REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

DIGITEL MOBILE PHILIPPINES, INC.,
Petitioner,

- versus -

THE CITY GOVERNMENT, THE CITY TREASURER AND CITY ASSESSOR OF COTABATO CITY,
Respondents.

CTA AC NO. 164

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

MAY 07 2018 : 1:11pm

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RESOLUTION

MINDARO-GRULLA, *J.*:

For the Court's resolution is petitioner's **Motion for Reconsideration**, filed through registered mail on January 15, 2018 and received by the Court on January 19, 2018, with respondents' **Opposition to the Motion for Reconsideration of the Petitioner (dated January 15, 2018)**, filed through registered mail on February 2, 2018 and received by the Court on February 9, 2018.

Petitioner moves for the reconsideration of the Decision promulgated on December 27, 2017, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **DISMISSED** for lack of jurisdiction.

SO ORDERED."

Petitioner argues that the circumstances surrounding the present controversy does not require the exhaustion of the administrative remedies, as delineated under Republic Act (RA) No. 7160 or Local Government Code (LGC) of 1991 and in the case of *National Power Corporation vs. Municipal Government of Navotas*[1]. It further asserts that there are serious procedural infirmities committed when the Court issued the assailed Order. Petitioner also alleges that it is exempt from real property tax for its properties that are actually, directly and exclusively used in connection with its legislative franchise.

Respondents, on the other hand, claim that the case of *National Power Corporation vs. Municipal Government of Navotas*[2] is not applicable to the case. They allege that there were no reversible procedural infirmities committed by the Regional Trial Court (RTC) and that petitioner is not exempt from real property tax.

Petitioner's arguments lack merit.

In disputes involving real property taxation, the general rule is to require the taxpayer to first avail of administrative remedies and pay the tax under protest before allowing any resort to a judicial action, except when the assessment itself is alleged to be illegal or is made without legal authority. For example, prior resort to administrative action is required when among the issues raised is an allegedly erroneous assessment, like when the reasonableness of the amount is challenged, while direct court action is permitted when only the legality, power, validity or authority of the assessment itself is in question. Stated differently, the general rule of a prerequisite recourse to administrative remedies applies when questions of fact are raised, but the exception of direct court action is allowed when purely questions of law are involved.[3]

To reiterate, if the taxpayer or real property owner questions the excessiveness or reasonableness of the assessment, Section 252 of the LGC mandates that the taxpayer should first pay the tax before the protest before the local treasurer can be entertained. The

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[1] G.R. No. 192300, November 24, 2014.
[2] *Supra.*
[3] *Capitol Wireless, Inc. vs. The Provincial Treasurer of Batangas, et al.*, G.R. No. 180110, May 30, 2016.

requirement of "payment under protest" is a condition *sine qua non* before the protest may be entertained. Thereafter, if the local treasurer denies the protest or fails to act upon it within the required period, the taxpayer may file an appeal to the Local Board of Assessment Appeals (LBAA) and then to Central Board of Assessment Appeals (CBAA) if the taxpayer is not satisfied with the decision of the LBAA as provided under Sections 226 and 229 of the LGC.

In this case, petitioner was claiming exemption from payment of real property tax of its real properties actually, directly and exclusively used in connection with its legislative franchise.

It has been settled that a claim for exemption from the payment of real property taxes does not actually question the assessor's authority to assess and collect such taxes but pertains to the reasonableness or correctness of the assessment.[4] Thus, the requirement of "payment under protest" is a condition *sine qua non* before its protest may be entertained. Said issue involves question of fact which should be resolved at the first instance by the LBAA and if not satisfied, the same may be elevated to the CBAA.

The restriction upon the power of courts to impeach tax assessment without a prior payment, under protest, of the taxes assessed is consistent with the doctrine that taxes are the lifeblood of the nation and as such their collection cannot be curtailed by injunction or any like action; otherwise, the state or, in this case, the local government unit, shall be crippled in dispensing the needed services to the people, and its machinery gravely disabled. The right of local government units to collect taxes due must always be upheld to avoid severe erosion. This consideration is consistent with the State policy to guarantee the autonomy of local governments and the objective of RA No. 7160 or the LGC of 1991 that they enjoy genuine and meaningful local autonomy to empower them to achieve their fullest development as self-reliant communities and make them effective partners in the attainment of national goals.[5]

Consequently, the Court has no jurisdiction to entertain the present case for petitioner's failure to comply with the procedural requirements laid down under Sections 252, 226 and 229 of the LGC. For petitioner's failure to exhaust the administrative remedies

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[4] *National Power Corporation vs. The Provincial Treasurer of Benguet, et al.* G.R. No. 209303, November 14, 2016.

[5] *Camp John Hay Development Corporation vs. CBAA, et al.*, G.R. No. 169234, October 2, 2013.

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available to it, the assessment therefore attained finality and the collection would be proper.

In view of the above discussion, the Court finds no necessity to delve into the other contentions raised by the parties.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice