REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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CAGAYAN 1 ELECTRIC COOPERATIVE INCORPORATION represented by its Manager Engr. Tito R. Lingan,
Plaintiff,

- versus -

THE PROVINCIAL TREASURER OF THE PROVINCE OF CAGAYAN, Elizabeth Del Rosario,
Defendant.

C.T.A. CASE NO. 7548

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:

JUN 04 2007; 2:00 pm

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RESOLUTION

This resolves:

1. Defendant's "**Answer with Grounds for Dismissal**" filed through registered mail on February 23, 2007; and

2. Plaintiff's "**Motion for Summary Judgment**" filed on March 20, 2007.

Plaintiff avers that defendant's Answer, filed via registered mail on February 23, 2007 and received by this Court on March 5, 2007, failed to set forth the basis of her denial to the allegations made in the complaint, that said Answer dwelled only on this Court's supposed lack of jurisdiction over the subject matter. Plaintiff, thus, submits that, for defendant's failure to dispute the material allegations in its complaint, there was consequently no genuine factual issue to be tried; hence the need for a summary judgment.

This Court is not convinced.

Summary judgment under Rule 35 of the Revised Rules of Court is a procedural technique which is proper only if there is no "genuine issue as to the existence of a material fact and that the moving party is entitled to a judgment as a matter of law." It is a method intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits on record. Summary judgment or accelerated judgment is a device for weeding out sham claims or defenses at an early stage of the litigation, thereby avoiding the expense and loss of time involved in a trial. The very object is to separate what is formal or pretended in denial or averment from what is genuine and substantial, so that only the latter may subject a suitor to the burden of trial.[1]

The term "genuine issue" has been defined as an issue of fact which calls for the presentation of evidence as distinguished from an issue which is sham, fictitious, contrived, set up in bad faith and patently unsubstantial so as not to constitute a genuine issue for trial. The court can determine this on the basis of the pleadings, admissions, documents, affidavits and/or counter-affidavits submitted by the Parties to the court. Where the facts pleaded by the parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial.[2]

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[1] Excelsa Industries, Inc. vs. Court of Appeals, Asian Alcoholic Corporation, Spouses Rodolfo V. Zulueta and Germaine R. Zulueta and Briquetted Diamond Corporation, 247 SCRA 560, G.R. No. 105455, August 23, 1995.
[2] Ibid

An evaluation of defendant's Answer reveals that she was admitting and denying paragraphs referring perhaps to another complaint. Nonetheless, her affirmative defense of lack of jurisdiction over the subject matter is a genuine issue which needs to be addressed immediately for it directly attacks the jurisdiction of this Court to take cognizance of the case at bar. It cannot be overemphasized that a ground for the dismissal of a case pleaded as an affirmative defense in the answer may be had as if a motion to dismiss had been filed[3]. Clearly, when plaintiff clearly failed to debunk this defense of lack of jurisdiction, it had failed to demonstrate that there was indeed no genuine issue worthy of credence. An averment by one party that this Court lacks jurisdiction to try the case before it is a material issue since jurisdiction over the subject matter is the basic prerequisite to the exercise of judicial power for if indeed a court is wanting of such authority, then the entire proceedings will eventually be rendered null.

Section 7 (a)(3) of Republic Act No. 9282[4], sets forth the jurisdiction of this Court over local tax cases, thus:

"Section 7. Jurisdiction. – The CTA shall exercise:

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

xxx

(3) **Decisions, orders or resolutions of the Regional Trial Courts in local taxes cases** originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

xxx xxx xxx

(Emphasis and Underscoring Ours.)

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[3] Sec. 6, Rule 16, Revised Rules of Court
[4] An Act Expanding the Jurisdiction of the Court of Tax Appeals, Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership"

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Evidently, in view of the foregoing provision, this Court's jurisdiction to hear and decide cases for the recovery or claim for refund/issuance of a tax credit certificate of alleged erroneous or overpaid franchise taxes imposed by the local government unit concerned upon electric cooperatives is appellate and not original. Under the prevailing circumstances, this should have been a proper subject of a case before the Regional Trial Court (RTC) exercising its original or appellate jurisdiction over local tax cases. And only after a final decision has been rendered by the RTC may either party appeal to this Court by way of a petition for review. It is stressed that where the court has no jurisdiction over the subject matter, it cannot validly issue orders or direct the parties to perform particular acts because by so doing it would be in the exercise of a jurisdiction that it does not have.

The Court of Tax Appeals is a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction. In the absence of jurisdiction, therefore, the only act We could perform with utmost efficacy is to order the dismissal of this action.

WHEREFORE, in view of the foregoing, this Court hereby resolves to **DENY** plaintiff's motion. Accordingly, this case is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice