REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

SANGGUNIANG PANGLUNGSOD OF THE CITY OF MAKATI, JEJOMAR BINAY AND NELIA A. BARLIS, in their capacities as Mayor and Treasurer, respectively, Petitioners,	**CTA AC NO. 70**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **CASANOVA,** *and* **MINDARO-GRULLA,** *JJ.*
CHEVRON HOLDINGS, INC., Respondent.	**Promulgated:** OCT 21 2011 4:00 p.m.

x- x

DECISION

CASTAÑEDA, JR., J.:

This is an appeal pursuant to Section 3(a)(3) of Rule 4 of the Revised Rules of the Court of Tax Appeals from the Decision dated September 10, 2010 and the Order dated November 18, 2010 rendered by Presiding Judge Eugene C. Paras of the Regional Trial Court (RTC), Branch 58, Makati City.

Petitioner Sangguniang Panglungsod of the City of Makati is the local legislative body in Makati City empowered to enact ordinances intended to promote the general welfare of the inhabitants of the City. The said body is sued together with its then Mayor Hon. Jejomar C. Binay and Treasurer Ms.

Nelia A. Barlis, in their official capacities to enforce laws and regulations relative to the governance of and the exercise of corporate powers by the City. All of the named petitioners hold office at Makati City Hall, J.P. Rizal Street, Makati City.

On the other hand, respondent Chevron Holdings, Inc. is duly licensed by the Security and Exchange Commission (SEC) to transact business in the Philippines as a regional operating headquarters (ROHQ). It established a shared services center in the Philippines and has been operating as a ROHQ in Makati City since September 21, 2004.[1]

The significant factual antecedents as narrated by RTC Branch 58 are as follows:

> On January 1, 2006, the Revised Makati Revenue Code (RMRC) took effect.
>
> The City Assessor's Office charged petitioner[2] business taxes amounting to P6,209,060.54 in addition to P12,400.00 in regulatory fees, or a total bill of P6,221,460.54 for issuance of the Mayor's permit. The regulatory fees were paid on January 31, 2006 which sum was accepted by the city government and the mayor's permit was accordingly issued.
>
> On January 31, 2006, Chevron filed an appeal before the Department of Justice (DOJ) to question the constitutionality and legality of the Code, particularly on the provision that withdraws the tax exemption privileges granted to ROHQ's under Article 66 of the Omnibus Investments Code of 1987 as amended by Section 6, of R.A. 8756.
>
> The aforesaid appeal was initially dismissed prompting appellant to file a petition for nullification before the Regional Trial Court of Makati. The case was raffled off to Branch 134. Meanwhile, appellant filed a Motion for Reconsideration of the said dismissal by the DOJ.

---

[1] Docket, p. 19
[2] Chevron Holdings, Inc.

> In a Resolution dated June 2, 2006, the DOJ granted appellant's motion for reconsideration. The said resolution also declared Section 7C.06 of the RMRC as null and void since it is not in harmony with Sec. 6 of R.A. 8756 insofar as it removed the local tax exemption privileges of regional operating headquarters.
>
> The City of Makati failed to appeal the aforesaid resolution. Hence, said resolution is deemed final, conclusion *(sic)* and unappealable.
>
> On June 6, 2006, Chevron received an assessment letter from the City Treasurer dated May 26, 2006 demanding payment of P7,295,646.13 as deficiency business taxes, fees and charges. Chevron filed a protest of assessment on August 1, 2006. On September 6, 2006, Chevron received a letter from the City Treasurer denying the protest of assessment. Hence, this appeal.[3]

In a Decision dated September 10, 2010, RTC Branch 58 reversed and set aside the City Treasurer's denial of Chevron's protest of assessment, declared the notice of assessment null and void, and directed petitioners to cancel the same.

Aggrieved, petitioners filed their Motion for Reconsideration[4] dated October 14, 2010 but the same was denied by RTC Branch 58 in the Order dated November 18, 2010.[5] Hence, the instant Petition for Review[6] filed on December 15, 2010 ascribing the following errors allegedly committed by the court *a quo*, namely: (1) in taking cognizance of the instant case; and (2) in directing petitioners to cancel the subject notice of assessment.

After respondent filed its "Comment"[7] on February 3, 2011, the Court ordered the parties to file their simultaneous memoranda in the Resolution

---

[3] Docket, pp. 19-20
[4] Docket, pp. 21-23
[5] Docket, p. 24
[6] Docket, pp. 4-17
[7] Docket, pp. 41-56

dated February 25, 2011.[8] Thereafter, this case was submitted for decision on May 10, 2011 taking into consideration the "Memorandum (For Respondent)" filed on April 29, 2011 and the "Memorandum (for the Petitioners)" filed on May 5, 2011.[9]

In support of the assigned errors, petitioners argue that although respondent used the protest against the assessment as basis of its appeal before the RTC Branch 58, the latter was actually questioning the legality of the provision of Section 7C.06 of the Revised Makati Revenue Code. It is petitioners assertion that the issue of constitutionality or unconstitutionality of a local ordinance may not be invoked as a ground to protest the assessment under Section 195 of the Local Government Code (LGC); that an appeal based on the said provision of the LGC should be one contesting the contents or factuality of an assessment issued by the local treasurer; and that it is within the province of the Secretary of Justice to decide whether the subject Section 7C.06 of the RMRC is constitutional pursuant to Section 187 of the LGC as emphasized under Article 275 of its Implementing Rules and Regulations.

Petitioners further aver that although there was a Resolution dated June 2, 2006 made by the Secretary of Justice on respondent's appeal questioning the constitutionality of the said provision of the RMRC, the same did not attain finality because even before the release of the said Resolution, respondent withdrew its Petition before the Department of Justice (DOJ).

---

[8] Docket, p. 92
[9] Docket, p. 130

Respondent argues, among others, that the remedies of appeal under Section 187 of the LGC and protest under Section 195 of the LGC are not mutually exclusive and the taxpayer may resort to them concurrently. Thus, if the Sanggunian passed an unconstitutional ordinance and the local treasurer subsequently enforced the same by way of notice of assessment, then the taxpayer is obliged to file both an appeal to the Secretary of Justice and a protest of assessment within the prescribed periods, otherwise, both the ordinance and assessment become conclusive and unappealable. Accordingly, both the appeal to the Secretary of Justice and the protest of assessment are subject to judicial review.

Respondent also asserts that the provisions of Section 195 neither suggest nor limit the grounds to protest the denial of a taxpayer's notice of assessment; that said section merely stipulates the procedure for filing the protest of assessment and the judicial recourse therefrom; and it is silent with respect to the manner or basis of contesting the assessment, hence, it has the right to invoke the constitutional grounds to question the propriety of a notice of assessment. The fact that it questioned the constitutionality of the RMRC in its appeal to the Secretary of Justice does not divest respondent of its right to use the same grounds in contesting the City Treasurer's notice of assessment since the City Treasurer derives her authority to issue the assessment from RMRC.

Further, respondent asserts that since the Secretary of Justice already declared Section 7C.06 of the RMRC void, and such declaration has become final, conclusive and unappealable, there is no legal basis for the City Treasurer to impose local business taxes. Therefore, the trial court acted in accordance with law in granting its appeal for the cancellation of the notice of assessment.

Petitioners raised the following assignment of errors for this Court's resolution:

> "I. Whether or not the Honorable Trial Court *a quo* gravely erred in taking cognizance of the instant case.
>
> II. Whether or not the Honorable Regional Trial Court *a quo* gravely erred in directing the petitioners to cancel the subject notice of assessment."

The resolution of the first issue hinges on the application of Section 195 of Republic Act No. 7160, otherwise known as the Local Government Code (LGC) of 1991, considering that the appealed case springs from the assessment letter of the City Treasurer of Makati dated May 26, 2006; which demanded from Chevron the payment of the alleged deficiency business taxes, fees and charges in the amount of P7,295,646.13. Section 195 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 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 canceling 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

92

the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable."

Applying the foregoing provision of the LGC to the case at bar reveals that from the receipt of the assessment letter on June 6, 2006, respondent has sixty days or until August 6, 2006 to file its protest with the local treasurer; hence, its protest on August 1, 2006 was timely filed.

At this juncture, it is fitting to pass upon the issue raised by petitioners as regards the propriety of the contents of the protest.

Petitioners argued that the constitutionality of Section 7C.06 of RMRC may not be invoked as a ground to protest the assessment under Section 195 of the LGC and that an appeal based on the said provision should be one contesting the contents or factuality of an assessment issued by the local treasurer.

The said view of petitioners must be rejected.

As correctly argued by respondent, Section 195 does not enumerate nor restrict a protest of assessment to specific grounds; thus, respondent has the right to raise as an issue the constitutionality of the tax ordinance, which became the sole basis of the disputed assessment.

With respect to respondent's appeal with the RTC Branch 58, the same was appropriately and seasonably filed. From respondent's receipt of the denial by the City Treasurer of its protest on September 6, 2006, respondent filed its appeal on October 6, 2006, which is within the 30-day period to appeal before a court of competent jurisdiction.

It is noteworthy that Section 195 of the LGC merely provides that the taxpayer shall have thirty (30) days within which to appeal with the court of competent jurisdiction, without specifying the court which has exclusive jurisdiction over appeals from the denial or inaction of the local treasurer on local tax cases. In such case, the RTC has the exclusive original jurisdiction as duly conferred by Section 19 of Batas Pambansa Blg. 129 (as amended by Republic Act No. 7691) otherwise known as "The Judiciary Reorganization Act of 1980", which provides:

> "SEC. 19. *Jurisdiction in civil cases.* — **Regional Trial Courts shall exercise exclusive original jurisdiction**:
>
> (1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;
>
> (2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;
>
> (3) In all actions in admiralty and maritime jurisdiction where the demand or claim exceeds One hundred thousand pesos (P100,000.00) or , in Metro Manila, where such demand or claim exceeds Two hundred thousand pesos (200,000.00);
>
> (4) In all matters of probate, both testate and intestate, where the gross value of the estate exceeds One hundred thousand pesos (P100,000.00) or, in probate matters in Metro Manila, where such gross value exceeds Two hundred thousand pesos (200,000.00);
>
> (5) In all actions involving the contract of marriage and marital relations;
>
> (6) **In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction or any court, tribunal, person or body exercising judicial or quasi-judicial functions**;

(7) In all civil actions and special proceedings falling within the exclusive original jurisdiction of a Juvenile and Domestic Relations Court and of the Court of Agrarian Relations as now provided by law; and

(8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand pesos (100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items exceeds Two hundred thousand pesos (200,000.00)." *(Emphasis supplied)*

Therefore, in response to the first issue raised by petitioners, this Court finds that the RTC did not err in taking cognizance of the case since the same is within its jurisdiction.

Anent the issue of whether or not the court *a quo* gravely erred in directing petitioners to cancel the subject notice of assessment, the same should be answered in the negative.

It is undisputed that the Secretary of Justice issued a Resolution[10] on June 2, 2006 in the case entitled *Chevron Holdings Inc. versus City Government of Makati and/or Business Permits Office, MTO-OSJ Case No. 08-2006,* declaring Section 7C.06 invalid insofar as it withdrew the tax exemption privileges enjoyed by respondent under Section 6 of Republic Act No. 8756.

Chevron filed before the DOJ a Motion to Withdraw on the ground that on June 21, 2006 it filed a petition for nullification before RTC Branch 134, but the motion was returned without action via DOJ Order dated July 13, 2006 since there was already a DOJ Resolution issued on June 2, 2006.[11]

---

[10] RTC Branch 58 Records, pp. 45-50
[11] RTC Branch 58 Records, p. 254

The City of Makati filed a Motion for Reconsideration of the said June 2, 2006 Resolution, but the same was returned by the DOJ without action in an Order dated August 28, 2006, which was received by the City of Makati on September 6, 2006.[12]

Concerning the incident before RTC Branch 134, upon which the Petition for Nullification of Chevron was raffled, the said RTC issued the Order[13] dated April 11, 2007, stating the following:

> "In the subject Order, **this Court has already observed that the petitions filed before the DoJ and with this Court are the same and the present petition was dismissed for the reason, among others, that the DoJ resolution declaring the subject provision invalid was never questioned. In effect such finding rendered this petition moot which obviously deserves dismissal**. In fact the Court has amply discussed in the questioned Order that **this petition could not be treated as an appeal to the DoJ's resolution as the petitioner was not the aggrieved party in such Resolution.** The Court also took note in the subject Order that the ruling of the DoJ in its Motion to Withdraw petition is valid not being questioned nor reversed in any of its subsequent rulings or resolutions. **Hence, the petition thereat not being considered withdrawn any ruling that may be rendered by the DoJ in connection with the subject matter should be accorded respect.** The Court need not belabor itself in discussing the authority of Mr. Pfluger considering that the dismissal of the herein petition was not being questioned in the said Motion as what was being mainly prayed for is a categorical declaration that this petition is moot, and having done so, the dismissal of the petition is affirmed." *(Emphasis supplied)*

Petitioners filed their Motion for Partial Reconsideration of the Order dated April 11, 2007, but the same was denied in the Order of RTC Branch 134 dated March 24, 2008.[14] The said March 24, 2008 Order has become

[12] RTC Branch 58 Records, pp. 195-196
[13] RTC Branch 58 Records, pp. 256-259
[14] RTC Branch 58 Records, pp. 260-262

final and executory as stated in the Certificate of Finality issued on July 7, 2008.[15]

Considering that the petition for nullification of the provision of Section 7C.06 of RMRC was declared by RTC Branch 134 as moot in view of the Resolution of the Secretary of Justice dated June 2, 2006 and considering that the Order of RTC Branch 134 regarding the said declaration became final and executory; it is clear that the June 2, 2006 Resolution of the Secretary of Justice remained valid and undisturbed. Inasmuch as petitioners did not file an appeal with the court of competent jurisdiction within the thirty-day period prescribed in Section 187[16] of the LGC in order to assail the Resolution of the Secretary of Justice, the said Resolution had lapsed into finality.[17]

Thus, the RTC Branch 58 correctly ruled that there was no legal basis for the City Treasurer to impose local business taxes against respondent considering that Section 7C.06 of RMRC was already declared by the Secretary of Justice as invalid insofar as it removed the tax exemption privileges under Section 6 of Republic Act No. 8756 in the Resolution dated June 2, 2006, and considering further that said Resolution already attained

---

[15] RTC Branch 58 Records, p. 263

[16] SEC. 187. *Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings.* - The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided*, That public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided, further*, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: *Provided, however*, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: *Provided, finally*, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction.

[17] *Coca-Cola Bottlers Philippines, Inc. vs. City of Manila, Liberty M. Toledo-City Treasurer and Joseph Santiago-Chief, Licensing Division*, G.R. No. 156252, June 27, 2006

finality for petitioner's failure to lodge an appeal within the period prescribed by Section 187 of the LGC.

In view of the foregoing, the Court finds no error to merit the reversal of the assailed Decision dated September 10, 2010 as well as the Order dated November 18, 2010.

WHEREFORE, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision dated September 10, 2010 and the Order dated November 18, 2010 of RTC Branch 58 are hereby **AFFIRMED**.

SO ORDERED.

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

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

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

ATTESTATION

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

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice