors that could truly measure the amount of wastes generated and the appropriate fee for its collection":[131]

> [A]lthough a special charge, tax, or assessment may be imposed by a municipal corporation, it must be reasonably commensurate to the cost of providing the garbage service. To pass judicial scrutiny, a regulatory fee must not produce revenue in excess of the cost of the regulation because such fee will be construed as an illegal tax when the revenue generated by the regulation exceeds the cost of the regulation.[132] (Citations omitted)

Therefore, as a test to determine if an exaction is a fee or a tax, one must look into the purpose of its collection. If the exaction is made to raise revenue for the government to discharge its principal functions, the exaction is a tax. If the exaction is primarily regulatory, it is a fee, even if it

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129 Id. at 579–580.
130 762 Phil. 233 (2015) [Per J. Peralta, Jr., *En Banc*].
131 Id. at 292.
132 Id. at 283.

incidentally raises revenue, as long as the revenue generated does not exceed the cost of regulation. If the revenue exceeds the regulatory costs, it is a tax.

In this case, what is involved is the payment of a business permit issued by the city mayor. The Local Government Code allows cities to "levy the taxes, fees, and charges which the province or municipality may impose[.]"[133] Under Section 143 of the Local Government Code, municipalities may impose taxes on various businesses. *Petron Corporation v. Tiangco*[134] explains:

> The power of a municipality to impose business taxes derives from Section 143 of the LGC that specifically enumerates several types of business on which it may impose taxes, including manufacturers, wholesalers, distributors, dealers of any article of commerce of whatever nature; those engaged in the export or commerce of essential commodities; retailers; contractors and other independent contractors; banks and financial institutions; and peddlers engaged in the sale of any merchandise or article of commerce. This obviously broad power is further supplemented by paragraph (h) of Section 143 which authorizes the sanggunian to impose taxes on any other businesses not otherwise specified under Section 143 which the sanggunian concerned may deem proper to tax.[135] (Citations omitted)

Petron Corporation further explains that the power to impose business taxes arises from a local government unit's power under the Constitution to create its own sources of revenue and to levy the appropriate fees and taxes:

> This ability of local government units to impose business or other local taxes is ultimately rooted in the 1987 Constitution. Section 5, Article X assures that "[e]ach local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges," though the power is "subject to such guidelines and limitations as the Congress may provide." There is no doubt that following the 1987 Constitution and the LGC, the fiscal autonomy of local government units has received greater affirmation than ever. Previous decisions that have been skeptical of the viability, if not the wisdom of reposing fiscal autonomy to local government units have fallen by the wayside.[136]

It may seem that local government units impose business taxes primarily to generate revenue, which means they would fall under the power of taxation. However, this Court has clarified that business taxes are regulatory in nature, since they are essentially fees paid for the exercise of a privilege. In *Mobil Philippines v. City Treasurer of Makati*:[137]

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133 LOCAL GOVT CODE, sec. 151.
134 574 Phil. 620 (2008) [Per J. Tinga, Second Division].
135 Id. at 632.
136 Id. at 632–633.
137 501 Phil. 666 (2005) [Per J. Quisumbing, First Division].

> Business taxes imposed in the exercise of police power for regulatory purposes are paid for the privilege of carrying on a business in the year the tax was paid. It is paid at the beginning of the year as a fee to allow the business to operate for the rest of the year. It is deemed a prerequisite to the conduct of business.[138]

The confusion is apparent since the imposition of a regulatory fee may sometime manifest as one for revenue generation. In *Procter & Gamble v. Municipality of Jagna*,[139] the Municipality of Jagna had imposed "storage fees" for the all-exportable copra stored in its bodegas. Procter & Gamble, a corporation manufacturing "soap, edible oil, margarine[,] and other similar products," maintained a bodega for the shipment of its copra from Jagna to its manufacturing areas, and was thus charged with storage fees.[140] The company questioned this, saying that it was not exporting copra, but was using its copra to manufacture its products.

This Court held that while the storage fees were in the nature of a "license tax," the exaction was for a regulatory purpose, and hence, was in the exercise of police power:

> Under [Section 1 of Commonwealth Act No. 432], a municipality is authorized to impose three kinds of licenses: (1) a license for regulation of useful occupation or enterprises; (2) license for restriction or regulation of non-useful occupations or enterprises; and (3) license for revenue. It is thus unnecessary, as plaintiff would have us do, to determine whether the subject storage fee is a tax for revenue purposes or a license fee to reimburse defendant Municipality for service of supervision because defendant Municipality is authorized not only to impose a license fee but also to tax for revenue purposes.
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> The storage fee imposed under the question Ordinance is actually a municipal license tax or fee on persons, firms and corporations, like plaintiff, exercising the privilege of storing copra in a bodega within the Municipality's territorial jurisdiction. *For the term "license tax" has not acquired a fixed meaning. It is often used indiscriminately to designate impositions exacted for the exercise of various privileges. In many instances, it refers to "revenue-raising exactions on privileges or activities."*
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> Not only is the imposition of the storage fee authorized by the general grant of authority under section 1 of CA No. 472. Neither is the storage fee in question prohibited nor beyond the power of the municipal councils and municipal district councils to impose, as listed in section 3 of said CA No. 472.
>
> Moreover, the business of buying and selling and storing copra is property the subject of regulation within the police power granted to municipalities under section 2238 of the Revised Administrative Code or the "general welfare clause[.]" . . .

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138 Id. at 672.
139 183 Phil. 453 (1979) [Per J. Melencio-Herrera, First Division].
140 Id. at 455.

. . . .

> For it has been held that a warehouse used for keeping or storing copra is an establishment likely to endanger the public safety or likely to give rise to conflagration because the oil content of the copra when ignited is difficult to put under control by water and the use of chemicals is necessary to put out the fire. And as the Ordinance itself states, all exportable copra deposited within the municipality is "part of the surveillance and lookout of municipal authorities."[141] (Emphasis supplied, citations omitted)

Thus, while the power to impose business taxes is rooted in a local government unit's power to generate its own sources of revenue, the imposition itself is in the exercise of its police power. *Acebedo Optical Clinic v. Court of Appeals*[142] further explains:

> The scope of police power has been held to be so comprehensive as to encompass almost all matters affecting the health, safety, peace, order, morals, comfort and convenience of the community. Police power is essentially regulatory in nature and the power to issue licenses or grant business permits, if exercised for a regulatory and not revenue-raising purpose, is within the ambit of this power.[143]

Business taxes, being a prerequisite to the issuance of a mayor's permit to conduct business, are only one aspect of the issuance. Nonpayment of business taxes will surely hinder the issuance of the mayor's permit, but the Local Government Code itself does not prohibit the local government unit from imposing other conditions before its issuance. In *Acebedo Optical Clinic*:

> [T]he power to issue licenses and permits necessarily includes the corollary power to revoke, withdraw or cancel the same. And the power to revoke or cancel, likewise includes the power to restrict through the imposition of certain conditions. In the case of *Austin-Hardware, Inc. vs. Court of Appeals*, it was held that the power to license carries with it the authority to provide reasonable terms and conditions under which the licensed business shall be conducted. As the Solicitor General puts it:
>
> > If the City Mayor is empowered to grant or refuse to grant a license, which is a broader power, it stands to reason that he can also exercise a lesser power that is reasonably incidental to his express power, *i.e.* to restrict a license through the imposition of certain conditions, especially so that there is no positive prohibition to the exercise of such prerogative by the City Mayor, nor is there

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141 Id. at 459–460.

142 385 Phil. 956 (2000) [Per J. Purisima, *En Banc*].

143 Id. at 969 *citing Procter & Gamble v. Municipality of Jagna*, 183 Phil. 453 (1979) [Per J. Melencio-Herrera, First Division].

> any particular official or body vested with such authority.[144] (Citations omitted)

Business "taxes," thus, are a species of license fees that may be imposed by the local government unit. While incidentally revenue-earning, fees for a mayor-issued business permit are primarily regulatory, since the local government is not precluded from imposing conditions other than the payment of business taxes before the permit is issued. Issuances of business permits are in the exercise of police power.

The question to be resolved, therefore, is whether statutory tax exemptions apply even to those exactions made in the exercise of police power.

Since taxes are the lifeblood of the State, tax exemptions are construed strictly against the claimant. In *Commissioner of Internal Revenue v. Guerrero*:[145]

> The rule applied with undeviating rigidity in the Philippines is that for a tax exemption to exist, it must be so categorically declared in words that admit of no doubt. No such language may be found in the Ordinance. It furnishes no support, whether express or implied, to the claim of respondent Administrator for a refund.
>
> From 1906, in *Catholic Church vs. Hastings* to 1966, in *Esso Standard Eastern, Inc. vs. Acting Commissioner of Customs*, it has been the constant and uniform holding that exemption from taxation is not favored and is never presumed, so that if granted it must be strictly construed against the taxpayer. Affirmatively put, the law frowns on exemption from taxation, hence, an exempting provision should be construed *strictissimi juris*. The state of the law on the subject was aptly summarized in the *Esso Standard Eastern, Inc.* by Justice Sanchez thus: "The drive of petitioner's argument is that marketing of its gasoline product 'is corollary to or incidental to its industrial operations.' But this contention runs smack against the familiar rules that exemption from taxation is not favored, and that exemptions in tax statutes are never presumed. Which are but statements in adherence to the ancient rule that exemptions from taxation are construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. Tested by this precept, we cannot indulge in expansive construction and write into the law an exemption not therein set forth. Rather, we go by the reasonable assumption that where the State has granted in express terms certain exemptions, those are the exemptions to be considered, and no more . . . ."
>
> In addition to Justice Tracey, who first spoke for this Court in the *Hastings* case in announcing "the cardinal rule of American jurisprudence that exemption from taxation not being favored," and therefore "must be strictly construed" against the taxpayer, two other noted American jurists, Moreland and Street, who likewise served this Court with distinction,

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144 Id. at 970–971.

145 128 Phil. 197 (1967) [Per J. Fernando, *En Banc*].

> reiterated the doctrine in terms even more emphatic. According to Justice Moreland: "Even though the complaint in this regard were well founded, it would have little bearing on the result of the litigation when we take into consideration the universal rule that he who claims an exemption from his share of the common burden of taxation must justify his claim by showing that the Legislature intended to exempt him by words too plain to be mistaken." From Justice Street: "Exemptions from taxation are highly disfavored, so much so that they may almost be said to be odious to the law. He who claims an exemption must be able to point to some positive provision of law creating the right. It cannot be allowed to exist upon a vague implication such as is supposed to arise in this case from the omission from Act No. 1654 of any reference to liability for tax. The [illegible] books are full of very strong expressions on this point."[146] (Citations omitted)

The tax exemption claimed, therefore, must be categorically stated in any statute or law. This rule becomes stricter with local taxes, since Section 193 of the Local Government Code provides:

> SECTION 193. Withdrawal of Tax Exemption Privileges. — Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or -controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.

In *National Power Corporation v. City of Cabanatuan*,[147] the National Power Corporation, a government-owned and -controlled corporation, protested the City of Cabanatuan's assessment of franchise tax, arguing that it was a tax-exempt entity. This Court, in finding that the levy of franchise tax was proper, first pointed out that under Section 137 of the Local Government Code, a local government unit may levy franchise taxes "[n]otwithstanding any exemption granted by any law or other special law."[148] This Court explained:

> In its general signification, a franchise is a privilege conferred by government authority, which does not belong to citizens of the country generally as a matter of common right. In its specific sense, a franchise may refer to a general or primary franchise, or to a special or secondary franchise. The former relates to the right to exist as a corporation, by virtue of duly approved articles of incorporation, or a charter pursuant to a

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146 Id. at 200–202.

147 449 Phil. 233 (2003) [Per J. Puno, Third Division].

148 LOCAL GOVT. CODE, sec. 137 states:
SECTION 137. Franchise Tax. — Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.
In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.

special law creating the corporation. The right under a primary or general franchise is vested in the individuals who compose the corporation and not in the corporation itself. On the other hand, the latter refers to the right or privileges conferred upon an existing corporation such as the right to use the streets of a municipality to lay pipes of tracks, erect poles or string wires. The rights under a secondary or special franchise are vested in the corporation and may ordinarily be conveyed or mortgaged under a general power granted to a corporation to dispose of its property, except such special or secondary franchises as are charged with a public use.

In section 131 (m) of the LGC, Congress unmistakably defined a franchise in the sense of a secondary or special franchise. This is to avoid any confusion when the word franchise is used in the context of taxation. As commonly used, a franchise tax is "a tax on the privilege of transacting business in the state and exercising corporate franchises granted by the state." It is not levied on the corporation simply for existing as a corporation, upon its property or its income, but on its exercise of the rights or privileges granted to it by the government. Hence, a corporation need not pay franchise tax from the time it ceased to do business and exercise its franchise. It is within this context that the phrase "tax on businesses enjoying a franchise" in section 137 of the LGC should be interpreted and understood. Verily, to determine whether the petitioner is covered by the franchise tax in question, the following requisites should concur: (1) that petitioner has a "franchise" in the sense of a secondary or special franchise; and (2) that it is exercising its rights or privileges under this franchise within the territory of the respondent city government.[149] (Emphasis supplied, citations omitted)

While this Court did not explicitly state that a franchise tax under the Local Government Code was in the exercise of police power, it unmistakably delineates the context by which the exaction was being levied—while termed "franchise tax," it was not a levy on the corporation's existence, or on its property or income, but on the exercise of a privilege. Its regulatory purpose became even clearer as this Court observed:

Doubtless, the power to tax is the most effective instrument to raise needed revenues to finance and support myriad activities of the local government units for the delivery of basic services essential to the promotion of the general welfare and the enhancement of peace, progress, and prosperity of the people. As this Court observed in the *Mactan* case, "the original reasons for the withdrawal of tax exemption privileges granted to government-owned or controlled corporations and all other units of government were that such privilege resulted in serious tax base erosion and distortions in the tax treatment of similarly situated enterprises." With the added burden of devolution, it is even more imperative for government entities to share in the requirements of development, fiscal or otherwise, by paying taxes or other charges due from them.[150] (Citation omitted)

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[149] *National Power Corporation v. City of Cabanatuan*, 449 Phil. 233, 251–253 (2003) [Per J. Puno, Third Division].

[150] Id. at 261–262.

Since exactions levied by the local government unit under the power of taxation are of a different legal concept from those levied in the exercise of police power, they should also be treated differently when it comes to tax exemptions under any statute.

Thus, "local taxes" in the context of tax exemption statutes should only refer to those taxes levied by the local government unit primarily for revenue generation. Exactions made in the exercise of police power, that is, fees or "taxes" levied for a primarily regulatory purpose, are not included in the exemption, unless the statute categorically provides otherwise. License fees and business permit fees, therefore, are not "local taxes" in tax exemption statutes.

III

The mayor's permit fee is not a tax that establishments within the John Hay Special Economic Zone are exempt from paying.

Republic Act No. 7227, or the Bases Conversion and Development Act of 1992, created petitioner Authority. Section 15[151] of the law authorized the president to create special economic zones in Camp John Hay in Baguio City. Under Executive Order No. 103, series of 1993, the John Hay Development Corporation—later renamed as John Hay Poro Point Development Corporation, then John Hay Management Corporation—was formed as a subsidiary of petitioner Authority to manage the former Camp John Hay,[152] and whose powers and functions would be determined by petitioner Authority.[153]

Under Proclamation No. 420, series of 1994, the president created the John Hay Special Economic Zone over a portion of Camp John Hay. Section 3 had stated that "the zone shall have all the applicable incentives of the Special Economic Zone under Section 12 of Republic Act No. 7227 and those applicable incentives granted in the Export Processing Zones, the Omnibus Investment Code of 1987, the Foreign Investment Act of 1991, and new investment laws that may hereinafter be enacted."[154]

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[151] Republic Act No. 7227 (1992), sec. 15 states in part:
SECTION 15. Clark and Other Special Economic Zones. — . . .
. . . .
Similarly, subject to the concurrence by resolution of the local government units directly affected, the President shall create other Special Economic Zones, in the base areas of Wallace Air Station in san Fernando, La Union (excluding areas designated for communications, advance warning and radar requirements of the Philippine Air Force to be determined by the Conversion Authority) and Camp John Hay in the City of Baguio.

[152] Executive Order No. 103 (1993), sec. 1.

[153] Executive Order No. 103 (1993), sec. 2.

[154] Proclamation No. 420 (1994), sec. 3 states:
SECTION 3. Investment Climate in John Hay Special Economic Zone. — Pursuant to Sections 5 (m) Section 15 of Republic Act No. 7227, the John Hay Poro Point Development Corporation shall implement all necessary policies, rules, and regulations governing the zone, including investment incentives, in consultation with pertinent government departments. Among others, the zone shall have

John Hay Peoples Alternative Coalition v. Lim,[155] however, nullified the second sentence of Proclamation No. 420, Section 3, explaining:

> As gathered from the earlier-quoted Section 12 of R.A. No. 7227, the privileges given to Subic SEZ consist principally of exemption from tariff or customs duties, national and local taxes of business entities therein (paragraphs (b) and (c)), free market and trade of specified goods or properties (paragraph d), liberalized banking and finance (paragraph f), and relaxed immigration rules for foreign investors (paragraph g). Yet, apart from these, Proclamation No. 420 also makes available to the John Hay SEZ benefits existing in other laws such as the privilege of export processing zone-based businesses of importing capital equipment and raw materials free from taxes, duties and other restrictions; tax and duty exemptions, tax holiday, tax credit, and other incentives under the Omnibus Investments Code of 1987; and the applicability to the subject zone of rules governing foreign investments in the Philippines.
>
> While the grant of economic incentives may be essential to the creation and success of SEZs, free trade zones and the like, the grant thereof to the John Hay SEZ cannot be sustained. *The incentives under R.A. No. 7227 are exclusive only to the Subic SEZ, hence, the extension of the same to the John Hay SEZ finds no support therein.* Neither does the same grant of privileges to the John Hay SEZ find support in the other laws specified under Section 3 of Proclamation No. 420, which laws were already extant before the issuance of the proclamation or the enactment of R.A. No. 7227.
>
> More importantly, the nature of most of the assailed privileges is one of tax exemption. It is the legislature, unless limited by a provision of the state constitution, that has full power to exempt any person or corporation or class of property from taxation, its power to exempt being as broad as its power to tax. Other than Congress, the Constitution may itself provide for specific tax exemptions, or local governments may pass ordinances on exemption only from local taxes.
>
> The challenged grant of tax exemption would circumvent the Constitution's imposition that a law granting any tax exemption must have the concurrence of a majority of all the members of Congress. In the same vein, the other kinds of privileges extended to the John Hay SEZ are by tradition and usage for Congress to legislate upon.
>
> *Contrary to public respondents' suggestions, the claimed statutory exemption of the John Hay SEZ from taxation should be manifest and unmistakable from the language of the law on which it is based; it must be expressly granted in a statute stated in a language too clear to be mistaken. Tax exemption cannot be implied as it must be categorically and unmistakably expressed.*

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all the applicable incentives of the Special Economic Zone under Section 12 of Republic Act No. 7227 and those applicable incentives granted in the Export Processing Zones, the Omnibus Investment Code of 1987, the Foreign Investment Act of 1991, and new investment laws that may hereinafter be enacted.

155 460 Phil. 530 (2003) [Per J. Carpio Morales, *En Banc*].

> If it were the intent of the legislature to grant to the John Hay SEZ the same tax exemption and incentives given to the Subic SEZ, it would have so expressly provided in the R.A. No. 7227.[156] (Emphasis supplied, citations omitted)

To cushion the effects of *John Hay Peoples Alternative Coalition*, Congress enacted two laws: Republic Act No. 9399 and Republic Act No. 9400. Republic Act No. 9399 provided a one-time tax amnesty to all registered business enterprises operating within special economic zones before the law took effect.[157]

Republic Act No. 9400 sought to account for the gaps in Republic Act No. 7227 as to the John Hay Special Economic Zone by, as pointed out in *John Hay Peoples Alternative Coalition*, amending several portions of Republic Act No. 7227:

> SECTION 5. A new Section 15-C is hereby inserted, amending Republic Act No. 7227, as amended, to read as follows:
>
> "Sec. 15-C. John Hay Special Economic Zone (JHSEZ). – *Registered business enterprises which will operate after the effectivity of this Act, within the JHSEZ created under Proclamation No. 420, series of 1994, shall be entitled to the same tax and duty incentives as provided for under Republic Act No. 7916*, as amended: Provided, That for the purpose of administering these incentives, the PEZA shall register, regulate, and supervise all registered enterprises within the JHSEZ: Provided, further, That the Conversion Authority and the John Hay Management Corporation (JHMC) shall only engage in acquiring, owning, holding, administering or leasing real properties, and in other activities incidental thereto."

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[156] Id. at 550–552.

[157] Republic Act No. 9399 (2007), sec. 1 states:
SECTION 1. Grant of Tax Amnesty. — Registered business enterprises operating prior to the effectivity of this Act within the special economic zones and freeports created pursuant to SEC 15 of Republic Act No. 7227, as amended, such as the Clark Special Economic Zone created under Proclamation No. 163, series of 1993; Poro Point Special Economic and Freeport Zone created under Proclamation No. 216, series of 1993; John Hay Special Economic Zone created under Proclamation No. 420, series of 1994; and Morong Special Economic Zone created under Proclamation No. 984, series of 1997, may avail themselves of the benefits of remedial tax amnesty herein granted on all applicable tax and duty liabilities, inclusive of fines, penalties, interests and other additions thereto, incurred by them or that might have accrued to them due to the rulings of the Supreme Court in the cases of *John Hay People's* [sic] *Coalition v. Lim*, et al., G.R. No. 119775 dated 23 October 2003 and *Coconut Oil Refiners Association, Inc. v. Torres*, et al., G.R. No. 132527 dated 29 July 2005, by filing a notice and return in such form as shall be prescribed by the Commissioner of Internal Revenue and the Commissioner of Customs and thereafter, by paying an amnesty tax of Twenty-five thousand pesos (P25,000.00) within six months from the effectivity of this Act: Provided, That the applicable tax and duty liabilities to be covered by the tax amnesty shall refer only to the difference between: (i) all national and local tax impositions under relevant tax laws, rules and regulations; and (ii) the five percent (5%) tax on gross income earned by said registered business enterprises as determined under relevant revenue regulations of the Bureau of Internal Revenue and memorandum circulars of the Bureau of Customs during the period covered: Provided, however, That the coverage of the tax amnesty herein granted shall not include the applicable taxes and duties on articles, raw materials, capital goods, equipment and consumer items removed from the special economic zone and freeport and entered in the customs territory of the Philippines for local or domestic sale, which shall be subject to the usual taxes and duties prescribed in the National Internal Revenue Code (NIRC) of 1997, as amended, and the Tariff and Customs Code of the Philippines, as amended.

> SECTION 6. In case of conflict between national and local laws with respect to the tax exemption privileges in the CFZ, PPFZ, JHSEZ and MSEZ, the same shall be resolved in favor of the aforementioned zones: Provided, That the CFZ and PPFZ shall be subject to the provisions of paragraphs (d), (e), (f), (g), (h), and (i) of Section 12 of Republic Act No. 7227, as amended.
>
> SECTION 7. Business enterprises presently registered and granted with tax and duty incentives by the Clark Development Corporation (CDC), Poro Point Management Corporation (PPMC), JHMC, and Bataan Technological Park Incorporated (BTPI), including such governing bodies, shall be entitled to the same incentives until the expiration of their contracts entered into prior to the effectivity of this Act. (Emphasis supplied)

Tax exemptions for establishments operating within a special economic zone are provided for in Republic Act No. 7916, or the Special Economic Zone Act of 1995, as amended. Section 24 provides:

> SECTION 24. Exemption from Taxes Under the National Internal Revenue Code. — Any provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu of paying taxes, five percent (5%) of the gross income earned by all businesses and enterprises within the ECOZONE shall be remitted to the national government. This five percent (5%) shall be shared and distributed as follows:
>
> (a) Three percent (3%) to the national government;
>
> (b) One percent (1%) to the local government units affected by the declaration of the ECOZONE in proportion to their population, land area, and equal sharing factors; and
>
> (c) One percent (1%) for the establishment of a development fund to be utilized for the development of municipalities outside and contiguous to each ECOZONE: Provided, however, That the respective share of the affected local government units shall be determined on the basis of the following formula:
>
> (1) Population — fifty percent (50%);
>
> (2) Land area — twenty-five percent (25%); and
>
> (3) Equal sharing — twenty-five percent (25%).[158]

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[158] This has since been amended by Republic Act No. 8748 (1999). The provision now states:
SECTION 24. Exemption from National and Local Taxes. — Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:
a. Three percent (3%) to the National Government;
b. Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.
The amended provision, however, is *inapplicable* in this case since Section 50 of the law limits its application to economic zones created after Republic Act No. 7227:

The controversy in this case arose from respondent's issuance of Administrative Order No. 102, series of 2009,[159] creating the John Hay Special Economic Zone Task Force to implement City Tax Ordinance No. 2000-001.[160] The Ordinance required establishments inside Baguio City to secure business permits or licenses from the city government, including those within the John Hay Special Economic Zone. Petitioner Authority argues that the Ordinance requires it to pay business taxes, mayor's permit fees, and other charges before a business permit may be issued, running counter to Republic Act No. 7916, which exempts it from paying local tax. Section 2(D) of the Ordinance partly reads:

> D) ISSUANCE OF PERMIT: CONTENTS. — Every permit or license required and authorized by this Ordinance shall be issued by the City Mayor and the City Treasurer on a prescribed form before the business, trade, calling or amusement may be commenced and upon payment of the corresponding business tax, Mayor's permit fee, and such other fee or charge provided for in this Ordinance.[161]

As previously discussed, "local taxes" within the context of tax exemption statutes only refer to those exactions made primarily for revenue generation. It does not include any other "taxes" and fees that may be levied for a primarily regulatory purpose.

Taxes, fees, and charges for business permits within Baguio City are regulatory in nature. The purpose of requiring a business permit is outlined in Section 2(A) of City Tax Ordinance No. 2000-001, which states:

> A) REQUIREMENTS. — *For the proper enforcement of existing laws and ordinances and the supervision of businesses, trades, amusements and others in Baguio City*, it shall be unlawful for any person to engage in any such business, trade, amusement and others of similar nature or have in their possession any of the articles or commodities intended for sale, exchange, storage, or display without first obtaining a permit and paying the taxes, fees, and such other charges required therefor.[162] (Emphasis supplied)

Fees for the issuance of a business permit are also of minimal amounts and could not possibly be for revenue generation. Section 18 of City Tax Ordinance No. 2000-001 provides for the rates of the mayor's permit fee on business:

SECTION 50. Non-Applicability on Areas Covered by Republic Act No. 7227. — This Act shall not be applicable to economic zones and areas already created or to be created under Republic Act No. 7227 or other special laws, and governed by authorities constituted pursuant thereto.

159 *Rollo*, pp. 161–163.

160 Id. at 442–452.

161 Id. at 454.

162 Id. at 453.

SECTION 18. MAYOR'S PERMIT FEE ON BUSINESS. —

Unless specifically provided in this Ordinance, the fees for the issuance of Mayor's Permit for the operation of a business or in the pursuit of a profession or calling shall be based on the amount of the tax or fee paid by the taxpayer, as follows:

When the tax per annum is:	Annual Fee
Less than P300.00	P50.00
P301.00 or more but less than P500.00	P75.00
P501.00 or more but less than P1,000.00	P125.00
P1,001.00 or more but less than P2,000.00	P200.00
P2,001.00 or more but less than P3,000.00	P275.00
P3,001.00 or more but less than P4,000.00	P350.00
P4,001.00 or more but less than P5,000.00	P450.00
P5,001.00 or more but less than P6,000.00	P550.00
P6,001.00 or more but less than P7,000.00	P650.00
P7,001.00 or more but less than P8,000.00	P750.00
P8,001.00 or more but less than P10,000.00	P950.00
Over P10,000.00	P1,000.00[163]

Republic Act No. 7916 grants the Philippine Economic Zone Authority the power to register, regulate, and supervise the enterprises within the special economic zone. Section 13(b) states:

> SECTION 13. General Powers and Functions of the Authority. — The PEZA shall have the following powers and functions:
>
> . . . .
>
> (b) To register, regulate and supervise the enterprises in the ECOZONE in an efficient and decentralized manner[.]

In the exercise of its regulatory power, the Philippine Economic Zone Authority issued Memorandum Circular No. 2004-024, which states that all its registered locator enterprises entitled to fiscal incentives are exempted from having to secure permits from the local government units.[164]

According to the Philippine Economic Zone Authority, its registered locators within the John Hay Special Economic Zone as of March 16, 2010 are only petitioner John Hay Management Corporation and Hillford Property Corporation.[165] All 26 locators[166] ordered by respondent to secure business permits were not entities registered with the Philippine Economic Zone Authority.

Petitioner Authority insists that it was authorized to establish the One

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163 Id. at 488.
164 Id. at 518.
165 Id. at 397.
166 Id. at 224–247.

Stop Action Center for the issuance of permits within the John Hay Economic Zone.[167] Republic Act No. 9400, however, provides:

> SECTION 5. A new Section 15-C is hereby inserted, amending Republic Act No. 7227, as amended, to read as follows:
>
> "Sec. 15-C. John Hay Special Economic Zone (JHSEZ). – Registered business enterprises which will operate after the effectivity of this Act, within the JHSEZ created under Proclamation No. 420, series of 1994, shall be entitled to the same tax and duty incentives as provided for under Republic Act No. 7916, as amended: Provided, *That for the purpose of administering these incentives, the PEZA shall register, regulate, and supervise all registered enterprises within the JHSEZ: Provided, further, That the Conversion Authority and the John Hay Management Corporation (JHMC) shall only engage in acquiring, owning, holding, administering or leasing real properties, and in other activities incidental thereto.*" (Emphasis supplied)

The law clearly states that the Philippine Economic Zone Authority is the entity authorized to "register, regulate, and supervise." Petitioners "shall *only* engage in acquiring, owning, holding, administering or leasing real properties, and in other activities incidental thereto."[168]

Indeed, only government entities possessing legislative powers can exercise police power. In *Metro Manila Development Authority v. Garin*:[169]

> [P]olice power, as an inherent attribute of sovereignty, is the power vested by the Constitution in the legislature to make, ordain, and establish all manner of wholesome and reasonable laws, statutes and ordinances, either with penalties or without, not repugnant to the Constitution, as they shall judge to be for the good and welfare of the commonwealth, and for the subjects of the same.
>
> Having been lodged primarily in the National Legislature, it cannot be exercised by any group or body of individuals not possessing legislative power. The National Legislature, however, may delegate this power to the president and administrative boards as well as the lawmaking bodies of municipal corporations or local government units (LGUs). Once delegated, the agents can exercise only such legislative powers as are conferred on them by the national lawmaking body.
>
> Our Congress delegated police power to the LGUs in the Local Government Code of 1991. A local government is a "political subdivision of a nation or state which is constituted by law and has substantial control of local affairs." Local government units are the provinces, cities, municipalities and barangays, which exercise police power through their respective legislative bodies.[170] (Citations omitted)

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167 Id. at 649.
168 Republic Act No. 9400 (2007), sec. 5.
169 496 Phil. 82 (2005) [Per J. Chico-Nazario, Second Division].
170 Id. at 91–92.

Unless specifically stated in the statute creating it, a development authority such as petitioner Authority is not automatically granted legislative power simply by virtue of its creation. In *Metro Manila Development Authority v. Bel-Air Village Association*,[171] this Court explained that the Metro Manila Development Authority was not imbued by its charter to exercise police power or any form of legislative power:

> It will be noted that the powers of the MMDA are limited to the following acts: formulation, coordination, regulation, implementation, preparation, management, monitoring, setting of policies, installation of a system and administration. There is no syllable in R.A. No. 7924 that grants the MMDA police power, let alone legislative power. Even the Metro Manila Council has not been delegated any legislative power. Unlike the legislative bodies of the local government units, there is no provision in R.A. No. 7924 that empowers the MMDA or its Council to "enact ordinances, approve resolutions and appropriate funds for the general welfare" of the inhabitants of Metro Manila. The MMDA is, as termed in the charter itself, a "development authority." It is an agency created for the purpose of laying down policies and coordinating with the various national government agencies, people's organizations, non-governmental organizations and the private sector for the efficient and expeditious delivery of basic services in the vast metropolitan area. All its functions are administrative in nature and these are actually summed up in the charter itself[.][172] (Citation omitted)

Republic Act No. 7227 created petitioner Authority as a body corporate vested with corporate powers,[173] specifically:

> SECTION 5. Powers of the Conversion Authority. — To carry out its objectives under this Act, the Conversion Authority is hereby vested with the following powers:
>
> (a) To succeed in its corporate name, to sue and be sued in such corporate name and to adopt, alter and use a corporate seal which shall be judicially noticed
>
> (b) To adopt, amend and repeal its bylaws;
>
> (c) To enter into, make, perform and carry out contracts of every class, kind and description which are necessary or incidental to the realization of its purposes with any person, firm or corporation, private or public, and with foreign government entities;
>
> (d) To contract loans, indebtedness, credit and issue commercial papers and bonds, in any local or convertible foreign currency from any international financial institutions, foreign government entities, and local or foreign private commercial banks or similar institutions under terms and conditions prescribed by law, rules and regulations;

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171 385 Phil. 586 (2000) [Per J. Puno, First Division].
172 Id. at 607–608.
173 Republic Act No. 7227 (1992), sec. 3.

(e) To execute any deed of guarantee, mortgage, pledge, trust or assignment of any property for the purpose of financing the programs and projects deemed vital for the early attainment of its goals and objectives, subject to the provisions of Article VII, Section 20, and Article XII, Section 2, paragraphs (4) and (5) of the Constitution;

(f) To construct, own, lease, operate and maintain public utilities as well as infrastructure facilities;

(g) To reclaim or undertake reclamation projects as it may deem necessary in areas adjacent or contiguous to the Conversion Authority's lands described in Section 7 of this Act either by itself or in collaboration with the Public Estates Authority (PEA) established under Presidential Decree No. 1084as amended;

(h) To acquire, own, hold, administer, and lease real and personal properties, including agricultural lands, property rights and interests and encumber, lease, mortgage, sell, alienate or otherwise dispose of the same at fair market value it may deem appropriate;

(i) To receive donations, grants, bequests and assistance of all kinds from local and foreign government and private sectors and utilize the same;

(j) To invest its funds and other assets other than those of the Special Economic Zones under Sections 12 and 15 of this Act in such areas it may deem wise;

(k) To exercise the right of eminent domain;

(l) To exercise oversight functions over the Special Economic Zones declared under this Act and by subsequent presidential proclamations within the framework of the declared policies of this Act;

(m) To promulgate all necessary rules and regulations; and

(n) To perform such other powers as may be necessary and proper to carry out the purposes of this Act.

While petitioner Authority's charter permits it to "promulgate all necessary rules and regulations[,]"[174] these rules and regulations must be in relation to and in the exercise of its corporate powers. Republic Act No. 9400 explicitly states that petitioner Authority "shall *only* engage in acquiring, owning, holding, administering or leasing real properties, and in other activities incidental thereto"[175] within the John Hay Special Economic Zone.

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[174] Republic Act No. 7227 (1992), sec. 5.
[175] Republic Act No. 9400 (2007), sec. 5.

In *Chevron Philippines v. Bases Conversion and Development Authority*,[176] Chevron Philippines (Chevron) challenged Clark Development Corporation's imposition of royalty fees on its fuel deliveries to a locator inside the Clark Special Economic Zone. Chevron argued that nothing in the law authorized Clark Development Corporation to charge such fees. This Court, in resolving that the royalty fees were a regulatory fee in the exercise of police power, explained:

> Being the administrator of CSEZ, the responsibility of ensuring the safe, efficient and orderly distribution of fuel products within the Zone falls on CDC. Addressing specific concerns demanded by the nature of goods or products involved is encompassed in the range of services which respondent CDC is expected to provide under the law, in pursuance of its general power of supervision and control over the movement of all supplies and equipment into the CSEZ.
>
> Section 2 of Executive Order No. 80 provides:
>
> > SEC. 2. Powers and Functions of the Clark Development Corporation. — The BCDA, as the incorporator and holding company of its Clark subsidiary, shall determine the powers and functions of the CDC. Pursuant to Section 15 of RA 7227, the CDC shall have the specific powers of the Export Processing Zone Authority as provided for in Section 4 of Presidential Decree No. 66 (1972) as amended.
>
> Among those specific powers granted to CDC under Section 4 of Presidential Decree No. 66 are:
>
> > (a) To operate, administer and manage the export processing zone established in the Port of Mariveles, Bataan, and such other export processing zones as may be established under this Decree; to construct, acquire, own, lease, operate and maintain infrastructure facilities, factory building, warehouses, dams, reservoir, water distribution, electric light and power system, telecommunications and transportation, or such other facilities and services necessary or useful in the conduct of commerce or in the attainment of the purposes and objectives of this Decree;
> >
> > . . . .
> >
> > (g) To fix, assess and collect storage charges and fees, including rentals for the lease, use or occupancy of lands, buildings, structure, warehouses, facilities and other properties owned and administered by the Authority; and to fix and collect the fees and charges for the issuance of permits, licenses and the rendering of services not enumerated herein, the provisions of law to the contrary notwithstanding;

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176 645 Phil. 84 (2010) [Per J. Villarama, Jr., Third Division].

> (h) For the due and effective exercise of the powers conferred by law and to the . . . [extent] requisite therefor, to exercise exclusive jurisdiction and sole police authority over all areas owned or administered by the Authority. For this purpose, the Authority shall have supervision and control over the bringing in or taking out of the Zone, including the movement therein, of all cargoes, wares, articles, machineries, equipment, supplies or merchandise of every type and description[.][177] (Citation omitted)

In contrast, nothing in Executive Order No. 103, series of 1993, authorizes petitioners to exercise exclusive jurisdiction and sole police authority over all areas owned or administered by petitioner Authority. It merely states:

> SECTION 1. Creation of John Hay Development Corporation. — A body corporate to be known as the John Hay Development Corporation (JHDC) is hereby authorized to be formed as the operating and implementing arm of the BCDA to manage the Club John Hay, formerly known as the John Hay Air Station or Camp John Hay.
>
> The JHDC shall be a subsidiary corporation of the BCDA and shall be formed in accordance with Philippine Corporation Law and existing rules and regulations promulgated by the Securities and Exchange Commission pursuant to Section 16 of RA 7227.
>
> The JHDC shall be subject to the policies, rules and regulations of the BCDA.
>
> SECTION 2. Powers and Functions of the John Hay Development Corporation. — The BCDA, as the incorporator and holding company of its John Hay subsidiary, shall determine the powers and functions of JHDC.
>
> The JHDC shall be exempt from the coverage of the Civil Service laws, rules and regulations.

No statute authorizes petitioners to issue permits or regulate businesses inside the John Hay Special Economic Zone. Neither can they invoke the powers granted only to the Philippine Economic Zone Authority. Without an express grant by law, respondent's police power prevails. Thus, locators within the John Hay Special Economic Zone not duly registered with the Philippine Economic Zone Authority are liable to pay business permit fees to respondent.

IV

Respondent did not waive its right to collect its income allocations or

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[177] Id. at 93–94.

to levy its regulatory fees when its Sangguniang Panlungsod passed Resolution No. 362, series of 1994. Nor did it do so when it agreed to the Memorandum of Agreement over Baguio Convention Center between it and petitioner Authority, as well as the Government Service Insurance System.

Condition 9 of Resolution No. 362 provided for an equitable sharing agreement between petitioner Authority and respondent from the gross income of operations within the John Hay Special Economic Zone. The income apportionment was divided as follows: 3% for the national government, 3% for the Baguio City government, and 1% for the community development fund. Condition 10, meanwhile, states that petitioner Authority shall also allocate 25% of John Hay Poro Point Development Corporation's lease rentals or 30% of its net income from operations within the special economic zone, whichever is higher, to be used for development projects.

Republic Act No. 7916, however, effectively amended the income apportionments to account for the tax exemptions to be enjoyed by establishments within the John Hay Special Economic Zone. Only 5% of the businesses' gross income shall be remitted to the national government:

> SECTION 24. Exemption from Taxes Under the National Internal Revenue Code. — Any provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu of paying taxes, five percent (5%) of the gross income earned by all businesses and enterprises within the ECOZONE *shall be remitted to the national government*. This five percent (5%) shall be shared and distributed as follows:
>
> (a) Three percent (3%) to the national government;
>
> (b) One percent (1%) to the local government units affected by the declaration of the ECOZONE in proportion to their population, land area, and equal sharing factors; and
>
> (c) One percent (1%) for the establishment of a development fund to be utilized for the development of municipalities outside and contiguous to each ECOZONE: Provided, however, That the respective share of the affected local government units shall be determined on the basis of the following formula:
>
> (1) Population — fifty percent (50%);
>
> (2) Land area — twenty-five percent (25%); and
>
> (3) Equal sharing — twenty-five percent (25%). (Emphasis supplied)

As earlier discussed, any local tax exemption enjoyed by duly registered establishments under this provision only refers to local taxes imposed in the exercise of taxation power. Exemptions for any exaction

levied in the exercise of police power are excluded.

Instead of paying national and local taxes, businesses and enterprises within the John Hay Special Economic Zone must remit 5% of their total gross income to the national government, 1% of which would be used for the development of the municipality contiguous to the economic zone.

By petitioner Authority's admission, priority and other related projects of respondent called the BLIST (Baguio, La Trinidad, Itogon, Sablan, and Tuba) Projects were financed by it *from the proceeds of the lease rentals it received from its registered locator, Camp John Hay Development Corporation*, not from the 1% of the 5% gross income of its locators within the John Hay Special Economic Zone.[178] Likewise, petitioner Authority voluntarily entered into a Memorandum of Agreement[179] for the purchase of the Baguio Convention Center on respondent's behalf by using 25% of the lease rentals it received from Camp John Hay:

> WHEREAS, BCDA has agreed to assist the City Government in the acquisition, repair and rehabilitation of the Baguio Convention Center from the 25% share in the lease payments from the developer of Camp John Hay.[180]

Condition 10 of Resolution No. 362 explicitly states:

> 10. ADDITIONAL EARNINGS FOR THE CITY GOVERNMENT
>
> In addition to the above-cited provision, the BCDA shall allocate 25% from JPDC's lease rentals, or 30% from JPDC's net income from all operations within the Zone, whichever is higher, at any given time during the lease period to be used for development projects such as basic infrastructure, socialized housing, peace and order measures and environmental preservation under the joint management of the JPDC and the Baguio City Government.[181]

Thus, petitioner Authority categorically committed to allocate, *in addition* to the income allocation provided by law, 25% of its locators' lease rentals for respondent's development projects. It likewise voluntarily committed to using 25% of the lease rentals for the purchase of Baguio Convention Center on respondent's behalf.

Republic Act No. 7916, Section 24 mandates that 5% of the gross income shall be remitted to the national government in lieu of taxes. Only 1% of the 5% remittance would be allocated for the local government unit

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178 *Rollo*, p. 633.
179 Id. at 394–396.
180 Id. at 394.
181 Id. at 148.

and another 1% of the 5% would be allocated for the local government unit's development projects. Petitioner Authority, however, agreed to pay 25% of its total lease rentals from the John Hay Special Economic Zone, or more that 1% of 5% to Government Service Insurance System for the purchase of the Baguio Convention Center on respondent's behalf.

Considering that petitioner Authority's income-sharing arrangement with respondent was not that which was contemplated by law, it is deemed to have voluntarily entered into the agreement. Because it agreed to help with the acquisition, it cannot now refuse to comply with a valid regulatory issuance of respondent.

ACCORDINGLY, the Petition is **DENIED** for lack of merit. The May 13, 2010 Decision and June 24, 2010 Order of the Regional Trial Court in Civil Case No. 7124-R are **AFFIRMED**. Only business enterprises within the John Hay Special Economic Zone that are registered with the Philippine Economic Zone Authority shall enjoy the tax and duty exemption privileges under Republic Act No. 7916 and Republic Act No. 9400. All unregistered business enterprises within the John Hay Special Economic Zone shall pay all relevant national and local taxes, duties, and fees as may be imposable under national and local laws.

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice