Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

***En Banc***

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| **PUYAT STEEL CORPORATION,** Petitioner, | **EB CASE NO. 119** (CBAA Case No. L-39) |
| -versus- | Members: ACOSTA, PJ, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, and PALANCA-ENRIQUEZ, JJ. |
| **CENTRAL BOARD OF ASSESSMENT APPEALS AND THE PROVINCIAL ASSESSOR, PROVINCE OF BATANGAS,** Respondent. | Promulgated: AUG 0 2 2006 |

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# DECISION

***CASANOVA, J.:***

This is a Petition for Review seeking the review and annulment of the 19 April 2005 Decision [Questioned Decision] and 19 August 2005 Resolution [Questioned Resolution] of the Central Board of Assessment Appeals in CBAA Case No. L-39, entitled "The Provincial Assessor, Province of Batangas vs. Local Board of Assessment Appeals, Province of Batangas and Puyat Steel Corporation", for having been rendered contrary to law.

The facts of the case as found out by the CBAA are as follows:

On October 20, 1998, then Provincial Assessor, Lauro C. Andaya, sent a letter to herein petitioner-Puyat Steel Corporation (PUYAT) thru Ms. Arlene Mariano, Administration and Finance Manager of PUYAT, inviting her attention to the provisions of Sec. 203 of Republic Act No. 7160, also known as The Local Government Code (LGC), regarding the filing of sworn statement declaring the true and current value of the plant building, machinery and equipment of the

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said company installed and located in Brgy. Masaya, Rosario, Batangas. The letter was received by the petitioner on November 6, 1998.

Petitioner gave no response to the said first letter, and so the erstwhile Provincial Assessor sent another letter to Ms. Mariano on December 17, 1998 reiterating the need of PUYAT to file the required sworn statement. In the second letter, it was stated that in the event that the corporation will again ignore the filing of the sworn statement, the Provincial Assessor would declare the property at P1.5 Billion sourced from DWAM News Bureau. The letter was received by the petitioner on January 14, 1999.

Receiving no response to the second letter, Mr. Andaya summoned Ms. Arlene Mariano in his letter dated February 3, 1999 to appear before the Provincial Assessor's Office on February 22, 1999 in order to give information concerning the ownership, nature, amount and value of the property of PUYAT for assessment purposes pursuant to Sec. 213 of R.A. 7160.

The fourth and final letter to the Provincial Assessor was sent on May 21, 1999 giving Ms. Arlene Mariano until May 31 of that same year to finally submit the requested sworn statement otherwise inspection was to be expected on June 14, 1999. The letter was received on May 31, 1999.

All four letters sent by Mr. Andaya were not favored with any reply by the petitioner prompting the former to conduct an inspection of the plant building, machinery and equipment of PUYAT on June 15, 1999. Exercising the powers vested upon him under the provisions of Sec. 204 of R.A. 7160, Mr. Andaya made assessments on the properties of petitioner contained in five (5) tax declarations, particularly, Tax Declaration Nos. 027-00586, 027-00587, 027-00588, 027-00589 and 027-00590, all effective in 1999 except for Tax Declaration No. 027-00587 Warehouse Expansion with effectivity in 2000.

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On November 3, 1999, the Notice of Assessment and Tax Bill was issued to PUYAT. The same was received as shown in the registry return receipt bearing date, December 9, 1999 per rubber stamp mark of the Batangas Post Office.

On April 30, 2002, the Provincial Treasurer of Batangas issued a Warrant of Levy on the properties of PUYAT for the total amount of tax delinquencies of P74,574,595.86 covering tax years/period of 1999 to April 2002.

In view of the said Warrant of Levy, PUYAT partially paid the amount totaling Three Million Four Hundred Forty Four Thousand One Hundred Forty Four Pesos and 59/100 (P3,444,144.59) on May 24, 2002 and on July 9, 2002. It is expressly annotated on the official receipts issued that such payments were made by virtue of the Warrant of Levy.

The LBAA issued an Order dated April 20, 2003, the dispositive portion of which reads as follows:

> "WHEREFORE, foregoing premises considered, this Board is unanimous in ordering the Provincial Assessor to re-assess and re-evaluate the assessments made on the properties of Puyat Steel Corporation declared on Tax Declaration Nos. 027-00586, 027-00588, 027-0589, and 027-0590, all situated at Bo. Masaya, Rosario based on authentic, valid and legal documents, and to furnish this Board with said re-assessment and re-evaluation. This Board likewise orders Puyat Steel Corporation to notify this Board within fifteen (15) days upon receipt of the re-assessment and re-evaluation of the Provincial Assessor, as to whether their Appeal/Protest would still be given due course.
>
> SO ORDERED."

The Provincial Assessor filed an Appeal with the Central Board of Assessment Appeals (CBAA). On April 19, 2005, the CBAA promulgated a Decision, the dispositive portion of which reads as follows:

> "WHEREFORE, the appealed Order is set aside and relegated to the dustbin of nullity. The assailed tax assessments are considered final, undisturbed and enforceable.
>
> SO ORDERED."

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PUYAT filed a Motion for Reconsideration with the CBAA on May 25, 2005 praying that the April 19, 2005 Decision of the CBAA be reconsidered and set aside and, in lieu thereof, the April 20, 2003 Order of the LBAA be affirmed in its entirety. In a Resolution dated August 19, 2005, the CBAA denied the said Motion for Reconsideration.

Hence, this appeal by way of a Petition for Review filed with the Court of Tax Appeals *En Banc*.

After a careful and thorough evaluation and consideration of the records of the case, the Court *En Banc* finds no new matters which have not yet been considered and passed upon by the CBAA in the its assailed Decision.

Pertinent to the resolution of this case is Section 226, Chapter 3, Title II, Book II of the Local Government Code (LGC), which provides for the period of appeal to LBAA from the assessment of the Provincial, City or Municipal Assessor. It reads as follows:

> "Sec. 226. ***Local Board of Assessment Appeals***. – Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor, in the assessment of his property may, ***<u>within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city</u> xxx.***"

As found out by the CBAA, the Provincial Assessor of Batangas sent notice and tax bill to herein-petitioner on November 3, 1999, which was received by the latter on December 7, 1999. It was only on July 9, 2002 that petitioner filed before the LBAA of Batangas a petition for the revision, reduction or adopting another assessment level on its properties. From the receipt of the notice of assessment to the filing of the petition with the LBAA is a total of two years, seven months, and two days.

The Supreme Court, in a case, had the occasion to state that, "The Local Board might not have acquired jurisdiction over the case. Settled is the principle that the requirement regarding the perfection of appeals within the reglementary

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period is not only mandatory but jurisdictional." *(Provincial Assessor of Bulacan vs. Luzon Cement Corp. and Lucenco Marketing Inc. and BAA of Bulacan, CBAA Case No. 16, Bermudez vs. Director of Lands, 36 PHIL 774)*

"It has been held that the remedy of a taxpayer who disagrees with a tax assessment is to appeal to the Local Board and that its failure to do so constitutes a waiver of the defenses against the assessment and stops him from subsequently raising his objection thereto, otherwise, the period of sixty days for appeal to the Local Board would make little sense." *(Unlad Resources Development Corp. vs. BAA of Manila and City Assessor of Manila, CBAA Case No. 121, Republic vs. Del Rosario, 105 PHIL. 277, Uy Ham vs. Republic, 106 PHIL. 1162.)*

Under Section 226 of the LGC, the dissatisfied owner or person having legal interest in the property has only sixty (60) days from receipt of the notice of assessment within which to appeal or question before the LBAA the said assessment. What PUYAT did, however, was it allegedly sent the Provincial Assessor a letter appealing for a re-evaluation and re-assessment, and which was coursed thru the Office of the Municipal Mayor of Rosario, Batangas. As the recourse taken by the petitioner is not authorized by law, the same did not toll the reglementary period for the appeal and therefore, the assessment made by the Provincial Assessor, as a matter of legal consequence, had become final.

The Highest Tribunal, in the case of Antonio Callanta et. al. vs. Office of the Ombudsman and the City Government of Cebu (G.R. Nos. 115253-74, January 30, 1998) had ruled on the lack of any power or authority of the provincial, city or municipal assessor to entertain any motion for reconsideration filed by the dissatisfied property owner.

In the said case, the Supreme Court held that:

> "Under the aforecited procedure, ***the issuance of a notice of assessment by the local assessor*** ***<u>shall be his last action on a</u>***

> ***particular assessment.*** On the side of the property owner, it is his last action which gives him [the] right to appeal to the Local Board of Assessment Appeals. ***The above procedure also, does not grant the property owner the remedy of filing a motion for reconsideration before the local assessor.***
>
> The act of herein petitioners in providing the corresponding notices of assessment the chance for the property owners concerned ***to file a motion for reconsideration and for acting on the motions filed is not in accordance with law and in excess of their authority and therefore constitutes ultra vires acts."***

The Court *En Banc* deemed it unnecessary to resolve the other issues raised by the petitioner after finding that the LBAA has no jurisdiction over the Petition for Revision filed by the petitioner therein. The assessments made by the Provincial Assessor of Batangas had become final and the right of the local government to collect taxes had become absolute.

**WHEREFORE**, premises considered, the assailed Decision and Resolution of the Central Board of Assessment Appeals in CBAA Case No. L-39, entitled "The Provincial Assessor of Batangas vs. The Local Board of Assessment Appeals, Province of Batangas and Puyat Steel Corporation, Province of Batangas" are hereby **AFFIRMED *in toto,*** and the instant Petition for Review is hereby **DENIED DUE COURSE** and **DISMISSED** for lack of merit.

**SO ORDERED.**

**CAESAR A. CASANOVA**
Associate Justice

WE CONCUR:

**ERNESTO D. ACOSTA**
Presiding Justice

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**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**LOVELL R. BAUTISTA**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**OLGA PALANCA-ENRIQUEZ**
Associate Justice

**CERTIFICATION**

Pursuant to Sec 13, Art. VIII of the 1987 Constitution, it is hereby certified that the conclusions in the above decision was reached in consultation before the case was assigned to the writer of the opinion of the Court.

**ERNESTO D. ACOSTA**
Presiding Justice

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