REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

NATIONAL FOOD AUTHORITY, Represented by Edna T. Loveria in her capacity as Director of Legal Affairs Department, Petitioner,	CTA AC NO. 169
-versus-	Members: BAUTISTA, *Chairperson* FABON-VICTORINO, *and* RINGPIS-LIBAN, ***JJ.***
HON JOSE T. TABOSARES, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT BRANCH 23, KIDAPAWAN CITY; CITY GOVERNMENT OF KIDAPAWAN; CITY TREASURER OF KIDAPAWAN, Respondents.	Promulgated: JAN 13 2017 11:00 a.m.

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RESOLUTION

Fabon-Victorino, J.:

Before the Court is petitioner's Motion for Reconsideration (of the Resolution dated 3 November 2016) dated November 21, 2016. Petitioner seeks to reverse the Resolution dated November 3, 2016 which dismissed its Petition for Certiorari (under Rule 65 of the Rules of Court) with Prayer for TRO and/or Writ of Preliminary Injunction dated June 8, 2016 as it was not the proper mode of appeal and for lack of merit.

Contrary to the Court's ruling, it is not precluded from treating the instant Petition for Certiorari as an ordinary appeal. Petitioner argues that the reglementary period of 30 days to file an ordinary appeal or a petition for review on certiorari should be reckoned not from May 2, 2016, the date of receipt of the Regional Trial Court's Order of April

29, 2016 denying its motion for reconsideration of the Decision dated August 20, 2015 but from receipt of the Order dated May 25, 2016, which denied its Motion for Reconsideration of the Order dated April 29, 2016. The latter was received on the same day it was issued, giving petitioner 30 days, or until June 24, 2016 to file an ordinary appeal. Thus, the instant Petition was seasonably filed on June 9, 2016, both as a petition for certiorari under Rule 65 of the Rules of Court and as an ordinary appeal pursuant to Rule 42 of the same Rules. That being the case, the Court can take cognizance of the instant Petition for Certiorari either as a Petition for Review on Certiorari or as an ordinary appeal.

Further, the date of receipt of the Order dated May 25, 2016 should be the reckoning point for filing an ordinary appeal since the RTC modified its prior ruling and discussed the case on the merits, as opposed to its previous Order dated April 29, 2016, which merely held that the motion for reconsideration of the Decision dated August 20, 2015 was filed out of time. The rulings on the merits are proper subjects for the instant Petition and also the proper reckoning point for an appeal.

Petitioner further argues that the blanket withdrawal of all previous tax exemptions by Section 193 of R.A. No. 7160, or the Local Government Code (LGC) of 1991, as a mere general law, cannot supersede petitioner's tax exemption provided in a special law, i.e. P.D. No. 4, in particular, Section 6(d) thereof which exempts it from the payment of all taxes.

Petitioner also reiterates that it is a government instrumentality exempt from real property taxes based on law and jurisprudence. This allegation is not merely based on the opinion of the Office of the Government Corporate Counsel (OGCC) but on Section 6 of P.D. No. 4 which enumerates its powers, functions, and responsibilities. These powers, functions, and responsibilities are governmental functions, and are clear indications that it is a government instrumentality, and not just a governmentowned or controlled corporation (GOCC) whose function is proprietary in nature or for profit.

Petitioner's governmental functions are borne out by the fact that it alone has regulatory power over the rice and corn industry as provided under the Revised Rules and Regulations on Grains Business and the sole authority to issue permits for rice importation into the country pursuant to the prevailing quantitative restriction on rice importations to the country. Besides, petitioner is attached to the Office of the Presdient (OP), thereby confirming that it is a government instrumentality.

Petitioner further reiterates that it is not a stock corporation as it has no stockholders except for the government. It also has no authority to declare or pay dividends and has never done it at any instance in the past. Neither can it be considered a non-stock corporation since it has no members.

That petitioner is not a GOCC is apparent since it is not required to meet the economic viability test which is required of all GOCCs. Petitioner has been operating at a loss but remains in existence, owing to its governmental functions, in contrast to a GOCC which operates for profit.

Pursuant to Section 133 of the LGC, petitioner is a government instrumentality exempt from the payment of real property taxes.

In opposition, respondent City Government of Kidapawan (City) submits that petitioner failed to cite any sufficient ground or present any newly discovered evidence to justify reversal of its ruling. Thus, petitioner failed to comply with Sections 5 and 6 of the Revised Rules of the Court of Tax Appeals precluding the Court from taking congnizance of the subject Motion. Moreover, the subject Motion is merely a rehash of the previously raised issues which have already been passed upon by the Court, thus pro forma. Finally, respondent City prays that entry of judgment be issued in this case.

Evidently, the issues raised by petitioner have already been sufficiently addressed by the Court in the assailed Resolution of November 3, 2016 and no persuasive or new argument has been raised by petitioner that would compel the Court to modify, much less reverse its ruling.

To repeat the observations and the rulings of the Court in the assailed Resolution is a waste of time and dwindling resources of the Court.

As to respondent City's prayer for entry of judgment, the same must be denied since the Resolution of November 3, 2016 is yet to gain finality for it may still be a subject of an appeal before a higher tribunal.

WHEREFORE, petitioner's Motion for Reconsideration (of the Resolution dated 3 November 2016) dated November 21, 2016 is hereby **DENIED**, for lack of merit.

Likewise, respondent City's prayer for entry of judgment is **DENIED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice