REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

SMART COMMUNICATIONS, INC., *Petitioner,*	**CTA AC NO. 176** *(Special Civil Action No. 24-2014-05)*
-versus-	Members:
THE MUNICIPALITY OF JONES, ISABELA, Rep. by the Hon. Municipal Mayor Leticia T. Sebastian and Municipal Treasurer Abelardo Salvador, *Respondent.*	**BAUTISTA,** *Chairperson* **FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.* Promulgated: FEB 2 1 2017 11:05 a.m.

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RESOLUTION

For resolution is petitioner's Petition for Review filed on October 27, 2016; with respondent's Comment/Opposition (To The Petition for Review) filed on February 7, 2017 *via* registered mail.

The present Petition for Review arose from the passage and implementation of *Municipal Ordinance No. 2009-003 ("Ordinance")* entitled "Ordinance Regulating the Conduct and Operation of Towers and Imposing an Annual Tower Fee for the Operation of Towers and Imposing an Annual Tower Fee for the Operation of the Cell Sites for Commercial Purposes within the Municipality of Jones, Isabela." As a consequence, petitioner filed a Petition - Special Civil Action for *Certiorari* and Prohibition ("Special Civil Action") with Regional Trial Court, Branch 24 – Echague, Isabela ("RTC"), raising the following issues:

1. Whether the Ordinance is a valid piece of local legislation;

2. Whether the RTC has jurisdiction to resolve the Special Civil Action;

3. Whether the imposition of Php200,000.00 tower fee is revenue or regulatory; and

4. Whether the Ordinance is in the form of taxation or regulation. If in regulation, is it reasonable or excessive? If in taxation, is it double taxation?

On August 2, 2016, the RTC dismissed the Special Civil Action for not being the proper action and for having no legal and factual basis. The RTC likewise denied petitioner's Motion for Reconsideration in an Order dated September 14, 2016.

On October 27, 2016, petitioner filed the instant Petition for Review questioning the Decision and the Order of the RTC, and raising the following issues

1. Whether the RTC gravely and seriously erred in ruling that its Special Civil Action for *Certiorari* is not the proper action;

2. Whether the RTC gravely and seriously erred in ruling that the Ordinance did not violate the prohibition against double taxation, and that the imposed tower fee was not unjust, excessive, oppressive, confiscatory, and contrary to declared policy; and

3. Whether the RTC gravely and seriously failed to rule on the vagueness of the Ordinance.

In its Comment, respondent questioned the jurisdiction of the Court to entertain the instant Petition; that *Certiorari* and Prohibition will not lie against him; that the Petition is premature for failure of petitioner to avail the remedy of administrative review; that the Ordinance is valid; that there is no double taxation; and that petitioner's allegations are mere echoes of arguments previously raised and adequately discussed and disposed of by the RTC.

The Court finds merit in respondent's argument.

Jurisdiction is conferred by law and is the capacity of a court to "entertain, hear, and determine certain controversies."[1] The Court of Tax Appeals ("CTA"), as a court of special jurisdiction, can only take cognizance of matters clearly within its jurisdiction.[2]

Section 7(a)(3) of Republic Act ("RA") No. 1125[3] provides the jurisdiction of the CTA, as follows:

> SECTION 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;[4]

Moreover, *Section 3 of the Revised Rules of the CTA* provides the jurisdiction of the Court in Division, as follows:

> RULE 4
> Jurisdiction of the Court
>
> xxx xxx xxx
>
> SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.* —
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> The Court in Divisions shall exercise:
>
> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
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> xxx xxx xxx

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[1] *Guy v. Court of Appeals,* G.R. Nos. 165849, 170185, 170186, 171066 and 176650, December 10, 2007, 539 SCRA 584.
[2] *Commissioner of Internal Revenue v. Silicon Philippines, Inc.,* G.R. No. 169778, March 12, 2014, 718 SCRA 513.
[3] June 16, 1954.
[4] Underscoring ours.

(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;[5]

The Court agrees with respondent that the present case does not deal with a local tax case, in view of the fact that the assessment against petitioner is not the one in issue but the validity of the Ordinance. Hence, there is no actual local tax case decided by the RTC to be elevated by appeal to the Court, over which the latter can exercise jurisdiction.

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

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[5] Underscoring ours.