Supreme Court E-Library

FIRST DIVISION

[G.R. No. 230648; October 6, 2021]

NATIONAL POWER CORPORATION, *Petitioner*, *v*. **THE PROVINCE OF PAMPANGA and PIA MAGDALENA D. QUIBAL,** *Respondents*.

R E S O L U T I O N

M. LOPEZ, *J.*:

Before this Court is a petition for review on *certiorari*[1] filed under Rule 45 of the Rules of Court assailing the September 9, 2016 Decision[2] and the March 17, 2017 Resolution[3] of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 1233. In the assailed issuances, the CTA *En Banc* affirmed the August 1, 2014 Decision[4] and the September 24, 2014 Resolution[5] of the CTA Second Division in CTA AC No. 113, which set aside the July 23, 2013 Decision[6] of the Regional Trial Court (RTC) - Branch 47

---

[1] *Rollo*, pp. 17-39.

[2] Id. at 46-58; penned by Associate Justice Erlinda P. Uy, with the concurrence of Associate Justices Juanito C. Castañeda, Jr., Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Amelia R. Cotangco-Manalastas, and Ma. Belen M. Ringpis-Liban, with Presiding Justice Roman G. Del Rosario and Associate Justice Lovell R. Bautista dissenting.

[3] Id. at 68-72; penned by Associate Justice Erlinda P. Uy, with the concurrence of Associate Justices Juanito C. Castañeda, Jr., Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan with Presiding Justice Roman G. Del Rosario and Associate Justice Lovell R. Bautista dissenting.

[4] Id. at 225-237; penned by Associate Justice Caesar A. Casanova, with the concurrence of Associate Justices Juanito C. Castañeda, Jr. and Amelia R. Cotangco-Manalastas.

[5] Id. at 252-253; penned by Associate Justice Caesar A. Casanova, with the concurrence of Associate Justices Juanito C. Castañeda, Jr. and Amelia R. Cotangco-Manalastas.

[6] Id. at 164-172; penned by Presiding Judge Edgar Y. Chua.

Supreme Court E-Library

of the City of San Fernando, Pampanga and ruled that National Power Corporation (NPC) is liable for franchise tax relative to its missionary electrification function.

ANTECEDENTS

NPC is a government-owned and controlled corporation created by virtue of Republic Act (RA) No. 6395, as amended.[7] On June 26, 2009, NPC received an Assessment Letter[8] dated June 24, 2009 from the Provincial Treasurer of the Province of Pampanga demanding payment of local franchise tax. The letter reads:

Dear Sir/Madam:

This is in connection with the tax imposed by the Province of Pampanga relative to the collection of Franchise Tax.

Quoted hereunder is Sec. 5 a., b., c. / Sec 11 c., Sec. 11 d., of Tax Ordinance No. 1 an Ordinance enacting the Provincial Tax Code of 1992 and providing penalties for the violation of any provisions thereof.

Sec. 5. FRANCHISE TAX – Notwithstanding any exemption granted by any law or other special law, the Province of Pampanga shall collect a tax on business enjoying a franchise, with the following:

a. On gross annual receipts for the preceding calendar year based on the incoming receipts or realized within the territorial jurisdiction of the Province of Pampanga at the rate of fifty percent (50%) of one percent (1 %).

b. For newly started business the tax shall be one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.

c. Administrative regulatory fee in the conduct of business annually--₱1,500.00

Sec. 11. COLLECTION OF TAXES

---

[7] REVISED CHARTER OF THE NATIONAL POWER CORPORATION, approved on September 10, 1971.

[8] *Rollo*, p. 76.

Supreme Court E-Library

c. Time of Payment. Unless otherwise provided in this Code, all local taxes, fees and charges other than Real Property Tax shall be paid within the first twenty (20) days of January of each subsequent quarter, as the case maybe. The Sangguniang Panlalawigan may, for a justifiable reason or cause, extend the time for payment of such taxes, fees or not exceeding six (6) months.

d. Surcharges and Penalties on Unpaid Taxes, Fees or Charges. A surcharge of twenty five percent (25%) of the amount of taxes, fees, or charges not paid on time and an interest at the rate of two percent (2%) per month of the unpaid taxes, fees or charges including surcharges, until such amount is fully paid but in no case shall the total interest on the unpaid amount or portion thereof exceed thirty-six (36) months.

On the basis of the above quoted provision, we are writing you to pay your Franchise Tax due to the Province of Pampanga to the Provincial Treasurer's Office, City of San Fernando, Pampanga.

Your immediate compliance in this regard is highly requested.

Thank you and regards.

x x x x (Emphasis supplied.)

NPC protested the assessment, arguing that, with the effectivity of RA No. 9136 or the Electric Power Industry Reform Act (EPIRA Law) in 2001,[9] its power generation is no longer considered a public utility operation requiring a franchise. Thus, NPC can no longer be regarded as a business subject to a franchise tax under Section 137[10] of the Local Government Code of 1991 (LGC).[11]

---

[9] Approved on June 8, 2001.

[10] SECTION 137. Franchise Tax. — Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.

In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereon, as provided herein.

[11] Republic Act No. 7160, approved on October 10, 1991, took effect on January 1, 1992.

Supreme Court E-Library

The Provincial Treasurer failed to act on the protest; hence, NPC appealed to the RTC. NPC invoked its exemption under the EPIRA Law and pointed out in its Reply that the Assessment Letter failed to comply with the formal requirements under the LGC as it does not bear any computation of the alleged franchise tax liability.[12]

On July 23, 2013, the RTC rendered a Decision[13] in favor of the Province of Pampanga and declared NPC liable for the franchise tax. The RTC ruled that under the EPIRA Law, entities engaged in the supply of electricity to the contestable market are not considered public utilities required to secure a franchise. On the other hand, a generation company who is at the same time a supplier of electricity to the contestable market or electricity end users is not exempt from securing a franchise. The RTC found that NPC, a generation company, is selling electricity in the Province of Pampanga through Power Sector Assets and Liabilities Management Corporation (PSALM). Thus, NPC is liable to pay a franchise tax.

Aggrieved, NPC filed a petition for review with the CTA praying that the assessment be nullified and that NPC be declared exempt from franchise tax.[14]

In its August 1, 2014 Decision,[15] the CTA Second Division held that NPC's liability for local franchise tax is not novel. The Supreme Court has ruled in the 2003 case of *National Power Corporation v. City of Cabanatuan*,[16] and reiterated in the 2006 case of *National Power Corp. v. Province of Isabela*,[17] that NPC

---

[12] *Rollo*, p. 167.

[13] Id. at 164-172. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, appellant National Power Corporation is hereby ordered to pay the assessed franchise tax to the Province of Pampanga plus surcharge and interest.

The instant appeal is hereby ordered dismissed for lack of merit.

SO ORDERED. Id. at 172.

[14] Id. at 184.

[15] Id. at 225-237.

[16] 449 Phil. 233-262 (2003).

[17] 524 Phil. 483-496 (2006).

Supreme Court E-Library

may still be held liable for the franchise tax if it has a franchise in the sense of a secondary or special franchise, and it is exercising its rights or privileges under the franchise within the territory of the respondent city government. In the present case, NPC has franchise through RA No. 6395, and that it is selling electricity in the Province of Pampanga. The CTA ruled that although NPC's franchise was modified by the EPIRA Law so that its transmission and generation functions were transferred to National Transmission Corporation (Transco) and PSALM, under Section 70[18] of the EPIRA Law, NPC retained its missionary electrification function through the Small Power Utilities Group (SPUG). Therefore, NPC may still be liable for the local franchise tax relating to this function.

However, the CTA observed that **the Provincial Treasurer did not indicate in the Assessment Letter the amount of the franchise tax and the period covered by the assessment**. The CTA, therefore, could not determine with certainty the amount of franchise tax due from NPC. It could not also ascertain whether NPC performed its missionary electrification function in the Province of Pampanga. Hence, the CTA found it proper to remand the case to the RTC for further proceedings, to wit:

WHEREFORE, premises considered, the Assailed Decision dated July 23, 2013 of Branch 47 of the Regional Trial Court of the City of San Fernando, Pampanga is hereby **SET ASIDE** and the records of the case are hereby **REMANDED** to the court *a quo* for further proceedings in accordance with the pronouncements in this Decision.

SO ORDERED.[19]

---

[18] Section 70. Missionary Electrification — Notwithstanding the divestment and/or privatization of NPC assets, IPP contacts and spun-off corporations. NPC shall remain as a National Government Owned and -controlled corporation to perform the missionary electrification function through the Small Power Utilities Group (SPUG) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system. The missionary electrification function shall be funded from the revenues from sales in missionary area and from the universal change to be collected from all electricity end-users as determined by the ERC.

[19] *Rollo*, p. 236.

Supreme Court E-Library

The CTA denied NPC's motion for reconsideration on September 24, 2014, for lack of merit.[20] Undeterred, NPC elevated the matter to the CTA *En Banc*.

On September 9, 2016 the CTA *En Banc* issued a Decision[21] upholding the CTA Second Division's findings and conclusion that NPC is liable for franchise tax in so far as its missionary electrification function is concerned. However, since the RTC decided the case by summary judgment as the parties believed that the issue involved is purely a question of law, the CTA *En Banc* could not determine whether NPC performed its missionary electrification function within the territory of the Province of Pampanga and the amount of local franchise tax involved. Thus, it agreed with the CTA Second Division to remand the case to the court *a quo* for further proceedings.

Presiding Justice Roman G. Del Rosario and Associate Justice Lovell R. Bautista dissented, stating that the Assessment Letter lacked details required by Section 195[22] of the LGC, such as the

---

[20] Id. at 252-253.

[21] Id. at 46-58. The dispositive portion of the decision states:

WHEREFORE, in light of the foregoing considerations, the Petition for Review is **DENIED** for lack of merit. Accordingly, the Decision dated August 1, 2014 and Resolution dated September 24, 2014 of the Court in Division in CTA AC No. 113, are **AFFIRMED**.

SO ORDERED. (Emphasis in the original). Id. at 57.

[22] SECTION 195. Protest of Assessment. — When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charges, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessments otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

Supreme Court E-Library

amount of the deficiency tax. The assessment violates NPC's right to due process of law and must be cancelled for being void.

On October 12, 2016, NPC moved to reconsider the September 9, 2016 Decision, essentially adopting the dissenting opinion.

On March 17, 2017, the CTA *En Banc* denied NPC's motion[23] holding that the defense of violation of due process based on a void assessment is deemed waived for having been belatedly raised.[24] In any case, the essence of the right of due process is an opportunity to be heard. Here, NPC was able to protest the assessment before the Provincial Treasurer and question the imposition of franchise tax before the tax court. NPC, therefore, was allowed to explain its side.

Hence, this petition.

NPC reiterates that it was deprived of its property without due process of law because the Assessment Letter lacked details required under Section 195 of the LGC. Its transmission and generation functions were transferred to Transco and PSALM, and therefore, NPC is no longer required to secure a franchise and cannot be burdened with the payment of the franchise tax. Regarding the missionary electrification function, NPC argues that SPUG was not established for profit but to undertake missionary electrification under Section 70 of the EPIRA Law. By undertaking missionary electrification, the SPUG can deliver electricity at a price lower than what it should be. Therefore, the imposition of franchise tax on SPUG's gross receipts would defeat the benevolent purpose of missionary electrification and obstruct the SPUG from providing power generation and delivery to missionary areas and local government units.

In response, the Province of Pampanga argues that NPC's petition should not have been filed with the Supreme Court but to the Court of Appeals under Rule 43 of the Rules of Court. In any case, the petition did not raise any new question of law that has not already been considered and passed upon by the CTA *En Banc*.

---

[23] *Rollo*, pp. 54-57.

[24] Id. at 68-72.

Supreme Court E-Library

RULING

The petition is impressed with merit.

Decisions and rulings of the CTA En Banc are appealable to the Supreme Court under Rule 45 of the Rules of Court.

Preliminarily, we rule on the propriety of filing a Petition for Review with the Supreme Court from a decision of the CTA. The Province of Pampanga argues that NPC should have filed its appeal with the Court of Appeals under Rule 43 of the Rules of Court and not directly with the Supreme Court.

This is incorrect.

Under RA No. 9282,[25] approved on March 30, 2004, the CTA was elevated to the same level and equal rank as the Court of Appeals. Upon its effectivity on April 23, 2004,[26] decisions or rulings of the CTA *En Banc* are now appealable to the Supreme Court *via* a petition for review on *certiorari* under Rule 45 of the Rules of Court.[27] Furthermore, Section 1, Rule 16, of the Revised Rules of the Court of Tax Appeals[28] (RRCTA) provides that a party adversely affected by a decision or ruling of the CTA *En Banc* may appeal by filing with the Supreme Court a verified petition for review under Rule 45 of the Rules of Court.

Accordingly NPC properly filed to petition for review on *certiorari* with this Court.

---

[25] 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; approved on March 30, 2004.

[26] See https://cta.judiciary.gov.ph/; last accessed August 5, 2021.

[27] See Section 19 of RA No. 9282. See also *Dizon v. Court of Tax Appeals*, 576 Phil. 110-138 (2008).

[28] A.M. No. 05-11-07-CTA, November 22, 2005.

Supreme Court E-Library

Validity of the assessment is a necessary issue to NPC's liability for the franchise tax.

At the onset, we hold that the issue of nullity of the Assessment Letter is not deemed waived even if raised only in NPC's motion for reconsideration of the CTA *En Banc*'s Decision. The CTA has ample authority to determine compliance by the taxing authority of the due process requirements under the tax laws even though not expressly raised as an issue in the petition filed before them.[29] Section 1, Rule 14 of the RRCTA provides that in deciding the case, the CTA may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. This was correctly observed by the Dissenting Opinion[30] of the March 17, 2017 Resolution that:

> [NPC's] present argument/objection [denial of due process] is necessarily subsumed to the issue of "Whether or not NPC is liable for the payment of franchise tax," which issue was raised not only before the Court *En Banc* and the Court in Division but also in [NPC's] Appeal before the Regional Trial Court.
>
> The CTA, in the exercise of its appellate jurisdiction to review decisions on local taxes cases, may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. It has been said that where the issues already raised also rest on other issues not specifically presented, as long as the latter issues bear relevance and close relation to the former and as long as they arise from matters on record, the Court has the authority to include them in its discussion of the controversy as well as to pass upon them. In fact, an appellate court has an inherent authority to review unassigned errors (i) which are closely related to an error properly raised, or (ii) upon which the determination of the error properly assigned is dependent, or (iii) where the Court finds that consideration of them is necessary in arriving at a just decision of the case.

---

[29] See *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, G.R. No. 222476, May 5, 2021, https://sc.judiciary.gov.ph/20025/ (last accessed: August 11, 2021). See also *Commissioner of Internal Revenue v. Court of Appeals*, 302 Phil. 347-356 (1994).

[30] See the Dissenting Opinion of Presiding Justice Roman G. Del Rosario, *Rollo*, pp. 59-72.

Supreme Court E-Library

Indeed, the validity or invalidity of the Assessment Letter is integral to the issue of NPC's liability for local franchise tax under the Provincial Tax Code of 1992 of Pampanga. If the assessment is void, NPC is not liable for the franchise tax.

The Province of Pampanga failed to observe the due process requirements in issuing a deficiency local tax assessment; hence, the assessment is void.

NPC insists that it was deprived of its right to due process of law because the Assessment Letter[31] dated June 24, 2009, issued by the Provincial Treasurer of the Province of Pampanga, lacked details required under Section 195 of the LGC, which reads:

> SECTION 195. *Protest of Assessment*. — When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, **he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties**. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable. (Emphasis supplied.)

Article 285[32] of the rules implementing the LGC[33] reiterates the language used in Section 195. Thus, in *Yamane v. BA Lepanto*

---

[31] *Rollo*, p. 76.

[32] ARTICLE 285. Protest on Assessment. — When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge the amount of deficiency, the surcharges, interests, and penalties.

Supreme Court E-Library

Condominium Corp.,[34] the Court stressed the details that must be contained in the notice of assessment:

> Ostensibly, **the notice of assessment which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax. Section 195 of the Local Government Code does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved but it does require that it state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties.** In this case, the notice of assessment sent to the Corporation did state that the assessment was for business taxes, as well as the amount of the assessment. There may have been *prima facie* compliance with the requirement under Section 195. However, in this case, the Revenue Code provides multiple provisions on business taxes, and at varying rates. Hence, we could appreciate the Corporation's confusion, as expressed in its protest, as to the exact legal basis for the tax. Reference to the local tax ordinance is vital, for the power of local government units to impose local taxes is exercised through the appropriate ordinance enacted by the *sanggunian*, and not by the Local Government Code alone. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body. (Boldfacing supplied.)

Verily, taxpayers must be informed of the nature of the deficiency tax, fee, or charge, as well as the amount of deficiency, surcharge,

---

Within sixty (60) days from receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. If the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer.

The taxpayer shall have thirty (30) days from receipt of the denial of the protest or from the lapse of the sixty-day period prescribed in this Article within which to appeal with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable.

[33] ADMINISTRATIVE ORDER NO. 270, IMPLEMENTING RULES AND REGULATIONS OF LOCAL GOVERNMENT CODE OF 1991, February 21, 1992.

[34] 510 Phil. 750-779 (2005).

Supreme Court E-Library

interest, and penalty. Failure of the taxing authority to sufficiently inform the taxpayer of the facts and law used as bases for the assessment will render the assessment void. In *Commissioner of Internal Revenue v. Fitness by Design, Inc.*,[35] albeit involving national internal revenue taxes, the Court explained the importance of the notice requirement with due regard to the taxpayers' constitutional rights,[36] to wit:

> **The rationale behind the requirement that taxpayers should be informed of the facts and the law on which the assessments are based conforms with the constitutional mandate that no person shall be deprived of his or her property without due process of law.** Between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.
>
> **The purpose of the written notice requirement is to aid the taxpayer in making a reasonable protest, if necessary. Merely notifying the taxpayer of his or her tax liabilities without details or particulars is not enough.**
>
> *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.* held that **a final assessment notice that only contained a table of taxes with no other details was insufficient**; xxx
>
> Any deficiency to the mandated content of the assessment or its process will not be tolerated. x x x
>
> x x x x
>
> A final assessment notice provides for the amount of tax due with a demand for payment. This is to determine the amount of tax due to a taxpayer. However, **due process requires that taxpayers be informed in writing of the facts and law on which the assessment is based in order to aid the taxpayer in making a reasonable protest**. To immediately ensue with tax collection without initially substantiating a valid assessment contravenes the principle in administrative

---

[35] 799 Phil. 391-420 (2016).

[36] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 3, 2018. See also *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, G.R. No. 222476, May 5, 2021; *Commissioner of Internal Revenue v. Liquigaz Philippines Corp.*, 784 Phil. 874-899 (2016).

Supreme Court E-Library

investigations "that taxpayers should be able to present their case and adduce supporting evidence." (Emphasis supplied; citations omitted)

Without doubt, the mandate of providing the taxpayer with notice of the facts and laws used as bases for the assessment is not to be mechanically applied.[37] The purpose of this requirement is to adequately inform the taxpayer of the basis of the assessment to enable him to prepare for an intelligent or "effective" protest or appeal of the assessment or decision.[38] Thus, substantial compliance with the law is allowed if the taxpayer is later fully apprised of the basis of the deficiency taxes assessment, which enabled him to file an effective protest.[39]

Here, the Assessment Letter hardly complies with the requirements of Section 195 of the LGC and implementing rules that will enable NPC to file an effective protest. The letter quoted provisions of the Tax Ordinance of the Province of Pampanga imposing franchise tax and penalties for non-payment or late payment. Glaringly absent, however, are the amount of the alleged deficiency tax, surcharges, interest, and penalties. The period covered by the assessment was not also indicated. Although Section 195 of the LGC does not expressly require the taxable period to be stated in the notice of assessment, the period is important to determine compliance with the prescriptive period when the Provincial Treasurer is authorized by law to assess and collect deficiency taxes.

To be sure, the Provincial Treasurer could have clarified the assessment and provided NPC with the computation of the alleged deficiency franchise tax by responding to NPC's protest. But the Provincial Treasurer idly sat on the protest and waited

---

[37] *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, 799 Phil. 391-420 (2016) citing *Commissioner of Internal Revenue v. Liquigaz Philippines Corp.*, 784 Phil. 874-899 (2016).

[38] *Commissioner of Internal Revenue v. Liquigaz Philippines Corp.*, 784 Phil. 874-899 (2016).

[39] See *Samar-1 Electric Cooperative v. Commissioner of Internal Revenue*, 749 Phil. 772-790 (2014).

Supreme Court E-Library

for 60 days[40] mandated by the LGC for him to act on the protest to lapse thereby, prompting NPC to appeal to the RTC. We could understand NPC's general denial for any liability and insistent claim for exemption from the franchise tax in its protest to the Provincial Treasurer. How can NPC intelligently question the assessment when the notice merely quoted provisions of the Tax Ordinance on how the franchise tax is computed, the basis of the computation, *i.e.*, gross receipts, and the applicable rate? The notice did not even indicate the taxable period covered by the assessment. It bears stressing that the Province of Pampanga cannot simply leave to NPC the determination of its purported liability. The LGC authorizes the local treasurer to examine the taxpayer's books of accounts and pertinent records to ascertain, assess, and collect the correct amount of taxes.[41] The Province, therefore, had all the means and authority to gather sufficient information to determine the correct amount of taxes due from the taxpayer.

Moreover, it cannot escape our attention that the Provincial Treasurer was given opportunity to furnish NPC with the

---

[40] See LOCAL GOVERNMENT CODE OF 1991, Book II, Title I, Chapter 6, Sec. 195.

[41] See LOCAL GOVERNMENT CODE OF 1991, Book II, Title I, Chapter 6, Sec. 171.

SECTION 171. Examination of Books of Accounts and Pertinent Records of Businessmen by Local Treasurer. — The provincial, city, municipal or barangay treasurer may, by himself or through any of his deputies duly authorized in writing, examine the books, accounts, and other pertinent records of any person, partnership, corporation, or association subject to local taxes, fees and charges in order to ascertain, assess, and collect the correct amount of the tax, fee, or charge. Such examination shall be made during regular business hours, only once for every tax period, and shall be certified to by the examining official. Such certificate shall be made of record in the books of accounts of the taxpayer examined.

In case the examination herein authorized is made by a duly authorized deputy of the local treasurer, the written authority of the deputy concerned shall specifically state the name, address, and business of the taxpayer whose books, accounts, and pertinent records are to be examined, the date and place of such examination and the procedure to be followed in conducting the same.

For this purpose, the records of the revenue district office of the Bureau of Internal Revenue shall be made available to the local treasurer, his deputy or duly authorized representative.

Supreme Court E-Library

computation of the deficiency franchise tax when NPC raised the issue of non-compliance with the formal requirements in its Reply. The Provincial Treasurer, however, ignored NPC's argument and insisted on NPC's liability. The Provincial Treasurer lost its chance to cure the defective assessment.

Taxpayers' obligation for deficiency taxes cannot depend on a guessing game. To stress, the taxpayer must not only be informed of what taxes it is liable to pay and under what authority the obligation to pay is based. Equally important is that it must be advised how much is the pending tax liability and the period covered.[42] Without these particulars, taxpayers would be deprived of adequate opportunity to prepare for an intelligent appeal as they would have no way of determining what was considered by the taxing authority in making the assessment. In the present case, NPC was deprived of its right to due process of law.

Tax assessments issued in violation of the due process rights of a taxpayer are null and void and of no force and effect.[43] In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution.[44] Thus, this Court need not belabor on the other issues raised, for it is well-settled that a void assessment bears no valid fruit.[45]

A final word. We remind the local taxing authority that in as much as the power of taxation is sometimes called the power

---

[42] See *City Treasurer of Manila v. Philippine Beverage Partners, Inc.*, G.R. No. 233556, September 11, 2019.

[43] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

[44] *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*, 748 Phil. 760-773 (2014).

[45] *Commissioner of Internal Revenue v. Liquigaz Philippines Corp.*, 784 Phil. 874-899 (2016) citing *Commissioner of Internal Revenue v. Reyes*, 516 Phil. 176-191 (2006).

Supreme Court E-Library

to destroy, it should exercise its power to levy taxes, fees, and charges with caution to minimize injury to the proprietary rights of the taxpayer.[46] As this Court, ruled in *Commissioner of Internal Revenue v. Fitness by Design, Inc.*:[47]

> Taxes are the lifeblood of government and should be collected without hindrance. However, the collection of taxes should be exercised "reasonably and in accordance with the prescribed procedure."
>
> The essential nature of taxes for the existence of the State grants government with vast remedies to ensure its collection. However, taxpayers are guaranteed their fundamental right to due process of law, as articulated in various ways in the process of tax assessment. After all, the State's purpose is to ensure the well-being of its citizens, not simply to deprive them of their fundamental rights.

FOR THE STATED REASONS, the Petition for Review on *Certiorari* is **GRANTED**. The Decision dated September 9, 2016 and Resolution dated March 17, 2017 of Court of Tax Appeals *En Banc* in CTA EB No. 1233 are **REVERSED**. The Assessment Letter dated June 24, 2009 issued by the Provincial Treasurer of the Province of Pampanga is declared **NULL and VOID** and is **CANCELLED**.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Caguioa, Lazaro-Javier, and *J. Lopez, JJ.*, concur.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Office of the Provincial Legal Officer for public respondent.

---

[46] *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, G.R. No. 222476, May 5, 2021.

[47] 799 Phil. 391-420 (2016).