REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

NATIONAL TRANSMISSION CORPORATION (TRANSCO)
Petitioner,

CTA AC NO. 239

Present:

RINGPIS-LIBAN, *Chairperson*,
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

vs.

PROVINCE OF DAVAO DEL SUR, REPRESENTED BY ITS PROVINCIAL TREASURER MR. ABEL A. GUINARES,
Respondent.

Promulgated:
OCT 31 2024

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DECISION

FERRER-FLORES, J.:

Before this Court is a *Petition for Review*[1] filed on October 1, 2020 by **National Transmission Corporation (petitioner/TransCo)** against the **Province of Davao del Sur (respondent Province)**, assailing the Judgment dated July 1, 2019[2] *(assailed Judgment)* and the Order dated March 9, 2020 *(assailed Order)*,[3] both rendered by the Regional Trial Court of Digos City, Davao del Sur– Branch 19 (**RTC/court *a quo***), in Civil Case No. 4989, entitled *"National Transmission Corporation (TransCo) versus Province of Davao del Sur, represented by its Provincial Treasurer, Mr. Abel A. Guinares"*, the dispositive portions of which respectively read as follows:

Assailed Judgment

> **WHEREFORE**, in view of the foregoing, this Court hereby UPHOLDS the validity of the assessment issued by the defendant Province

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[1] Docket, pp. 18 to 41.
[2] Docket, pp. 46 to 53; RTC Docket (Civil Case No. 4989) – Record 2, pp. 333 to 340.
[3] Docket, pp. 54 to 56; RTC Docket (Civil Case No. 4989) – Record 3, pp. 382 to 384.

of Davao del Sur through its Provincial Treasurer defendant, against the plaintiff, National Transmission Corporation (TRANSCO).

Consequently, herein plaintiff National Transmission Corporation is hereby directed to pay the franchise taxes assessed by the Province of Davao del Sur from the years 2004 to 2008. Plaintiff is thus directed to provide the appropriate assessment only from year 2004 to 2008.

SO ORDERED.

Assailed Order

WHEREFORE, based on the foregoing, the instant ***Motion for Reconsideration*** is hereby **DENIED** for lack of merit.

THE PARTIES

Petitioner TransCo is a government instrumentality created by virtue of Republic Act (R.A.) No. 9136, the Electric Power Industry Reform Act of 2001 (EPIRA), with principal office at BIR Road cor. Quezon Avenue, Diliman, Quezon City.[4]

Respondent Province is a local government unit (LGU) duly created and organized under the laws of the Philippines, with capacity to sue and be sued. It is represented herein by Mr. Abel A. Guinares, the Provincial Treasurer, with office address at Provincial Capitol, Matti, Digos City.[5]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On August 7, 2009, petitioner received from the Provincial Treasurer of respondent Province the *Assessment Notice* dated August 6, 2009,[6] informing petitioner of its franchise tax liabilities for the years 2002 to 2008 in the aggregate amount of ₱4,072,119.78. The assessed amount was based on the Summary of Power Bill Payments of Davao Del Sur Electric Cooperative (DASURECO) to petitioner during the said period.

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4 Par. 5, The Parties, petitioner TransCo's *Appeal*, RTC Docket (Civil Case No. 4989) – Record 1, p. 2, vis-à-vis par. 1, respondent Province of Davao del Sur's *Answer*, RTC Docket (Civil Case No. 4989) – Record 1, p. 81.

5 Par. 6, The Parties, petitioner TransCo's *Appeal*, RTC Docket (Civil Case No. 4989), pp. 2 to 3, vis-à-vis par. 1, respondent Province of Davao del Sur's *Answer*, RTC Docket (Civil Case No. 4989), p. 81.

6 Exhibit "A", RTC Docket (Civil Case No. 4989) – Record 1, pp. 11 to 13; Exhibits "1" and "3" and "3-A", RTC Docket (Civil Case No. 4989) – Record 2, pp. 326 and 329 to 330, respectively.

Through the *Letter* dated September 3, 2009 *(Letter-Protest)*,[7] petitioner protested the said assessment and demanded that the same be set aside on the ground that, although its Matanao Substation is located in the Province of Davao del Sur, its customer DASURECO is situated within the City of Digos, which is outside the territorial jurisdiction of the said province; hence, the requisites for franchise tax to accrue under Art. 226(a) of the Implementing Rules and Regulations (IRR) of the Local Government Code (LGC), as held in the case of *National Power Corporation vs. City of Cabanatuan*,[8] were not present.

In reply to petitioner's protest, respondent issued the *Revised Assessment Notice* dated November 4, 2009[9] showing a reduced franchise tax assessment of ₱2,578,566.78. Petitioner received the same on November 10, 2009.[10] As indicated in the notice, the said amount was arrived at by excluding from the initial assessed amount of ₱4,072,119.78 the portion pertaining to Digos City in the sum of ₱1,493,553.00.

THE PROCEEDINGS BEFORE THE RTC

Due to respondent's denial of its protest, petitioner filed an *Appeal* before the court *a quo* on December 1, 2009.[11] The case was docketed as Civil Case No. 4989, and was raffled to RTC – Branch 19.[12]

Respondent submitted its *Appellee's Memorandum* on March 1, 2010,[13] while petitioner filed its *Appellant's Memorandum* only on July 7, 2010.[14]

On June 16, 2010, RTC – Branch 19 promulgated a Decision denying petitioner's appeal and upholding respondent's franchise tax assessment of ₱2,578,566.78.[15] In view thereof, the Order dated August 5, 2010[16] was issued rendering the *Appellant's Memorandum* moot and academic.

Not satisfied, petitioner filed a *Motion for Reconsideration* on July 25, 2010.[17] Respondent filed its *Comment (To Appellant's Motion for*

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[7] Exhibit "B", RTC Docket (Civil Case No. 4989) – Record 1, pp. 14 to 15.
[8] G.R. No. 149110, April 9, 2003.
[9] Exhibit "2", RTC Docket (Civil Case No. 4989) – Record 2, pp. 327 to 328.
[10] Exhibit "C", RTC Docket (Civil Case No. 4989) – Record 1, p. 16.
[11] RTC Docket (Civil Case No. 4989) – Record 1, pp. 1 to 9.
[12] RTC Docket (Civil Case No. 4989) – Record 1, p. 19.
[13] RTC Docket (Civil Case No. 4989) – Record 1, pp. 23 to 29.
[14] RTC Docket (Civil Case No. 4989) – Record 1, pp. 43 to 49.
[15] RTC Docket (Civil Case No. 4989) – Record 1, pp. 36 to 42.
[16] RTC Docket (Civil Case No. 4989) – Record 1, p. 59.
[17] RTC Docket (Civil Case No. 4989) – Record 1, pp. 51 to 57.

Reconsideration) on August 5, 2010.[18] In the Order dated February 16, 2011,[19] RTC – Branch 19 ordered the setting aside of the proceedings earlier made in the exercise of its *appellate* jurisdiction for being inconsistent with the judicial pronouncement of the Supreme Court that the review taken by the RTC over the denial of the protest by the local treasurer would fall within its *original* jurisdiction.

Thus, summons was issued directing respondent to file an answer,[20] which it filed on March 9, 2011. In its *Answer*,[21] respondent interposed certain special and affirmative defenses, to wit: (1) the complaint has no basis and cause of action since the assessment franchise tax is in the exercise of the respondent's power to tax which is clearly warranted under the Constitution and the Omnibus Tax Code of the Province of Davao del Sur; (2) based on law and jurisprudence, petitioner is liable to pay franchise tax for the receipts realized within the jurisdiction of the respondent because it is clearly operating within said Province; (3) as such, respondent has all the right to assess and collect franchise tax; and, (4) the alleged authorized representative lacks legal personality to sue on behalf of petitioner since a board resolution duly attested to by the corporate secretary authorizing him for the purpose is wanting.

On April 4, 2011, RTC – Branch 19 issued an Order wherein the proceedings were suspended for thirty (30) days, and the case was referred to the Philippine Mediation Center.[22] However, the parties were not able to settle.[23]

Accordingly, the Preliminary Conference was set on August 8, 2011[24] but was reset to October 19, 2011,[25] and further reset to,[26] and eventually held on, January 10, 2012.[27] Prior thereto, petitioner's *Pre-Trial Brief* was posted on October 21, 2011;[28] while respondent's *Pre-Trial Brief* was filed on November 18, 2011.[29]

[18] RTC Docket (Civil Case No. 4989) – Record 1, pp. 60 to 62.
[19] RTC Docket (Civil Case No. 4989) – Record 1, pp. 76 to 78.
[20] RTC Docket (Civil Case No. 4989) – Record 1, p. 79.
[21] *Answer with Special and Affirmative Defenses and Counterclaim*, RTC Docket (Civil Case No. 4989) – Record 1, pp. 81 to 91.
[22] Order dated April 4, 2011, RTC Docket (Civil Case No. 4989) – Record 1, pp. 94 to 95.
[23] Mediator's Report dated May 26, 2011, RTC Docket (Civil Case No. 4989) – Record 1, p. 96.
[24] Order dated June 6, 2011, RTC Docket (Civil Case No. 4989) – Record 1, p. 97.
[25] Order dated August 8, 2011, and Notice Preliminary Conference dated October 4, 2011, RTC Docket (Civil Case No. 4989) – Record 1, pp. 98 to 99.
[26] Order dated November 24, 2011, RTC Docket (Civil Case No. 4989) – Record 1, p. 114.
[27] Preliminary Conference dated January 10, 2012, and Minutes of Preliminary Conference, RTC Docket (Civil Case No. 4989) – Record 1, pp. 116 to 126.
[28] RTC Docket (Civil Case No. 4989) – Record 1, pp. 102 to 107.
[29] RTC Docket (Civil Case No. 4989) – Record 1, pp. 109 to 113.

Subsequently, the Pre-Trial Conference was set and held on January 17, 2012.[30] On the same day, a Pre-Trial Order was issued by the RTC – Branch 19.[31]

Trial then ensued, and both parties' respective documentary and testimonial evidence were admitted.[32]

Thereafter, RTC – Branch 19 promulgated the assailed Judgment on July 1, 2019.[33]

A *Motion for Reconsideration (Re: Decision dated 1 July 2019)* was then filed by petitioner on October 4, 2019.[34] Subsequently, RTC-Branch 19 issued the assailed Order denying petitioners' *Motion for Reconsideration* on March 9, 2020.[35]

THE PROCEEDINGS BEFORE THIS COURT

Petitioner filed with this Court a *Motion for Extension of Time to File a Petition for Review* on September 15, 2020,[36] which was granted in the Resolution dated October 5, 2020.[37]

In the meantime, petitioner filed the present *Petition for Review* on October 1, 2020.[38]

In the Resolution dated October 21, 2020,[39] this Court ordered petitioner to submit a compliant Amended Verification and Certification of Non-Forum Shopping within 10 days from notice.

Petitioner posted its *Compliance (to the Resolution dated 26 October 2020)*, attaching therein the *Certification of Non-Forum Shopping* and *Secretary's Certificate,* on December 18, 2020.[40]

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[30] Notice of Pre-Trial Conference dated January 10, 2012, and Minutes of the Session dated January 17, 2012, RTC Docket (Civil Case No. 4989) – Record 1, pp. 127 and 132, respectively.
[31] RTC Docket (Civil Case No. 4989) – Record 1, pp. 128 to 130.
[32] Order dated September 16, 2014, RTC Docket (Civil Case No. 4989) – Record 2, p. 258; Order dated December 19, 2018, RTC Docket (Civil Case No. 4989) – Record 2, p. 331.
[33] RTC Docket (Civil Case No. 4989) – Record 2, pp. 333 to 340.
[34] RTC Docket (Civil Case No. 4989) – Record 2, pp. 341 to 358.
[35] RTC Docket (Civil Case No. 4989) – Record 3, pp. 382 to 384.
[36] Docket, pp. 5 to 9.
[37] Docket, pp. 142 to 143.
[38] Docket, pp. 18 to 41.
[39] Docket, pp. 145 to 146.
[40] Docket, pp. 147 to 154.

In the Resolution dated February 11, 2021,[41] the Court directed the Branch Clerk of Court of RTC – Branch 19 to certify and elevate the entire RTC records of the case within 10 days from notice.

Respondent then posted its *Comment* on April 16, 2021.[42] In the Minute Resolution dated May 27, 2021,[43] the Court ordered respondent to file two additional copies of its comment within five days from notice.

Since the RTC records were not forwarded to this Court, the Resolution dated December 13, 2022 was thus issued,[44] requiring once again the Branch Clerk of Court of RTC – Branch 19 to certify and elevate the entire original records of the case within 10 days from notice, and for respondent to submit two additional copies of its comment.

In compliance, the entire original RTC records, consisting of three folders with a total of 532 pages, and one folder containing the transcript of stenographic notes, were certified and transmitted by the Branch Clerk of Court of RTC – Branch 19 on February 21, 2023.[45]

Subsequently, the Court gave due course to the *Petition for Review*, and granted the parties a period of 30 days from notice, within which to file their respective memoranda.[46] Petitioner and respondent posted their memoranda on May 15, 2023[47] and September 6, 2023, respectively.[48]

The present case was then submitted for decision on November 8, 2023.[49]

THE STIPULATED ISSUES

In the present *Petition for Review*, petitioner raised the following issues, to wit:

a. Whether or not the respondent Province has legal basis or authority to assess franchise tax; and,

[41] Docket, pp. 162 to 163.
[42] Docket pp. 165 to 169.
[43] Docket, p. 173.
[44] Docket, pp. 197 to 199.
[45] *Compliance with Most Humble Manifestation*, Docket, pp. 200 to 224.
[46] Resolution dated March 17, 2023, Docket, pp. 230 to 231.
[47] Docket, pp. 238 to 258.
[48] Docket, pp. 273 to 284.
[49] Resolution dated November 8, 2023, Docket, pp. 294 to 296.

b. Whether or not respondent Province has tax situs.[50]

Petitioner's arguments:

Petitioner contends that respondent Province has no tax situs; that the assumption by petitioner of the transmission business of the National Power Corporation (NPC) did not make it liable to franchise tax; that the Supreme Court's ruling in *National Power Corporation vs. Provincial Government of Bataan, et al.*[51] supports the arguments of petitioner; and, that petitioner is a separate and distinct entity from DASURECO.

Respondent's counter-arguments:

On the other hand, respondent contends that it has jurisdiction to assess and collect franchise tax from petitioner; that the substation in Matanao is considered a branch office; and, that respondent Province has the situs of tax.

THE RULING OF THE COURT

The present *Petition for Review* is meritorious.

The power of LGUs to tax emanates from Section 5, Article X of the Constitution, which empowers them to create their own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide.[52] These guidelines and limitations as provided by Congress are mainly contained in the LGC of 1991, which provides for comprehensive instances when and how LGUs may impose taxes.[53]

One such power to tax granted to LGUs is the imposition of franchise tax embodied in Section 137 of the LGC of 1991 which reads:

> SECTION 137. *Franchise Tax.* - Notwithstanding any exemption granted by any law or other special laws, **the province may impose a tax on businesses enjoying a franchise,** at a rate not exceeding fifty percent (50%) of one percent (1 %) of the gross annual receipts for the preceding calendar year **based on the incoming receipt, or realized, within its territorial jurisdiction.** xxx xxx xxx *(Emphasis supplied)*

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[50] Issues, *Petition of Review*, Docket, p. 22.
[51] G.R. No. 180654, March 6, 2017.
[52] *Smart Communications, Inc. vs. City of Davao, et al.*, G.R. No. 155491, July 21, 2009.
[53] *Luz R. Yamane, in her capacity as the City Treasurer of Makati City vs. BA Lepanto Condominium Corporation*, G.R. No. 154993, October 25, 2005.

In line with this, Article 226(a) and (b) of IRR of the LGC of 1991 clarifies:

> ARTICLE 226. *Franchise Tax.* – (a) Notwithstanding any exemption granted by any law or other special law, **the province may impose a tax on businesses enjoying a franchise**, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts, which shall include both cash sales and sales on account realized during the preceding calendar year **within its territorial jurisdiction, excluding the territorial limits of any city located in the province.**
>
> **(b) The province shall not impose the tax on business enjoying franchise operating within the territorial jurisdiction of any city located within the province.** *(Emphasis supplied)*

Pursuant to the foregoing provisions, respondent herein is authorized to impose a tax on "businesses enjoying a franchise" based on the incoming receipt, or realized, within its territorial jurisdiction. However, by way of limitation, it cannot impose a tax on business enjoying a franchise operating within the territorial jurisdiction of any city located within the province.

In *City of Iriga vs. Camarines Sur III Electric Cooperative, Inc. (CASURECO III)*,[54] the Supreme Court identified and explained the situs of the local franchise tax as follows:

> The Court reiterates that a franchise tax is a tax levied on the exercise by an entity of the rights or privileges granted to it by the government. In the absence of a clear and subsisting legal provision granting it tax exemption, a franchise holder, though non-profit in nature, may validly be assessed franchise tax by a local government unit.
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> xxx xxx xxx
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> CASURECO III is an electric cooperative duly organized and existing by virtue of Presidential Decree (PD) 269, as amended, and registered with the National Electrification Administration (NEA). It is engaged in the business of electric power distribution to various end-users and consumers within the City of Iriga and the municipalities of Nabua, Bato, Baao, Buhi, Bula and Balatan of the Province of Camarines Sur, otherwise known as the 'Rinconada area.'
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> xxx xxx xxx
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> **<u>The Court's Ruling</u>**
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> xxx xxx xxx

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[54] G.R. No. 192945, September 5, 2012.

> Indisputably, petitioner [City of Iriga] has the power to impose local taxes. The power of the local government units to impose and collect taxes is derived from the Constitution itself which grants them 'the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitation as the Congress may provide.' This explicit constitutional grant of power to tax is consistent with the basic policy of local autonomy and decentralization of governance. With this power, local government units have the fiscal mechanisms to raise the funds needed to deliver basic services to their constituents and break the culture of dependence on the national government. **Thus, consistent with these objectives, the LGC was enacted granting the local government units, <u>like petitioner</u>** <u>[City of Iriga]</u>**<u>, the power to impose and collect franchise tax</u>**, to wit:
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> xxx xxx xxx
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> ***CASURECO III is liable for franchise tax on gross receipts within Iriga City and Rinconada area***
>
> CASURECO III further argued that its liability to pay franchise tax, if any, should be limited to gross receipts received from the supply of the electricity within the City of Iriga and not those from the Rinconada area.
>
> **Again, <u>the Court is not convinced</u>.**
>
> **It should be stressed that what the petitioner seeks to collect from CASURECO III is a franchise tax, which as defined, is a tax on the exercise of a *privilege*. <u>As Section 137 of LGC provides, franchise tax shall be based on gross receipts precisely because it is a tax on *business*, rather than on persons or property</u>. <u>Since it partakes of the nature of an excise tax, the *situs* of taxation is the place where the privilege is exercised, in this case in the City of Iriga, where CASURECO III as its principal office and from where it operates, regardless of the place where its services or products are delivered. Hence, franchise tax covers all gross receipts from Iriga City and the Rinconada area.</u>** *(Emphasis and underscoring supplied)*

As can be gleaned from the foregoing, it is clear that the Supreme Court has interpreted and applied Section 137, which grants a ***province*** the power to tax franchises, and Section 151, which also authorizes, in effect, a ***city*** to impose franchise tax, both of the LGC of 1991, vis-à-vis ***situs*** of taxation, in that such power of a city to levy franchise tax covers <u>all gross receipts</u> derived from within the territorial limits of that city where the franchise holder exercises the privilege including those derived from other areas where the services or products are also delivered.

In other words, pursuant to Sections 137 (applicable to *provinces*) and 151 (pertaining to *cities*) of the LGC of 1991, and since the *situs* of taxation for franchise tax purposes is the place where the privilege is exercised, the **city in which the franchise holder exercises the said privilege has the power to impose franchise tax on the latter's gross receipts, even when the source thereof is beyond the territorial limits of the said city**.

In this case, petitioner is undoubtedly engaged in a business enjoying a franchise pursuant to Section 8[55] of the EPIRA Law which essentially provides that the electrical transmission function of NPC, as well as all the assets related thereto and its nationwide franchise for the operation of the transmission system and the grid, was assumed by and transferred to petitioner TransCo.

Clearly, the transmission franchise of NPC was inherited by petitioner; thus, petitioner, as transferee of NPC's franchise, shall be taxable in like manner.

The focal point of the controversy now hinges on whether the respondent Province properly claimed tax situs on petitioner TransCo's transmission operation making it liable for the payment of franchise tax for the years 2002 to 2008.

Petitioner insists that the Province of Davao del Sur has no tax situs and that payments of DASURECO on the power bills were all recorded in its regional office located in Davao City.[56]

On the other hand, respondent argues that, while it is true that the Matanao substation does not issue sales invoices and/or accept orders thereat, it is still conducting business operations as an extension of the principal office by transmitting electricity and supplying 80% of the power requirement of the Province of Davao del Sur.[57]

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[55] SEC. 8 *Creation of the National Transmission Company.* – There is hereby created a National Transmission Corporation, hereinafter referred to as TRANSCO, which shall assume the electrical transmission function of the National Power Corporation (NPC), and have the powers and functions hereinafter granted. The TRANSCO shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and ancillary services.

Within six (6) months from the effectivity of this Act, the **transmission and subtransmission facilities of NPC and all other assets related to transmission operations, including the nationwide franchise of NPC for the operation of the transmission system and the grid, shall be transferred to the TRANSCO**. The TRANSCO shall be wholly owned by the Power Sector Assets and Liabilities Management Corporation (PSALM Corp.) xxx xxx xxx.

[56] Petitioner's *Memorandum*, Docket, pp. 241 to 242.

[57] Respondent's *Memorandum*, Docket, p. 7 of 12.

We rule for the petitioner.

It is undisputed that petitioner, through its Matanao substation, supplies energy in bulk to DASURECO in Digos City, which, in turn, delivers the same to its customers including certain municipalities of respondent Province. As such, respondent Province based the subject franchise tax liabilities of petitioner on its gross receipts from its transmission of power to DASURECO.

However, in the above-quoted case of *City of Iriga*,[58] the Supreme Court disregarded where respondent therein delivered its services and fixed the tax situs where it held its principal place of business. Following this principle, and considering that there is no showing that petitioner's principal office in this case is located in the Province of Davao del Sur, respondent Province therefore cannot impose franchise tax on petitioner's gross receipts from DASURECO or any part thereof, even if it allegedly caters its services within the province's territory.

It is of no moment that petitioner's Matanao substation transmits electricity and supplies 80% of the power requirement of the Province of Davao del Sur. This is so because the local franchise tax is imposed on the privilege of operating a franchise, and not on the ownership of the transmission facilities.[59]

Moreover, the fact that the electricity transmitted to DASURECO is subsequently distributed to its end users, which include certain municipalities in the Province of Davao del Sur, is of no consequence since petitioner's gross receipts were derived from its transmission of electricity to DASURECO and not from the end users. As there is no indication that petitioner and DASURECO are one and the same entity or that one is an extension of the other, DASURECO's distribution of the majority of the electricity to the Province of Davao del Sur cannot be considered an operation of an office by petitioner in the said Province.

Similarly, we find unmeritorious respondent's assertion that petitioner exercised its franchise within the Province of Davao del Sur through the Matanao substation, which can be considered a branch or sales office.

Article 243 of the IRR of the LGC of 1991 defined a *branch* or *sales office* in the following manner:

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[58] *Supra* at note 54.

[59] *National Power Corporation vs. Provincial Government of Bataan, et al.*, G.R. No. 180654, April 21, 2014.

> ARTICLE 243. *Situs of the Tax.* – (a) Definition of terms –
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> xxx xxx xxx.
>
> (2) *Branch or Sales Office* – a fixed place in a locality which conducts operations of the business as an extension of the principal office. Offices used only as display areas of the products where no stocks or items stored for sale, although orders for the products may be received thereat, are not branch or sales offices as herein contemplated. A warehouse which accepts orders and/or issues sales invoices independent of a branch with sales office shall be considered as a sales office.

It is worth noting that this matter has already been settled and addressed by the RTC, as admitted by the parties in their respective memorandum,[60] thus: "*two facts were established in/by the RTC: First, TransCo had no customers and, as such, received no payment from customers within the territory of the Province of Davao del Sur. Second, TransCo had no branch, sales outlet or office within the territory of the Province of Davao del Sur where TransCo could possibly conduct its business activity*".

Considering also that petitioner's substation in Matanao hardly fall under the afore-quoted definition of branch or sales office, respondent Province therefore cannot collect franchise tax from petitioner given that tax situs does not lie within of the Province of Davao del Sur from the years 2002 to 2008.

In fine, respondent's local franchise tax assessments for the years 2002 to 2008 have no legal bases and as such, are void. In addition, it is also noteworthy that the Court *a quo* nullified, in effect, the local franchise tax assessments issued by respondent Province against petitioner for the years 2002 and 2003, albeit on the ground of prescription.

In view of the foregoing disquisitions, the Court will no longer belabor discussing the remaining arguments raised by the parties.

WHEREFORE, premises considered, the present *Petition for Review* is **GRANTED.**

Accordingly, the assailed Judgment dated July 1, 2019 and assailed Order dated March 9, 2020, both rendered by Regional Trial Court of Digos City, Davao del Sur – Branch 19, in Civil Case No. 4989, entitled *"National Transmission Corporation (TransCo) versus Province of Davao del Sur,*

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[60] Par. 26, Discussion, petitioner's *Memorandum*, Docket, p. 243 vis-à-vis respondent's *Memorandum*, Docket, p. 7 of 12.

represented by its Provincial Treasurer, Mr. Abel A. Guinares", are **REVERSED** and **SET ASIDE**. Consequently, the *Revised Assessment Notice* dated November 4, 2009 is hereby declared **NULL** and **VOID**.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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