REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

NATIONAL FOOD AUTHORITY, Represented by CARLITO G. CO, Regional Director of NFA-National Capital Region (NFA-NCR),
Petitioner,

- versus -

PROVINCIAL GOVERNMENT OF BATANES, PROVINCIAL ASSESSOR AND PROVINCIAL TREASURER, BASCO, BATANES,
Respondents.

CTA AC No. 244

Members:

BACORRO-VILLENA, Acting *Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
AUG 0 2 2023

x - x

10:10 a.m.

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner National Food Authority (**petitioner/NFA**) pursuant to Section 3(a)(3)[2], Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**). It seeks the reversal of the Orders dated 18 November 2019[3] and 28 September 2020[4]

[1] Filed on 29 October 2020, Division Docket, pp. 8-54.
[2] **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
...
(3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction[.]
[3] Penned by Presiding Judge Ramon Senen B. Baroña, RTC Records, pp. 199-203.
[4] Id., p. 226.

(**assailed Orders**), respectively, both rendered by the Regional Trial Court (**RTC**) of Basco, Batanes, Branch 13, in Special Civil Case No. 06, entitled *National Food Authority Represented by its Regional Director, Carlito G. Co v. Provincial Government of Batanes, Provincial Assessor and Provincial Treasurer of Basco, Batanes.*

PARTIES OF THE CASE

Petitioner is a government entity originally created by virtue of Presidential Decree (**PD**) No. 4[5] under the name of "National Grains Authority" (**NGA**) and later reconstituted as NFA under PD 1770.[6]

Respondent Provincial Government of Batanes (**respondent LGU**), on the other hand, is a chartered local government unit (**LGU**) located in the province of Batanes, created by virtue of Act No. 1952.[7] While, respondents Provincial Assessor (**respondent assessor**) and Provincial Treasurer (**respondent treasurer**) of Basco, Batanes are duly sworn public officers of the provincial government of Batanes with office address at Provincial Assessor's and Provincial Treasurer's Office, respectively, Provincial Capitol, Basco, Batanes.

FACTS OF THE CASE

Petitioner is the owner of a number of real properties located in Kaychanarianan, Basco, Batanes (**subject properties**), more particularly described as follows:

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5 PROVIDING FOR THE DEVELOPMENT OF THE RICE AND CORN INDUSTRY AND CREATING FOR THIS PURPOSE THE NATIONAL GRAINS AUTHORITY.

6 RECONSTITUTING THE NATIONAL GRAINS AUTHORITY TO THE NATIONAL FOOD AUTHORITY, BROADENING ITS FUNCTIONS AND POWERS AND FOR OTHER PURPOSES.

7 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE PROVINCE OF BATANES; TO AMEND PARAGRAPH SEVEN OF SECTION SIXTY-EIGHT OF ACT NUMBERED ELEVEN HUNDRED AND EIGHTY-NINE IN CERTAIN PARTICULARS; TO AUTHORIZE THE PROVINCIAL BOARD OF THE PROVINCE OF BATANES, WITH THE APPROVAL OF THE GOVERNOR-GENERAL, TO EXTEND THE TIME FOR THE PAYMENT WITHOUT PENALTY OF TAXES AND LICENSES; TO AMEND SECTION FIVE OF ACT NUMBERED FIFTEEN HUNDRED AND EIGHTY-TWO, ENTITLED "THE ELECTION LAW," BY INCREASING THE NUMBER OF DELEGATES TO THE PHILIPPINE ASSEMBLY TO EIGHTY-ONE, AND FOR OTHER PURPOSES.

Tax Dec. No. **(TD No.)**	Type of property
09-01-001-016	Commercial Lot
09-01-001-019	Commercial Lot
09-01-001-021	Commercial Lot
09-01-001-022	Commercial Lot
09-01-001-023	Office Building.

On 11 April 2019, petitioner, through its Legal Affairs Department, received a Notice of Real Property Tax Delinquency[8] (**Notice**) informing it of the real property tax (**RPT**) deficiencies on the subject properties in the total amount of ₱296,781.08. In the said Notice, petitioner was given fifteen (15) days from receipt thereof to pay the said RPT deficiencies.[9]

Later, on 03 June 2019, petitioner filed a Petition for Prohibition (with application for Temporary Restraining Order and/or Issuance of Writ of Preliminary Injunction) (**Petition for Prohibition**) with the RTC. Therein, petitioner questioned respondent LGU's authority to impose and collect RPT. It argued that it is a government instrumentality, hence, exempt from the payment of RPT.

In the assailed Order dated 18 November 2019[10], the RTC denied due course to petitioner's Petition for Prohibition for being filed out of time. The RTC further found that petitioner failed to exhaust administrative remedies by seeking judicial relief when there were other speedy and adequate remedies still available to it. The pertinent portions of the assailed Order of 18 November 2019 state:

> ...
>
> By Petitioner's own action and admission, it received the assailed Notice of Respondent (Annex "A") on March 5, 2019 as shown in the stamp received by NFA Batanes and in Petitioner's letter dated March 5, 2019 to the respondent Provincial Treasurer acknowledging receipt of the assailed NOTICE of Real Property Tax Delinquency on March 5, 2019 (Annexes 11 and 11-A of Respondent's Comment).
>
> ...

8 Annex "A" of the Petition for Prohibition, RTC Records, p. 38.
9 Id.
10 Supra at note 3.

> However, the records of the case clearly and equivocally disclosed that the Petition for Prohibition at bench was only filed on June 3, 2019 way beyond the mandated sixty (60) days period.
>
> ...
>
> For this reason alone, the Petition for Prohibition at bench is hereby DISMISSED and DENIED DUE COURSE.
>
> Furthermore, it is patently clear that petitioner failed to exhaust the administrative remedies provided for in Sections 226 and 229 (a), (b), and (c) of Chapter 3, Title Two, Book II of the Local Government Code.
>
> Petitioner should have filed their protest questioning the assessment of Real Property taxes which were imposed on it with the Local Board of Assessment Appeals (LBAA) and then it may appeal an adverse decision, if any to the Central Board of Assessment Appeals (CBAA). And from the decision of the CBAA it can bring the matter to the Court of Appeals under Rule 42 of the Rules of Court.
>
> ...

With the adverse decision against it, petitioner filed its Motion for Reconsideration[11] (**MR**) but the same was denied in the similarly assailed Order of 28 September 2020.[12] Hence, the present petition before this Court.

Herein, petitioner asks for the Court to: (1) reverse the assailed Order dated 18 November 2019 and Order dated 28 September 2020 of the RTC of Basco, Batanes and declare that NFA is a government instrumentality, not a government-owned and controlled corporation (**GOCC**); (2) declare the Notice issued by herein respondent to NFA as void; and, (3) grant petitioner's Motion for Suspension of Collection of Taxes while awaiting the resolution of the herein case.

<u>PROCEEDINGS BEFORE THE COURT</u>

In a Resolution dated 16 December 2020[13], the Court ordered respondents to file their comments to the present petition within ten

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[11] Filed on 12 December 2019, RTC Records, pp. 204-210.
[12] Supra at note 4.
[13] Division Docket, pp. 141-142.

(10) days from notice. In an Order dated 02 August 2022[14], the Court noted their failure to file their comments thus, the case was immediately submitted for decision.

ISSUES

As culled from the records of the case, petitioner raises the following issues[15] before Us for resolution:

I.
WHETHER THE PETITION FOR PROHIBITION WAS FILED OUT OF TIME;

II.
WHETHER PETITIONER NATIONAL FOOD AUTHORITY FAILED TO EXHAUST THE ADMINISTRATIVE REMEDIES; AND,

III.
WHETHER PETITIONER NATIONAL FOOD AUTHORITY IS A GOVERNMENT-OWNED AND CONTROLLED CORPORATION (GOCC).

ARGUMENTS

Petitioner mainly argues that its Petition for Prohibition with the RTC was filed on time. According to it, the sixty (60)-day period to file the said petition under Section 2, Rule 65[16] of the Rules of Court (ROC),

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14 Id., pp. 150-151.
15 Id., p. 20.
16

RULE 65
Certiorari, Prohibition and Mandamus

...

Sec. 2. *Petition for Prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are 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 or any other 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 commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

The petition shall likewise 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.

...

as amended, should not be counted from its receipt of the Notice on 05 March 2019 (through a member of its staff but from the alleged receipt of the NFA's Administrator on 11 April 2019). It argues that when it filed the petition before the RTC on 03 June 2019, the same was still within the 60-day period. It further contends that it did not need to exhaust administrative remedies given the nature of its case as it is not merely assailing the assessment but the very authority of respondent LGU to assess and impose RPT on its properties following the case of *Alejandro B. Ty, et al. v. The Hon. Aurelio C. Trampe, et al.*.[17] Lastly, it maintains that it is a government instrumentality and, thus, exempt from the payment of RPT in accordance with the Supreme Court's pronouncements in *Manila International Airport Authority v. Court of Appeals, et al.*[18] (**MIAA**).

Petitioner adds that it is similarly situated with the government entity involved in MIAA. Just like the Manila International Airport Authority, its remaining functions of maintaining an adequate supply of rice in the market to temper rice prices is purely governmental and not proprietary. Insisting on its status as a government instrumentality, petitioner concludes that it should be exempt from payment of local taxes such as RPT.

RULING OF THE COURT

After a careful review of the issues and factual circumstances surrounding the case at bar, the Court finds merit in some of petitioner's arguments. However, considering the paramount issue of jurisdiction and the absence thereof, the petition must necessarily fail.

THE SPECIAL CIVIL ACTION OF PROHIBITION MAY BE AVAILED OF BY PETITIONER

Section 2 of Rule 65 of the ROC, as amended, which provides:

[17] G.R. No. 117577, 01 December 1995.
[18] 528 Phil. 181 (2006).

> ...
>
> Sec. 2. *Petition for Prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person whether exercising judicial, quasi-judicial or ministerial functions, are 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 or any other 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 commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.[19]
>
> ...

As can be gleaned from the foregoing, the requisites of the special civil action of prohibition are:

1. Respondent is a tribunal, corporation, board or person exercising judicial, quasi-judicial or ministerial functions;
2. Respondent acted, is acting or is about to act without or in excess of jurisdiction, or acted with grave abuse of discretion amounting to lack or excess of jurisdiction; and
3. There must be no appeal or other plain, speedy and adequate remedy.[20]

In the case of *Maria Carolina P. Araullo, et al. v. Benigno Simeon C. Aquino III, et al.*[21], citing *Holy Spirit Homeowners Association, Inc., et al. v. Secretary Michael Defensor, et al.*[22], the Supreme Court elucidated on the nature and function of the writ of prohibition, to wit:

> ...
>
> ...The Court expounded on the nature and function of the writ of prohibition in *Holy Spirit Homeowners Association, Inc. v. Defensor*:
>
> > A petition for prohibition is also not the proper remedy to assail an IRR issued in the exercise of a quasi-legislative function. Prohibition is an extraordinary writ directed against any tribunal, corporation, board, officer or

[19] Emphasis supplied.
[20] G.R. Nos. 201398-99, 03 October 2018.
[21] G.R. No. 209287, 01 July 2014; Citations omitted, emphasis supplied and italics in the original text.
[22] G.R. No. 163980, 03 August 2006.

> person, whether exercising judicial, quasi-judicial or ministerial functions, ordering said entity or person to desist from further proceedings when said proceedings are without or in excess of said entity's or person's jurisdiction, or are accompanied with grave abuse of discretion, and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law. Prohibition lies against judicial or ministerial functions, but not against legislative or quasi-legislative functions. Generally, the purpose of a writ of prohibition is to keep a lower court within the limits of its jurisdiction in order to maintain the administration of justice in orderly channels. Prohibition is the proper remedy to afford relief against usurpation of jurisdiction or power by an inferior court, or when, in the exercise of jurisdiction in handling matters clearly within its cognizance the inferior court transgresses the bounds prescribed to it by the law, or where there is no adequate remedy available in the ordinary course of law by which such relief can be obtained. Where the principal relief sought is to invalidate an IRR, petitioners' remedy is an ordinary action for its nullification, an action which properly falls under the jurisdiction of the Regional Trial Court. In any case, petitioners' allegation that "respondents are performing or threatening to perform functions without or in excess of their jurisdiction" may appropriately be enjoined by the trial court through a writ of injunction or a temporary restraining order.

With respect to the Court, however, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and **the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction** committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, *even if the latter does not exercise judicial, quasi-judicial or ministerial functions.* ...

...

Thus, petitions for *certiorari* and prohibition **are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.**

...

As regards the *first requisite,* the power to assess taxes is necessarily a quasi-judicial function as the Supreme Court explained in the case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[23], to wit:

> ...
>
> The Bureau of Internal Revenue is the primary agency tasked to assess and collect proper taxes, and to administer and enforce the Tax Code. To perform its functions of tax assessment and collection properly, it is given ample powers under the Tax Code, such as the power to examine tax returns and books of accounts, to issue a subpoena, and to assess based on best evidence obtainable, among others. However, these powers must "be exercised reasonably and [under] the prescribed procedure." The Commissioner and revenue officers must strictly comply with the requirements of the law, with the Bureau of Internal Revenue's own rules, and with due regard to taxpayers' constitutional rights.
>
> The Commissioner **exercises administrative adjudicatory power or quasi-judicial function in adjudicating the rights and liabilities of persons under the Tax Code.**
>
> Quasi-judicial power has been described as:
>
>> Quasi-judicial or administrative adjudicatory power on the other hand is the power of the administrative agency to adjudicate the rights of persons before it. *It is the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law*. The administrative body exercises its quasi-judicial power when it performs in a judicial manner an act which is essentially of an executive or administrative nature, *where the power to act in such manner is incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it*.
>
> In carrying out these quasi-judicial functions, the Commissioner is required to "investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature." **Tax investigation and assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons.**
>
> ...

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23 Supra at note 20; Citations omitted, emphasis, italics and underscoring in the original text and supplied.

Respondent assessor's authority to assess petitioner and its subsequent issuance of the Notice[24] is *akin* to that of Bureau of Internal Revenue's (**BIR's**) power to audit and issue assessments with respect to national taxes which is essentially quasi-judicial in nature.

As to the *second* and *third* requisites, it must be alleged that respondents have acted without or in excess of jurisdiction and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.

In the assailed Orders, it could be gleaned that the RTC concluded that petitioner is merely questioning the reasonableness or correctness of the assessments since it is claiming exemption (from the payment of RPT) on the subject properties on the ground that it is not a GOCC. Not being a GOCC, petitioner contends that compliance with Section 252[25] of the Local Government Code (**LGC**) of 1991 is required and the remedies under Section 226[26] of the LGC of 1991 must be exhausted.

We disagree.

Section 232 of the LGC of 1991, LGUs are granted the power to levy taxes on real property not otherwise exempted under the law, to wit:

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[24] Supra at note 8.

[25] SEC. 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.
(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.

[26] SEC. 226. *Local Board of Assessment Appeals.*— 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, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.

> ...
>
> SEC. 232. *Power to Levy Real Property Tax.* — A province or city or a municipality within the Metropolitan Manila Area may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted.
>
> ...

The LGC of 1991 provides two (2) specific limitations on the LGUs' power to impose tax. The first is Section 133(o) thereof which provides:

> ...
>
> SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units.* — Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:
>
> ...
>
> (o) Taxes, fees or charges of any kind on the National Government, its agencies and **instrumentalities**, and local government units.[27]
>
> ...

The first limitation provides a general rule, *i.e.*, that LGUs cannot levy any taxes, fees, or charges of any kind on the national government or its agencies and instrumentalities. The provision, however, also provides for an exception – "...[u]nless otherwise provided herein". Therefore, the implication is that while a government agency or instrumentality is generally tax-exempt, the LGC of 1991 may provide for instances when it could be taxable.

On the other hand, the second limitation is enumerated under Section 234 of the LGC of 1991 on properties that are specifically exempted from the payment of RPT:

> ...
>
> SEC. 234. *Exemptions from Real Property Tax.* — The following are exempted from payment of the real property tax:

27 Emphasis supplied.

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions **except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person**;

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;

(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;

(d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and

(e) Machinery and equipment used for pollution control and environmental protection.

Except as provided herein, **any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or -controlled corporations are hereby <u>withdrawn</u>** upon the effectivity of this Code.[28]

...

In the present case, it is contended that petitioner falls under the common limitations of the taxing power of the LGUs, specifically Section 133(o) of the LGC of 1991. Petitioner thus raises an issue on respondents' authority to impose and collect RPT on properties registered under its name. The aforesaid provision emanates from the principle of supremacy of the national government over local governments.[29] This presupposes that the local governments cannot tax the national government, which historically merely delegated to the local governments the power to tax.[30] While the 1987 Constitution now includes taxation as one of the powers of LGUs, an LGU may only exercise such power "subject to such guidelines and limitations as the

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28 Emphasis and underscoring supplied.

29 *Manila International Airport Authority v. Court of Appeals, et al.*, G.R. No. 155650, 20 July 2006.

30 Id.

Congress may provide".[31] Notably, petitioner never invoked the provisions of Section 234 of the LGC of 1991, which would have triggered the application of Section 206[32] of the said code. Neither did it question the assessments made by respondent assessor or the amounts being collected by respondent treasurer. A reading of its original petition would readily show that petitioner, while claiming to be a government instrumentality instead of a GOCC, **is questioning the power of the assessor to assess and the authority of the treasurer to collect, taxes against it.**

This proposition is buttressed by the recent judicial precedent established in the case of *Light Rail Transit Authority v. City of Pasay* (**LRTA**)[33], wherein the Supreme Court, citing the case of *Alejandro B. Ty, et al. v. The Hon. Aurelio C. Trampe, et al.*[34], ruled that a petition under Rule 65 of the ROC, as amended, may be availed of to challenge the jurisdiction of an LGU in levying RPT on therein petitioner's (**LRTA's**) properties on the ground that it is not a GOCC and such being a purely legal question, the doctrine of exhaustion of administrative remedies is unavailing, *viz*:

> ...
>
> Both the RTC and the CA dismissed LRTA's petition on the ground that the latter failed to exhaust all administrative remedies before resorting to the courts. The RTC and the CA were in unison in holding that the case of *Ty* being relied upon by LRTA, does not apply in the instant case since the latter was questioning the assessments themselves and not the authority of the city assessor to collect taxes. The CA, in particular, ruled as follows:
>
> ...

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31 Id.

32 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, by-laws, 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.

33 G.R. No. 211299, 28 June 2022; Citations omitted, emphasis, italics and underscoring in the original text and supplied.

34 Supra at note 17.

On the other hand, LRTA, in its petition to this Court, argues that the rule on exhaustion of administrative remedies must be set aside in light of our ruling in *Ty*. In particular, LRTA asserts that the instant petition raises primarily questions of law, and thus, the same falls under the exception to the general rule, to wit:

...

We rule for LRTA.

In general, where administrative remedies are available, petitions for the issuance of the extraordinary writs should not be granted by the courts in order to give the administrative body the opportunity to decide the matter by itself correctly, and to prevent unnecessary and premature resort to courts. However, this principle of exhaustion of administrative remedies is not without exception.

Jurisprudence would reveal that the Court has set aside such rule: (1) when there is a violation of due process, (2) **<u>when the issue involved is purely a legal question</u>**, (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction, (4) when there is estoppel on the part of the administrative agency concerned, (5) when there is irreparable injury, (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter, (7) when to require exhaustion of administrative remedies would be unreasonable, (8) when it would amount to a nullification of a claim, (9) when the subject matter is a private land in land case proceedings, (10) **<u>when the rule does not provide a plain, speedy and adequate remedy</u>**, and (11) when there are circumstances indicating the urgency of judicial intervention.

From the records, it can be clearly seen that the circumstances of the instant case necessitate that We set aside the general rule.

...

The issues involved in this petition are purely legal issues. It is evident that from the outset, LRTA primarily intended to question the authority of the tax assessor to impose tax assessments on its property, and the authority of the treasurer to collect said tax, as LRTA claims to be a non-taxable entity. This can be seen when the LRTA deliberately chose to file the remedies of *certiorari*, prohibition and *mandamus*, instead of just filing a protest to contest the amounts in the assessment. Rule 65 of the Rules of Court provides:

...

It must be emphasized that the very nature of a petition under Rule 65 *involves questions of jurisdiction. Questions regarding jurisdiction are necessarily legal as the existence or extent of an entity's*

> *jurisdiction over a certain subject matter is determined by what is conferred by law.* Being a legal question, there was no need for the LRTA to exhaust administrative remedies, even assuming that such remedies exist.
>
> ...

Moreover, in *LRTA*[35], the Supreme Court held that Section 226 of the LGC of 1991 is not a plain, speedy and adequate remedy where the very authority of an LGU to impose RPT is challenged, to wit:

> ...
>
> Moreover, there are no competent administrative tribunals that may grant the relief that LRTA is seeking. **The questions of law interposed in this instant petition may only be appropriately addressed by the courts, and are the proper subjects of a petition for prohibition under Rule 65.**
>
> The CA erred in applying the case of *Napocor v. Province of Quezon* (*Napocor*), as the circumstances in that case drastically differ from the instant case. As correctly pointed out by LRTA in its Motion for Reconsideration before the CA, it has not raised any issue concerning the amount being assessed, but it specifically questioned the authority of the city assessor from the very start.
>
> To put Our pronouncements in *Napocor* in its proper perspective, it must be noted that the petitioners therein were claiming a tax exemption under Section 206 of the LGC, which provides:
>
> ...
>
> In claiming such exemption, whether partial or total, We ruled that by holding 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. In that case, since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252 of the LGC, 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 thereof without any effect. No protest shall be entertained unless the taxpayer first pays the tax.

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35 Supra at note 33; Citations omitted, emphasis, italics and underscoring in the original text and supplied.

> In the contrast with *Napocor*, the LRTA, in filing a Petition for *Certiorari*, Prohibition and *Mandamus* with the RTC at the earliest instance, clearly intended to question the local assessor's authority to assess real property taxes on its property and the local treasurer's authority to collect such taxes. The LRTA never invoked Section 206 of the LGC, or even bother to file a protest under Section 252, as the LRTA is not merely claiming tax-exemption on some or all of its properties (which admits the local assessor's authority to assess), but it has been arguing since the beginning that both the city assessor and treasurer do not have the authority to assess and collect local real property tax on its properties, which is similar to what was being claimed in *Ty*.
>
> The provisions of Sections 226 and 229 of RA 7160, being material to this issue...
>
> ...
>
> Verily, the protest provided for in the above is not an adequate remedy, as such protest is **limited to questioning the assessment itself, and not the authority of the assessor**. **Furthermore, it is clear from the above-quoted provisions that proceedings before the Local Board of Assessment Appeals (LBAA) is limited to fact-finding, and there is no *indicia* under the law that the LBAA has jurisdiction to rule upon the legal issue interposed in the present controversy**. It must be emphasized that LRTA is not just "unsatisfied" with the assessments against it, nor is it merely claiming tax exemption on some or all of its properties. **Rather, LRTA is questioning, among others, the authority itself of the city assessor to assess its properties for real property tax purposes, given the former's alleged status as a government instrumentality.**
>
> The CA was therefore remiss in ruling that the petition entails the examination of facts, as it is evident that the question on the authority/power of the City to levy and collect real property taxes on certain properties of LRTA, in relation to LRTA's legal classification, **are clearly legal questions, that only the courts have the competency and jurisdiction to resolve.**
>
> ...

Based on the foregoing judicial pronouncements, petitioner availed of the proper remedy when it filed a Petition for Prohibition under Rule 65 of the ROC, as amended, before the RTC.

THE PETITION WAS FILED OUT OF TIME.

Section 4 of Rule 65 of the ROC, as amended, provides:

> ...
> SEC. 4. *When and where petition to be filed.* — The petition shall be filed not later than sixty **(60) days from notice of judgment, order or resolution.** In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.
>
> The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.
>
> No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.[36]
> ...

In the present case, it is undisputed that petitioner, through its Batanes Provincial Office, received the Notice[37] on 05 March 2019. Petitioner should have then filed its Petition for Prohibition not later than 04 May 2019, *i.e.*, within 60 days from 05 March 2019. However, petitioner filed the Petition for Prohibition before the court *a quo* only on 03 June 2019, way beyond the mandated 60-day reglementary period to do so.

Petitioner invokes further (but without admission of its belated filing) that the instant case involves issues of transcendental importance which would justify this Court to adopt a liberal interpretation to serve the ends of justice.

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[36] Emphasis supplied.
[37] Supra at note 8.

We do not share petitioner's view.

In *Lilia Sanchez v. Court of Appeals, et al.*[38], the Supreme Court listed the following conditions to consider in suspending the rules of procedure:

> ...
>
> Aside from matters of life, liberty, honor or property which would warrant the suspension of the Rules of the most mandatory character and an examination and review by the appellate court of the lower court's findings of fact, the other elements that should be considered are the following: (a) **the existence of special or compelling circumstances**, (b) the merits of the case, (c) **a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules**, (d) a lack of any showing that the review sought is merely frivolous and dilatory, and (e) the other party will not be unjustly prejudiced thereby.
>
> ...

In *Arnold Ginete, et al. v. Hon. Court of Appeals, et al.*[39], the Supreme Court explained the rationale in the relaxation of the rules of procedure in case of justifiable instances, to wit:

> ...
>
> Let it be emphasized that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities **that tend to frustrate rather than promote substantial justice,** must always be eschewed. Even the Rules of Court reflect this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself has already declared to be final, as we are now constrained to do in instant case.
>
> Thus, this court is not averse to suspending its own rules in the pursuit of the ends of justice. "[...] For when the operation of the Rules will lead to an injustice we have, in justifiable instances, resorted to this extraordinary remedy to prevent it. The rules have been drafted with the primary objective of enhancing fair trials and expediting justice. As a corollary, if their application and operation tend to subvert and defeat, instead of promote and enhance it, their

38 G.R. No. 152766, 20 June 2003; Citation omitted and emphasis supplied.
39 G.R. No. 127596, 24 September 1998; Citations omitted and emphasis supplied.

> suspension is justified. In the words of Justice Antonio P. Barredo in his concurring opinion in *Estrada v. Sto. Domingo*, "(T)his Court, through the revered and eminent Mr. Justice Abad Santos, found occasion in the case of *C. Viuda de Ordoveza v. Raymundo*, to lay down for recognition in this jurisdiction, the sound rule in the administration of justice holding that 'it is always in the power of the court (Supreme Court) to suspend its own rules or to except a particular case from its operation, whenever the purposes of justice require it ..."
>
> The Rules of Court were conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts, in rendering justice have always been, as they in fact ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat to substantive rights, and not the other way around. As applied to instant case, in the language of Justice Makalintal, technicalities "should give way to the realities of the situation.
>
> ...

Of equal importance is the ratiocination in the case of *Nicanor T. Santos v. Court of Appeals, et al.*[40], where the Supreme Court underscored the rationale behind procedural rules, to wit:

> ...
>
> **Procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party.** Adjective law is important in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice. These rules are not intended to hamper litigants or complicate litigation but, indeed, to provide for a system under which suitors may be heard in the correct form and manner and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge. The other alternative is the settlement of their conflict through the barrel of a gun.
>
> ...

In the case at bar, petitioner did not provide any justifiable reason for its failure to comply with the 60-day reglementary period. It merely contends that the receipt of the NFA-Legal Affairs Department should be its reckoning point. Unfortunately, We are unable to countenance

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[40] G.R. No. 92862, 04 July 1991; Emphasis supplied.

such nonchalant stance. It bears noting that respondent treasurer sent the subject Notice to petitioner's Provincial Office in Batanes because that was the address that petitioner supplied in its tax declarations.[41] This is in line with the *Bureau of Local Government Finance's (BLGF's) Manual on Real Property Appraisal and Assessment Operations.*[42] Subsequent actions to be undertaken by petitioner after the receipt of the proper service of the Notice fall within the internal rules of petitioner and may not toll the running of the reglementary period. It is pertinent to note that the NFA-Legal Affairs Department received the Notice on 11 April 2019, affording petitioner with 23 days to lodge the Petition for Prohibition but it still failed to do so despite the ample time given.

Based on the foregoing, the court *a quo* correctly dismissed the petition on the ground that it was filed out of time. The Petition for Prohibition having clearly been filed out of time, the Court sees no need to delve into the case's merits as no amount of discussion thereof could change the case's outcome.

Accordingly, finding no reversible error, this Court finds no cogent reason or justification to disturb the conclusions reached by the RTC.

WHEREFORE, the foregoing considered, the Petition for Review filed by petitioner National Food Authority on 29 October 2020 is hereby **DENIED** for lack of merit. Accordingly, the assailed Orders

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41 RTC Records, pp. 154-158.

42 *D. Notice of New or Revised Assessments*

...

2. Although the real property tax is levied against real property, it is the owner who pays the tax. Before the tax liability is fixed, the property owner is entitled to a hearing on the assessment of the property; notice and hearing constitute part of the due process (not strictly judicial) in taxation. If the owner is not satisfied with the action of the assessor in the assessment of the property, the said owner can resort to the appeals process provided in this manual. If he does not appeal within the said period, he will be deprived of his right to be heard by the Board of Assessment Appeals.

a. **The written notice together with the owner's copy of the tax declaration shall be addressed to the person in whose name the property is declared.** It may be delivered personally or to the occupant in possession of the property, or by mail to the last known address of the owner or thru the assistance of the punong barangay.

b. If personally delivered to the owner or person in possession of the property, the person serving the notice shall secure the signature of the owner or occupant on the duplicate copy of the notice, with a notation of the date when notice was served and whether recipient is the owner or occupant of the property. If assistance of the punong barangay is secured, the signature should appear on the duplicate copy of the notice. (Emphasis supplied)

...

dated 18 November 2019 and 28 September 2020 rendered by the Regional Trial Court of Basco, Batanes, Branch 13, in Special Civil Case No. 06, entitled *National Food Authority Represented by its Regional Director, Carlito G. Co v. Provincial Government of Batanes, Provincial Assessor and Provincial Treasurer of Basco, Batanes* are **AFFIRMED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Special 2nd Division Acting 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