REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

LIQUIGAZ PHILIPPINES CORPORATION,
Petitioner,

- versus -

CITY OF SAN FERNANDO AS REPRESENTED BY THE CITY TREASURER,
Respondent.

CTA AC No. 114
(Civil Case No. 14001)

Members:

DEL ROSARIO, *Chairperson*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUL 28 2015 ; 3:33 p.m.

x - x

DECISION

UY, *J.*:

This is an appeal, by way of Petition for Review[1] filed by Liquigaz Philippines Corporation against the City of San Fernando, as represented by the City Treasurer, seeking to reverse and set aside the Orders dated September 17, 2013 and December 3, 2013, both rendered by the Regional Trial Court Branch 46, City of San Fernando, Pampanga in Civil Case No. 14001, entitled *"Liquigaz Philippines Corporation, Petitioner, vs. City of San Fernando, Pampanga, as represented by the City Treasurer, Respondent".* The dispositive portions thereof respectively read:

Order ~~dated~~ on September 17, 2013:[2]

Accordingly, the instant case/appeal under Section 195 of the Local Government Code is hereby ordered

---

[1] Docket, pp. 11 to 36.
[2] Docket, p. 37 to 38; RTC Docket, Civil Case No. 14001 (Vol. 1), pp. 179 to 180.

DISMISSED for want of jurisdiction.

SO ORDERED."

Order dated on December 3, 2013:[3]

"**ALL TOLD**, and finding no cogent reason to reverse and set aside the assailed Order, the instant Motion for Reconsideration (Re: Order dated September 17, 2013 granting Respondents Supplement to Motion for Reconsideration and Motion for Reconsideration dated April 1, 2013) is hereby **DENIED** for want of merit.

SO ORDERED."

THE FACTS

Petitioner is a juridical entity engaged in the importation and sale of Liquefied Petroleum Gas (LPG) in several parts of the Philippines, including the City of San Fernando, Pampanga, where it maintains a sales office and depot.[4]

Respondents are the City of San Fernando, Pampanga, and the City Treasurer of the same City, with official address at Office of the City Treasurer of San Fernando, Province of Pampanga, A. Consunji Street, Sto. Rosario, City of San Fernando, 2000 Pampanga.[5]

Sometime in January 2012, petitioner applied for the renewal of its business permit from the City. Petitioner received the Assessment Slip dated 20 January 2012, assessing petitioner for both regulatory fees and business taxes for the year 2011 in the total amount of ₱32,114.71 and for the year 2012 in the total amount of ₱20,126.60.[6]

---

[3] Docket, pp. 39 to 42; RTC Docket, Civil Case No. 14001, (Vol. 1) pp. 217 to 220.

[4] Par. 10, Statement of Facts In Support of the Petition, Petition for Review (Under Article 195 of the Local Government Code)", RTC Docket, Civil case No. 14001, (Vol. 1), p. 5 vis-à-vis Par. 6, Counter-Statement of Facts, Comment, RTC Docket, Civil Case No. 14001, (Vol. 1), p. 45.

[5] Par. 9, Statement of Facts In Support of the Petition, Petition for Review (Under Article 195 of the Local Government Code)", RTC Records (Civil case No. 14001), Docket (Vol. 1), p. 5 vis-à-vis Par. 6, Counter-Statement of Facts, Comment, RTC Records (Civil Case No. 14001), Docket (Vol. 1), p. 45.

[6] Par. 11, Statement of Facts In Support of the Petition, Petition for Review (Under Article 195 of the Local Government Code)", RTC Docket, Civil case No. 14001,

In the letter dated January 12, 2012 addressed to respondent's City Treasurer, petitioner formally sought a refund of the business tax paid for the year 2011 and re-assessment of the business tax assessed against petitioner pursuant to its application for a business permit for the year 2012.[7]

On May 11, 2012, petitioner received the letter issued by respondent's City Treasurer dated April 27, 2012, denying, in effect, petitioner's request for refund of business taxes paid for the year 2011. In the same letter, petitioner was notified of its business tax deficiency for the year 2012, amounting to ₱50,303.03, as recomputed by respondent based on the graduated tax schedule under Section 63(d), Article 14 of the 2008 Revised Revenue Code and Market Code of the City of San Fernando, Pampanga.[8]

In response thereto, petitioner sent the letter dated May 11, 2012 addressed to respondent's City Treasurer on May 16, 2012, claiming that petitioner is exempt from business taxes under the Local Government Code (LGC).[9]

On June 15, 2012, petitioner received the letter issued by respondent's City Treasurer dated June 6, 2012, claiming that the Bureau of Local Government Finance – Department of Finance has already issued opinions stating that while LPG is a petroleum product, it is also taxable as "cooking gas" per expressed provisions of Section 143(c)(3) of the LGC and Article 232(c)(3) of its IRR and therefore, subject to tax.[10]

Thereafter, petitioner filed a *Petition for Review (Under Article 195 of the Local Government Code)*[11] with the Regional Trial Court Branch 46 of the City of San Fernando, Pampanga (RTC of San Fernando) on July 16, 2012, docketed as Civil Case No. 14001, praying that a judgment be rendered *(a)* annulling the Assessment

---

(Vol. 1), p. 4 vis-à-vis Par. 6, Counter-Statement of Facts, Comment, RTC Docket, Civil Case No. 14001 (Vol. 1), p. 45; See also, Annex "A", RTC Docket, Civil Case No. 14001, (Vol. 1), p. 22.

[7] See Annex "B", "Petition for Review (Under Article 195 of the Local Government Code)", RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 23 to 25.

[8] Annex "C", RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 31 to 32.

[9] Annex "D", "Petition for Review (Under Article 195 of the Local Government Code)", RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 34 to 36.

[10] Annex "E", "Petition for Review (Under Article 195 of the Local Government Code)", RTC Docket, Civil Case No. 14001, (Vol. 1), (Vol. 1), p. 37 to 38.

[11] RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 2 to 21.

dated 20 January 2012 and the Letter of respondent's City Treasurer dated April 27, 2012; and *(b)* ordering respondent to refund the excess payments for the years 2011 and 2012.

In support of said Petition for Review, petitioner raised the following grounds on appeal:

> "I. THE LOCAL GOVERNMENT CODE [R.A. 7160] AND ITS CORRESPONDING RULES AND REGULATIONS SETS THE GUIDELINE THAT REASONABLE FEES AND CHARGES SHOULD BE EXPRESSLY LIMITED TO THOSE THAT ARE COMMENSURATE TO COST OF REGULATION, INSPECTION AND LICENSING.
>
> II. IRR OF THE LOCAL GOVERNMENT CODE PROVIDE THAT FEES SHALL NOT BE BASED ON CAPITAL INVESTMENT AND GROSS RECEIPTS OF BUSINESS AND SECTION 133 OF THE LOCAL GOVERNMENT CODE [R.A. 7160] EXPRESSLY PROVIDES THAT MUNICIPALITIES MAY NOT LEVY TAXES, FEES AND OTHER CHARGES ON PETROLEUM PRODUCTS.
>
> III. DEPARTMENT OF FINANCE CIRCULAR NO. 1-05 CATEGORICALLY CLARIFIED THAT PETROLEUM PRODUCTS AND THE WHOLESALE THEREOF IS EXEMPT FROM LOCAL BUSINESS TAXES UNDER THE LOCAL GOVERNMENT CODE.
>
> IV. ARTICLE 232 [H] IRR OF THE LGC PROVIDES THAT ANY BUSINESS ENGAGED IN THE PRODUCTION, MANUFACTURE, REFINING AND DISTRIBUTION OF PETROLEUM PRODUCTS SHALL NOT BE SUBJECT TO LOCAL TAX.
>
> V. WITH DUE RESPECT, AN ALLEGED OPINION OF THE BUREAU OF LOCAL GOVERNMENT FINANCE – DEPARTMENT OF FINANCE THAT IS RELIED UPON BY THE RESPONDENTS TO THE EFFECT THAT 'WHILE LPG IS A PETROLEUM PRODUCT IT IS ALSO TAXABLE AS 'COOKING GAS' IS BASELESS AND CANNOT OVERTURN

THE LAWFUL MANDATE OF EXISTING LAWS AND DEPARTMENT CIRCULARS."

On September 3, 2012, respondent filed its *Comment*,[12] praying for the dismissal of Civil Case No. 14001 contending, among others that *(a)* Sections 195 and 196 of the LGC is inapplicable; *(b)* LPG is taxable under the LGC; and *(c)* petitioner lacks cause of action.

In the *Reply to Respondent's Comment To Petition for Review* filed on October 1, 2012,[13] petitioner argued that respondent cannot impose a business tax on LPG as cooking gas whether as part of the assessment for Mayor's permit or as any other tax; that respondent illegally assessed petitioner business taxes based on gross sales of LPG; and that the letter dated January 12, 2012 addressed to respondent's City Treasurer is a timely protest and request for refund under Sections 195 and 196 of the LGC.

On October 11, 2012, respondent filed a *Motion for Leave to File A Rejoinder* with the attached *Rejoinder (to Reply to Respondent's Comment to Petition for Review)*,[14] which was noted by the court *a quo* in the Order dated October 18, 2012.[15]

On November 23, 2012, petitioner filed before the lower court a *Manifestation with Motion to Admit [Reply of the Bureau of Local Government Finance-Department of Finance to Respondent's Query]*.[16]

On February 22, 2013, the court *a quo* promulgated its Decision,[17] granting petitioner's Petition for Review, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, judgment is hereby rendered ordering respondent City of San Fernando, Pampanga, as represented by the City Treasurer of the City of San Fernando, Pampanga to:

---

[12] RTC Records (Civil Case No. 14001), Docket (Vol. 1), pp. 43 to 52.
[13] RTC Records (Civil Case No. 14001), Docket (Vol. 1), pp. 58 to 70.
[14] RTC Records (Civil Case No. 14001), Docket (Vol. 1), pp. 83 to 91.
[15] RTC Records (Civil Case No. 14001), Docket (Vol. 1), p. 98.
[16] RTC Records (Civil Case No. 14001), Docket (Vol. 1), pp. 99 to 103.
[17] RTC Records (Civil Case No. 14001), Docket (Vol. 1), pp. 108 to 113; Docket, pp. 43 to 48.

(a) consider the Assessment dated 20 January 2012, and the Letter of the City Treasurer dated August 27, 2012 assessing additional business taxes on **LIQUIGAZ** based on gross receipts as ***null and void,*** for being violative of law; and

(b) **recall** the assessment with business taxes and to either **refund the excess payments for the years 2011 and 2012 or to consider such excess as tax credit for the future tax obligation of LIQUIGAZ.**

SO ORDERED."

On April 1, 2013, respondent filed its *Motion For Reconsideration,*[18] contending that evidence on record are insufficient to justify/support the trial court's conclusion and that said Decision contravenes an explicit provision of law.

Petitioner filed its *Comment/Opposition to Respondent's Motion for Reconsideration* on May 9, 2013;[19] while respondent filed a *Reply to Petitioner's Comment/Opposition to Respondent's Motion for Reconsideration* on May 17, 2013.[20]

Thereafter, on July 25, 2013, petitioner filed a *Motion for Extension of Time (To Submit Supplement To the Motion for Reconsideration),*[21] which the court *a quo* granted in the Order dated July 25, 2013.[22]

Respondent filed on August 5, 2013, a *Supplement (to the Motion for Reconsideration dated 01 April 2013)*[23], insisting on the summary dismissal of Civil Case No. 14001 on the ground of lack of cause of action and lack of jurisdiction.

Subsequently, the trial court issued the assailed Order dated September 17, 2013 dismissing Civil Case No. 14001 for want of

---

[18] RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 114 to 120.
[19] RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 133 to 138.
[20] RTC Docket, Civil Case No. 14001, (Vol. 1), pp.139 to 143.
[21] RTC Docket, Civil Case No. 14001, (Vol. 1), pp.163 to 165.
[22] RTC Docket, Civil Case No. 14001, (Vol. 1), p.166.
[23] RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 167 to 174.

jurisdiction.[24] Consequently, the *Comment [To Respondent's Supplement To Motion for Reconsideration of April 1, 2013]* was filed by petitioner on September 20, 2013[25] and received by the trial court on October 1, 2013, was rendered moot and academic.[26]

Undaunted, petitioner filed, on October 29, 2013, a *Motion for Reconsideration [Re: Order dated September 17, 2013 granting Respondents Supplement to Motion for Reconsideration and Motion for Reconsideration dated April 1, 2013].*[27]

Consequently, the court a *quo* issued the assailed Order dated December 3, 2013, denying petitioner's *Motion for Reconsideration* for want of merit.

Aggrieved by the decision of the trial court, petitioner filed the instant *Petition for Review [With Prayer For Writ Of Preliminary Injunction and/or Temporary Restraining Order]* on February 3, 2014,[28] praying that: *(a)* the Assailed Orders dated September 17, 2013 and December 3, 2013 be reversed and set aside and the Decision of the same court dated February 22, 2013 be reinstated; *(b)* respondent be ordered to cease and desist from assessing, charging and collecting additional business based receipts against petitioner as dealer and wholesaler of LPG; *(c)* respondent, as represented by its City Treasurer, be ordered to refund or credit the excess payments of business taxes based on gross receipts for the years 2011 and 2012; and *(d)* respondent, as represented by its City Treasurer, be ordered to refund or credit the excessive collections for 2014 that was imposed immediately after the dismissal of Civil Case No. 140001.

In the Resolution dated May 12, 2014, this Court granted petitioner's prayer to suspend the collection of additional business tax on LPG, subject to the posting of a cash or surety bond,[29] which petitioner complied with on May 23, 2014.[30]

Thereafter, in the Resolution dated June 6, 2014,[31] this Court

---

[24] See Note No. 2.
[25] RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 181 to 190-A.
[26] Order dated October 1, 2013, RTC Docket, Civil Case No. 14001, (Vol. 1),, p. 191.
[27] RTC Docket, Civil Case No. 14001, (Vol. 1), pp. 196 to 205.
[28] Docket, pp. 11 to 36.
[29] Docket, pp. 235 to 240.
[30] Docket, pp. 241 to 248.
[31] Docket, p. 253.

ordered respondent to file its Comment on the petition, not a Motion to Dismiss, within ten (10) days from receipt thereof. In the same Resolution, this Court directed the Branch Clerk of Court of the court *a quo* to elevate the entire records of Civil Case No. 14001 to this Court.

The Branch Clerk of Court of Branch 46, RTC of San Fernando, transmitted the entire records of Civil Case No. 14001 to this Court on June 19, 2014 by registered mail and this was received by this Court on June 25, 2014.[32] On the other hand, respondent posted its *Comments/Arguments* on June 20, 2014.[33]

On September 3, 2014, this Court issued the Resolution giving both parties a period of thirty (30) days from notice within which to file their respective memoranda.[34] With the filing of petitioner's Memorandum on October 23, 2014,[35] and respondent's Memorandum on November 10, 2014,[36] this case was considered submitted for decision on November 28, 2014.[37]

Hence, this Decision.

THE ISSUE

The issue submitted for this Court's resolution is whether or not the court *a quo* gravely erred in dismissing the appeal filed by petitioner under Section 195 of the LGC on the ground of lack of jurisdiction.

Petitioner's arguments:

In the instant Petition for Review, petitioner raises the following arguments as grounds for reconsideration:

1. The Honorable Court committed a serious mistake tantamount to grave abuse of discretion in applying an alleged ruling

---

[32] Transmittal dated June 19, 2014, Docket, p. 266
[33] Docket, pp. 255 to 262.
[34] Docket, p. 286.
[35] Docket, pp. 287 to 300.
[36] Docket, pp. 307 to 318.
[37] Docket, p. 320.

in the Yamane vs. B.A. Lepanto Condominium[38] that the Regional Trial Court lacks jurisdiction to review a decision of a city treasurer in local tax case;

2. The Honorable Court erred in holding that petitioner Liquigaz Philippines Corporation offered no timely objection/opposition;

3. The Honorable Judge committed a serious mistake in not upholding her decision granting the petition of Liquigaz instead of dismissing the case for lack of jurisdiction.

According to petitioner, the Regional Trial Court is the court of competent jurisdiction based on Sections 195 and 196 of the LGC. Allegedly, the trial court made a serious mistake in relying upon the *Yamane* case because a reading of the entire case will show that the issue therein is not the jurisdiction of the RTC over appeals under Section 195 of the LGC; but the proper mode of judicial review to be undertaken from decisions of the Regional Trial Courts if the case is elevated to the Court of Appeals.

As regards the conclusion of the Honorable Court that no Comment or Opposition was filed, the same is allegedly without factual and legal basis because on September 20, 2013 or three (3) days after receipt of the Order dated September 4, 2013, petitioner timely filed by registered mail its Comment (to Respondent's Supplement to Motion for Reconsideration dated April 1, 2013).

Lastly, petitioner argues that the trial court gravely erred in reversing its Decision dated February 22, 2013 finding respondent's assessment null and void, considering that under Section 131(h) of the LGC, Department of Finance Circular No. 1-05, and as affirmed by jurisprudence and the Bureau of Local Government and Finance Opinion, petitioner is exempt from payment of local business tax on its sales of LPG.

Respondent's counter-arguments:

On the other hand, respondent counter-argues that petitioner has no cause of action to file an appeal under Section 195 of the LGC because respondent did not issue a notice of assessment, which

---

[38] G.R. No. 154993, October 25, 2005.

allegedly serves as the stimulus for the filing of an appeal based on said provision of the LGC.

Furthermore, respondent contends that the assailed Order of the court *a quo*, dismissing Civil Case No. 14001 for want of jurisdiction, was in consonance with the pronouncement of the Supreme Court in the *Yamane* case that the LGC or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer.

Finally, as regards petitioner's claim of exemption from business tax under Section 131(h) of the LGC, respondent avers that statutes granting tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.

THE COURT'S RULING

We deny the instant Petition.

It is undisputed that the Petition for Review, docketed as Civil Case No. 14001, filed by petitioner before the RTC of San Fernando was an appeal under Section 195 of the LGC. Said provision reads:

> "SEC. 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, interest 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. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. 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.**" *(Emphasis and underscoring supplied).*

Based on the foregoing, a taxpayer who disagrees with a tax assessment issued by a local treasurer, or his duly authorized representative, may file a written protest to contest the assessment. In the event that the protest is denied, in whole or in part, by the local treasurer, or after the lapse of the 60-day prescriptive period for the local treasurer to resolve the protest, the taxpayer has thirty (30) days within which to file an appeal with the court of competent jurisdiction, otherwise the assessment becomes conclusive and unappealable.

In the assailed Order dated September 17, 2013,[39] the court *a quo* dismissed petitioner's appeal under Section 195 of the LGC holding that it had no jurisdiction over said appeal following the Supreme Court's pronouncement in the *Yamane* case. The trial court explains:

> "As pronounced by the Court in the afore-cited case, the Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of the regional trial courts from the denial of a tax protest by a local treasurer. On the other hand, Section 22 of B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts. Unlike in the case of Court of Appeals, B.P. 129 does not confer appellate jurisdiction on Regional Trial Courts over ruling made by non-judicial entities.
>
> Accordingly, the instant case/appeal under Section 195 of the Local Government Code is hereby ordered **DISMISSED** for lack of jurisdiction."

However, petitioner claims that the trial court committed a serious mistake in relying on the *Yamane* case as basis for dismissal of Civil Case No. 14001 for lack of jurisdiction because jurisdiction of

---

[39] Docket, pp. 37 to 38.

regional trial courts over appeals filed under Section 195 was not the issue therein.

We find merit in petitioner's contention. The trial court appears to have misunderstood the ruling of the Supreme Court in the *Yamane* case.

A review of the relevant facts of said case is thus imperative.

The *Yamane* case involves a Notice of Assessment issued by the City Treasurer of Makati against BA Lepanto Condominium Corporation for deficiency city business taxes, fees and charges in the total amount of ₱1,601,013.77 for the year 1995 to 1997. The Corporation protested the assessment, but the City Treasurer denied the same, prompting the Corporation to file an appeal under Section 195 of the LGC with the Regional Trial Court (RTC) of Makati. However, the RTC of Makati dismissed the appeal for lack of merit. From this decision of the RTC, the Corporation filed a Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure with the Court of Appeals. The Court of Appeals reversed the RTC and declared that the Corporation was not liable for the assessed business taxes. On appeal to the Supreme Court, the City Treasurer argued, among others, that the Corporation filed the wrong mode of appeal before the Court of Appeals because the decision of the RTC was rendered in the exercise of original jurisdiction, it being the first court which took cognizance of the case; thus, with the Corporation having pursued an erroneous mode of appeal, the RTC's Decision is deemed to have become final and executory.

Finding merit in the City Treasurer's contention, the Supreme Court made this pronouncement in the said *Yamane* case, to wit :

> "First, we dispose of the procedural issue, which essentially boils down to whether the RTC, in deciding an appeal taken from a denial of a protest by a local treasurer under Section 195 of the Local Government Code, exercises 'original jurisdiction' or 'appellate jurisdiction.' The question assumes a measure of importance to this petition, for the adoption of the position of the City Treasurer that the mode of review of the decision taken by the RTC is governed by Rule 41 of the Rules of Civil Procedure means that the decision of the RTC would have long become final and executory by

reason of the failure of the Corporation to file a notice of appeal.

There are discernible conflicting views on the issue. The first, as expressed by the Court of Appeals, holds that the RTC, in reviewing denials of protests by local treasurers, exercises appellate jurisdiction. This position is anchored on the language of Section 195 of the Local Government Code which states that the remedy of the taxpayer whose protest is denied by the local treasurer is '**to appeal** with the court of competent jurisdiction.' Apparently though, the Local Government Code does not elaborate on how such 'appeal' should be undertaken.

The other view, as maintained by the City Treasurer, is that the jurisdiction exercised by the RTC is original in character. This is the first time that the position has been presented to the court for adjudication. Still, this argument does find jurisprudential mooring in our ruling in *Garcia v. De Jesus*, where the Court proffered the following distinction between original jurisdiction and appellate jurisdiction: 'Original jurisdiction is the power of the Court to take judicial cognizance of a case instituted for judicial action for the first time under conditions provided by law. Appellate jurisdiction is the authority of a Court higher in rank to re-examine the final order or judgment of a lower Court which tried the case now elevated for judicial review.'

The quoted definitions were taken from the commentaries of the esteemed Justice Florenz Regalado. **With the definitions as beacon, the review taken by the RTC over the denial of the protest by the local treasurer would fall within that court's original jurisdiction. In short, the review is the initial judicial cognizance of the matter. Moreover, labeling the said review as an exercise of appellate jurisdiction is inappropriate, since the denial of the protest is not the judgment or order of a lower court, but of a local government official.**

The stringent concept of original jurisdiction may seemingly be neutered by Rule 43 of the 1997 Rules of Civil Procedure, Section 1 of which lists a slew of administrative agencies and quasi-judicial tribunals or their officers whose decisions may be reviewed by the Court of Appeals in the exercise of its appellate jurisdiction. However, the basic law of jurisdiction, Batas Pambansa Blg. 129 (B.P. 129), ineluctably confers appellate jurisdiction on the Court of Appeals over final rulings of quasi-judicial agencies, instrumentalities, boards or commission, by explicitly using the phrase 'appellate jurisdiction.' The power to create or characterize jurisdiction of courts belongs to the legislature. While the traditional notion of appellate jurisdiction connotes judicial review over lower court decisions, it has to yield to statutory redefinitions that clearly expand its breadth to encompass even review of decisions of officers in the executive branches of government.

Yet significantly, the Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer. On the other hand, Section 22 of B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts. Unlike in the case of the Court of Appeals, B.P. 129 does not confer appellate jurisdiction on Regional Trial Courts over rulings made by non-judicial entities.

From these premises, it is evident that the stance of the City Treasurer is correct as a matter of law, and that the proper remedy of the Corporation from the RTC judgment is an ordinary appeal under Rule 41 to the Court of Appeals. **xxx**" *(Underscoring supplied).*

In other words, the Supreme Court, in the *Yamane* case, clarified that the "appeal" referred to in Section 195 of the LGC contemplates an action wherein the court of competent jurisdiction takes *initial judicial cognizance* of a case assailing an assessment issued by the local treasurer. Being initial in nature, such review by the court of competent jurisdiction falls under that court's **original jurisdiction**, and not in exercise of its appellate jurisdiction.

As correctly pointed out by petitioner, jurisdiction of the RTC was not the issue in the *Yamane* case. In fact, the Supreme Court did not even discuss therein whether the appeal filed by the Corporation falls within the RTC's original jurisdiction as contemplated under Section 195 of the LGC.

As the Court sees it, the reference made by the Supreme Court to the LGC or any other statute as not *"expressly confer(ring) appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer"* merely reinforces its finding that *"the review taken by the RTC over the denial of the protest by the local treasurer would fall within that court's original jurisdiction"* and not an appellate review contemplated under our rules of procedure. It does not mean, much less remotely suggest, that the RTC is not at all vested with original jurisdiction to hear and decide appeals filed pursuant to Section 195 of the LGC.

Nonetheless, even granting that the Supreme Court indeed or in effect made, in the *Yamane* case, a pronouncement that regional trial courts are not vested with the said original jurisdiction, the same is of no moment. This must be so because the said ruling has been qualified as follows:

> "From these premises, it is evident that the stance of the City Treasurer is correct as a matter of law, and that the proper remedy of the Corporation from the RTC judgment is an ordinary appeal under Rule 41 to the Court of Appeals. **However, we make this pronouncement subject to <u>two</u> important qualifications**. First, in this particular case there are nonetheless significant reasons for the Court to overlook the procedural error and ultimately uphold the adjudication of the jurisdiction exercised by the Court of Appeals in this case. **<u>Second</u>, the doctrinal weight of the pronouncement is confined to cases and controversies that emerged prior to the enactment of Republic Act No. 9282, the law which expanded the jurisdiction of the Court of Tax Appeals (CTA).**
>
> **Republic Act No. 9282 definitely proves in its Section 7(a)(3) that the CTA exercises exclusive appellate jurisdiction to review on appeal decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them**

<u>**in the exercise of their original or appellate jurisdiction**</u>. Moreover, the provision also states that the review is triggered 'by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Procedure.'

<u>**Republic Act No. 9282, however would not apply to this case simply because it arose prior to the effectivity of that law**</u>. **To declare otherwise would be to institute a jurisdictional rule derived not from express statutory grant, but from implication. 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**, and this settled rule would be needlessly emasculated should we declare that the Corporation's position is correct in law." *(Emphases and underscoring supplied)*

Based on the foregoing pronouncements, upon the effectivity of Republic Act (RA) No. 9282, the ruling that: in case of local tax protest, *"the jurisdiction exercised by the RTC is original in character"*, and the notion that *"the Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer"*, both as enunciated in the *Yamane* case, no longer hold true.

RA No. 9282, which took effect on April 23, 2004,[40] made the following amendments, *inter alia*, on RA No. 1125, to wit:

"SEC. 7. *Jurisdiction.*— **The CTA shall exercise**:

(a) **Exclusive appellate jurisdiction to review by appeal, as herein provided:**

xxx xxx xxx

(3) **Decision, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them <u>in the exercise of their original or appellate jurisdiction</u>**;" *(Emphases and underscoring supplied)*

---

[40] *TFS, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166829, April 19, 2010.

With the said amendment, the meaning of *"court of competent jurisdiction"* under the earlier quoted Section 195 to which appeal should be taken from the denial of the protest or inaction by the local treasurer, has been practically addressed.

Moreover, as a corollary, upon the effectivity of RA No. 9282, it has become clear that regional trial courts may exercise either original or appellate jurisdiction over local tax cases, such as those arising from Section 195 of the LGC. Nevertheless, reference must still be made to the general law conferring original or appellate jurisdiction upon regional trial courts.

Pertinent provisions of Batas Pambansa Blg. 129[41] (BP 129), otherwise known as the "The Judiciary Reorganization Act of 1980", as amended by RA No. 7691,[42] read:

> "SEC. 19. *Jurisdiction in civil cases.* – Regional Trial Courts shall exercise exclusive **original jurisdiction**:
>
> xxx xxx xxx
>
> (8) **In all other cases in which the demand**, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy **exceeds One hundred thousand pesos (100,000.00)** or, in such other abovementioned items exceeds Two hundred thousand pesos (200,000.00).
>
> xxx xxx xxx
>
> SEC. 22. *Appellate jurisdiction.*— Regional Trial Courts shall exercise **appellate jurisdiction** over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. xxx." *(Emphases supplied)*

---

[41] AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

[42] AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA, BLG. 129, OTHERWISE KNOWN AS THE "JUDICIARY REORGANIZATION ACT OF 1980".

Relevant thereto, Section 33 of the same law provides:

"SEC. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in civil cases.* – Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1) **Exclusive original jurisdiction over civil actions** and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or **amount of the demand does not exceed One hundred thousand pesos (P100,000.00)** or, in Metro Manila where such personal property, estate, or amount of the demand does not exceed Two hundred thousand pesos (P200,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: *Provided*, That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: *Provided, further*, That where there are several claims or causes of action between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; xxx" *(Emphases supplied)*

Additionally, Section 5 of R.A. No. 7691 provides:

"Sec. 5. After five (5) years from the effectivity of this Act, the jurisdictional amounts mentioned in Sec. 19(3), (4), and (8); and Sec. 33(1) of Batas Pambansa Blg. 129 as amended by this Act, shall be adjusted to Two hundred thousand pesos (P200,000.00). Five (5) years thereafter, **such jurisdictional amounts shall be adjusted further to Three hundred thousand pesos (P300,000.00)**:[43] Provided, however, That in the case of Metro Manila, the abovementioned jurisdictional amounts shall be adjusted after five (5) years from the effectivity of this Act to Four hundred thousand pesos (P400,000.00)."

[43] R.A. No. 7691 took effect on April 15, 1994 (Refer to SC Circular No. 21-99). Thus, the threshold jurisdictional amount of ₱300,000.00 became effective ten (10) years thereafter, or on April 15, 2004.

Pursuant to the foregoing provisions, the jurisdiction to decide appeals under Section 195 of the LGC depends on the amount of local taxes, fees or charges subject of the notice of assessment issued by the local treasurer. Specifically, if the amount exceeds ₱300,000.00 (or ₱400,000.00 in case of Metro Manila), the RTC has jurisdiction to hear and decide the case. On the other hand, if the amount does not exceed the threshold, then jurisdiction over the case is vested with the first level courts, to wit: Metropolitan Trial Courts, Municipal Trial Courts or Municipal Circuit Trial Courts, as the case may be.

Moreover, it is worth mentioning that in order to determine which court has jurisdiction over the action, an examination of the complaint is essential. Basic as a hornbook principle is that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.[44]

In the case under review, petitioner filed its *"Petition for Review (Under Article 195 Of The Local Government Code)"* before the RTC of San Fernando, alleging as follows: that in the Assessment dated January 20, 2012, petitioner was assessed liabilities for both regulatory fees and business taxes;[45] that petitioner referred said assessment to its counsel who immediately protested the assessment for local business taxes based on gross receipts as erroneous, excessive and violative of the LGC;[46] that on May 11, 2012, petitioner received a letter from respondent's City Treasurer assessing petitioner for additional tax deficiency amounting to ₱50,303.03.[47] Thus, in its prayer, petitioner sought the annulment of *"the Assessment dated 20 January 2012 and the Letter of the City Treasurer dated April 27, 2012, assessing petitioner for additional business taxes based on gross receipts, for being violative of law".*[48]

---

[44] *Padlan vs. Elenita Dinglasan, et al.,* G.R. No. 180321, March 20, 2013.

[45] Par. 11, Petition for Review (Under Article 195 Of The Local Government Code), RTC Records (Civil Case No. 14001), Docket (Vol. 1), p. 5.

[46] Par. 12, Petition for Review (Under Article 195 Of The Local Government Code), supra.

[47] Par. 13, Petition for Review (Under Article 195 Of The Local Government Code), RTC Records (Civil Case No. 14001), Docket (Vol. 1), pp. 7 to 8.

[48] Petition for Review (Under Article 195 Of The Local Government Code), RTC Records (Civil Case No. 14001), Docket (Vol. 1), p. 19.

The alleged Assessment dated January 20, 2012, attached as Annex "A"[49] of the Petition for Review, shows a total assessment for business tax and other fees for the year 2012 in the amount of **₱20,126.60**; while the letter dated April 27, 2012 of the respondent's City Treasurer, attached as Annex "C"[50] of the same petition, reveals that petitioner still has a tax deficiency for the year 2012 amounting to **₱50,303.03**.

Considering that the total amount of local business taxes, fees and charges subject of the purported assessments issued by respondent's City Treasurer against petitioner for the year 2012 does not exceed the jurisdictional threshold of ₱300,000.00 for regional trial courts, the court *a quo* did not err in ruling that is has no jurisdiction to take cognizance of the appeal filed by petitioner. Specifically, considering that the amounts involved are only ₱20,126.60 and ₱50,303.03, petitioner's *"Petition for Review (Under Article 195 Of The Local Government Code)"* should have been filed with the pertinent first level trial court (Municipal Trial Court in Cities, or MTCC), in the City of San Fernando, Pampanga, not with the court *a quo*.

Verily, finding the dismissal of Civil Case No. 14001 for want of jurisdiction proper, it now becomes unnecessary for this Court to address other arguments raised by the parties.

WHEREFORE, all the foregoing considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the Orders dated September 17, 2013 and December 3, 2013, both issued by the Regional Trial Court of the City of San Fernando, Pampanga, Branch 46 in Civil Case No. 14001, are hereby **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

---

[49] RTC Records (Civil Case No. 14001), Docket (Vol. 1), p. 22.
[50] RTC Records (Civil Case No. 14001), Docket (Vol. 1), pp. 31 to 32.

WE CONCUR:

Cielito N. Mindaro-Grulla

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, 1st Division