REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

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NATIONAL GRID CORPORATION OF THE PHILIPPINES, Petitioner,	**CTA AC No. 181** (Civil Case No. 2010-02-24)
- versus -	***Members:*** **DEL ROSARIO,** P.J., Chairperson, **UY,** and **MINDARO-GRULLA,** JJ.
THE CITY OF TACLOBAN and ZOSIMA A. CORDANO, in her capacity as City Treasurer of Tacloban, Respondents.	***Promulgated:*** JAN 30 2019 : 10:01 am

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DECISION

UY, J.:

This is a *Petition for Review*[1] filed on February 3, 2017 by the National Grid Corporation of the Philippines, seeking the reversal and setting aside of the Decision dated April 12, 2013[2] and the Order dated December 14, 2016[3] of the Regional Trial Court – Branch 8 of Tacloban City (RTC – Branch 8), in Civil Case No. 2010-02-24, entitled *"National Grid Corporation vs. The City of Tacloban, City Treasurer of Tacloban, Zosima A. Cordano, in her capacity as ICO – Treasurer of Tacloban City"*, the dispositive portions of which respectively read as follows:

Decision dated April 12, 2013:

> "**WHEREFORE**, foregoing premises considered, the appeal is hereby **DISMISSED**. Costs against appellant.

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[1] Docket, pp. 8 to 28.
[2] Docket, pp. 29 to 37.
[3] Docket, pp. 38 to 39.

SO ORDERED."

<u>Order dated December 14, 2016</u>:

"WHEREFORE, premises considered, the Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED."

THE FACTS

Petitioner National Grid Corporation of the Philippines is a corporation created and existing under the laws of the Republic of the Philippines, with principal office address at the NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.[4] Subject to certain limitations, petitioner was granted a legislative franchise to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines, pursuant to Section 1 of Republic Act (RA) No. 9511[5].

Respondents City of Tacloban and Zosima A. Cordaño are the local government unit (LGU) and the City Treasurer of Tacloban City, respectively. They respectively hold office at the Office of the City Mayor and the Office of the City Treasurer of Tacloban, City Hall Compound, Tacloban City.[6]

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[4] Par. 1, *Petition* vis-à-vis Par. 1, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 1 and 50, respectively.

[5] AN ACT GRANTING THE NATIONAL GRID CORPORATION OF THE PHILIPPINES A FRANCHISE TO ENGAGE IN THE BUSINESS OF CONVEYING OR TRANSMITTING ELECTRICITY THROUGH HIGH VOLTAGE BACK-BONE SYSTEM OF INTERCONNECTED TRANSMISSION LINES, SUBSTATIONS AND RELATED FACILITIES, AND FOR OTHER PURPOSES.

[6] Par. 2, *Petition* vis-à-vis Par. 1, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 1 and 50, respectively.

In the letter dated September 28, 2009, respondent City Treasurer Cordaño stated that with reference to the power bills paid by petitioner to Leyte II Electric Cooperative, Inc. (LEYECO II) for the period covering 2001 to August 2009 in the amount of ₱1,565,687,633.11, petitioner is requested to pay the assessment in the amount of ₱29,493,740.76, as provided under Section 80 of Ordinance 2007-10-67.[7]

Petitioner protested against the said assessment in the letter dated November 3, 2009.[8]

On February 3, 2010, petitioner received the letter dated February 1, 2010 from respondent City Treasurer, reducing its previous assessment of the tax due to a total sum of ₱2,022,863.81, covering the period beginning January to December 2009. The said respondent City Treasurer maintained that the contractor's tax assessed against petitioner is separate and is not subsumed by the 3% franchise tax under Section 9 of RA No. 9511.[9]

Hence, on February 18, 2010, petitioner filed a *Petition* with RTC – Branch 8 of Tacloban City,[10] praying, *inter alia*, for the nullification and cancellation of the tax assessments dated September 28, 2009 and February 1, 2010 issued by respondent City Treasurer. The case was docketed as Civil Case No. 2010-02-24.

Subsequently, respondents filed their *Answer* on July 13, 2010,[11] alleging the following special and affirmative defenses, *inter alia*, to wit: (1) that the pleading asserting a claim states no cause of action; (2) that exemptions are never presumed, and the burden is on the claimant to establish clearly his right to exemptions; (3) that an alleged grant of exemption will be strictly construed and cannot be made out by inference or implication but must be beyond reasonable doubt; (4) that even granting, without conceding, that RA No. 9511, upon which petitioner bases his claim of exemption from local taxes, is already in full force and effect, petitioner is not automatically

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[7] Annex "B", *Petition* vis-à-vis Par. 3, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 17 and 50, respectively.
[8] Annex "C", *Petition* vis-à-vis Par. 4, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 17 to 21, and 51, respectively.
[9] Par. 9, *Petition* vis-à-vis Par. 5, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 4 and 51, respectively.
[10] RTC Records, pp. 1 to 10.
[11] RTC Records, pp. 50 to 56.

exempt from payment of local taxes; (5) that to be exempt from payment of contractor's tax, petitioner has to produce a tax exemption certificate; and (6) that statutes granting tax exemptions are thus construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.

Petitioner filed its *Reply* dated August 3, 2010,[12] arguing that: (1) RA No. 9511, which granted petitioner's tax exemption, has been passed into law and is in full force and effect following its publication in newspapers of general circulation; (2) RA No. 9511 is clear and unequivocal in the grant of tax exemption to petitioner; (3) RA No. 9511 clearly exempts petitioner from local taxes on its franchise, receipts, and revenue; (4) the contractor's tax is assessed on petitioner's receipts and on the operation of its business for which the franchise is granted and thus is clearly covered by the exemption granted by RA No. 9511; and (5) respondents did not attach a copy of Ordinance Nos. 99-58 and 2007-10-67, upon which the assessment is based, much less did they show any proof or certification that they are in full force and effect.

In the meantime, a *Notice of Pre-Trial Conference* was issued by RTC – Branch 8 on July 8, 2010,[13] setting the case for pre-trial conference on August 13, 2010. Accordingly, petitioner filed its *Pre-Trial Brief* dated August 3, 2010,[14] and respondents filed their *Pre-Trial Brief* dated September 20, 2010.[15]

During the hearing on July 15, 2011, the parties agreed that they will submit a memorandum with respect to the question of whether or not petitioner is liable for the taxes assessed by respondent, considering that the same is a question of law. RTC – Branch 8 stated that on the basis of the parties' respective memorandum, the case will be submitted for decision.[16]

Petitioner filed its *Memorandum* on August 15, 2011,[17] while respondents' *Memorandum* was filed on August 22, 2011.[18]

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[12] RTC Records, pp. 73 to 81.
[13] RTC Records, p. 58.
[14] RTC Records, pp. 64 to 72.
[15] RTC Records, pp. 90 to 93.
[16] Order dated July 15, 2011, RTC Records, p. 102.
[17] RTC Records, pp. 104 to 115.
[18] RTC Records, pp. 127 to 134.

Thereafter, petitioner filed a *Comment/Opposition to Respondent's Memorandum dated August 12, 2011* on September 1, 2011.[19]

On April 12, 2013, RTC – Branch 8 rendered the assailed Decision,[20] the pertinent portions of which state:

> "As earlier discussed, and as appearing in the complaint itself, what the appellee City Treasurer has done was not to deny the protest outright but to issue another assessment, this time correcting the assessed amount to P2,022,863.81, covering the period starting in January 2009 up to August 2009. To the understanding of the Court what the City Treasurer has done was actually in the nature of a new assessment which the appellant NGCP should have protested. It did not and instead, went directly to this Court on appeal. This is a fatal flaw in the availment of the remedy provided for in the law. Its resort to this Court is clearly premature since the NGCP still had that opportunity to contest that assessment by filing a timely protest. Not having done that and instead proceeding directly to this Court, that later tax assessment has become final. This interpretation is supported by jurisprudence which states that tax laws are strictly construed in favor of the taxing authority and against the taxpayer.
>
> **DISPOSITION**
>
> **WHEREFORE**, foregoing premises considered, the appeal is hereby **DISMISSED**. Costs against appellant.
>
> **SO ORDERED**."

Petitioner filed its *Motion for Reconsideration* dated August 14, 2013, [21] with respondents' *Comment/Opposition (To Petitioner's Motion for Reconsideration dated 14 August 2013)* filed on October 23, 2013,[22] to which petitioner filed a *Reply* dated October 23, 2013.[23]

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[19] RTC Records, pp. 135 to 141.
[20] Docket, pp. 29 to 37; and RTC Records, pp. 143 to 151.
[21] RTC Records, pp. 155 to 167.
[22] RTC Records, pp. 169 to 173.
[23] RTC Records, pp. 174 to 177.

Petitioner filed a *Manifestation* on May 12, 2014,[24] stating that it is willing to aid the lower court in the reconstitution of the court records, considering that in November 2013, the City of Tacloban was severely hit by Typhoon Yolanda, and as a result, court records were either damaged or lost.

During the hearing for the reconstitution of the records of the case on May 8, 2015, the Court ruled that upon completion of the submission of all pertinent records, the *Motion for Reconsideration* filed by petitioner is deemed submitted for resolution.[25]

In the assailed Order dated December 14, 2016,[26] the lower court denied petitioner's *Motion for Reconsideration* for lack of merit.

Petitioner then filed the present *Petition for Review* on February 3, 2017,[27] praying for the reversal and setting aside of the Decision dated April 12, 2013 and the Order dated December 14, 2016 of RTC – Branch 8, in Civil Case No. 2010-02-24, and for this Court to grant the following prayer:

1. Declaring it is exempt from the payment of contractor's tax based on its franchise, RA No. 9511;
2. Directing respondents to recognize the exemption of petitioner from local taxes including the contractor's tax, pursuant to RA No. 9511; and
3. Nullifying and cancelling the tax assessments dated September 28, 2009 and February 1, 2010 issued by the Office of the City Treasurer of Tacloban, for lack of factual and legal bases.

In the Resolution dated March 9, 2017,[28] this Court directed respondents to file their *Comment*, with ten (10) days from receipt thereof. In the same Resolution, the Branch Clerk of Court of RTC – Branch 8 was ordered to elevate the original records of Civil Case No. 2010-02-24, pursuant to Section 5(b) of Rule 6 of the *Revised Rules of the Court of Tax Appeals*.

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[24] RTC Records, pp. 178 to 182.
[25] RTC Records, p. 183.
[26] Docket, pp. 38 to 39; and RTC Records, pp. 188 to 189.
[27] Docket, pp. 8 to 28.
[28] Docket, pp. 113 to 114.

Respondents filed their *Comment* on April 17, 2017,[29] alleging, among others, that the filing of the Petition with the Regional Trial Court was an improper remedy because the letter dated February 1, 2010 reducing the tax liability of petition to two million twenty-two thousand eight hundred sixty-three pesos and 81/100 (P2,022,863.81) covering the shorter period from January 2009 until December 2009, constitutes a new assessment. As such, the same should have allegedly been protested anew by petitioner before filing the action with the Regional Trial Court. Having failed to do so, this new assessment allegedly became conclusive and unappealable, thus making petitioner's liability immutable.

Further, respondents argue that petitioner is liable to pay contractor's tax in the absence of unequivocal mandate exempting petitioner from the exercise of the Local Government Unit of its local taxing power. Thus, respondents pray that the instant Petition for Review be denied for lack of merit.

In the Resolution dated August 18, 2017,[30] this Court gave due course to the instant *Petition for Review*, and directed the parties to submit their respective *Memoranda*. In the same Resolution, the Court noted that the Branch Clerk of Court of RTC – Branch 8 has yet to elevate the entire records of Civil Case No. 2010-02-24.

Subsequently, petitioner filed its *Memorandum* on September 28, 2017;[31] while respondents filed their *Memorandum* on October 6, 2017.[32]

In the Memorandum dated January 19, 2018, this Court instructed Atty. Margarette Y. Guzman, Executive Clerk of Court for the First Division, to directly communicate with the Branch Clerk of Court of RTC – Branch 8, for the elevation of the entire records of Civil Case No. 2010-02-24, and to grant said Branch Clerk of Court additional time to comply with this Court's Resolution, subject to continuous monitoring of this Court.

Thereafter, in the Transmittal Letter dated February 5, 2018,[33] Chona B. Fabi-Becalas, OIC-Branch Clerk of Court, Court Stenographer, of RTC – Branch 8, stated that the said Court could not transmit the whole case record with marked exhibits and

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[29] Docket, pp. 123 to 129.
[30] Docket, pp. 163 to 164.
[31] Docket, pp. 168 to 187.
[32] Docket, pp. 191 to 203.
[33] Docket, p. 237.

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stenographic notes as the entire record of Civil Case No. 2010-02-24, which was in its custody, has been among those files that have been washed out beyond recovery during the onslaught of Super typhoon Yolanda that hit Tacloban City on November 8, 2013. Instead, as reconstituted, the following were transmitted, to wit:

1. One (1) folder of the reconstituted case, consisting of 190 pages inclusive of the said Transmittal Letter;
2. Index of contents of the case record; and
3. Certified true copy of the Decision dated April 12, 2013.

In the Resolution dated February 27, 2018,[34] the instant case was considered submitted for decision.

Hence, this Decision.

THE ISSUES

Petitioner submits the following issues for this Court's resolution, to wit:

> "I. Whether or not Petitioner NGCP is exempt from the payment of contractor's tax under Section 9 of RA No. 9511.
>
> II. Whether or not the letter of Respondent Cordaño dated 01 February 2010 is a new assessment and does not constitute a denial of petitioner NGCP's protest."

Petitioner's arguments:

Petitioner argues that the court *a quo* committed reversible errors in the interpretation and application of the law in the instant case when it ruled that the letter of respondents dated 01 February 2010 is a new assessment and does not constitute a denial of petitioner NGCP's protest. Not being a new assessment, petitioner contends that the appropriate remedy is appeal with the court of competent jurisdiction, pursuant to Section 195 of the Local Government Code (LGC).

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[34] Docket, p. 243.

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Moreover, petitioner claims that it is exempt from payment of the contractor's tax because Section 9 of RA No. 9511 clearly provides tax incentives in its favor which include exemption from all taxes whether local or national. Allegedly, the payment of three percent (3%) franchise tax by petitioner under said section is in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description, levied, established or collected by any authority whatsoever, local or national, including the assessment of contractor's tax of local government units like the City of Tacloban.

Respondents' counter-arguments:

Respondents counter-argue that the letter dated February 1, 2010 issued by respondent City Treasurer constitutes a new assessment, which should have been protested anew. Allegedly, there was an earlier assessment contained in the letter dated September 28, 2009 signed by respondent Zosima A. Cordano assessing petitioner the amount of twenty nine million four hundred ninety-three thousand seven hundred forty and 76/100 pesos (P29,493,740.76) covering the period from 2001 to August 2009. Subsequently, the letter dated February 1, 2010 reduced petitioner's tax liability to two million twenty-two thousand eight hundred sixty three pesos and 81/100 (P2,022,863.81) for the period beginning January 2009 until December 2009.

Hence, the letter dated February 1, 2010 is a new assessment which should have been protested anew before the filing of the action with the Regional Trial Court. Having failed to do so, the assessment allegedly became final and executory.

Furthermore, petitioner is liable to pay the contractors tax levied under Ordinance 2007-10-67. The "in lieu of income tax and any and all taxes" clause in Republic Act No. 9511 does not expressly provide that it covers contractor's tax levied by an LGU pursuant to a local ordinance promulgated in the exercise of its local taxing power.

In the instant case, petitioner allegedly failed to show that the law on which they base their exemption is framed in a clear and unequivocal manner. Thus, respondents pray that the Decision dated 12 April 2013 of the Regional Trial Court, Branch 8 of Tacloban City be affirmed in toto.

THE COURT'S RULING

For an orderly disposition of this case, We shall first address the second issue on whether or not the respondent City Treasurer's letter dated February 1, 2010 was a new assessment.

Respondent City Treasurer's letter dated February 1, 2010 is <u>not</u> a new assessment.

Section 195 of the LGC of 1991 provides as follows:

> "SEC. 195. *Protest of Assessment.* – When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. **The local treasurer shall decide the protest within sixty (60) days from the time of its filing. <u>If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice canceling wholly or partially the assessment</u>. However, <u>if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer</u>.** The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable." *(Emphasis and underscoring supplied)*

Based on the foregoing provision, the local treasurer is tasked to decide the protest of a taxpayer, who contests the former's assessment, within a sixty-day period commencing from the filing of the said protest. If the said local treasurer finds merit to such protest, whether wholly or partly, he/she shall issue a notice cancelling wholly or partially the assessment. In the event that the same local treasurer finds the assessment as wholly or partly correct, he/she

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shall deny the protest wholly or partly, also with notice to the taxpayer.

In this case, it is undisputed that respondent City Treasurer issued a notice of assessment against petitioner through the letter dated September 28, 2009, [35] requesting the payment of the contractor's tax in the total amount of ₱29,493,740.76, covering the period from the year 2001 up to August 2009. Petitioner protested said assessment through its letter dated November 3, 2009.[36]

Thereafter, respondent City Treasurer issued the letter dated February 1, 2010, with the attached notice of assessment, **reducing** its previous assessment of the tax due to a total sum of ₱2,022,863.81, covering only the period beginning January 2009 to December 2009.[37]

Clearly, the said letter dated February 1, 2010, with the attached notice of assessment, can hardly be considered as a new assessment for purposes of Section 195 of the LGC of 1991. The act of respondent City Treasurer in ***reducing*** the assessment against petitioner is a clear indication that she partly found merit in petitioner's protest, as regards the liability period for which petitioner can be held as the accountable party to pay the subject tax, not from 2001, but only starting from the year 2009. To the mind of this Court, the cancellation of the tax assessments from the year 2001 up to year 2008, is consistent with the provisions of the same Section 195.

Therefore, it appearing that respondent City Treasurer partially agreed with the arguments raised by petitioner in its protest letter dated November 3, 2009, by reducing the assessed amount against petitioner in the letter dated February 1, 2010, this reduced assessment is considered as the former's action on petitioner's protest. Being so, the next remedy available to petitioner then, was to appeal its case with the court of competent jurisdiction, lest the

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[35] Annex "B", *Petition for Review,* Docket, pp. 51 to 52; and Annex "B", *Petition* vis-à-vis Par. 3, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 17 and 50, respectively.

[36] Annex "C", *Petition for Review,* Docket, pp. 53 to 56; and Annex "C", *Petition* vis-à-vis Par. 4, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 17 to 21, and 51, respectively.

[37] Annex "D", *Petition for Review,* Docket, pp. 57 to 58; and Par. 9, *Petition* vis-à-vis Par. 5, *Answer/Opposition (With Special and Affirmative Defense)*, RTC Docket, pp. 4 and 51, respectively.

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assessment becomes conclusive and unappealable, pursuant to Section 195 of the LGC of 1991.

Accordingly, the Court finds that petitioner availed of the proper remedy. And since it received the subject letter on February 3, 2010, the *Petition* filed with the lower court on February 18, 2010 was timely made within the reglementary period.

The tax exemption of petitioner granted under Section 9 of RA No. 9511 is conditioned on its payment of the 3% franchise tax.

Petitioner avers that it is exempt from payment of contractors' tax under RA No. 9511, and that the tax exemption in the said law is clear and categorical. Petitioner contends that with respect to its franchise, the Legislature intended the "in lieu of all taxes" clause to expressly exempt petitioner from all taxes, fees and charges, including those imposed by local government units by indicating the words "established or collected by any authority whatsoever, local or national" under Section 9 of RA No. 9511.

On the other hand, respondent counter-argues that petitioner is liable to pay the contractors' tax levied under Ordinance 2007-10-67 of the City Government of Tacloban, since the "in lieu of income tax and any and all taxes" clause in RA No. 9511 does not expressly provide that it covers contractors' tax levied by a local government unit pursuant to a local ordinance promulgated in the exercise of its local taxing power.

The Court finds that petitioner is exempt from the contractor's tax being assessed by respondent City Treasurer, but only upon payment of the franchise tax being contemplated under Section 9 of RA No. 9511. Otherwise, it is liable to pay the said contractor's tax.

Section 9 of RA No. 9511 provides as follows:

> "SECTION 9. *Tax Provisions.* – In consideration of the franchise and rights hereby granted, the Grantee, its successors or assigns, shall pay a franchise tax equivalent to three percent (3%) of all gross receipts

> derived by the Grantee from its operation under this franchise. **Said tax shall be in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, <u>local or national</u>, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes, duties and charges, the Grantee is hereby expressly exempted**: xxx" (*Emphasis and underscoring supplied*)

Based on the foregoing provision, in consideration of the franchise and rights granted to petitioner, the latter must pay a franchise tax at the rate of 3% of its gross receipts derived from its operation under the said franchise. The said franchise tax shall, in turn, be in lieu of income tax and other taxes, *inter alia*, levied by any authority, **<u>whether local or national</u>**, on its franchise, rights, privileges, **<u>receipts, revenues and profits</u>, and on properties used in connection with its franchise**.

Moreover, in *National Grid Corporation of the Philippines vs. Ofelia M. Oliva*[38], the Supreme Court held as follows:

> "*First.* Tax exemptions must be clear and unequivocal, and must be directly stated in a specific legal provision.
>
> In the present case, Section 9 of RA 9511 provided for NGCP's tax liabilities and exemptions.
>
> *Second.* The 'in lieu of all taxes' clause is strictly limited to the kind of taxes, taxing authority, and object of taxes specified in the law.
>
> Section 9 of RA 9511 states that <u>NGCP's payment of franchise tax is in lieu of payment of 'income tax and any and all taxes</u>, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, **local or national**, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise.' xxx

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[38] G.R. Nos. 213157 and 213558, August 10, 2016.

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> Section 9 of RA 9511 provides that NGCP shall pay 'a franchise tax equivalent to three percent (3%) of all gross receipts derived by the Grantee from its operation under this franchise.' This franchise tax is '**in lieu of** income tax and **any and all taxes**, duties, fees and charges of any kind, nature or description levied, **established or collected by any authority whatsoever, local or national**, on its franchise, rights, privileges, receipts, revenues and profits, and **on properties used in connection with its franchise, from which taxes**, duties and charges, **the Grantee is hereby expressly exempted**.'" *(Underscoring supplied)*

It is clear from the foregoing jurisprudential pronouncements that the ***"in lieu of all taxes"*** clause is strictly limited to the kind of taxes (*i.e.*, income tax and any and all taxes), the taxing authority (*i.e.*, national and local), and the object of taxes specified in the law (*i.e.*, on petitioner's franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with the said franchise).

Correspondingly, the said "***in lieu of all taxes***" clause under Section 9 of RA No. 9511 covers the supposed exemption of petitioner from the payment of the subject contractor's tax, since it is under the purview of "all taxes", imposed by the *local* taxing authority, and on petitioner's receipts or revenues.

However, it must be emphasized that the operation of the "***in lieu of all taxes"*** clause under Section 9 of RA No. 9511 in relation to petitioner's exemption from the contractor's tax being collected in this case, shall come into play only when there is a showing that petitioner paid the required 3% franchise tax for the year 2009. It is noteworthy that nothing in the records of this case would show that petitioner paid the said franchise tax for the year 2009.

Such being the case, the contractor's tax being assessed for 2009, as demanded in the letter dated February 1, 2010 issued by respondent City Treasurer, and as reflected in the notice of assessment attached thereto, in the aggregate amount of ₱2,022,863.81, must perforce be upheld.

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WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for failure of petitioner to prove payment of the required 3% franchise tax for taxable year 2009.

Accordingly, the assessed contractor's tax against petitioner for the year 2009 in the aggregate amount of ₱2,022,863.81, as demanded in the letter dated February 1, 2010 issued by respondent City Treasurer, and as reflected in the notice of assessment attached thereto, is **UPHELD.** Petitioner is hereby **ORDERED TO PAY** the aggregate amount of **₱2,022,863.81** to respondent City of Tacloban.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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
Chairperson, Special 1st Division