REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL GRID CORPORATION OF THE PHILIPPINES Petitioner,	CTA EB No. 1963 (CBAA Case No. L-133-2016) (LBAA Case Nos. 2014-001 and 2014-002)
	Present:
-versus-	DEL ROSARIO, *P.J.*, CASTAÑEDA, JR. UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.*
CENTRAL BOARD OF ASSESSMENT APPEALS; LOCAL BOARD OF ASSESSMENT APPEALS OF THE CITY OF BATANGAS; GUADALUPE JUDY A. TUMAMBING, in her official capacity as the City Assessor of Batangas. Respondents.	Promulgated: FEB 12 2020 3:27 p.m.

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DECISION

FABON-VICTORINO, J.:

In this appeal by way of the instant Petition for Review,[1] petitioner National Grid Corporation of the Philippines (NGCP) seeks to reverse and set aside the Resolutions dated October 24, 2017 and September 10, 2018, rendered by respondent Central Board of Assessment Appeals (CBAA), dismissing the case it filed against respondents Local Board of Assessment Appeals (LBAA), City of Batangas and City Assessor of Batangas City Guadalupe Judy A. Tumambing.

[1] *En Banc* Docket, pp. 1-30.

THE PARTIES

Petitioner NGCP is a domestic corporation with principal office address at the NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.

Respondent CBAA is a public office with principal address at 7th Floor, EDPC Building, BSP Complex, Roxas Boulevard, Manila, while respondent LBAA, City of Batangas, is a public office with principal address at the Office of Registry of Deeds, City Hall Complex, Batangas City.

Respondent Guadalupe Judy A. Tumambing is impleaded in her official capacity as the City Assessor of Batangas City. She holds office at the Office of City Assessor, City Hall Complex, Batangas City.

THE FACTS AND THE PROCEEDINGS

Pursuant to its charter known as Republic Act (RA) No. 6395,[2] the National Power Corporation (NPC) undertook the total electrification of the Philippines through the development of power from all sources to meet the needs of industrial development and rural electrification. All properties in connection thereto, including properties for power generation and transmission, were owned and operated by NPC.[3]

Per RA No. 6395 and RA No. 7160,[4] also known as the Local Government Code of (LGC) of 1991, NPC was exempt from the payment of real property tax (RPT) on its machineries and equipment actually, directly and exclusively used in the generation and transmission of electric power. On the other hand, the lands, buildings and improvements owned by NPC were classified as Special and assessed at ten percent (10%) level in accordance with Sections 216[5] and 218[6] of the same Code.[7]

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[2] Revised Charter of the National Power Corporation.
[3] Par. 6, Statement of Facts and Material Dates, Petition for Review, *en banc* docket, p. 3.
[4] The Local Government Code (LGC) of 1991.
[5] Section 216 of the LGC of 1991 provides:

Subsequently, the National Transmission Corporation (TransCo), a government-owned and controlled corporation (GOCC), assumed the electric power transmission function of NPC by virtue of RA No. 9136, or the EPIRA Law.[8] All assets owned by NPC relative to its power transmission operations, including its franchise for the operation of the transmission system and grid, were accordingly transferred to TransCo. The latter continued to enjoy RPT exemption under Sections 234 (c) of the LGC of 1991[9] and the special RPT assessment of 10% on its land, buildings and improvements pursuant to Sections 216 and 218 of the same LGC of 1991.[10]

When RA No. 9511 was enacted, petitioner was granted a franchise to operate, manage, and maintain, and in connection therewith, to engage in the business of

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SEC. 216. *Special Classes of Real Property.* - All lands, buildings, and other improvements thereon actually, directly and exclusively used for hospitals, cultural, or scientific purposes, and those owned and used by local water districts, and government-owned or -controlled corporations rendering essential public services in the supply and distribution of water and/or generation and transmission of electric power shall be classified as special.

[6] Section 218 of the LGC of 1991 provides:

SEC. 218. *Assessment Levels.* - The assessment levels to be applied to the fair market value of real property to determine its assessed value shall be fixed by ordinances of the sangguniang panlalawigan, sangguniang panlungsod or sangguniang bayan of a municipality within the Metropolitan Manila Area, at the rates not exceeding the following:

(a) On Lands:
(b) xxx
(c) xxx
(d) On Special Classes: The assessment levels for all lands, buildings, machineries and other improvements;

Actual Use	Assessment Level
xxxx	
Government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power	10%

[7] Par. 7, Statement of Facts and Material Dates, Petition for Review, *en banc* docket, pp. 3-4.

[8] The Electric Power Industry Reform Act of 2001 (EPIRA Law).

[9] Section 234(c) of the LGC of 199 reads:

SEC. 234. *Exemptions from Real Property Tax.* - The following are exempted from payment of the real property tax:
(a) xxxx
(b) xxxx
(c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or -controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;

[10] Par. 8, Statement of Facts and Material Dates, Petition for Review, *en banc* docket, pp. 3-4.

conveying or transmitting electricity through a high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.[11]

Under petitioner's franchise and pursuant to the Concession Agreement executed by and between petitioner, Power Sector Assets and Liabilities Management Corporation (PSALM) and TransCo, petitioner, on January 15, 2009, officially assumed and took over, the operation, management and maintenance of TransCo's nationwide electric power transmission business, including TransCo's real properties used in the transmission of electric power.[12]

On April 15, 2014, petitioner received five (5) Notices of Assessment[13] (NOA) for Calendar Year (CY) 2014 from respondent City Assessor of Batangas, pertaining to thirty-one (31) parcels of land declared in its name located in Barangay Mahabang Parang, Batangas City. Based on the Tax Declarations,[14] the said parcels of land were classified as industrial with an assessment levels ranging from 25% and 30% of their fair market value.

On May 15, 2014, TransCo forwarded to petitioner the two (2) NOAs for CY 2014[15] issued by respondent City Assessor, pertaining to fifteen (15) properties consisting of parcels of land and buildings described as tower poles located in various barangays of Batangas City and declared in the name of TransCo. Per Tax Declarations,[16] the 15 properties were classified as industrial and variedly assessed at 25%, 60%, 70% and 75% of the fair market value.

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[11] Par. 9, Statement of Facts and Material Dates, Petition for Review, *en banc* docket, p. 4.
[12] Par. 10, Statement of Facts and Material Dates, Petition for Review, *en banc* docket, pp. 4-5.
[13] Annexes "C and series" to the Petition for Review, *en banc* docket, pp. 84-88.
[14] Annexes "D and series" to the Petition for Review, *ibid.,* pp. 89-119.
[15] Annexes "E and series" to the Petition for Review, *ibid.,* pp. 120-121.
[16] Annexes "F and series" to the Petition for Review, *en banc* docket, pp. 122-136.,

On June 20, 2014 and July 10, 2014, petitioner filed two separate Petitions[17] before respondent LBAA respectively docketed as LBAA Case No. 2014-001 and LBAA Case No. 2014-002, questioning the 2 NOAs forwarded to it by TransCo. The two Petitions were later consolidated.

On February 10, 2015, or during the pendency of the said consolidated Petitions, a meeting was held between petitioner, PSALM, TransCo and respondent City Assessor wherein the assessment levels against the subject properties were reduced to 10% of the fair market value and classify them as industrial lands. Consequently, respondent City Assessor issued New NOAs dated December 1 and 2, 2014 together with the corresponding Tax Declarations, which petitioner received from TransCo on February 23, 2015.

Subsequently, petitioner filed a Manifestation[18] with respondent LBAA indicating that it would no longer challenge the assessments insofar as the properties classified as industrial land at 10% assessment level as it already settled the RPTs due thereon. However, with respect to the properties classified as industrial building and described as tower poles under Tax Declaration Nos. 0028-01341 (0028-01639), 0031-00857(0031-01171), 0060-00878(0060-01124), 0091-00438(0091-00605) and 0092-07958(0092-09170) under LBAA Case No. 2014-002, petitioner would maintain its position that the said properties should be classified as "machinery" exempt from payment of RPT pursuant to Section 9 of its franchise, RA No. 9511.

On November 5, 2015, petitioner received respondent LBAA's Decision dated October 21, 2015,[19] denying the consolidated Petitions, in this wise:

> **WHEREFORE**, the foregoing considered, the appeal in these two (2) consolidated cases are **DENIED**. NGCP is hereby ordered to pay the Real Estate Taxes as assessed by the City Assessor under the Notices of Assessment and Tax Declarations issued and received by NGCP on 15 April 2014 and 15 May 2014.

[17] Annexes "G and G-1" to the Petition for Review, *ibid.,* pp. 137-174.
[18] Annex "H" to the Petition for Review, *ibid.,* pp. 206-212.
[19] Annex "I" to the Petition for Review, *en banc* docket, pp. 213-222.

SO ORDERED.

On December 4, 2015, petitioner filed an Omnibus Motion for Reconsideration of the Decision and to Exclude the Subject Properties from Scheduled Public Auction on December 15, 2015,[20] reiterating its tax exemption and alleged classification of its tower poles as machinery likewise exempt from payment of RPTs. Petitioner also mentioned its payment of RPTs on properties classified as industrial lands amounting to ₱192,933.01 based on the new NOAs dated December 1 and 2, 2014 and Tax Declarations issued by respondent City Assessor. Finally, petitioner moved for the exclusion of 2 of the 5 properties described as tower poles located at Sta Rita Aplaya and Sta. Rita Carsada, Batangas City and covered by Tax Declaration Nos. 0091-00605 (0091-00438) and 0092-091700(0092-079958), respectively, for they belonged to First Gas Power Corporation and not to TransCo, hence, they should be dropped from the case and their corresponding tax declarations be cancelled.

In the Order dated March 2, 2016[21] and received by petitioner on March 10, 2016, respondent LBAA denied petitioner's Omnibus Motion ruling that the matters it raised merely mimic those already passed upon by it.

On April 6, 2016, petitioner filed a Memorandum of Appeal before respondent CBAA[22] docketed as CBAA Case No. L-133-2016.

On June 2, 2016, petitioner received the Answer filed by respondent City Assessor[23] praying for the dismissal of its appeal.

On November 7, 2017, petitioner received respondent CBAA's Resolution dated October 24, 2017[24] dismissing its appeal in the following manner:

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[20] Annex "J" to the Petition for Review, *ibid.*, pp. 224-237.
[21] Annex "K" to the Petition for Review, *ibid.*, pp. 238-239.
[22] Annex "L" to the Petition for Review, *en banc* docket, pp. 240-270.
[23] Annex "M" to the Petition for Review, *ibid.*, pp. 271-294.
[24] Annex "A" to the Petition for Review, *ibid.*, pp. 32-56.

> **WHEREFORE**, premises considered, this Board, hereby Resolves:
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> 1. To DISMISS the case for failure of Petitioner-Appellant to perfect an appeal on time; and
>
> 2. In view thereof, the issue of non-compliance by the Petitioner-Appellant with the requirement of payment under protest will no longer be resolved by this Board for being moot and academic considering that this Board has not acquired jurisdiction over the case for being filed out of time.
>
> **SO ORDERED.**

Aggrieved, petitioner filed a Motion for Reconsideration[25] on November 22, 2017, to which respondent City Assessor filed Comment/Opposition thereto on January 8, 2018.[26]

On September 10, 2018, respondent CBAA issued the similarly assailed Resolution, to wit:

> **WHEREFORE**, the instant motion for reconsideration is granted as regards the timeliness of the appeal. The Decision dated 24 October 2017 is **SET ASIDE**. In its stead, a new judgment is rendered dismissing the instant case for failure to comply on the mandatory requirement of payment under protest.
>
> **SO ORDERED.**

Hence, this recourse, via the instant Petition for Review filed on November 9, 2018 before the Court *En Banc.*

On January 24, 2019, respondents, in compliance with the Resolution[27] dated December 12, 2018, filed through

[25] Annex "O" to the Petition for Review, *ibid.,* pp. 298-316.
[26] Annex "Q" to the Petition for Review, *ibid.,* pp. 321-324.
[27] *En Banc* Docket, pp. 330-331.

registered mail, their Comment/Answer to Petition for Review.[28]

On February 13, 2019, the case was submitted for decision.[29]

THE ISSUES

Petitioner anchors its Petition for Review on the grounds[30] quoted below:

I. The Honorable CBAA erred in its Resolutions when it failed to consider that NGCP is exempt from payment of real property tax on properties used in connection with its franchise under Section 9 of RA 9511.

II. The Honorable CBAA erred in holding that payment of taxes under protest is a condition precedent in the filing of the appeal or petition before the LBAA and non-compliance thereof would warrant the dismissal of the same.

Petitioner's arguments:

Petitioner invokes its alleged exemption from payment of RPT under its franchise, RA No. 9511, which provides that it is only liable to pay three percent (3%) franchise tax and no other tax can be imposed or demanded by the national or local authorities on it. Petitioner cites as authority the case of *NGCP v. Ofelia M. Oliva, in her official capacity as City Treasurer of Cebu and Ofelia M. Oliva, in her official capacity as City Treasurer of Cebu v. NGCP,*[31] wherein the Supreme Court ruled that NGCP's payment of franchise tax exempts it from payment of RPTs on properties used in connection with its franchise. It believes that the tower poles described as Industrial Buildings in the Tax Declarations should be

[28] *En Banc* Docket, pp. 332-356.
[29] *Ibid.*, pp. 359-360.
[30] *Ibid.*, p. 15.
[31] G.R. Nos. 213157 and 213158, August 10, 2016.

considered as machineries under Section 199 (o) of the LGC of 1991 hence, exempt from the payment of RPT under its franchise, RA No. 9511.

Further, it is not required to pay under protest the RPT in question before filing its appeal with respondent LBAA as it filed the Petition hinged on Section 226 and not Section 252 of the LGC of 1991. It appealed the action of respondent City Assessor of assessing the machineries in its name and not the action or decision of the City Treasurer of Batangas City on the written protest against the collection of RPTs. Hence, Section 226 of RA No. 7160 applies, which only requires that the appeal must be filed within thirty (30) days from receipt of the written notice of assessment issued by the Assessor. There is nothing in RA No. 7160 that requires prior payment under protest before filing the appeal with respondent LBAA.

Moreover, an appeal under Chapter 3, Title II, Book II of RA No. 7160 may be availed in two (2) instances, to wit: 1) a direct appeal to the LBAA from the notice of assessment issued by the Assessor for which payment under protest is not required; 2) an appeal from the denial by the Treasurer's office of the written protest filed by the taxpayer after "paying under protest" the RPT. Thus, the "payment under protest" requirement is applicable only to appeals taken pursuant to Section 252 of RA No. 7160 and not to appeals taken from the notice of assessment under Section 226 of the same Code. Further, under Section 226 of RA No. 7160, the taxpayer challenges the act of the assessor in assessing the property of the taxpayer while under Section 252, the taxpayer impugns the denial of its protest by the Treasurer. In both instances, the aggrieved taxpayer may file an appeal before the LBAA, however, the requirement of payment under protest is only required for appeals under Section 252 of RA No. 7160. Hence, the requirement of payment under protest has no basis.

Respondents' arguments:

Respondents, on the other hand, argue that respondent CBAA did not err when it ruled that failure on the part of petitioner to make payment under protest before making an appeal is fatal to its cause. Considering that petitioner is questioning the reasonableness or correctness of the assessment of the local assessor and not the legality of assessment or the latter's authority to assess RPT, petitioner should have complied first with Section 252 of RA 7160. Petitioner's failure to prove compliance therewith rendered its administrative protest under Section 226 of the LGC of 1991 without any effect.

Further, petitioner is not exempt from payment of RPTs under Section 9 of RA No. 9511 because it is not owner, actual possessor and user of the subject properties but TransCo. Thus, petitioner has no legal personality nor interest justifying the tax liability other than that it contractually assumed under the Concession Agreement. However, the said agreement is only valid and enforceable between petitioner and TransCo and does not bind third persons who are not privy to the agreement.

Finally, Section 9 of RA No. 9511 provides "that the grantee, its successor or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other corporations are now or hereafter may be required by law to pay." Thus, there was no intention on the part of Congress to exempt petitioner from paying real estate taxes. For respondent City Assessor, respondent LBAA was correct when it ruled that the tower poles/industrial buildings could not be classified as machineries, therefore petitioner is not exempt from paying RPTs thereon. Section 199 of the LGC of 1991 defines machinery as to include machines, equipment, mechanical contrivances, instruments, appliances or apparatus which may or may not be attached permanently or temporarily to the real property. Tower poles are definitely not included in the definition, thus, not exempted, say respondents.

RULING OF THE COURT *EN BANC*

The primary issues for resolution are as follows: 1) whether petitioner is correct in claiming exemption from payment of RPT on subject properties under its franchise, specifically Section 9 of RA No. 9511; and 2) whether petitioner is required to pay under protest before filing an appeal with respondent LBAA, to warrant the dismissal of its case.

Section 252 of the LGC of 1991 provides the road map for contesting an assessment issued by an LGU, to wit:

> Section 252. *Payment under Protest.* –
>
> (a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words "paid under protest." The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.
>
> (b) xxxx
>
> (c) xxxx
>
> (d) In the event that the protest is denied or upon the lapse of the sixty-day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title Two, Book II of this Code.

Chapter 3, Title Two, Book II of the LGC of 1991 provides the procedural and substantive aspects of appeal before the LBAA and the CBAA, *viz,*:

> CHAPTER 3 - ASSESSMENT APPEALS"
>
> SEC. 226. Local Board of Assessment Appeals. - Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form

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prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.

SEC. 229. Action by the Local Board of Assessment Appeals. -

(a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.

(b) xxxx

(c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board, may, within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals, as herein *provided*. The decision of the Central Board shall be final and executory.

SEC. 231. Effect of appeal on the Payment of Real Property Tax. - appeal on assessments of real property made under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal.

As to the running of the period to appeal the decision of the treasurer to the LBAA, Section 226 of the LGC of 1991 states that the 60-day period to appeal commences from the receipt of the NOA, however the said provision must be harmonized with Section 252 (d) of the same Code which provides that if the protest is denied or upon the lapse of the 60-day period given to the treasurer to act on the taxpayer's protest, the taxpayer may avail of the remedies in Chapter 3, Title Two, Book II of the LGC of 1991. In the cases of *National Power Corporation v. Province of Quezon and Municipality of Pagbilao*[32] *and Dr. Olivarez, et al. v. Mayor Marquez,*[33] the Supreme Court in no uncertain term clarified that the 60-day period to seek relief from the adverse decision of the treasurer with the LBAA starts to run from receipt of the written notice of assessment.

Further, the protest contemplated under Section 252 of LGC of 1991 is required where there is a question with respect to the reasonableness or correctness of the amount assessed. Hence, if a taxpayer disputes the reasonableness of an increase in the RPT assessment, the taxpayer is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. On the other hand, if the taxpayer or the owner or person having legal interest in the property, questions the very authority and power of the assessor to impose the assessment, or questions the authority and power of the treasurer to collect the tax, the matter becomes a legal question, properly cognizable by the trial court.

From the foregoing, it can be deduced that when an assessment is issued, the taxpayer, who is the owner or the person with legal interest over the property may: (1) question the reasonableness or correctness of the assessment; or (2) question its legality or validity.

Where the taxpayer or the person with legal interest over the property questions the reasonableness, correctness, or excessiveness of the assessment, the taxpayer must first pay the assessed amount under protest in accordance with Section 252(a) of the LGC of 1991. In

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[32] G.R. No. 171586, January 25, 2010, 611 SCRA 71.
[33] G.R. No. 155591, September 22, 2004, 438 SCRA 679.

the event that the protest is denied or not acted upon within 60 days from filing, the taxpayer or the person with legal interest over the property may elevate its case to the LBAA, which has 120 days from the date of receipt of such appeal, to render a decision. When the taxpayer or the person with legal interest over the property or the assessor, as the case may be, remains unsatisfied with the decision of the LBAA, the aggrieved party may file an appeal with the CBAA within 30 days from receipt of the adverse decision of the LBAA. If still unsatisfied, the aggrieved party may then file an appeal with the CTA *En Banc* pursuant to Sections 7(a)(5) and 11 of RA No. 1125 and Section 2(e), Rule 4 of the RRCTA.

In the second scenario, the taxpayer questions the legality or validity of the assessment, *i.e.* authority and power of the assessor to impose the assessment, and of the treasurer to collect the real property tax, which is a question of law. In such case, the taxpayer or person with legal interest over the property, may appeal directly to the RTC whose adverse decision is appealable before the Court in Division.

Based on the record, petitioner filed two (2) appeals/petitions before respondent LBBA claiming exemption from paying RPT on the subject properties used in connection with its franchise as provided under Section 9 of its franchise, RA No. 9511 and as well as its tower poles located in various barangays described as Industrial Buildings in their respective tax declarations. According to petitioner, the said tower poles should be classified as machineries under Section 199 (o) of the LGC of 1991, hence, exempt from RPT. Petitioner also insists that it is not required to pay under protest the assailed RPT prior to filing its Petition before respondent LBAA as it filed same based on Section 226 of the LGC of 1991.

While per its own declaration, petitioner eventually paid the corresponding RPTs for the industrial lands based on the new NOA dated December 1 and 2, 2014 issued by respondent assessor, it is still claiming exemption from RPTs for the assessment issued against it covering the industrial building described as tower poles saying that the should be classified as machineries which are exempt from RPT.

In *Camp John Hay Development Corporation v. CBAA, et al.,*[34] the Supreme Court declared that a claim for tax exemption merely raises a question of the reasonableness or correctness of the assessment, in which case, compliance with Section 252 of the LGC of 1991 is required, and such argument which may involve a question of fact should be resolved at the first instance by the LBAA.

Moreover, in *National Power Corporation v. Province of Quezon and Municipality of Pagbilao,*[35] the Supreme Court had the occasion to declare that a claim of exemption is actually an act of assailing the correctness of the assessment, and as such, payment under protest under Section 252 (d) of the LGC of 1991 should first be complied with before a taxpayer can file an appeal with the LBAA under Section 226 of the same Code, thus:

> Like Olivarez, Napocor, by claiming exemption from realty taxation, is simply raising a question of the correctness of the assessment. A claim for tax exemption, whether full or partial, does not question the authority of local assessor to assess real property tax. This may be inferred from Section 206 which states that:
>
> xxx xxx xxx
>
> By providing that real property not declared and proved as tax-exempt shall be included in the assessment roll, the above-quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim. Since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252, particularly the requirement of payment under protest. Napocor's failure to prove that this requirement has been complied with thus renders its administrative protest under Section 226 of the LGC without any effect. No protest shall be entertained unless the taxpayer first pays the tax.

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[34] G.R. No. 169234, October 2, 2013, 706 SCRA 547.
[35] G.R. No. 171586, January 25, 2010, 611 SCRA 71.

> It was an ill-advised move for Napocor to directly file an appeal with the LBAA under Section 226 without first paying the tax as required under Section 252. Sections 252 and 226 provide successive administrative remedies to a taxpayer who questions the correctness of an assessment. Section 226, in declaring that any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city, or municipal assessor in the assessment of his property may xxxx appeal to the Board of Assessment Appeals xxxx, should be read in conjunction with Section 252 (d), which states that in the event that the protest is denied xxxx, the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of the LGC [Chapter 3 refers to Assessment Appeals, which includes Sections 226 to 231]. The action referred to in Section 226 (in relation to a protest of real property tax assessment) thus refers to the local assessor's act of denying the protest filed pursuant to Section 252. Without the action of the local assessor, the appellate authority of the LBAA cannot be invoked. Napocor's action before the LBAA was thus prematurely filed.

Applying the foregoing pronouncement to the instant case, the Court *En Banc* is one with respondent CBAA in dismissing petitioner's Appeal/Petition on the ground that petitioner failed to comply with the mandatory requirement of payment under protest, as provided by Section 252(a) of the LGC of 1991. Petitioner's non-compliance with the said requirement under Section 252(a) of the LGC of 1991 deprived respondent CBAA with jurisdiction to entertain the appeal.

WHEREFORE, the Petition for Review filed by petitioner National Grid Corporation of the Philippines on November 9, 2018, is hereby **DISMISSED** for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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 among the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court *En Banc*.

ROMAN G. DEL ROSARIO
Presiding Justice