REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL FOOD AUTHORITY, represented by the Director of NFA Region II,
Petitioner,

-*versus*-

PROVINCE OF NUEVA VIZCAYA, RHODA D. SORIANO-MORENO, Office of the Provincial Treasurer and the Provincial Assessor's Office, Province of Nueva Vizcaya,
Respondents.

CTA *EB* No. 2361
(CTA AC No. 192)

Members:

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

Promulgated:
AUG 2 2 2023 4:30 pm

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RESOLUTION

MANAHAN, *J.:*

For this Court's resolution are petitioner's *Motion for Reconsideration (of the Decision dated 27 June 2022)* filed on July 19, 2022 without respondents' comment[1] and its *Manifestation* filed on January 27, 2023.

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[1] Court Resolution dated January 13, 2023 ruling that respondent's Comment/Opposition (To Petitioner's Motion for Reconsideration) was filed out of time and shall no longer be considered; EB Docket, pp. 219-220.

Petitioner seeks reconsideration of the Court's Decision promulgated on June 27, 2022 (Assailed Decision), the dispositive portion of which reads as follows:

> "**WHEREFORE**, the Petition for Review with `Motion for Suspension of Collection of Tax is **DENIED** for lack of merit. Accordingly, the assailed Decision dated February 3, 2020 and the assailed Resolution dated September 21, 2020, all promulgated by the Second Division of this Court, are **AFFIRMED.**
>
> **SO ORDERED."**

On January 27, 2023, petitioner filed a *Manifestation* submitting for the consideration of the Court a photocopy of a Notice of Resolution dated August 31, 2022 issued by the Supreme Court in the case of *City Government of Pagadian, City Treasurer and City Assessor of Pagadian City vs. NFA* (*Pagadian* case) which allegedly resolved a similar issue on whether the National Food Authority (NFA) is a government instrumentality, thus exempt from the payment of real property tax (RPT). In their Comment/Opposition to Petitioner-Appellant's January 26, 2023 Manifestation,[2] to petitioner's Manifestation, respondents object to its admission and argued that objections not included in a previous motion are deemed waived under the Omnibus Motion Rule under the Revised Rules of Court. Further, respondents averred that the facts and issues in the *Pagadian* case have no semblance of similarity with the instant case, hence must not be considered by the Court in resolving petitioner's Motion for Reconsideration.

In a Resolution dated May 23, 2023, the Court submitted petitioner's *Motion for Reconsideration* and *Manifestation*, for resolution.

Petitioner's arguments

Petitioner presented the following grounds for the reconsideration of the assailed Decision, to wit:

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[2] *EB* Docket, pp. 236-242.

I. Payment under protest was *(sic)* the proper remedy for NFA and the Honorable Court of Tax Appeals (CTA) has jurisdiction to resolve the instant case;

II. NFA is a government instrumentality, thus, exempt from payment of real property taxes.

Petitioner reiterates its argument that the nature of the Petition for Prohibition filed with the Regional Trial Court (RTC) is not against the reasonableness of the amount assessed by respondents but against the authority of the latter to assess and impose RPT. It then justifies its immediate recourse to the court (RTC) without going through the process outlined in Section 252 of the Local Government Code (LGC) of 1991 by citing the ruling of the Supreme Court in the case of *Ty vs, Trampe,*[3] where it was allegedly ruled that questions of law, e.g., questioning the authority and power of the local assessor, serves as an exception to the rule that administrative remedies must first be exhausted prior to recourse to the courts. Petitioner reasons that the Court therefore committed an error when it dismissed its Petition for Review for lack of jurisdiction.

Petitioner further argues that as a government instrumentality, it is exempt from the payment of RPT under Section 133 (o) of the LGC of 1991. It asserts that Republic Act (RA) No. 11203 entitled, "An Act Liberalizing the Importation and Exportation and Trading of Rice, Lifting for the Purpose the Quantitative Import Restriction on Rice, and For Other Purposes," describes its office as a "government instrumentality."

Respondents' Comment/Opposition to petitioner's Motion for Reconsideration was no longer considered as it was belatedly filed despite the extended period granted by the Court.[4]

<u>RULING OF THE COURT *EN BANC*</u>

We deny the Motion for Reconsideration filed by petitioner.

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[3] G.R. No. 117577, December 1, 1995.
[4] Ibid.

To recall, the Decision of the Second Division (Court in Division) in CTA AC Case No. 192, which was affirmed by the Court *En Banc* (now the assailed Decision) concluded that petitioner availed of the wrong remedy before the RTC. We quote the relevant portion of the Decision of the Court in Division, to wit:

> "Since petitioner's claim for exemption from 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 by the local assessor, it should have first complied with the requirement of payment under protest and the rule on exhaustion of administrative remedies under Sections 252, 226 and 229 of *(sic)* LGC of 1991."

In denying petitioner's Motion for Reconsideration, the Court in Division in the assailed Resolution dated September 21, 2020 made it more clear when it ruled, thus:

> "Clearly, petitioner availed *(sic)* the wrong remedy before the lower court. To stress, petitioner's claim for exemption from payment of real property tax is in the nature of questioning the reasonableness or correctness of the assessment. Accordingly, it should have first complied with the requirement of payment under protest and appeal to LBAA and then to CBAA under the rule of exhaustion of administrative remedies as discussed above."

In the same Resolution, the Court in Division made it clear that the Court dismissed the Petition for Review for lack of jurisdiction, and we quote:

> "In view of the foregoing, this Court finds no cogent reason to deviate from its finding that it has no jurisdiction to entertain the present case for petitioner's failure to comply with the procedural requirements laid down under Sections 252, 226, 229 of the LGC of 1991, as amended."

It is nevertheless worthy to stress that the Petition for Prohibition filed by petitioner with the RTC was not the proper remedy in cases claiming exemption from RPT. A careful perusal of the arguments of petitioner discloses that its primary contention is that it is exempt from the payment of RPT as a government instrumentality. It goes on to argue that it was erroneous on the part of the provincial treasurer to issue Notices of Delinquency for RPT on various properties located in the province of Nueva Vizcaya.

The assailed *En Banc* Decision cited the cases of *Camp John Hay Development Corporation vs. CBAA, et.al.*,[5] (*Camp John Hay* case) and *Napocor vs. the Provincial Treasurer of Benguet, et.al.*[6] (*Napocor* case) in resolving the issues raised by petitioner. Specifically, the Supreme Court in the *Napocor* case categorically ruled 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 by the local treasurer,"** which contravenes the contention of petitioner. Both these Supreme Court cases concluded that such issue is a question of fact which is cognizable, at the very first instance, by the LBAA.

These two rulings were encapsulated by the Supreme Court in the recent case of *Metropolitan Waterworks and Sewerage System vs. CBAA*,[7] where it was stated that an appeal to the LBAA under Section 226 of the LGC of 1991 is fruitful where questions of fact are involved.

Notwithstanding this Court's affirmance of the Court in Division's ruling that petitioner availed of the wrong remedy when it proceeded directly to the RTC, we, however, proffer a different view on the aspect of jurisdiction and rule that decisions or orders of the RTC in local tax cases originally decided or resolved by them clearly falls within the exclusive appellate jurisdiction of the Court of Tax Appeals (CTA) under Section 7(a) (3) of Republic Act (RA) No. 1125, as amended by RA No. 9282, and we quote:

> "Sec. 7. Jurisdiction. – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> xxx xxx xxx

[5] G.R. No. 169234, October 2, 2013.
[6] G.R. No. 209303, November 14, 2016.
[7] G.R. No. 215955, January 13, 2021.

> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
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> xxx xxx xxx

The records show that petitioner elevated an appeal with the Court in Division seeking the reversal of the Decision dated July 28, 2017 and Resolution dated September 29, 2017 both rendered by the RTC-Branch 29 of Bayombong, Nueva Vizcaya.

The issue of the proper remedy/remedies available to a taxpayer under the LGC of 1991 is not the element that is determinative of the Court's jurisdiction but rather the subject matter of the Petition for Review. **Jurisdiction over the subject matter means "the nature of the cause of action and the relief sought."**[8] What is clear is that petitioner sought recourse to the Court to nullify the aforesaid RTC Decision and Resolution which falls within the afore-quoted exclusive appellate jurisdiction of the Court.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (of the Decision dated 27 June 2022),* is **DENIED** for lack of merit but with modification on the issue of jurisdiction of the Court as hereinabove discussed.

Accordingly, petitioner's *Manifestation* filed on January 27, 2023 is rendered **MOOT.**

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

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[8] *City of Lapu-Lapu vs. Philippine Economic Zone Authority,* G.R. Nos. 184203 and 187583, November 26, 2014.

WE CONCUR:

(I reiterate my Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I concur in the result)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

(I concur in the result)
CORAZON G. FERRER FLORES
Associate Justice