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

***THIRD DIVISION***

**CLARK DEVELOPMENT CORPORATION,**
*Petitioner,*

-*versus*-

**COMMISSIONER OF INTERNAL REVENUE ROMEO D. LUMAGUI, JR.,**
*Respondent.*

**CTA Case No. 11303**

Members:

**MANAHAN,** *Chairperson,*
**REYES-FAJARDO,** *and*
**ANGELES,** *JJ.*

Promulgated:

JUN 20 2024
11:44 a.m.

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# RESOLUTION

This resolves petitioner's *Motion for Reconsideration* filed through registered mail on April 8, 2024 and received by the Court on April 22, 2024.

Petitioner seeks reconsideration of the Court's *Resolution* dated March 1, 2024, which dismissed its *Petition for Review* filed on October 31, 2023 on the ground of lack of jurisdiction. Relying on *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*[1] ("*PSALM*") and *The Department of Energy v. Court of Tax Appeals*[2] ("DOE"), the Court held that disputes and claims solely between government agencies and offices, including government-owned or controlled corporations (GOCCs) such as petitioner, are governed by Presidential Decree (PD) No. 242 and the Administrative Code of 1987.

In its *Motion for Reconsideration*, petitioner invokes the jurisdiction of the Court and offers the following arguments:

*First*, both *PSALM* and *DOE* are inapplicable to the instant case as the former are based on a different factual milieu. *PSALM* involved a pure question of law, *i.e.* whether the sale of the power plants should be subject to value-added tax. *DOE*

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[1] G.R. No. 198146, August 8, 2017 [Per J. Carpio, *En Banc*].
[2] G.R. No. 260912, August 17, 2022 [Per J. Singh, Third Division].

stemmed from an alleged final, executory, and demandable assessment for deficiency excise tax. Meanwhile, the present *Petition for Review* is an appeal from the final decision of the Commissioner of Internal Revenue ("CIR") over which the Court has exclusive appellate jurisdiction.

*Second*, the present case pertains to deficiency tax assessments for expanded withholding tax ("EWT") and withholding tax on compensation ("WTC"). Given the nature of said taxes, a ruling on this case would necessarily affect third parties—petitioner's registered locators, other government offices, and cooperatives supplying goods and services to it.

*Third*, Republic Act (RA) No. 1125, as amended by RA No. 9282, is a special law providing for the jurisdiction of the Court of Tax Appeals ("CTA"). Considering that RA No. 9282 is a later legislative act, PD No. 242 should be construed as applicable to all disputes and claims between government agencies which do not fall under the jurisdiction of a specialized court.

*Fourth and finally*, allowing the Secretary of Justice to solely exercise jurisdiction over the present *Petition for Review* will deprive petitioner of its judicial remedy to avail of the technical expertise of the CTA in determining the case.

We now resolve.

Jurisdiction is conferred only by the Constitution or the law.[3] When a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[4]

The jurisdiction of the CTA is provided for under Section 7 of RA No. 1125,[5] as amended by RA No. 9282[6] ("CTA Charter"). Particularly, Section 7(a)(1) grants the CTA exclusive appellate jurisdiction to review decisions of the CIR in cases involving disputed assessments, as in this case. However, contrary to petitioner's assertion, the CTA Charter is not a special law that

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[3] *Civil Service Commission, NCR v. Albao*, G.R. No. 155784, October 13, 2005 [Per J. Azcuna, *En Banc*].
[4] *Mitsubishi Motors Phils. Corp. v. Bureau of Customs*, G.R. No. 209830, June 17, 2015 [J. Perlas-Bernabe, First Division].
[5] AN ACT CREATING THE COURT OF TAX APPEALS
[6] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

prevails over PD No. 242. This has already been settled in *DOE* in this wise:

> Here, the [National Internal Revenue Code ("NIRC")] and R.A. No. 1125, and ***specifically their provisions on the jurisdiction of the CTA over tax disputes involving tax laws enforced by the BIR***, should be read as ***general provisions*** governing the settlement of disputes involving tax claims. ***These provisions apply to the resolution of this general class of tax cases involving all persons, without exception***. Stated more simply, they apply with equal force to all persons involved in disputes pertaining to all tax claims arising from all tax laws being implemented by the BIR.
>
> ***In clear contrast, P.D. No. 242, as now embodied in the Revised Administrative Code, applies only to particular persons involved in a uniquely specific category of cases – disputes, claims, and controversies where all the parties are government entities***. The Court's ruling in *City of Manila v. Teotico*, *Bagatsing v. Ramirez*, and other similar cases, dictate that an interpretation of P.D. No. 242 as a special law that functions as an exception to the general rule on the jurisdiction of courts, such as the CTA, to resolve disputes. Where the dispute involves government entities on opposing sides, P.D. No. 242, as embodied in the Revised Administrative Code, determines, in the first instance, the mode of dispute resolution.[7]

Based on the foregoing, it is also clear that although the facts of the present case vary from the facts on which the ruling in *PSALM* and *DOE* are based, what is controlling is that the parties are all government entities. Here, petitioner is a GOCC duly organized and existing by virtue of Executive Order (EO) No. 80 series of 1993, while respondent is the duly appointed CIR charged by law to perform the duties of his office. Patently, PD No. 242 applies.

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[7] *Emphasis supplied.*

As to petitioner's argument that third parties would be affected by the outcome of this case, suffice it to say that the liability of the withholding agent is independent from that of the payees. Such liability is premised on its duty to withhold the taxes on the payments and to remit the same to the government.[8] Petitioner, as the withholding agent, is therefore directly and independently liable for the correct amount of tax that should be withheld, and for the resulting deficiency assessments, surcharges, and penalties should the amount of the tax withheld be finally found to be less than the amount that should have been withheld under the law. Thus, its payees cannot be considered as "parties" to the instant case.

The Court understands petitioner's preference to have its case tried by a tribunal specializing in tax cases. However, the resolution of disputes among agencies and offices of the executive branch does not simply require technical or subject matter expertise, but demands an understanding of how their different and competing mandates affect one another—a determination which the Chief Executive is in the best position to make.[9] Furthermore, as held in *DOE*, tax disputes involving executive agencies are of a unique character:

> Tax disputes concerning the BIR and other national government agencies are unique in the sense that taxes that might be due are already public funds. Regardless of the dispute's outcome, they will be dedicated for a public purpose...
>
> The BIR's collection does not change the nature of the funds, as they will remain public funds, but it may circumscribe the ways through which they may be used.
>
> Under the NIRC, the national internal revenue collected shall accrue to the National Treasury and will be made available for general purposes of the Government, subject to certain exceptions. Annual appropriations for the operation of the entire government are sourced from such funds with the National Treasury. Thus, taxes paid are pooled before they are allotted for a public purpose, and it

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[8] *Commissioner of Internal Revenue v. La Flor Dela Isabela, Inc.*, G.R. No. 211280, January 14, 2019 [J. Reyes, Jr. Second Division].

[9] *The Department of Energy v. Court of Tax Appeals*, G.R. No. 260912, August 17, 2022 [Per J. Singh, Third Division].

> will be inherently impossible to attribute expenditures to the specific taxpayer. For a government agency paying taxes, this means that its funds may then be used for purposes other than its own mandate.
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> This of course, does not give the Executive unbridled discretion, nor does it relieve the Executive from its duty to correctly determine the propriety of the BIR's assessments or the proper amount of taxes to be paid. However, ***it behooves us to distinguish the nature of taxes owed by government agencies, from those owed by private individuals or entities.***[10]

All told, where the disputing parties to a tax case are all government entities, PD No. 242 carves out from the general jurisdiction of the Court. Without jurisdiction, the Court cannot proceed to take cognizance of the case.

**ACCORDINGLY**, petitioner's *Motion for Reconsideration* filed on April 8, 2024 is **DENIED** for lack of merit.

**SO ORDERED**.

Catherine T. Manahan
**CATHERINE T. MANAHAN**
Associate Justice

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

**HENRY S. ANGELES**
Associate Justice

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[10] *Emphasis supplied, citations omitted.*