

## THIRD DIVISION

[ G.R. No. 192300, November 24, 2014 ]

**NATIONAL POWER CORPORATION, PETITIONER, VS. MUNICIPAL GOVERNMENT OF NAVOTAS, SANGGUNIANG BAYAN OF NAVOTAS AND MANUEL T. ENRIQUEZ, IN HIS CAPACITY AS MUNICIPAL TREASURER OF NAVOTAS, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision<sup>[1]</sup> dated March 1, 2010 and Resolution<sup>[2]</sup> dated May 6, 2010 of the Court of Tax Appeals (CTA) *En Banc* in E.B. No. 461.

The facts, as found by the CTA *En Banc*, are as follows:

Petitioner National Power Corporation (NPC) is a government-owned and controlled corporation organized and existing under and by virtue of Republic Act (RA) No. 6395, as amended, with principal office address at NPC Office Building Complex, corner Quezon Avenue and BIR Road, East Triangle, Diliman, Quezon City.

Respondent Municipal Government of Navotas, is a local government unit, hosting petitioner's Navotas Power Stations I and II located in the Municipality of Navotas. It may be served with summons and court processes through the Municipal Mayor, at the Municipal Hall Building, Navotas, Metro Manila.

Respondent Sangguniang Bayan of Navotas is a legislative body being sued for the purpose of enjoining it from performing any and all acts geared toward the collection of the assailed taxes and/or sale of petitioner's properties during the pendency of the instant petition. It may be served with summons and other court processes through the Vice Mayor, as the presiding officer, at the Municipal Hall Building, Navotas, Metro Manila.

Respondent Manuel T. Enriquez is being sued in his official capacity as the Municipal Treasurer of Navotas and may be served with summons and other court processes at the Municipal Hall Building, Navotas, Metro Manila.

On the respective dates of November 16, 1988 and June 29, 1992, petitioner entered into a Build-Operate-and-Transfer Project Agreements (BOTs) with Mirant Navotas I Corporation (MNC-I), formerly known as Hopewell Energy Philippines Corporation, and Mirant Navotas II Corporation (MNC-II), formerly known as Hopewell Tileman (Philippines) Corporation. The BOTs are for the construction, operation and eventual transfer to petitioner of MNC-I's 200-MW and MNC-II's 100-

MW gas turbine power stations. During the period of the agreement, the operation of the power stations shall be under the actual and direct control and supervision of petitioner. Consequently, petitioner has the obligation to pay for all taxes, except business taxes, relative to the implementation of the agreements.

For the 1<sup>st</sup> quarter of 2003, petitioner paid respondent Municipality, real property taxes in the amounts of P3,382,715.88 and P4,973,869.83 for the MNC-I and MNC-II power stations, respectively. After the said quarter, petitioner stopped paying the real property taxes, claiming exemption from payment thereon pursuant to Section 234(c) of the Local Government Code (LGC) of 1991.

In a letter dated March 30, 2004, petitioner informed the Municipal Assessor of Navotas (Municipal Assessor) of their position on the exemption from real property tax of the subject properties, pertaining to machineries and equipment which are in the name of Hopewell Tileman (Phils.) Corporation.

Pursuant to the BOTs, MNC-I and MNC-II eventually transferred to petitioner all their rights, title and interests in and to the fixtures, fittings, plant and equipment, and improvements comprising the power stations on March 24, 2003 and August 1, 2005, respectively.

On May 25, 2005, MNC-II received four notices from respondent Municipal Treasurer informing MNC-I and MNC-II of their real property tax delinquencies for the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters of calendar year 2003 and for the calendar years 2004 and 2005. Details are as follows:

|   |                               |
|---|-------------------------------|
| First and Second Notices,<br>addressed to Hopewell<br>Energy (Phils.) Corp. | P59,505,580.10                |
| First and Second Notices,<br>addressed to Hopewell<br>Tileman Phil. Corp.   | <u>88,792,759.05</u>          |
| <b>Total</b>  | <b><u>P148,298,339.15</u></b> |

In a letter dated July 26, 2005, petitioner reiterated to the Municipal Assessor of Navotas their position that the subject properties are exempt from real property tax.

On November 21, 2005, a Warrant of Levy was received from respondent Municipal Treasurer. MNC-II also received two Notices of Sale of Delinquent Real Property, scheduling the public auction of the subject properties on December 21, 2005.

On December 16, 2005, petitioner filed before the Regional Trial Court (RTC) of Malabon City, a *Petition for Declaratory Relief, Annulment of Notice of Delinquency, Warrant of Levy, and Notice of Sale* with prayer for the issuance of a Writ of Preliminary Injunction and Temporary Restraining Order (TRO).

Petitioner's application for the issuance of a TRO was denied by the RTC. Respondents proceeded with the scheduled public auction. Considering that there were no bidders for the purchase of the subject properties, the same were forfeited in favor of respondent Municipality.

Petitioner filed an amended petition before the RTC seeking to declare as null and

void the public auction and the forfeiture of the subject properties in favor of respondent Municipality on the ground that these actions are patently illegal because the subject properties are exempt from real property tax.

The RTC denied the petition on May 23, 2007. It ruled that although Section 234 of the LGC exempts petitioner from payment of real property tax due on the subject properties located at MNC-I and MNC-II, failure of petitioner to exhaust administrative remedies resulted in the finality of the assessment; thus, the eventual collection was in order. The RTC explained that petitioner should have appealed the assessments to the Local Board of Assessment Appeals (LBAA), pursuant to Section 226 of the LGC, within 60 days from the date of receipt of the written notice of assessment. If not satisfied with the decision of the LBAA, petitioner should appeal to the Central Board of Assessment Appeals (CBAA), pursuant to Section 229 of the same code. The RTC further went on in saying that before initiating any protest to the assessment, the tax due must first be paid.

After an extension of 30 days was granted, a Petition for Review with application for *Temporary Restraining Order and/or Order of Suspension of Collection and Writ of Preliminary Injunction* was seasonably filed with this Court through registered mail on July 27, 2007 and received on August 2, 2007. The Petition was raffled to the Second Division of this Court.

Respondents filed their Comment/Opposition through registered mail on October 15, 2007 and which was received by this Court on October 30, 2007.

In a Resolution dated December 17, 2007, the Second Division treated petitioner's application for TRO and/or Order of Suspension of Collection and Writ of Preliminary Injunction as a "Motion to Suspend the Collection of Taxes," considering that the ownership of the auctioned properties was not yet consolidated in the name of respondents; thus, the collection of payment of the alleged deficiency taxes was not yet consummated. The application was granted on equitable considerations, to preserve the *status quo* during the pendency of the appeal, and in order not to render ineffectual and nugatory the judgment that will be rendered. Respondents were enjoined from consolidating the ownership of the subject properties, from confiscating them, from taking possession thereof and from doing any and all acts relative thereto during the pendency of petitioner's appeal, until further ordered.

In a Resolution dated March 6, 2008, the case was considered submitted for Decision after petitioner manifested to adopt its Petition for Review as its Memorandum and after respondents failed to file their Memorandum.

In a Decision promulgated on July 18, 2008, the Second Division dismissed the Petition and sustained the RTC's Decision dated May 23, 2007. Petitioner's Motion for Reconsideration filed on August 6, 2008 was likewise denied in a Resolution dated January 9, 2009.<sup>[3]</sup>

Resultantly, petitioner filed a petition before the CTA *En Banc*.

In a Decision dated March 1, 2010, the CTA *En Banc* affirmed the CTA Second Division's decision and held as follows:

**WHEREFORE**, finding no reversible error in the assailed Decision promulgated on July 18, 2008 and the Resolution dated January 9, 2009, the instant Petition for Review is hereby **DISMISSED** for lack of merit.

**SO ORDERED.**<sup>[4]</sup>

Unfazed, petitioner filed a Motion for Reconsideration but the same was denied in a Resolution dated May 6, 2010.

Accordingly, petitioner lodged the present petition praying as follows:

WHEREFORE, it is respectfully prayed that the Decision dated March 1, 2010 and Resolution dated May 6, 2010 of the Court of Tax Appeals *En Banc* be REVERSED and SET ASIDE; a new one be rendered declaring:

- 1) that the Court of Tax Appeals has jurisdiction over the subject matter of the case;
- 2) petitioner as exempt from paying real property taxes over the properties subject of the present case; and
- 3) the assailed Notices of Delinquency, Warrant of Levy and Notice of Sale and the Auction Sale and Forfeiture as null and void.

Petitioner prays for such other reliefs just and equitable under the premises.<sup>[5]</sup>

Thus, petitioner assigns the following errors for this Court's resolution:

THE COURT OF TAX APPEALS EN BANC ERRED IN SUSTAINING THE DECISION OF THE COURT OF TAX APPEALS SECOND DIVISION WHICH HELD THAT:

- 1) IT HAS NO JURISDICTION OVER THE INSTANT PETITION.
- 2) APPEALS TO THE LBAA AND CBAA ARE REQUIRED BEFORE THE PETITION DATED DECEMBER 12, 2005 (AS AMENDED ON JANUARY 5, 2006) FOR DECLARATORY RELIEF FILED BY PETITIONER BEFORE THE REGIONAL TRIAL COURT MAY BE GIVEN DUE COURSE.<sup>[6]</sup>

In essence, the issue is whether or not the CTA Second Division has jurisdiction to review the decision of the RTC which concerns a petition for declaratory relief involving real property taxes.

We rule in the affirmative.

*First*, Section 7 of Republic Act (R.A.) No. 9282<sup>[7]</sup> explicitly enumerates the scope of the CTA's jurisdiction over decisions, orders or resolutions of the RTC in local tax cases, to wit:

*Sec. 7. Jurisdiction.* – The CTA shall exercise:

- (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;
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;***
4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees, or other monetary charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Laws or other laws administered by the Bureau of Customs;
5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board assessment appeals;
6. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;
7. Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Section 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties;

x x x<sup>[8]</sup>

Such authority is echoed in Section 3, Rule 4 of the Revised Rules of the CTA, which enumerates the jurisdiction of the CTA, sitting as a Division, to wit:

Section 3. *Cases Within the Jurisdiction of the Court In Division.* – The Court Division shall exercise:

(a) **Exclusive** original or appellate jurisdiction to review by appeal the