REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

IMELDA MACANES, in her capacity as the Provincial Treasurer of Benguet and MERLITA G. TOLITO, in her capacity as the Officer-in-Charge of the Municipal Treasury Office of Bakun, Benguet,

Petitioners,

-versus-

LUZON HYDRO CORPORATION,
Respondent.

CTA *EB* NO. 2407
(CBAA Case No. L-141-2018)

Present:

DEL ROSARIO, *PJ*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ*.

Promulgated:
MAY 24 2023
2:53pm

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RESOLUTION

CUI-DAVID, *J.*:

For the Court's resolution is petitioners' *Motion for Reconsideration* filed *via* registered mail on December 19, 2022,[1] with respondent's *Opposition (To the Motion for Reconsideration dated 19 December 2022)* filed on January 16, 2023, seeking reconsideration of the Decision dated November 7, 2022 (assailed *Decision*), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is **DISMISSED** for petitioners' lack of authority to file the same.
>
> **SO ORDERED.**

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[1] Received by the Court on December 28, 2022.

In support of their motion, petitioners argue that the authority from Sanggunian is unnecessary because the Petition for Review *does not involve a violation of an ordinance in the collection of taxes, fees, or charges* nor a case for the recovery of government funds and property. Petitioners are also not the defendants in this Petition for Review, where the chief executives must cause the preparation of an answer for the province/municipality to defend the suit against it. Petitioners reiterate that their Petition for Review is a continuation of the case filed by respondent before the Local Board of Assessment Appeals (LBAA) of Benguet involving the re-computation of real property tax (RPT) liability of respondent and the authority from the Sanggunian is not needed under Sections 252, 253, and 256 of the Local Government Code (LGC).

Petitioners also insist that Executive Order (EO) No. 88 does not apply in respondent's favor due to its limited application compared to EO No. 173; EO Nos. 88 and 173 are different in scope and coverage; EO No. 88 applies to the condonation and reduction of RPT liabilities for the year 2018 only, while EO No. 173 covers prior years up to 2014; as to respondent's RPT for the years 2002 to 2015, the assessment level of 80% stands; hence, respondent is not entitled to its claim for a tax credit or refund.

For respondent, petitioners' contention is untenable since proper authority is required for all suits filed to defend the Local Government Unit (LGU) under Section 465 (b)(3)(vi) in relation to Section 470 (e) of the LGC. Since there is no proof that the Sangguniang Panlalawigan issued an ordinance authorizing petitioners to file the Petition for Review and to execute the Verification and Certification Against Non-Forum Shopping, the case must be dismissed outright.

Respondent counters that EO No. 88 does not have a limited application because it applies "for all years up to CY 2018." There is no qualification in EO No. 88 that limits its application to CY 2018 only. Instead, EO No. 88 extended the application of the reduced assessment level, which previously covered only until 2014. Respondent concludes that with EO No. 88, it is entitled to the reduced assessment level of 15%.

We resolve.

After carefully examining petitioners' arguments, it is noted that they are mere reiterations of matters already considered in the assailed Decision. Thus, We shall not belabor to repeat the discussions already made.

Nonetheless, the Court emphasizes that the authority of the local treasurer to file a judicial action without authorization from the Sanggunian is limited to *collection* of taxes.

As ruled in the assailed *Decision*:

> When directed by this Court to submit proof of their authorities to cause the filing of the instant Petition for Review issued by their respective *sanggunian*, petitioners explained that the *sanggunian* authority is not necessary considering that the LGC expressly authorized local government units through their *local treasurers* to enforce the collection of the basic RPT in any court of competent jurisdiction. Petitioners cited Sections 183 and 266 of the LGC, *viz.*:
>
>> SEC. 183. *Collection of Delinquent Taxes, Fees, Charges or other Revenues through Judicial Action.* — The local government unit concerned may enforce the collection of delinquent taxes, fees, charges, or other revenues by civil action in any court of competent jurisdiction. **The civil action shall be filed by the local treasurer within the period prescribed in Section 194 of this Code**.
>>
>> SEC. 266. *Collection of Real Property Tax Through the Courts.* — The local government unit concerned may enforce the collection of the basic real property tax or any other tax levied under this Title by civil action in any court of competent jurisdiction. **The civil action shall be filed by the local treasurer within the period prescribed in Section 270 of this Code.**
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> Petitioners further explained that this Petition is a continuation of the case originally filed by the respondent before the LBAA, which seeks to refund the RPT it paid under protest. In the said case, petitioners were impleaded as respondents and ordered to file their respective answers and comments. Requiring authorization from the *sanggunian* before filing their answer would be impractical.
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> The Court *En Banc* agrees with respondent.

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> Although Sections 183 and 266 of the LGC authorize the local treasurer to collect delinquent taxes, fees, charges, or other revenues and real property tax through judicial action, said provisions show that such authority applies specifically to a collection case. **The instant Petition does not involve collecting delinquent taxes or real property tax by the Provincial and OIC Municipal Treasurers.** This case emanated from respondent's claim for refund or credit of the subject RPT before the LBAA and was appealed by petitioners before the CBAA. The present Petition assails the decision of the CBAA, which denied petitioners' appeal. The discharge of any other powers may only be made by authority of law or by an ordinance. (*Emphases supplied*)

As found by the Court and *as admitted by petitioners*, the Petition for Review does not involve a collection case filed by the Provincial/Municipal Treasurer, but an appeal originated from the protest filed by respondent over an assessment for RPT.

It is settled that LGUs have the power to sue under Section 22 of the LGC.[2] Said provision must be read in harmony with the powers of the Provincial Governor under Section 465 (b) (3) (vii), in relation to the corporate powers of the Sangguniang Panlalawigan under Section 468 (1) (vii) of the LGC, to wit:

> SEC. 465. *The Chief Executive: Powers, Duties, Functions, and Compensation.* - (a) The provincial governor, as the chief executive of the provincial government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.
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> (b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:
>
> ... ...
>
> (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section

[2] SEC. 22. *Corporate Powers.* —

(a) Every local government unit, as a corporation, shall have the following powers:

... ...

(2) To sue and be sued.

> 18[3] of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress and, relative thereto, shall:
>
> ... ...
>
> (vii) Institute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes, fees or charges, and for the recovery of funds and property; and **cause the province to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected.** (*Emphasis supplied*)
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> SEC. 468. *Powers, Duties, Functions and Compensation.* - (a) The Sangguniang Panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:
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> (1) Approve ordinances and pass resolutions necessary for an efficient and effective provincial government and, in this connection, shall:
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> ... ...
>
> (vii) Subject to the provisions of this Code and pertinent laws, determine the powers and duties of officials and employees of the province;

Given the foregoing, petitioners should have secured prior authorization from the Sanggunian before filing their petition since there is no express power or authority given to the local treasurer to institute an appeal. Or petitioners should have secured a Verification and Certification of Non-Forum Shopping from their provincial governor who has the power to institute or cause to be instituted judicial proceedings or cause the province to be defended against all suits to ensure that its interests, resources, and rights shall be adequately protected.

[3] SEC. 18. *Power to Generate and Apply Resources.* - Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenue and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and which shall be retained by them; to have a just share in national taxes which shall be automatically and directly released to them without need of any further action; to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits; to acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes, in the exercise or furtherance of their governmental or proprietary powers and functions and thereby ensure their development into self-reliant communities and active participants in the attainment of national goals.

More, the powers and duties of the local treasurer as outlined in Section 470 (d) do not include the power to file an appeal in the proper court on behalf of the concerned LGU, to wit:

> ARTICLE II
> The Treasurer
>
> SEC. 470. *Appointment, Qualifications, Powers, and Duties.-* ...
>
> (d) The treasurer shall take charge of the treasury office, perform the duties provided for under Book II of this Code, and shall:
>
> (1) Advise the governor or mayor, as the case may be, the sanggunian, and other local government and national officials concerned regarding disposition of local government funds, and on such other matters relative to public finance;
>
> (2) Take custody of and exercise proper management of the funds of the local government unit concerned;
>
> (3) Take charge of the disbursement of all local government funds and such other funds the custody of which may be entrusted to him by law or other competent authority;
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> (4) Inspect private commercial and industrial establishments within the jurisdiction of the local government unit concerned in relation to the implementation of tax ordinances, pursuant to the provisions under Book II of this Code;
>
> (5) Maintain and update the tax information system of the local government unit;
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> (e) In the case of the provincial treasurer, exercise technical supervision over all treasury offices of component cities and municipalities; and
>
> (f) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Indeed, there is no express provision granting powers to petitioners to file the instant Petition for Review with the Court.

Given petitioners' failure to submit proof of the said authority from the Sanggunian or the Provincial Governor, the Petition for Review must be **dismissed**.

Also, even if there is a valid ground for the outright dismissal of the Petition for Review, the Court still ruled on its substantive merits and found that EO No. 88 is applicable in this case as it covers the subject taxable years 2002-2015. This issue was exhaustively addressed by the Court in the assailed Decision and We find no compelling reason to modify or reverse the said ruling.

WHEREFORE, premises considered, petitioners' *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

(I maintain my D.O.)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(I maintain my CDO)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice