REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NATIONAL FOOD AUTHORITY, represented by MARIO M. GONZALES Regional Director of NFA Region II, *Petitioner,*	**CTA AC CASE NO. 192**
	Members:
-versus-	CASTAÑEDA, JR., *Chairperson,* MINDARO-GRULLA, and BACORRO-VILLENA, *JJ.*
PROVINCE OF NUEVA VIZCAYA, RHODA D. SORIANO-MORENO, Office of the Provincial Treasurer and the Provincial Assessor's, Province of Nueva Vizcaya, *Respondents.*	Promulgated: FEB 03 2020 4:10 p.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision on March 6, 2019 is a Petition for Review[1] filed through registered mail on November 20, 2017 and received by the Court on November 22, 2017, pursuant to Section 3(a) Rule 8 of the Revised Rules of the Court of Tax Appeals[2], by petitioner National Food Authority against

[1] Docket, Vol. I, pp. 8-35.

[2] Sec. 3. Who may appeal; period to file petition. –

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the respondents Province of Nueva Vizcaya, Rhoda D. Soriano-Moreno, Office of the Provincial Treasurer and the Provincial Assessor's, Province of Nueva Vizcaya, seeking to reverse and set aside the Order dated July 28, 2017 and Resolution dated September 29, 2017, both rendered by the Regional Trial Court (RTC) - Branch 29 of Bayombong, Nueva Vizcaya which dismissed for lack of merit the Petition for Prohibition filed by petitioner.

STATEMENT OF FACTS

Petitioner is created under Presidential Decree (PD) No. 4[3], as amended otherwise known as the National Grains Industry Development Act. It is being represented by Mario M. Gonzales, Director of NFA-Region II who is authorized pursuant to NFA Council Resolution No. 383-2K8-B.[4] Petitioner may be served with summons and other court processes at NFA Legal Affairs Department (LAD), SRA Annex 2 Building, North Avenue, Diliman, Quezon City.[5]

On the other hand, respondent Province of Nueva Vizcaya is a political subdivision created pursuant to law, while, respondents Provincial Treasurer Rhoda D. Soriano-Moreno and Provincial Assessor are both public officers, of the Province of Nueva Vizcaya. Respondents may be served with summons and other court processes at their office address at Capitol 3700, Bayombong, Province of Nueva Vizcaya.[6]

By virtue of PD No. 4, the National Grains Authority (NGA) was created to effect the development of the country's

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Commissioner of Internal Revenue or to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] PROVIDING FOR THE DEVELOPMENT OF THE RICE AND CORN INDUSTRY AND CREATING FOR THIS PURPOSE THE NATIONAL GRAINS AUTHORITY, September 26, 1972.

[4] Annex "F" of the Petition for Review, Docket, Vol. I, p. 66,

[5] As culled from paragraph 15 of the Petition for Review, Docket, Vol. I, p. 14,

[6] As culled from paragraphs 16 and 17 of the Petition for Review, Docket, Vol. I, p. 14,

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rice and corn industry. Subsequently, PD No. 4 was further amended by PD No. 699[7] and later on by PD No. 1485.[8]

Thereafter, by virtue of PD No 1770[9], the NGA was reconstituted into National Food Authority (NFA) with the intention of expanding the functions and powers of the NGA to cover not only the grains industry but other basic food commodities as well.

Petitioner is the owner of several real properties constituting of land, buildings and machinery located at Barangay Bagabag and Barangay Bayombong, both in the Province of Nueva Vizcaya, which are covered by seven (7) Tax Declaration Nos. 2010-030006-0515, 2010-1412, 2010-030006-0516, 2010-0380, 2010-1414, 2010-1417 and 2010-1413.[10]

On March 23, 2016, respondent Provincial Treasurer, Ms. Rhoda D. Soriano-Moreno, issued seven (7) Notices of Delinquency[11] demanding payment for real property taxes in the total amount of ₱2,848,686.50 on various properties declared in the name of petitioner located in the Province of Nueva Vizcaya. The Notice of Delinquency was received by petitioner's employee, Milagros Torralba, on March 23, 2016.[12]

On June 14, 2016, petitioner filed a Petition for Prohibition (With Application for the Issuance of a Preliminary Injunction and/or Temporary Restraining Order)[13] under Section 2 of Rule 65 of the Rules of Court before RTC Bayombong, Nueva Vizcaya, questioning the authority and power of the respondents to impose and collect real property

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[7] AMENDING PRESIDENTIAL DECREE NUMBER FOUR, ENTITLED "PROCLAIMING THE CREATION OF THE NATIONAL GRAINS INDUSTRY DEVELOPMENT ADMINISTRATION AND PROVIDING FUNDS THEREFOR, May 12, 1975.
[8] FURTHER AMENDING CERTAIN PROVISIONS OF THE NATIONAL GRAINS INDUSTRY DEVELOPMENT ACT, June 11, 1978.
[9] RECONSTITUTING THE NATIONAL GRAINS AUTHORITY TO THE NATIONAL FOOD AUTHORITY, BROADENING ITS FUNCTIONS AND POWERS AND FOR OTHER PURPOSES, January 14, 1981.
[10] Annexes "D" to "D-6", RTC Records, pp. 35-41.
[11] Annexes "C" and "D" to "D-6", RTC Records, pp. 34-41.
[12] Annex "C", RTC Records, p. 34 and as admitted by petitioner in paragraph 6 of its Petition for Review, Docket, Vol. I, p. 17.
[13] RTC Records, pp. 1-27.

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taxes, on the alleged ground that it is a government instrumentality that is exempt from payment thereof. The case was docketed as Special Civil Action No. 0051 and was raffled to RTC-Branch 29 of Bayombong, Nueva Vizcaya.

Thereafter, trial ensued.

The RTC-Branch 29 of Bayombong, Nueva Vizcaya issued a Decision[14] dated July 28, 2017, dismissing the Petition for Prohibition, finding that petitioner is a Government Owned or Controlled Corporation (GOCC) - a taxable entity, which dispositive portion is quoted as follows:

> *"WHEREFORE, in view of the foregoing, the instant Petition for Prohibition is hereby DISMISSED.*
>
> *SO ORDERED."*

On August 23, 2017, petitioner filed its Motion for Reconsideration (Of the Decision dated 28 July 2017).[15] On October 19, 2017[16], petitioner received the Resolution[17] dated September 29, 2017 which denied its motion for lack of merit.

Hence, petitioner filed the present Petition for Review. Respondents filed their Comment/Opposition to Petitioner-Appellant's Petition for Review (With Motion to Dismiss)[18], through registered mail on February 13, 2018 and received by the Court on February 21, 2018.

Memorandum (For the Petitioner)[19] was filed on January 18, 2019; while Memorandum (For the Respondent-Appellees)[20] was filed through registered mail on February 13, 2019 and received by the Court on February 21, 2019. On March 6, 2019, the case was deemed submitted for decision.[21]

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[14] RTC Records, pp. 282-287.
[15] RTC Records, pp. 288-312.
[16] As culled from paragraph 12 of the Petition for Review, Docket, Vol. I, p. 13.
[17] RTC Records, pp. 379-380.
[18] Docket, Vol. I, pp. 328-346.
[19] Docket, Vol. II, pp. 672-701.
[20] Docket, Vol. II, pp. 744-765.
[21] Resolution dated March 6, 2019, Docket, Vol. II, pp. 768-769.

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STATEMENT OF THE ISSUES

In its Petition, the following grounds[22] were raised by petitioner for the Court's resolution, as follows:

I. THE TRIAL COURT ERRED IN HOLDING THAT THE PETITION IS FILED OUT OF TIME OR BEYOND THE 60 DAY PERIOD TO FILE A PETITION FOR PROHIBITION UNDER RULE 65 OF THE RULES OF COURT.

II. THE TRIAL COURT ERRED IN HOLDING THAT THE PETITION WAS NOT SIGNED BY THE PROPER OFFICER.

III. THE TRIAL COURT ERRED IN HOLDING THAT NFA IS SIMILARLY SITUATED WITH THE LANDBANK OF THE PHILIPPINES OR THE DEVELOPMENT BANK OF THE PHILIPPINES (DBP).

IV. THE TRIAL COURT ERRED IN HOLDING THAT NFA IS A GOCC AND NOT A GOVERNMENT INSTRUMENTALITY.

V. THE TRIAL COURT ERRED IN HOLDING THAT THE TEST OF ECONOMIC VIABILITY IS NOT APPLICABLE TO THE PETITIONER-APPELLANT BECAUSE PD 1770 WAS ENACTED PRIOR TO THE 1987 CONSTITUTION.

[22] Petition for Review, Docket, Vol. I, pp. 14-15.

VI. THE TRIAL COURT ERRED IN HOLDING THAT NFA'S REAL PROPERTIES ARE SUBJECT TO REAL PROPERTY TAXES.

DISCUSSION/RULING

The Court shall discuss first its jurisdiction to entertain the instant Petition for Review.

At the outset, it must be noted that petitioner filed a Petition for Prohibition (With Application for the Issuance of a Preliminary Injunction and/or Temporary Restraining Order) under Rule 65 of the Rules of Court before RTC Bayombong, Nueva Vizcaya, essentially claiming that as a government instrumentality it should be exempt from payment of real property taxes.

It is to be stressed that in every special civil action under Rule 65, a party seeking the writ whether for certiorari, prohibition or mandamus, must be able to show that his or her resort to such extraordinary remedy is justified by the absence of an appeal or any plain, speedy and adequate remedy in the ordinary course of law.[23] The petitioner must allege in his petition and establish facts to show that any other existing remedy is not speedy or adequate.[24] Where administrative remedies are available, petitions for the issuance of these peremptory writs do not lie in order to give the administrative body the opportunity to decide the matter by itself correctly and to prevent unnecessary and premature resort to courts.[25]

In this case, petitioner is not without "other plain, speedy and adequate remedy" in the ordinary course of law.

Republic Act (RA) No. 7160, or the Local Government Code (LGC) of 1991, clearly sets forth the administrative

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[23] Candelaria, et al. vs. Regional Trial Court, Branch 42, City of San Fernando (Pampanga) represented by its Presiding Judge Hon. Maria Amifaith S. Fider-Reyes, et al., G.R. No.173861, July 14, 2014.
[24] Lee vs. People of the Philippines, et al., G.R. No. 159288, October 19, 2004.
[25] Olivares, et al. vs. Marquez, et al., G.R. No. 155591, September 22, 2004.

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remedies available to a taxpayer or real property owner, as follows:

> *"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) The tax or a portion thereof paid under protest, shall be held in trust by the treasurer concerned.*
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> *(c) In the event that the protest is finally decided in favor of the taxpayer, the amount or portion of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability.*
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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 tax payer may avail of the remedies as provided for in Chapter 3, Title Two, Book II of this Code."*

Relevant thereto is Chapter 3, Title Two, Book II of the LGC of 1991 which provides for the appeal before the Local Board of Assessment Appeals (LBAA) and the Central Board of Assessment appeals (CBAA), as follows:

> *"CHAPTER 3 - ASSESSMENT APPEALS"*
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> *"SEC. 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*

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> *declarations and such affidavits or documents submitted in support of the appeal."*
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> *xxx xxx xxx*
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> *"SEC. 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) In the exercise of its appellate jurisdiction, the Board shall have the powers to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue subpoena and subpoena duces tecum. The proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts without necessarily adhering to technical rules applicable in judicial proceedings.*
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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."*

Section 252 of the LGC mandates that "no protest shall be entertained unless the taxpayer first pays the tax." It is settled that the requirement of "payment under protest" is a condition *sine qua non* before an appeal may be entertained.[26]

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[26] Manila Electric Company vs. The City Assessor, et al., G.R. No. 166102, August 5, 2015.

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In the case of *Manila Electric Company vs. Barlis*[27], the Supreme Court held that:

> "*xxx* ***The trial court has no jurisdiction to entertain a Petition for Prohibition absent petitioner's payment****, under protest, of the tax assessed as required by Sec. 64 of the RPTC. Payment of the tax assessed under protest, is a condition sine qua non before the trial court could assume jurisdiction over the petition and failure to do so, the RTC has no jurisdiction to entertain it." (Emphasis supplied)*

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. According to the plain-meaning rule or *verba legis,* when the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. It is expressed in the maxims *index animi sermo* or "speech is the index of intention[,]" and *verba legis non est recedendum* or "from the words of a statute there should be no departure.[28]

The question now is whether the rule on "payment under protest" and the exhaustion of administrative remedies shall apply to the instant case.

In this case, petitioner is claiming exemption from real property tax on the ground that it is government instrumentality.

In the case of *National Grid Corporation of the Philippines vs. Central Board of Assessment Appeals, et al.*[29], the CTA *En Banc* held that:

> *"Sections 252 and 226 of the LGC of 1991 provide successive administrative remedies*

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[27] G.R. No. 114231, May 18, 2001.
[28] Padilla, et al. Congress of the Philippines, et al., and Tanada, et al. Congress of the Philippines, et al., G.R. No. 231671 and G.R. No. 231694, July 25, 2017.
[29] CTA EB No. 1392 (CBAA Case No. M-35) (LBAA Case No. 01-2013), September 5, 2017.

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available to a taxpayer who assails the correctness of an assessment issued against such taxpayer. Hence, Section 226 of the LGC of 1991, which provides that any owner or person having legal interest in the property, who is aggrieved by or not satisfied with the action of the provincial, city, or municipal assessor in the assessment of his/her/its property, may file an appeal to the LBAA within sixty (60) days from the date of receipt of the written notice of assessment (NOA), should be read in conjunction with Section 252 (d) of the same Code, 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 protest contemplated under Section 252 is required where reasonableness or correctness of the amount assessed is being impugned. Hence, if a taxpayer disputes the reasonableness of an increase in a real property tax assessment, he/she/it is required to "first pay the tax" under protest, otherwise, the city or municipal treasurer will not act on the said protest.

On the other hand, if the taxpayer or the owner or person having legal interest in the property, questions the very authority and power of the assessor to impose the assessment, or questions the authority and power of the treasurer to collect the tax, the matter becomes a legal question, which is properly cognizable by the proper trial court.

In other words, there can be two situations when a taxpayer or the owner or person with legal interest over the property, may question the assessment, i.e., 1) ***question the reasonableness or correctness of the assessment*** *or 2)* ***question the legality or validity of the assessment.***

In the ***first scenario****, i.e., the taxpayer or the person with legal interest over the property questions the reasonableness, correctness, or excessiveness of the assessment,* ***the taxpayer must first pay under protest the assessed tax as mandated under Section 252(a) of the LGC of 1991****. In the event that the protest is denied or not acted upon within 60 days from*

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filing, the taxpayer or the person with legal interest over the property may then file an appeal with the LBAA, which has 120 days from the date of receipt of such appeal, to render a decision. When the taxpayer or the person with legal interest over the property or the assessor, as the case may be, remains unsatisfied with the decision of the LBAA, the taxpayer may elevate the case to the CBAA within 30 days from receipt of the adverse decision. If still aggrieved, the taxpayer or person with legal interest over the property, may seek judicial intervention before the CTA En Banc in accordance with Sections 7(a)(5) and 11 of RA No. 1125, as amended by RA Nos. 9282 and 9503 and Section 2(e), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA).

*For the **second scenario**, the question deals with the legality or validity of the assessment, i.e., the authority and power of the assessor to impose the assessment, and of the treasurer to collect the real property tax, which is a question of law. In such case**, the taxpayer or person with legal interest over the property, may appeal directly to the proper Regional Trial Court (RTC).** Any appeal from the RTC's decision is appealable before the Division of the CTA.*

*In the case at bar, it is evident that petitioner questioned before the LBAA of Agusan Del Sur the correctness of the assessment issued against it by the Provincial Assessment and Treasury Office in the total amount of P5,843,632.40, when it filed a petition against respondents Municipal Assessor Ruiz and Acting Provincial Assessor Rufila, Jr. **claiming exemption from payment of real property tax** allegedly provided under its franchise and Section 234(c) of LGC of 1991.*

However, as correctly observed by respondent LBAA, petitioner failed to first pay under protest the questioned assessment as required under Section 252(a) of the LGC of 1991. The payment of the tax under the questioned assessment is mandatory to vest LBAA with jurisdiction to entertain the petition. Thus, the Court agrees with respondent LBAA's Resolution of February 28, 2013, saying that it has no

> *jurisdiction to entertain petitioner's appeal for failure to comply with the mandatory requirement under the LGC.*
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> ***Consequently, the Court has no jurisdiction to entertain the present case for petitioner's failure to comply with the procedural requirement laid down under Section 252(a) of the LGC of 1991."*** *(Emphasis supplied)*

A 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, a question of fact which should be resolved, at the very first instance, by the LBAA, as ruled by the Supreme Court in the case of *National Power Corporation vs. The Provincial Treasurer of Benguet, et al.* [30], the Supreme Court held that:

> *"xxx As settled in jurisprudence,* ***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 assessor, a question of fact which should be resolved, at the very first instance, by the LBAA.*** *The same may be inferred in Section 206 of the LGC of 1991, to wit:*
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> > *SEC. 206. Proof of Exemption of Real Property from Taxation. - Every person by or for whom real property is declared,* ***who shall claim tax exemption for such property*** *under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, by-laws, contracts, affidavits, certifications and mortgage deeds, and similar documents.*
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> > ***If the required evidence is not submitted within the period herein***

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[30] G.R. No. 209303, November 14, 2016.

> ***prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll.***
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> *Section 206 of the LGC categorically provides that every person by or for whom real property is declared, who shall claim exemption from payment of real property taxes imposed against said property, shall file with the provincial, city or municipal assessor sufficient documentary evidence in support of such claim. The burden of proving exemption from local taxation is upon whom the subject real property is declared. By providing that real property not declared and proved as tax-exempt shall be included in the assessment roll, 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. Thus, if the* ***property being taxed has not been dropped from the assessment roll, taxes must be paid under protest if the exemption from taxation is insisted upon****." (Emphasis supplied)*

By providing that real property not declared and proved as tax-exempt shall be included in the assessment roll, Section 206 of the LGC 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.[31]

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 LGC of 1991.

In this regard, the taxpayer must first pay the tax then file a protest with the Local Treasurer within thirty (30) days from date of payment of tax. If protest is denied or upon the

[31] National Power Corporation vs. Province of Quezon, et al., G.R. No. 171586, January 25, 2010.

lapse of the sixty (60)-day period to decide the protest, the taxpayer may appeal to the LBAA within sixty (60) days from the denial of the protest or the lapse of the sixty (60)-day period to decide the protest. The LBAA has 120 days to decide the appeal. If the taxpayer is unsatisfied with the Local Board's decision, the taxpayer may appeal before the CBAA within thirty (30) days from receipt of the Local Board's decision. The decision of the CBAA is appealable before the Court of Tax Appeals *En Banc*.[32]

For petitioner's failure to exhaust the administrative remedies available to it and to comply with payment under protest, the assessment therefore attained finality and the collection would be proper.

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.[33]

Parties are generally precluded from immediately seeking the intervention of courts when "the law provides for remedies against the action of an administrative board, body, or officer." The practical purpose behind the principle of exhaustion of administrative remedies is to provide an orderly procedure by giving the administrative agency an

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[32] City of Lapu-Lapu vs. Philippine Economic Zone Authority and Province of Bataan, represented by Governor Enrique T. Garcia, Jr., et al., Philippine Economic Zone Authority, G.R. No. 184203 and G.R. No. 187583, November 26, 2014.

[33] Camp John Hay Development Corporation vs. Central Board of Assessment Appeals represented by its Chairman Hon. Cesar S. Gutierrez, et al., G.R. No. 169234, October 2, 2013.

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"opportunity to decide the matter by itself correctly [and] to prevent unnecessary and premature resort to the courts.[34]

Moreover, it is settled that the Petition for Prohibition must be filed not later than sixty (60) days from notice of the judgment, order or resolution, as required under Sections 2 and 4 of Rule 65 of the Rules of Court, as follows:

> ***Section 2.*** *Petition for prohibition. — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.*
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> *The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.*
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> *xxx xxx xxx*
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> ***Section 4.*** *When and where petition filed. — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.*
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> *The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction*

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[34] Aala, et al. vs. Hon. Rey T. Uy, in his capacity as the City Mayor of Tagum City, Davao del Norte, et al., G.R. No. 202781, January 10, 2017.

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> *over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.*
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> *No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days. (4a) (Bar Matter No. 803, 21 July 1998; A.M. No. 00-2-03-SC)*

It is thus explicit from the foregoing that as a general rule, the petition shall be filed within the 60-day reglementary period. As an exception, an extension of time may be granted but only for a compelling reason and only for 15 days. More important, the discretion to grant or deny said request lies solely in the court.[35]

Section 254 mandates that the notice of delinquency in the payment of the real property be: (1) posted at the main entrance of the provincial capitol, or city or municipal hall and in a publicly accessible and conspicuous place in each *barangay* of the local government unit concerned, and (2) published once a week for two (2) consecutive weeks, in a newspaper of general circulation in the province, city, or municipality. In *Talusan y. Tayag,* the Court added that the notice of delinquency should be sent to the registered owner of the property subject of a possible tax sale.[36]

Records show that Notices of Delinquency issued by Provincial Treasurer, Ms. Rhoda D. Soriano-Moreno on March 23, 2016 which demanded payment for real property taxes in the total amount of ₱2,848,686.50 on various properties of petitioner, were issued and sent to petitioner. In fact, the notice was received by its employee, Milagros Torralba, on March 23, 2016. This was admitted by petitioner. Thus, counting sixty (60) days from its receipt on March 23, 2016,

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[35] Heirs of Ramon B. Gayares, represented by Emelinda Gayares and Rhayan Gayares in their capacity as legal heirs of the late Ramon Gayares vs. Pacific Asia Overseas Shipping Corporation, et al., G.R. No. 178477, July 16, 2012.
[36] Salva vs. Magpile, G.R. No. 220440, November 8, 2017.

petitioner had until May 23, 2016[37] within which to file the Petition. Petitioner filed the Petition for Prohibition before the RTC only on June 14, 2016. Hence, the Petition for Prohibition was filed out of time.

It is true that a litigation is not a game of technicalities and that the rules of procedure should not be strictly enforced at the cost of substantial justice. However, it does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.[38]

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

WHEREFORE, premises considered, the Petition for Review is **DENIED,** for lack of merit. Accordingly, the Decision dated July 28, 2017, rendered by the Regional Trial Court Branch 29 of Bayombong, Nueva Vizcaya, and its Resolution dated September 29, 2017 are **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.

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

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[37] May 22, 2016 fell on a Sunday.
[38] Bethel Realty and Development Corporation vs. Housing and Land Use Regulatory Board, et al., G.R. No. 184482, July 4, 2012.

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest 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's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice