REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PHILIPPINE RECLAMATION AUTHORITY (formerly Public Estates Authority), represented by its General Manager & Chief Executive Officer, Atty. Janilo E. Rubiato,
Petitioner,

- versus -

THE HON. COMMISSIONER OF INTERNAL REVENUE,
Respondent.

UDK-SP 042 (for CTA Case No. 10820)

Members:

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

Promulgated:

APR 22 2022 . 8:50 a.m.

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RESOLUTION

Sections 1 to 3 of Presidential Decree (PD) No. 242[1] provides:

> **Section 1.** Provisions of law to the contrary notwithstanding, 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, shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That this shall not apply to cases already pending in court at the time of the effectivity of this decree.
>
> **Section 2.** In all cases involving only questions of law, the same shall be submitted to and settled or adjudicated by the Secretary of Justice, as Attorney General and ex officio legal adviser of all government-owned or controlled corporations and entities, in consonance with section 83 of the Revised Administrative Code.

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1 PRESCRIBING THE PROCEDURE FOR ADMINISTRATIVE SETTLEMENT OR ADJUDICATION OF DISPUTES, CLAIMS AND CONTROVERSIES BETWEEN OR AMONG GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, AND FOR OTHER PURPOSES

> [His/Her] ruling or determination of the question in each case shall be conclusive and binding upon all the parties concerned.
>
> **Section 3.** Cases involving mixed questions of law and of fact or only factual issues shall be submitted to and settled or adjudicated by:
>
> (a) The Solicitor General, with respect to disputes or claims controversies between or among the departments, bureaus, offices and other agencies of the National Government;
>
> (b) The Government Corporate Counsel, with respect to disputes or claims or controversies between or among the government-owned or controlled corporations or entities being served by the Office of the Government Corporate Counsel; and
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> (c) The Secretary of Justice, with respect to all other disputes or claims or controversies which do not fall under the categories mentioned in paragraphs (a) and (b).
>
> ...

PD No. 242 was incorporated in Chapter 14, Book IV of Executive Order No. 292 (EO No. 292),[2] as follows:

> **Chapter 14 - Controversies Among Government Offices and Corporations**
>
> 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.
>
> 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/Her] ruling or decision thereon shall be conclusive and binding on all the parties concerned.

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2 Administrative Code of 1987, took effect on November 24, 1989.

> 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:
>
> (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 government-owned or controlled corporations or entities of whom [he/she] is the principal law officer or general counsel; and
>
> (2) The Secretary of Justice, in all other cases not falling under paragraph (1).

In *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue,*[3] *(PSALM),* as reiterated in a number of cases,[4] it has been consistently ruled that jurisdiction over all disputes, claims or controversies solely between departments, bureaus, offices, agencies, or instrumentalities of the national government including government owned or controlled corporations lies with the Secretary of Justice. Tax cases are no exception, thus:

> 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. Only those cases already pending in court at the time of the effectivity of PD 242 are not covered by the law.
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> ...
>
> PD 242 is only applicable to 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, and where no private party is involved. **In other words, PD 242 will only apply when all the parties involved are purely government offices and government-owned or controlled corporations.** ...

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[3] G.R. No. 198146, August 8, 2017.

[4] *Philippine Mining Development Corporation v. The Commissioner of Internal Revenue, et al.,* G.R. No. 250748, Resolution dated October 6, 2021; *Commissioner of Internal Revenue v. Secretary of Justice, et al.,* G.R. No. 197611, Resolution dated June 23, 2021; and *Commissioner of Internal Revenue v. The Secretary of Justice, et al.,* G.R. No. 209289, July 9, 2018.

The parties involved in this case are petitioner, a government instrumentality [5] created by PD No. 1084, [6] as amended, and respondent, the head of the Bureau of Internal Revenue (BIR), a government bureau. Consistent with PD No. 242, as embodied in EO No. 292, and as interpreted in *PSALM*, jurisdiction over petitioner and respondent's tax dispute lies with the Secretary of Justice and not with the Court. To rule otherwise would be to meddle with the President's executive function to settle disputes (through the Secretary of Justice)[7] pertaining to executive offices under his sole control under the 1987 Constitution, which may not be done. *PSALM*[8] is on point:

> . . .
>
> Clearly, the President's constitutional power of control over all the executive departments, bureaus and offices cannot be curtailed or diminished by law. "Since the Constitution has given the President the power of control, with all its awesome implications, it is the Constitution alone which can curtail such power." **This constitutional power of control of the President cannot be diminished by the CTA. 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.** Only after the President has decided or settled the dispute can the courts' jurisdiction be invoked. Until such time, the judiciary should not interfere since the issue is not yet ripe for judicial adjudication. Otherwise, the judiciary would infringe on the President's exercise of his constitutional power of control over all the executive departments, bureaus, and offices.
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> . . .[9]

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5 In *Public Estates Authority v. Yuijuico, et al.*, G.R. No. 140486, February 6, 2001, the Supreme Court recognized PEA (now petitioner) as an agent or instrumentality of the government.

6 CREATING THE PUBLIC ESTATES AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFORE AND FOR OTHER PURPOSES

7 In *Disini, Jr., et al. v. Secretary of Justice, et al.*, G.R. No. 203335, February 18, 2014, the Supreme Court recognized the Secretary of Justice as an alter ego of the President.

8 *Supra* note 3.

9 Boldfacing in the original.

WHEREFORE, petitioner's Petition for Review (With Motion to Quash the Warrant of Distraint and/or Levy) posted on February 14, 2022 is **DISMISSED** for lack of jurisdiction, without prejudice to the filing of an appropriate action with the Secretary of Justice in accordance with Presidential Decree No. 242, as embodied in Executive Order No. 292. Petitioner's Motion for Special Raffle and Exemption to Pay Docket Fees posted on February 14, 2022 is **NOTED** without action.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice