23-000017-0021

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA AC NO. 281

MUNICIPALITY OF NABUNTURAN and its MUNICIPAL TREASURER AND MUNICIPAL ASSESSOR,
Petitioners,

- versus -

NATIONAL FOOD AUTHORITY, Represented by its Legal Affairs Department Director, Edna T. Loveria,
Respondent.

NOTICE OF RESOLUTION

To:

ATTY. MARY JUSTICE P. AURELIO-YAP
PROVINCIAL LEGAL OFFICE
Provincial Legal Office
2-F, Executive Bldg.,
Provincial Capitol, Cabidianan
Nabunturan, Davao de Oro

MUNICIPAL TREASURER
Executive Bldg., Provincial Capitol
Cabidianan Nabunturan, Davao de Oro

MUNICIPAL ASSESSOR
Executive Bldg., Provincial Capitol
Cabidianan Nabunturan, Davao de Oro

ATTY. RAOUL JANN R. BALANQUIT
ATTY. FLORENCE N. ROSETE
National Food Authority
Legal Affairs Department
7th Floor, NFA Central Office Building
Visayas Avenue, Brgy. Vasra, Diliman, Quezon City

HON. CRESENCIANA DC CRUZ
Judge
Regional Trial Court
11th Judicial Region
Branch 3, Nabunturan, Davao de Oro

GREETINGS:

You are hereby notified by these presents that on **September 23, 2024**, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 24, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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SPECIAL FIRST DIVISION

MUNICIPALITY OF NABUNTURAN and its MUNICIPAL TREASURER AND MUNICIPAL ASSESSOR, *Petitioners,*	**CTA AC No. 281** (SP Civil Case No. 118-2015) Members:
-versus-	**DEL ROSARIO**, *P.J., Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.*
NATIONAL FOOD AUTHORITY, Represented by its Legal Affairs Department Director, Edna T. Loveria, *Respondent.*	Promulgated: SEP 2 3 2024; 10:55AM

x- x

RESOLUTION

MANAHAN, *J.*:

This resolves the following:

(1) Petitioners' **Motion for Reconsideration (Of the Order dated March 01, 2024)**[1] filed through registered mail on April 15, 2024 and received by this Court on May 29, 2024 with the following prayer: reverse the Court's Decision dated March 01, 2024 (Assailed Decision); declare respondent National Food Authority (NFA) a government-owned and controlled corporation (GOCC); and, order NFA to pay the real property tax (RPT) on its land and building covered by Tax Declaration No. 02985 located in Poblacion, Nabunturan, Davao de Oro;

(2) Respondent's **Opposition (To the Motion for Reconsideration dated 11 April 2024)**[2] filed on June 14, 2024; and

[1] Docket, CTA AC No. 281, pp. 186-195.
[2] Docket, pp. 201-214.

(3) Petitioner's **Comment (To the Opposition dated June 14, 2024)** posted on June 28, 2024 and received by this Court on July 1, 2024.

The dispositive portion of the Assailed Decision reads as follows:

> "**WHEREFORE,** premises considered, the *Petition for Review* is hereby **DENIED**. Accordingly, the *Decision* dated November 5, 2021 and the *Resolution* dated October 26, 2022 rendered by the RTC-Branch 3, Nabunturan, Davao De Oro under SP Civil Case No. 118 entitled "*National Food Authority, Represented by its Legal Affairs Department Director, Edna T. Loveria vs. Municipality of Nabunturan and its Municipal Treasurer and Municipal Assessor*" are **AFFIRMED**. The Notice of Delinquency dated May 12, 2015 issued against respondent National Food Authority by petitioners Municipality of Nabunturan, Davao De Oro and its Municipal Treasurer and Municipal Assessor is hereby **NULLIFIED** and **DECLARED** void *ab initio*.
>
> **SO ORDERED**."

Petitioners argue that respondent NFA is a GOCC, hence, not exempt from RPT and that the exemption granted to NFA under Presidential Decree (PD) No. 4, as amended by PD Nos. 699, 1485, and 1770, had long been effectively withdrawn.

Respondent NFA, on the other hand, argues that the instant motion was filed out of time and that it is exempt from payment of RPT under its charter in PD No. 4.

Finally, petitioners countered that their Motion for Reconsideration was timely filed.

We resolve.

Considering the recent pronouncement of the Supreme Court in the case of *National Food Authority, Represented by Atty. Ma. Theresa S. Villafuerte, CPA, in her capacity as Department Manager of NFA, Legal Affairs Department v. City Government of Tagum, City Assessor and City Treasurer of Tagum, Province of Davao Del Norte,*[3] which confirms that respondent NFA is not a GOCC, it renders all the foregoing incidents moot and academic, to wit:

[3] G.R. No. 261472, May 21, 2024.

"In sum, **NFA is a government instrumentality**. While it is not integrated within the department framework, it is vested with special functions or jurisdiction and endowed with some corporate powers. It administers special funds and enjoys operational autonomy under a charter.

The Court keenly notes that in the recent ruling of the Court of Tax Appeals (First Division) in *NFA v. City Assessor and City Treasurer, Malolos, Bulacan* docketed as CTA AC No. 241, it already recognized the status of NFA as a government instrumentality, following the rulings of the Court in *MIAA*, thus:

Petitioner is an instrumentality of the government.

Scrutiny of PD No. 4, as amended by PD No. 1485 and PD No. 1770 and RA No. 11203, vis-à-vis the pronouncements in MIAA, leads to a conclusion that **petitioner (just like MIAA) is an instrumentality of the government performing as it does "essential public services for the common good, services that every modern State must provide its citizens"**.

First, petitioner is neither a stock or non-stock corporation. While Section 9 of PD No. 4, as amended by PD No. 1770,47 provides that petitioner shall have an authorized capital stock of P5,000,000,000.00 divided into 50,000,000 shares of par value of P100.00 each, there is nothing in its charter and its subsequent amendments that authorizes petitioner to declare and distribute dividends or surplus profits to its shareholders.

Petitioner cannot be considered a non-stock corporation either because it does not have members and it was not organized for any of the purposes mentioned in Section 88 of the Corporation Code.

Second, petitioner was originally attached to the Office of the President (OP). It was realigned to the Department of Agriculture (DA) pursuant to Executive Order (EO) No. 116 dated January 30, 1987. On May 5, 2014, pursuant to EO No. 165, petitioner was transferred to the OP. On June 30, 2016, petitioner was reassigned to the Office of the Cabinet Secretary in accordance with EO No. 1. **In 2018, petitioner was transferred back to the DA by virtue of EO No. 62 dated September 17, 2018**.

Third, petitioner is vested with special functions as it administers special funds, while enjoying operational autonomy under its charter.

Finally, while there is **no doubt that the reason for the creation of petitioner is for the common good, still, economic viability is not at all considered in its creation thereby precluding it from becoming a GOCC.**

> xxx xxx xxx
>
> **Interestingly, the law does not require petitioner to be economically viable which would have classified it into a GOCC. Section 9 of PD No. 1770 provides that the national government shall make additional equity investments into it out of the funds appropriated in the General Appropriations Act and other appropriations laws as may be approved by the President in accordance with the fund requirements of petitioner and funds availability in the Treasury**. Sec. 5(b)(i) of PD No. 4, as amended by PD No. 1485. further provides that the petitioner may, upon authorization by the Office of the President, incur subsidies to be borne by the National Government in the implementation of the floor and ceiling prices for rice and corn and other grains and their substitutes and/or their by-products/end-products. (*Emphases supplied*)
>
> xxx xxx xxx
>
> As in *MIAA*, We see no compelling reason or sound policy to allow the Tagum City Government to tax the NFA, a government instrumentality which oversees the acquisition, maintenance, and distribution of rice buffer stock, maintaining an optimal level of national rice inventory to be sourced solely from local farmers and to distribute rice during emergency/calamity situations and sustain the disaster relief program of the government during natural or man-made calamities, an essential public service. Besides, there is simply no point in forcing the transfer of public funds from one government pocket to another."

WHEREFORE, premises considered, petitioners' *Motion for Reconsideration (Of the Order dated March 01, 2024)* is hereby **DENIED**.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice