REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL THIRD DIVISION

NATIONAL FOOD AUTHORITY, Represented by its Regional Manager, JONATHAN D. YAZON, Petitioner,	**CTA AC NO. 275**
	Present:
vs.	**RINGPIS-LIBAN**, *Chairperson*, **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.*
CITY GOVERNMENT OF CABANATUAN, CITY ASSESSOR AND CITY TREASURER OF CABANATUAN CITY, NUEVA ECIJA, Respondents.	Promulgated: MAY 20 2024 11:00 a.m.

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DECISION

FERRER-FLORES, J.:

Before this Court is a ***Petition for Review under Section 11 of R.A. No. 1125/Rule 8 Section 3a of A.M. No. 05-11-07-CTA (With Motion for Suspension of Collection of Tax)*** *(Petition for Review)* filed on October 24, 2024 by the **National Food Authority (NFA/petitioner)** against the **City Government of Cabanatuan, City Assessor and City Treasurer of Cabanatuan City, Nueva Ecija (respondents)**, appealing the *Order* dated July 26, 2022 (**assailed Order**)[1] and the *Resolution* dated August 18, 2022 (**assailed Resolution**)[2] rendered by the Regional Trial Court (RTC) of Cabanatuan City, Branch 86, (**Court *a quo***) in Special Civil Case No. 8857, whereby the Court *a quo* dismissed the NFA's *Petition for Prohibition (with Application for Temporary Restraining Order and/or Issuance of Writ of Preliminary Injunction)* ***(Petition for Prohibition)***.

[1] Docket, pp. 35 to 40.
[2] Docket, pp. 41 to 45.

The dispositive portions of the assailed Order and assailed Resolution read as follows:

Assailed Order

> **WHEREFORE**, the petition for Prohibition with Application for Temporary Restraining Order and/or Issuance of Writ of Preliminary Injunction filed by petitioner National Food Authority, represented by Jonathan D. Yazon, is hereby **DISMISSED** without prejudice.

Assailed Resolution

> **WHEREFORE**, premises considered, the Motion for Partial Reconsideration filed by the defendants is hereby **GRANTED.** Let the Answer of the defendants be admitted to form part of the records.
>
> The Motion for Reconsideration filed by the petitioner is hereby **DENIED**.
>
> **SO ORDERED.**

THE PARTIES

Petitioner is a government entity created by virtue of Presidential Decree (PD) No. 4 s. 1972,[3] as amended by PD No. 1485 s. 1978,[4] under the name of "National Grains Authority" (NGA), now the NFA, as reconstituted under PD No. 1770 s. 1981.[5]

Respondent City Government of Cabanatuan City, Nueva Ecija, is a political subdivision created pursuant to law while respondents City Assessor and City Treasurer are impleaded in their respective capacities.

THE ANTECEDENT FACTS

On April 12, 2022, petitioner received a copy of the letters with attached *Notices of Delinquency* issued by respondents demanding payment of real property tax (RPT) for the covered periods 2009 to 2021 amounting to **₱143,165,780.67** in relation to the former's real properties located at Maharlika Highway, Imelda District, Cabanatuan City, Nueva Ecija, as follows:

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[3] Providing for the Development of the Rice and Corn Industry and Creating for this Purpose the National Grains Authority, *National Grains Industry Development Act*, PD No. 4, September 26, 1972.

[4] Further Amending Certain Provisions of the National Grains Industry Development Act, *National Grains Authority Act*, PD No. 1485, June 11, 1978.

[5] Reconstituting the National Grains Authority to the National Food Authority, Broadening Its Functions and Powers and For Other Purposes, *National Food Authority Act*, PD No. 1770, January 14, 1981.

	Tax Declaration No. (TD No.)	Type	Total Amount of Delinquency per NOD
1	15-07064-01035	Land	124,038,747.26
2	15-07064-00018	Building	807,539.78
3	15-07064-00010	Building	1,375,786.58
4	15-07064-00017	Building	1,191,996.44
5	15-07064-00028	Building	1,181,853.96
6	15-07064-00039	Building	674,170.30
7	15-07064-00033	Building	1,220,067.06
8	15-07064-00009	Building	514,733.94
9	15-07064-00008	Building	514,733.94
10	15-07064-00019	Building	1,085,453.58
11	15-07064-00020	Building	4,139,650.20
12	15-07064-00023	Building	322,488.39
13	15-07064-00024	Building	32,990.92
14	15-07064-00025	Building	12,625.40
15	15-07064-00026	Building	63,080.60
16	15-07064-00027	Building	6,924.60
17	15-07064-00029	Building	794,673.16
18	15-07064-00030	Building	1,087,666.12
19	15-07064-00031	Building	217,091.22
20	15-07064-00032	Building	1,558,711.74
21	15-07064-00011	Building	997,052.42
22	15-07064-00013	Building	1,013,768.36
23	15-07064-01116	Building	313,974.70
	Total		**143,165,780.67**

This prompted NFA to file its *Petition for Prohibition* on June 9, 2022 before the Court *a quo*.

In the said *Petition for Prohibition,* NFA argued that it is exempt from payment of all taxes under Section 6 of PD No. 4, as amended. In addition, NFA invoked the case of *Manila International Airport Authority vs. Court of Appeals, et al.* (***MIAA* case**) stating that it is similarly situated with MIAA which the Supreme Court declared as exempt from RPT.

On July 26, 2022, the lower court issued the assailed Order dismissing NFA's *Petition for Prohibition* on the ground that the latter failed to exhaust its administrative remedies before resorting to judicial relief. Unconvinced, the NFA filed a *Motion for Reconsideration*, which was denied by the Court *a quo* in the assailed Resolution dated August 18, 2022.

Hence, the instant *Petition*.

THE PROCEEDINGS BEFORE THIS COURT

On October 24, 2022, petitioner filed the present *Petition for Review*.[6]

In the Resolution dated January 31, 2023, this Court ordered the respondents to file their comments on the *Petition for Review*. In addition, respondents were granted five (5) days from notice to file their opposition to the *Motion for Suspension of Collection of Taxes,* incorporated in NFA's *Petition for Review*, and set the case for hearing on said motion. The Court likewise ordered the respondents to refrain from pursuing any administrative action for the collection of petitioner's alleged delinquent real property tax subject of this case while the motion is being heard.

On February 17, 2023, respondents filed a *Motion for Extension of Time to File Comment* seeking an additional period of fifteen (15) days to file their Comment. Finding the same to be insufficient in number of required copies, the Court, through Minute Resolution dated February 20, 2023, directed the respondents to file three (3) additional copies of their motion for extension of time.

Meanwhile, the respondents filed their *Comment* on February 21, 2023.

In compliance with the Court's order, respondents filed their *Manifestation* dated February 24, 2023 attaching thereto three (3) additional copies of their *Motion for Extension of Time to File Comment.*

During the February 23, 2023 hearing for the *Motion for Suspension of Collection of Taxes*, the parties agreed that there are no factual issues in the case and stipulated that the only legal issue here is whether or not NFA is liable for RPT on its properties in Cabanatuan City. Accordingly, as agreed by the parties, their respective memoranda shall be submitted within thirty (30) days from February 23, 2023 or until March 27, 2023.

The Court received the *Memorandum for Respondents-Appellees City Government of Cabanatuan et. al*[7] and *Memorandum (for Petitioner)*[8] on March 22, 2023 and March 27, 2023, respectively.

This case was submitted for decision on April 20, 2023.[9]

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6 Docket, pp. 8 to 34.
7 Docket – Vol. 2, pp. 615 to 635.
8 Docket – Vol. 2, pp. 751 to 784.
9 Minute Resolution dated April 20, 2023, Docket – Vol. 2, p. 792.

THE ISSUE

In NFA's *Petition for Review*, the following assignment of errors were raised:

1. The Court *a quo* erred in holding that exhaustion of administrative remedies is required before resorting to judicial action; and,

2. The Court *a quo* erred in dismissing the *Petition for Prohibition* outright without giving NFA the chance to present evidence.

THE ARGUMENTS

Petitioner argues that the exhaustion of administrative remedies is not applicable in this case. It emphasizes that the *Petition for Prohibition* is directed not against the reasonableness of the amount of tax assessed by respondents but against the very authority of the latter to assess, impose, and collect RPT upon the former which is allegedly a government instrumentality. Moreover, it has no other plain, speedy and adequate remedy but to file the said case for prohibition as it has no approved budget appropriation for payment of RPT in line with the instruction since year 2006 not to pay RPT cascaded to all NFA offices nationwide. As a government instrumentality, it can only disburse fund if there is an approved appropriation for it, specifically, under the General Appropriations Act (GAA).

Petitioner maintains that it is a government instrumentality exempt from payment of RPT primarily because its mandate is not proprietary in nature but governmental and regulatory. It insists that it is not a government-owned or controlled corporation (GOCC) which, generally, is subject to RPT.

On the other hand, respondents posit that prohibition is an improper remedy in the case at bar. As to whether petitioner is a government instrumentality or a GOCC, respondent avers that the NFA is the latter; hence, it is not exempt from payment of RPT. Furthermore, respondents claim that NFA is already estopped from questioning the assessment by the respondents considering that it has been religiously paying RPT since 1992. Lastly, respondents invoke that the doctrine of *stare decisis* only applies to the decision of the Supreme Court and that the issue at hand is yet to be settled with finality.

THE RULING OF THE COURT

The *Petition for Review* must be dismissed for lack of jurisdiction.

Section 3 (a) of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> 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 Commissioner of Internal Revenue 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. *(Emphasis supplied)*

Based on the foregoing, petitioner had thirty (30) days from receipt of the assailed Resolution within which to file its petition for review.

Upon examination of the original *Petition for Prohibition* filed before the Court *a quo*, petitioner alleged that summons and processes of the court may be served through NFA's counsels with office address at "**NFA Legal Affairs Department**, 7th Floor NFA Central Office Building, Visayas Avenue, Brgy. Vasra, Diliman Quezon City, 1101".[10]

Petitioner, thus, had thirty (30) days from proper service to and receipt by the NFA Legal Affairs of a copy of the assailed Resolution at its office address as alleged in the original *Petition for Prohibition* within which file its petition for review.

In the present Petition, the NFA alleged that it received the copy of the assailed Resolution through its counsels, the Legal Affairs Department of the NFA, on **September 23, 2022**;[11] however, records show that, on the last page of the certified true copy of the assailed Resolution attached to the instant

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[10] Par. 11, *Petition for Prohibition* dated June 7, 2022; Docket, p. 50.
[11] *Timeliness of the Petition*, Petition for Review, *Rollo*, pp. 4 to 7.

Petition, a certain "Shaun Bael" received the same for "NFA Legal Affairs" on **September 5, 2022.**[12]

From the foregoing, it appears that there is a conflict as to the date of NFA's receipt of the assailed Resolution.

While the NFA alleged that the assailed Resolution was received on **September 23, 2022**, the records of the case are bereft of any document showing that the assailed Resolution was indeed received on said date. Interestingly, the attached copy of the assailed Resolution would show that it was signed received on **September 5, 2022**.

As it is, there can be no other logical conclusion than that the NFA received the assailed Resolution on **September 5, 2022**. Counting thirty (30) days therefrom, petitioner had until **October 5, 2022** within which to file its Petition for Review before this Court.

In this case, petitioner filed the present *Petition for Review* only on **October 24, 2022** which is nineteen (19) days past the period to file the same. Clearly, the said Petition was filed out of time.

It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[13]

Finding that this Court has no jurisdiction to entertain the present Petition, it could not decide the case on the merits thereof, and its only jurisdiction is to dismiss the same.

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[12] Docket, p. 321.
[13] *Nippon Express (Phils.) Corp. vs. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.

WHEREFORE, premised considered, the *Petition for Review with Motion for Suspension of Collection of Tax* is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ROMAN G. DEL ROSARIO
Presiding Justice