REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

DAVAO AGRICULTURAL VENTURES CORPORATION (DAVCO), represented by OSCAR V. GRAPA, CHIEF FINANCE OFFICER,
Petitioner,

-versus-

THE CITY OF DAVAO, RODRIGO S. RIOLA in his capacity as THE CITY TREASURER OF DAVAO,
Respondents.

CTA AC NO. 135

Members:

BAUTISTA, *Chairperson*;
FABON-VICTORINO, and
RINGPIS LIBAN, JJ.

Promulgated:

JUL 13 2017 7:15 p.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

On February 20, 2017, the Court promulgated the assailed Decision, the dispositive portion of which reads:

> "**WHEREFORE**, the Petition for Review posted by Davao Agricultural Ventures Corporation on April 10, 2015, is hereby **DISMISSED** on jurisdictional ground. Consequently, its prayer for a temporary restraining order and/or preliminary injunction, a mere ancillary remedy, must necessarily be **DENIED**.
>
> **SO ORDERED**."[1]

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[1] Docket, p. 213.

Unconvinced, petitioner filed the instant *Motion for Reconsideration* dated March 29, 2017, invoking Section 195 of Local Government Code (LGC)[2] and Batas Pambansa (B.P.) Blg. 129,[3] as amended which allegedly provide that the RTC is devoid of jurisdiction over the decisions of the local city treasurer concerning local tax assessments. Petitioner claims that the jurisdiction of the RTC is only over the decisions, orders and resolutions decided or resolved by the Metropolitan, Municipal and Municipal Circuit Trial Courts. Since the RTC has no competence over the decisions of the local city treasurer, it is the Court of Tax Appeals (CTA) which has jurisdiction over the instant Petition for Review. In other words, the Court erred in dismissing the case.

In rejecting petitioner's stance, respondents assert that the CTA's jurisdiction in local tax cases is limited to decisions, orders, resolutions of the RTC in the exercise of its original jurisdiction. Hence, it does not include the decisions/actions of the local treasurer in local tax assessments. Also, under Section 195 of the LGC, the court of competent jurisdiction to determine the validity of the actions of the local city treasurer in local tax cases is the RTC since it is a court of general jurisdiction. Moreover, petitioner failed to question the validity or legality of the local tax ordinance with the Secretary of Justice within 30 days from effectivity thereof following the clear mandate of Section 187 of LGC, rendering the filing of the instant petition premature.

We deny the instant Motion.

To be sure, the Court's jurisdiction with respect to local tax cases raised by petitioner in its Motion for Reconsideration has been exhaustively addressed in the assailed Decision of February 20, 2017. However, if only to put petitioner's mind to rest, the salient portions of the assailed Decision shall perforce be discussed.

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[2] Republic Act No. 7160.
[3] Otherwise known as "The Judiciary Reorganization Act of 1980."

Section 195[4] of the LGC provides, *inter alia,* that when the local treasurer decides a local tax protest adverse to the taxpayer, the latter has 30 days from receipt of such adverse decision to appeal it to a court of competent jurisdiction. As discussed in the assailed Decision,[5] the term "court of competent jurisdiction" in Section 195 of the LGC refers to the proper RTC in the exercise of its original jurisdiction.

Corollarily, both Section 7(a)(3) of R.A. No. 1125,[6] as amended and Section 3(a)(3)[7] of the Revised Rules of the Court of Tax Appeals (RRCTA) state that the CTA has exclusive appellate jurisdiction over the decisions, orders or resolutions of the RTC in local tax cases, decided or resolved by it in the exercise of its original jurisdiction.

Thus, for the CTA to acquire jurisdiction over the instant petition, the following must be observed, to wit: 1) the adverse decision of the local treasurer in a tax protest must be appealed to the RTC within 30 days from receipt thereof; and 2) in case of an adverse decision, order or resolution of the RTC, the taxpayer may appeal the same to the CTA within 30 days from receipt thereof.

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[4] **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 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.

[5] Page 8, assailed Decision, citing *Yamane vs. BA Lepanto Condominium Corporation,* G.R. No. 154993, October 25, 2005, docket, p. 209.

[6] SEC. 7. ***Jurisdiction.*** **–** The CTA shall exercise: xxx

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

[7] SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* –
The Court in Divisions shall exercise:

a. Exclusive original or appellate jurisdiction to review by appeal, the following: xxx

   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.

Indubitably, petitioner failed to take remedial action to question the adverse decision or ruling rendered by respondent local treasurer of Davao City on its tax protest before the RTC, the court of competent jurisdiction, rendering the present action with the CTA premature, thereby depriving the Court of competence to hear and determine the present petition. Without jurisdiction, the only action that the Court may take is to dismiss the case, which it did.

Perhaps realizing that the remedy invoked was tainted with glaring error, petitioner implores the Court's sympathy to overlook the issue of jurisdiction on the ground of equity and substantial interest of justice.

While the Court is not unmindful of petitioner's plight, the obtaining circumstances do not warrant the relief prayed for. To repeat, the perfection of an appeal in the manner and within the period laid down by law is not only mandatory, but jurisdictional as well.[8]

WHEREFORE, petitioner's Motion for Reconsideration dated March 29, 2017 is **DENIED**, for lack of merit. The assailed Decision dated February 20, 2017 is **AFFIRMED** *in toto*.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

(On Leave)
LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[8] See *Spouses Lebin vs. Mirasol, et al.*, G.R. No. 164255, September 7, 2011.