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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.*

SYLLABUS

1. **REMEDIAL LAW; REPUBLIC ACT NO. 9282; COURT OF TAX APPEALS; JURISDICTION; THE COURT OF TAX APPEALS, SITTING AS DIVISION, HAS JURISDICTION TO REVIEW BY APPEAL THE DECISIONS OF THE REGIONAL TRIAL COURT OVER LOCAL TAX CASES, WHICH INCLUDES REAL PROPERTY TAXES.—** Section 7 of Republic Act (*R.A.*) No. 9282 explicitly enumerates the scope of the CTA's jurisdiction over decisions, orders or resolutions of the RTC in local tax cases x x x. 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 x x x. Indeed, the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes. This is evident from a perusal of the Local Government Code (*LGC*) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.

2. **ID.; ID.; ID.; ID.; ID.; THE GENERAL MEANING OF LOCAL TAXES SHOULD BE ADOPTED WHICH NECESSARILY INCLUDES REAL PROPERTY TAXES.—** The fact that a separate chapter is devoted to the treatment of real property taxes, and a distinct appeal procedure is provided therefor does not justify an inference that Section 7(a)(3) of R.A. 9282 pertains only to local taxes other than real property

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taxes. Rather, the term "local taxes" in the aforementioned provision should be considered in its general and comprehensive sense, which embraces real property tax assessments, in line with the precept *Generalia verba sunt generaliter inteligencia*— what is generally spoken shall be generally understood. Between the restricted sense and the general meaning of a word, the general must prevail unless it was clearly intended that the restricted sense was to be used. x x x Here, the context in which the word "local taxes" is employed does not clearly indicate that the limited or restricted view was intended by the legislature. In addition, the specification of real property tax assessment under Paragraph (a)(5) of Section 7 of R.A. 9282, in relation to the decisions of the CBAA, is only proper given that the CBAA has no jurisdiction, either original or appellate, over cases involving local taxes other than real property taxes. Based on the foregoing, the general meaning of "local taxes" should be adopted in relation to Paragraph (a)(3) of Section 7 of R.A. 9282, which necessarily includes real property taxes.

3. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; LOCAL TAXATION; REAL PROPERTY TAX; WHEN THE LEGALITY OR VALIDITY OF THE ASSESSMENT IS IN QUESTION, RESORT TO JUDICIAL ACTION MAY PROSPER.— [W]hen the legality or validity of the assessment is in question, and not its reasonableness or correctness, appeals to the LBAA, and subsequently to the CBAA, pursuant to Sections 226 and 229 of the LGC, are not necessary. Stated differently, in the event that the taxpayer questions the authority and power of the assessor to impose the assessment, and of the treasurer to collect the real property tax, resort to judicial action may prosper. This is in consonance with the ruling in *Ty v. Trampe*. Here, a petition for prohibition with prayer for a restraining order and/or writ of preliminary injunction was filed to declare null and void the new tax assessments and enjoin the collection of real estate taxes based on said assessments. Despite the alleged non-exhaustion of administrative remedies and non-payment of the real property tax, the Court gave due course to the case on the ground that the controversy did not involve questions of fact but only of law. x x x Accordingly, if the only issue is the legality or validity of the assessment – a question of law – direct recourse to the RTC is warranted. In the case at bar,

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> the claim of petitioner essentially questions the very authority and power of the Municipal Assessor to impose the assessment and of the Municipal Treasurer to collect the real property tax with respect to the machineries and equipment located in the Navotas I and II power plants. Certainly, it does not pertain to the correctness of the amounts assessed but attacks the validity of the assessment of the taxes itself. x x x [T]he issue is clearly legal given that it involves an interpretation of the contract between the parties *vis-à-vis* the applicable laws, *i.e.*, which entity actually, directly and exclusively uses the subject machineries and equipment. The answer to such question would then determine whether petitioner is indeed exempt from payment of real property taxes. Since the issue is a question of law, the jurisdiction was correctly lodged with the RTC.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Emmanuel M. Pantoja for 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[1] dated March 1, 2010 and Resolution[2] 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

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[1] Penned by Presiding Justice Ernesto D. Acosta, with Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas, concurring; Olga Palanca-Enriquez, dissenting; *rollo*, pp. 50-75.

[2] *Id.* at 76-79.

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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 1st quarter of 2003, petitioner paid respondent Municipality, real property taxes in the amounts of ₱3,382,715.88 and ₱4,973,869.83 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

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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 2nd, 3rd, and 4th quarters of calendar year 2003 and for the calendar years 2004 and 2005. Details are as follows:

First and Second Notices, addressed to Hopewell Energy (Phils.) Corp.	₱59,505,580.10
First and Second Notices, addressed to Hopewell Tileman Phil. Corp.	88,792,759.05
Total	**₱148,298,339.15**

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

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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 though 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

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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.[3]

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.[4]

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.

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[3] *Id.* at 51-56.

[4] *Id.* at 74. (Emphasis in the original)

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

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

THE COURT OT 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.[6]

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[7] 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:

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[5] *Id.* at 43-44.

[6] *Id.* at 23.

[7] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (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.

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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 Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic

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> Act No. 8800, where either party may appeal the decision to impose or not to impose said duties;
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> x x x x x x x x x[8]

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 following:
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> x x x x x x x x x
>
> (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***;
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> x x x x x x x x x[9]

Indeed, the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes. This is evident from a perusal of the Local Government Code (*LGC*) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.

We, therefore, disagree with the conclusion of the CTA *En Banc* that real property taxes have always been treated by our laws separately from local taxes. The fact that a separate chapter is devoted to the treatment of real property taxes, and a distinct appeal procedure is provided therefor does not justify an inference

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[8] Emphasis supplied.

[9] Emphasis supplied.

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that Section 7(a)(3) of R.A. 9282 pertains only to local taxes other than real property taxes. Rather, the term "local taxes" in the aforementioned provision should be considered in its general and comprehensive sense, which embraces real property tax assessments, in line with the precept *Generalia verba sunt generaliter inteligencia*—what is generally spoken shall be generally understood.[10] Between the restricted sense and the general meaning of a word, the general must prevail unless it was clearly intended that the restricted sense was to be used.[11] In the words of the Court in *Marcos v. Chief of Staff*:[12]

> Where words are used which have both, a restricted and a general meaning, the general must prevail over the restricted unless the nature of the subject matter of the context clearly indicates that the limited sense is intended.[13]

Here, the context in which the word "local taxes" is employed does not clearly indicate that the limited or restricted view was intended by the legislature. In addition, the specification of real property tax assessment under Paragraph (a)(5) of Section 7 of R.A. 9282, in relation to the decisions of the CBAA, is only proper given that the CBAA has no jurisdiction, either original or appellate, over cases involving local taxes other than real property taxes.

Based on the foregoing, the general meaning of "local taxes" should be adopted in relation to Paragraph (a)(3) of Section 7 of R.A. 9282, which necessarily includes real property taxes.

Second, as correctly pointed out by petitioner, when the legality or validity of the assessment is in question, and not its reasonableness or correctness, appeals to the LBAA, and

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[10] *Gutierrez v. The House of Representatives Committee on Justice*, G.R. No. 193459, February 15, 2011, 643 SCRA 198, 244.

[11] *Id.*

[12] 89 Phil. 246 (1951).

[13] *Marcos v. Chief of Staff, supra,* at 248.

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subsequently to the CBAA, pursuant to Sections 226[14] and 229[15] of the LGC, are not necessary.

Stated differently, in the event that the taxpayer questions the authority and power of the assessor to impose the assessment, and of the treasurer to collect the real property tax, resort to judicial action may prosper. This is in consonance with the ruling in *Ty v. Trampe*.[16] Here, a petition for prohibition with prayer for a restraining order and/or writ of preliminary injunction was filed to declare null and void the new tax assessments and

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[14] **Section 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 provincial or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.

[15] **Section 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.

(b) In the exercise of its appellate jurisdiction, the Board shall have the power 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.

(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.

[16] 321 Phil. 81 (1995).

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enjoin the collection of real estate taxes based on said assessments. Despite the alleged non-exhaustion of administrative remedies and non-payment of the real property tax, the Court gave due course to the case on the ground that the controversy did not involve questions of fact but only of law. Thus:

> Respondents argue that this case is premature because petitioners neither appealed the questioned assessments on their properties to the Board of Assessment Appeal, pursuant to Sec. 226, nor paid the taxes under protest, per Sec. 252.
>
> We do not agree. ***Although as a rule, administrative remedies must first be exhausted before resort to judicial action can prosper, there is a well-settled exception in cases where the controversy does not involve questions of fact but only of law***. In the present case, the parties, even during the proceedings in the lower court on 11 April 1994, already agreed "that the issues in the petition are legal", and thus, no evidence was presented in said court.
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> In laying down the powers of the Local Board of Assessment Appeals, R.A. 7160 provides in Sec. 229 (b) that "(t)he proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts . . . ***." It follows that appeals to this Board may be fruitful only where questions of fact are involved. Again, the protest contemplated under Sec. 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed***. Hence, if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. ***In the case at bench, however, the petitioners are questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. These are not questions merely of amounts of the increase in the tax but attacks on the very validity of any increase***.[17]

Accordingly, if the only issue is the legality or validity of the assessment – a question of law – direct recourse to the RTC is warranted.

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[17] *Ty v. Trampe, supra,* at 101-102. (Emphasis supplied)

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In the case at bar, the claim of petitioner essentially questions the very authority and power of the Municipal Assessor to impose the assessment and of the Municipal Treasurer to collect the real property tax with respect to the machineries and equipment located in the Navotas I and II power plants. Certainly, it does not pertain to the correctness of the amounts assessed but attacks the validity of the assessment of the taxes itself.

The well-established rule is that the allegations in the complaint and the character of the relief sought determine the nature of an action.[18] Here, it is not disputed that the machineries and equipment are being used for power generation. The primordial issue, however, is whether these machineries and equipment are actually, directly and exclusively used by petitioner within the purview of Section 234[19] of the LGC, which exempts it from payment of real property taxes, to wit:

Section 234. *Exemptions from Real Property Tax.* – The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;
(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;
(c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;
(d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and
(e) Machinery and equipment used for pollution control and environmental protection.

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[18] *Olivares v. Marquez*, 482 Phil. 183, 191 (2004).

[19] Emphasis supplied.

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> Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.

As can be gleaned from the foregoing, the issue is clearly legal given that it involves an interpretation of the contract between the parties *vis-à-vis* the applicable laws, *i.e.*, which entity actually, directly and exclusively uses the subject machineries and equipment. The answer to such question would then determine whether petitioner is indeed exempt from payment of real property taxes. Since the issue is a question of law, the jurisdiction was correctly lodged with the RTC.

On this score, it is worthy to note that in its Decision dated March 23, 2007, the RTC already declared that petitioner is exempt from payment of real property taxes on its machineries located at MNC-I & MNC-II, the pertinent portion of which reads:

> There is no dispute that Section 234 of the Local Government Code exempts petitioner from payment of real property tax due on its machineries located at MNC-1 and MNC-2 power stations.[20]

The foregoing was not disputed by respondents.

Despite this, the RTC still dismissed the petition on the ground of lack of jurisdiction for failure of petitioner to appeal the assailed assessment to the LBAA and the CBAA.

More, we find it obscure that the CTA *En Banc*, while finding that the issue obtaining in the present case pertains to a question of fact, held that *Ty* is applicable to the present case with respect to the requirement for payment under protest, to wit:

> If the legality of the real property tax assessment is at issue, the well pronounced ruling and ratiocination made by the Supreme Court in the case of *Ty vs. Trampe* is applicable. There, the Supreme Court notes:

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[20] Records, p. 41.

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> Again, the protest contemplated under Sec. 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed. Hence, if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. In the case at bench however, the petitioners are questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. These are not questions merely of amounts of the increase in the tax but attacks on the very validity of any increase.

In a similar way, as there has been an apparent admission by petitioner that it is not questioning the excessiveness or reasonableness of the real property tax assessment, but the legality thereof; there is no need for petitioner to pay the real property tax assessment before initiating a protest.

At this point, although we agree with petitioner on it stance that payment under protest is not necessary, we still maintain the view that exhausting the available remedies of lodging an appeal before the LBAA and CBAA before availing judicial intervention is still mandatory.[21]

We find the reasoning of the CTA *En Banc* quite illogical. For one, it held that unlike *Ty*, the resolution of the question of law submitted by petitioner requires proof of facts;[22] hence, resort to the LBAA is necessary. However, instead of sustaining the requirement of payment under protest under Section 252[23]

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[21] *Id*. at 73-74. (Emphasis ours)

[22] *Id.* at 75.

[23] **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.

(b) The tax or a portion thereof paid under protest, shall be held in trust by the treasurer concerned.

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of the LGC, the CTA *En Banc* found the payment of protest no longer necessary given the availing circumstances of the case. If indeed the Court *a quo* finds the present case to fall under the jurisdiction of the LBAA, and then the CBAA on appeal, the dispensation with the requirement of payment under protest would be devoid of merit and contrary to law and jurisprudence.

It is for the foregoing reasons that we deem the reversal of the ruling of the CTA *En Banc* in order. At the risk of repetition, what is being questioned in the present case is the authority of the Municipal Assessor to impose the assessment and of the Municipal Treasurer to collect the real property taxes. Accordingly, resort to the LBAA and the CBAA is no longer necessary for the same reason that what is being questioned is the legality or validity of the tax assessment, not the reasonableness or correctness of the assessment. Certainly, it would be unjust to require the realty owner to first pay the tax, the validity of which he precisely questions, before he can lodge a complaint to the court.

In fine, if a taxpayer is not satisfied with the decision of the CBAA or the RTC, as the case may be, the taxpayer may file, within thirty (30) days from receipt of the assailed decision, a petition for review with the CTA pursuant to Section 7(a) of R.A. 9282. In cases where the question involves the amount of the tax or the correctness thereof, the appeal will be pursuant to Section 7(a)(5) of R.A. 9282. When the appeal comes from a judicial remedy which questions the authority of the local government to impose the tax, Section 7(a)(3) of R.A. 9282 applies. Thereafter, such decision, ruling or resolution may be further reviewed by the CTA *En Banc* pursuant to Section 2, Rule 4 of the Revised Rules of the CTA, to wit:

(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.

(d) In the event that the protest is denied or upon the lapse of the sixty day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of this Code.

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Section 2. *Cases Within the Jurisdiction of the Court En Banc.* – The Court *En Banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) ***Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions*** in the exercise of its exclusive appellate jurisdiction over:

x x x x x x x x x

(2) ***Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction***;

x x x x x x x x x[24]

Thus, the CTA *En Banc* erred in dismissing the petition for review *en banc*, and affirming the CTA Second Division's position that the RTC has no jurisdiction over the instant case for failure of petitioner to exhaust administrative remedies which resulted in the finality of the assessment.

Anent the matter on the validity of the Notices of Delinquency issued by the Municipal Treasurer, as well as the Warrant of Levy, the same involves questions of fact. Thus, the remand of this case to the RTC is warranted for the proper verification and determination of the factual basis and merits of this case, and in order that the ends of substantial justice and fair play may be served.

WHEREFORE, the Court **GRANTS** the petition and **SETS ASIDE** the Decision dated March 1, 2010 and Resolution dated May 6, 2010 of the Court of Tax Appeals *En Banc* in E.B. No. 461. Moreover, this case is **REMANDED** to the Regional Trial Court for determination of petitioner's claims for annulment of Notice of Delinquency, Warrant of Levy, and Notice of Sale.

SO ORDERED.

Velasco, Jr. (Chairperson), Villarama, Jr., Mendoza,[*] and *Jardeleza, JJ.,* concur.

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[24] Emphasis supplied.

[*] Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes per Special Order No. 1878 dated November 21, 2014.