REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL POWER CORPORATION,
Petitioner,

- versus -

PROVINCIAL GOVERNMENT OF BULACAN, GLORIA P. STA. MARIA, MUNICIPAL ASSESSOR OF NORZAGARAY, AND THE MUNICIPAL GOVERNMENT OF NORZAGARAY, BULACAN,
Respondent.

CTA EB NO. 850
(CBAA CASE NO. L-93)

Members:

ACOSTA, *PJ,*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
PALANCA-ENRIQUEZ,
FABON-VICTORINO,
MINDARO-GRULLA, *and,*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

NOV 29 2012 Apolinario 1:00 p.m.

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DECISION

ACOSTA, *PJ:*

Before this Court of Tax Appeals *En Banc* is a Petition for Review filed on December 22, 2011 assailing the Decision of the Central Board of Assessment Appeals (CBAA) dated August 26, 2010 in CBAA Case No. L-93 entitled "National Power Corporation vs. The Local Board of Assessment Appeals of the Province of Bulacan and the Province of Bulacan, the Municipality of Norzagaray, Bulacan, and

Gloria P. Sta. Maria, Municipal Assessor of Norzagaray, Bulacan", in the exercise of the CBAA's appellate jurisdiction on a dispute involving the petition for exemption filed by petitioner NPC and the assessment made by respondent Municipal Assessor of Norzagaray, Bulacan, as well as the Order dated October 14, 2011, denying petitioner's motion for reconsideration of the said CBAA's Decision. The dispositive portion of the assailed August 26, 2010 Decision reads:

> "**WHEREFORE**, this Board holds and concludes that the petition for tax exemption has no factual and legal basis, hence DENIED. The appeal therefore is DISMISSED, the assessments of the eleven (11) subject properties upheld, and the decision of the LBAA is AFFIRMED.
>
> **SO ORDERED.**

THE FACTS

Culled from the records of the case, the facts as found by the CBAA[1] are as follows:

> On December 12, 2006, appellant NPC, owner and operator of the Angat Hydro-Electric Power Plant (AHPP) located at Hilltop, San Lorenzo, Norzagaray, Bulacan, received a Notice of Assessment from the Municipal Assessor of the said municipality for the following properties of AHPP, the so called "machineries assessment", to wit:
>
> 1) ARP/Tax Dec. No. 00180 – Main Dam
> 2) " " " 00181 – Spillway with 3 Taintor Gates
> 3) " " " 00182 – Two Units Diversion Canal
> 4) " " " 00183 – Tailrace Tunnel
> 5) " " " 00184 – Penstock
> 6) " " " 00185 – Auxiliary Draft Tube Gates
> 7) " " " 00186 – Draft Tube Gates and Hoists
> 8) " " " 00187 – Power Tunnel
> 9) " " " 00188 – Power Intake Structure
> 10) " " " 00189 – Surge Tunnel
> 11) " " " 00190 – Power Intake Service & Bulkhead Gates

[1] CBAA Decision, CBAA records, folder 1, pp. 145-164.

Likewise on December 14, 2006, NPC received another Notice of Assessment, this time for the so called "land assessment" made up of the following:

1) ARP/Tax Dec. No. 00191 – Campsite-Land
2) " " " 00192 – Spillway-Land
3) " " " 00193 – Powerhouse-Land

When the Municipality of Norzagaray tried to demand and collect the corresponding real property taxes over these assessed properties, and after all negotiations to settle the matter amicably failed, NPC challenged the assessments before the LBAA of Bulacan, assigning two errors.

NPC contended that the assessor erred when she assigned a higher assessment level to the "land assessments" contrary to that prescribed for GOCC's under Sec. 218 of the LGC which states:

x x x

(d) On special classes: the assessment levels for all lands, buildings, machineries and other improvements:

Actual Use	Assessment Level
Cultural	15%
x x x	x x x
x x x	x x x
x x x	x x x
Government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power	10%

NPC also claimed that it is an error to tax the above-listed properties under the termed "machineries assessments" being exempt from taxation under Section 234 par. (c) of the LGC, which provides:

Section 234. Exemptions from real property tax:

(a) Real property owned by x x x
(b) x x x
(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.

The "land assessment" issue became moot and academic when the appellee Municipal Assessor readily admitted that she committed an

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> honest mistake in assigning a higher assessment level to the lands in question. She immediately rectified the error and revised the land tax declarations to conform with the prescribed level for GOCC's under Sec. 218 of the LGC which is 10% to the satisfaction and conformity of the appellant.

In answer, respondent Municipal Assessor of Norzagaray, Bulacan, alleged that as far as the "Machineries Assessment" was concerned, since the ***NPC had not paid it under protest***, the hearing should be deferred not until NPC should have made the corresponding payments.[2] (emphasis supplied)

The provincial government of Bulacan in its answer contended that the "Machineries Assessment" was correct and it was not exempt as argued by the petitioner. It cited as justification section 216 of RA 7160. They added that since there was no *(sic)* certification against non-forum shopping the petition should out rightly be dismissed. [3]

NPC rebuked in its reply the contention of the Provincial Government *(sic)* against non-forum shopping citing sections 226 and 229(b) of the Local Government Code. It disputed the claim of payment under protest by the Municipality of Norzagaray citing section 252(a) of the Local Government Code and Supreme Court ruling in *Ty vs. Trempe (GR No. 117577, December 1, 1995).* As far as the Land Assessment is concerned and admission of honest mistake by the respondent Municipal Assessor, it stated that the assessment was still erroneous since there was still no ordinance of the *Sangunian* concerned for the

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[2] LBAA Judgment, CBAA records, folder 3, p.84.
[3] LBAA Judgment, CBAA records, folder 3, p.85.

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separate fair market value of the "special classes of properties" as mandated by Section 212 in relation to section 215 of RA 7160. [4]

In her rejoinder, the Municipal Assessor of Norzagaray contended that the cited jurisprudence of NPC is not applicable in the present case. Moreover, there was nothing wrong in the assessment because it is justified under sections 2.D.14, 2.D.15, and 2.D.17(d) of the Provincial Revenue Code of Bulacan, respectively. She added that section 212 of RA 7160 is not applicable in the present case since Norzagaray, Bulacan is outside Metro Manila Area. [5]

On July 2, 2007, the petitioner filed a Manifestation and Motion stating that the parties are in the process of amicably settling their dispute. Several hearings were thereafter made since the parties claimed that a draft compromise agreement over the land assessment was already made. Only that it awaited the approval of the Office of the Solicitor General (O.S.G.). But since the projected settlement was not approved by Solicitor General, the respondent Provincial Government of Bulacan filed a Motion for Resolution on May 30, 2008, seeking the immediate resolution of this case. However, on June 17, 2008, an Opposition was filed by NPC seeking the status hearing of their Compromise Agreement. [6]

On August 14, 2008, the Local Board of Assessment Appeals (LBAA) rendered a Judgment. The dispositive portion of the same reads:

> **WHEREFORE,** the present PETITION is DENIED. The petitioner National Power Corporation is directed to pay respondent Municipality of Norzagaray, Bulacan, its tax liabilities amounting to **P18,475,003.20** over

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[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*

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> the "Land Assessments", covering January 01, 1997 to December 31, 2006.
>
> Also, for the period beginning January 01, 1996 to December 31, 2005, the amount of **P113,960,000.00** should also be paid by petitioner to Municipality of Norzagaray, Bulacan, over the "Machineries Assessment".
>
> **SO ORDERED.**

Aggrieved, NPC appealed the said Judgment to the Central Board of Assessment Appeals (CBAA). In a Decision dated August 26, 2010, the CBAA affirmed the Judgment of the LBAA. The dispositive portion of the said Decision reads:

> **WHEREFORE,** this Board holds and concludes that the petition for tax exemption has no factual and legal basis, hence DENIED. The appeal therefore is DISMISSED, the assessments of the eleven (11) subject properties upheld, and the decision of the LBAA is AFFIRMED.
>
> **SO ORDERED.**

Herein petitioner NPC filed its Motion for Reconsideration of the said decision on October 5, 2010. The CBAA, in an Order dated October 14, 2011, denied petitioner NPC's Motion.

Hence, herein petitioner NPC filed on December 22, 2011 the instant Petition for Review before the Court *En Banc* assailing the Decision of the Central Board of Assessment Appeals (CBAA) dated August 26, 2010 in CBAA Case No. L-93, as well as the Order dated October 14, 2011, denying petitioner's motion for reconsideration of the said CBAA's Decision.

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In its petition for review, NPC raised the following grounds[7]:

I

THE CBAA ERRED IN ORDERING NPC TO PAY THE TOTAL AMOUNT OF P18,475,003.20 AS REAL PROPERTY TAXES FOR THE PROPERTIES LISTED IN THE LAND ASSESSMENT AND NOT P6,485,422.60 ONLY BASED ON THE AMENDED ASSESSMENT ISSUED BY RESPONDENT MUNICIPALITY OF NORZAGARAY.

II

THE CBAA ERRED IN NOT ADOPTING THE BASIC TENET IN TAXATION THAT TAX STATUTES MUST BE CONSTRUED STRICTLY AGAINST THE GOVERNMENT AND LIBERALLY IN FAVOR OF THE TAXPAYER.

III

THE DEFINITION PROVIDED UNDER ITEM (O), SECTION 199 OF RA 7160 IS BROAD AND ALL ENCOMPASSING TO INCLUDE STRUCTURES WHICH ARE CLASSIFIED AS PHYSICAL FACILITIES, INSTALLATIONS AND APPURTENANT SERVICE FACILITIES WHICH THE CBAA ADOPTED IN ITS DEFINITION OF MACHINERIES BASED ON ITS OWN RULING IN NPC VS. PROVINCE OF PAMPANGA, ET AL.

IV

THE PROPERTIES LISTED UNDER THE MACHINERIES ASSESSMENT ARE MACHINERIES/STRUCTURES ACTUALLY, DIRECTLY AND EXCLUSIVELY USED FOR THE GENERATION OF ELECTRICITY AND AT THE SAME TIME UTILIZED FOR POLLUTION CONTROL AND ENVIRONMENTAL PROTECTION. HENCE, THESE PROPERTIES ARE EXEMPT FROM TAXATION.

On the other hand, herein respondent filed its memorandum[8] on August 3, 2012 raising the following arguments:

I

THE CBAA IS CORRECT IN ORDERING NPC TO PAY THE TOTAL AMOUNT OF P18,475,003.20 AS REAL PROPERTY TAXES FOR THE PROPERTIES LISTED IN THE LAND ASSESSMENT AND NOT P6,485,422.60 ONLY BASED ON THE AMENDED ASSESSMENT ISSUED BY RESPONDENT MUNICIPALITY OF NORZAGARAY.

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[7] Docket, pp.7-8.
[8] Docket, pp.261-285.

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II

> THE CBAA DID NOT ERR IN DECLARING THAT NAPOCOR IS NOT TAX EXEMPT.

III

> THE PROPERTIES LISTED ON THE MACHINERIES ASSESSMENT ARE STRUCTURES WHICH ARE TAXABLE PROPERTIES.

IV

> THE PROPERTIES LISTED UNDER THE MACHINERIES ASSESSMENT ARE STRUCTURES WHICH ARE NOT ACTUALLY, DIRECTLY AND EXCLUSIVELY USED FOR THE GENERATION OF ELECTRICITY NOR UTILIZED FOR POLLUTION CONTROL AND ENVIRONMENTAL PROTECTION. HENCE, THESE PROPERTIES ARE NOT TAX EXEMPT.

On September 3, 2012, considering that both parties have already filed their respective Memoranda, the Court *En Banc* issued a Resolution[9] submitting the case for decision.

THE ISSUES

Based on the petition for review and the respective memoranda of both parties, the issues to be resolved by this Court are the following:

I

WHETHER THE CBAA ERRED IN ORDERING NPC TO PAY THE TOTAL AMOUNT OF P18,475,003.20 AS REAL PROPERTY TAXES FOR THE PROPERTIES LISTED IN THE LAND ASSESSMENT AND NOT P6,485,422.60 ONLY BASED ON THE AMENDED ASSESSMENT ISSUED BY RESPONDENT MUNICIPALITY OF NORZAGARAY.

II

WHETHER THE PROPERTIES LISTED UNDER THE MACHINERIES ASSESSMENT (P113,960,000.00) ARE MACHINERIES/STRUCTURES ACTUALLY, DIRECTLY AND EXCLUSIVELY USED FOR THE GENERATION OF ELECTRICITY AND AT THE SAME TIME UTILIZED FOR POLLUTION CONTROL AND ENVIRONMENTAL PROTECTION. HENCE, EXEMPT FROM TAXATION.

[9] Docket, p. 287.

THE COURT *EN BANC's* DECISION

This Court agrees with the petitioner NPC that there was an amended statement of account for the Land Assessment issued by the Respondent Municipality of Norzagaray on June 1, 2007. The pertinent portion of the said letter[10] reads:

> We refer you to our letter dated January 4, 2007 reminding your office that in pursuance to the provisions of paragraph (2) of Sec. 222 of the Local Government Code of 1991, the realty taxes assessed by our assessor in Notices of Assessment dated December 12, 2006 – amounting to **P113,960,000.00** and Dec. 14, 2006 captioned NA-RPT-GOCC 005-XII-06, on lands the amount of which was finally amended to **P6,485,422.60**, for a total of **P120,445,422.65** is now subject to two percent (2%) interest per month beginning January 2007.

Furthermore, the petitioner NPC even confirmed said fact in another letter[11] dated July 12, 2007 which reads:

> We are pleased to inform you that your proposal to pay the tax liability of NPC in the amount of SIX MILLION FOUR HUNDRED EIGHTY FIVE THOUSAND FOUR HUNDRED TWENTY PESOS & 60/100 (P6,485,422.60) without the additional computation of surcharge, penalties and interests is approved and agreed by this Municipality.

However, a careful review of the exhibits revealed that one of the grounds stated by the LBAA in denying the petition for exemption filed by NPC was its failure to comply with the provisions of section 252[12] of the Local Government

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[10] Appeal, Annex E, CBAA Records, Folder 1, p.35.
[11] Comment and/or Opposition, Annex 3, CBAA Records, Folder 2, p.231.
[12] Section 252. *Payment Under Protest.* -
(a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words "paid under protest". The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.
(b) The tax or a portion thereof paid under protest, shall be held in trust by the treasurer concerned.
(c) In the event that the protest is finally decided in favor of the taxpayer, the amount or portion of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability.

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Code requiring payment under protest as a condition *sine qua non* before the filing of the appeal before the LBAA.[13]

Petitioner NPC disputed the claim of payment under protest by the Municipality of Norzagaray citing the Supreme Court ruling in *Ty vs. Trampe*[14]. The pertinent portion of the said decision reads:

> ....the protest contemplated under Sec. 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed. Hence, if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. ***<u>In the case at bench however, the petitioners are questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax</u>***. These are not questions merely of amounts of the increase in the tax but attacks on the very validity of *any* increase. (emphasis supplied)

However, in another case entitled *NATIONAL POWER CORPORATION vs. PROVINCE OF QUEZON and MUNICIPALITY OF PAGBILAO*[15], involving NPC's Petition to Declare Exempt from Payment of Property Tax on Machineries and Equipment Used for Generation and Transmission of Power, under Section 234 (c) of RA 7160 [LGC], located at Pagbilao, Quezon before the Local Board of Assessment Appeals (LBAA), the Supreme Court ruled that ***<u>since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252, particularly the requirement of payment under protest. Napocor's failure to prove that this requirement has been complied with thus renders its administrative</u>***

(d) In the event that the protest is denied or upon the lapse of the sixty day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of this Code.

[13] LBAA Judgment, CBAA Records, Folder 3, p. 86.

[14] GR No. 117577, December 1, 1995.

[15] GR No. 171586. January 25, 2010.

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protest under Section 226 of the LGC without any effect. No protest shall be entertained unless the taxpayer first pays the tax. The pertinent portion of the said Supreme Court ruling reads:

> ***Payment under protest is required before an appeal to the LBAA can be made***
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> Apart from Napocor's failure to prove that it has sufficient legal interest, a further review of the records revealed another basis for disregarding Napocor's protest against the assessment.
>
> The LBAA dismissed Napocor's petition for exemption for its failure to comply with Section 252 of the LGC requiring payment of the assailed tax before any protest can be made. Although the CBAA ultimately dismissed Napocor's appeal for failure to meet the requirements for tax exemption, it agreed with Napocor's position that "the protest contemplated in Section 252 (a) is applicable only when the taxpayer is questioning the reasonableness or excessiveness of an assessment. It presupposes that the taxpayer is subject to the tax but is disputing the correctness of the amount assessed. It does not apply where, as in this case, the legality of the assessment is put in issue on account of the taxpayer's claim that it is exempt from tax." The CTA *en banc* agreed with the CBAA's discussion, relying mainly on the cases of *Ty v. Trampe* and *Olivarez v. Marquez*.
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> We disagree. The cases of *Ty* and *Olivarez* must be placed in their proper perspective.
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> The petitioner in *Ty v. Trampe* questioned before the trial court the increased real estate taxes imposed by and being collected in Pasig City effective from the year 1994, premised on the legal question of whether or not Presidential Decree No. 921 (*PD 921*) was repealed by the LGC. PD 921 required that the schedule of values of real properties in the Metropolitan Manila area shall be prepared jointly by the city assessors in the districts created therein; while Section 212 of the LGC stated that the schedule shall be prepared by the provincial, city or municipal assessors of the municipalities within the Metropolitan Manila Area for the different classes of real property situated in their respective local government units for enactment by ordinance of the Sanggunian concerned. The private respondents assailed Ty's act of filing a

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prohibition petition before the trial court contending that Ty should have availed first the administrative remedies provided in the LGC, particularly Sections 252 (on payment under protest before the local treasurer) and 226 (on appeals to the LBAA).

The Court, through former Chief Justice Artemio Panganiban, declared that Ty correctly filed a petition for prohibition before the trial court against the assailed act of the city assessor and treasurer. The administrative protest proceedings provided in Section 252 and 226 will not apply. **The protest contemplated under Section 252 is required where there is a question as to the *reasonableness or correctness* of the amount assessed.** Hence, if a taxpayer disputes the reasonableness of an increase in a real property tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. Ty however was questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. These were not questions merely of amounts of the increase in the tax but attacks on the very validity of any increase. Moreover, Ty was raising a legal question that is properly cognizable by the trial court; no issues of fact were involved. In enumerating the power of the LBAA, Section 229 declares that "the proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts x x x." Appeals to the LBAA (under Section 226) are therefore fruitful only where questions of fact are involved.

Olivarez v. Marquez, on the other hand, involved a petition for *certiorari*, *mandamus*, and prohibition questioning the assessment and levy made by the City of Parañaque. Olivarez was seeking the annulment of his realty tax delinquency assessment. Marquez assailed Olivarez' failure to first exhaust administrative remedies, particularly the requirement of payment under protest. Olivarez replied that his petition was filed to question the assessor's authority to assess and collect realty taxes and therefore, as held in *Ty v. Trampe*, the exhaustion of administrative remedies was not required. The Court however did not agree with Olivarez's argument. It found that there was nothing in his petition that supported his claim regarding the assessor's alleged lack of authority. What Olivarez raised were the following grounds: "(1) some of the taxes being collected have already prescribed and may no longer be collected as provided in Section 194 of the Local Government Code of 1991; (2) some properties have been doubly taxed/assessed; (3) some properties being taxed are no longer existent; (4) **some properties are**

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exempt from taxation as they are being used exclusively for educational purposes; and (5) some errors are made in the assessment and collection of taxes due on petitioners' properties, and that respondents committed grave abuse of discretion in making the improper, excessive and unlawful the collection of taxes against the petitioner." **The Olivarez petition filed before the trial court primarily involved the correctness of the assessments**, which is a question of fact that is not allowed in a petition for *certiorari*, prohibition, and *mandamus*. Hence, we declared that the petition should have been brought, at the very first instance, to the LBAA, not the trial court.

Like Olivarez, Napocor, by claiming exemption from realty taxation, is simply raising a question of the correctness of the assessment. **A claim for tax exemption, whether full or partial, does not question the authority of local assessor to assess real property tax.** This may be inferred from Section 206 which states that:

> SEC. 206. *Proof of Exemption of Real Property from Taxation.* - Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, bylaws, contracts, affidavits, certifications and mortgage deeds, and similar documents. **If the required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll.** [Emphasis provided]

By providing that real property not declared and proved as tax-exempt shall be included in the assessment roll, the above-quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim. Since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252, particularly the requirement of payment under protest. Napocor's failure to prove that this requirement has been complied with thus renders its administrative protest under Section 226 of the LGC without any effect. No protest shall be entertained unless the taxpayer first pays the tax.

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> It was an ill-advised move for Napocor to directly file an appeal with the LBAA under Section 226 without first paying the tax as required under Section 252. Sections 252 and 226 provide *successive* administrative remedies to a taxpayer who questions the correctness of an assessment. Section 226, in declaring that "any owner or person having legal interest in the property who is not satisfied with *the action of the provincial, city, or municipal assessor in the assessment of his property* may x x x appeal to the Board of Assessment Appeals x x x," should be read in conjunction with Section 252 (d), which states that "in the event that the protest is denied x x x , the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of the LGC [Chapter 3 refers to Assessment Appeals, which includes Sections 226 to 231]. The "action" referred to in Section 226 (in relation to a protest of real property tax assessment) thus refers to the local assessor's act of denying the protest filed pursuant to Section 252. Without the action of the local assessor, the appellate authority of the LBAA cannot be invoked. Napocor's action before the LBAA was thus prematurely filed.

Applying the above jurisprudence to the instant case, NPC's failure to prove that the requirement of payment under protest has been complied with renders its administrative protest under Section 226 of the LGC without any effect. Likewise, NPC's action before the LBAA was prematurely filed.

It should be noted that petitioner's premature filing of its petition with the LBAA is a violation of the doctrine of exhaustion of administrative remedies. It is well settled that non-exhaustion of administrative remedies is not jurisdictional. It only renders the action premature, *i.e.*, the claimed cause of action is not ripe for judicial determination and for that reason a party has no cause of action to ventilate in court.[16] The premature invocation of court's intervention is fatal to

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[16] *Carale vs. Abarintos,* G.R. No. 120704, March 3, 1997.

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one's cause of action. Accordingly, absent any finding of waiver or *estoppel,* the case is susceptible of dismissal for lack of cause of action.[17]

It appears that respondent Municipal Assessor of Norzagaray, Bulacan, raised during the proceedings in the LBAA that since the ***NPC had not paid it under protest***, the hearing should be deferred not until NPC should have made the corresponding payments.[18] (emphasis supplied). Thus, respondent did not waive said defense. Therefore, the Court must dismiss NPC's petition for exemption and re-computation of real property tax for lack of cause of action.

In conclusion, we reiterate that the power to tax is the most potent instrument to raise the needed revenues to finance and support myriad activities of the local government units for the delivery of basic services essential to the promotion of the general welfare and the enhancement of peace, progress, and prosperity of the people.[19]

Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[20]

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[17] *Paat vs. Court of Appeals,* G.R. No. 111107, January 10, 1997.
[18] LBAA Judgment, CBAA records, folder 3, p.84.
[19] *Ibid.*
[20] *Galang v. Court of Appeals,* G.R. No. 76221, July 29, 1991 citing *Limpot vs. Court of Appeals,* 170 SCRA 367 (1989).

In light of these conclusions and observations, we need not discuss the other issues raised.

WHEREFORE, the instant Petition for Review is hereby **DENIED** for lack of merit and for lack of cause of action. The assailed decision and order of the CBAA dated August 26, 2010 and October 14, 2011, respectively, in CBAA Case No. L-93 entitled "National Power Corporation vs. The Local Board of Assessment Appeals of the Province of Bulacan and the Province of Bulacan, the Municipality of Norzagaray, Bulacan, and Gloria P. Sta. Maria, Municipal Assessor of Norzagaray, Bulacan", are hereby **AFFIRMED**.

Accordingly, petitioner National Power Corporation is directed to pay respondent Municipality of Norzagaray, Bulacan, its tax liabilities amounting to **P18,475,003.20** over the "Land Assessments", covering January 01, 1997 to December 31, 2006.

Also, for the period beginning January 01, 1996 to December 31, 2005, the amount of **P113,960,000.00** should also be paid by petitioner to Municipality of Norzagaray, Bulacan, over the "Machineries Assessment".

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

WE CONCUR:

JUANITO C. CASTANEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

(On Leave)
OLGA PALANCA-ENRIQUEZ
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Justice