REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL GRID CORPORATION OF THE PHILIPPINES,
Petitioner,

-*versus*-

CENTRAL BOARD OF ASSESSMENT APPEALS; LOCAL BOARD OF ASSESSMENT APPEALS OF THE PROVINCE OF SOUTH COTABATO; ENGR. ROBERT DEANON, in his official capacity as the OIC-Provincial Assessor of South Cotabato and HERBERT C. JUGADOR, in his capacity as Municipal Assessor of Tupi, South Cotabato,
Respondents.

CTA *EB* NO. 1459
(CBAA Case No. M-39)

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, *and*
MANAHAN, *JJ.*

Promulgated:

JUL 16 2018 1:41 p.m.

x- -x

RESOLUTION

MANAHAN, J.:

For this Court's resolution is petitioner's **Motion for Reconsideration,** filed on April 5, 2018, with respondents' **Opposition** to petitioner's Motion for Reconsideration filed on May 4, 2018 via registered mail and received by this Court on May 11, 2018.

Petitioner seeks the reconsideration of the Court *En Banc's* Decision promulgated on February 27, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, the instant Petition for Review filed by petitioner NGCP on May 25, 2016 is hereby **DISMISSED** for lack of merit.
>
> **SO ORDERED.**"

In its Motion, petitioner contends that it may avail of the remedy of appeal under Section 226 of the Local Government Code of 1991 (LGC of 1991) without having to pay under protest prior to its appeal before the Local Board of Assessment Appeals (LBAA). Petitioner avers that the only requirement provided under the said Section 226 is that the appeal must be filed within sixty (60) days from receipt of the written notice of assessment and that there in no provision under the LGC of 1991 requiring prior payment under protest before filing an appeal with the LBAA. Petitioner further expounds that Section 226 pertains to the act of the assessor in assessing the property of the taxpayer while Section 252 pertain to the denial by the treasurer of the written protest filed by the taxpayer. Petitioner however admits that in either remedy, the subsequent step to be resorted to is the same, i.e., the filing of an appropriate appeal before the LBAA.

As a last line of defense, petitioner calls upon this Court to decide the case on the merits instead of dismissing the same on the basis of a technicality, in the interest of substantial justice.

In its Opposition to the Motion for Reconsideration, respondents maintain that the payment of taxes is a condition precedent before any protest or petition may be entertained by the LBAA. Respondents fully agree with the Decision of the Court *En Banc* when it ruled that the petitioner's appeal to the LBAA was considered premature and that their failure to pay the real property taxes (RPT) proved fatal to their protest before said body.

We find petitioner's arguments bereft of merit.

The issues raised by the petitioner in its Motion for Reconsideration were already passed upon and thoroughly addressed by the Court *En Banc* in the assailed Decision.

For emphasis, we reiterate the rationale behind our conclusion that the appeal made by petitioner should have been preceded by payment under protest.

The facts show that on August 22, 2012, petitioner received Notices of Assessment (NOAs) dated August 17, 2012 including the corresponding Tax Declarations from the municipal assessor of Tupi, South Cotobato. Petitioner then filed a petition with the LBAA questioning the assessments for Real Property Tax (RPT) on its properties located in Tupi, South Cotabato claiming exemption from said taxes.

While we find recourse to the LBAA proper and in accord with law and jurisprudence, we held and still hold that the petitioner should have first paid under protest the RPT subject of the assessments.

Petitioner's contention that its appeal made to the LBAA is pursuant only to Section 226 of the LGC of 1991 and not to Section 252 offers a restrictive view of the remedies granted by law relative to assessments of RPT and is not at all in consonance with the spirit and purpose of the law.

As emphasized by the Court in the assailed Decision, Sections 252 and 226 of the LGC of 1991 must not be read alternatively but in harmony with each other, and we quote herein below portions thereof:

> "An astute analysis of the aforementioned provisions of the LGC of 1991 would reveal that the remedies provided therein are not distinct but successive. Sections 252 and 226 of the LGC of 1991 must not be read alternatively but in harmony with each other, thus Section 226 which provides that any owner or person having legal interest in the property, who is aggrieved by or not satisfied with the action of the provincial, city or municipal assessor in the assessment of its property, may file an appeal with the LBAA within sixty days from

an

> date of receipt of the NOA/s and in the event that the protest is denied, the taxpayer may avail of the remedies provided in Chapter 3, Title II, Book II of the LGC of 1991, pursuant to Section 252 (d)."

The requirement of payment under protest is the norm in appeals of assessments of RPT to the LBAA and this is well established by several cases decided by the Supreme Court.

In the case of *Napocor vs. Province of Quezon, et.al.* [1], the Supreme Court categorically called the appeal made by Napocor without first paying the assessed RPT, as ill advised because it was not pursuant to the requirement of Section 252 of the LGC of 1991 and we quote:

> "It was an ill-advised move for Napocor to directly file an appeal with the LBAA under Section 226 without first paying the tax as required under Section 252. Sections 252 and 226 **provide successive administrative remedies to a taxpayer who questions the correctness of an assessment**. Section 226, in declaring that any owner or person having interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of the property may xxx appeal to the Board of Assessment Appeals xxx should be read in conjunction with Section 252 (d) which states that in the event that the protest is denied xxx, the taxpayer may avail of the remedies as provided in Chapter 3, Title II, Book II of the LGC xxx. The action referred to in Section 226 (in relation to a protest of real property tax assessment) thus refers to the local assessors act of denying the protest filed pursuant to Section 252. xxx" (emphasis supplied)

Also in the case of *John Hay Development Corporation vs. CBAA, et.al.*[2], the Supreme Court ruled thus:

> "The language of the law is clear. No interpretation is needed. The elementary rule in statutory construction is that if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted

---

[1] G.R. No. 171586 dated January 25, 2010.
[2] G.R. No. 169234, October 2, 2013.

> interpretation. Verba legis non est recedendum. From the words of a statute there should be no departure.
>
> To begin with, Section 252 emphatically directs that the taxpayer/real property owner questioning the assessment **should first pay the tax due before his protest can be entertained**. As a matter of fact, the words "paid under protest" shall be annotated on the tax receipts. Consequently, only after such payment has been made by the taxpayer may he file a protest in writing (within thirty (30) days from said payment of tax) to the provincial, city, or municipal treasurer, who shall decide the protest within sixty (60)days from its receipt. In no case is the local treasurer obliged to entertain the protest unless the tax due has been paid.
>
> Secondly, within the period prescribed by law, any owner or person having legal interest in the property not satisfied with the action of the provincial, city, or municipal assessor in the assessment of his property may file an appeal with the LBAA of the province or city concerned, as provided in Section 226 of RA No. 7160 or the LGC of 1991. Thereafter, within thirty (30) days from receipt, he may elevate, by filing a notice of appeal, the adverse decision of the LBAA with the CBAA, which exercises exclusive jurisdiction to hear and decide all appeals from the decisions, orders, and resolutions of the Local Boards involving contested assessments of real properties, claims for tax refund and/or tax credits, or overpayments of taxes." (Emphasis supplied)

WHEREFORE, finding no cogent reason to disturb the ruling in the assailed Decision promulgated on February 27, 2018, petitioner's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice