REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

CE CASECNAN WATER AND ENERGY COMPANY, INC., *Petitioner,*	**CTA AC No. 221** (Civil Case No. 1026)
-versus-	Members:
THE MUNICIPALITY OF ALFONSO CASTAÑEDA, and JERRY P. PASIGIAN, JR., and JENNIFER M. TIONGSON, in their respective capacities as MAYOR and TREASURER (OIC) of the Municipality of Alfonso Castañeda, *Respondents.*	**DEL ROSARIO, *P.J.***, *Chairperson, and* **MANAHAN**, *J.* Promulgated: NOV 06 2020 11:26 am

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DECISION

MANAHAN, *J.:*

This case involves the *Petition for Review*[1] filed by Petitioner CE Casecnan Water and Energy Company, Inc. (CECWECI) against respondent Municipality of Alfonso Castañeda, pursuant to Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), seeking the partial reversal of Regional Trial Court (RTC)-Branch 30, Bambang, Nueva Vizcaya's *Decision* dated May 29, 2017[2] and *Resolution* dated March 26, 2019[3].

The dispositive portions of the assailed Decision and Order of RTC-Branch 30, Bambang, Nueva Vizcaya, read as follows:

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[1] Docket, CTA AC No. 221, Vol. 1, pp. 08-83.
[2] *Id.*, Vol. I, Annex A, pp. 84-11.
[3] *Id.*, Vol. I, Annex B, p. 112. *cm*

Decision dated May 29, 2017:[4]

"**WHEREFORE**, *In view of all the foregoing*, judgment is hereby rendered:

(a) ***CANCELLING*** the ***July 14, 2008 Assessment*** for being ***null and void***, and;

(b) ***REVERSING*** and ***SETTING ASIDE*** Defendants' denial of Plaintiff's Protest against the July 14, 2008 Assessment. The Temporary Restraining Order issued by this Court on September 24, 2008 is made permanent.

This decision, however, is without prejudice to any action that maybe filed by Defendant Municipality in establishing and collecting its claim of its share in the utilization and development of Plaintiff's projects in any suit before the proper forum.

No pronouncement as to costs.

SO ORDERED."

Resolution dated March 26, 2019:[5]

"Foregoing considered, the motion for partial reconsideration is hereby denied.

SO ORDERED."

THE PARTIES

Petitioner CECWECI is a corporation duly organized and existing under the Philippine law[6] with principal address at the Municipality of Pantabangan, Nueva Ecija.[7]

Respondents, on the other hand, are the Local Government Unit (LGU) and its Mayor and Treasurer, all situated at Alfonso Castañeda, Nueva Vizcaya.[8]

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[4] *Supra*, Note 2.
[5] *Supra*, Note 3.
[6] Docket, Vol. 1, RTC Decision dated May 29, 2017, p. 84.
[7] *Id.*, Vol. 2, Petitioner's Memorandum, p. 849.
[8] *Id.*, Vol. 1, RTC Decision dated May 29, 2017, p. 84; Docket, Vol. 2, Petitioner's Memorandum, p. 849. *am*

THE FACTS

On June 26, 1995, petitioner CECWECI entered into a Build-Operate-and-Transfer contract with the National Irrigation Administration (NIA), a government-owned-and-controlled corporation, for the construction and development of a multi-purpose irrigation and power project located in Pantabangan, Nueva Ecija and Alfonso Castañeda, Nueva Vizcaya (The "Project").[9]

The Project is an irrigation and water delivery facility with a hydroelectric power generation component intended to harness the full potential of the Pantabangan Dam in Pantabangan, Nueva Ecija, by diverting approximately 801 million cubic meters of water annually until 2013, and 700 million cubic meters annually thereafter until 2021, from the Casecnan and Taan rivers of Nueva Vizcaya to the Pantabangan Reservoir.[10]

The Project traverses several LGUs. To illustrate, the power plant is located in the Municipality of Pantabangan, Nueva Ecija, specifically in Barangay Villarica. On the other hand, the dams are located in the respondent Municipality.

On July 14, 2008, respondents issued a letter of assessment to petitioner which was received on July 17, 2008, wherein they insisted and demanded that the latter "automatically remit" to the respondent municipality its supposed "National Wealth Share" in the utilization and development of Casecnan and Taan bodies of water amounting to Php183,258,977.25 for the period calendar years (CY) 2002 to 2008. Respondents, in said letter of assessment, also threatened petitioner that they will institute appropriate administrative and judicial remedies including cancellation/recall of the latter's mayor's permit if it will not comply with their demands.[11]

On July 23, 2008, petitioner filed a protest against said assessment with respondent Treasurer which was eventually denied on August 1, 2008.[12]

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[9] Docket, Vol. 1, RTC Decision dated May 29, 2017, p. 84.
[10] *Id.*, Vol. 1, Petition for Review, p. 16.
[11] *Id.*, Vol. 1, RTC Decision dated May 29, 2017, p. 85.
[12] *Id.*

On August 26, 2008, petitioner CECWECI filed a complaint[13] before the RTC-Branch 30, Bambang, Nueva Vizcaya ("Lower Court") asking for the cancellation of said assessment which eventually ruled[14] in its favor by cancelling said assessment and by reversing and setting aside the denial of its protest under the assailed decision.

Petitioner CECWECI then moved for partial reconsideration of said RTC decision which was eventually denied by said court under the assailed Resolution dated March 26, 2019.

Hence, on April 30, 2019, petitioner filed the instant petition before this Court.

On June 4, 2019[15], this Court ordered the respondents to file their comment[16] which respondents posted on July 16, 2019.

On September 4, 2019[17], after giving due course to the instant petition, the parties were required to file their respective memoranda. On October 28, 2019, petitioner filed its Memorandum[18] while the Respondents' Memorandum[19] was filed on October 28, 2019 through registered mail. Thus, with the submission of their respective memoranda, the case was submitted for decision on November 13, 2019.[20]

ISSUES

The following are the issues raised by the petitioner:[21]

(a) Whether the Lower Court erred in declaring that the Respondent Municipality is a "host LGU" entitled to a Share in the proceeds derived from the Project's utilization and development of the national wealth; and

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[13] Docket, Vol. 2, Petitioner's Memorandum, p. 853.; Docket, Vol. 1, Annex C, pp. 113-129.
[14] *Id.*, RTC Decision dated May 29, 2017, p. 111.
[15] *Id.*, Vol. II, Resolution dated June 4, 2019, pp. 781-782.
[16] *Id.*, Vol. II, pp. 790-804.
[17] *Id.*, Vol. II, Resolution dated September 4, 2019, pp. 822-823.
[18] *Id.*, Vol. II, pp. 845-943.
[19] *Id.*, Vol. II, pp. 970-995.
[20] *Id.*, Vol. II, Resolution dated November 13, 2019, p. 999.
[21] *Id.*, Vol. I, Petition for Review, p. 31.

(b) Whether the Lower Court erred in declaring the (*i*) the Respondent Municipality is entitled to a Share in the proceeds derived by CE Casecnan from the Projec's delivery of water to NIA, and (*ii*) that CE Casecnan is obligated to "dutifully remit" the Respondent Municipality's supposed Share in the proceeds derived from this activity to the National Government.

Petitioner's Arguments[22]

Petitioner CECWECI argues that the Lower Court and respondents misapplied and misconstrued the Department of Interior and Local Government-Department of Energy Joint Circular Nos. 95-01[23] and 98-01[24] in declaring that the respondent municipality is a "host LGU."

Petitioner also argues that the ruling of the lower court that respondent Municipality is entitled to a share in the proceeds derived by the former from the Project's delivery of water to NIA and that petitioner should "dutifully remit" the same to the latter is contrary to law, and adjudicates issues which are not included nor pleaded in the case.

Petitioner also insists that there were a number of clerical or typographical errors in the assailed Decision which it pointed out in its Motion for Reconsideration but the Lower Court refused to correct.

Respondents' Counter-Arguments[25]

Respondents, on the other hand, argue that there is no need for an ordinance or law to determine the share of respondent Municipality in the proceeds arising from petitioner's development or utilization of the Taan and Casecnan Rivers and delivery of water to NIA because the shares in the proceeds are not considered a tax.[26]

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[22] *Supra.*, Note 17.
[23] Rules and regulations pertaining the used of national wealth proceeds.
[24] Additional guidelines and procedures for host communities on energy projects.
[25] *Supra.*, Note 18.
[26] Docket, Vol. I, Paragraph 22(c), Petition for Review, p. 23; Docket Vol. I, Paragraph 9, Annex F, Petition for Review, p. 305.

Respondents further assert that petitioner is not exempt from tax or charge by virtue of its agreement with NIA and that the 2002 and 2003 assessments have not yet prescribed.

RULING OF THE COURT

The Court has no jurisdiction over the Petition for Review

This Court shall determine first if the petition filed by petitioner CECWECI is within its jurisdiction.

The Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[27] The jurisdiction of the CTA regarding local tax cases is provided under Section 7(a)(3) of Republic Act (RA) No. 1125, as amended by RA Nos. 9282 and 9503, which provides:

> "SEC. 7. *Jurisdiction.* – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> 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**;" (*Emphasis supplied*)

Similarly, Section 3(a)(3) of Rule 4 of RRCTA states:

> "SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
>
> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
>
> xxx xxx xxx
>
> (3) **Decisions, resolutions or orders of the Regional Trial Courts in local tax cases** decided or

[27] *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014.

> resolved by them **in the exercise of their original jurisdiction**;" (*Emphasis supplied*)

Based on the foregoing, the subject matter that can be brought to this Court pertains to RTC decisions, resolutions, or orders involving local tax cases.

The records of the instant case reveal that the instant petition is anchored on the decision of the Lower Court which ruled that respondent Municipality is a "host LGU" which is entitled to a share in the proceeds derived by petitioner from the utilization and development of the national wealth. It does not refer to an assessment nor claim for refund of any particular local taxes.

Local taxes are discussed under Titles I and II, Book II of RA No. 7160, otherwise known as the Local Government Code (LGC), which cover Local Business Taxes and Real Property Tax as held in *National Power Corporation v. Municipal Government of Navotas, et al.*[28], to wit:

> "Here, the context in which the word "local taxes" is employed does not clearly indicate that the limited or restricted view was intended by the legislature. In addition, the specification of real property tax assessment under Paragraph (a)(5) of Section 7 of R.A. 9282, in relation to the decisions of the CBAA, is only proper given that the CBAA has no jurisdiction, either original or appellate, over cases involving local taxes other than real property taxes.
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> Based on the foregoing, the general meaning of "local taxes" should be adopted in relation to Paragraph (a)(3) of Section 7 of R.A. 9282, which necessarily includes real property taxes."

A perusal of the instant petition and Memorandum of the petitioner shows that its main arguments are based on Sections 289, 291, and 293, Chapter 2, Title III, Book II of the LGC[29] and the related provisions of its Implementing Rules

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[28] G.R. No. 192300, November 24, 2014.

[29] **SECTION 289**. *Share in the Proceeds from the Development and Utilization of the National Wealth.* - Local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.

xxx xxx xxx

SECTION 291. *Share of the Local Governments from any Government Agency or -Owned and -Controlled Corporation.* - Local government units shall have a share based on the preceding fiscal year from the proceeds derived by any government agency or and Regulations (IRR) which refer to the "Shares of Local Government Units in the National Wealth." This type of charge, *i.e.* share in the national wealth, is not included in the definition of local taxes under Titles I and II, Book II of the LGC.

In *Banco De Oro, et al., v. Republic of the Philippines et al.*[30], the Supreme Court ruled that only those actions related to tax problems are within the exclusive jurisdiction of this Court, to wit:

> "Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.
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> **In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems.** Petitions for writs of certiorari against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals." (*Emphasis supplied*)

Although the original case heard in the Lower Court seems to pertain to the validity of an assessment, a simple perusal of the aforesaid assessment itself disclosed that it does not involve a tax dispute. In fact, petitioner itself directly admitted in its Petition for Review the following position of respondent, to wit:[31]

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government-owned-or-controlled corporation engaged in the utilization and development of the national wealth based on the following formula whichever will produce a higher share for the local government unit:
(a) One percent (1%) of the gross sales or receipts of the preceding calendar year; or
(b) Forty percent (40%) of the mining taxes, royalties, forestry and fishery charges and such other taxes, fees or charges, including related surcharges, interests, or fines the government agency or government -owned or -controlled corporation would have paid if it were not otherwise exempt.
xxx xxx xxx
SECTION 293. *Remittance of the Share of Local Government Units.* – The share of local government units from the utilization and development of national wealth shall be remitted in accordance with Section 286 of this Code: Provided, however, That in the case of any government agency or government-owned or -controlled corporation engaged in the utilization and development of the national wealth, such share shall be directly remitted to the provincial, city, municipal or Barangay treasurer concerned within five (5) days after the end of each quarter.
[30] G.R. No. 198756, August 16, 2016.
[31] Docket, Vol. I, Petition for Review p. 50.

"55. The Respondents have **expressly and categorically stated** that "the [Respondent Municipality's] claim for entitlement to the Shares is **anchored on Section 66 (par.1) of the EPIRA**" which provides:

> Section 66. *Benefits to Host Communities.* – The obligations of **generation companies** and **energy resource developers** to communities hosting energy generating facilities and/or energy resource developers as defined under Chapter II, Sections 289 to 294 of the Local Government Code and **Section 5(i) of Republic Act No. 7638 and their implementing rules and regulations and applicable orders and circulars consistent with this Act shall continue**: Provided, That the obligations mandated under Chapter II, Section 291 of Republic Act No. 7160, shall apply to privately-owned corporations or entities utilizing the national wealth of the locality.

In other words, **Section 66 of the EPIRA is the Respondents' sole basis for claiming to be entitled to the Shares**."

Hence, this Court is devoid of any jurisdiction to hear the instant case.

In *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*[32], the Supreme Court ruled that when it appears in the pleadings as well as the evidence submitted that this Court has no jurisdiction, it should dismiss such case, to wit:

> It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.
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> The CTA, even if vested with special jurisdiction, is, as courts of general jurisdiction can only take cognizance of such matters as are clearly within its statutory authority.

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[32] G.R. No. 185666, February 04, 2015.

> Relative thereto, **when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, the court shall dismiss the claim**. (*Emphasis supplied*)

WHEREFORE, premises considered, the Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

ROMAN G. DEL ROSARIO
Presiding 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