REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION
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THE CITY GOVERNMENT OF MAKATI, THE CITY TREASURER OF MAKATI CITY, and THE OFFICER-IN-CHARGE OF THE OFFICE OF THE CITY ADMINISTRATOR AND HEAD OF BUSINESS PERMITS OFFICE, Petitioners,	**CTA AC NO. 147** (Civil Case No. 15-177)
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **COTANGCO-MANALASTAS,** ***JJ.***
HONORABLE REGIONAL TRIAL COURT, MAKATI CITY, BRANCH 59 and MACTEL CORPORATION, Respondents.	**Promulgated:** FEB 09 2016 10:00 a.m.

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DECISION

CASANOVA, *J.*:

This is a special civil action for *Certiorari* under Rule 65 of the Rules of Court assailing the Orders dated April 28, 2015[1] and August 6, 2015[2], both issued by the Regional Trial Court (RTC)-Branch 59, Makati City in Civil Case No. 15-177, which commanded petitioners to desist and refrain from further proceeding with the assessment of local taxes of private respondent Mactel Corporation until the resolution of the main case pending before the RTC-Branch 59, Makati City.

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[1] RTC Records, pp. 190-193
[2] *Ibid.*, pp. 255-259

Petitioner City Government of Makati ("petitioner City Government") is a local government unit created under Republic Act No. 7854, headed by its City Mayor and acting through the other public petitioners herein.[3]

Petitioner City Treasurer of Makati City ("petitioner City Treasurer") is the local government official in charge of the collection of all local taxes, fees and charges in Makati City.[4]

Petitioner Officer in Charge of the Office of the City Administrator and Head of the Business Permits Office ("petitioner City Administrator") is the local government official in charge of the issuance of business permits and licenses in Makati City.[5]

All the foregoing petitioners hold office at the Makati City Hall where they may be served with summons and other court processes.

On the other hand, private respondent Mactel Corporation is a corporation duly organized and existing under Philippine laws with principal office address at the 4th Floor, Power Realty Building, 1012 Arnaiz Avenue, Makati City. It may be served with summons and other court processes through its counsel on record, Reyes Rojas & Associates, with office address at Unit 1502 Jollibee Plaza Condominium, F. Ortigas Jr. Road, Ortigas Center, Pasig City.[6]

While the public respondent, the Regional Trial Court-Branch 59, Makati City, is impleaded as a nominal party pursuant to Section 5[7], Rule 65 of the Rules of Court. The RTC-Branch 59, Makati City is the one who rendered the assailed Orders dated April 28, 2015 and August 6, 2015, respectively.

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[3] The Parties, Petition for Certiorari, Docket, p. 9

[4] *Ibid.*

[5] *Id.*, pp. 9-10

[6] *Id.*, p. 10

[7] **Section 5. *Respondents and costs in certain cases.*** — When the petition filed relates to the acts or omissions of a judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person, the petitioner shall join, as private respondent or respondents with such public respondent or respondents, the person or persons interested in sustaining the proceedings in the court; and it shall be the duty of such private respondents to appear and defend, both in his or their own behalf and in behalf of the public respondent or respondents affected by the proceedings, and the costs awarded in such proceedings in favor of the petitioner shall be against the private respondents only, and not against the judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person impleaded as public respondent or respondents.

As gleaned from the records of the case,[8] private respondent is engaged in the business of trading of cellular phones and other telecommunications equipment on wholesale and retail basis. It is principally into dealership of call cards for major telecom operators such as Globe Telecom and Smart Communications.

As call card dealer, its transaction are fast paced and in volume. Profit, however, is marginal as dealers like petitioner are only given a standard discount of ten percent (10%) of the face value of the call card. Thus, a call card with a face value of ₱300.00 is sold by telecom operators at ₱270.00 only, which in turn, was sold by private respondent at ₱273.00 or a markup of ₱3.00 per card.

On August 1, 2005, petitioner City Treasurer issued a Notice of Assessment against private respondent for its alleged deficiency taxes, fees and charges in the total amount of ₱30,799,127.21 covering the periods of 2001-2004.

On October 13, 2005, private respondent filed a protest with petitioner City Treasurer claiming that there was a gross discrepancy in the amount used as a basis in the said assessment. Private respondent insisted that the assessment was based on gross sales/receipts of the face value of the call cards, instead of the 10% discount of the face value of the call cards from which private respondent derived its profit. Moreover, it also asserts that call cards should be classified not as goods but as pre-paid service because after the face value of the card is exhausted, the plastic card is virtually useless.

On October 19, 2005, private respondent's protest was denied, thus, prompting private respondent to elevate the matter to the Regional Trial Court of Makati *via* a judicial appeal.

Then, on November 21, 2005, private respondent filed a Petition for Review entitled *"Mactelecom Corp., represented by its President Emmanuel P. Te vs. The City of Makati and The City Treasurer of Makati"*. The case was raffled to the RTC-Branch 148, Makati City and was docketed as Civil Case No. 05-1040. Thereafter, trial ensued.

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[8] *See* Decision dated November 13, 2007 rendered by RTC-Branch 148, Makati City in Civil Case No. 05-1040

Accordingly, on November 13, 2007, the RTC-Branch 148, Makati City rendered a Decision[9] in Civil Case No. 05-1040. In the said Decision, the court found the assessment unjust, excessive and confiscatory. The court held that the assessment should only cover the actual income derived by private respondent. Henceforth, the court nullified petitioners' assessment and directed the latter "to compute [private respondent]'s tax on the 10% discount given by the telecom operators as discount."[10]

Several years thereafter, petitioner City Treasurer issued a Notice of Assessment[11] dated January 14, 2015, under Letter of Authority No. 2014-0345, again assessing private respondent for deficiency taxes, fees and charges covering the taxable period 2010-2013 in the amount of ₱157,200,855.92.

Meanwhile, on even date, private respondent tried to apply for the renewal of its business permit *via* Business Permit Application Form[12] (Form 101-A) of Makati City, but the latter refused to issue the same due to an alleged business tax deficiency for taxable year 2014 in the total amount of ₱24,693,707.82, including surcharges and deficiency. Thereafter, petitioner City Administrator issued a Billing Statement dated January 22, 2015.

On February 6, 2015, private respondent filed its protest[13] to the Notice of Assessment dated January 14, 2015. Also, in its Letter[14] dated February 10, 2015, private respondent tried to protest the Billing Statement but petitioner City Administrator allegedly refused to receive said letter.

On March 4, 2015, private respondent filed a Petition (With Application for Temporary Restraining Order and/or Preliminary Injunction)[15] with the Regional Trial Court of Makati City. The Petition is for Declaratory Relief with Application for Temporary Restraining Order (TRO) and/or Preliminary Injunction for petitioners alleged

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[9] RTC Records, pp. 19-23
[10] *Ibid.*
[11] *Id.*, p. 27
[12] Annex "C" of Mactel Corporation's MEMORANDUM (in support of the issuance of a writ of preliminary injunction and mandatory preliminary injunction), *Id.*, p. 153
[13] RTC Records, pp. 29-30
[14] *Id.*, pp. 31-32
[15] *Id.*, pp. 1-18

unlawful withholding of the issuance of private respondent's business permit and/or denial of its application for renewal thereof.

The case was lodged before the public respondent and was docketed as Civil Case No. 15-177.

During the hearing for the issuance of a TRO, petitioners undertook not to pursue any remedies against private respondent for its alleged deficiency taxes, thereby no longer needing the issuance of a TRO. Thus, the only issue left was whether private respondent is entitled to the issuance of a Writ of Preliminary Injunction and Mandatory Injunction.

On April 28, 2015, the court *a quo* issued the first interlocutory Order [16]assailed by petitioners the *fallo* of which reads as follows:

> "WHEREFORE, premises considered, let Writs of Preliminary Injunction and Mandatory Injunction be issued upon the filing of a bond of P500,000.00 ordering [respondents], their successors, agents, assignees and any and all persons or entities acting on their behalf, under their authority or in coordination to DESIST and REFRAIN from further proceeding with the assessment of local taxes of [petitioner] until the resolution of this case.
>
> Furthermore, [respondents] are hereby ordered to issue a temporary business permit in favor of [petitioner].
>
> **SO ORDERED.**"

Accordingly, after posting of the required bond, the court *a quo* issued a Writ of Preliminary Injunction[17] on May 11, 2015, enjoining petitioners to refrain from assessing and collecting excessive taxes and to issue a temporary business permit until the issue on deficiency taxes has been resolved by petitioner City Treasurer.

On May 13, 2015, petitioners filed a Motion for Reconsideration (of the Order dated 28 April 2015)[18], while private respondent filed its

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[16] *Supra* No. 1
[17] RTC Records, pp. 225-226
[18] *Ibid.*, pp. 227-244

Comment (Re: Motion for Reconsideration dated 14 May 2015)[19] on June 19, 2015.

On August 6, 2015, the court *a quo* issued the second interlocutory Order[20] assailed by petitioners, which denied the latter's Motion for Reconsideration for utter lack of merit and, further, proceeded to set the main case for pre-trial conference.

Aggrieved, petitioners elevated the matter with the Court of Tax Appeals (CTA) *via* the instant Petition for Certiorari[21] on August 27, 2015.

On September 15, 2015, this Court issued a Resolution[22], ordering respondents to file comment, not a motion to dismiss, within ten (10) days from receipt thereof. Thus, after being granted an extension of time, private respondent filed its Comment[23] on October 2, 2015.

In the Resolution[24] dated October 9, 2015, this Court gave the parties a period of thirty (30) days from notice thereof within which to file their simultaneous memoranda. Thereafter, the instant petition shall be considered submitted for decision. Furthermore, this Court ordered the Branch Clerk of Court or the Officer-in-Charge of the RTC-Branch 59, Makati City to elevate the entire original records of the case.

On November 16, 2015, private respondent filed a Manifestation[25] stating that it hereby adopts its Comment to the Petition and the arguments contained therein as its Memorandum. On the other hand, petitioners filed their Memorandum (for the Petitioners)[26] on November 23, 2015.

On November 25, 2015, the Branch Clerk of Court of RTC-Branch 59 of Makati City, Atty. Jayme M. Luy, filed a Transmittal[27] elevating the entire complete records of the case, consisting of Three Hundred Three (303) pages, in compliance with this Court's October 9, 2015 Resolution.

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[19] *Id.*, pp. 247 -254
[20] *Supra* No. 2
[21] Docket, pp. 8-46
[22] *Ibid.*, pp. 177-178
[23] *Id.*, pp. 184-198
[24] *Id.*, pp. 207-208
[25] *Id.*, pp. 209-210
[26] *Id.*, pp. 211-248
[27] *Id.*, pp. 249-251

Accordingly, in the Resolution[28] dated November 27, 2015, this Court noted the Transmittal filed by the court *a quo* and the Manifestation filed by private respondent. After which, this Court deemed the case submitted for decision.

Considering that most of the issues[29] raised herein are the same with those still pending with the court *a quo,* thereby, limiting this Court's discussion without necessarily resolving the main case on the merits, the issues raised by the parties for this Court's resolution can be summed into:

> Whether or not the RTC-Branch 59 of Makati City acted with grave abuse of discretion amounting to excess and lack of jurisdiction in issuing the assailed Orders dated April 28, 2015 and August 6, 2015, respectively.

In their Petition, petitioners primarily argues that the Orders dated April 28, 2015 and August 6, 2015, respectively, rendered by the public respondent were issued in grave abuse of discretion for being inconsistent with law and jurisprudence. Petitioners emphasize that private respondent's failure to attach a certified true copy of the disputed Billing Statement dated January 22, 2015 in its Petition dated March 2, 2015 with the court *a quo* is fatal to its application for a writ of preliminary mandatory injunction, as warranted under Section 1[30], Rule 65 of the Rules of Court. Also, the court *a quo's* conclusion that petitioners unlawful withholding and/or denial of private respondent's business permit application would definitely inflict "grave and irreparable financial injury" was erroneous since such alleged injury can be quantified.

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[28] *Id.*, pp. 254-255
[29] Issues, Petition for Certiorari, *id.*, pp. 12-14; Arguments, Comment, *id.*, p. 187
[30] "**SECTION 1.** *Petition for certiorari.*—When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46."

On the other hand, in its Comment, private respondent claims that this Court has no jurisdiction over the instant case since the proceedings before the court *a quo* is not a tax case. Private respondent further asserts that, without injunctive relief, it will suffer grave and irreparable injury since petitioners want private respondent to pay them the aggregate amount of ₱164,135,159.85 as business tax, or 16,400% of what it actually earned that taxable year.

Hence, after due consideration of the arguments presented by the parties, this Court finds no merit in the instant petition.

Settled is the rule that the jurisdiction of a court to take cognizance of a case should be clearly conferred and should not be deemed to exist on mere implications.[31] It is conferred by law, not by the consent of the parties.[32] A characteristic of all procedural rules is adherence to the precept that they should not be enforced blindly, especially if mechanical application would defeat the higher ends that animates our civil procedure — the just, speedy and inexpensive disposition of every action and proceeding.[33]

The CTA, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[34] For this reason, Congress, on March 30, 2004, passed into law Republic Act (RA) No. 9282, effectively amending RA No. 1125, by expanding the jurisdiction of the CTA, enlarging its membership and elevating its rank to the level of a collegiate court with special jurisdiction. Pertinent portions of the amendatory act provides as follows:

> "**Sec. 7. Jurisdiction.** — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation

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[31] Philippine Ports Authority vs. Fuentes, G.R. No. 91259, April 16, 1991; *citing* Victorias Milling Co. vs. CTA, G.R. No. 66381, February 29, 1984
[32] La Naval Drug Corporation vs. Court of Appeals, et al., G.R. No. 103200, August 31, 1994; *See* Molina vs. De la Riva 6 Phil. 12; Fuentebella vs. Negros Coal Co., 50 Phil. 69; Vega vs. San Carlos Milling Co., 51 Phil. 908
[33] *See* Section 6, Rule 1, 1997 Rules of Civil Procedure
[34] Allied Banking Corporation vs. CIR, G.R. No. 175097, February 5, 2010

thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

3. **Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction**;

x x x" (Emphasis Ours)

Based above, in order for the CTA to acquire exclusive jurisdiction to review by appeal a decision, order or resolution of a Regional Trial Court, the case must be a *local tax case* and must be *originally decided or resolved by them* in the exercise of their original or appellate jurisdiction. Clearly then, review by appeal of an interlocutory order of a local tax case by a RTC is not within the ambit of the CTA's mandate.

However, by virtue of the case ***The City of Manila, et. al. vs. Hon. Caridad H. Grecia-Cuerdo, et. al., G.R. No. 175723, February 4, 2014***, the Supreme Court *En Banc* held that the appellate jurisdiction of the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of certiorari, when necessary, in aid of its appellate jurisdiction, *viz*:

"*x x x* It is more in consonance with logic and legal soundness to conclude that the grant of appellate jurisdiction to the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of certiorari when necessary in aid of such appellate jurisdiction. The supervisory power or jurisdiction of the CTA to issue a writ of certiorari in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter."[35]

Likewise, in the much recent case of ***CE Casecnan Water and Energy Company , Inc. vs. The Province of Nueva Ecija, et. al., G.R. No. 196278, June 17, 2015***, the High Court declared that *"the Court of Tax Appeals (CTA) has exclusive jurisdiction over a special civil action for certiorari assailing an interlocutory order issued by the Regional Trial Court (RTC) in a local tax case."*

In relation thereto, Article 8 of the New Civil Code, which provides that "[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines", encapsulates the principle of *stare decisis et non quieta movere*[36]. Verily, a decision of the Supreme Court becomes judicial precedent to be followed in subsequent cases by all courts in the land. As such, it can be fairly interpreted that the review power of the CTA includes the determination of whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of a RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. Therefore, by virtue of the foregoing, the CTA has been vested with jurisdiction to issue writs of certiorari in cases within its exclusive appellate jurisdiction.

That having been settled, the only remaining requisite, now, so that the instant petition may fall within the exclusive appellate jurisdiction of the CTA, is whether the assailed orders issued by the court *a quo* pertains to a local tax case.

Parenthetically, the term "local taxes" in Section 7(a)(3) of RA No. 1125, as amended, should be considered in its general and comprehensive sense, in line with the precept *Generalia verba sunt generaliter inteligencia*—what is generally spoken shall be generally understood. Between the restricted sense and the general meaning of a word, the general must prevail unless it was clearly intended that the restricted sense was to be used.[37]

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[35] City of Manila, et. al. vs. Hon. Caridad H. Grecia-Cuerdo, et. al., G.R. No. 175723, February 4, 2014; *citing* Breslin vs. Luzon Stevedoring Company, 84 Phil. 618, 623 (1949)
[36] "follow past precedents and do not disturb what has been settled"
[37] Ma. Merceditas N. Gutierrez vs. The House of Representatives Committee on Justice, et al., G.R. No. 193459, February 15, 2011

Thus, a local tax case is understood to mean as a dispute between the local government unit (LGU) and a taxpayer which involves the imposition of the LGU's power to levy tax, fees, or charges against the property of the taxpayer concerned. It is for this reason that the Local Government Code of 1991, as amended, provided guidelines for the proper assessment and collection of tax, fees, or charges by the LGU and, equally, in case of disagreement, the affected taxpayer may dispute the same in accordance with the remedies that the said code provides.

Unfortunately, however, perusal of the records of the case reveals that the instant Petition does not involve a local tax case.

Since the onset of the case, the nature of private respondent's Petition with the court *a quo* is for the unlawful withholding of business permit and/or denial of the application thereof by the petitioners. As such, the petition includes a prayer for preliminary mandatory injunctive relief for the issuance of a temporary business permit to private respondent until the main case pending before the RTC-Branch 59 of Makati City is resolved with finality.

This is not a tax case.

It must be stressed that before a local tax case may be elevated to the jurisdiction of a court of competent jurisdiction, it is mandatory for the taxpayer to protest first the deficiency assessment by contesting its legality in accordance with Section 195 of the LGC of 1991. The said Section provides that:

> "**Section 195.** *Protest of Assessment.* - When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. **Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. <u>The local treasurer shall decide the protest within sixty (60) days from the time of its filing</u>.** If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if

> the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. **The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.**" *(Emphases and Underscoring Ours)*

Evidently, petitioner City Treasurer is given a period of sixty (60) days, from the time the protest was filed, within which to decide the said protest. Thereafter, the taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction. In the instant case, this period was not properly observed. In view of that, to better grasp the marrow of the instant controversy, a table of the case's timeline is provided below, thus:

Deficiency Assessment For 2010-2013 via a Notice of Assessment dated January 14, 2015, issued by petitioner City Treasurer		**Deficiency Business Tax For 2014 via a Billing Statement dated January 22, 2015 issued by Petitioner City Administrator**	
January 14, 2015	Petitioner City Treasurer issued a Notice of Assessment under LOA No. 2014-0345	January 14, 2015	Private Respondent applied for renewal of its business permit *via* Business Permit Application Form
February 10, 2015	Private respondent filed a Letter of protest	January 22, 2015	Petitioner City Administrator issued a Billing Statement
April 10, 2015	End of the 60-day period within which to decide private respondent's protest	February 10, 2015	Private respondent attempted to file a Letter of protest but was allegedly denied receipt by petitioner City Administrator
However, the court *a quo* in the Order dated August 6, 2015 noted that during the hearing for Temporary		March 4, 2015	Private respondent filed Petition (With

Restraining Order and Injunction, petitioners, through counsel, manifested that they not pursue any administrative remedies against petitioner for alleged deficiencies in business tax. In that regard, injunctive relief in so far as this issue is concerned was considered moot.		Application for Temporary Restraining Order and/or Preliminary Injunction) with the RTC of Makati City

As gleaned above, the deficiency business tax assessment for taxable years 2010-2013 is still an ongoing process. From the time private respondent filed its Petition with the court *a quo*, the protest was still pending in the administrative level. Hence, it is not yet final. While, on the other hand, as for private respondent's alleged business tax deficiency for taxable year 2014, petitioners failed to duly observe the proper procedure in assessing the alleged business tax deficiency. There was no deficiency assessment that was issued, no investigation conducted, and no remedy of protest availed. Apparently, petitioner City Administrator merely based its refusal to issue a business permit on an unpaid Billing Statement. Thus, faced with such quandary, and having in mind the paramount need for a business permit for the continuity of its business operation, private respondent was constrained to file a Petition (With Application for Temporary Restraining Order and/or Preliminary Injunction)[38].

As a matter of fact, it was for that reason that the assailed Order rendered by the court *a quo's* dated April 28, 2015, which issued Writs of Preliminary and Mandatory Injunction, justified its *fallo*. The court *a quo* opined that *"[r]equiring [private respondent] to pay the assessment, even if under protest, may prove to be its death knell. Unless the assessment process is stopped in the meantime, it is entirely possible that whatever judgment this Court arrives at will all be for naught. x x x A continuation of such assessment, including the possibility of having to pay under protest an amount way more than its actual gross income, would certainly work injustice to [private respondent]. Unless injunctive relief is issued, any judgment in this case would be ineffectual, as petitioner would have already suffered grave and irreparable injury."*[39]

Again, to stress, the petition with the court *a quo* is private respondent's recourse for the unjustifiable denial of its business permit. Axiomatically, while the instant controversy seems like a tax case, the truth of the matter is that it is actually civil in nature.

[38] *Supra* No. 14
[39] Order dated April 28, 2015, RTC Records, at p. 192

Furthermore, in the assailed Order dated August 6, 2015, the court *a quo* held that:

> "*x x x* With regard to the Notice of Assessment, [private respondent] noted how it departed from the Decision dated 13 November 2007, and in fact, alleged that it was still pursuing the proper administrative remedies prior to the issuance of injunctive relief. [Private respondent] herein did not directly protest the assessment which as of the moment, is the subject of proper proceedings with [petitioner] City Treasurer. What it seeks to correct is the previous acts committed by [petitioners], particularly the very basis of the assessments it issued and its relation to the effects of the Decision dated 13 November 2007. The issue shall be delved into deeply by this Court once it goes into the merits of the instant Petition. **At this point, this Court understands that [private respondent] does not seek to protest the amount of the assessment, but based upon its Petition, it merely seeks to define its rights under the Decision dated 13 November 2007.**"

Clearly, based on the factual recount above, the case before the court *a quo* is an original action for *certiorari* and *mandamus* pursuant to Section 21 of Batas Pambansa Blg. 129[40], as amended, otherwise known as "the Judiciary Reorganization Act of 1980", wherein it provides that:

> "**Section 21.** ***Original jurisdiction in other cases.*** **-** Regional Trial Courts shall exercise original jurisdiction:
>
> (1) **In the issuance of writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction which may be enforced in any part of their respective regions**; and
>
> (2) In actions affecting ambassadors and other public ministers and consuls." *(Emphases Ours)*

Imperatively, to inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would

[40] Took effect on August 14, 1981

depend the validity of its entire proceedings.[41] Corollary thereto, if a court lacks jurisdiction over an action, it cannot decide the case on the merits and must dismiss it.[42] Consequently, this Court has no alternative but to deny the instant Petition and dismiss the case for lack of jurisdiction.

WHEREFORE, premises considered, the Petition for Certiorari is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

We Concur:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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[41] Commissioner of Internal Revenue vs. Leonardo S. Villa, et al., G.R. No. L-23988, January 2, 1968

[42] CE Casecnan Water and Energy Company , Inc. vs. The Province of Nueva Ecija, et. al., G.R. No. 196278, June 17, 2015; *citing* Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue, G.R. No. 185666, February 4, 2015

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice