REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

JOSEPHINE P. CALAJATE, ACTING AS THE PROVINCIAL TREASURER OF THE PROVINCE OF ILOCOS NORTE,
Petitioner,

- versus -

NORTH LUZON RENEWABLE ENERGY CORPORATION,
Respondent.

CTA EB NO. 1812
(CBAA Case No. L-134-2016)
LBAA Case No. 2016-01

Present:

DEL ROSARIO, *PJ*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

FEB 26 2020 4:18 p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

Before the Court *en banc* is a Petition for Review[1] filed by petitioner Josephine P. Calajate, acting as the Provincial Treasurer of the Province of Ilocos Norte (Provincial Treasurer), against the respondent North Luzon Renewable Energy Corporation (NLREC) seeking the reversal of the Decision of the Central Board of Assessment Appeals (CBAA) dated October 10, 2017[2] (Assailed Decision) in CBAA Case No. L-134-2016, as well as the Resolution dated January 31, 2018[3] (Assailed Resolution) denying its motion for reconsideration.

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[1] *Rollo*, pp. 2-17, with Annexes "A" to "E", pp. 18-123.
[2] *Id.*, pp. 52-106.
[3] *Id.*, pp. 108-122.

In the Petition, the Provincial Treasurer prays that both the Assailed Decision and Resolution be reversed and set aside; that judgment be rendered declaring that the one and a half percent (1.5%) maximum realty tax rate provided by Republic Act (RA) No. 9513, otherwise known as the Renewable Energy Act (RE Law) applies to realty and other taxes with the exception of the Special Education Fund (SEF).

The Parties

Petitioner is the Provincial Treasurer of the Provincial Government of Ilocos Norte with office address at Ilocos Norte Capitol, J.P. Rizal Street, Brgy. 10, Laoag City, Ilocos Norte and the Respondent-Appellee in CBAA Case No. L-134-2016 (LBAA Case No. 2016-01).

On the other hand, respondent NLREC is a corporation organized and existing under the laws of the Republic of the Philippines and the Petitioner-Appellant in CBAA Case No. L-134-2016 (LBAA Case No. 2016-01).

The Facts[4]

This case involves the assessments of the Provincial Treasurer involving the windfarms and transmission lines of NLREC located in the Municipalities of Pagudpud, Bacarra, Pasuquin and Bangui.

On December 28, 2015, NLREC received (i) Notice of Assessment Count No.: 00314 -00302, 00314-00303 and 00314-01722 with Statements of Account dated December 28, 2015; and (ii) Statement of Account for real property tax for the years 2016 and 2015 from the Municipal Treasurer of Pagudpud, Ilocos Norte (Pagudpud Assessments).[5]

In the said Notices of Assessment and Statements of Account, NLREC was assessed real property tax at a rate of two percent (2%), or in the aggregate amount of One Hundred Eight Million Eight Hundred Twelve Thousand Three Hundred Forty Four Pesos and Seventy Centavos (₱108,812,344.70) for the years 2015 and 2016, broken down as follows:

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[4] As found by the CBAA and as culled from the records of the case.
[5] NLREC's Memorandum of Appeal, Exhibit A, Paragraph 1, Records p. 6.

Real Property Taxes	Year Covered	Basic Real Property	SEF	Amount Paid (in Php)
Windfarm	2015	12,082,636.09	12,082,636.09	24,165,272.18
	Interest	2,899,832.66	2,899,832.66	5,799,665.32
	Total 2015	14,982,468.75	14,982,468.75	**29,964,937.50**
Windfarm	2016	38,585,028.56	38,585,028.56	**77,170,057.12**
Transmission Line	2016	838,675.04	838,675.04	**1,677,350.08**
	TOTAL			**108,812,344.70**

NLREC paid under protest the real property taxes due thereon on December 29, 2015.[6] On January 11, 2016, NLREC filed its formal protest[7] to the Pagudpud Assessments with the Municipal Treasurer of Pagudpud and the Provincial Treasurer, questioning the (a) imposition of a total of two percent (2%) tax rate on its Renewable Energy (RE) facilities, (b) the penalty assessed for the real property taxes (RPT) for 2015, and (c) the depreciated value in the Municipal Assessor's Notice of Assessment dated December 28, 2015 for the buildings and other structures covered by Tax Declaration NOS. 14-007-00831, 14-007-00832, 14-007-00833, 14-007-00834, 14-007-00835 and 14-007-00832856.[8]

Likewise, on December 28, 2016, NLREC received Notices of Assessment for RPT for the year 2016 from the Municipal Treasurers of Bacarra[9], Pasuquin[10] and Bangui[11] where it was assessed RPT on its connection assets located in the Municipalities of Bacarra, Pasuquin and Bangui.[12]

In computing the assessment for 2016, NLREC's machinery, specifically the connection assets traversing the said municipalities, were subjected to RPT also at the rate of two percent (2%) broken down as one percent (1%) basic real property tax and one percent (1%) SEF. NLREC paid the two percent (2%) RPT under protest[13] on December 29, 2015.[14]

On January 19, 2016, NLREC filed formal protests to the Bacarra,[15]

[6] *Id.*, Exhibits C to C-21.
[7] *Id.*, Exhibit D .
[8] *Id.*, pp. 6 to 7, Petitioner-Appellant' s Memorandum of Appeal, Paragraphs 2 to 4; Exhibits E-1 to E-197.
[9] *Id.*, Exhibit F.
[10] *Id.*, Exhibit G.
[11] *Id.*, Exhibit H.
[12] *Id.*, p.7, Petitioner-Appellant's Memorandum of Appeal, Paragraphs 5 to 6.
[13] *Id.*, Exhibits I to I-4, J to J-6, K to K-9.
[14] *Id.* at Note 12.
[15] *Id.*, Exhibit L.

Pasuquin[16] and Bangui[17] Assessments with the respective Municipal Treasurers and the Provincial Treasurer.

On March 1, 2016, NLREC received the Decision[18] denying the Pagupud Protest, Bacarra Protest, Bangui Protest and Pasuquin Protest (collectively, the Protests), because the real properties assessed were classified taxable by the Provincial Assessor; the right amount of taxes were collected, hence, no refund and tax credit can be applied; and the Revenue Code of the Province remains enforceable and they shall continue to collect 1% for the Basic Tax and another 1% for the SEF based on the Assessed Value[19].

LBAA Proceedings

In view of the denial, NLREC filed a Petition[20] dated March 16, 2016 appealing the denial of the Provincial Treasurer with the Local Board of Assessment Appeals (LBAA) of Ilocos Norte.

In a Resolution[21] dated July 11, 2016, the LBAA of Ilocos Norte denied NLREC's appeal. In denying the appeal, the LBAA relied on the letters issued by the Bureau of Local Government Finance (BLGF), a bureau under the Department of Finance, answering queries relating to the same issue. In these letters, the BLGF adopted the view of Senator Angara which, in turn, adopted the opinion issued by the Senate Tax Study and Research Office (STSRO). The STSRO opined that the SEF imposed under the LGC is apart and distinct from the special realty tax levied pursuant under RA 9513, hence, both impositions should be applied by the Local Government Units (LGUs) concerned.

The LBAA ruled that LGUs hosting RE developers/operators may impose the maximum rate of 1.5% of RPT on civil works, equipment, machinery, and other improvements of a registered RE Developer actually and exclusively used for RE facilities **based on their original cost less accumulated depreciation or net book value** as prescribed under Department Circular no. DC2009-05-0008 of the Department of Energy.

In the case of an integrated resource development and generation facility, the tax shall only be imposed on the power plant pursuant to RA 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" (EPIRA). On the

[16] *Id.*, Exhibit M.
[17] *Id.*, Exhibit N.
[18] *Id.*, Exhibit O.
[19] *Id.* at Note 12, pp. 7 to 8.
[20] *Id.* at Note 5, Exhibit P.
[21] *Id.*, Exhibit Q.

other hand, the SEF imposed under Section 235 of RA 7160, otherwise known as the "Local Government Code of 1991" (LGC) at the rate of one percent (1%) of the assessed value of the real property, shall be levied separately from the *"Special Realty Tax Rates on Equipment and Machinery"* provided under Section 15(c) of the RE Law.

Citing *Smart Communications, Inc. vs. City* of *Davao*[22], the LBAA further ruled that there is no essential difference between a tax exemption and a tax exclusion. Since exemptions or exclusions can only be given force when the grant is clear and categorical[23] and the RE Law makes no mention on the inclusion of the SEF, NLREC has to pay the SEF distinctly from the realty taxes on its properties.

Aggrieved, NLREC appealed before the CBAA.

CBAA Proceedings

On 16 September 2016, NLREC filed its Notice of Appeal with Memorandum on Appeal with the CBAA.[24]

On 21 September 2016, the CBAA issued Advice to Transmit Original Records of the Case and Advice to Answer Appeal.[25]

On 10 October 2016, the Provincial Treasurer filed her Answer or Comment to the Memorandum of Appeal. The complete records of the case were thereafter transmitted by the LBAA.[26]

The Preliminary Conference was held on January 26, 2017, during which the parties failed to reach a settlement, hence, no compromise agreement was executed by the parties. The parties were then required to submit their respective Position Papers and Replies.[27]

The CBAA received NLREC's Position Paper on February 21, 2017 while the Provincial Treasurer's Position Paper was received on March 13, 2017.[28] The Replies to the Position Paper of the other party were received on March 20, 2017

[22] G.R. No. 155491, September 16, 2008.
[23] *Commissioner of Internal Revenue vs. Rio Tuba Nickel Mining Corp.*, G.R. Nos. 83583-84, September 30, 1991.
[24] *Id.* at Note 1, p. 60.
[25] *Id.*
[26] *Id.*
[27] *Id.*, p. 61.
[28] *Id.*, p. 62.

and March 27, 2017, respectively.[29]

On May 2, 2017, the CBAA received a copy of the Provincial Treasurer's Motion to Admit Supplemental Position Paper. On 19 May 2017, NLREC's Comment/Opposition (to Respondent-appellee's Motion to Admit Supplemental Position Paper) was received.[30]

A Clarificatory Hearing was held on May 11, 2017[31], where the following were clarified by the parties:

> 1. NLREC manifested that lands are not included as subject properties; Assessed Value as found on the tax declarations is not an issue for NLREC;
>
> 2. The main issue is whether or not the 1.5% maximum realty tax rate provided by the RE Law applies to realty and all other taxes including the tax for the SEF; NLREC's position is 1.5% Net Book Value on realty and all other taxes; the Provincial Treasurer's position is 1% of basic tax and 1% SEF from Assessed Value; and depreciation is no longer an issue on the part of NLREC (38 years vs. 25 years).

Another Clarificatory Hearing was held on June 22, 2017 where the parties Compliances and Manifestations were noted and NLREC's exhibits were re-marked.[32]

On June 23, 2017, the CBAA granted the Provincial Treasurer's Motion to Admit Supplemental Position Paper.

During the July 13, 2017 Hearing, the Provincial Treasurer marked additional Exhibits which were Annexes of her Supplemental Position Paper.[33] In view of the submission of the Position Papers and Replies by the parties, the hearing was terminated and the case was submitted for decision.

On October 10, 2017, the CBAA rendered a Decision[34], the dispositive portion of which reads:

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[29] *Id.*
[30] *Id.*
[31] *Id.*, pp. 62-63.
[32] *Id.*, p. 63.
[33] *Id.* at Note 5, p. 1406.
[34] *Id.* at Note 2.

> "**WHEREFORE**, in view of all the foregoing, this Board hereby renders judgment finding merit in the instant appeal and hereby further rules the following:
>
> 1. [The Provincial Treasurer] shall recompute the real property tax due and apply the maximum special realty tax on **one and half percent (1.5%)** to the **original cost less accumulated normal depreciation or net book value** as provided by Section 15 (c) of Republic Act No. 9513;
>
> 2. [The Provincial Treasurer] shall refund the amount of real property taxes paid for the years 2015 to 2016 in excess of the maximum specialty real tax of one and half percent (1.5%), or in the alternative issue a tax credit; and
>
> 3. [The Provincial Treasurer] shall refund the interests collected from [NLREC] for year 2015 as regards the additional half percent (.5%) of the specialty realty tax.

On December 8, 2017, the Provincial Treasurer filed a motion to reconsider the CBAA's decision. However, on January 31, 2018, the CBAA resolved to deny the Provincial Treasurer's Motion for Reconsideration.[35]

<u>CTA *En Banc* Proceedings</u>

As the Provincial Treasurer received a copy of the Resolution denying her Motion for Reconsideration on February 15, 2018, she timely posted her Petition for Review[36] on March 2, 2018, which the Court received on March 15, 2018.

On April 16, 2018, NLREC was directed to file Comment thereto.[37]

On May 3, 2018, NLREC filed its Comment (To Petition for Review dated March 2, 2018) with Motion for Suspension for Payment.[38]

On June 21, 2018, the Court *en banc* issued a Resolution noting NLREC's Comment and ordering the Provincial Treasurer to file a Comment or

[35] *Id.* at Note 3.
[36] *Id.* at Note 1, pp. 2-15, with Annexes "A" to "E", pp. 16-124.
[37] *Id.*, pp. 128-129.
[38] *Id.*, pp. 130-161, with Annexes "R-1" to "R-8", pp. 162-281.

Opposition to NLREC's Motion for Suspension of Payment.[39] However, the Provincial Treasurer failed to file her Comment, despite due notice.[40]

On November 12, 2018, the Court *en banc* issued a Resolution[41] denying NLREC's Motion for Suspension of Payment, there being no showing on the record that NLREC's operations would be affected, or that the company would be prejudiced or that the interests of the government would be jeopardized should the Province of Ilocos Norte proceed with the collection of its tax liability. The parties were likewise ordered to file their respective memoranda.

On November 13, 2018, NLREC filed an Ex Parte Motion to Resolve (Re: Respondent's Motion for Suspension of Payment)[42], praying that the Court *en banc* resolve its motion. This was noted without action by the Court for being moot and academic.[43]

On January 3, 2019, NLREC filed it Memorandum for Respondent.[44] The Provincial Treasurer likewise filed her Memorandum, posting the same on December 21, 2018, which the Court *en banc* received on January 9, 2019.[45]

On February 26, 2019, the Court *en banc* issued a Resolution submitting the case for decision.[46]

<u>The Assignments of Errors</u>

The Provincial Treasurer did not indicate in her Petition the assignment of errors she attributes to the CBAA in the assailed Decision and Resolution.

<u>The Arguments of the Parties</u>

At the heart of the matter is the construction of Section 15(c) of the RE Law, to wit:

> "**Section 15.** *Incentives for Renewable Energy Projects and Activities.* - RE developers of renewable energy facilities, including

[39] *Id.*, pp. 283-285.
[40] *Id.*, p. 291.
[41] *Id.*, pp. 298-301.
[42] *Id.*, pp. 292-296.
[43] *Id.*, p. 302.
[44] *Id.*, pp. 303-330.
[45] *Id.*, pp. 331-421.
[46] *Id.*, pp. 54-55.

hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

> (c) *Special Realty Tax Rates on Equipment and Machinery.* - **Any law to the contrary notwithstanding, <u>realty and other taxes</u>** on civil works, equipment, machinery, and other improvements of a Registered RE Developer actually and exclusively used for RE facilities **shall not exceed one and a half percent (1.5%) of their original cost less accumulated normal depreciation or net book value**: Provided, That in case of an integrated resource development and generation facility as provided under Republic Act No. 9136, the real property tax shall only be imposed on the power plant." *(Emphasis supplied)*

<u>The Provincial Treasurer's Arguments</u>

The Provincial Treasurer maintains that NLREC did not overpay realty tax on its machinery and equipment because the additional levy on real property for the SEF is apart and distinct from the special realty tax levied pursuant under the RE Law.

For one thing, Sec 15(c) of the RE Law does not categorically state that RE Developers should be taxed solely with special realty tax rate of one and a half percent (1.5%) with the intention of disregarding other taxes imposed by law which include the additional levy on real property for the SEF. On the contrary, the intent of the framers of the law was to **exclude** SEF from the special realty tax provided under the RE Law.

According to the Provincial Treasurer, this becomes more apparent when one considers that the SEF is based on the **"assessed value"** of the realty, while special realty tax under the RE Law is based on the **"net book value"**.

Furthermore, the RE Law cannot impliedly repeal Section 235 of the LGC inasmuch as Section 15(c) is concerned. While the Provincial Treasurer concedes that the RE Law is a special law and the LGC is a general legislation; she argues, however, that as regards the subject matter thereof, Section 15(c) of the RE Law establishes a general rule regulating the tax liability of RE Developers on realty and other taxes, while Section 235 of the LGC constitutes a particular levy, which is solely a levy on real property for the SEF. Had Congress intended to repeal, modify or amend Section 235 of the LGC, it would have stated so in unequivocal terms. As the law stands, the RE Law did not divest the Provincial Treasurer of authority, as conferred by the LGC, to collect special levy for SEF so long as it is based on the assessed value of the real property.

The Provincial Treasurer also argues that the term, **"other taxes"** used in Section 15(c) of the RE Law is ambiguous because it is susceptible to different possible meanings. The different interpretations of the STSRO, BLGF, LBAA and CBAA, given their respective competencies, only lend support to the Provincial Treasurer's claim that there is ambiguity in the subject provision and this ambiguity must be construed against the taxpayer.

Lastly, the Provincial Treasurer maintains that tax exemptions are never presumed and are strictly construed against the taxpayer and liberally in favor of the taxing authority. Consequently, NLREC is not entitled to a refund.

NLREC's Arguments

On the other hand, NLREC anchors its claim of overpayment of realty tax on the ground that the assessments upon its machinery and equipment for the subject years were erroneous because it should have been exempted from paying the additional levy on real property for the SEF.

Despite being disputed by the Provincial Treasurer, NLREC maintains that it is a registered RE Developer as defined under the RE Law. This as much has been admitted by the LBAA and the CBAA. To prove the same, it has presented a Certificate of Registration No. WESC No. 2009-09-005-A[47] from Department of Energy (DOE) issued to Northern Luzon UPC Asia Corporation (later amended to NLREC)[48]; the Wind Energy Service Contract[49] it has with the DOE, where it is categorically stated that NLREC shall be entitled to fiscal incentives under RE Law; and its Certificate of Registration No. 2011-128[50] issued by the Board of Investments (BOI) recognizing NLREC as an RE Developer. As an RE Developer, its equipment and machinery enjoy a special realty tax rate of 1.5% under Section 15(c) of the RE law.

NLREC argues that the special realty tax rate of 1.5% prescribed in Section 15(c) covers **all realty taxes** imposed by the LGUs, be it basic realty tax, SEF, or other realty taxes provided under the LGC. The wording of the statute

[47] *Id.* at Note 5, Exhibit R.
[48] *Id.*, Exhibit S.
[49] *Id.*, Exhibit T.
[50] *Id.*, Exhibit U.

is clear and free from ambiguity and must be given its literal meaning and applied without unnecessary extended interpretation. Be that as it may, the legislative history of what is now the RE Law also supports NLREC's argument that the framers were well aware of the SEF, and still decided to include the same in the special realty tax rate cap anyway.

NLREC further maintains that the special realty tax rate of 1.5% is a legislative privilege granted to RE Developers which should be read in harmony with the LGC, as far as practicable. To interpret the RE Law in a manner that allows the imposition of an additional 1% tax for SEF on top of the special realty tax rate capped at 1.5% creates an absurdity and will run counter to the purposes of the RE Law to provide fiscal incentives to RE Developers. As a special statute, the RE Law works as an exception to the general law which is the LGC.

Moreover, since the exemption is provided to a special class of persons under a special law, the principle of *strictissimi juris* should not be applied. The differing interpretations of the STSRO, BLGF and even the LBAA does not alter the fact that the legislative intent behind the RE Law favors RE Developers and limits their liability for real property taxes to 1.5%. Any ambiguity, therefore, should be construed in favor of the taxpayer that Congress intended to favor by granting the preferential rate of real property tax.

Lastly, NLREC argues that since the filing of the Petition for Review with the CTA did not stay the Decision and Resolution of the CBAA, it is entitled to the refund of the real property tax paid for the years 2015 and 2016 in excess of the maximum special realty tax of 1.5%.

<u>The Ruling of the Court</u>

R.A. No. 9513 (referred to herein as the RE Law) is entitled "An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and for Other Purposes". In Section 2(b) thereof, it has been declared State policy to "[i]ncrease the utilization of renewable energy by institutionalizing the development of national and local capabilities in the use of renewable energy systems, and promoting its efficient and cost-effective commercial application **by providing fiscal and nonfiscal incentives** x x x".

Section 15(c) of the RE Law is the bone of contention between both parties. It states:

> "**Section 15.** ***Incentives for Renewable Energy Projects and Activities.*** - RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the

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RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

x x x x x x x x x

(c) *Special Real Property Tax Rates on Equipment and Machinery.* - Any law to the contrary notwithstanding, **realty and other taxes** on civil works, equipment, machinery, and other improvements of a Registered RE Developer actually and exclusively used for RES facilities shall not exceed one and a half percent (1.5%) of their original cost less accumulated normal depreciation or net book value: Provided, That in case of an integrated resource development and generation facility as provided under Republic Act No. 9136, the real property tax shall only be imposed on the power plant; x x x" *(Emphasis supplied)*

In Part III, Rule 5 of the Implementing Rules and Regulations (IRR) of the RE Law, the same mandate is echoed, thus:

"Section 13. *Fiscal Incentives for Renewable Energy Projects and Activities.* - DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:

x x x x x x x x x

C. Specialty Realty Tax Rates on Equipment and Machinery

Realty and other taxes on civil works, equipment, machinery and other improvements by a registered RE Developer actually and exclusively used for RE facilities **shall not exceed one and a half percent (1.5%)** of their original cost less accumulated normal depreciation or net book value: Provided, That in the case of an integrated RE resource development and Generation Facility as provided under Republic Act No. 9136, the real property tax shall be imposed only on the power plant. x x x" *(Emphasis supplied)*

On the other hand, the LGC[51] empowers LGUs to levy and collect real property taxes, such as, 1) basic real property tax[52]; 2) additional levy on real property for the Special Education Fund (SEF); 3) additional ad valorem tax on idle lands[53]; and 4) special levies[54] by LGUs.

Of particular relevance is Section 235 of the LGC which allows LGUs to levy and collect an annual tax of 1% on the assessed value of real property in addition to the basic real property tax which exclusively accrue to the SEF. The provision reads, as follows:

> "Sec. 235. *Additional Levy on Real Property for the Special Education Fund.* - A province or city, or a municipality within the Metropolitan Area, may levy and collect an annual tax of one percent (1%) **on the assessed value of real property** which shall be in addition to the basic real property tax. **The proceeds thereof shall exclusively accrue to the Special Education Fund**.

The other relevant provisions in the LGC pertaining to the SEF, are as follows:

> "Section 250. *Payment of Real Property Taxes in Installments.* - The owner of the real property or the person having legal interest therein may pay **the basic real property tax and the additional**

[51] Section 232. *Power to Levy Real Property Tax.* - A province or city or a municipality within the Metropolitan Manila Area my levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted. Administrative Order No. 261, Series of 1992.

[52] Section 233. *Rates of Levy.* - A province or city or a municipality within the Metropolitan Manila Area shall fix a uniform rate of basic real property tax applicable to their respective localities as follows:

(a) In the case of a province, at the rate not exceeding one percent (l%) of the assessed value of real property; and

(b) In the case of a city or a municipality within the Metropolitan Manila Area, at the rate not exceeding two percent (2%) of the assessed value of real property.

[53] Section 236. *Additional Ad Valorem Tax on Idle Lands.* - A province or city, or a municipality within the Metropolitan Manila Area, may levy an annual tax on idle lands at the rate not exceeding five percent (5%) of the assessed value of the property which shall be in addition to the basic real property tax.

[54] Section 240. *Special Levy by Local Government Units.* - A province, city or municipality may impose a special levy on the lands comprised within its territorial jurisdiction specially benefited by public works projects or improvements funded by the local government unit concerned: Provided, however, That the special levy shall not exceed sixty percent (60%) of the actual cost of such projects and improvements, including the costs of acquiring land and such other real property in connection therewith: Provided, further, That the special levy shall not apply to lands exempt from basic real property tax and the remainder of the land portions of which have been donated to the local government unit concerned for the construction of such projects or improvements.

tax for Special Education Fund (SEF) due thereon without interest in four (4) installments; the first installment to be due and payable on or before March Thirty-first (31st); the second installment, on or before September Thirty (30); and **the last installment on or before December Thirty-first (31st)** , except the special levy the payment of which shall be governed by ordinance of the sanggunian concerned.

x x x x x x x x x

Sec. 272. *Application of Proceeds of the Additional One Percent SEF Tax.* - The proceeds from the additional one percent (1%) **tax on real property** accruing to the Special Education Fund (SEF) shall be automatically released to the local school boards: Provided, That, in case of provinces, the proceeds shall be divided equally between the provincial and municipal school boards: Provided, however, That the proceeds shall be allocated for the operation and maintenance of public schools, construction and repair of school buildings, facilities and equipment, educational research, purchase of books and periodicals, and sports development as determined and approved by the Local School Board.

x x x x x x x x x

Sec. 309. *Special Funds.* - There shall be maintained in every provincial, city, or municipal treasury the following special funds:

(a) **Special Education Fund (SEF)** shall consist of the respective shares of provinces, cities, municipalities and barangays in the proceeds of the **additional tax on real property** to be appropriated for the purposes prescribed in Section 272 of this Code;

x x x x x x x x x" *(Underscoring and emphasis supplied)*

It is apparent from the above-quoted provisions that the SEF is an additional tax on real property over and above the basic real property tax.

Pursuant to the above provisions of the LGC, the Provincial Government of Ilocos Norte (PGIN) enacted the Revised Revenue Code of 2013[55] of the

[55] *Id.* at Note 5, Exhibit 1.

Province of Ilocos Norte and imposed a basic real property tax equivalent to 1% of the assessed value of real property[56] ; an additional levy on real property for the SEF equivalent to an annual tax of 1% on the assessed value of real property[57]; an annual tax on idle lands at the rate of two (2%) of the assessed value of the real property[58]; and a special levy equivalent to 1% of the assessed value of the real property.[59]

Now that the various provisions of law relevant to the resolution of this case have been laid out, the Court shall proceed to discuss their weight and relevance against the factual backdrop of the case.

NLREC is an RE Developer

The renewable energy facilities that were subject to assessments by the Provincial Treasurer are the **Wind Farms and Transmission Lines** of NLREC located in Bacarra, Pasuquin, and Bangui, in the Province of Ilocos Norte. Without a doubt, they fall under the broad umbrella of renewable energy resources, as defined in Section 4 of the RE Law, to wit:

> " Section 4. *Definition of Terms.* - As used in this Act, the following terms are herein defined:
>
> x x x x x x x x x
>
> (ccc) "Wind Energy" refers to the energy that can be derived from wind that is converted into useful electrical or mechanical energy;
>
> x x x x x x x x x
>
> (ddd) "Wind Energy Systems" refer to the machines or other related equipment that convert wind energy into useful electrical or mechanical energy; x x x"

A perusal of the Petition for Review shows that whether or not NLREC is considered an RE Developer is no longer in issue. Although the Provincial Treasurer claims that she disputes this, this point was not argued in her Petition

[56] *Id.*, Exhibit 1-a.
[57] *Id.*, Exhibit 1-b.
[58] Section 20, Article B Chapter II, Revenue Code of 2013 of the Province of Ilocos Norte.
[59] *Id.*, Sections 25 and 29(c), Article C.

nor was assigned as an error in the assailed Decision of the CBAA. Instead, the CBAA, in the assailed Decision, declared this claim to be without merit, a finding which *We* find to be supported by the evidence.

NLREC's Certificate of Registration[60] and Wind Energy Service Contract[61] from the DOE both state that it shall be entitled to fiscal incentives under RE Law. The Certificate of Registration[62] issued by BOI likewise recognizes NLREC as an RE Developer, and the Specific Terms and Conditions[63] therein state:

> "x x x
>
> Special Realty Tax Rates on Equipment and Machinery
>
> **Realty and other taxes** on civil works, equipment, machinery, and other improvements of a registered (sic) of the enterprise actually and exclusively used for RE facilities shall **not exceed one and a half percent (1.5%)** of the original cost less accumulated normal depreciation or net book value." *(Emphasis supplied)*

As an RE Developer, its equipment and machinery enjoy a special realty tax rate of 1.5% under Section 15(c) of the RE law.

The Phrase "Other Taxes" in the RE Law Include the SEF

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application.[64] Only when the law is ambiguous or of doubtful meaning may the Court interpret or construe its true intent.

Ambiguity is a condition of admitting two (2) or more meanings, of being understood in more than one (1) way, or of referring to two (2) or more things at the same time. A statute is ambiguous if it is admissible of two (2) or more

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[60] *Id.* at Note 5, Exhibit R.
[61] *Id.*, Exhibit T.
[62] *Id.*, Exhibit U.
[63] *Id.*, Exhibit V.
[64] *Twin Ace Holdings Corporation v. Rufina and Company*, G.R. No. 160191, June 8, 2006, 490 SCRA 368, 376.

possible meanings, in which case, the Court is called upon to exercise one (1) of its judicial functions, which is to interpret the law according to its true intent.[65]

Given the thrust of the RE Law to provide fiscal incentives to RE Developers so that the country's Renewable Energy Sector may flourish, the Court finds no ambiguity in Section 15(c) thereof and deems the SEF included in the phrase "other taxes".

The repealing clause of the RE Law, Section 39 thereof, is also explicit. It states:

> "(c) Section 39. *Repealing Clause.* - **Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.**
>
> Consistent with the foregoing paragraph and Section 13 of this Act, Section 1 of Presidential Decree No. 1442 or the Geothermal Resources Exploration and Development Act, insofar as the exploration of geothermal resources by the government, and Section 10 (1) of Republic Act No. 7156 otherwise known as the "Mini-Hydro Electric Power Incentive Act", insofar as the special privilege tax rate of two percent (2%) are hereby repealed, modified or amended accordingly." *(Emphasis supplied)*

The Provincial Treasurer argues that since only the Geothermal Resources Exploration and Development Act and the Mini-Hydro Electric Power Incentive Act were mentioned in the second paragraph of Section 39, that this is indicative of the intent of the legislature to give full effectivity to the provisions in the LGC relative to the SEF, especially since implied repeals are not favored. However, this argument is without merit, a conclusion arrived at by the CBAA in the assailed Decision, which this Court upholds. It is evident to this Court that those specific statutes were mentioned in order to consolidate the various existing laws on other renewable energy sources under the RE Law.

For one thing, the **RE Law** was enacted on **December 16, 2008**. While assessments of the Provincial Treasurer were based on the Revised Revenue Code of PGIN, **Provincial Ordinance No. 2013-001**, which was made effective on **April 14, 2014**, later than the RE Law, this is of no moment. The Revised

[65] *Abello v. CIR*, G.R. No. 120721. February 23, 2005.

Revenue Code of PGIN derives its authority to tax from the **LGC** which was enacted on **January 1, 1992**, almost 16 years prior to the RE Law. The RE Law, being the most recent legislation is viewed by the Court an express and real intention on the part of Congress to limit the LGU's delegated taxing power on renewable energy resources within their jurisdiction.

It can be argued that, ultimately, the grant of the LGUs power to tax is derived from the Constitution. Article 10, Section 5 of the Philippine Constitution grants LGUs the power to create their own sources of revenue and to levy taxes, thus:

> **"Article X- Local Government**
>
> **General Provisions**
> **x x x**
>
> **Section 5.** Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges **subject to such guidelines and limitations as the Congress may provide,** consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments." *(Emphasis supplied)*
>
> xxx"

However, as is apparent from the above quoted provision, this power is not without limitations. This power is still subject to the guidelines and limitations set forth by Congress. While it is not disputed that LGUs have the power to tax, this power is still primarily vested in Congress and may be limited, and even taken away by law.[66]

In *Mactan Cebu International Airport Authority vs. Marcos*[67], the Supreme Court said:

> "The power to tax is primarily vested in the Congress; however, in our jurisdiction, it may be exercised by local legislative bodies, no longer merely by virtue of a valid delegation as before, but pursuant to direct authority conferred by Section 5, Article X of the Constitution. **Under the latter, the exercise of the power may be subject to such guidelines and limitations as the**

[66] *The City Government of Quezon City, et.al vs. Boyan Telecommunications, Inc.* G.R. No. 162015, 6 March 2006.
[67] G.R. No. 120082, September 11, 1996.

> **Congress may provide** which, however, must be consistent with the basic policy of local autonomy." *(Emphasis supplied; citations omitted)*

In *Philippine Long Distance Telephone Company, Inc. (PLDT) vs. City of Davao*[68], the Supreme Court has likewise upheld the power of Congress to grant exemptions over the power of LGUs to impose taxes, thus:

> **"Indeed, the grant of taxing powers to local government units under the Constitution and the LGC does not affect the power of Congress to grant exemptions to certain persons, pursuant to a declared national policy.** The legal effect of the constitutional grant to local governments simply means that in interpreting statutory provisions on municipal taxing powers, doubts must be resolved in favor of municipal corporations."

Indubitably, both laws currently under scrutiny - the RE Law and the LGC - cannot independently exist in a vacuum. One must be read in harmony with the other. The Court is so guided by the pronouncement in *Philippine Economic Zone Authority vs. Green Asia Construction & Development Corporation*[69] which states that "**a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system.** The rule is expressed in the maxim, *interpretare et concordare legibus est optimus interpretandi,* or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence".

Keeping this in mind, interpreting the RE Law in a manner which allows the imposition of an additional one percent (1%) tax for SEF on top of the capped rate of one and half (1 .5%) special realty tax creates a patent absurdity. This would result in allowing the Provincial Treasurer to apply the maximum special rate for RE machinery and equipment of 1.5% **separately** for the RPT and the SEF levy, thereby making NLREC liable for an aggregate property tax rate of 2% prescribed under the LGC. This effectively nullifies the incentive under the RE Law because RE Developers will end up incurring the same property tax costs for owning machinery and equipment.

A construction should be rejected that gives to the language used in a statute a meaning that does not accomplish the purpose for which the statute

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[68] G.R. No. 143867, August 22, 2001 citing *Manila Electric Company v. Province of Laguna,* 306 SCRA 750 (1999); *City Government of San Pablo, Laguna v. Reyes*, 305 SCRA 353 (1999).
[69] G.R. No.188866, 19 October 2011.

was enacted, and that tends to defeat the ends which are sought to be attained by the enactment.[70] To interpret the phrase "other taxes" in Section 15(c) of the RE Law as exclusive of the SEF runs contrary to the intent of Congress to provide fiscal incentives to RE Developers in the form of special property tax rates (on equipment and machinery that are actually and exclusively used for RE facilities) capped at 1.5% of the original cost, less accumulated normal depreciation or net book value.

Legislative Intent is to Provide Incentives to RE Developers

As previously discussed, the Court need not look beyond the wording of the RE Law to distill the intention of Congress to cap special property tax rates for RE Developers at 1.5% as a tax incentive in pursuance of the continued development of RE facilities.

However, for the guidance of bench and bar as regards this novel issue, the Court shall recount the history of the RE Law and the deliberations made by the Legislature during its crafting which also support the conclusions arrived at by the Court.

Excerpts from the transcript of the Bicameral Conference Committee (Bicam Conference) on the Disagreeing Provisions of Senate Bill No. 2046 and House Bill No. 4193 on October 7, 2008, are as follows:

> "**THE CHAIRMAN (SEN. EDUARDO ANGARA).** Okay. Ilagay mo sa Section 15, iha. Just concentrate on that. Okay, General Incentives, Section 15, Incentives for Renewable Energy Projects and Activities, which is the main body of the Incentives.
>
> **THE CHAIRMAN (REP. JUAN MIGUEL ARROYO).** Yes
>
> **THE CHAIRMAN (SEN. ANGARA).** Well, as you will see from the reading of this enumeration, **we try to provide as much incentives to renewable energy industry because number one this is a new industry as far as we are concerned.** And, secondly, as earlier said **we want to promote clean technology and lessen our dependence on imported fossil product. And that's why this package of incentives are probably greater**

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[70] *Muñoz & Co. v. Hord*, 12 Phil. 624 (1909); *Ty Sue v. Hord*, 12 Phil. 485 (1909); *Sarcos v. Castillo*, G.R. No. 29755, January 31, 1969; *Republic Flour Mills, Inc. v. Commissioner of Customs*, G.R. No. 28463, May 31, 1971; *People v. Gatchalian*, 104 Phil. 664 (1958); *Kapatiran ng mga Manlilingkod sa Pamahalaan ng Pilipinas v. Ton*, 163 SCRA 371 (1988); *De Villa v. Commission on Election*, 208 SCRA 420 (1992)

> **than what is normally available under the BOI or the PEZA incentive scheme because this is a distinct, new and welcome industry that will create future jobs and investments in our country.**
>
> **THE CHAIRMAN (REP. ARROYO).** Mr. Chairman, in the House panel, we agree that we have to incentivize this industry so that there will be more investors. We just have a few comments on certain provisions."[71]

From the foregoing, it is clear from the remarks of Senator Eduardo Angara, Chairman of the Senate Panel, that the goal of Section 15 is to provide as much incentives as can be given to the RE industry. This was agreed to by Congressman Juan Miguel M. Arroyo, Chairman of the House Panel.

The following excerpts from the Bi-cam Conference transcript also shed light on how the SEF would be affected by Section 15 which they were then crafting. The exchange below is between former DOE Secretary, Hon. Vince Perez, who was invited as a resource person, and several Members of the House Panel, namely, Rep. Exequiel B. Javier and Rep. Luis R. Villafuerte.

> "**MR. PEREZ.** I was just informed that currently there is a pending - there is precedent in the Court of Appeals that real estate tax is limited to 1 percent so I'm trying to get the data that we'll circulate to you that actually its currently 1 percent right now.
>
> **REP. VILLAFUERTE.** One percent of what?
>
> **MR. PEREZ.** On equipment - any land and other real estate permanented *(sic)* [ad]here[d] to the soil so I have to check the data.
>
> **REP. JAVIER.** ***I think the rate under the Local Government Code is 1 percent 'no plus the additional assessment of 1 percent*** **for** ***SEF so its total, 2. So total, 2 percent.***
>
> **MR. PEREZ.** This is two and half.
>
> **REP. JAVIER.** That's right. Its more than 2 percent.
>
> **REP. VILLAFUERTE.** No, net book value.

[71] Transcript during the Bicameral Conference on the Disagreeing provisions of S.B. No. 2046 and H.B. No. 4193 (Renewable Energy Act of 2008) on October 7, 2008 from Senate Records and Archives Service.

REP. JAVIER. Minus depreciation ito eh.

MR. PEREZ. Ah, I see. Okay Net book value.[72]

x x x x x x x x x

MR. PEREZ. Yeah but let me explain because a lot of the renewable power assets like hydro, solar wind, they are not used to 100 percent all of the time. There are, you know, 30 percent so the value is very high upfront. And if you're gonna tax - kagaya ng 1 percent, now 2.5%, mas mabigat, eh.

REP. VILLAFUERTE. Book value. Minus, eh

REP. JAVIER: I think you better exempt them.

MR. PEREZ: Under the current Local Code, we have a provision, it's actually exempted but not implemented. There's a section called...

VOICE: Section 234[73]

MR. PEREZ. Ano?

VOICE: Section 234

[72] *Ibid.*

[73] SEC. 234. *Exemptions from Real Property Tax.* - The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;

(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;

(d) All real property owned by duly registered cooperatives as provided for under R. A. No. 6938; and

(e) Machinery and equipment used for pollution control and environmental protection. Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or -controlled corporations are hereby withdrawn upon the effectivity of this Code.

MR. PEREZ. Section 234(e), " Machinery and equipment used for pollution control and environmental protection under the Local Government Code is actually exempt from the real property tax."

REP. VILLAFUERTE: That does not include the hydroelectric dams and -- that's environmental equipment. Kung gusto mo

MR. PEREZ: One percent na lang.

MR.VILLAFUERTE. O sige sige, 1 percent na lang

VOICE. Okay, Thank you.

SEN. ZUBIRI. Yes, Mr. Chair. Okay na po yong 1 percent, local government share-- I mean, local government unit, 'yong real estate, real estate tax.

REP. MAGSAYSAY. The new version, 2.5.

THE CHAIRMAN (SEN. ANGARA). Maliit ba yon? Ha? You are also naman trying up the only source of the LGUs

x x x x x x x x x

REP. GUINGONA. Mr. Chairman, why don't we just exempt it na lang?

THE CHAIRMAN (SEN. ANGARA): Huwag naman, huwag naman.

REP. GUINGONA. Ha?

THE CHAIRMAN (SEN. ANGARA). Magagalit sa atin ang - magaglit ang LGU. Ito lang ang source ng income nila.

REP. VILLAFUERTE. Maybe, Mr. Chairman, compromise is 1.5% percent.

THE CHAIRMAN (SEN. ANGARA). One and a half, o sige. okay na iyon, okay na iyon. We have to-we may be favoring companies but we may be disadvantaging LGUs. Masama rin naman iyon.

REP. JAVIER. O, paano yan?

> **THE CHAIRMAN (SEN. ANGARA).** One and a half. We will accept the 1.5. So we reduce it by .5. Okay.
>
> x x x x x x x x x
>
> **REP. MAGSAYSAY.** ***Mr. Chairman, I just like to ask in the present set up of the mga-who are engaged in this business, are they paying special realty tax already*** **on** ***equipment and machine and how much?***
>
> **REP. VILLAFUERTE:** ***Yes, yes. Alam mo, ang mawawala diyan 'yung special education fund.***
>
> **REP. MAGSAYSAY:** How much? No, I mean, if they are not complaining with the present rate then-- are they complaining? If they are not complaining, bakit pa natin tatanggalin ang exemption?
>
> **THE CHAIRMAN (SEN. ANGARA).** Tama na siguro 'yung compromise natin one and a half. Okay na iyon. Okay, one and a half na. x x x" *(Emphasis supplied)*[74]

The Court finds no error in the conclusion arrived at by the CBAA in the assailed Decision that, indeed, the SEF was considered by the members of the Bicameral Committee and, more importantly, intended to be included in the applicability of Section 15(c) as one of the taxes that will be subject to the capped preferential rate. The CBAA observed, "The SEF was mentioned twice during the Bicam Conference and none of the members of the body commented that it was not included therein. Hence, it is apparent that the intent of the law makers, is to give as much incentive as possible to RE Developers. This intent is very explicit from the transcript of their deliberations."[75]

We agree.

The evolution of the provision from the Senate and House versions to its current form, Section 15(c) of the RE Law, also supports the above conclusion.

The drafted provision in Senate Bill No. 2046 reads, as follows:

> "Any law to the contrary notwithstanding, **realty and other taxes** on civil works, equipment, machinery, and other improvements of a registered RE Developer actually and

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[74] *Ibid.*

[75] *Id.* at Note 1, p. 99.

> exclusively used for RES facilities **shall not exceed <u>two and a half percent (2.5%)</u> of their original cost.**" *(Emphasis supplied)*

On the other hand, the draft provision in House Bill No. 4193 states:

> "*Special Real Property Tax Rates on Machinery, Equipment and Other Improvements* - Any law to the contrary notwithstanding, **real property tax** on machinery, equipment and other improvements of a registered RE Developer actually and exclusively used for RES facilities **shall not exceed <u>one and a half percent (1.5%)</u> of their original cost.**" *(Emphasis supplied)*

The final version of the provision that the Bicameral Committee agreed on, which subsequently became Section 15(c) of the RE Law is quoted below:

> "**Section 15.** Incentives for Renewable Energy Projects and Activities. - x x x
>
> x x x x x x x x x
>
> (c) *Special Real Property Tax Rates on Equipment and Machinery.* - Any law to the contrary notwithstanding, **<u>realty and other taxes</u>** on civil works, equipment, machinery, and other improvements of a Registered RE Developer actually and exclusively used for RES facilities **shall not exceed <u>one and a half percent (1.5%)</u> of their original cost less accumulated normal depreciation or net book value**: Provided, That in case of an integrated resource development and generation facility as provided under Republic Act No. 9136, the real property tax shall only be imposed on the power plant; x x x" *(Emphasis supplied)*

The Court also agrees with the observations of the CBAA in the assailed Decision, thus:

> "To compare the version of the bills and the enacted law, it can be observed that there **is a decrease in the cap from two and a half percent (2.5%) to one and a half percent (1.5%)**. While both the House Bill and Senate Bill mentioned original cost as the tax base, in the enacted law, it will be the original cost less accumulated normal depreciation or net book value. Furthermore, **aside from applying the provision only on realty tax it also included other taxes imposed on civil works, equipment, machinery, and other improvements of a Registered RE**

> **Developer**. Thus, it can be surmised that **the intention of Congress is to decrease the tax amount due and to include other taxes aside from the realty taxes**. In addition, during the Sponsorship Speech of Senator Miriam Defensor Santiago on 12 February 2008, she mentioned as one of the market reforms, i.e. Reform No. 9 the Incentives for renewable energy projects and activities, **'Caps on realty tax rates'**.[76] Hence, a limit was provided in the law. In view of the foregoing circumstances and deliberations during the Bicam Conference, it is fair to conclude that the Special Educational Fund is included to the maximum rate of one and half percent imposed under Section 15 (c) of the RE Law."

The foregoing discussion lends to no other conclusion other than that the SEF was intended to be part and parcel of the phrase "other taxes" subject to the capped preferential specialty realty tax rate.

On a final note, this Court is not unaware of the imperative need for our country to reduce our dependence on fossil fuels to minimize the burden that Filipinos, as consumers of energy, constantly assume when exposed to price fluctuations of fuel in the international market. While the Philippines is blessed with an abundance of natural resources, the flip side of that coin makes this archipelago likewise subject to Mother Nature's fits of temperament, resulting in periodic calamities, typhoons, earthquakes, and, most recently, volcanic eruptions.

As a resilient people, we have learned to live with and cope with these. However, as the legislature has recognized in the passage of the RE Law, the Philippines has still much to learn in terms of harnessing and channeling this abundance of resources into renewable energy that can be utilized in a sustainable fashion. Hence, while the Court recognizes the importance for LGUs to create and collect revenue for their own sustenance and continued viability, it must, as in this instance, give way to the higher objectives and purposes of our nation in developing renewable energy sources. While the benefits of this seeming sacrifice may not be evident immediately, the wisdom of the law will redound to the benefit of the Provincial Government of Ilocos Norte's sons and daughters in the years to come.

All told, *We* deny the Petition for lack of compelling ground to merit the reversal of the assailed Decision and Resolution.

WHEREFORE, premises considered, the Petition for Review is

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[76] Sponsorship speech of Sen. Miriam Defensor-Santiago, Records of the Senate Vol. III, No. 57.

DENIED for lack of merit. The Decision dated October 10, 2017 and the Resolution dated January 31, 2018 of the CBAA in CBAA Case No. L-134-2016 are **AFFIRMED.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
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 before the case was assigned to the writer of the opinion of this Court.

ROMAN G. DEL ROSARIO
Presiding Justice