REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SMART COMMUNICATIONS, INC., *Petitioner,*	**CTA *EB* NO. 1671** **(CTA AC NO. 176)**
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
THE MUNICIPALITY OF JONES, ISABELA, Rep. by the Hon. Municipal Mayor Leticia T. Sebastian and Municipal Treasurer Abelardo Salvador *Respondent.*	Promulgated: OCT 08 2018 9:18 a.m.

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DECISION

MANAHAN, J.:

This resolves the *Petition for Review*[1] filed by Smart Communications, Inc. on July 5, 2017 pursuant to Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended,[2], which prays for the reversal and setting aside of the February 21, 2017 *Resolution*[3] and May 25, 2017 *Resolution,*[4] promulgated by the Third Division of the Court of Tax Appeals (CTA) in CTA AC No. 176, entitled "*Smart Communications, Inc. vs. The Municipality of Jones, Isabela, Rep. by the Hon. Municipal Mayor Leticia T. Sebastian and*

[1] *Rollo*, CTA EB No. 1671, pp. 11-26.

[2] Rules of the Court of Tax Appeals – approved by the Supreme Court on November 22, 2005 (A.M. No. 05-11-07-CTA); Amendments to the 2005 Rules of Court of the Court of Tax Appeals – approved by the Supreme Court on September 16, 2008 (A.M. No. 05-11-07-CTA; and Additional Amendments to the 2005 Revised Rules of the Court of Tax Appeals – approved by the Supreme Court on February 10, 2009 (A.M. No. 05-11-07-CTA).

[3] *Rollo*, Annex "B", pp. 29-32.

[4] *Rollo*, Annex "C", pp. 33-36.

Municipal Treasurer Abelardo Salvador," and remanding the case to the Court in Division.

The dispositive portions of the assailed resolutions read:

Resolution[5] dated February 21, 2017:

> "**WHEREFORE**, premises considered, the present Petition for Review is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

Resolution[6] dated May 25, 2017:

> "**WHEREFORE**, premises considered, petitioner's Motion for Reconsideration (Re: Resolution dated February 21, 2017) is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**."

The Facts

Petitioner Smart Communications, Inc. is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal address at the Smart Tower, 6790 Ayala Avenue, Makati City. It is also a holder of a legislative franchise under Republic Act No. 7294.[7]

Respondent Municipality of Jones is a local government unit (LGU) in the province of Isabela and represented by Municipal Mayor Leticia T. Sebastian and Municipal Treasurer Abelardo Salvador.[8]

Petitioner constructed a telecommunications tower in the Municipality of Jones to expand and improve its services to its customers in Isabela.[9]

On March 11, 2009, respondent's Sangguniang Bayan (SB) enacted Ordinance No. 2009-003, otherwise known as the "Ordinance Regulating the Conduct and Operation of Towers

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[5] *Supra,* Note 3.
[6] *Supra,* Note 4.
[7] *Rollo,* Petition for Review, p. 12; Petitioner's Memorandum, p.146.
[8] *Id.*
[9] *Id.,* Petitioner's Memorandum, p. 146; Respondent's Memorandum, p. 164.

and Imposing an Annual Tower Fee for the Operation of Cell Cites for Commercial purposes within the Municipality of Jones, Isabela" which was approved by the Municipal Mayor on March 19, 2009.[10]

Section 4 of said Ordinance imposes an annual regulatory fee for the operation of the tower at the rate of Two Hundred Thousand (Php200,000.00) pesos.[11]

On April 5, 2011, respondent's Municipal Treasurer issued a Demand Letter which assessed petitioner for the said tower effective taxable year (TY) 2009.[12]

On August 12, 2011, petitioner filed a petition before the Regional Trial Court (RTC), Second Judicial Region, Branch 24, Echague, Isabela docketed as Special Civil Action No. 24-2014-05 for Certiorari and Prohibition under Rule 65 of the Rules of Civil Procedure.[13]

In the said petition, petitioner asked the said Court to issue a Temporary Restraining Order (TRO) prohibiting the herein respondent from further imposing the assailed tower fees.[14]

Said petition was eventually dismissed by the said RTC in its Decision dated August 2, 2016[15] stating that the "instant special civil action for certiorari and prohibition is not the proper action and therefore dismissible" and the "instant petition do not have legal and factual basis."[16] Petitioner asked the RTC for a reconsideration of its decision but the same was also denied by the said Court in its Order dated September 14, 2016.[17]

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[10] *Rollo*, Petition for Review, Annex "E", pp. 38-40; Petitioner's Memorandum, pp. 146-147; Respondent's Memorandum, pp. 164-165.
[11] *Id.*, Annex "E", p. 38; Petitioner's Memorandum, p. 146; Respondent's Memorandum, p. 165.
[12] *Id.*, Annex "F", p. 41; Petitioner's Memorandum, p. 147; Respondent's Memorandum, p. 165.
[13] *Id.*, Annex "G", pp. 42-60; Petitioner's Memorandum, p. 147; Respondent's Memorandum, p. 165.
[14] *Id.*, Annex "G", p. 59; Petitioner's Memorandum, p. 147; Respondent's Memorandum, p. 165.
[15] *Id.*, Annex "J", pp. 90-104; Petitioner's Memorandum, p. 147; Respondent's Memorandum, p. 165.
[16] *Id.*, Annex "J", p. 103.
[17] *Id.*, Annex "K", pp. 105-106; Petitioner's Memorandum, p. 147; Respondent's Memorandum, p. 165.

Thus, petitioner appealed said assailed RTC Decision and Order through a Petition for Review[18] to the Court in Division which subsequently dismissed said petition under the assailed resolutions[19] for lack of jurisdiction.

On May 7, 2017, petitioner filed the instant Petition for Review after this Court granted[20] its motion[21] for extension of time to file it.

Respondent was directed[22] to file its Comment[23] on said petition which the former filed on August 29, 2017 through registered mail and received by this Court on September 4, 2017.

On September 20, 2017,[24] both parties were directed to submit their respective memoranda. Petitioner submitted its Memorandum[25] on November 8, 2018 through registered mail and received by this Court on November 10, 2017 while respondent submitted its Memorandum[26] on November 16, 2017 through registered mail also and received by this Court on November 22, 2018. On January 3, 2018, the case was submitted for decision.[27]

The Issue

Whether or not the subject matter in the petition is within the jurisdiction of the Court of Tax Appeals.

Arguments of Petitioner[28]

Petitioner argues that this Court has jurisdiction to determine the constitutionality or validity of tax laws citing the case of *Banco De Oro et al. v. Republic of the Philippines et al.*[29]

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[18] Rollo, Petition for Review, Annex "L", pp. 107-120; Petitioner's Memorandum, p. 147; Respondent's Memorandum, p. 165.
[19] *Supra,* Notes 3 and 4.
[20] *Rollo,* p. 5.
[21] *Id.,* pp. 1-3.
[22] *Id.,* Resolution dated July 25, 2017, pp. 128-129.
[23] *Id.,* pp. 130-140.
[24] *Id.,* Resolution dated September 20, 2017.
[25] *Id.,* pp. 145-162.
[26] *Id.,* pp. 164-174.
[27] Id., Resolution dated January 3, 2018, pp. 177-178.
[28] *Supra.,* Note 25.
[29] G.R. No. 198756, August 16, 2016.

Arguments of Respondent[30]

On the other hand, respondent argues that the instant petition is merely a rehash of petitioner's arguments already addressed and adjudicated in the Court in Division.

Ruling of the Court *En Banc*

We agree with the decision of the Court in Division and the RTC.

The factual antecedent of the instant case reveals that the matter which the petitioner elevated before this Court is a decision of the lower court that does not involve a local tax case but a judgment on a certiorari and prohibition case under Rule 65 of the Revised Rules of Court. More specifically, it pertains to an action questioning the validity and constitutionality of an ordinance of which this Court is devoid of any jurisdiction.

The subject matter of the case is Ordinance No. 2009-003 which partakes of the nature of a regulatory fee instead of a local tax which may be questioned under Section 187 of Republic Act (RA) No. 7160, otherwise known as the Local Government Code (LGC) of 1991, to wit:

> **Section 187**. *Procedure for Approval and Effectivity of Tax, Ordinances and Revenue Measures; Mandatory Public Hearings.* - The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: Provided, That public hearings shall be conducted for the purpose prior to the enactment thereof: Provided, further, That **any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal**: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: Provided, finally, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction. (*Emphasis supplied*)

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[30] *Supra.*, Note 26.

The abovementioned provision requires that any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal before the Secretary of Justice (SOJ). This is the administrative remedy given to the taxpayer who will question the validity of a tax ordinance. Failure on the part of the petitioner to exhaust such remedy is fatal to its case.

In *Marichu G. Ejera v. Beau Henry L. Merto and Erwin Vergara*,[31] the Supreme Court explains the necessity of exhausting one's administrative remedy and the effect of its non-observance, to wit:

> Thirdly, the rule requiring the exhaustion of administrative remedies rests on the principle that the administrative agency, if afforded a complete chance to pass upon the matter again, will decide the same correctly. There are both legal and practical reasons for the rule. The administrative process is intended to provide less expensive and speedier solutions to disputes. Where the enabling statute indicates a procedure for administrative review and provides a system of administrative appeal or reconsideration, therefore, the courts – for reasons of law, comity and convenience – will not entertain a case unless the available administrative remedies have been resorted to and the appropriate authorities have been given an opportunity to act and correct the errors committed in the administrative forum.
>
> The importance and value of the exhaustion of administrative remedies as a condition before resorting to judicial action cannot be brushed aside. As the Court points out in *Universal Robina Corp. (Corn Division) v. Laguna Lake Development Authority*:
>
>> The doctrine of exhaustion of administrative remedies is a cornerstone of our judicial system. The thrust of the rule is that courts must allow administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence. The rationale for this doctrine is obvious. It entails lesser expenses and provides for the speedier resolution of controversies. Comity and convenience also impel courts of justice to shy away from a dispute until the system of administrative redress has been completed.
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> xxx xxx

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[31] G.R. No. 163109, January 22, 2014.

> Moreover, **the non-observance of the doctrine of exhaustion of administrative remedies resulted in the complaint having no cause of action**. Hence, the RTC and the CA correctly dismissed the case. (Emphasis supplied)

In *Commissioner of Internal Revenue v. Court of Tax Appeals (Second Division) et al.*,[32] the Supreme Court ruled on the mandatory observance of such doctrine, to wit:

> Verily, the fact that there is no decision by the COC to appeal from highlights Petron's failure to exhaust administrative remedies prescribed by law. **Before a party is allowed to seek the intervention of the courts, it is a pre-condition that he avail of all administrative processes afforded him, such that if a remedy within the administrative machinery can be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must be exhausted first before the court's power of judicial review can be sought, otherwise, the premature resort to the court is fatal to one's cause of action.** While there are exceptions to the principle of exhaustion of administrative remedies, it has not been sufficiently shown that the present case falls under any of the exceptions. (*Emphasis suppl*ied)

Also, 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.[33] Section 7(a)(3) of Republic Act (RA) No. 1125, as amended by RA Nos. 9282 and 9503, provides:

> "SEC. 7. *Jurisdiction*. – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 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 2(a)(2) of Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

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[32] *Supra.*, Note 31.
[33] *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014.

> "SEC. 2. *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> (a) Decisions or resolutions on motions for reconsideration or new trial of the court in Division in the exercise of its appellate jurisdiction:
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> xxx xxx
>
> (2) **Local tax cases** decided by the Regional Trial Courts in the exercise of their original jurisdiction; and (*Emphasis supplied*)

As shown in the abovementioned facts, the matter raised before this Court is not a local tax case but a petition for certiorari and prohibition on the implementation of an ordinance, hence, the Court has no jurisdiction.

In *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*,[34] the Supreme Court ruled that

> 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. 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*)

The citation of the case of *Banco De Oro et al. v. Republic of the Philippines et al.*[35] by petitioner, wherein the Supreme Court ruled that this Court can rule on the constitutionality or validity of a tax law or regulation, does not apply to the case at hand. The assailed ordinance does not partake the nature of a revenue or tax measure but a regulatory fee in the exercise of

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[34] G.R. No. 185666, February 4, 2015.
[35] Supra, Note 29. *on*

the police power of the respondent. As the Supreme Court held in *Banco De Oro* case, to wit:

> The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation **when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund.** It is only in the lawful exercise of its power to pass upon all maters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.
>
> This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings).
>
> 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.
>
> 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*)

Further, the tax law, regulation, or administrative issuance that may be the subject of such question relative to its constitutionality pertains to the issuances of the Bureau of Internal Revenue, with the exception of local taxes.

In the instant case, the subject matter was neither disputing an assessment nor claiming for refund but asking for a TRO and prohibiting the respondent LGU from collecting the annual tower fee embodied in the assailed ordinance. Petitioner should have first observed the appellate procedure outlined in Section 187 of the 1991 LGC, which is to appeal before the SOJ.

Thus, the dismissal made by the Court in Division is proper in the instant case considering that the issue elevated in this Court is not a local tax case. *un*

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. The February 21, 2017 *Resolution*[36] and May 25, 2017 *Resolution*[37] of the CTA Third Division in CTA AC No. 176, are hereby **AFFIRMED**.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(joins J. JCC's Separate Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

(With Separate Concurring Opinion)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

(joins J. JCC's Separate Concurring Opinion)
ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(joins J. JCC's Separate Concurring Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[36] *Supra*, Note 3.
[37] *Supra*, Note 4.

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SMART COMMUNICATIONS, INC.,
Petitioners,

CTA EB No. 1671
(CTA AC No. 176)

Present:

Del Rosario, P.J.
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, and
Manahan, JJ.

- versus –

THE MUNICIPALITY OF JONES, ISABELA, Rep. by the Hon. Municipal Mayor Leticia T. Sebastian and Municipal Treasurer Abelardo Salvador,
Respondent.

Promulgated:

OCT 08 2018
4:18 p.m.

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SEPARATE CONCURRING OPINION

CASTAÑEDA, JR., J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Catherine T. Manahan in denying Smart Communications, Inc.'s Petition for Review for lack of merit. I agree with the *ponencia* in holding that this Court has no jurisdiction over the present case because the decision of the lower court does not involve a local tax case.

However, given the fact that the assailed ordinance is primarily regulatory and the fees being imposed thereunder are not in the nature of local taxes, Section 187 of the Local Government Code, which outlines the procedure for questioning the constitutionality of a tax ordinance or revenue measure, is inapplicable in the present case.[1]

I wish to point out also that in the case of *Banco De Oro et. al. v. Republic*,[2] the Supreme Court had firmly established the doctrine that the Court of Tax Appeals (CTA) has exclusive jurisdiction to determine the validity or constitutionality of tax laws, rules and regulations and other administrative issuances, **regardless of whether the same are raised directly, through an appropriate action for directly challenging the validity or constitutionality of laws and regulations, or indirectly, such as when these issues are raised by the taxpayer as a defense in disputing or contesting an assessment or in claiming a refund.** As lucidly held by the Supreme Court, to wit:

> "We revert to the earlier rulings in *Rodriguez*, *Leal*, and *Asia International Auctioneers, Inc*. **The Court of Tax Appeals has exclusive jurisdiction to determine the constitutionality or validity of tax laws, rules and regulations, and other administrative issuances of the Commissioner of Internal Revenue.**
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> x x x x x x x x x
>
> **Section 7, as amended, grants the Court of Tax Appeals the exclusive jurisdiction to resolve all tax-related issues:**
>
> Section 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue; *gr*

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[1] See *Smart Communications, Inc. v. Municipality of Malvar, Batangas*, G.R. No. 204429, February 18, 2014.
[2] G.R. No. 198756, August 16, 2016, 800 SCRA 392 ("*Banco De Oro*").

2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

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;

4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

6) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;

7) Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Section 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may

appeal the decision to impose or not to impose said duties.

The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund. It is only in the lawful exercise of its power to pass upon all matters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.

This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings).

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.

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.

Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. **Except for local tax cases, actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals.**

Furthermore, with respect to administrative issuances (revenue orders, revenue memorandum circulars, or rulings), these are issued by the Commissioner under its power to make rulings or opinions in connection with the implementation of the provisions of internal revenue laws. Tax rulings, on the other hand, are official positions of the Bureau on inquiries of taxpayers who request clarification on certain provisions of the National Internal Revenue Code, other tax laws, or their implementing regulations. Hence, the determination of the validity of these issuances clearly falls within the exclusive appellate jurisdiction of the Court of Tax Appeals under Section 7 (1) of Republic Act No. 1125, as amended, subject to prior review by the Secretary of Finance, as required under Republic Act No. 8424." *(Emphasis and underscoring supplied; citations omitted)*

It bears emphasizing that the Supreme Court, in the recent case of *Commissioner of Internal Revenue v. Court of Tax Appeals and Petron Corporation*,[3] had confirmed that its ruling in *Banco De Oro* stands as the prevailing jurisprudence on the matter, *i.e.*, the CTA's jurisdiction to determine the validity or constitutionality of a particular tax regulation, ruling, or issuance. The Supreme Court went even further by stating that the apparent conflicting jurisprudence on the matter involving its 2008 *En Banc* ruling in *British American Tobacco v. Camacho et. al.*[4] and its 2014 Third Division ruling in *The Philippine American Life and General Insurance Company v. The Secretary of Finance*[5] has been seemingly settled in *Banco De Oro*.[6]

In the present appeal, however, the doctrine laid down in *Banco De Oro* does not apply because, as stated above, the assailed ordinance is primarily regulatory and the fees being imposed thereunder are not in the nature of local taxes. The subject matter of present appeal is, therefore, outside the ambit of this Court's jurisdiction.

In view of the foregoing, I vote to **DENY** the present Petition for Review.

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

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[3] G.R. No. 207843 (Resolution), February 14, 2018.
[4] G.R. No. 163583, August 20, 2008, 584 Phil. 489.
[5] G.R. No. 210987, November 26, 2014, 747 Phil. 811.
[6] *Supra*, Note 3 at pp. 4-5.