REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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NATIONAL GRID CORPORATION OF THE PHILIPPINES, Petitioner,	CTA EB No. 1392 (CBAA Case No. M-35) (LBAA Case No. 01-2013)
-versus-	Present: DEL ROSARIO, *PJ*; CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN, *JJ*.
CENTRAL BOARD OF ASSESSMENT APPEALS, LOCAL BOARD OF ASSESSMENT APPEALS OF THE PROVINCE OF AGUSAN DEL SUR; STARLITA G. RUIZ, MUNICIPAL ASSESSOR OF SAN FRANCISCO, AGUSAN DEL SUR AND CESAR T. RUFILA, JR., ACTING PROVINCIAL ASSESSOR OF AGUSAN DEL SUR, Respondents.	Promulgated: SEP 19 2018 1:12 p.m.

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RESOLUTION

Fabon-Victorino, J.:

In the Decision[1] dated September 5, 2017, the Court dismissed the Petition for Review dated November 27, 2015, filed by petitioner National Grid Corporation of the Philippines (NGCP) on jurisdictional ground, ratiocinating that petitioner protested before the LBAA the assailed real

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[1] *Rollo,* pp. 380-391.

property tax (RPT) assessment without prior payment of such tax, as required under Section 252(a) of the Local Government Code (LGC).

Undaunted, petitioner filed the instant Motion for Reconsideration dated September 27, 2017,[2] asserting that the Court erred in dismissing its case for failure to make prior payment of the assessed RPT before protesting its imposition to the LBAA. In the mind of petitioner, the remedy of appeal before the LBAA is solely enshrined in Section 226 of the LGC, which lay down the requisites for such appeal all of which were duly complied by it with as shown by the following circumstances, *viz*: 1) its legal personality to institute such protest; 2) seasonable filing of protest on December 27, 2012, or 60 days from receipt of RPT assessment; and 3) the questions raised in the protest pertains to the reasonableness of the RPT imposition by respondent local treasurer. Having strictly adhered thereto, it cannot be faulted for non-observance of Section 252(a) of the same Code.

Petitioner further contends that since the Supreme Court already ruled[3] that it is exempt from RPT on real properties utilized for the purpose stated in its franchise, it has the unequivocal right to be excused from observing the rule of payment before protest under Section 252(a) of the LGC.

As regards the merits of the assessment, petitioner avers that under Section 9 of Republic Act (R.A.) No. 9511, as well as jurisprudence on the matter,[4] its real properties which are indispensible for the maintenance and operation of its power transmission business are exempt from payment of RPT, other taxes, duties, fees and charges of any kind and nature, imposed by any authority, whether national or local, save for the three percent (3%) franchise tax mandated to be remitted in favor of the national government. On this account, the assessment must be cancelled and set aside.

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[2] Ibid. at pp. 414-431.
[3] *National Grid Corporation of the Philippines vs. Oliva,* G.R. No. 213157, August 10, 2016; and *Oliva vs. National Grid Corporation of the Philippines,* G.R. No. 213558, August 10, 2016. The twin cases shall be referred to as the Oliva cases for brevity.
[4] Ibid.

Respondents on the other hand, failed to register their respective comments/oppositions despite due notice.[5]

THE RULING OF THE COURT

The Motion for Reconsideration lacks merit.

To be sure, petitioner cannot take comfort in its own interpretation of the relevant provisions of the Local Government Code (LGC) in connection with its case. Its opinion that the appeal to the LBAA relative to the adverse decision of the local assessor in RPT assessment is solely governed by Section 226 of the LGC, thus, it can dispense with the requirement of payment before protest mandated under Section 252(a) of the same Code.

This matter has long been laid to rest in the case of *National Power Corporation vs. Province of Quezon*[6] wherein the Supreme Court eloquently declared as follows:

> 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]. <u>The action referred to in Section 226 (in relation to a protest of real property tax assessment) thus refers to the local assessors act of denying the protest filed pursuant to Section 252.</u> Without the action of the local assessor, the appellate authority of the LBAA cannot be invoked. Napocors action before the LBAA was thus prematurely filed. (underscoring supplied)

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[5] Records verification report dated June 19, 2018.
[6] G.R. No. 171586, January 25, 2010 (Resolution on Motion for Reconsideration).

Consistent with the above jurisprudential pronouncement, since petitioner is questioning the correctness or reasonableness of the RPT assessment, i.e., invoking its exemption on realty taxes set forth on R.A. No. 9511, it should have first complied with Section 252(a) of the LGC, particularly the condition *sine qua non* of payment[7] under protest. For failure to pay the assessed RPT under protest, its appeal with the LBAA pursuant to Section 226 of the same Code is deemed without any legal consequence, rendering its subsequent recourse to the CBAA and ultimately, to this Court premature and ineffectual.

It is beyond question that petitioner's realty tax exemption on its real properties utilized in connection with its franchise under R.A. No. 9511 was upheld by the Final Arbiter in the twin cases[8] of *Oliva*. Nevertheless, the Court is without competence to rule on that particular matter without prior tax payment under protest by petitioner. For want of legal authority over the present controversy, the Court is left with no other recourse but to dismiss the present case.[9]

WHEREFORE, petitioner's *Motion for Reconsideration* dated September 27, 2017 is **DENIED**. The Decision of September 5, 2017 is **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

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[7] The requirement of "payment under protest" is clearly mandated by Section 252 of the LGC before any protest or appeal of a RPT assessment may be entertained. See *Manila Electric Company vs. Barlis, et al.,* G.R. No. 114231, May 18, 2001.
[8] See Note 3.
[9] When a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action. See *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs,* G.R. No. 209830, June 17, 2015.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice