REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NATIONAL POWER CORPORATION, Petitioner,	**C.T.A. AC NO. 126**
- versus -	Members: **CASTAÑEDA, JR.,** *Chairperson*, **CASANOVA,** and **COTANGCO-MANALASTAS,** *JJ.*
THE PROVINCIAL GOVERNMENT OF COMPOSTELA VALLEY and CARMEN R. RAZUL, in her capacity as PROVINCIAL TREASURER OF COMPOSTELA VALLEY, Respondents.	**Promulgated:** NOV 25 2015 1:40 p.m.

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DECISION

CASANOVA, *J*.:

Before Us is a Petition for Review, filed by petitioner-National Power Corporation (NPC), appealing the Judgment (the "Assailed Judgment") of Branch 3, Regional Trial Court (RTC) Nabunturan, Compostela Valley in Miscellaneous Case No. 897 (*National Power Corporation vs. The Provincial Government of Compostela Valley and Carmen R. Razul, in her capacity as Provincial Treasurer of Compostela Valley*), dismissing NPC's appeal and ordering it to pay the franchise tax imposed by the Province of Compostela Valley for its operations of a power barge (Power Barge No. 118), presently moored at the Municipality of Maco, Compostela Valley.

Petitioner-NPC is a government-owned and controlled corporation created and existing by virtue of Republic Act No. 6395, as amended, with principal office address at NPC Office Building Complex, corner Quezon Avenue and BIR Road, East Triangle, Diliman, Quezon

City, Philippines. It may be served with court processes through its counsel, the Office of the Solicitor General, with address at 134 Amorsolo St., Legaspi Village, Makati City.[1]

Respondent Provincial Government of Compostela Valley is a local government unit organized and existing under Philippine laws with postal address at the Office of the Governor, Nabunturan, Compostela Valley; while respondent Carmen R. Razul is impleaded herein in her capacity as Provincial Treasurer of Compostela Valley. Respondents may be served with court processes through their counsel, Provincial Legal Officer Jessie S. Villegas, at the Provincial Legal Office, Capitol Building, Cabidianan, Nabunturan, Compostella Valley.[2]

As culled from the records, the facts of the case are as follows:

On January 29, 2007, petitioner received an Assessment Letter[3] dated January 25, 2007 from respondent Carmen R. Razul ("respondent Razul") demanding the payment of an undetermined amount as franchise tax covering the period from 2002 to 2007, including penalty and interest pursuant to Provincial Tax Ordinance No. 01, series of 1998 issued by the Province of Compostela Valley. The assessment was made in relation to the operation of Power Barge 118 which is moored at the Municipality of Maco, Compostela Valley.

Petitioner filed a Protest[4] dated February 13, 2007, arguing, among others, that it is not under any obligation to pay respondents the franchise tax considering that, pursuant to the EPIRA Law (RA 9136), it is no longer required to secure a national franchise and that the business it is engaged within the territorial jurisdiction of respondent Province is no longer covered by a franchise. Hence, there is no legal ground for the Province to impose franchise tax.

Petitioner's Protest was subsequently denied by respondent Razul in her letter[5] dated May 23, 2007, wherein a collection letter of even date was attached thereto reiterating the demand for payment of petitioner's franchise tax covering the period 2002-2007.

[1] Par. 1, Parties, Petition for Review, En Banc Rollo, p. 35
[2] Par. 3, Ibid
[3] Annex "A-1" to Appeal, RTC Docket, p. 15
[4] Annex "B" to Appeal, Ibid, pp. 16-22
[5] Annex "C" to Appeal, Id., p. 23

Subsequently, following the denial of its protest, petitioner filed, on October 30, 2007, its Appeal (With Prayer for Issuance of Temporary Restraining Order/Preliminary Injunction) with the Branch 3 of the Regional Trial Court of Nabunturan, Compostela Valley and was docketed as Miscellaneous Case No. 897.

On November 29, 2007, respondents filed their Answer with Opposition to the Application for Restraining Order/Preliminary Injunction.

On January 29, 2010, a Judgment[6] was rendered by the RTC, Branch 3, Nabunturan, Compostela Valley in Miscellaneous Case No. 897, dismissing the appeal and ordering petitioner to pay the local franchise tax assessed by respondent Razul.

Thereafter, petitioner filed, on April 28, 2010, a Petition for Review[7] with the Court of Tax Appeals (CTA) En Banc, docketed as CTA EB No. 607, appealing the Judgment rendered by the RTC. The said Petition for Review was subsequently denied due course and dismissed for lack of jurisdiction in a Decision[8] promulgated on July 22, 2011.

Petitioner filed a Motion for Reconsideration[9] of the CTA En Banc Decision. Respondents failed to file their Comment thereon per Records Verification dated November 21, 2011.

In a Resolution[10] promulgated on January 5, 2012, the Court En Banc denied petitioner's Motion for Reconsideration for lack of merit.

Undaunted, petitioner appealed its case to the Supreme Court and was docketed as G.R. No. 200100 (*National Power Corporation v. The Provincial Government of Compostela Valley and Carmen R. Razul, in her capacity as Provincial Treasurer of Compostela Valley*).

On April 23, 2014, the Supreme Court issued a Resolution[11] the decretal portion of which reads as follows:

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[6] RTC Docket, pp. 1-12
[7] En Banc Rollo, pp. 33-49
[8] Ibid, pp. 130-143
[9] Id., pp. 144-154
[10] Id., pp. 162-167
[11] Division Docket, pp. 10 & 11

> "**WHEREFORE,** premises considered, the instant petition is **GRANTED.** The Decision dated July 22, 2011 and Resolution dated January 5, 2012, of the Court of Tax Appeals En Banc in E.B. Case No. 607, are hereby **REVERSED** and **SET ASIDE.** The petition is **REMANDED** to the Court of Tax Appeals to be raffled to any of its Division for its immediate resolution.
>
> **SO ORDERED.**"

The above Supreme Court Resolution had become final and executory on June 23, 2014, per Entry of Judgment[12] dated September 11, 2014.

In compliance with the Supreme Court Resolution dated April 23, 2014, the case was, thereafter, raffled to the CTA Second Division on December 22, 2014 and was docketed as CTA AC No. 126.

On January 7, 2015, the CTA Second Division promulgated a Resolution[13] ordering respondents to file their comment to petitioner's Petition for Review. Petitioner was, likewise, given five (5) days from receipt of respondent's Comment to file its Reply thereto.

On February 16, 2015, respondent, Provincial Government of Compostela Valley, through the Provincial Treasurer, Carmen R. Razul filed, thru registered mail, its Comment to the Petition for Review.

In a Resolution,[14] promulgated on March 24, 2015, the parties were given by this Court thirty (30) days from notice, to file their simultaneous Memoranda. The Court, in the same Resolution, further ruled that, upon receipt of the memoranda of the parties or expiry of the period granted, the instant petition shall be considered submitted for decision.

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[12] Ibid, p. 14
[13] Ibid, p. 170-171
[14] Ibid, p. 184

On April 23, 2015, petitioner submitted its Memorandum[15] while respondents failed to file their memorandum per Records Verification dated June 9, 2015.

Hence, this Decision.

The lone issue submitted for resolution of this Court is whether or not petitioner NPC is liable for the payment of franchise tax for the operation of its Power Barge 118 moored at Maco, Compostela Valley.

Petitioner argues that the law (Sec. 137 of the Local Government Code) limits the imposition of franchise tax only to those businesses enjoying a franchise, and, all other businesses which do not enjoy a franchise cannot and should not be imposed franchise tax. With the enactment of the EPIRA Law (RA No. 9136), NPC is now considered only as a generation company not required to secure a national franchise. Thus, petitioner cannot be burdened with the payment of franchise tax.

Petitioner, likewise, contends that the Supreme Court decisions in the cases of *NPC vs. City of Cabanatuan and NPC vs. Province of Isabela* are only "law of the case" and may not be invoked in cases after the enactment of the EPIRA on June 26, 2001, and, accordingly, petitioner should be exempt from payment of franchise tax.

Petitioner, finally, argues that the unlimited and unqualified authority of LGUs to impose franchise tax will greatly affect its financial standing and easily defeat the very purpose of the EPIRA Law in not requiring the "power generation and supply of electricity business" to secure a franchise as petitioner will then be burdened with so many liabilities with respect to franchise taxes.

Respondents, on the other hand, counterargue that, while Section 1, Rule 5 of R.A. 9136 (EPIRA Law) no longer required petitioner to secure a national franchise as a generation sector, it is obvious, however, that it still operates and enjoys the privileges by virtue of said franchise which serves as its charter. Thus, consistent with the rulings of the Supreme Court and the provision of the Local Government Code, Local Franchise Tax can still be imposed on petitioner's power generation activity.

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[15] Ibid, p. 185-195

This Court has, in a number of cases,[16] upheld the ruling of the Supreme Court in the cases of *National Power Corporation vs. City of Cabanatuan*[17] (the "Cabanatuan case") and *National Power Corporation vs. Province of Isabela*[18] (the "Isabela case") that petitioner is not exempt from the payment of the franchise tax.

Under Sec. 5, Article X of the 1987 Constitution, local government units were empowered to levy taxes, fees and charges subject to the guidelines and limitations as Congress may provide.

Section 5, Article X of the 1987 Constitution reads thus:

> "Section 5. – Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees and charges shall accrue exclusively to the local governments."

On the other hand, by virtue of Section 137 of the Local Government Code of 1991 ("LGC"), local government units were given the authority to impose franchise tax on businesses enjoying a franchise within its territorial jurisdiction.

Section 137 of the LGC reads thus:

> SEC. 137. Franchise Tax. - Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on business enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized within its territorial jurisdiction.

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[16] NPC vs. Province of Quirino, CTA AC No. 108, June 18, 2014; NPC vs. Province of Pampanga and Pia Magdalena Quibal, CTA AC No. 113, August 1, 2014; NPC vs. Province of Cagayan, et al., CTA AC No. 84, March 1, 2013; Provincial Treasurer of Leyte vs. NPC, CTA AC No. 64, October 11, 2011

[17] G.R. No. 149110, April 9, 2003

[18] G.R. No. 165827, June 16, 2006

xxx xxx xxx."

In the Cabanatuan case, the following requisites, which must concur, were laid down by the Supreme Court to determine whether or not petitioner is liable for franchise tax, to wit: (1) that petitioner has a "franchise" in the sense of a secondary or special franchise; and (2) that it is exercising its rights or privileges under this franchise within the territory of respondent city government.

Applying the above requisites, the Supreme Court subsequently ruled in the Isabela case that petitioner, indubitably, may be held liable for franchise tax.

The Supreme Court ruled in this wise:

> "The fundamental issue to be resolved in this case is whether or not petitioner is subject to franchise tax under the LGC.
>
> The petition has no merit. The case is on all fours with the case of National Power Corporation vs. City of Cabanatuan, where this very same issue was settled by the Court. x x x x x x x x x
>
> x x x x x x xxx.
>
> Even prior to the Cabanatuan case, the Court already declared in City Government of San Pablo, Laguna v. Reyes that the franchise tax may still be imposed despite any exemption enjoyed under special laws, explaining thus:
>
>> 'xxx. The legislative purpose to withdraw tax privileges enjoyed under existing law or charter is clearly manifested by the language used in Section 137 and 193 categorically withdrawing such exemption subject only to the exceptions enumerated. Since it would be not only tedious and impractical to attempt to enumerate all the existing statutes providing for an express, albeit general, withdrawal of such exemptions or privileges. No more unequivocal language could have been used.'

Nonetheless, petitioner seeks to avoid paying the franchise tax by arguing further that it is not liable therefor under Section 137 of the LGC because said tax applies only to a 'business enjoying a franchise'. It contends that it is not a private corporation or a business for profit. Again, we do not agree. The Court also declared in the Cabanatuan case that petitioner qualifies as a 'business enjoying a franchise.'.

In Section 131(m) of the LGC, Congress unmistakably defined a franchise in the sense of a secondary or special franchise. This is to avoid any confusion when the word franchise is used in the concept of taxation. As commonly used, a franchise tax is a 'tax on the privilege of transacting business in the state and exercising corporate franchises granted by the state'. It is not levied on the corporation simply for existing as a corporation, upon its property or its income, but on its exercise of the rights or privileges granted to it by the government. Hence, a corporation need not pay franchise tax from the time it ceased to do business and exercise its franchise. It is within this context that the phrase 'tax on businesses enjoying a franchise' in Section 137 of the LGC should be interpreted and understood. Verily, to determine whether that petitioner is covered by the franchise tax in question, the following requisites should concur: (1) that petitioner has a 'franchise in the sense of a secondary or special franchise; and (2) that it is exercising its rights or privileges under this franchise within the territory of the respondent city government.

Petitioner fulfills the first requisite. Commonwealth Act No. 120, as amended by Rep. Act No. 6395, constitutes petitioner's primary and secondary franchises. It serves as the petitioner's charter, defining its composition, capitalization, the appointment and the specific duties of its corporate officers, and its corporate life span. As its secondary franchise, Commonwealth Act No. 120, as amended, vests petitioner [with x x x certain] powers which are not available to ordinary corporations x x x x x x.

x x x x.

Petitioner also fulfills the second requisite. It is operating within the respondent city government's

> territorial jurisdiction pursuant to the powers granted to it by Commonwealth Act No. 120, as amended. x x x"[19]

Clearly, prescinding from the afore-quoted rulings of the Supreme Court, petitioner is liable for franchise tax as "it satisfies the two requisites laid down by the Supreme Court in the Cabanatuan case. Petitioner, for one, has a franchise in the sense of secondary or special franchise and, by its own admission in the narration of facts in its Appeal (With Prayer for Issuance of Temporary Restraining Order/Preliminary Injunction)[20], filed with the RTC, Branch 3, Nabunturan, Compostela Valley, to wit:

> "4. In the pursuit of appellant's mandate, which includes among others, the construction and operation of power generation plants, herein appellant contracted a consortium formed by Mitsui & Co. Ltd., Mitsui Engineering and Shipbuilding, Ltd. And Burmeister and Wain Scandinavian Contractor A/S, purposely to, among others, build and operate a power barge and to subsequently supply and generate electricity. In the contract, appellant assumes all the obligations to pay taxes, if any.
>
> 5. Among the power barges subject of the aforementioned contract is Power Barge 118 which is moored at the Municipality of Maco, Province of Compostela Valley."

and, likewise, in its Protest dated February 13, 2007, addressed to the Office of the Provincial Treasurer of Nabunturan, Compostela Valley, where petitioner stated, thus:

> "2. Petitioner operates and owns Maco Power Barge 118 moored and stationed in the Municipality of Maco, Compostela Valley;"

petitioner is, indeed, operating a power barge and, generating as well as supplying electricity in the Province of Compostela Valley, more specifically, in the Municipality of Maco, thus satisfying the second requisite that "it is operating within the respondent's territorial jurisdiction".

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[19] National Power Corporation vs. City of Cabanatuan, supra

[20] RTC Docket, pp. 1-13

However, in the most recent case of *National Power Corporation vs. Provincial Government of Bataan, et al.*[21] ("Bataan case"), the Supreme Court held that the NPC ceased to operate its transmission business by operation of law pursuant to the provision of Section 8 of the EPIRA Law.

The pertinent portion of the Supreme Court decision in the Bataan case reads, thus:

> "The RTC found that the NPC failed to present evidence that it no longer owned or operated the business subject to local franchise tax and that the properties the Province levied on did not belong to it. But proving these things did not require the presentation of evidence in this case since these events took place by operation of law, particularly the EPIRA. Thus, Section 8 of the EPIRA provides:
>
> > SEC. 8. Creation of the National Transmission Company. - There is hereby created a National Transmission Corporation, hereinafter referred to as TRANSCO, which shall assume the electrical transmission function of the National Power Corporation (NPC), and have the power and functions hereinafter granted. The TRANSCO shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and ancillary services.
> >
> > Within six (6) months from the effectivity of this Act, the transmission and subtransmission facilities of NPC and all other assets related to transmission operations, including the nationwide franchise of NPC for the operation of the transmission system and the grid, shall be transferred to the TRANSCO. The TRANSCO shall be wholly owned by the Power Sector Assets and Liabilities Management Corporation (PSALM Corp).

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[21] G.R. No. 180654, April 21, 2014

The subtransmission functions and assets shall be segregated from the transmission functions, assets and liabilities for transparency and disposal: Provided, That the subtransmission assets shall be operated and maintained by TRANSCO until their disposal to qualified distribution utilities which are in a position to take over the responsibility for operating, maintaining, upgrading, and expanding said assets. All transmission and subtransmission related liabilities of NPC shall be transferred to and assumed by the PSALM Corp.

TRANSCO shall negotiate with and thereafter transfer such functions, assets, and associated liabilities to the qualified distribution utility or utilities connected to such subtransmission facilities not later that *(sic)* two (2) years from the effectivity of this act or the start of open access, whichever comes earlier: x x x.

x x x x

The above created the TRANSCO and transferred to it the NPC's electrical transmission function with effect on June 26, 2001. The NPC, therefore, ceased to operate that business in Bataan by operation of law. Since the local franchise tax is imposed on the privilege of operating a franchise, not a tax on the ownership of the transmission facilities, it is clear that such tax is not a liability of the NPC.

Nor could the Province levy on the transmission facilities to satisfy the tax assessment against the NPC since, as Section 8 above further provides, the latter ceased to own those facilities six months from the effectivity of the EPIRA. Those facilities have since belonged to TRANSCO."

We, however, believe that the above-quoted ruling cannot be applied as the same is not on all fours with the case before us.

The following are the relevant provisions of the EPIRA relating to the transfer of electrical transmission, the national franchise as well as the assets of petitioner to TRANSCO/PSALM Corporation, to wit:

> "SEC. 5. *Organization.* - The electric power industry shall be divided into four (4) sectors, namely: generation, **transmission**, distribution and supply.
>
> SEC. 6. *Generation Sector.* - Generation of electric power, a business affected with public interest, shall be competitive and open.
>
> xxx xxx xxx
>
> Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall not be required to secure a national franchise.
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> xxx xxx xxx
>
> SEC. 8. *Creation of the National Transmission Company.* - **There is hereby created a National Transmission Corporation, hereinafter referred to as TRANSCO, <u>which shall assume the electrical transmission function of the National Power Corporation (NPC)</u>, and have the powers and functions hereinafter granted. <u>The TRANSCO shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and ancillary services</u>**.
>
> **Within six (6) months from the effectivity of this Act, the transmission and subtransmission facilities of NPC and all other assets related to transmission operations, <u>including the nationwide franchise of NPC</u> for the operation of the transmission system and the grid, shall be transferred to the TRANSCO**. The TRANSCO

shall be wholly owned by the Power Sector Assets and Liabilities Management Corporation (PSALM Corp.).

The subtransmission functions and assets shall be segregated from the transmission functions, assets and liabilities for transparency and disposal: *Provided*, That the subtransmission assets shall be operated and maintained by TRANSCO until their disposal to qualified distribution utilities which are in a position to take over the responsibility for operating, maintaining, upgrading, and expanding said assets. All transmission and subtransmission related liabilities of NPC shall be transferred to and assumed by the PSALM Corp.

TRANSCO shall negotiate with the thereafter transfer such functions, assets, and associated liabilities to the qualified distribution utility or utilities connected to such subtransmission facilities not later than two (2) years from the effectivity of this Act or the start of open access, whichever comes earlier: x x x.

xxx xxx xxx

SEC. 47. *NPC Privatization.* – <u>**Except for the assets of SPUG**</u>**, the generation assets, real estate, and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act**. xxx

xxx xxx xxx

SEC. 49. Creation of Power Sector Assets and Liabilities Management Corporation. – **There is hereby created a government-owned and -controlled corporation to be known as the 'Power Sector Assets and Liabilities Management Corporation,' hereinafter referred to as the 'PSALM Corp.,'** <u>**which shall take ownership of all existing NPC generation assets, liabilities, IPP contracts, real estate and all other disposable assets**</u>. All outstanding obligations of the NPC arising from loans, issuances of bonds, securities and other instruments of indebtedness shall be transferred to and assumed by the PSALM Corp. within one hundred eighty (180) days from the approval of this Act.

xxx xxx xxx

> SEC. 80. *Applicability and Repealing Clause.* - The applicable provisions of Commonwealth Act No. 146, as amended, otherwise known as the 'Public Services Act'; **Republic Act No. 6395, as amended, revising the charter of NPC; xxx shall continue to have full force and effect except insofar as they are inconsistent with this Act.**
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> xxx xxx xxx
>
> **Presidential Decree No. 40** and all laws, decrees, rules and regulations, or portions thereof, inconsistent with this Act **are hereby repealed or modified accordingly.**" (Emphasis and underscoring supplied)

Clearly, based on the above-quoted provisions, petitioner had ceased to engage in the transmission of power starting June 26, 2001, the effectivity date of the EPIRA Law, as all its generation assets for the said function as well as its nationwide franchise had been transferred to TRANSCO, except for the assets of the Small Power Utilities Group (SPUG).

Sec. 70 of the EPIRA provides, thus:

> Sec. 70. *Missionary Electrification.* - Notwithstanding the divestment and/or privatization of NPC assets, IPP contracts and spun-off corporations, NPC shall remain as a National Government-owned and -controlled corporation to perform the missionary electrification function through the Small Power Utilities Group (SPUG) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system. The missionary electrification function shall be funded from the revenues from sales in missionary areas and from the universal charge to be collected from all electricity end-users as determined by the ERC." (Underscoring ours)

We cannot attribute the operation of petitioner's Power Barge No. 118, moored at the Municipality of Maco, Compostela Valley, to its SPUG as no evidence was presented to prove that the power barge is being operated by petitioner as a "missionary electrification" function.

However, We cannot also dispute the fact that petitioner, by its own admission in its Protest[22] and its Appeal (With Prayer for Issuance of Temporary Restraining Order/Preliminary Injunction[23] filed with the RTC, that it is, indeed, operating a power barge and generating as well as supplying electricity in the Municipality of Maco, Compostela Valley.

It is, likewise, worthy to note that respondents alleged, in their Answer With Opposition To The Application for Restraining Order/Preliminary Injunction[24], that "prior to the assessment mentioned in paragraph 6 of the appeal, Appellant had been paying Franchise Tax for the periods 1998 to 2001". Likewise worth noting is respondent Razul's Letter of Assessment dated January 25, 2007 which failed to indicate with certainty the amount of franchise tax liability of petitioner for the period from 2002 to 2007.

Thus, the factual issues on whether or not petitioner, in the operation of Power Barge 118, performs its missionary electrification in the Province of Compostella Valley and the amount of franchise tax liability of petitioner for the period 2002 to 2007 were not fully ventilated in court.

Accordingly, We have no recourse except to remand the case to the court a quo for further proceedings to enable both parties to substantiate their respective claims.

WHEREFORE, the Assailed Judgment dated January 29, 2010 of Branch 3, Regional Trial Court, Nabunturan, Compostela Valley in Miscellaneous Case No. 897 - (National Power Corporation vs. The Provincial Government of Compostela Valley, and Carmen Razul, in her capacity as Provincial Treasurer of Compostela Valley) is hereby **SET ASIDE** and the records of the case are hereby **REMANDED** to the court a quo for further proceedings in accordance with the pronouncements in this Decision.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

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[22] RTC Docket, pp. 16-22
[23] Ibid, pp. 1-13
[24] Id. pp. 40-49

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

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

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

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice