REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL GRID CORPORATION OF THE PHILIPPINES,
Petitioner-Appellant,

- *versus* -

CENTRAL BOARD OF ASSESSMENT APPEALS; LOCAL BOARD OF ASSESSMENT APPEALS OF THE PROVINCE OF MISAMIS ORIENTAL; ENGR. MARILYN P. LEGASPI, in her capacity as the Provincial Assessor of Misamis Oriental, and JULIET ATON, in her capacity as Municipal Assessor of Villanueva, Misamis Oriental,
Respondents-Appellees.

CTA *EB* NO. 3088
(CBAA Case No. M-42-2017)
(LBAA Case No. 2015-001)

Present:

RINGPIS-LIBAN, *P.J.,*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*[1] filed by petitioner-appellant National Grid Corporation of the Philippines ("**petitioner**" or "**NGCP**") on February 14, 2025, seeking the partial reconsideration of the Decision[2] dated September 30, 2024, and the Resolution[3] dated December 9, 2024, rendered by respondent-appellee Central Board of Assessment Appeals ("**CBAA**"). Specifically, petitioner prays that the remaining properties subject of the Notices of Assessment, namely: (a) Pavement, (b) Perimeter Fence, and (c)

[1] *En Banc (EB)* Docket, pp. 1-20.
[2] *Id.* at 23-60.
[3] *Id.* at 61-62.

Guard House, be declared exempt from payment of Real Property Tax ("**RPT**").

THE PARTIES[4]

Petitioner NGCP is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at the NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.

Respondent-appellee CBAA is a public office with principal address at the 7th Floor, EDPC Building, BSP Complex, Roxas Boulevard, Manila.

Respondent-appellee Local Board of Assessment Appeals ("**LBAA**") of the Province of Misamis Oriental is an office created by law to hear and decide appeals on the action of the provincial or city assessors in the assessment of the property and of provincial or city treasurers on the payments by the taxpayer of real property taxes under protest. It may be served with summons, notices, and other processes of this Court at the Office of the Registry of Deeds, LBAA of the Province of Misamis Oriental, Cagayan de Oro City.

Respondent-appellee Engr. Marilyn P. Legaspi ("**Respondent Provincial Assessor**") is being sued in her official capacity as Provincial Assessor of Misamis Oriental. She may be served with notices and other processes of this Court through the Office of the Provincial Assessor, Provincial Capitol Compound, Cagayan de Oro City.

Respondent-appellee Juliet Aton ("**Respondent Municipal Assessor**") is being sued in her official capacity as Municipal Assessor of Villanueva, Misamis Oriental. She may be served with notices and other processes of this Court through the Office of the Municipal Assessor, Municipal Compound, Villanueva, Misamis Oriental.

Collectively, respondents-appellees shall hereinafter be referred to as "respondents" for brevity.

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[4] The Parties, Petition for Review, *EB* Docket, p. 3.

THE FACTS AND THE PROCEEDINGS

The relevant facts, as culled from the records, are as follows:

Under Republic Act ("**RA**") No. 9511, NGCP was granted a franchise to operate, manage, and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through a 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.[5]

Pursuant to the Concession Agreement executed between and among Power Sector Assets and Liabilities Management Corporation ("**PSALM**"), TransCo and NGCP, and the latter's franchise under RA No. 9511, NGCP officially assumed and took over on January 15, 2009, the operation, management and maintenance of TransCo's nationwide electric power transmission business, including TransCo's real properties used in the transmission of electric power.[6]

On March 5, 2015, NGCP received Notices of Assessment for Calendar Year 2015 covering twelve (12) properties located in San Martin, Villanueva, Misamis Oriental. Based on the corresponding tax declarations, the particulars of these properties are as follows:[7]

TD Nos.	Kind of Property	Description	Assessment Value	Market Value	Assessed Value
0813001108610	Building/ Industrial	Planning & Eng'g Bldg	75%	Php5,547,750	Php4,160,810
0813001108611	Building/ Industrial	Rip Rap length 396m	35%	Php308,880	Php108,110
0813001108612	Building/ Industrial	Warehouse	70%	Php4,040,400	Php2,828,280
0813001108613	Building/ Industrial	Central Eng'g laboratory	70%	Php2,542,800	Php1,779,960
0813001108614	Building/ Industrial	Motor Pool	50%	Php917,280	Php458,640
0813001108615	Building/ Industrial	Control Bldg	75%	Php8,403,200	Php6,302,400
0813001108616	Building/ Industrial	Pump & Gen. Set House	35%	Php343,200	Php120,120

[5] *Id.* at 4, Petition for Review, Statement of Facts and Material Dates, par. 7.
[6] *Id.* Petition for Review, Statement of Facts and Material Dates. par. 8.
[7] *Id.* Petition for Review, Statement of Facts and Material Dates, par. 9.

0813001108617	Building/ Industrial	Auxiliary Bldg #1	30%	Php117,840	Php53,350
0813001108618	Building/ Industrial	Auxiliary Bldg #2	30%	Php149,760	Php44,930
0813001108619	Building/ Industrial	Guard House	30%	Php94,250	Php28,280
0813001108620	Building/ Industrial	Pavement	75%	Php7,550,400	Php5,662,800
0813001108621	Building/ Industrial	Perimeter Fence	70%	Php2,315,620	Php1,620,940
TOTAL				**Php32,331,380**	**Php23,168,620**

In a letter [8] dated April 17, 2015, NGCP informed respondents of its claimed exemption from the payment of RPT on the above-mentioned properties pursuant to Section 9 of RA No. 9511.

Proceedings Before the LBAA

Alleging inaction on its letter dated April 17, 2015, NGCP elevated the matter to the LBAA *via* a *Petition*[9] filed through registered mail on April 30, 2015.

On May 29, 2015, the LBAA issued an *Order*[10] directing respondent Provincial Assessor to file her answer or comment within 10 days from notice.

On July 3, 2015, the LBAA rendered an *Order* dismissing NGCP's *Petition* for lack of merit. The pertinent portion of the *Order* reads:

> After a thorough deliberation conducted by this Board, it is of the opinion that due to the petitioner premature act of filing the instant appeal without filing a written protest with the Provincial Assessor and the required payment under protest of the taxes, and without further awaiting the Provincial Assessor's action thereof which would have been the proper subject of this appeal, this Petition must be DENIED for lack of merit.
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> . . . .
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> WHEREFORE, in consonance with the aforesaid reasons, this appeal is hereby dismissed for Lack of Merit.
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> SO ORDERED. [11]

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[8] *Id.* at 87-89.
[9] LBAA Record, pp. 2-14.
[10] *Id.* at 53.
[11] *Id.* at 54-55.

Unable to agree, NGCP filed a Motion for Reconsideration,[12] which was denied in an *Order*[13] dated March 30, 2017, the decretal portion of which reads:

> WHEREFORE, in view of the foregoing, Petitioner-Appellant's Motion for Reconsideration is hereby **DENIED**.
>
> SO ORDERED.[14]

Proceedings Before the CBAA

On May 26, 2017, NGCP filed a *Notice of Appeal*[15] and *Memorandum of Appeal*[16] before the CBAA, challenging the LBAA's twin *Orders*. NGCP argued that the LBAA erred: (1) when it failed to consider that NGCP is exempt from payment of RPT on properties used in connection with its franchise; and (2) when it failed to consider that the applicable provision is Section 226 and not Section 252 of the Local Government Code ("**LGC**") of 1991.

On July 17, 2017, the CBAA directed respondents to submit their answer or comment on the appeal filed by NGCP, within fifteen (15) days from notice.[17]

On September 8, 2017, after several extensions, respondents filed their *Answer and/or Comment (to Petitioner[']s Appeal),*[18] praying for the dismissal of the appeal.

On January 8, 2018, upon the instance of the NGCP, the CBAA suspended the proceedings to allow the parties to explore an amicable settlement, with instructions to submit status updates.[19]

On May 28, 2018, the parties filed their *Manifestations with Prayer to Hold in Abeyance Proceedings,*[20] praying that the proceedings be suspended pending the release of the ocular inspection/evaluation report to be issued by respondent Provincial Assessor of Misamis Oriental. Acting thereon, the

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[12] *Id.* at 56-63.
[13] *Id.* at 64-65.
[14] *Id.* at 65.
[15] CBAA Record – Folder 1, pp. 2-3.
[16] CBAA Record – Folder 1, pp. 4-27.
[17] CBAA Record – Folder 1, pp. 102-103, *Advice to Answer Appeal.*
[18] *Id.* at 118-124.
[19] *Id.* at 135.
[20] *Id.* at 137-139.

CBAA issued an *Order*[21] directing the parties to apprise it of any developments regarding the ocular inspection/evaluation, or any action taken by the parties that may be the basis for the furtherance of the case, or the approval of a possible settlement.

Following the ocular inspection, respondents reassessed NGCP's properties based on their actual use and declared eight (8) out of the twelve (12) properties exempt from RPT, to wit:

Notice of Assessment No. (2015)	Description	TD No. (recommending approval in 2015)	TD No. (recommending approval in 2019)	Status
052.13.04	Planning & Eng'g Bldg.	0813001108610	0813001110763	Tax Exempt
052.13.05	Riprap	0813001108611		Taxable
052.13.06	Warehouse	0813001108612	0813001110762	Tax Exempt
052.13.07	Central Eng'g Laboratory	0813001108613	0813001110761	Tax Exempt
052.13.08	Motor Pool	0813001108614	0813001110760	Tax Exempt
052.13.09	Control Bldg.	0813001108615	0813001110759	Tax Exempt
052.13.10	Pump & Gen. Set House	0813001108616	0813001110758	Tax Exempt
052.13.11	Auxiliary Building #1	0813001108617	0813001110757	Tax Exempt
052.13.12	Auxiliary Building #2	0813001108618	0813001110756	Tax Exempt
052.13.13	Guard House	0813001108619		Taxable
052.13.14	Pavement	0813001108620		Taxable
052.13.15	Perimeter Fence (chb rough)	0813001108621		Taxable

On May 6, 2019, in compliance with the CBAA's directive, NGCP filed a *Manifestations*[22] stating, among others, that:

1. Consonant to the understanding of the parties to settle this case amicably, an ocular inspection was conducted to determine the actual use of the properties as they further agreed to finally meet to discuss and resolve once and for all the details of the remaining issues on the reassessment of the properties involved;

2. The meeting set last February 6, 2019, was indefinitely reset pending the compliance by NGCP of the request of the respondents to submit Sworn Statements of all the properties, facilities, and equipment at Villanueva NGCP substation and all NGCP properties in Misamis Oriental;

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21 *Id.* at 140.
22 *Id.* at 142-143.

3. With all best efforts of [NGCP], the drafting of said sworn statements is still on progress and have not been completed, in view of the intricate corporate process of verification and coordination of its stakeholders to secure the data needed in the sworn statement of said properties;

4. The parties agreed that once the said sworn statements are done and submitted, they will immediately set a meeting with notice to this Honorable Board to resolve and settle once and for all the issues involved.

CBAA noted the aforesaid *Manifestations* in an *Order*[23] dated May 9, 2019.

A series of *Manifestations*[24] were subsequently filed, informing the CBAA of the status of the negotiation, which had yet to be finalized by the parties.

On July 25, 2022, noting that the case had been delayed due to the pandemic, the CBAA issued a *Notice of Hearing,*[25] informing the parties that the continuation of the preliminary conference was scheduled for an online hearing on August 5, 2022.

During the preliminary conference held on August 5, 2022, the CBAA noted NGCP's *Manifestation (Update on the Progress of Negotiation for Amicable Settlement)*[26] filed on July 28, 2022, stating that it had already complied with its commitment to submit a Sworn Statement of the true, current, and fair market value of the real properties subject of this case to the Offices of the Municipal Assessor and Municipal Treasurer of Villanueva, Misamis Oriental. During the same hearing, the parties manifested their continued interest in pursuing an amicable compromise. Accordingly, the continuation of the preliminary conference was set for September 14, 2022, at 2:00 p.m. via an online platform.[27]

At the continuation of the preliminary conference on April 19, 2023, respondents' counsel, Atty. Diana Mae R. Bebelone, informed the CBAA that respondents were no longer pursuing an amicable settlement. In response, counsel for NGCP requested that a Joint Ocular Inspection be conducted prior to

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[23] *Id.* at 144.
[24] CBAA Record – Folder – 1, pp. 148-149, *Manifestations* dated November 26, 2019; 154-155, *Manifestations* dated September 22, 2020.
[25] *Id.* at 192.
[26] *Id.* at 194-196.
[27] CBAA Record – Folder 2, p. 247.

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the formal Preliminary Conference. The request was granted by the CBAA, and the Joint Ocular Inspection was scheduled for May 24, 2023.[28]

Thereafter, a *Notice of Preliminary Conference*[29] was issued, setting the formal preliminary conference on June 21, 2023. However, the same was later cancelled and reset to July 6, 2023.[30]

On July 6, 2023, during the preliminary conference, respondents raised NGCP's failure to comply with the requirement of payment under protest. In response, NGCP manifested its intent to file a motion to post a surety bond in order to satisfy procedural requirements.[31]

On July 17, 2023, NGCP filed its *Motion (For the Posting of Surety Bond)*,[32] to which respondents filed their *Comment (on Petitioner's Motion to Post Surety Bond)*[33] on August 25, 2023.

On November 13, 2023, the CBAA issued a *Resolution of the Motion for the Posting of Surety Bond*[34] granting NGCP's *Motion (For the Posting of Surety Bond)*. In so ruling, the CBAA explained, thus:

> The Board deems it just to decide the case based on the merits of the substantial arguments of the parties rather than resort to technicality and try to dispose of it prematurely. The matters in the present case should be resolved by delving into the actual merits thereof. The payment of surety bond will also assure the Appellees that the taxes on the disputed properties will be paid. Hence, it is in the interest of both parties that the surety be posted.[35]

On February 2, 2024, in compliance with the order,[36] NGCP submitted a copy of the Supersedeas Bond issued by Prudential Guarantee and Assurance, Inc. in the amount of Php2,162,967.90.[37]

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[28] *Id.* at 257.
[29] *Id.* at 271-272.
[30] *Id.* at 273-274, *Constancia* dated June 14, 2023.
[31] *Id.* at 292.
[32] *Id.* at 320-323.
[33] *Id.* at 313-315.
[34] *Id.* at. 343-345.
[35] *Id.* at 345.
[36] *Id.* at 346, Order dated December 20, 2023.
[37] *Id.* at 348-353.

Thereafter, on June 25, 2024, the *Preliminary Conference Order*[38] was issued terminating the Preliminary Conference and directing the parties to submit their respective Position Papers within 15 days from notice.

In compliance, respondents filed their Position Paper[39] on July 10, 2024, while NGCP filed its own[40] on July 19, 2024.

On September 30, 2024, the CBAA rendered the assailed Decision, the dispositive portion of which reads:

> **WHEREFORE**, all the above premises considered the Board holds that the properties designated as:
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> a) Riprap is exempt from real property tax. Respondents-Appellees are hereby ordered to remove it from the taxable assessment roll and note that it is exempt from real property tax for being a flood control and environmental protection facility;
>
> b) The Guard House; Pavement; and Perimeter Fence are not exempt and are taxable with the assessment level based on actual use in accordance with Section 218(a-c) of the Local Government Code;
>
> **SO ORDERED.**[41]

The NGCP moved for reconsideration, but the motion was denied in the equally assailed Resolution dated December 9, 2024, the dispositive portion of which reads:

> All the above premises considered, the instant motion for reconsideration is hereby **DENIED** for lack of merit.
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> **SO ORDERED.**[42]

Hence, NGCP filed the instant *Petition for Review* before the Court *En Banc* on February 14, 2025.

On July 11, 2025, in compliance with the Resolution[43] dated May 21, 2025, respondents filed, through registered mail, their *Comment (on the Petition for Review)*.[44]

[38] *Id.* at 372-378.
[39] *Id.* at 391-402.
[40] CBAA Record - Folder 3, pp. 404-425.
[41] *EB* Docket, p. 60.
[42] *Id.* at 62.
[43] *Id.* at 146.
[44] *Id.* at 164-173.

On September 11, 2025, the case was submitted for decision.[45]

THE ISSUE

NGCP anchors its *Petition for Review* on the sole ground that:

> THE HONORABLE CBAA ERRED IN ITS DECISION AND RESOLUTION WHEN IT FAILED TO CONSIDER THAT THE GUARD HOUSE; PAVEMENT; AND PERIMETER FENCE ARE USED IN CONNECTION WITH NGCP'S FRANCHISE UNDER RA 9511.[46]

<u>NGCP's arguments</u>:

NGCP submits that, contrary to the CBAA's ruling, the three (3) properties, namely: Guard House, Pavement, and Perimeter Fence, are actually, directly and exclusively used in the exercise of its franchise of transmitting electricity, and should therefore be exempt from the payment of RPT.

According to NGCP, the guard house serves as an office of its Security Department and forms part of the essential facilities used in its daily operations to ensure the safety and security of the Villanueva Substation. It functions as an access control checkpoint and central security hub for NGCP's facilities, personnel, and operations within the station.

NGCP further asserts that the guard house provides access to facilities, a central point to monitor its entire properties, and serves as a place for security guards to organize and develop a security plan for NGCP. Hence, for NGCP, the guard house serves its purpose under its franchise by supporting the safe and reliable operation of the transmission assets.

NGCP likewise stresses that for critical power transmission facilities like Substations, which are potential targets of terrorists or criminal elements, the presence of security guards and a guardhouse at the entrance and in the vicinity of the Substation is crucial and indispensable.

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[45] *Id.* at 181.
[46] *Id.* at 8-9, Petition for Review, Grounds for the Allowance of the Petition, par. 29.

With regard to the pavement, NGCP submits that it serves as a means of ingress and egress, enabling NGCP personnel to pass through to conduct operations and maintenance of the machinery and equipment inside the Villanueva Substation. It is also used by its technical personnel as a passage to report to their offices at the Villanueva Substation and to properly transport heavy equipment and materials within the area for operation and maintenance purposes. Thus, with the pavement, NGCP could perform all the activities necessary to support the safe and reliable operation of the transmission system.

As regards the perimeter fence, NGCP asserts that it is also an important facility, serving as an additional layer of security for the Villanueva Substation. According to NGCP, the perimeter fence serves as an initial barrier against unauthorized access, marking the boundaries while providing a level of security for the substation. It is used to ensure the facilities and equipment inside the substation are properly kept safe and to deter criminal activities as well as to provide safety to NGCP employees. NGCP adds that a property containing multimillion-peso assets, such as the Villanueva Substation, is vulnerable to unlawful activities, including robbery and theft, not to mention sabotage and destruction through bombings by outside lawless elements. Hence, without the perimeter fence, NGCP could not efficiently and safely operate the transmission grid system and transmit stable and reliable power supply in Mindanao.

NGCP contends that in the case of *Pangilinan v. The CBAA and NGCP*,[47] this Court ruled that the term "actual and direct use" does not necessarily mean that the properties should be totally and exclusively used in connection with the electric power transmission of NGCP. Allegedly, as long as the properties are used in support of providing a safe, reliable, and continuous transmission of electricity, they can be considered as actually and directly used in connection with NGCP's franchise.

NGCP asserts that, under Section 9 of RA No. 9511, its exemption from payment of RPT on real estate, buildings, and other properties is based on the use of these properties for the operation of its franchise for the nationwide power

[47] CTA *EB* Case No. 2827, December 12, 2024.

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transmission system in the Philippines. For NGCP, the three remaining properties (*i.e.,* guard house, perimeter fence, and pavement) are, by their very nature and purpose, are necessary for the operation and maintenance of NGCP's power transmission business, without which it cannot effectively and efficiently operate the transmission grid system and deliver electricity to the public, as well as providing safe and reliable transmission system.

Respondents' arguments:

Respondents assert that under Section 252 of the LGC of 1991,[48] payment under protest is jurisdictional in nature, and must be complied first before the LBAA and subsequently, the CBAA can take cognizance of the appeal.

According to respondents, "payment under protest" is a condition *sine qua non* before a protest or an appeal questioning the reasonableness or correctness of the assessment of real property may be entertained. Hence, if NGCP avails of the successive remedies under Sections 252 and 226 of the LGC of 1991 – challenging the reasonableness or correctness of the assessment – then it must first pay under protest as mandated by the LGC.

In this case, however, NGCP failed to comply with the mandatory requirement of payment under protest under Section 252 of the LGC of 1991. Such failure, according to respondents, is certainly fatal to the NGCP's appeal to the LBAA and to the CBAA.

Moreover, respondents submit that NGCP's posting of a surety bond before the CBAA is but a belated attempt to cure a fatal defect in its appeal before the LBAA, if not, an obvious circumvention of the rules. According to respondents, NGCP heavily relied on Section 15, Rule IV of the 2016 Consolidated and Revised Rules of Procedure Before the Local Boards of Assessment Appeals and the Central Board of Assessment Appeal. However, Rule IV of the said Revised Rules of Procedure clearly speaks about "Appeals to the Local Board of Assessment Appeals (LBAA)". Hence, the surety bond should have been posted at the LBAA level, not after the case had already reached the CBAA.

[48] Republic Act No. 7160.

Lastly, respondents submit that the four remaining properties after the ocular inspection, *i.e.,* Riprap, Guard House, Pavement, and Perimeter Fence, remain to be taxable and are not exempt from RPT. According to respondents, the four (4) remaining properties are not machinery/equipment or properties actually, directly, and exclusively used by NGCP in electric power generation and transmission. For respondents, to be considered exempt under the law, the said properties must be part of the chain of properties actually and directly involved in the "generation" and "transmission" of electric power as part of the franchise.

THE COURT *EN BANC*'S RULING

Parsed from the arguments set forth by the parties, the primary issues for this Court's resolution are as follows: 1) whether the NGCP is required to pay the assessed RPT under protest before filing an appeal with the LBAA; and 2) whether the four remaining properties – riprap, guard house, perimeter fence and pavement – subject of this case are exempt from RPT.

Before delving on the merits of the case, the Court *En Banc* shall first determine whether the present *Petition for Review* was timely filed.

The Petition for Review was timely filed before the Court En Banc.

Section 3(c), Rule 8 of the Revised Rules of the Court of Tax Appeals states:

> **SEC. 3**. *Who may appeal; period to file petition.* — . . .
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> . . . .
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> (c) A party adversely affected by a decision or ruling of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of their appellate jurisdiction may appeal to the Court by filing before it a petition for review **within thirty days from receipt of a copy of the questioned decision or ruling**. (Emphasis supplied)

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Records show that NGCP received[49] the assailed Resolution dated December 9, 2024, which denied its *Motion for Reconsideration (of the Decision dated 30 September 2024)*, on January 21, 2025. Thus, NGCP had thirty (30) days from January 21, 2025, or until February 20, 2025, within which to file its *Petition for Review* before the Court *En Banc*.

Evidently, the present *Petition for Review*, filed on February 14, 2025, was filed well within the reglementary period. Hence, the Court *En Banc* has jurisdiction to take cognizance of the same.

NGCP failed to comply with the "payment under protest" requirement under Section 252 of the LGC of 1991.

Section 252 of the LGC of 1991 governs the procedure for protesting an RPT assessment and generally requires **payment under protest** of the assessed tax before a protest may be entertained, thus:

> Section 252. *Payment Under Protest.* — (a) **No protest shall be entertained unless the taxpayer first pays the tax**. There shall be annotated on the tax receipts the words "paid under protest." The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.
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> (b) . . . .
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> (c) . . . .
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> (d) **In the event that the protest is denied or upon the lapse of the sixty-day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of this Code**. (Emphasis supplied)

Correlatively, Sections 226 and 229 of the LGC of 1991 govern appeals before the LBAA and the CBAA:

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[49] *EB* Docket, p. 8, Petition for Review, Statement of Material Facts and Material Dates, par. 27.

> SECTION 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, **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 by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.
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> . . . .
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> SECTION 229. *Action by the Local Board of Assessment Appeals.* — (a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.
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> (b) . . . .
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> (c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board, may, **within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals**, as herein provided. The decision of the Central Board shall be final and executory. (Emphasis supplied)

The foregoing provisions must be read **in conjunction with one another**. Section 226 does not operate independently but presupposes prior compliance with Section 252 where the taxpayer questions the correctness or reasonableness of the assessment.

As held in *National Power Corporation v. Province of Quezon (**NPC v. Quezon**),*[50] Sections 252 and 226 provide successive administrative remedies to a taxpayer who questions the correctness of an assessment. Section 226, in

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[50] *National Power Corporation v. Province of Quezon*, G.R. No. 171586, January 25, 2010, [Per J. Brion, Special Second Division].

declaring that "*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 . . . appeal to the Board of Assessment Appeals . . .,*" should be read in conjunction with Section 252 (d), which states that "*in the event that the protest is denied . . ., the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of the LGC.*" The "action" referred to in Section 226, in relation to a protest of a real property tax assessment, refers to the local assessor's act of denying the protest filed pursuant to Section 252. Without the action of the local assessor, the appellate authority of the LBAA cannot be invoked.

The Supreme Court has consistently distinguished between:

1. challenges to the correctness, reasonableness, or excessiveness of an assessment, which involve **factual issues**; and

2. challenges to the very authority or power of the assessor to impose the assessment or of the treasurer to collect the tax, which involve **pure questions of law**.

In the *first* instance, payment under protest and exhaustion of administrative remedies are mandatory. In the *second* instance, direct resort to judicial action may be permitted.

This distinction traces its roots to *Alejandro B. Ty and MVR Picture Tube v. The Honorable Aurelio C. Trampe (**Ty v. Trampe**)*,[51] where the Supreme Court held that the protest contemplated under Section 252 is required where the taxpayer disputes the reasonableness or correctness of the assessment. Conversely, where the taxpayer questions the very authority or power of the assessor to impose the assessment or of the treasurer to collect the tax, the issue becomes a legal question properly cognizable by the courts, and Section 252 does not apply:

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[51] G.R. No. 117577, December 01, 1995, [Per J. Panganiban, *En Banc*].

> ... Although as a rule, administrative remedies must first be exhausted before resort to judicial action can prosper, there is a well-settled exception in cases where the controversy does not involve questions of fact but only of law.
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> ...
>
> In laying down the powers of the Local Board of Assessment Appeals, R.A. 7160 provides in Sec. 229 (b) that "(t)he proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts . . .". It follows that appeals to this Board may be fruitful only where **<u>questions of fact are involved</u>**. Again, **the protest contemplated under Sec. 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed.** Hence, if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. In the case at bench however, the petitioners are questioning **the very authority and power of the assessor**, acting solely and independently, **to impose the assessment and of the treasurer to collect the tax.** These are not questions merely of amounts of the increase in the tax but attacks on the very validity of *any* increase. [Emphasis supplied, citation omitted].

As explained in *Ty v. Trampe*, the remedies under Sections 252 (payment under protest) and 226 (exhaustion of administrative remedies) are inapplicable where the taxpayer attacks not merely the amount or correctness of the assessment, but the very legality of the assessment or the authority of the assessor and treasurer to impose and collect the tax. In such a case, the taxpayer may directly resort to judicial action before the proper court.

Applying this distinction, the Supreme Court in *NPC v. Quezon* categorically ruled that a claim for exemption from RPT constitutes a challenge to the correctness of the assessment, not to the assessor's authority to assess. Thus, the taxpayer must first comply with Section 252 before appealing to the LBAA under Section 226. The Supreme Court explained:

> Like Olivarez, Napocor, **by claiming exemption from realty taxation, is simply raising a question of the correctness of the assessment.** A claim for tax exemption, whether full or partial, **does not question the authority of local assessor** to assess real property tax. This may be inferred from Section 206 which states that:

hr

> ... the above-quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim. **Since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252, particularly the requirement of payment under protest**. Napocor's failure to prove that this requirement has been complied with thus renders its administrative protest under Section 226 of the LGC without any effect. **No protest shall be entertained unless the taxpayer first pays the tax**. (Emphasis supplied)

The Supreme Court further held in *NPC v. Quezon* that Napocor's failure to comply with the requirement of payment under protest rendered its administrative protest ineffective and prevented the valid invocation of the LBAA's appellate jurisdiction.

> ... **No protest shall be entertained unless the taxpayer first pays the tax.**
>
> It was an **ill-advised move** for Napocor to directly file an appeal with the LBAA under Section 226 **without first paying the tax** as required under Section 252. ... **Without the action of the local assessor**, **the appellate authority of the LBAA cannot be invoked**. Napocor's action before the LBAA was thus prematurely filed. (Emphasis supplied)

Consistent with *Ty v. Trampe* and *NPC v. Quezon*, the Supreme Court in *National Power Corporation v. Provincial Government of Bulacan* (***NPC v. Bulacan***),[52] reiterated that where the taxpayer merely assails the correctness or reasonableness of the assessment, administrative remedies under the LGC, including compliance with Section 252, must first be exhausted. Conversely, direct resort to judicial action is proper only where the legality of the assessment itself or the authority to tax is assailed, to wit:

> A claim for exemption from real property tax (RPT), whether full or partial, does not deal with the authority and power of the local assessor to impose the assessment or the local treasurer to collect the tax. **The issue of exemption that pertains to the reasonableness or correctness of the assessment is a question of fact** that administrative agencies should resolve. Therefore, **compliance with the "payment under protest" requirement in Section 252(a) of the Local Government Code (LGC) is mandatory**.

[52] G.R. No. 207140, January 30, 2023, [Per J. Lopez, M., Second Division].

. . . .

> ... The principles were also applied in *Camp John Hay Development Corporation v. Central Board of Assessment Appeals*. In that case, Camp John Hay Development Corporation (CJHDC) was challenging the legality and validity of the RPT assessment on the ground that it was exempted from paying taxes, national and local, including RPT, pursuant to Republic Act (RA) No. 7227 or the Bases Conversion and Development Act of 1992. CJHDC did not pay the questioned assessment under protest. The Court explained that the **claim of exemption from RPT is a question of fact that should be resolved at the first instance by the proper administrative bodies and by paying under protest the tax**. (Emphasis supplied, citations omitted)

In the case at bar, records reveal that NGCP filed a *Petition* before respondent LBAA claiming exemption from RPT on properties allegedly covered by the "in lieu of all taxes" clause under Section 9 of RA No. 9511. According to the NGCP, it is only liable for the 3% franchise tax and no other tax can be imposed or demanded by the national or local authorities. Said 3% franchise tax shall be in lieu of all taxes of any kind and nature levied and collected by any authority whatsoever, local or national, on its properties used in connection with its franchise of transmitting electricity.

Such argument, however, does not assail the LGU's authority to impose RPT per se. Rather, it merely asserts that NGCP is exempt from such taxes by virtue of its franchise. Necessarily, such a claim entails factual determinations regarding the nature, use, and coverage of the properties allegedly exempt and, therefore, constitutes a challenge to the correctness of the assessment, not to the legality of the tax itself.

Accordingly, it is crystal clear that NGCP's claim squarely falls within the first category of cases requiring compliance with Section 252 of the LGC of 1991. Thus, **payment under protest** was a mandatory condition precedent before NGCP could validly invoke the appellate jurisdiction of the LBAA and, subsequently, the CBAA.

Applying the foregoing pronouncement, the Court *En Banc* agrees with the LBAA in **dismissing** NGCP's appeal on the ground of prematurity. As the records reveal, NGCP failed to comply with the requirement of payment under protest under Section 252 of the LGC before elevating the case to the LBAA.

The posting of a surety bond before the CBAA did not cure NGCP's non-compliance with Section 252 of the LGC of 1991.

Indeed, Section 15, Rule IV of the Consolidated and Revised Rules of Procedure Before the LBAA and the CBAA allows the posting of a surety bond in lieu of immediate payment of the assessed tax, *viz.*:

> SEC. 15. *Effect of Appeal on Collection of Taxes* – In accordance with the provisions of Section 231 of R.A. 7160, an appeal on assessment of real property made under the provisions Section 2, Title Two, Book II of R.A. 7160 shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, or municipal assessor in the Metropolitan Manila Area, as the case may be. However, **payment of the same taxes by appellant, is not a condition precedent to the hearing of the appeal by the Local Board concerned, provided the petitioner shall post an appropriate surety**. (Emphasis supplied)

However, as respondents correctly point out, the surety bond should have been posted before the LBAA, not merely before the CBAA.

Moreover, considering that the *Petition* before the LBAA was filed prior to the effectivity of the Consolidated and Revised Rules of Procedure Before the LBAA and the CBAA, there was even greater reason for NGCP to comply strictly with the payment under protest requirement under Section 252.

WHEREFORE, premises considered, the *Petition for Review* filed by the National Grid Corporation of the Philippines is hereby **DENIED.** The assailed Decision dated September 30, 2024, and the Resolution dated December 9, 2024, both rendered by the Central Board of Assessment x---x

Appeals, are **REVERSED** and **SET ASIDE**. Accordingly, the Orders of the Local Board of Assessment Appeals dated July 3, 2015 and March 30, 2017 are hereby **REINSTATED** and **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

x--x

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.

MA. BELEN RINGPIS-LIBAN
Presiding Justice