

1st Indorsement
November 24, 2003

Respectfully referred to the City Assessor, Naga City, for appropriate action, the within letter dated August 7, 2003 of Mr. Victor P. Bichara, Jr., General Manager, Victor Bichara & Sons, Inc., 3rd Flr., Emily Theatre Bldg., Peñafrancia Avenue, that city, in effect requesting a ruling on the taxability of the old building situated at Peñafrancia Avenue, Naga City, which was then used as a movie house and other commercial establishments, but was allegedly demolished in the year 2002 for renovation, to pave the way for a modern shopping mall.

The following arguments are submitted for the herein request:

1. That there was no building to tax because the old commercial building which was formerly subject to tax under TD No. 96-001.1238 is being reconstructed/renovated. Only the new building that is being constructed should be taxed;
2. That they should not be assessed for any real property tax during the year 2002 because the old building is no longer existing during that construction period; and
3. Section 217 of R.A 7160 otherwise known as the Local Government Code of 1991 which provides that: x x x real property shall be classified, valued and assessed on the basis of its actual use x x x.

In view hereof and subject to the determination of that Office that the subject building was indeed demolished in 2002, the aforesaid building should no longer be subject to real property tax for the said period; and the assessment thereof shall take effect at the beginning of the quarter next following the reassessment pursuant to Section 221 of the Local Government Code of 1991 which provides as follows:

“SEC. 221. Date of Effectivity of Assessment or Reassessment. – All assessments or re-assessments made after the first (1st) day of January of any year shall take effect on the first (1st) day of January of the succeeding year: Provided, however, That the reassessment of real property due to its partial or total destruction, or to a major change in its actual use, or to any great sudden inflation or deflation of real property values, or to the gross illegality of the assessment when made or any other abnormal cause, shall be made within ninety (90) days from the date any such cause or causes occurred, and shall take effect at the beginning of the quarter next following the reassessment.”

Attached for your information and guidance is the letter dated July 18, 2002 of this Bureau, which similarly treats on the effectivity of re-assessment of dismantled property.

However, if the subject building was not demolished the same shall be subject to real property tax, regardless of whether the company ceased its operation and activity, as clarified under the 1st Indorsement dated October 8, 2002 of this Bureau, copy also attached.

This Bureau, however wants to emphasize that machinery which are temporarily not in operation, although affixed, intact and useful continues, to enjoy exemption from the payment of real property tax, until such time that the company shall be allowed again to operate or continue its business operations, in which case the subject machinery shall then be assessed as taxable real properties effective on the 1st day of January of the year immediately following its resumption of operations.

Be guided accordingly.

MA. PRESENTACION R. MONTESA
Executive Director

*SRP/
CCS # 149-03
Bichara*

November 24, 2003

MR. VICTOR P. BICHARA, JR.

General Manager
Victor Bichara & Sons, Inc.
3rd Flr., Emily Theatre Bldg.
Peñafrancia Avenue
Naga City

S i r :

This refers to your letter dated August 7, 2003, requesting a ruling on the taxability of the old building situated at Peñafrancia Avenue, Naga City, which was used as a movie house and other commercial establishments, but was demolished in the year 2002 for renovation, to pave the way for a modern shopping mall.

In this connection, attached is a copy of our 1st Indorsement of even date addressed to the City Assessor of Naga City, referring the matter for appropriate action.

Rest assured that as soon as the desired action is received, you will be advised accordingly.

Very truly yours,

MA. PRESENTACION R. MONTESA

Executive Director

*SRP/
CCS # 149-03
Bichara*