CTA Form No. 8

21-000389-0027

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA AC NO. 263

NATIONAL FOOD AUTHORITY Represented by its Regional Manager, Maria Lewina A. Tolentino,
Petitioner,

- versus -

NOTICE OF DECISION

CITY GOVERNMENT OF BOGO, CITY ASSESSOR AND CITY TREASURER OF BOGO CITY, CEBU,
Respondents.

To:

ATTY. MA. THERESA C. SANTOS-VILLAFUERTE, CPA
ATTY. ANNA LORRAINE G. SANTOS, CPA
ATTY. JOAN F. BINAMIRA
OFFICE OF THE GOVERNMENT CORPORATE COUNSEL
National Food Authority
Legal Affairs Department
7th Floor, NFA Central Office Building
Visayas Avenue, Brgy. Vasra, Diliman, Quezon City

ATTY. VICENTE P. RODRIGUEZ
City Hall of Bogo
Bogo City, Cebu

HON. ANTONIO D. MARIGOMEN
Presiding Judge
Thru: BRANCH CLERK OF COURT
7th Judicial Region, Branch 61
Regional Trial Court
Marcelo B. Fernan, Palace of Justice
Dakit, Bogo City, Cebu

GREETINGS:

You are hereby notified by these presents that on **March 5, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 6, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

NATIONAL FOOD AUTHORITY, Represented by its Regional Manager, Maria Lewina A. Tolentino, *Petitioner,*	**CTA AC No. 263** (formerly CTA Case No. 10636) (Civil Case No. BOGO-03486) Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
CITY GOVERNMENT OF BOGO, CITY ASSESSOR AND CITY TREASURER OF BOGO CITY, CEBU, *Respondents.*	Promulgated: MAR 05 2024 3:15PM

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DECISION

MANAHAN, *J.*:

This case involves the *Petition for Review under Section 11 of R.A. No. 1125/Rule 8 Section 3(a) of A.M. No.05-11-07-CTA*[1] filed on October 26, 2021 by petitioner National Food Authority (NFA), seeking the reversal of the *Decision* dated July 16, 2018[2] (Assailed Decision) and the *Resolution* dated June 28, 2021[3] (Assailed Resolution), rendered by the Regional Trial Court (RTC)-Branch 61, Bogo City, Cebu under Civil Case No. BOGO-03486 entitled "*National Food Authority, Represented by its Regional Director Procopio B. Trabajo II vs. City Government of Bogo, City Assessor and City Treasurer of Bogo City, Cebu,*" and holding that it is a government instrumentality, hence, exempt from the payment of Real Property Tax (RPT), without comment[4] from the respondents despite due notice.[5]

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[1] Docket, CTA AC No. 263, pp. 5-45.
[2] *Id.*, pp. 46-48; RTC Docket, Civil Case No. BOGO-03486, pp. 161-163.
[3] *Id.*, pp. 49-51; RTC Docket, pp. 210-212.
[4] *Id.*, Records Verification dated May 18, 2022, p. 241; Docket, Records Verification dated February 21, 2023, p. 353.
[5] *Id.*, Resolution dated March 29, 2022, p. 239; Docket, Resolution dated November 3, 2022, p. 351.

It also prays that respondents' Notice of Delinquency be declared as invalid, and enjoining the respondents from assessing, imposing and collecting real property taxes against petitioner NFA.

THE PARTIES

Petitioner NFA is a government instrumentality vested with corporate powers created under Presidential Decree No. 4, as amended, and further amended by Republic Act (RA) No. 11203. It is being represented by its Regional Manager for NFA-Region VII which has jurisdiction over NFA-Cebu City Branch Office, Regional Manager Lewina A. Tolentino, who, as Regional Manager is authorized to sign any and all pleadings for and in behalf of NFA involving tax cases.[6]

Respondent City Government of Bogo City, Cebu is a political subdivision created pursuant to law, with office address at Provincial Capitol, Bogo City, while respondents City Assessor and City Treasurer of Bogo City, Cebu, on the other hand, are both public officers of the City Government of Bogo, with office address at City Assessor's and City Treasurer's Office, respectively, Provincial Capitol, Bogo City, Cebu.[7]

THE FACTS

On July 27, 2017, petitioner NFA received from the respondents a Notice of Real Property Tax (RPT) Delinquency assessment amounting to ₱290,180.00.[8]

However, instead of filing a protest, petitioner NFA, on September 25, 2017, filed a *Petition for Prohibition (with application for Temporary Restraining Order and/or Issuance of Writ of Preliminary Injunction)*[9] in the RTC-Branch 61, Bogo City, Cebu which the latter dismissed[10] in the Assailed Decision, the dispositive portion of which reads as follows:

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[6] Docket, Petition for Review, p. 9.
[7] *Id.*, Petition for Review, pp. 9-10.
[8] *Id.*, p. 87.
[9] *Id.*, Petition for Review, Annex "C", pp. 52-86.
[10] *Id.*, Note 2 at p. 48.

"WHEREFORE, premises considered, the instant Petition for Prohibition dated September 7, 2017 is DISMISSED.

The petitioner should pay to respondents the real property tax.

SO ORDERED."

Hence, petitioner NFA moved for the reconsideration[11] of said decision but the lower court denied[12] said motion under the Assailed Resolution, which the dispositive portion reads as follow:

"WHEREFORE, premises considered, the Motion for Reconsideration filed by petitioner National Food Authority, through counsel, of the decision of this court dated July 16, 2018 dismissing this petition, is hereby DENIED for lack of merit.

SO ORDERED."

Thus, petitioner filed the instant petition on October 26, 2021.

On March 29, 2022, the Court directed the respondents to file their comment on the instant petition.[13] However, respondents failed to file their comment.[14]

After several postponement, the hearing of petitioner's *Motion for Suspension of Collection of Tax*, which was incorporated in the instant petition, proceeded on August 31, 2022 where petitioner presented its witnesses. The right of the respondents to cross-examine petitioner's witnesses was deemed waived due to the absence of their representative and/or counsel during the hearing.[15]

On September 12, 2022, petitioner filed its *Formal Offer of Evidence*[16] for the said motion without respondents' comment.[17]

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[11] RTC Docket, Civil Case No. BOGO-03486, Motion for Reconsideration (of the Decision dated 16 July 2018), pp. 165-180.
[12] Docket, CTA AC No. 263, p. 51.
[13] *Id.*, Resolution dated March 29, 2022, pp. 238-240.
[14] *Id.*, Records Verification dated May 18, 2022, p. 241.
[15] *Id.*, Minute Resolution dated August 31, 2022, pp. 301 to 301-B; Docket, Order dated August 31, 2022, pp. 302-C to 302-D.
[16] *Id.*, at pp. 306-317.
[17] *Id.*, Records Verification dated September 29, 2022, p. 331; Docket, Resolution dated October 14, 2022, p. 338.

All exhibits offered by petitioner were admitted and granted its *Motion for Suspension of Collection of Tax.*[18] Both parties were directed to submit their respective memorandum.[19] However, both parties failed to do so.[20] Hence, the case was submitted for decision on March 24, 2023.[21]

ISSUE

Whether or not petitioner NFA is liable for RPT under RA No. 7160, otherwise known as the "Local Government Code of 1991."

Petitioner's Arguments[22]

Petitioner NFA argues that the lower court erred in ruling that it is not exempt from the payment of RPT considering that it is a government instrumentality under RA No. 11203, otherwise known as "An Act Liberalizing the Importation, Exportation and Trading of Rice, Lifting for the Purpose the Quantitative Import Restriction on Rice, and For Other Purposes."

Petitioner also argues that the lower court erred in dismissing its petition when it based such dismissal on the opinion of the Department of Justice that it is not exempt from the payment of RPT because it is a Government-Owned or Controlled Corporation (GOCC).

Petitioner further argues that the lower court erred in holding that its exemption from the payment of RPT has been withdrawn under Section 234 of RA No. 7160.

RULING OF THE COURT

This Court shall determine first if the petition filed by petitioner NFA is within its jurisdiction.

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[18] *Id.*, Resolution dated November 3, 2022, pp. 345-352.
[19] *Id.*
[20] Docket, Records Verification dated February 21, 2023, p. 353.
[21] *Id.*, Resolution dated March 24, 2023, p. 355.
[22] *Supra.*, Note 1, at pp. 17-40.

The Court has jurisdiction over the instant Petition for Review which was timely filed.

The Court of Tax Appeals (CTA) is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[23] The jurisdiction of the CTA regarding local tax and RPT cases is provided under Sections 7(a)(3) & (5) of RA No. 1125, as amended by RA Nos. 9282 and 9503, which provides:

> "SEC. 7. *Jurisdiction.* – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> xxx xxx 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;"
>
> xxx xxx xxx
>
> (5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction **over cases involving the assessment and taxation of real property** originally decided by the provincial or city board of assessment appeals; ..."

Similarly, Section 3(a)(3) of Rule 4 of RRCTA states:

> "SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
>
> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
>
> xxx xxx xxx
>
> (3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction;"

On the other hand, Section 11 of RA No. 1125, as amended, provides:

[23] *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014. *om*

> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any person adversely affected by a** decision, **ruling** or inaction of the Commissioner of Internal Revenue...**may file an appeal with the CTA within thirty (30) days after the receipt of such** decision or **ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
>
> xxx xxx xxx."
>
> *(Emphasis supplied)*

In *National Power Corporation v. Municipal Government of Navotas, et al.*[24], the Supreme Court ruled that local tax cases consist of cases arising from local business tax (LBT) and RPT, 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."

In *CE Casecnan Water and Energy Company, Inc. v. The Province of Nueva Ecija, et al.* (*CE Casecnan* case),[25] the Supreme Court ruled that an injunction case filed before the RTC is a local tax case, to wit:

> "In maintaining that it is the CA that has jurisdiction over petitioner's *certiorari* petition, the latter argues that the injunction case it filed with the RTC is not a local tax case but an ordinary civil action. It insists that it is not protesting the assessment of RPT against it but only prays that respondents be enjoined from collecting the same.
>
> The Court finds, however, that in praying to restrain the collection of RPT, **petitioner also implicitly questions the propriety of the assessment of such RPT**. This is because in ruling as to whether to restrain the collection, the RTC must first necessarily rule on the propriety of the assessment. **In other words, in filing an action for injunction to restrain**

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[24] G.R. No. 192300, November 24, 2014.
[25] G.R. No. 196278, June 17, 2015. *[initials]*

> **collection, petitioner was in effect also challenging the validity of the RPT assessment**. As aptly discussed by the CA:
>
> xxx [T]he original action filed with the RTC is one for Injunction, with an application for Temporary Restraining Order and a Writ of Preliminary Injunction to enjoin the province of Nueva Ecija from further collecting the alleged real property tax liability assessed against it. Simply because the action is an application for injunctive relief does not necessarily mean that it may no longer be considered as a local tax case. The subject matter and the issues, not the name or designation of the remedy, should control. While an ancillary action for injunction may not be a main case, the court [still has] to determine, even in a preliminary matter, the applicable tax laws, rules and jurisprudence, x x x
>
> xxx xxx xxx
>
> No doubt, **the injunction case before the RTC is a local tax case**. And as earlier discussed, a *certiorari* petition questioning an interlocutory order issued in a local tax case falls under the jurisdiction of the CTA. Thus, the CA correctly dismissed the Petition for *Certiorari* before it for lack of jurisdiction." (*Emphasis supplied*)

In the instant case, the special civil action for Prohibition and Application of a TRO and/or issuance of Writ of Preliminary Injunction filed by petitioner before RTC-Branch 61, Bogo City, Cebu was premised on the staunch position of petitioner that respondents' RPT delinquency assessment is not valid and has no legal basis since it is a government instrumentality and thus exempt from taxation. Hence, applying the *CE Casecnan* case, this Court has jurisdiction in the instant case.

Based on the records of the case in RTC-Branch 61, Bogo City, Cebu, the copy of the Assailed Resolution was posted[26] on August 16, 2021 which was allegedly received by petitioner NFA on August 24, 2021.[27] Hence, petitioner NFA has thirty (30) days from August 24, 2021 or until September 23, 2021 to file its petition for review.

However, under Supreme Court's (SC's) Administrative Circular No. 56-2021 dated July 30, 2021, all courts were physically closed from August 2, 2021 and the filing of pleadings was suspended. It was only under SC's Administrative Circular

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[26] RTC Docket, Civil Case No. BOGO-03486, Notice of Resolution dated June 28, 2021, p. 213.
[27] Docket, CTA AC No. 263, Timeliness of the Petition, Petition for Review, p. 8.

No. 83-2021 dated October 18, 2021 that the suspension of the filing of pleadings was lifted and gave the litigants seven (7) calendar days from October 20, 2021 to file their required pleadings. Thus, the filing of the instant petition on October 26, 2021 was on time.

Now, We shall discuss the substantive aspect of the case.

Petitioner NFA is a Government Instrumentality and not a GOCC, hence, not liable for RPT.

The bone of contention in the instant case is whether petitioner NFA is subject to RPT. Petitioner NFA posits that it is not subject to RPT because being a government instrumentality, hence, exempt from the payment of said tax.

In *National Food Authority, represented by Atty. Ma. Theresa S. Villafuerte, CPA, in her capacity as Department Manager of NFA Legal Affairs Department vs. City Government of Tagum and City Assessor of Tagum, Province of Davao del Norte,*[28] the Supreme Court was categorical in saying that NFA being a government instrumentality with corporate powers, is exempt from the payment of docket and other legal fees and costs, *viz.*:

> "Please take notice that the Court, Second Division, issued a Resolution dated **July 4, 2022** which reads as follows:
>
> '**G.R. No. 261472 [Formerly UDK-17224] (*National Food Authority, represented by Atty. Ma. Theresa S. Villafuerte, CPA, in her capacity as Department Manager of NFA Legal Affairs Department vs. City Government of Tagum and City Assessor of Tagum, Province of Davao del Norte*)**. - The Court resolves to **GRANT** counsel for petitioner's motion for exemption from payment of docket and other legal fees and costs dated December 16, 2021, praying that petitioner be exempt from payment of docket and other legal fees **since it is a government instrumentality with corporate powers**, and to **RE-DOCKET** this case as a regular case.'
>
> xxx xxx xxx" *(Emphasis supplied)*

[28] Resolution, G.R. No. 261472, July 4, 2022.

Requisites of a government instrumentality

In *Manila International Airport Authority vs. Court of Appeals, et al.*[29] *("MIAA")*, the Supreme Court has long settled the issue of what makes a government entity a government instrumentality, *viz*:

> "MIAA is a **government instrumentality vested with corporate powers to perform efficiently its governmental functions. MIAA is like any other government instrumentality, the only difference is that MIAA is vested with corporate powers**. xxx
>
> xxx xxx xxx
>
> **Many government instrumentalities are vested with corporate powers but they do not become stock or non-stock corporations, which is a necessary condition before an agency or instrumentality is deemed a government-owned or controlled corporation.** Examples are the Mactan International Airport Authority, the Philippine Ports Authority, the University of the Philippines and *Bangko Sentral ng Pilipinas*. xxx These government instrumentalities are sometimes loosely called **government corporate entities**. However, they are not government-owned or controlled corporations in the strict sense as understood under the Administrative Code, which is the governing law defining the legal relationship and status of government entities.
>
> A government instrumentality like MIAA falls under Section 133(o) of the Local Government Code, which states:
>
> > SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units.* - **Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:**
> >
> > x x x x
> >
> > (o) **Taxes, fees or charges of any kind on the National Government, its agencies and <u>instrumentalities</u>** and local government units.
>
> Section 133(o) recognizes the basic principle that local governments cannot tax the national government, which

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[29] G.R. No. 155650, July 20, 2006; See also *Philippine Fisheries Development Authority vs. Court of Appeals, et al., G.R. No. 169836, July 31, 2007*; *Mactan-Cebu International Airport Authority (MCIAA) vs. City of Lapu-Lapu, et al.*, G.R. No. 181756, June 15, 2015; *Metropolitan Waterworks Sewerage System vs. The Local Government of Quezon City, et al.*, G.R. No. 194388, November 7, 2018. *am*

historically merely delegated to local governments the power to tax. xxx

xxx xxx xxx

Third, the government-owned or controlled corporations created through special charters are those that meet the two conditions prescribed in Section 16, Article XII of the Constitution. The first condition is that the government-owned or controlled corporation must be established for the common good. **The second condition is that the government-owned or controlled corporation must meet the test of economic viability**. Section 16, Article XII of the 1987 Constitution provides:

> SEC. 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. **Government-owned or controlled corporations may be created or established by special charters in the <u>interest of the common good and subject to the test of economic viability</u>**.

The Constitution expressly authorizes the legislature to create "government-owned or controlled corporations" through special charters **only if** these entities are required to meet the twin conditions of common good and economic viability. **In other words, Congress has no power to create government-owned or controlled corporations with special charters unless they are made to comply with the two conditions of common good <u>and</u> economic viability**. xxx" *(Boldfacing supplied; citations omitted)*

Under RA No. 10149,[30] the definition of a government instrumentality and GOCC remained the same except that the term 'government corporate entities' mentioned in *MIAA* was adopted, recognizing the existence of government instrumentalities exercising corporate powers, to wit:

"Section 3. Definition of Terms. – xxx

xxx xxx xxx

(n) **Government Instrumentalities with Corporate Powers (GICP)/<u>Government Corporate Entities (GCE)</u>** refer to instrumentalities or agencies of the government, which are **neither corporations nor agencies integrated within the departmental framework, but vested by law with special functions or jurisdiction, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy usually through a charter** xxx. *(Boldfacing and underscoring supplied)*

[30] GOCC Governance Act of 2011.

Thus, pursuant to *MIAA* and Section 3(n) of RA No. 10149, to be classified as a government instrumentality, the government entity must: not be a stock or non-stock corporation; not integrated within the department framework; be vested with special functions or jurisdiction by law; be endowed with some if not all corporate powers; administer special funds; enjoy operational autonomy, usually through a charter; and perform "essential public services for the common good, services that every modern State must provide its citizens".

Meanwhile, a stock corporation is a corporation which has a capital stock divided into shares and is authorized to distribute to the holders of such shares, dividends, or allotments of the surplus profits on the basis of the shares held.[31] A non-stock corporation is "one where no part of its income is distributable as dividends to its members, trustees, or officers"[32] and "formed or organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof."[33]

On the other hand, to be considered a GOCC, the government entity must be a stock or non-stock corporation and must pass the twin tests of common good and economic viability.

Petitioner NFA is an instrumentality of the government

Scrutiny of PD No. 4, as amended by Presidential Decree (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 nor non-stock corporation. While Section 9 of PD No. 4, as amended by PD No.

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[31] Section 3, Batas Pambansa (BP) Blg. 68 (now Section 3, Revised Corporation Code of the Philippines [RCCP]).
[32] Section 87, BP Blg. 68 (now Section 86, RCCP).
[33] Section 88, BP Blg. 68 (now Section 87, RCCP).

1770,[34] provides that petitioner shall have an authorized capital stock of ₱5,000,000,000.00 divided into 50,000,000 shares of par value of ₱100.00 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.[35]

Second, petitioner was originally attached to the Office of the President (OP).[36] 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[37] as it administers special funds,[38] while enjoying operational autonomy[39] 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.

Sec. 5(b) of PD No. 4, as amended by PD No. 1485, created and organized petitioner to undertake and assume primary

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[34] Section 9. *Capitalization*. The Authority shall have an authorized capital stock of five billion pesos, divided into fifty million shares of par value of one hundred pesos each. These shares shall be wholly subscribed and paid by the national government, local government units, or other government owned or controlled corporations.
The accumulated capital stock and surpluses of the National Grains Authority shall be evaluated and shall be the initial paid in capital of the Authority. The national government shall make additional equity investments into the Authority out of 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 the Authority and funds availability in the Treasury.

[35] Now Section 87, RCCP; Refer to Section 5, PD No. 1485; Section 2, PD No. 1770; and, Section 8, RA No. 11203.

[36] Section 3, PD No. 1770.

[37] Section 5(b), PD No. 4, as amended, Section 7, PD No. 1770; Section 8, RA No. 11203.

[38] Section 11, PD No. 4; Section 10, PD No. 1770.

[39] Section 6, PD No. 1770. *om*

responsibility for all government activities relating to the processing, storage, transport and marketing of grains.

Section 8 of RA No. 11203 provides that petitioner shall maintain sufficient rice buffer stock to be sourced solely from local farmers <u>to be used for emergency situations and to sustain the disaster relief programs of the government during natural or man-made calamities</u>.[40]

Viewed in the light of petitioner's powers and responsibilities, it performs essential public service. Petitioner is vested generally with governmental or public functions including, among others, the power to issue seizure orders, deputize government agencies, promulgate rules and regulations, and register, license and supervise such persons, activities and matters defined as falling within its jurisdiction.[41]

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.

Petitioner is exempt from RPT under Section 6 of PD No. 4, as amended

Section 6, PD No. 4, as amended by PD No. 1485, exempts petitioner from payment of all taxes. Section 6 thereof reads:

> "Sec. 6. Administration — Powers, Organization, Management and Exemptions. — The powers, organization, management and exemptions of the Authority shall be as follows:

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[40] Section 3(a), RA No. 8178, as amended by RA No. 11203.
[41] Section 6, PD No. 1485.

xxx xxx xxx

> (d) Exemptions. — In furtherance to the effective implementation of the policy enunciated in this decree, the Authority is hereby declared exempt:
>
> i. From payment of **all taxes**, duties, fees, imposts, charges, costs and restrictions to the Republic of the Philippines, its provinces, cities, municipalities, including the taxes, duties, fees, imposts and other charges provided for under the Tariff and Customs Code of the Philippines, R.A. No. 1937, as amended by Presidential Decree No. 34, dated October 27, 1972, and Presidential Decree No. 69, dated November 24, 1972, and all filing, docket, and service fees, bonds and other charges or costs in any court or administrative proceedings in which the Authority may be a party.
>
> ii. From all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities; and
>
> iii. From all duties, arrastre fees in so far as the government's share is concerned, including all charges and fees imposed under Presidential Decree No. 857 compensating taxes and advance sales taxes, wharfage fees and tonnage dues on import/export of goods required for its operations and projects.
>
> All documents or contracts executed by or in favor of the Authority shall also be exempt from the payment of documentary and science stamp taxes and registration fees: Provided, however, that this exemption shall not apply to taxes and assessments payable by persons or entities transacting business with the Authority.
>
> The Authority shall likewise be exempt from the coverage of Presidential Decree No. 711." *(Boldfacing supplied)*

Considering the pronouncement of the Supreme Court in G.R. No. 261472 and the clear and categorical provisions of Sections 133 (o) and 234 of the LGC, the act of respondents in demanding payment of RPT from petitioner is *ultra vires*. Respondents were bereft of any power or authority to assess and collect RPT from petitioner, more so, there being nothing on record to show that beneficial use of the subject property has been granted to a taxable person. Consequently, the Notice of Real Property Tax Delinquency issued against petitioner is void *ab initio* and collection of the amount thereof may not be justified.

WHEREFORE, premises considered, the *Petition for Review under Section 11 of R.A. No. 1125/Rule 8 Section 3a of A.M. No.05-11-07-CTA* is **GRANTED**. Accordingly, the *Decision* dated July 16, 2018 and the *Resolution* dated June 28, 2021, rendered by RTC-Branch 61, Bogo City, Cebu under Civil Case No. BOGO-03486 are hereby **REVERSED** and **SET ASIDE**. The Notice of Real Property Tax Delinquency dated May 16, 2017 issued against petitioner National Food Authority by respondent City Treasurer of Bogo City, Cebu is hereby **NULLIFIED** and **DECLARED** void *ab initio.*

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

CERTIFICATION

Pursuant to Article VIII, Section 13 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice