REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

DOLE PHILIPPINES, INC. – STANFILCO DIVISION, Petitioner,	**CTA AC NO. 215**
- versus -	Members:
THE SANGGUNIANG PANLUNGSOD OF THE CITY OF DAVAO, AND THE HONORABLE SARA Z. DUTERTE-CARPIO AND BELLA LINDA N. TANJILI, IN THEIR RESPECTIVE CAPACITIES AS MAYOR AND TREASURER OF THE CITY OF DAVAO,	**CASTAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA,** *JJ.*
Respondents.	Promulgated: MAR 01 2021 2:25 p.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution is petitioner's Motion for Reconsideration (of the Decision dated 25 June 2020) filed on July 14, 2020[1] with respondents' Comments/Opposition to the Motion for Reconsideration dated July 14, 2020 filed on November 3, 2020.[2] The motion prays for the reconsideration of the Decision which denied the petition for lack of jurisdiction.

[1] Division Docket, Vol. II, pp. 489-523.
[2] Division Docket, Vol. II, pp. 527-533.

The Court notes that the taxpayer calls upon a reconsideration of the decision based on grounds that were previously raised in the trial court below and in the petition in this case.

In particular, petitioner reiterates that the Court *erred* in holding that the environmental tax imposed by Watershed Code is a regulatory fee and, thus, *not* a tax. Petitioner, further, states that the Court did *not* consider issues on the compliance of the tax ordinance with publication under Section 188 of the Local Government Code (LGC);[3] on the invalidity of the fee for imposing an amount in excess of the cost of regulation;[4] on the environmental tax as a business tax not contemplated under Section 143 of the LGC;[5] on the tax being excessive, oppressive, confiscatory, arbitrary and discriminatory;[6] on the Watershed Code as an *ultra vires* act of the local government for failure to comply with the conditions prescribed by the Department of Environment and Natural Resources (DENR);[7] and, on the point that the actual hectarage operated by DOLE-Stanfilco is less than those set by the Office of the City Treasurer.[8]

Petitioner maintains that the environmental tax it paid to Davao City is a *local tax which allegedly did not comply with a number of requirements imposed by the LGC.* The very party that raises legal compliance issues was also *remiss* in doing its part. Specifically, it failed to avail of the proper remedy explicitly provided in Section 187 of the LGC for questioning the constitutionality or legality of a local tax ordinance.[9]

Records show, in fact, that petitioner admits having *failed* to exhaust the administrative remedies available to it under Section 187 of the LGC when it elevated its protest directly to the trial court

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[3] Memorandum filed with RTC Branch 11, Division Docket, Vol. I, pp. 198-206; Petition for Review, *Id.*, pp. 23-25.
[4] Petition for Review, *Id.*, pp. 25-28.
[5] Memorandum filed with RTC Branch 11, *Id.*, pp. 206-207; Petition for Review, *Id.*, pp. 28-29.
[6] Petition for Review, *Id.*, pp. 29-30.
[7] Memorandum filed with RTC Branch 11, *Id.*, pp. 208-216; Petition for Review, *Id.*, pp. 31-38.
[8] Memorandum filed with RTC Branch 11, *Id.*, pp. 216-218.
[9] SECTION 187. *Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings.* - The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided,* That public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided, further,* That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: *Provided, however,* That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: *Provided, finally,* That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction.

instead of appealing to the Secretary of Justice beforehand.[10] However, as a justification, it claims that this procedural lapse is *not* fatal to its cause since the case, which involves *pure questions of law*, falls under the exception.

The Court is unconvinced.

Clearly, what petitioner raised above are issues which, by their very nature, are *not* pure questions of law. These issues require the trial court to sift through evidence from both parties in order to make a proper determination of facts upon which to apply the law. "For a question to be one of law, it must not involve an examination of the probative value of the evidence presented by any of the litigants. The resolution of the issue must solely depend on what the law provides on the given set of circumstances. Once it is obvious that the issue invites a review of the evidence presented, the question posed is one of fact."[11]

Accordingly, petitioner's failure to exhaust the administrative remedy under the LGC is *fatal* to its cause, as clearly explained in *Crisanto M. Aala, et al. vs. Hon. Rey T. Uy, et al.*,[12] Particularly, the Supreme Court *En Banc* in said case *dismissed* the petition and underscored that parties must comply with the doctrine on exhaustion of administrative remedies. Otherwise, they run the risk of bringing premature cases, which may result to protracted litigation and overclogging of dockets, thus:

> "None of the exceptions to the doctrine on hierarchy of courts are present in this case. <u>Significantly, although petitioners raise questions of law, other interrelated factual issues have emerged from the parties' arguments, which this Court deems indispensable for the proper disposition of this case</u>.
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> <u>In *Republic v. Sandiganbayan*, this Court explained that a question of fact exists</u>:
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>> <u>when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation</u>. (Citations omitted)

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[10] Memorandum filed with RTC Branch 11, *Id.*, p. 191.
[11] *Edison Prieto, et al. vs. Erlinda Cajimat*, G.R. No. 214898, June 8, 2020.
[12] G.R. No. 202781, January 10, 2017.

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Parties are generally precluded from immediately seeking the intervention of courts when 'the law provides for remedies against the action of an administrative board, body, or officer.' The practical purpose behind the principle of exhaustion of administrative remedies is to provide an orderly procedure by giving the administrative agency an 'opportunity to decide the matter by itself correctly [and] to prevent unnecessary and premature resort to the courts.'

Under Section 187 of the Local Government Code of 1991, aggrieved taxpayers who question the validity or legality of a tax ordinance are required to file an appeal before the Secretary of Justice before they seek intervention from the regular courts. Section 187 of the Local Government Code of 1991 provides:

> SECTION 187. *Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings.* — The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided*, That public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided, further*, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: *Provided, however*, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: *Provided, finally*, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction.

In *Reyes v. Court of Appeals*, this Court declared the mandatory nature of Section 187 of the Local Government Code of 1991:

> [T]he law requires that the dissatisfied taxpayer who questions the validity or legality of a tax ordinance must file his appeal to the Secretary of Justice, within 30 days from effectivity thereof. In case the Secretary decides the appeal, a period also of 30 days is allowed for an aggrieved party to go to court. But if the Secretary does not act thereon, after the lapse of 60 days, a party could already proceed to seek relief in court.

> *These three separate periods are clearly given for compliance as a prerequisite before seeking redress in a competent court. Such statutory periods are set to prevent delays as well as enhance the orderly and speedy discharge of judicial functions. For this reason, the courts construe these provisions of statutes as mandatory.* (Emphasis supplied, citations omitted)

The same principle was reiterated in *Jardine Davies Insurance Brokers, Inc. v. Aliposa.*

In *Jardine*, the then Sangguniang Bayan of Makati enacted Municipal Ordinance No. 92-072, otherwise known as the Makati Revenue Code, which provided for the schedule of 'real estate, business, and franchise taxes . . . at rates higher than those in the Metro Manila Revenue Code.' Under this ordinance, Jardine Davies Insurance Brokers, Inc. (Jardine) was assessed taxes, fees, and charges. Jardine believed that the ordinance was void. It filed before the Regional Trial Court a case seeking a refund for alleged overpayment of taxes. The trial court dismissed the complaint. Aggrieved, Jardine filed before this Court a Petition for review raising pure questions of law. <u>Ruling on the Petition, this Court observed that Jardine essentially questioned the validity of the tax ordinance without filing an appeal before the Secretary of Justice, in violation of Section 187 of the Local Government Code of 1991</u>:

> In this case, petitioner, relying on the resolution of the Secretary of Justice in *The Philippine Racing Club, Inc. v. Municipality of Makati* case, posited in its complaint that the ordinance which was the basis of respondent Makati for the collection of taxes from petitioner was null and void. <u>However, the Court agrees with the contention of respondents that petitioner was proscribed from filing its complaint with the RTC of Makati for the reason that petitioner failed to appeal to the Secretary of Justice within 30 days from the effectivity date of the ordinance as mandated by Section 187 of the Local Government Code</u>[.]

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<u>In this case, however, the issues involved are not purely legal. There are factual issues that need to be addressed for the proper disposition of the case. In other words, this case is still not ripe for adjudication</u>." (*Underscoring supplied; citations omitted*)

All told, the *pro forma* motion has raised no new issue and has, therefore, failed to convince the Court that the grounds cited therein are sufficient to reverse its decision. *gr*

In view thereof, the motion is **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

I Concur:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice