

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**CE CASECNAN WATER AND
ENERGY COMPANY, INC.,**
Petitioner,

**CTA EB NO. 2494
(CTA AC NO. 221)**

-versus-

Present:

**Del Rosario, P.J.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo, and
Cui-David, JJ.**

**THE MUNICIPALITY OF ALFONSO
CASTAÑEDA, NUEVA VIZCAYA, and
JERRY P. PASIGIAN, JR. and JENNIFER
M. TIONGSON, in their respective capacities
as MAYOR and TREASURER (OIC) of the
Municipality of Alfonso Castañeda,**
Respondents.

Promulgated:

SEP 23 2022

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DECISION

RINGPIS-LIBAN, J.

Before the Court *En Banc* is a Petition for Review¹ seeking nullification of the Decision dated November 6, 2020² (assailed Decision) and the Resolution dated June 8, 2021³ (assailed Resolution), all promulgated by the First Division of this Court (Court in Division) in CTA AC No. 221 entitled “*CE Casecnan Water and Energy Company, Inc. vs. The Municipality of Alfonso Castañeda, and Jerry P. Pasigian, Jr., and Jennifer M. Tiongson, in their respective*

¹ Rollo, CTA EB No. 2494, pp. 1-112, with annexes.

² Ibid., pp.119-128.

³ Ibid. pp. 131-136.

capacities as Mayor and Treasurer (OIC) of the Municipality of Alfonso Castañeda” which dismissed the Petition for Review of petitioner for lack of jurisdiction and denied for lack of merit the petitioner’s Motion for Reconsideration.

The dispositive portions of the assailed Decision and Resolution read as follows:

Decision:

“**WHEREFORE**, premises considered the Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.”

Resolution:

“**WHEREFORE**, premises considered, petitioner’s *Motion for Reconsideration (of the Decision dated November 6, 2020)* is hereby **DENIED** for lack of merit.

SO ORDERED.”

THE PARTIES

Petitioner CE Casecan Water and Energy Company, Inc. (CECWECI) is a corporation duly organized and existing under Philippine law with principal address at the Municipality of Pantabangan, Nueva Ecija.⁴

Respondents are the Local Government Unit (LGU) and its Mayor and Treasurer, all situated at Alfonso Castañeda, Nueva Vizcaya.⁵

THE FACTS

The relevant antecedents stated in the assailed Decision⁶ are as follows:

“On June 26, 1995, petitioner CECWECI entered into a Build-Operate-and-Transfer contract with the National Irrigation Administration (NIA), a government-owned-and-controlled corporation, for the construction and development of a multi-purpose irrigation and power project located in Pantabangan,

⁴ Decision, p. 2.

⁵ Ibid., p. 2.

⁶ Ibid., pp. 3-4, Citations omitted.

Nueva Ecija and Alfonso Castañeda, Nueva Viscaya (The “Project”).

The Project is an irrigation and water delivery facility with a hydroelectric power generation component intended to harness the full potential of the Pantabangan Dam in Pantabangan, Nueva Ecija, by diverting approximately 801 million cubic meters of water annually until 2013, and 700 million cubic meters of water thereafter until 2021, from the Casecnan and Taan rivers of Nueva Viscaya to the Pantabangan Reservoir.

The Project traverses several LGUs. To illustrate, the power plant is located in the Municipality of Pantabangan, Nueva Ecija, specifically in Barangay Villarica. On the other hand, the dams are located in the respondent Municipality.

On July 14, 2008, respondents issued a letter of assessment to petitioner which was received on July 17, 2008, wherein they insisted and demanded that the latter “automatically remit” to the respondent municipality its supposed “National Wealth Share” in the utilization and development of Casecnan and Taan bodies of water amounting to Php183,258,977.25 for the period calendar years (CY) 2002 to 2008. Respondents, in said letter of assessment, also threatened petitioner that they will institute appropriate administrative and judicial remedies including cancellation/recall of the latter’s mayor’s permit if it will not comply with their demands.

On July 23, 2008, petitioner filed a protest against said assessment with respondent Treasurer which was eventually denied on August 1, 2008.

On August 26, 2008, petitioner CECWECI filed a complaint before the Regional Trial Court (RTC)-Branch 30, Bambang, Nueva Viscaya (“Lower Court”) asking for the cancellation of said assessment which eventually ruled in its favor by cancelling said assessment and by reversing and setting aside the denial of its protest under the assailed decision.

Petitioner CECWECI then moved for partial reconsideration of said RTC decision which was eventually denied by said court under the assailed Resolution dated March 26, 2019.”



On April 30, 2019, petitioner filed a Petition for Review⁷ before the Court in Division praying that the Court partially reverse the Decision by deleting or setting aside the pronouncements therein which state (a) that respondent Municipality is a “host LGU” entitled to a share in the proceeds derived by CE Casecnan from the utilization and development of national wealth and (b) that the respondent Municipality is entitled to receive (from the National Government, which is in turn entitled to collect from CE Casecnan) a share in the proceeds derived by CE Casecnan from its delivery of water to the NIA, xxx; and issue an Amended Decision (a) deleting or omitting the foregoing assailed pronouncements in the subject Decision, and (b) incorporating the proposed amendments or corrections set out in paragraph 79 of the petition.

On June 4, 2019, the Court in Division ordered respondents to file their Comment on the Petition for Review within ten (10) days from notice.⁸

On July 16, 2019, respondents filed their Comment.⁹

On September 4, 2019, the Court in Division issued a Resolution¹⁰ giving due course to the Petition for Review and ordering the parties to file their respective memoranda within thirty (30) days from notice.

On October 28, 2019, petitioner filed its Memorandum.¹¹ On even date, respondents filed by registered mail their Memorandum.¹²

On November 13, 2019, the Court in Division issued a Resolution¹³ submitting the case for decision.

The Court in Division rendered the assailed Decision on November 6, 2020, while the assailed Resolution on June 8, 2021.

Aggrieved, the petitioner filed this Petition for Review before the Court *En Banc* on July 1, 2021.

In the Resolution¹⁴ dated July 27, 2021, respondents were directed by the Court *En Banc* to file their Comment in this case.

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⁷ Docket, CTA AC No. 221, pp. 8-79, with Annexes.

⁸ Resolution, Docket, CTA AC No. 221, pp. 781-782.

⁹ *Ibid.*, 790-804.

¹⁰ *Ibid.*, 822-823.

¹¹ *Ibid.*, 845-943.

¹² *Ibid.*, 970-995.

¹³ *Ibid.*, 999.

¹⁴ Rollo, CTA EB No.2494, pp.1082-1083.

On August 23, 2021, respondents filed their “Comment/Opposition.”¹⁵

In the Resolution¹⁶ dated October 27, 2021, the Court *En Banc* deemed the instant case submitted for decision.

THE ISSUE

The main issue in this case is “*whether or not the Court in Division erred in dismissing the case for lack of jurisdiction.*”

THE ARGUMENTS OF THE PARTIES

Petitioner submits that the Court of Tax Appeals (CTA) in Division erred in ruling that it has no jurisdiction over the subject matter of the case; that the material averments in the Complaint and the character of the reliefs sought in that pleading show that this case is a local tax case; that the RTC Decision and Resolution should be partially reversed because the said decision (a) erred in declaring that respondent Municipality is a “host LGU” entitled to a share in the proceeds derived from the Project’s utilization and development of national wealth, (b) erred in declaring that respondent Municipality is entitled to receive a share in the proceeds derived by CE Casecanan from the Project’s delivery of water to the NIA, and in ruling that CE Casecanan should “dutifully remit” the respondent Municipality’s supposed share in the proceeds derived from this activity to the National Government, inasmuch as these pronouncements are contrary to law, and adjudicate issues which are not involved and were never pleaded in the case; and (c) that there are a number of clerical errors contained in the RTC Decision which should be corrected by the Court through the issuance of an Amended Decision for the case.

On the other hand, respondent counter argues that the CTA has no jurisdiction over the subject matter of the present case; that the Court in Division properly dismissed the petitioner’s Petition for Review and denied its Motion for Reconsideration for lack of jurisdiction over the subject matter since respondent Municipality’s share in the national wealth is a type of charge not included in the definition of local taxes under the Local Government Code (LGC); that there is no justifiable reason for the Court *En Banc* to depart from the ruling of the RTC that respondent Municipality is a “host LGU” entitled to receive its share in the national wealth; and that the RTC correctly opined that respondent Municipality is entitled to receive a share in the proceeds derived by petitioner from the Project’s delivery of water to NIA.



¹⁵ Ibid., 1084-1104.

¹⁶ Ibid., pp. 1107-1108.

THE RULING OF THE COURT *EN BANC*

Timeliness of the Petition for Review

On November 25, 2020, petitioner received a copy of the assailed Decision. On December 10, 2020, petitioner filed a “Motion for Reconsideration.”¹⁷ On June 8, 2021, the Court in Division issued the assailed Resolution denying petitioner’s motion. Said Resolution was received by petitioner on June 17, 2021.

From receipt of the said Resolution, petitioner had until July 2, 2021 within which to file the Petition for Review before the Court *En Banc*. On July 1, 2021, petitioner filed the instant Petition for Review. Hence, this Petition for Review was timely filed.

We shall now proceed to determine the merits of the Petition for Review.

A careful review of the arguments raised by the parties in the Petition for Review and the Comment/Opposition shows that they are mere rehash of the arguments in their previous pleadings all of which have been thoroughly discussed and passed upon by the Court in Division in the assailed Decision and, similarly, in the assailed Resolution. The Court *En Banc* sees no compelling reason to deviate from the ruling of the Court in Division.

Nonetheless, the Court *En Banc* shall pass upon petitioner’s arguments and will elucidate the conclusions of the Court in Division.

Whether the CTA has jurisdiction over the case

Petitioner mainly argues that Court in Division erred in ruling that it has no jurisdiction over the subject matter of the case. Petitioner insists that the instant case is a local tax case that is within the jurisdiction of the CTA.

We disagree.

The dispute originated when respondent Municipality issued the “July 14, 2008 letter/assessment” demanding petitioner to remit to respondent Municipality the latter’s equitable National Wealth Share in the utilization and development of Casecnan and Taan bodies of water in the amount of Php 183,258,977.25. Said computation is based on Article 388 paragraph (a), Rule 32 Implementing Rules and Regulations of the LGC of 1991, which states that

¹⁷ Motion for Reconsideration, Docket, CTA AC No. 221, pp. 1016-1044.

*One percent (1%) of the gross sale or receipts of the preceding calendar year shall be the formula in the computation of the LGU's corresponding share in the utilization and developments of National Wealth.*¹⁸ Respondent Municipality issued the said letter and anchored its claim of direct remittance pursuant to Sections 286, 291 and 293 of the LGC, and Section 66 of Republic Act (RA) No. 9136 (Electric Power Industry Reform Act of 2001).¹⁹

Petitioner filed a Complaint before the RTC Nueva Viscaya to question said "July 14, 2008 letter/assessment."

In the Decision dated May 29, 2017, the RTC Nueva Viscaya cancelled the "July 14, 2008 letter/assessment" holding that "*Sections 289 and 291 pertains (sic) to the "National Wealth Share" from the proceeds derived by any government agency or government owned or controlled corporation engaged in the utilization and development of the national wealth in which capacity Plaintiff CASECNAN does not belong.*"²⁰ Since petitioner is a private agency, it is not mandated to directly remit to respondent Municipality the latter's share in the proceeds of the utilization and development of national wealth within its territorial jurisdiction. The RTC Viscaya further ruled that "*In the absence of a law requiring direct remittance of the shares, those shares which form part of taxes, fees, and charges in the meantime are to be remitted directly to the National Government pursuant to DBM-DOF-DOE Joint Circular No. 2006-1 (Revised Guidelines and Procedures on the Release of the Share of Local Government Units in the Proceeds from the Development and Utilization of National Wealth). From this DBM-DOF-DOE Joint Circular No. 2006-1, it is crystal clear in its provisions that it shall be the National Government through its agencies, that has the sole authority to collect and release the claims of LGU's from the proceeds in the utilization and development of national wealth.*"²¹

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¹⁸ Docket, CTA AC No. 221, p. 234.

¹⁹ Section 286. *Automatic Release of Shares.* - (a) The share of each local government unit shall be released, without need of any further action, directly to the provincial, city, municipal or barangay treasurer, as the case may be, on a quarterly basis within five (5) days after the end of each quarter, and which shall be subject to any lien or holdback that may be imposed by the national government for whatever purpose.

Section 291. *Share of the Local Governments from any Government Agency or Owned and Controlled Corporation.*

Local government units shall have a share on the preceding fiscal year from the proceeds derived by any government agency or government owned and controlled corporation engaged in the utilization and development of the national wealth based on the following formula whichever will produce a higher share for the local government unit: xxx

Section 293. *Remittance of the Share of the Local Government Units.* - The Share of the local government units from the utilization and development of national wealth shall be remitted in accordance with Section 286 of this Code. *Provided, however,* that in the case of any government agency or government owned and controlled corporation engaged in the utilization and development of the national wealth, such share shall be directly remitted to the provincial, city, municipal, or barangay treasurer concerned within five (5) days after the end of each quarter.

SEC. 66. *Benefits to Host Communities.* - The obligations of generation companies and energy resource developers to communities hosting energy generating facilities and/or energy resource developers as defined under Chapter II, Sections 289 to 294 of the Local Government Code and Section 5(i) of Republic Act No. 7638 and their implementing rules and regulations and applicable orders and circulars consistent with this Act shall continue: *Provided,* That the obligations mandated under Chapter II, Section 291 of Republic Act No. 7160, shall apply to privately-owned corporations or entities utilizing the national wealth of the locality.

²⁰ Ibid., RTC Nueva Viscaya Decision, p. 107.

²¹ Ibid., p. 108.

Dissatisfied with the Decision, petitioner filed a Petition for Review before the Court in Division to appeal the Decision of RTC Nueva Viscaya. In the assailed Decision and assailed Resolution, the Court in Division ruled that the Court has no jurisdiction because the subject of the case was not an assessment nor a claim for refund of any particular local taxes. Hence, the case was dismissed.

Section 7(a)(3) of RA No. 1125²², as amended by R.A. No. 9282 provides that **the CTA has exclusive appellate jurisdiction to review by appeal the decisions, orders or resolutions of the RTCs in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction.**

In relation thereto, Section 3(a)(3), Rule 4 and Section 3(a) and (c), Rule 8 of the Revised Rules of the Court of Tax Appeals (CTA) state that **the CTA shall exercise exclusive original or appellate jurisdiction to review by appeal, the decisions, resolutions or orders of the RTCs in local tax cases decided or resolved by them in the exercise of their original or appellate jurisdiction.**

Thus, the cases that should be filed before the CTA must pertain to RTC decisions, resolution or orders concerning local tax cases.

Taxes are classified into national and local. National taxes are those levied by the National Government, while local taxes are those levied by the LGUs.²³

Book II of the LGC is labeled as “Local Taxation and Fiscal Matters.” Title I and Title II of Book II are labeled as “Local Government Taxation” and “Real Property Taxation,” respectively. Title III of Book II is labeled “Shares of Local Government Units in the Proceeds of National Taxes.”

A case is considered a “local tax case” when the subject thereof involves taxes that are imposed by the LGUs. Thus, the cases that should be filed before this Court are cases covered by Titles I and II of Book II of the LGC because the taxes involved therein are levied by the local government.

The “July 14, 2008 letter/assessment” by respondent Municipality on the alleged share in petitioner’s “utilization and development of the national wealth” particularly the utilization and development of Casecnan and Taan rivers which pass through the jurisdiction of respondent Municipality, cannot be classified as an assessment of a local tax that is within the coverage of Title I and Title II of Book II of the LGC. The share of LGUs in the national wealth

²² An Act Creating the Court of Tax Appeals.

²³ *Congressman Mandanas, et al., v. Executive Secretary Ochoa, et al.*, G.R. No. 199802, July 3, 2018.

is sourced from the taxes levied by the National Government on persons engaged in the utilization and development of national wealth and resources.

The Court *En Banc* reiterates with approval the discussion of the Court in Division in the assailed Decision and assailed Resolution that the instant case is not a local tax case under the LGC that is within the jurisdiction of this Court, viz:

“Local taxes are discussed under Titles I and II, Book II of RA No. 7160, otherwise known as the Local Government Code (LGC), which cover Local Business Taxes and Real Property Tax as held in *National Power Corporation v. Municipal Government of Navotas, et al.*, to wit:

‘Here, the context in which the word “local taxes” is employed does not clearly indicate that the limited or restricted view was intended by the legislature. In addition, the specification of real property tax assessment under Paragraph (a)(5) of Section 7 of R.A. 9282, in relation to the decisions of the CBAA, is only proper given that the CBAA has no jurisdiction, either original or appellate, over cases involving local taxes other than real property taxes.

Based on the foregoing, the general meaning of “local taxes” should be adopted in relation to Paragraph (a)(3) of Section 7 of R.A. 9282, which necessarily includes real property taxes.’

A perusal of the instant petition and Memorandum of the petitioner shows that its main arguments are based on Sections 289, 291, and 293, Chapter 2, Title III, Book II of the LGC and the related provisions of its implementing Rules and regulations (IRR) which refer to the “Shares of Local Government Units in the National Wealth.” This type of charge, i.e. share in the national wealth, is not included in the definition of local taxes under Titles I and II, Book II of the LGC.

In *Banco De Oro, et al., v. Republic of the Philippines et al.*, the Supreme Court ruled that only those actions related to tax problems are within the exclusive jurisdiction of this Court, to wit:

‘Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.

In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax

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problems. Petitions for writs of certiorari against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.’ (*Emphasis supplied*)

Although the original case heard in the Lower Court seems to pertain to the validity of an assessment, a simple perusal of the aforesaid assessment itself disclosed that it does not involve a tax dispute. In fact, petitioner itself directly admitted in its Petition for Review the following position of respondent, to wit:

‘55. The respondents have expressly and categorically stated that “the[Respondent Municipality’s] claim for entitlement to the Shares is anchored on Section 66 (par. 1) of the EPIRA” which provides:

Section 66. Benefits to Host Communities. – The obligations of generation companies energy resource developers to communities hosting energy generating facilities and/or energy resource developers as defined under Chapter II, Section 289 to 294 of the Local Government Code and **Section 5(i) of Republic Act No. 7638 and their implementing rules and regulations and applicable orders and circulars consistent with this Act shall continue: Provided, That the obligations mandated under Chapter II, Section 291 of Republic Act No. 7160, shall apply to privately-owned corporations or entities utilizing the national wealth of the locality.**

In other words, Section 66 of the EPIRA is the Respondents’ sole basis for claiming to be entitled to the Shares.’

Hence, this Court is devoid of any jurisdiction to hear the instant case.²⁴

Accordingly, the Court *En Banc* shall no longer discuss the other issues raised by petitioner since the CTA has no jurisdiction over the subject matter of the case.

In *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*,²⁵ the Supreme Court ruled that “it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.”

²⁴ Decision, pp. 7-9. Citations omitted.

²⁵ G. R. No. 188016, January 14, 2015, citing *Sea-Land Service, Inc. vs. Court of Appeals*, G.R. No. 122605, April 30, 2001.

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. The assailed Decision dated November 6, 2020 and the assailed Resolution dated June 8, 2021 are **AFFIRMED**.

SO ORDERED.

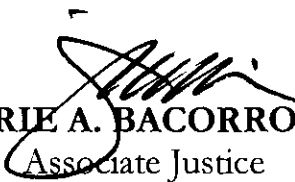

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


ERLINDA P. UY
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

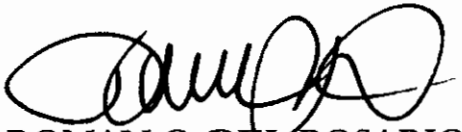

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, 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.



ROMAN G. DEL ROSARIO
Presiding Justice