REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

JETTI PETROLEUM, INC.,
Petitioner,

CTA AC NO. 211

Members:

- versus -

CASTAÑEDA, JR.,Chairperson,
and **MINDARO-GRULLA**, *JJ.*

MS. EMERLINDA S. TALENTO, in her capacity as Provincial Treasurer of the Province of Bataan, ENGR. RICARDO C. HERRERA, in his capacity as Provincial Assessor of the Province of Bataan, and ATTY. EFREN C. LIZARDO, in his capacity as Provincial Legal Officer of the Province of Bataan,
Respondents.

Promulgated:

FEB 18 2019

9:05 a.m.

x---x

RESOLUTION

For resolution of this Court is petitioner's **Application for Suspension Order, TRO, WPI or any other Protective Order** prayed for in its Petition for Review filed on November 20, 2018, with respondents' **Comment with Opposition to Application for Suspension Order** filed through registered mail on January 18, 2019.

On December 6 and January 10, 2019, petitioner filed its respective Urgent Motion to Set for Hearing (Re: Petitioner's Application for Suspension Order, TRO, WPI or any other Protective Order). On January 11, 2019, the Court ordered respondents to file their comment, while on January 14, 2019, the Court set the same for hearing on January 17, 2019.

Meanwhile, on February 11, 2019, petitioner filed its Reply (Re: Respondents' Comment and Opposition dated 17 January 2019).

During the hearing, petitioner presented its witness, Mr. Leo P. Bellas, and orally offered Exhibits "P-1" to "P-4" which were admitted by the Court. Consequently, the instant motion was deemed submitted for resolution.

Petitioner argues that it will suffer grave and irreparable damage and injury consisting of: (1) disruption in the supply of cheap fuel in the entire Northern Luzon region; (2) immediate and substantial loss of business operations; (3) severance from employment of its twenty-two (22) employees; (4) business disruption; (5) besmirched business reputation here and abroad; (6) immense loss of business goodwill and character; and (7) loss of business opportunities.

On the other hand, respondents argue that: (1) petitioner availed itself of the improper remedy in seeking recourse with the Regional Trial Court; (2) petitioner is utterly mistaken in equating the reasonableness of an assessment with the power or authority to assess; (3) there are factual considerations precluding the direct resort to judicial relief; and (4) tax exemptions are strictly construed against the one claiming it.

The Court shall first determine whether it has jurisdiction over the Petition before it can rule over the instant motion.

In ruling against petitioner, the lower court declared that:

> "In National Power Corp. v. Province of Quezon, the Supreme Court had occasion to place the Ty and Olivarez cases in their proper perspective. More importantly, the Supreme Court in that case declared in no uncertain terms that '[a] claim for tax exemption, whether full or partial, does not question the authority of local assessors to assess real property tax.' It was held that:

> 'By providing that real property not declared and proved as tax-exempt shall be included in the assessment roll, the above-quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim. Since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252, particularly the requirement of payment under protest. Napocor's failure to prove that this requirement has been complied with thus renders its administrative protest under Section 226 of the LGC without any effect. No protest shall be entertained unless the taxpayer first pays the tax.'

Hence, it is clear that the legality of the assessment is not put in issue by a taxpayer's claim that it is exempt from tax. By claiming exemption from realty taxation, petitioner is simply raising a question of the correctness of the assessment that the remedy of prohibition and mandamus would be improper. Petitioner should have availed of its administrative remedies under the Local Government Code instead."

The Court fully agrees with the lower court. Indeed, the categorical declaration of the Supreme Court in the *Napocor* case cited in the assailed decision dictates that the proper remedy of petitioner is to avail the remedies provided for under the Local Government Code (LGC). In addition, a claim for real property tax exemption, as in this case, requires only a factual determination of whether the properties involved are exempt, *i.e.*, compliance with Section 206 of the LGC, which provides:

"SEC. 206. *Proof of Exemption of Real Property from Taxation.* - Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, bylaws, contracts, affidavits, certifications and mortgage deeds, and similar documents. If the

> required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll."

Thus, Section 206 of the LGC simply requires the presentation of documentary evidence in support of a claim for exemption, within thirty (30) days from the date of the declaration of real property, in order for the subject property not to be listed in the assessment roll. Should the taxpayer fail to do so, the same law affords the taxpayer an opportunity to still claim for exemption by providing proof in support thereof.

Considering that the issues involved are merely factual in nature, it necessarily follows that petitioner is merely questioning the correctness of the assessment. Thus, petitioner committed an error when it resorted directly to the lower court. Consequently, this Court has no jurisdiction to entertain the instant Petition because it is the decision of the Central Board of Assessment Appeals which is appealable to this Court. Section 7(a)(5) of the 2005 Revised Rules of the CTA, as amended, provides:

> "SEC. 7. *Jurisdiction.* – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> xxx xxx xxx
>
> (5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;"

Finally, considering that the Court has no jurisdiction over the Petition, the Court likewise has no jurisdiction to rule over the instant motion. Hence, the Court sees no cogent reason to disturb the conclusions reached by the lower court.

WHEREFORE, the instant Petition for Review is **DISMISSED**, for lack of jurisdiction. Accordingly, the assailed Resolutions dated August 7, 2018 and October 25, 2018, respectively, are **AFFIRMED**.

SO ORDERED.

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice