REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NATIONAL TRANSMISSION CORPORATION
Petitioner,

- versus -

DENNIS V. NIÑO,
Respondent.

CTA CASE NO. 8231

Members:

CASTAÑEDA JR.,
CASANOVA,
MINDARO-GRULLA, JJ.

Promulgated:

JUL 04 2011
3:30 p.m.

X- -X

DECISION

Casanova, J.:

This is a petition[1] filed before the Court of Tax Appeals (CTA) Second Division on February 15, 2011 seeking to declare respondent in indirect contempt under Section 3(b) of Rule 71 of the Revised Rules of Court for allegedly committing contemptuous act when it sent a collection letter to Philippine National Bank (PNB) concerning petitioner's alleged tax obligations, in violation of the Resolutions[2] issued by this Court.

The material antecedent facts, as culled from the records of the case, are as follows:

---

[1] "Petition to Cite Respondent for Indirect Contempt", Division Docket, pp. 5-13.
[2] Resolution dated November 3, 2010, Annex "1-A - 1-G", Show Cause and Comment to the Petition for Indirect Contempt, Division Docket, pp. 45-51 and Resolution dated November 26, 2010 *cited* in Petition to Cite Respondent for Indirect Contempt, Division Docket, pp. 7-8.

On July 14, 2010, petitioner filed a Petition for Review with Motion for Suspension of Collection of Tax before the Court of Tax Appeals (CTA) against Municipal Treasurer of Labrador, Pangasinan represented by Mr. Edualino Casipit, in his capacity as the incumbent Municipal Treasurer. The case was docketed as CTA AC 67 and was raffled to the CTA First Division.[3]

The CTA First Division, promulgated a Resolution dated November 3, 2010 granting petitioner's Motion for Suspension of Collection of Tax, to wit:

> "**WHEREFORE**, in order to preserve the *status quo*, petitioner's Motion for Suspension of Collection of Tax is hereby **GRANTED**, provided that petitioner posts a surety bond equivalent to two times the amount being collected or ONE HUNDRED FORTY SEVEN MILLION FIVE HUNDRED NINETY EIGHT THOUSAND THREE HUNDRED THIRTY FOUR AND 92/100 (P147,598,334.92), within ten (10) days from receipt of this resolution.
>
> xxx xxx xxx
>
> Failure to comply with the above requirements within the given period will merit the setting aside of this Resolution which grants petitioner's instant motion."
>
> SO ORDERED." [4]

On November 12, 2010, petitioner filed a Motion for Extension of Time to Post Surety Bond and to Reduce the Bond which the CTA First Division granted in a Resolution dated November 26, 2010, which stated:

> "**WHEREFORE**, the petitioner is given an additional period of thirty (30) days from November 9, 2010 or **until December 9, 2010,** within which to post the required surety bond. As to the motion to reduce bond, petitioner is allowed to post bond in the reduced amount equivalent to one and one half (1 ½) times the amount being collected or P110,698,751.19.
>
> SO ORDERED." [5]

---

[3] "Petition to Cite Respondent for Indirect Contempt", Division Docket, p. 7.
[4] Annex "1-F - 1-G", Show Cause and Comment to the Petition for Indirect Contempt, Division Docket, pp. 50-51.
[5] *Id.* Note 1 at pp.7-8.

Petitioner filed an Urgent Motion for Extension of Time to Post Surety Bond on December 8, 2010 and prayed for another fifteen (15) days from December 9, 2010 or until December 24, 2010 within which to post the required bond.

The CTA First Division granted petitioner's Urgent Motion in a Resolution dated December 9, 2010.

On December 15, 2010, petitioner filed its Compliance, stating that it has already posted the required bond of One Hundred Ten Million Six Hundred Ninety Eight Thousand Seven Hundred Fifty One Pesos and 19/100 (P110,698,751.19) in compliance with the Resolutions of the CTA First Division dated November 3 and 26, 2010.

On December 16, 2010, respondent sent a letter[6] to Philippine National Bank (PNB) informing it that the Orders of Seizure/Confiscation and Order to Deliver the Bank Account or Money of petitioner addressed to it remain effective as petitioner still has outstanding tax obligation in favor of the Municipality of Labrador, Pangasinan. Respondent further ordered PNB to inform him of petitioner's account with them and to deliver to the Office of the Municipal Treasurer of Labrador, Pangasinan the amount of P247,227,578.07 from petitioner's bank account.

In a letter[7] dated December 20, 2010, PNB's FSVP and Chief Legal Counsel Alvin C. Go informed petitioner of respondent's letter and sought the latter's advice as to the status of the Warrant of Distraint being used by respondent as basis for the garnishment of the funds from petitioner's account with PNB.

On January 6, 2011, the CTA First Division issued a Resolution[8] noting the submission of petitioner's Compliance and its supporting documents. The Court also noted that petitioner failed to submit the proof of payment of legal

[6] Annex "A", Petition to Cite Respondent for Indirect Contempt, Division Docket, p. 14.
[7] Annex "B", Petition to Cite Respondent for Indirect Contempt, Division Docket, p.15.
[8] Annex "3", Show Cause and Comment to the Petition for Indirect Contempt, Division Docket, p.53-56.

fees under the Rules of Court and documentary stamp tax pursuant to Section 187, Title VII of the 1997 National Internal Revenue Code (NIRC). Finally, the Court noted that contrary to the requirement stated in the November 3, 2010 Resolution and to the representation of petitioner in its Compliance, the surety contract procured by petitioner is not a continuing bond, rather it expires on December 7, 2015. In light of the foregoing, the Court ordered petitioner to submit the proof of payment of pertinent legal fees, documentary stamp tax and value-added tax and a clarification on the status of the surety bond submitted to the Court. Failure to submit the said documents will cause the setting aside of the Suspension of Collection of Tax.

Hence, petitioner filed the present Petition to Cite Respondent for Indirect Contempt, alleging that the act of respondent in sending the letter ordering PNB to deliver the funds from its bank account to the Municipal Treasurer of Labrador, Pangasinan violated the Resolutions of CTA First Division, thus effectively committing indirect contempt under Section 3(b) of Rule 71 of the Revised Rules of Court.

On February 25, 2011, this Court issued a Resolution[9] ordering the consolidation of the present case with the case of National Transmission Corporation vs. Municipal Treasurer of Labrador, Pangasinan, represented by Edualino Casipit in his capacity as the Municipal Treasurer, docketed as CTA AC No. 67, pending before the CTA First Division, subject to the conformity of the latter. The consolidation was ordered on the ground that the contempt charges arose out of or are related to the principal action in CTA AC No. 67.

In a Resolution[10] dated March 21, 2011, the CTA First Division ruled that the petition for contempt should be docketed, heard and decided separately pursuant to Section 4 of Rule 71 of the Rules of Court and further held that the consolidation of the two cases will cause unnecessary delay in the disposition of CTA AC No. 67, which was already deemed submitted for

---

[9] Division Docket, p. 32.
[10] Division Docket, pp. 33-34.

decision. Finally, the said Court ordered the return of the case docket to the Second Division for further proceedings.

On March 30, 2011, this Court promulgated a Resolution[11] ordering respondent to show cause why he should not be cited for indirect contempt and to file his comment to the instant petition.

In his Show Cause and Comment to the Petition for Indirect Contempt[12] (Comment) filed on April 25, 2011, respondent argues that the petition against him should be dismissed on three grounds: first, respondent was not aware of petitioner's Compliance when the former sent the collection letter to PNB. Notwithstanding the fact that petitioner filed its Compliance on December 15, 2010, it was not until December 28, 2010 that respondent received his copy of the compliance, which was sent through registered mail; second, petitioner's Compliance dated December 15, 2010 was not sufficient as shown in the findings of CTA First Division in its Resolution dated January 6, 2011; lastly, respondent alleged that the Warrant of Distraint pursued against PNB in his December 16, 2010 letter is for the calendar years 2002 to 2005 in the amount of P159,635,669.15, for which no court order suspending the collection of tax was issued.

On April 26, 2011, this Court issued a Resolution[13] setting the case for hearing on May 16, 2011. In the said hearing, Court ordered both parties to submit their respective Memorandum within twenty (20) days, after the receipt of which or the expiry of the given period, the instant petition shall be deemed submitted for resolution.

Petitioner submitted its Memorandum[14] on June 3, 2011, discussing therein that the *Status Quo Ante* Order on the Suspension of Collection of Tax granted to TransCo is immediately executory and that the conditions set forth in the November 3, 2010 Resolution are in the nature of resolutory conditions. Furthermore, petitioner noted that contrary to respondent's claim

[11] Division Docket, pp. 39-40.
[12] Show Cause and Comment to the Petition for Indirect Contempt ,Division Docket, pp. 41-43.
[13] Division Docket, p. 58.
[14] Division Docket, pp. 60-74.

in his Comment, the December 16, 2010 Order to PNB to deliver the sum of P247,227,578.07 to the Municipal Treasurer of Labrador, Pangasinan includes the Warrant of Distraint for 2008, which is covered by the Suspension of Collection of Tax granted by the CTA First Division.

On June 6, 2011, this Court received a Manifestation[15] dated June 3, 2011 from respondent, stating that he is no longer submitting a Memorandum and that his earlier Comment be considered as his memorandum.

After a careful and thorough evaluation and consideration of the records of the case, including both parties' arguments in their respective pleading, this Court finds the present petition impressed with merit.

Petitioner alleges that respondent committed indirect contempt when it sent the collection letter to PNB in violation of the Resolutions of this Court granting suspension of collection of tax.

Contempt of court is a defiance of the authority, justice or dignity of the court, such conduct as tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice parties, litigant or their witnesses during litigation.[16]

In the case of *Subic Bay Metropolitan Authority vs. Merlino E. Rodriguez and WIRA International Trading Corp., as represented by Hilda M. Bacani, as their authorized representative*, the Supreme Court defined the two kinds of contempt, to wit:

> "Contempt constitutes disobedience to the court by setting up an opposition to its authority, justice and dignity. It signifies not only a willful disregard or disobedience of the court's orders but such conduct as tends to bring the authority of the court and the administration of law into disrepute or in some manner to impede the due administration of justice. There are two kinds of contempt punishable by law: direct contempt and indirect contempt. Direct

---

[15] Division Docket, p. 85.

[16] Prosecutor Jorge D. Baculi vs. Judge Medel Arnaldo B. Belen, Regional Trial Court, Branch 36, Calamba City, Laguna, A.M. No. RTJ-09-2176,April 20, 2009 *citing* Re: Conviction of Judge Adoracion G. Angeles, RTC, Br. 121, Caloocan City in Crim. Cases Q-97-69655 to 56 for Child Abuse, A.M. No. 06-9-545-RTC, January 31, 2008, *citing* Barredo-Fuentes v. Albarracin, 456 SCRA 120, 130-131 (2005).

> contempt is committed when a person is guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so. Indirect contempt or constructive contempt is that which is committed out of the presence of the court." [17]

Rule 71 of the 1997 Rules of Court enumerated the acts which may be punished for indirect contempt, to wit:

> RULE 71
> CONTEMPT
>
> xxx xxx xxx
>
> Sec. 3. Indirect contempt to be punished after charge and hearing.
>
> After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:
>
> (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
>
> (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
>
> (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;
>
> (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

---

[17] G.R. No. 160270, April 23, 2010 *citing* Industrial and Transport Equipment, Inc. v. National Labor Relations Commission, G.R. No. 113592, January 15, 1998 and Barredo Fuentes v. Albarracin, A.M. No. MTJ-05-1587, 15 April 2005.

> (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
>
> (f) Failure to obey a subpoena duly served;
>
> (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.
>
> But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

In the instant petition, respondent is charged with indirect contempt under Section 3(b) of Rule 71 of the 1997 Rules of Court. Petitioner asserts that respondent defied the Orders of the CTA First Division when it sent the letter to PNB with the purpose of collecting money from the latter in relation to petitioner's alleged tax liabilities in favor of Municipality of Labrador.

The Resolutions of the CTA First Division dated November 3 and 26, 2010 respectively are orders of a court under Section 3(b) of Rule 71. The said Resolutions granting petitioner's Motion to Suspend Collection of Tax and its subsequent prayer to reduce the amount of surety bond to be posted are both clear. It found merit in petitioner's Motions. A reading of the dispositive portions of the said Resolutions will clearly show that it is the intention of the Court that the status quo be preserved. The subsequent action of respondent in sending the subject letter to PNB is evidently in defiance of the status quo order of the Court. The purpose of respondent's letter to PNB is for the collection of the alleged tax deficiencies of petitioner, the very act that the Court decided to suspend. As the act of respondent contravenes the orders of the Court, the same is said to constitute indirect contempt committed against the CTA First Division.

While it may be true that respondent has not received his copy of petitioner's Compliance when he sent the subject letter, the fact remains that the Order of the Court granting the Motion for Suspension of Collection of Tax is still effective, thus should be observed and respected. This Court further notes that petitioner asked for and was granted by the CTA First

Division the extension of time within which to file its surety bond, and that at the time it filed its Compliance, there are still days left from the additional period granted to it by the Court. Hence, the inevitable conclusion from the foregoing is that the action of respondent in sending the collection letter to PNB is premature.

Moreover, respondent in his Comment, contends that his action in sending the subject letter to PNB cannot be considered as contemptuous since what he was collecting from PNB was petitioner's tax obligations in the amount of P159,635,669.15, as stated in the Warrant of Distraint for the years 2002 to 2005 and no Suspension of Collection of Tax was issued for this particular Warrant. A careful reading of respondent's letter[18] to PNB will show that he was ordering the bank to deliver to the Municipality Treasurer of Labrador the amount of P247,227,578.07 from the account of the petitioner in settlement of the tax liabilities of the latter. The amount sought to be collected covers the Warrant of Distraint for the calendar years 2002 to 2005, as well as that of the year 2008. The inconsistencies in the respondent's allegations in the pleadings he filed before this Court clearly show that respondent initially intended to collect on both Warrants but modified its claim when petitioner pointed out that by collecting the whole amount, respondent was defying the Order of this Court suspending the collection of tax covered by the Warrant of Distraint for 2008.

Taxes are the lifeblood of the government and it is the responsibility of our public officials to see to it that the collection of taxes is conducted in an unhampered and steadfast manner. However, tax collection must be done within the bounds of law and in accordance with the orders of our courts. Respondent, by sending the collection letter to PNB, violated the status quo order of this Court which will not tolerate such actions especially coming from a lawyer, who himself is considered an officer of the Court.

In view of the foregoing, this Court finds the respondent committed indirect contempt under Section 3(b) of Rule 71 of the Rules of Court and

---

[18] *Id.* at Note 7.

imposes upon him a fine pursuant to the Section 7[19] of Rule 71 of the same rules.

WHEREFORE, the instant Petition to Cite Respondent for Indirect Contempt is hereby **GRANTED**. Respondent is found **GUILTY** of **INDIRECT CONTEMPT** and is hereby imposed a fine of **ONE THOUSAND PESOS (P1,000.00)**. Furthermore, respondent is hereby admonished to be more circumspect in his future actions, and sternly warned that a repetition of the same or similar contumacious acts will be dealt with more severely.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Wellness Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

---

[19] Sec. 7. Punishment for indirect contempt.

If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both. If he is adjudged guilty of contempt committed against a lower court, he may be punished by a fine not exceeding five thousand pesos or imprisonment not exceeding one (1) month, or both. If the contempt consists in the violation of a writ of injunction, temporary restraining order or status quo order, he may also be ordered to make complete restitution to the party injured by such violation of the property involved or such amount as may be alleged and proved.

The writ of execution, as in ordinary civil actions, shall issue for the enforcement of a judgment imposing a fine unless the court otherwise provides.

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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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's Division.

ERNESTO D. ACOSTA
Presiding Justice