REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL FOOD AUTHORITY, represented by the Director of its Legal Affairs Department, Atty. Ma. Theresa S. Villafuerte,
Petitioner,

- versus -

CITY GOVERNMENT OF TAGUM, CITY ASSESSOR AND CITY TREASURER OF TAGUM, PROVINCE OF DAVAO DEL NORTE,
Respondents.

CTA EB NO. 1930
(CTA AC No. 180)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

JUN 30 2020 1:05 p.m.

x- -x

DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court is a Petition for Review seeking the nullification of the Decision[1] dated May 29, 2018 ("Assailed Decision") and Resolution[2] dated August 23, 2018 ("Assailed Resolution") of the Court of Tax Appeals Second Division ("Second Division"), denying for lack of merit the "Petition for Review" filed by herein Petitioner, which seeks to reverse and set aside the

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1 Penned by Associate Justice Caesar A. Casanova, with Associate Justice Juanito C. Castañeda Jr., concurring and with Associate Justice Catherine T. Manahan, dissenting; Docket, pp. 297-321.

2 Penned by Associate Justice Caesar A. Casanova, with Associate Justices Juanito C. Castañeda Jr. and Catherine T. Manahan, concurring; Docket, pp. 357-359.

Resolution dated November 15, 2016 and Order dated December 08, 2016 rendered by the Regional Trial Court ("RTC")-Branch 31 of Tagum City, Davao del Norte, which in turn dismissed for lack of merit the "Petition for Prohibition" herein Petitioner filed with the said court.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[3]

Meanwhile, the dispositive portion of the Assailed Resolution reads:

> "**WHEREFORE**, premises considered, the Motion for Reconsideration (Of the Decision dated 29 May 2018) is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[4]

The Parties[5]

Petitioner, National Food Authority ("NFA") is created under Presidential Decree ("PD") No. 4, as amended. It is being represented by its Legal Affairs Director Atty. Ma. Theresa S. Villafuerte by virtue of NFA Council Resolution No. 177-2K dated March 21, 2003. Petitioner may be served with summons and other court processes at NFA Legal Affairs Department (LAD), SRA Annex 2 Building, North Avenue, Diliman, Quezon City.

Respondent City Government of Tagum is a political subdivision created pursuant to law, while, Respondents City Assessor and City Treasurer of Tagum are both public officers, respectively, of the City of Tagum. Respondents may be served with summons and other court processes at their office address at City Hall of Tagum, Davao del Norte.

The Facts

The facts as found by the Second Division are as follows:

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[3] *Id.*, Decision, p. 316.
[4] *Id.*, Resolution dated August 23, 2018, p. 359.
[5] *Id.*, Decision, p. 298.

"By virtue of PD No. 4, the National Grains Authority (NGA) was created to aide the development of the country's rice and corn industry. Later on, through PD No. 1770, the NGA was reconstituted to the National Food Authority (NFA) with the intention of expanding the functions and powers of the NGA to not only cover the grains industry but other basic food commodities as well.

Under Section 6 (d) of PD No. 4, as amended by PD No. 1485, petitioner was given certain exemptions which includes [*sic*] payment of realty taxes. The relevant portion of the said section provides as follows, *viz.*:

'Sec. 6. Administration Powers, Organization, Management and Exemptions. The Powers, organization, management and exemptions of the Authority shall be as follows:

xxx

(d) Exemptions. In furtherance to the effective implementation of the policy enunciated in this decree, the Authority is hereby declared exempt

i. From payment of all taxes, duties, fees, imposts, charges, costs and restrictions to the Republic of the Philippines, its provinces, cities, municipalities, including the taxes, duties, fees, imposts and other charges provided for under the Tariff and Customs Code of the Philippines, R.A. No. 1937, as amended by Presidential Decree No. 34, dated October 27, 1972, and Presidential Decree No. 69, dated November 24, 1972, and all filing, docket, and service fees, bonds and other charges or costs in any court or administrative proceedings in which the Authority may be a party.

ii. From all income taxes, franchise taxes **and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities;** and

iii. From all duties, arrastre fees in so far as the government's share is concerned, including all

> charges and fees imposed under Presidential Decree No. 857 compensating taxes and advance sales taxes, wharfage fees and tonnage dues on import/export of goods required for its operations and projects.' (*Emphasis Ours*)

However, on October 10, 1991, Republic Act (RA) No. 7160 entitled *'An Act Providing for a Local Government Code of 1991'* was enacted. The said Act meant to decentralize government powers, authority, responsibilities and resources from the national government to the local government units. As such, the Local Government Code (LGC) of 1991, as amended, withdrew and limited the exemption from payment of real property tax, among others, to only few selected entities. Thus, Section 234 of the LGC of 1991, as amended provides that, *viz.*:

> '**Section 234**. *Exemptions from Real Property Tax.* – The following are exempted from payment of the real property tax:
>
> (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 withdrawn upon the effectivity of this Code.' (*Emphasis Ours*)

In the present case, petitioner NFA is the owner of several real properties constituting of land, buildings and machinery located at Barangay Magdum, Tagum City which are covered by two (2) Transfer Certificate of Title (TCT) Nos. T-59639 and T-59640 and seven (7) Tax Declaration Nos. 01001003091, 01001003092, 01001003093, 01001003094, 01001003095, 01001003096 and 01001000732.

On August 2, 2016, petitioner received seven (7) Notices of Delinquency issued by respondent City Treasurer demanding payment for real property taxes in the total amount of [Php]2,643,816.53, broken down as follows:

Property Index Number (PIN)		Tax Dec./ARP Number	Type	Amount of Delinquency
1	108-01-0010-014-46-1002	01-0010-03093	Building	[Php] 11,953.12
2	108-01-0010-014-46-1001	01-0010-03092	Building	956,645.06
3	108-01-0010-014-46-0000	01-0010-03091	Land (Lot 7227-B)	651,984.84
4	108-01-0010-014-47-2001	01-0010-03096	Machinery	321,077.62
5	108-01-0010-014-47-1002	01-0010-00732	Building	775.20
6	108-01-0010-014-47-0000	01-0010-03094	Land (Lot 7227-A)	651,984.84
7	108-01-0010-014-47-1001	01-0010-03095	Building	49,395.85
TOTAL				[Php]2,643,816.53

Thus, on September 23, 2016, petitioner filed a Petition for Prohibition (with application for Temporary Restraining Order and/or Issuance of Writ of Preliminary Injunction) with the RTC of Tagum City, Davao del Norte. The case was docketed as

Special Civil Case No. 527 and was raffled to RTC-Branch 31 of Tagum City.

Thereafter, trial ensued.

On November 15, 2016, the RTC-Branch 31 of Tagum City rendered the assailed Resolution in favor of respondent, finding that petitioner is a Government Owned or Controlled Corporation (GOCC) –a taxable entity, the *fallo* of said Decision reads:

> '**WHEREFORE**, premises considered, the present Petition for Prohibition is **DISMISSED** for lack of merit.
>
> **SO ORDERED**.'

On December 14, 2016, petitioner filed a Motion for Reconsideration (Of the Resolution dated 15 November 2016) praying, among others, that the above Resolution be reversed and set aside.

However, finding no new matter of substance which would warrant the modification or reversal of the foregoing Resolution, the RTC-Branch 31 of Tagum City issued an Order on December 8, 2016 denying petitioners' [*sic*] Motion for Reconsideration.

Aggrieved, petitioners elevated the matter on January 26, 2017, to the Court of Tax Appeals (CTA), *via* the instant Petition for Review with Motion for Suspension of Collection of Tax."[6]

The Ruling of the Second Division

On May 29, 2018, the Second Division promulgated the Assailed Decision denying the Petition for Review filed by Petitioner for lack of merit. According to the Decision, Petitioner is a government-owned or controlled corporation ("GOCC"), and not a government instrumentality. As such, its exemption from real property tax ("RPT") has already been withheld under Section 234 of the Local Government Code ("LGC") of 1991[7].

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[6] *Id.*, Decision, pp. 298-302.

[7] Republic Act 7160, October 10, 1991.

Aggrieved, Petitioner filed a "Motion for Reconsideration (of the Decision dated 29 May 2018)"[8] on June 18, 2018, which the Second Division denied in the Assailed Resolution. In denying Petitioner's motion for reconsideration, the court *a quo* found that the arguments proffered by Petitioner are mere rehash of the arguments already raised and thoroughly resolved by the Court in Division in the Assailed Decision.

The Proceedings in the Court of Tax Appeals En Banc

On September 17, 2018, Petitioner filed the present "Petition for Review (under Rule 8 of A.M. No. 05-11-07-CTA) with Motion for Suspension of Collection of Tax"[9].

On October 12, 2018, the Court issued a Resolution[10] ordering Petitioner to submit the requisite proof of service of its "Petition for Review" in accordance with Section 13, Rule 13 of the 1997 Rules of Civil Procedure, within five (5) days from receipt.

On November 05, 2018, Petitioner filed a "Compliance (to the Notice of Resolution dated 16 October 2018)"[11], which the Court noted in a Resolution dated December 12, 2018. However, the admission of the attached "Affidavit of Service" was denied, being unsigned. Petitioner was then ordered to submit a compliant proof of service in accordance with Section 13, Rule 13 of the 1997 Rules of Civil Procedure, within five (5) days from notice.

On January 01, 2019, Petitioner filed a "Compliance (to the order [*sic*] dated 12 December 2018)", which the Court noted in a Resolution dated February 06, 2019. In the same Resolution, Respondents were ordered to file their Comment within ten (10) days from notice.

On June 04, 2019, the Court issued a Resolution:

1) Maintaining that the order for suspension of collection of tax without need to post a bond issued by the Court in Division remains valid and binding until the case is finally decided, resolved or terminated by the Court *En Banc*; and

2) Submitting the instant petition for decision, for failure by Respondents to file their comment to the petition.

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8 Docket, pp. 322-336.

9 Rollo, pp. 1-33. Records show that Petitioner received the Assailed Resolution on August 31, 2018; Docket, p. 356.

10 *Id.*, pp. 255-257.

11 *Id.*, pp. 258-264.

Assignment of Errors

Petitioner raises the following grounds in support of its petition:

1) The honorable Court Second Division erred in holding that NFA is not exempt from payment of real property taxes when the LGC of 1991 took effect;

2) The honorable Court Second Division erred in ruling that NFA's claim that it is a government instrumentality is based merely on the opinion of the Office of the Government Corporate Counsel ("OGCC");

3) The honorable Court Second Division erred in holding that NFA is a GOCC because it is a stock corporation, thus its real properties are not exempt from payment of RPT; and

4) The honorable Court Second Division erred in holding that RTC-Branch 31 did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in holding that NFA is not a government instrumentality not exempt from payment of RPT.[12]

The Arguments of Parties

Petitioner mainly avers that Petitioner's exemption from payment of all taxes remains notwithstanding the enactment of the LGC Code of 1991. Moreover, Petitioner claims that Petitioner's claim that it is a government instrumentality is based on laws and settled jurisprudence, not merely upon the opinion of the OGCC.

Petitioner also adds that it is not a GOCC because it is neither a stock nor a non-stock corporation. Lastly, Petitioner contends that RTC-Branch 31 acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it held that Petitioner's real properties are not exempt from payment of RPT despite Petitioner's clear showing that it is a government instrumentality vested with corporate powers performing governmental and regulatory functions.

The Ruling of the Court

Timeliness of Petition

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[12] *Id.*, pp. 7-8.

The Court in Division issued the Assailed Resolution, denying Petitioner's "Motion for Reconsideration (of the Decision dated 29 May 2018)", on August 23, 2018. Petitioner received said Resolution on August 31, 2018. Pursuant to Rule 4, Section 2(a)(1)[13] in relation to Rule 8, Section 3(b)[14] of the Revised Rules of the Court of Tax Appeals[15] ("RRCTA"), Petitioner had fifteen (15) days from date of receipt of the resolution or until September 15, 2018 within which to file its petition for review.

On September 17, 2018, Petitioner filed the present "Petition for Review (under Rule 8 of A.M. No. 05-11-07-CTA) with Motion for Suspension of Collection of Tax".[16] Hence, the same was timely filed.

Before going to the merits however, We shall discuss first whether the RTC-Branch 31 properly exercised jurisdiction.

Proper Venue in Disputing an RPT Assessment

Upon perusal of the records of the case, this Court concurs with Justice Catherine T. Manahan's observation in her *Dissenting Opinion*[17] that Petitioner's appeal should have been filed with Local Board of Assessment Appeals ("LBAA") instead of the RTC, and that the latter should have dismissed the case for lack of jurisdiction, *viz*:

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13 **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

xxx xxx xxx

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

14 **Sec. 3.** *Who may appeal; period to file petition.* — x x x

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

15 A.M. No. 05-11-07-CTA, November 22, 2005.

16 September 15, 2018 fell on a Saturday.

17 Decision dated May 29, 2018; Docket, pp. 318-321.

"The other point of my dissent points to the flaw in the remedy availed of by NFA, which in my opinion, should have been discussed by the RTC as well as by the majority opinion.

The main argument of NFA is its exempt status from the payment of RPT on the lands, buildings and machineries it owns which are all located in Tagum City, Davao del Norte.

Conformably with the decision of this Court in the case of *National Grid Corporation of the Philippines vs. CBAA, et. al.*, **the issue of whether an entity is exempt from the payment of RPT is a question of fact and not of law that is appealable, first, to the Local Board of Assessment Appeals (LBAA) and not to the RTC. <u>I believe that the RTC should have dismissed the case for lack of jurisdiction as NFA should have elevated the appeal to the LBAA and that it should have first paid the RPT under protest as a requirement.</u>** The question of whether the claim for exemption (from RPT) partakes the nature of a question of fact has been resolved by the Supreme Court in the case of *Napocor vs. Province of Quezon...*"[18]

Under the LGC of 1991, a taxpayer can contest an RPT[19] assessment through the following provisions:

"**Section 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.

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(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 Two, Book II of this Code."

Chapter 3, Title Two, Book II of the LGC of 1991 in turn provides:

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[18] *Emphasis and underscoring supplied.*

[19] The provisions on Real Property Taxation are found under Title II, Book II (Local Taxation and Fiscal Matters) of the Local Government Code of 1991.

"CHAPTER III
Assessment Appeals

Section 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 provincial 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.

Section 227. *Organization, Powers, Duties, and Functions of the Local Board of Assessment Appeals.* - xxx

Section 228. *Meetings and Expenses of the Local Board of Assessment Appeals.* - xxx

Section 229. *Action by the Local Board of Assessment Appeals.* -

(a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.

xxx xxx xxx

(c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board, may, within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory.

Section 230. *Central Board of Assessment Appeals.* - xxx

> **Section 231.** *Effect of Appeal on the Payment of Real Property Tax.* - Appeal on assessments of real property made under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal."

From the foregoing, it is clear that Sections 252 and 226 of the LGC of 1991 provide successive administrative remedies to a taxpayer who questions the correctness of an RPT assessment. The two provisions should be read in conjunction with each other. Section 226 provides that any owner or person having legal interest in the property who is aggrieved with the action of the provincial, city or municipal assessor in the assessment of its property may file an appeal to the LBAA and then the Central Board of Assessment Appeals ("CBAA"), as provided for in Chapter 3, Title II, Book II of the LGC of 1991.[20]

The remedy under Sections 252 and 226 of the LGC of 1991 however presupposes that what is being impugned is the reasonableness or correctness of the amount assessed. If the taxpayer or the owner or person having legal interest in the property instead questions the very authority and power of the assessor to impose the assessment, or questions the authority and power of the treasurer to collect the tax, the matter becomes a legal question, which is properly cognizable by the proper trial court.[21]

Simply put, a taxpayer who wishes to protest an RPT assessment may do so under two (2) scenarios, depending on the situation: *first*, question or challenge the reasonableness or correctness of the assessment, and *second*, question the legality or validity of the assessment.

In the first instance, the taxpayer must first pay under protest the RPT assessed as mandated under Section 252(a) of the LGC of 1991. If the protest is denied or not acted upon within sixty (60) days from filing, the taxpayer may file an appeal with the LBAA, which has one hundred twenty (120) days from date of receipt of such appeal to render a decision. If the taxpayer is unsatisfied with the decision of the LBAA, the taxpayer may elevate the case to the CBAA within thirty (30) days from receipt of the adverse decision. If still aggrieved, the taxpayer may seek judicial intervention before the Court of Tax Appeals ("CTA") *En Banc* in accordance with Sections 7(a)(5)[22] and 11[23] of Republic Act

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[20] National Power Corporation v. Province of Quezon and Municipality of Pagbilao, G.R. No. 171586, January 25, 2010.

[21] *See* National Power Corporation v. Municipal Government of Navotas, Sangguniang Bayan of Navotas and Manuel T. Enriquez, in his capacity as Municipal Treasurer of Navotas, G.R. No. 192300, November 24, 2014.

[22] Sec. 7. Jurisdiction. - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

("RA") No. 1125[24], as amended by RA 9282[25], and Section 2(e)[26], Rule 4 of the RRCTA.

For the second occasion, the taxpayer may appeal directly to the proper RTC. The RTC decision is appealable before any Division of the CTA, the decision of which may be appealed in turn before the CTA *En Banc*, in accordance with Sections 7(a)(3)[27] and 11 of RA No. 1125, as amended by RA 9282, and Sections 3(a)(3)[28] and 2(a)(2)[29], Rule 4 of the RRCTA.

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xxx xxx xxx

5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals...

23 SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. - xxx

Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: Provided, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*.

24 An Act Creating The Court Of Tax Appeals, June 16, 1954.

25 An Act Expanding The Jurisdiction Of The Court Of Tax Appeals (CTA), Elevating Its Rank To The Level Of A Collegiate Court With Special Jurisdiction And Enlarging Its Membership, Amending For The Purpose Certain Sections Or Republic Act No. 1125, As Amended, Otherwise Known As The Law Creating The Court Of Tax Appeals, And For Other Purposes, March 30, 2004.

26 **SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:

xxx xxx xxx

(e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals...

27 Sec. 7. Jurisdiction. - The CTA shall exercise:

b. Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxx xxx xxx

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...

28 **SEC. 3.** *Cases within the jurisdiction of the Court in Divisions. – The Court in Divisions shall exercise:*

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

xxx xxx xxx

(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...

29 **SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:

In the case at bar, Petitioner questions the Resolution and Order of RTC-Branch 31 of Tagum City, Davao del Norte, denying its claim of exemption from payment of RPT under its original charter, Presidential Decree No. 4[30].

In the case of *Dr. Pablo R. Olivares, Et. Al. v. Mayor Joey Marquez, Et. Al.*[31], the Supreme Court ruled that a question or issue on tax exemption basically assails the correctness of the assessments made by the local assessor, and for this, Section 252 of the LGC of 1991 must be complied.

Similarly, in *Camp John Hay Development Corporation v. Central Board Of Assessment Appeals, Et. Al.*[32] ("*Camp John Hay*"), it was ruled that a claim for tax exemption, whether full or partial, does not deal with the authority of local assessor to assess real property tax. Such claim questions the correctness of the assessment, and compliance with the applicable provisions of the LGC of 1991, in particular the requirement of payment under protest and appeal to the LBAA, is mandatory.

The doctrine in *Camp John Hay* was later reiterated in *National Power Corporation v. The Provincial Treasurer of Benguet, Et. Al.*[33], as follows:

> "As settled in jurisprudence, a claim for exemption from the payment of real property taxes does not actually question the assessor's authority to assess and collect such taxes, but pertains to the reasonableness or correctness of the assessment by the local assessor, a question of fact which should be resolved, at the very first instance, by the LBAA...
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> xxx xxx xxx
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> ...Thus, if the property being taxed has not been dropped from the assessment roll, taxes must be paid under protest if the exemption from taxation is insisted upon."

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xxx xxx xxx

(e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals...

30 Providing For The Development Of The Rice And Corn Industry And Creating For This Purpose The National Grains Authority, September 26, 1972.

31 G.R. No. 155591, September 22, 2004.

32 G.R. No. 169234, October 02, 2013.

33 G.R. No. 209303, November 14, 2016.

In fact, in *National Grid Corporation of the Philippines v. Central Board of Assessment Appeals*[34], this Court *En Banc* unanimously ruled that a claim for exemption from RPT partakes of the nature of a question of fact instead of a question of law, and as such is appealable to the LBAA, to wit:

> "It is important to understand how a claim for exemption from RPT partakes of the nature of a question of fact instead of a question of law to further clarify the aforequoted Supreme Court and CTA En Banc decisions.
>
> Section 206 of the LGC of 1991 provides for a process upon which a taxpayer may claim exemption of certain real property from RPT and we quote:
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>> 'Section 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, article of incorporation, bylaws, contracts, affidavits, certifications ad 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 proven to be tax exempt, the same shall be dropped from the assessment roll.'
>
> It is clear from the foregoing provision, that exemption of certain real property from RPT is not automatic even by virtue of a legislative franchise but involves a process by which the provincial, city or municipal assessor evaluates various documents submitted by the taxpayer to prove entitlement to said exemption. The process of evaluation entails an examination/investigation of facts as may be determined by the documents submitted such that the claim for exemption from RPT then devolves into a question of fact, i.e., whether or not the documents submitted by the taxpayer is sufficient to prove exemption from RPT. It is

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[34] CTA EB No. 1459 (CBAA Case No. M-39), February 27, 2018; Penned by Associate Justice Catherine T. Manahan, with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla and Ma. Belen M. Ringpis-Liban, concurring.

incumbent on the part of herein petitioner to follow this process as explicitly required by the cited provision of the LGC of 1991. The LBAA, on the other hand, should resolve the question of exemption guided by the same provisions."

Notwithstanding all this, Petitioner failed to first pay under protest and questioned the assessment with the LBAA. Instead, Petitioner lodged its complaint with the RTC which is without jurisdiction to entertain the instant case.

In view of the foregoing disquisition, a discussion on the remaining issues is deemed unwarranted.

WHEREFORE, premises considered, the Decision dated May 29, 2018 and Resolution dated August 23, 2018 of the Court of Tax Appeals Second Division is **REVERSED** and **SET ASIDE**. The Petition for Prohibition filed with the court *a quo* should not have been dismissed for lack of merit, but dismissed for lack of jurisdiction, since the Regional Trial Court - Branch 31 of Tagum City, Davao del Norte is bereft of jurisdiction to entertain the instant case.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ROMAN G. DEL ROSARIO
Presiding Justice