



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **12 May 2021** which reads as follows:*

**“G.R. No. 246817 (Quezon City, represented by its Mayor, Hon. Herbert M. Bautista and Ms. Ruby Rosa G. Gueverra, in her capacity as Officer-in-Charge-City Treasurer’s Office v. National Transmission Commission). –**

**Antecedents**

On December 14, 2004, the Quezon City Treasurer issued a Letter of Assessment<sup>1</sup> to respondent National Transmission Corporation (TRANSCO), for payment of Three Hundred Seventy-Five Million Three Hundred Ninety-Four Thousand Nine Hundred Sixty-Eight Pesos and Seventy Five Centavos (₱375,394,968.75) as additional business tax including surcharges and penalties for taxable years 2001 to 2003.

By Letter<sup>2</sup> dated February 10, 2005, respondent protested. It argued that as a government instrumentality performing governmental functions, *i.e.*, to act as system operator of the nationwide electrical transmission and sub-transmission system under Republic Act No. 9136 (RA 9136), otherwise known as the “Electric Power Industry Reform Act (EPIRA)<sup>3</sup> Law,” it was exempt from payment of business tax.<sup>4</sup>

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<sup>1</sup> *Rollo*, p. 49.

<sup>2</sup> *Id.* at 51-53.

<sup>3</sup> “AN ACT ORDAINING REFORMS IN THE ELECTRIC POWER INDUSTRY, AMENDING FOR THE PURPOSE CERTAIN LAWS AND FOR OTHER PURPOSES,” approved on June 8, 2001.

<sup>4</sup> *Rollo*, p. 25.

By Letter dated March 2, 2005, the Quezon City Treasurer denied respondent's protest on ground that tax exemption privileges of government-owned or controlled corporations (GOCCs) had already been withdrawn by Section 193, Chapter V, Title 1, Book II of the Local Government Code (LGC).<sup>5</sup>

Respondent thus filed a complaint before the Regional Trial Court (RTC) protesting the assessment.

### **Ruling of the Trial Court**

By Decision<sup>6</sup> dated January 23, 2015, the trial court dismissed the complaint for failure to exhaust the administrative remedies. It held that the Secretary of the Department of Justice (DOJ) had primary jurisdiction to hear and decide respondent's protest pursuant to Presidential Decree No. 242 (PD 242).<sup>7</sup>

Respondent's motion for reconsideration was denied under Resolution<sup>8</sup> dated September 18, 2015.

### **Ruling of the Court of Tax Appeals (CTA)-Division**

On petition for review, the CTA-Division reversed and remanded the case to the RTC.<sup>9</sup>

According to the CTA-Division, between PD 242 and the LGC, the latter was a special law which applies specifically to protesting an assessment issued by the local treasurer. More, PD 242 was signed into law on July 9, 1973, while the LGC took effect on January 1, 1992. Being a

<sup>5</sup> *Id.*

<sup>6</sup> Penned by Judge Santiago M. Arenas, *id.* at 54-69.

In view of the foregoing premises and considerations, the Amended Complaint dated March 12, 2007 of plaintiff National Transmission Corporation (Transco) is hereby dismissed because its filing with the court is premature for failure to exhaust first the administrative remedies available to it under the law, hence, this court has no jurisdiction over the instant case.

SO ORDERED.

<sup>7</sup> "PRESCRIBING THE PROCEDURE FOR ADMINISTRATIVE SETTLEMENT OR ADJUDICATION OF DISPUTES, CLAIMS AND CONTROVERSIES BETWEEN OR AMONG GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, AND FOR OTHER PURPOSES," approved on July 9, 1973.

<sup>8</sup> *Rollo*, pp. 70-71.

<sup>9</sup> Penned by Associate Justice Lovell R. Bautista and concurred in by Associate Justices Esperanza R. Fabon-Victorino and Ma. Belen M. Ringpis-Liban, *id.* at 72-84.

**WHEREFORE**, premises considered, the Petition for Review is hereby **GRANTED**. The January 23, 2015 Decision and the September 18, 2015 Order of the RTC, Branch 217 of Quezon City are hereby **SET ASIDE**. Accordingly, let the case be **REMANDED** to RTC Branch 217 of Quezon City for adjudication on the merits.

**SO ORDERED.**

special law and at the same time, being a later law, the LGC must apply to the present case.<sup>10</sup>

Under Resolution<sup>11</sup> dated May 5, 2017, petitioner's motion for reconsideration was denied.

### **Ruling of the CTA-*En Banc***

In its assailed Decision<sup>12</sup> dated January 4, 2019, the CTA-*En Banc* affirmed.

Petitioner's motion for reconsideration was denied under Resolution<sup>13</sup> dated April 5, 2019.

### **The Present Petition**

Petitioner now asks the Court to exercise its discretionary appellate jurisdiction to reverse the assailed dispositions of the CTA-*En Banc*. It argues, in the main, that the trial court was correct when it dismissed the complaint for being premature because the adjudication of the dispute between the parties falls within the primary jurisdiction of the DOJ pursuant to PD 242.<sup>14</sup>

For its part, respondent ripostes: the LGC prevails over PD 242 and should have been the basis of the RTC in resolving the assailed local tax assessment. PD 242, as amended by Executive Order No. 292 series of 1987 (EO 292),<sup>15</sup> excluded local government units from the coverage of disputes, claims, and controversies between government agencies and offices to be settled by the Secretary of Justice, the Solicitor General or the Government Corporate Counsel.<sup>16</sup>

In its Reply<sup>17</sup> dated October 15, 2020, petitioner maintains that the trial court correctly dismissed respondent's complaint for failure to exhaust administrative remedies.

<sup>10</sup> *Id.* at 76-83.

<sup>11</sup> *Id.* at 24.

<sup>12</sup> Penned by Associate Justice Erlinda P. Uy, concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Esperanza R. Fabon-Victorino, Cielito N. Mindarogrualla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan, *id.* at 23-37.

**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit. The Decision dated February 28, 2017 and the Resolution dated May 5, 2017 rendered by the Court in Division in CTA AC No. 165 are **AFFIRMED**.

**SO ORDERED.**

<sup>13</sup> *Id.* at 46-48.

<sup>14</sup> *Id.* at 7-15.

<sup>15</sup> "Administrative Code of 1987," effective on November 24, 1989.

<sup>16</sup> *Id.* at 96-107.

<sup>17</sup> *Id.* at 110-114.

### Core Issue

Did the CTA-*En Banc* commit reversible error when it affirmed the CTA-Division and ruled that the RTC had jurisdiction to hear respondent's protest?

### Ruling

PD 242 provides that all disputes and claims *solely* between government agencies and offices, including GOCCs, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.<sup>18</sup> Its purpose is to provide for a speedy and efficient administrative settlement or adjudication of disputes between government offices or agencies under the Executive branch, as well as to filter cases to lessen the clogged dockets of the courts.<sup>19</sup>

PD 242 is now embodied in Chapter 14, Book IV of EO 292, otherwise known as the "Administrative Code of 1987," which took effect on November 24, 1989. The pertinent provision reads:

Chapter 14  
Controversies Among Government  
Offices and Corporations

**SEC. 66. *How Settled.* – All disputes, claims and controversies, solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including**

<sup>18</sup> Sections 1, 2, and 3 of PD 242 read:

Section 1. Provisions of law to the contrary notwithstanding, all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies, arising from the interpretation and application of statutes, contracts or agreements, shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That, this shall not apply to cases already pending in court at the time of the effectivity of this decree.

Section 2. In all cases involving only questions of law, the same shall be submitted to and settled or adjudicated by the Secretary of Justice, as Attorney General and ex officio adviser of all government owned or controlled corporations and entities, in consonance with Section 83 of the Revised Administrative Code. His ruling or determination of the question in each case shall be conclusive and binding upon all the parties concerned.

Section 3. Cases involving mixed questions of law and of fact or only factual issues shall be submitted to and settled or adjudicated by:

(a) The Solicitor General, with respect to disputes or claims [or] controversies between or among the departments, bureaus, offices and other agencies of the National Government;

(b) The Government Corporate Counsel, with respect to disputes or claims or controversies between or among the government-owned or controlled corporations or entities being served by the Office of the Government Corporate Counsel; and

(c) The Secretary of Justice, with respect to all other disputes or claims or controversies which do not fall under the categories mentioned in paragraphs (a) and (b).

<sup>19</sup> *Power Sector Assets and Liabilities Management Corp. v. Commissioner of Internal Revenue*, 815 Phil. 966, 994 (2017).

**government-owned or controlled corporations**, such as those arising from the interpretation and application of statutes, contracts or agreements, shall be administratively settled or adjudicated in the manner provided in this Chapter. **This Chapter shall, however, not apply to disputes involving the Congress, the Supreme Court, the Constitutional Commissions, and local governments.** (Emphasis supplied)

*Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*<sup>20</sup> explained that “PD 242 is only applicable to disputes, claims, and controversies **solely** between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations, and where no private party is involved. **In other words, PD 242 will only apply when all the parties involved are purely government offices and government-owned or controlled corporations.**” In that case, the dispute was between, on one hand, PSALM and NPC, both government owned and controlled corporations, and on the other, BIR which is a National Government office. The Court, thus, held that PD 242 was applicable and the Secretary of Justice has jurisdiction over the case.

Here, the dispute is between petitioner, a local government unit, and respondent, a government instrumentality,<sup>21</sup> hence it is not covered by PD 242 as amended by EO 292.

More, as the CTA-*En Banc* correctly held, PD 242 as amended by EO 292 expressly exempts local governments from the coverage of administrative settlement or adjudication of disputes, claims and controversies between and among government offices, agencies, and instrumentalities. A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application.<sup>22</sup>

Applying the foregoing rules and jurisprudence here, respondent’s protest against petitioner’s assessment is not subject and need not go through the administrative process of exhaustion of remedies.

### **The RTC has jurisdiction to hear respondent’s case**

Section 195, Chapter 6, Title 1, Book II of the LGC provides:

SECTION 195. *Protest of Assessment.* — When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature

<sup>20</sup> *Id.* at 995.

<sup>21</sup> See *National Transmission Commission v. Commission on Audit*, 826 Phil. 405 (2018).

<sup>22</sup> *Padilla v. Congress of the Philippines*, 814 Phil. 344, 383 (2017).

of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. **The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.**<sup>23</sup> (Emphasis supplied)

The LGC, however, does not mention to which “court of competent jurisdiction” should the appeal be taken. On this score, *China Banking Corporation v. City Treasurer of Manila*<sup>24</sup> explains:

[T]he Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer. On the other hand, Section 22 of B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts. Unlike in the case of the Court of Appeals, B.P. 129 does not confer appellate jurisdiction on Regional Trial Courts over rulings made by non-judicial entities.

x x x x

Republic Act No. 9282<sup>25</sup> definitively proves in its Section 7(a)(3) that the CTA exercises exclusive appellate jurisdiction to review on appeal decisions, orders or

<sup>23</sup> Republic Act No. 7160, otherwise known as the “Local Government Code of 1991,” approved on October 10, 1991.

<sup>24</sup> 762 Phil. 509, 524-526 (2015), citing *Yamane v. BA Lepanto Condominium Corporation*, 510 Phil. 750 (2005).

<sup>25</sup> Sec. 7. Jurisdiction. - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x x

3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

x x x x

2. Exclusive appellate jurisdiction in tax collection cases:

a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.

b. Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction.

resolutions of the Regional Trial Courts in local tax cases original decided or resolved by them in the exercise of their original or appellate jurisdiction. x x x

Clearly, with the passage of R.A. No. 9282, the authority to exercise either original or appellate jurisdiction over local tax cases depended on the amount of the claim. In cases where the RTC exercises appellate jurisdiction, it necessarily follows that there must be a court capable of exercising original jurisdiction – otherwise there would be no appeal over which the RTC would exercise appellate jurisdiction. The Court cannot consider the City Treasurer as the entity that exercises original jurisdiction not only because it is not a “court” within the context of Batas Pambansa (B.P.) Blg. 129, but also because, as explained above, “B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts.” Verily, unlike in the case of the CA, B.P. 129 does not confer appellate jurisdiction on the RTC over rulings made by non-judicial entities. The RTC exercises appellate jurisdiction only from cases decided by the Metropolitan, Municipal, and Municipal Circuit Trial Courts in the proper cases. The nature of the jurisdiction exercised by these courts is original, considering it will be the first time that a court will take judicial cognizance of a case instituted for judicial action.

Indeed, in cases where the amount sought to be refunded is below the jurisdictional amount of the RTC, the Metropolitan, Municipal, and Municipal Circuit Trial Courts are clothed with ample authority to rule on such claims. x x x

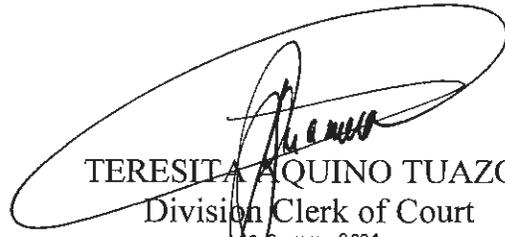
In *China Banking Corporation*, petitioner’s claims for refund were below the jurisdictional amount of the RTC. As such, the Court ruled that petitioner should have filed its claim for refund with the first level courts.

Here, the amount of assailed assessment is Three Hundred Seventy-Five Million Three Hundred Ninety-Four Thousand Nine Hundred Sixty-Eight Pesos and Seventy-Five Centavos (₱375,394,968.75) or within the jurisdictional amount of the RTC. Thus, the RTC is the “competent court” which has jurisdiction over respondent’s complaint.

**WHEREFORE**, the petition is **DENIED**. The assailed Decision dated January 4, 2019 and Resolution dated April 5, 2019 of the Court of Tax Appeals-*En Banc* in CTA EB No. 1657 are **AFFIRMED**.

**SO ORDERED.**” (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021)

By authority of the Court:



TERESITA AQUINO TUAZON  
Division Clerk of Court  
09 JUL 2021

OFFICE OF THE CITY ATTORNEY (reg)  
Counsel for Petitioners  
7/F, Quezon City Hall Building  
1101 Diliman, Quezon City

OFFICE OF THE GOV'T CORPORATE COUNSEL (reg)  
Counsel for Respondent Transco  
3<sup>rd</sup> Floor, MWSS Building  
Katipunan Road, Balara  
Quezon City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 217  
Quezon City  
(Civil Case No. 05-55072)

COURT OF TAX APPEALS (reg)  
National Government Center  
Agham Road, 1104 Diliman  
Quezon City  
CTA EB No. 1657  
C.T.A Case No. 165

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