LIB

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHILIPPINE EXPORT AND FOREIGN LOAN GUARANTEE CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 5196

THE HON. LIWAYWAY VINZONS-CHATO, COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 17 1996

x - x

RESOLUTION

At this stage of the trial of herein case, We are supposed to dwell on the admissibility of Respondent's formal offer of evidence filed on March 13, 1996. After a more thorough review of the instant Petition for Review, however, We have decided to peremptorily terminate all further proceedings over the same.

Our firm resolve is based on the lack of jurisdiction of this Court to entertain the petition. Petitioner has no legal standing to sue before the Court of Tax Appeals. It must be noted that Petitioner is a government-owned and controlled corporation created under its enabling statute, Presidential Decree No. 550, as amended. (Petition for Review, par. 1, p. 1, CTA records)

In the case of the **Development Bank of the Philippines vs. Court of Appeals** (180 SCRA 612-614, 617), the High Tribunal held, thusly:

> "xxx The Court of Appeals sustained the position of the Customs Commissioner that it was grave error for the Court of Tax Appeals to have taken cognizance of the case in view of the explicit provisions of Presidential Decree No. 242, pertinently providing that:
>
> **SECTION 1.** Provisions of law to the contrary notwithstanding all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations but excluding constitutional offices or agencies, arising from the interpretation and application of statutes, contracts or agreements, shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That this shall not apply to cases already pending in court at the time of the effectivity of this decree."
>
> The appellate Tribunal thus held that the controversy between the DBP and the Commissioner of Customs was not within the jurisdiction of the CTA and should have been decided in accordance with the mode of settlement and adjudication set forth in Sections 2 and 3 of P.D. No. 242, viz:
>
> > **SEC. 2.** In all cases involving only questions of law, the same shall be submitted to and settled or adjudicated by the Secretary of Justice, as Attorney General and ex officio legal adviser of all government-owned or controlled corporations and entities, in consonance with section 83 of the Revised Administrative Code. His ruling or determination of the question in each case shall be

> conclusive and binding upon all the parties concerned.
>
> Sec. 3. Cases involving mixed questions of law and of fact or only factual issues shall be submitted to and settled or adjudicated by:
>
> (a) The Solicitor General, with respect to disputes or claims or controversies between or among the departments, bureaus, offices and other agencies of the National Government;
>
> (b) The Government Corporate Counsel, with respect to disputes or claims or controversies between or among the government-owned or controlled corporations or entities being served by the Office of the Government Corporate Counsel; and
>
> (c) The Secretary of Justice, with respect to all other disputes or claims or controversies which do not fall under the categories mentioned in paragraphs (a) and (b).

The Appellate Court ruled that Section 7(2) of Republic Act No. 1125 - pursuant to which the Court of Tax Appeals had therefore been exercising exclusive appellate jurisdiction over decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, *inter alia* - had been superseded by said P.D. No. 242, it being "a settled rule of statutory construction that where there is irreconcilable repugnancy between two statutes anent the same subject matter - as there is between P.D. 242 and Sec. 7(2) of R.A. No. 1125 in regard to the manner of settlement of disputes involving customs duties, etc. between government offices, agencies and corporations - the one of late enactment, being the latest expression of the legislative will, should prevail over the other which is of earlier enactment."

Based on the above-quoted decision, it is crystal clear that a government-owned or controlled corporation is not one of those entities or persons covered by the jurisdiction of this Court, it being under the sphere of authority of the Secretary of Justice or the Solicitor General, as the case may be.

To date, the cited pronouncement of the Honorable Supreme Court still holds application in view of the fact that the same provisions of P.D. No. 242 were reproduced substantially in the Administrative Code of 1987 (Executive Order No. 292), the present law governing government structure and functions.

Sections 66-67 of Chapter 14 of Book I of the Administrative Code of 1987 regarding controversies among government offices and corporations state, thusly:

> Chapter 14 - CONTROVERSIES AMONG GOVERNMENT OFFICES AND CORPORATIONS
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> Sec. 66. *How Settled.* - All disputes, claims and controversies, solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations, such as those arising from the interpretation and application of statutes, contracts or agreements, shall be administratively settled or adjudicated in the manner provided on this Chapter. This Chapter shall, however, not apply to disputes involving the Congress, the Supreme Court, the Constitutional Commissions, and local governments.

> SEC. 67. *Disputes Involving Questions of Fact and Law.* - Cases involving mixed questions of law and of fact or only factual issues shall be submitted to and settled or adjudicated by:
>
> (1) The Solicitor General, if the dispute, claim or controversy involves only departments, bureaus, offices and other agencies of the National Government as well as government-owned or controlled corporations or entities of whom he is the principal law officer or general counsel; and
>
> (2) The Secretary of Justice, in all other cases not falling under paragraph (1).

From the foregoing, there is no reason therefore to depart from the wisdom of the High Court. Applying the same interpretation, We similarly find the Administrative Code of 1987 essentially repugnant to Section 7 of R.A. 1125, the Charter of the Court of Tax Appeals.

ACCORDINGLY, the instant Petition for Review is hereby DISMISSED for lack of jurisdiction.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

(On Leave)
MANUEL K. GRUBA
Associate Judge