

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

AGM VENTURES CTA CASE NO. 11144
ENTERPRISES, INC.,

Petitioner, Members:
RINGPIS-LIBAN, Chairperson,
MODESTO-SAN PEDRO, and
FERRER-FLORES, JJ.

-versus-

BUREAU OF INTERNAL
REVENUE, represented by the Promulgated:
COMMISSIONER OF
INTERNAL REVENUE, OCT 09 2023 2:00 PM
Respondent.

x ----- x

RESOLUTION

For the Court’s resolution is petitioner’s **Motion for Reconsideration**¹ (“**Motion**”), filed on 12 July 2023, with respondent’s **Comment/Opposition (Re: Petitioner’s Motion for Reconsideration dated 12 July 2023)**² (“**Comment**”), filed on 23 August 2023.

In its Motion, petitioner seeks (a) the reconsideration of this Court’s 22 June 2023 Resolution³ (“Assailed Resolution”), which dismissed the instant case; and (b) the issuance of a temporary restraining order (“TRO”) and injunction against respondent’s efforts to collect the taxes for which petitioner is allegedly liable. It repleads the arguments it raised in its Petition for Review.⁴ It holds that this Court has jurisdiction over its case, particularly on its prayer for injunction against respondent’s Warrant of Garnishment and Warrant of Dstraint and/or Levy (“Assailed Warrants”), in light of respondent’s alleged violation of petitioner’s right to due process.⁵

Respondent counters the Motion by contending that (a) the dismissal was proper due to the Petition’s untimely filing;⁶ (b) the arguments raised in the Motion were already adequately addressed in the Assailed Resolution;⁷

¹ Records.
² Ibid.
³ Ibid.
⁴ Ibid.
⁵ See Motion for Reconsideration, pp. 2-3, *id.*
⁶ See Comment/Opposition, pp. 2-5, *id.*
⁷ See Comment/Opposition, pp. 6-7, *id.*

and (c) petitioner was unable to prove that it is legally entitled to the suspension of the collection of its tax liabilities.⁸

The Motion must be denied.

Again, petitioner's insistence on applying the Supreme Court's pronouncements in *Light Rail Transit Authority v. Bureau of Internal Revenue, represented by the Commissioner of Internal Revenue*⁹ ("*LRTA Case*") is misplaced. The *LRTA Case*'s inapplicability to the present one was already discussed in the Assailed Resolution.¹⁰ Given that petitioner's Motion fails to address said discussions, We see no reason to cover it in any further detail here.

Anent petitioner's claim that this Court has jurisdiction over its prayer for preliminary injunction, the same holds no water. To revisit the very rule petitioner cites in its Motion, *Sections 1, 2, and 3 of Rule 58 of the 1997 Rules of Court, as amended* ("*Rules of Court*"), state:

"RULE 58

PRELIMINARY INJUNCTION

SECTION 1. *Preliminary injunction defined; classes.* — A **preliminary injunction is an order granted at any stage of an action or proceeding** prior to the judgment or final order, requiring a party or a court, agency or a person to refrain from a particular act or acts. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction.

SEC. 2. *Who may grant preliminary injunction.* — A preliminary injunction may be granted by the court **where the action or proceeding is pending**. If the action or proceeding is pending in the Court of Appeals or in the Supreme Court, it may be issued by said court or any member thereof.

SEC. 3. *Grounds for issuance of preliminary injunction.* — A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and **the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of**, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That **the commission, continuance or nonperformance of the act or acts complained of** during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, **some act or**

⁸ See Comment/Opposition, pp. 7-12, *id.*

⁹ G.R. No. 231238, 20 June 2022.

¹⁰ See Resolution, dated 22 June 2023, pp. 4-5, Records.

acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

x x x”

(Emphasis supplied.)

From the above, a motion for preliminary injunction is inextricably linked to some main action pending before a court. The filing and grant of such a motion presuppose an action or proceeding before a court. It cannot stand alone in a vacuum independent of some “act or acts complained of” that is/are “the subject of the action or proceeding”.

Indeed, the Supreme Court has in past cases emphasized the *preliminary* nature of a preliminary injunction in characterizing its role as guaranteeing or protecting the meaningfulness of a *final* decision. *The City of Iloilo, represented by Hon. Mayor Jerry P. Treñas v. Hon. Judge Rene B. Honrado and JPV Motor Vehicle Emission Testing & Car Care Center, Co., represented by Jim P. Velez*,¹¹ which cites *Angelina Pahila-Garrido v. Eliza M. Tortogo, et al.*,¹² is one such case:

“A preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order requiring a party or a court, an agency, or a person to refrain from a particular act or acts. **Its essential role is preservative of the rights of the parties in order to protect the ability of the court to render a meaningful decision, or in order to guard against a change of circumstances that will hamper or prevent the granting of the proper relief after the trial on the merits. Another essential role is preventive of the threats to cause irreparable harm or injury to a party before the litigation could be resolved.** In *Pahila-Garrido v. Tortogo*, we have explained the preservative or preventive character of injunction as a remedy in the course of the litigation, viz.:

Generally, injunction, being a preservative remedy for the protection of substantive rights or interests, is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. It is resorted to only when there is a pressing necessity to avoid injurious consequences that cannot be redressed under any standard of compensation. The controlling reason for the existence of the judicial power to issue the writ of injunction is that the court may thereby prevent a threatened or continuous irreparable injury to some of the parties before their claims can be thoroughly investigated and advisedly adjudicated. The application for the writ rests upon an alleged existence of an emergency or of a special reason for such an order to issue before the case can be regularly heard, and the essential conditions for granting such temporary injunctive relief are that the

¹¹ G.R. No. 160399, 9 December 2015.

¹² G.R. No. 156358, 17 August 2011.

complaint alleges facts that appear to be sufficient to constitute a cause of action for injunction and that on the entire showing from both sides, it appears, in view of all the circumstances, that the injunction is reasonably necessary to protect the legal rights of plaintiff pending the litigation.”
(Citations omitted; emphasis supplied.)

More recently, the Supreme Court reaffirmed the significance of a separate main action to a motion for preliminary injunction in *Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) and Metropolitan Manila Development Authority (MMDA) v. Power Ads Intelli-Concepts Advertising and Production Corporation*:¹³

“A writ of preliminary injunction is defined as ‘an order granted at any stage of an action or proceeding **prior to the judgment or final order**, requiring a party or a court, agency or a person to refrain from a particular act or acts. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction.’ It is aimed to ‘[p]revent threatened or continuous irreparable injury to some of the parties before their claims can be thoroughly studied and adjudicated. **Its sole aim is to preserve the *status quo* until the merits of the case can be heard fully.**’”
(Citations omitted; emphasis supplied.)

From the above pronouncements of the High Court, one of the primary purposes of a preliminary injunction is to ensure that the Court can meaningfully decide upon a *main* action. The absence of such a main action, then, can render a preliminary injunction pointless.

In the present case, such main action would have been petitioner’s prayer to modify respondent’s assessment. However, as discussed in the Assailed Resolution, this Court has no jurisdiction over the Petition for Review protesting said assessment. A preliminary injunction would thus be improper. Nothing would be accomplished by temporarily maintaining the *status quo* when no final decision is forthcoming.

Neither can petitioner utilize *Rule 10 of the Revised Rules of the Court of Tax Appeals (“RRCTA”)*, an equivalent rule established specifically for the suspension of tax collection. *Section 3* of the same states:

“SEC. 3. *When to file.* — The motion for the suspension of the collection of the tax may be filed **together with the petition for review** or with the answer, or in a separate motion filed by the interested party **at any stage of the proceedings.**”
(Emphasis supplied.)

¹³ G.R. No. 243931, 14 July 2021.

Petitioner faces a similar problem here: a motion to suspend the collection of taxes presupposes a valid Petition for Review or some set of main proceedings, both of which are absent here due to this Court's lack of jurisdiction over the assailed assessment. Any *preliminary* suspension of tax collection granted by this Court would thus be uselessly delaying the inevitable, as there would be no final decision rendered by Us to potentially modify or cancel the assailed assessment.

In any case, given petitioner's attempts to frame its cause in terms of the *LRTA Case*, which declared similar warrants null and void due to the pendency of the taxpayer's appeal to the assessment, the propriety of the Assailed Warrants would depend upon the propriety of the assailed assessment. Because this Court is barred from determining the propriety of the assessment, We would consequently be unable to determine the propriety of the Assailed Warrants.

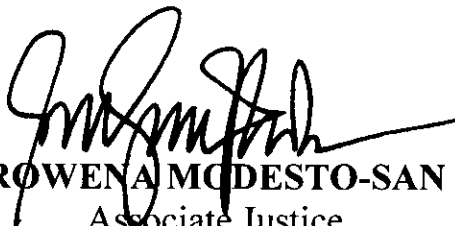
All told, the Motion is inadequate to disturb our previous ruling.

WHEREFORE, petitioner's Motion for Reconsideration, filed on 12 July 2023, is hereby **DENIED**. The assailed Resolution, dated 22 June 2023, is hereby **AFFIRMED**.

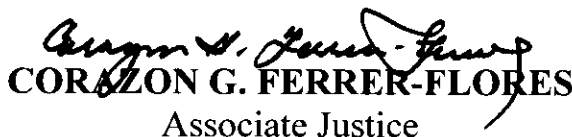
SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Associate Justice



MARIA ROWENA MCDESTO-SAN PEDRO
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice