REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

METROPOLITAN MANILA DEVELOPMENT AUTHORITY,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 11108

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

SEP 19 2023 3:37 pm

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RESOLUTION

On May 26, 2023, the Court dismissed the Petition for Review on the ground of lack of jurisdiction.[1] The Court found that the case involves a tax dispute between the Metropolitan Manila Development Authority (MMDA) and the Bureau of Internal Revenue (BIR), which are both government agencies, thus, bringing the dispute outside of the Court of Tax Appeals' (CTA)'s jurisdiction pursuant to the ruling in *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*[2] (PSALM).

On June 15, 2023, petitioner filed its *Motion for Reconsideration (Of the Resolution dated May 26, 2023)*[3] praying for the reversal of the May 26, 2023 Resolution and to give due course to the Petition for Review.

In its *Motion*, MMDA states that it sought judicial intervention to suspend the collection of its alleged tax liabilities. MMDA further states that if it first resorted to the administrative remedy under Executive Order (EO) No. 292[4], it would have lost the remedy to suspend the collection of its tax liabilities; that the urgency of the need for judicial intervention

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[1] Docket, pp. 141-144.
[2] G.R. No. 198146, August 8, 2017.
[3] Docket, pp. 145-151.
[4] Administrative Code of 1987.

provides an exception to the doctrine of exhaustion of administrative remedies; and, that resort to administrative remedies would not have suspended the implementation of the Warrant of Distraint and/or Levy (WDL).

On July 19, 2023, respondent filed his *Comment*[5] stating that the CTA has no jurisdiction considering that the MMDA is a government instrumentality vested with corporate powers, thus, it is the Department of Justice which has jurisdiction over the dispute.

The *Motion* is without merit.

It bears stressing that for disputes and claims solely between government agencies and offices, including government-owned or controlled corporations, the administrative procedure in EO No. 292 should be followed. The pertinent provisions thereof are quoted below:

> SEC. 66. *How Settled.* – All disputes, claims and controversies, solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations, such as those arising from the interpretation and application of statutes, contracts or agreements, shall be administratively settled or adjudicated in the manner provided in this Chapter. This Chapter shall, however, not apply to disputes involving the Congress, the Supreme Court, the Constitutional Commissions, and local governments.
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> SEC. 67. *Disputes Involving Questions of Law.* – All cases involving only questions of law shall be submitted to and settled or adjudicated by the Secretary of Justice as Attorney-General of the National Government and as *ex officio* legal adviser of all government-owned or controlled corporations. His ruling thereon shall be conclusive and binding on all the parties concerned.
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> SEC. 68. *Disputes Involving Questions of Fact and Law.* – Cases involving mixed questions of law and of fact or only factual issues shall be submitted to and settled or adjudicated by:
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> (1) The Solicitor General, if the dispute, claim or controversy involves only departments, bureaus, offices and other agencies of the National Government as well as

[5] Docket, pp. 154-158.

government-owned or controlled corporations or entities of whom he is the principal law officer or general counsel; and

(2) The Secretary of Justice, in all other cases not falling under paragraph (1).

In PSALM, the Supreme Court stated that the administrative remedies in Presidential Decree (PD) No. 242, which remedies are now embodied in EO No. 292, should be followed. Thus:

> The use of the word "shall" in a statute connotes a mandatory order or an imperative obligation. Its use rendered the provisions mandatory and not merely permissive, and unless PD 242 is declared unconstitutional, its provisions must be followed. The use of the word "shall" means that administrative settlement or adjudication of disputes and claims between government agencies and offices, including government-owned or controlled corporations, is not merely permissive but mandatory and imperative. Thus, under PD 242, it is mandatory that disputes and claims "**solely**" between government agencies and offices, including government-owned or controlled corporations, involving only questions of law, be submitted to and settled or adjudicated by the Secretary of Justice.
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> The law is clear and covers "***all disputes, claims and controversies solely*** **between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements.**" When the law says "all disputes, claims and controversies solely" among government agencies, the law means ***all, without exception***. xxx (*emphasis in the original*)

Nothing in the provisions and jurisprudence states that the remedies provided in EO No. 292 can be substituted with immediate resort to the Court. Thus, we find no merit in MMDA's argument that its situation is an exception to the rule on exhaustion of administrative remedies.

The alleged urgency of suspending the enforcement of the WDL is likewise covered in the disputes under EO No. 292, since it arises from the dispute of whether MMDA is liable for the tax assessments and whether its properties may be distraint or levied to answer for such assessments. The Supreme Court further discussed on the authority of the President, as follows:

> x x x Thus, if two executive offices or agencies cannot agree, it is only proper and logical that the President, as the sole Executive who under the Constitution has control over both offices or agencies in dispute, should resolve the dispute instead of the courts. The judiciary should not intrude in this executive function of determining which is correct between the opposing government offices or agencies, which are both under the sole control of the President. Under his constitutional power of control, the President decides the dispute between the two executive offices. The judiciary cannot substitute its decision over that of the President. x x x[6]

Finally, tax disputes concerning the BIR and other national government agencies are unique in the sense that taxes that might be due are already public funds. Regardless of the dispute's outcome, they will be dedicated for a public purpose.[7]

Applying the foregoing, the CTA has no jurisdiction over the instant case involving a tax dispute between the MMDA and the BIR, which are both government agencies.

WHEREFORE, the *Motion for Reconsideration (Of the Resolution dated May 26, 2023)*, filed on June 15, 2023, is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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

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[6] *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*, G.R. No. 198146, August 8, 2017.
[7] *The Department of Energy v. Court of Tax Appeals*, G.R. No. 260912, August 17, 2022.