Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

THE CITY GOVERNMENT OF MAKATI, THE CITY TREASURER OF MAKATI CITY, and the OFFICER-IN-CHARGE OF THE OFFICE OF THE CITY ADMINISTRATOR AND HEAD OF BUSINESS PERMITS OFFICE,
Petitioners,

-versus-

HONORABLE REGIONAL TRIAL COURT, MAKATI CITY, BRANCH 59 and MACTEL CORPORATION,
Respondents.

CTA EB NO. 1465
(CTA AC No. 147)

Present:
DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:
JAN 29 2019
3:31 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

This resolves private respondent's "Motion for Reconsideration" of the Amended Decision dated October 9, 2018 of this Court *En Banc*, the dispositive portion of which states:

> *"**WHEREFORE**, premises considered, petitioner's "Motion for Reconsideration" is hereby **GRANTED.** The Decision promulgated on February 14, 2018 by this Court is **REVERSED and SET ASIDE.***
>
> *Accordingly, the Petition for Review is **GRANTED**, Consequently, the Decision dated February 9, 2016, rendered by the Second Division of this Court in CTA AC No. 147, and its Resolution dated May 18, 2016 are **REVERSED and SET ASIDE**. The instant case is **REMANDED** to the Second Division of this Court for the determination of the merits of the case.*

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SO ORDERED."

In assailing this Court's Amended Decision, private respondent insists that the present case is not a tax case. On December 20, 2018, petitioner filed its Comment. Petitioner on the other hand maintains that the Court in Division has jurisdiction.

We resolve to deny the motion.

To reiterate, in the case of City of Manila, et al. vs. Hon. Carida H. Grecia-Cuerdo, et al. [1], the Supreme Court affirmatively ruled that the Court of Tax Appeals (CTA) has jurisdiction over a special civil action for *certiorari* assailing an interlocutory order issued by the Regional Trial Court (RTC) in a local tax case. To wit:

> *"xxx,[W]e now turn to the central issue in this case. The basic question posed before this Court is whether or not the CTA has jurisdiction over a special civil action for certiorari assailing an interlocutory order issued by the RTC in a local tax case.*
>
> *This Court rules in the affirmative.*
>
> *xxx xxx xxx.*
>
> *xxx. Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and* ***to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.***
>
> *On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive*

[1] G.R. No. 175723, February 4, 2014.

> *appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of certiorari in these cases.*
>
> *Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of certiorari. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.*
>
> *xxx xxx xxx.*
>
> *xxx. The supervisory power or jurisdiction of the CTA to issue a writ of certiorari in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.*
>
> *A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.*
>
> *Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process.*

Clearly, the power of this Court to issue a writ of *certiorari* in aid of its appellate jurisdiction co-exists and complements its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.

This Court in our Decision dated February 14, 2018 recognizes that the controversy at hand involves local taxes. Specifically, the Billing Assessment dated 22 January 2015 for the 2014 deficiency business tax and the Notice of Assessment dated 14 January 2015 for the 2010-2013 deficiency business tax. Furthermore, a re-examination of of the Order dated April 28, 2015[2], rendered by the RTC-Branch 59 of Makati City, reveals that the injunctive relief issued was a local tax case. Indeed, the injunctive relief was issued against the whole on-going assessment process and not merely on the assessments per se, thus:

> *"WHEREFORE, premises considered, let Writs of Preliminary Injunction and Mandatory Injunction be issued upon the filing of a bond of P500,000.00 ordering respondents, their successors, agents, assignees and any and all persons or entities acting on their behalf, under their authority or in coordination to* ***DESIST and REFRAIN from further proceeding with the assessment of local taxes of petitioner*** *until the resolution of this case. Furthermore, respondents are hereby ordered to issue a temporary business permit in favor of petitioner.*
>
> *SO ORDERED." (Emphasis Supplied.)*

The injunctive writ enjoining petitioners from further proceeding with the assessment of local taxes bolsters the fact that the controversy is a local tax case. In praying to restrain the collection of business tax, respondent also implicitly questions the propriety of the assessment of such business tax. This is because in ruling as to whether to restrain the collection, the RTC must first necessarily rule on the propriety of the assessment. In other words, in filing an action for injunction to restrain collection, respondent was in effect also challenging the validity of the business tax assessment.

A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively,

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[2] RTC Records, pp. 190-193

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to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.[3]

Pursuant to Section 7 of Republic Act (RA) No. 1125[4], as amended by RA No. 9282[5], and Rule 4, Section 3(a)(3) of the 2005 Revised Rules of the Court of Tax Appeals[6] (RRCTA), as amended, the Court in Division has jurisdiction over decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction.

In sum, We find no substantial argument was raised to merit reconsideration of our Decision promulgated on October 9, 2018.

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[3] In the case of City of Manila, et al. vs. Hon. Carida H. Grecia-Cuerdo, et al., G.R. No. 175723, February 4, 2014.
[4] An act Creating the Court of Tax Appeals.
[5] An Act Expanding the Jurisdiction of the Court of Tax (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes..
[6] Rule 4
JURISDICTION OF THE COURT

Sec. 3. Cases within the jurisdiction of the Court in Division.- The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
xxxxxx.

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

xxxxxx.

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WHEREFORE, premises considered, private respondent's "Motion for Reconsideration" is hereby **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

I reiterate my Concurring Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
I reiterate my Concurring and Dissenting Opinion
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen M. R-L
I join Associate Justice Castañeda's Concurring and Dissenting Opinion
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
I join Associate Justice Castañeda's Concurring and Dissenting Opinion
CATHERINE T. MANAHAN
Associate Justice