



Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division  
 NOV 28 2016

**THIRD DIVISION**

**NATIONAL POWER CORPORATION,**  
 Petitioner,

**G.R. No. 209303**

**Present:**

- versus -

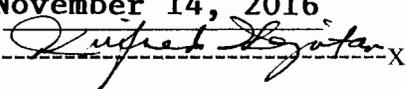
VELASCO, JR.,\* *J., Chairperson,*  
 LEONARDO-DE CASTRO,\*\*  
 PERALTA,\*\*  
 PEREZ, and  
 REYES, *JJ.*

**THE PROVINCIAL TREASURER OF  
 BENGUET, THE PROVINCIAL  
 ASSESSOR OF BENGUET, THE  
 MUNICIPAL TREASURER OF  
 ITOGON, BENGUET and THE  
 MUNICIPAL ASSESSOR OF ITOGON,  
 BENGUET,**

**Promulgated:**

Respondents.

**November 14, 2016**

X-----  
 X

**DECISION**

**PERALTA, J.:**

For this Court's resolution is a petition for review on *certiorari* filed by petitioner National Power Corporation (*NPC*) seeking to reverse and set aside the Decision<sup>1</sup> dated September 12, 2013 of the Court of Tax Appeals (*CTA*) *En Banc* in E.B. No. 891.

Below are the facts of the case.

\* On official leave.

\*\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 8, 2014.

\*\*\* Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

<sup>1</sup> Penned by Associate Justice Esperanza R. Fabon-Victorino, with Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, and Cielito N. Mindaro-Grulla, concurring; Roman G. Del Rosario, dissenting; Ma. Belen M. Ringpis-Liban, concurring and dissenting; and Amelia R. Gotangco-Manalastas, on leave; *rollo* pp. 32-45.

NPC is a government-owned and controlled corporation created and existing under and by virtue of Republic Act (R.A.) No. 6395 with principal office address at NPC Office Building Complex, corner Quezon Avenue and BIR Road, East Triangle, Diliman, Quezon City. NPC was created to undertake the development of power generation and production from hydroelectric or other sources, and may undertake the construction, operation and maintenance of power plants, dams, reservoirs, and other works. It operates and maintains the Binga Hydro-Electric Power Plant.<sup>2</sup>

Respondents Provincial Treasurer, Provincial Assessor, Municipal Treasurer and Municipal Assessor of Itogon are representatives of the province of Benguet, a local government unit. Respondents issued the subject assessment in their official capacities.<sup>3</sup>

Sometime in May 2000, the Municipal Assessor of Itogon, Benguet assessed NPC the amount of ₱62,645,668.80 real property tax for the following properties located within the Binga Hydro-Electric Power Plant:

Tax Declaration No.	Classification
99-006-01448	Home Economics Building
99-006-01457	Nursery School
99-006-01458	Elem. School Bldg.
99-006-01505	Power House
99-006-01506	Industrial Road
99-006-01516 (N)	High School Building
99-007-02221	Equipment/ Structure
99-008-01509	Machineries/ Equipment

On March 17, 2006, NPC received a letter dated February 16, 2006 from OIC- Provincial Treasurer of Benguet demanding the payment of real property tax delinquency in the amount of ₱62,645,668.80.<sup>4</sup>

On April 20, 2006, NPC challenged before the Local Board of Assessment Appeals (LBAA) the legality of the assessment and the authority of the respondents to assess and collect real property taxes from it when its properties are exempt pursuant to Section 234 (b) and (c) of Republic Act (R.A.) No. 7160, otherwise known as the Local Government Code (LGC) of 1991. In the letters dated September 3, 2000 and April 19, 2001, NPC filed

<sup>2</sup> *Id.* at. 32-33.

<sup>3</sup> *Id.* at 33.

<sup>4</sup> *Id.*

its requests for exemption, which the respondent Municipal Treasurer of Itoгон, Benguet has not acted upon.<sup>5</sup>

In their Answer dated June 30, 2006, respondents alleged that NPC's properties were not exempt from tax since the properties were classified in their tax declarations as "industrial," "for industrial use," or "machineries and "equipment." There was no evidence that the properties were being used for generation and transmission of electric power. Respondents alleged that the period to assess had not prescribed as the demand letter in 2006 was for collection of delinquency taxes, and not an initial assessment which was issued in 2003 but was not settled by NPC. Respondents also alleged that the appeal to the LBAA was filed out of time.<sup>6</sup>

In an Order dated July 28, 2006, the LBAA deferred the proceedings upon NPC's payment under protest of the assessed amount, or upon filing of a surety bond to cover the disputed amount of tax. NPC moved to reconsider the Order on the ground of lack of legal basis, but the same was denied in a Resolution dated October 3, 2006.<sup>7</sup>

NPC filed a petition for review before the Central Board of Assessment Appeals (CBAA) claiming that payment under protest was not required before it could challenge the authority of respondents to assess tax on tax exempt properties before the LBAA.<sup>8</sup>

In their Answer, respondents reiterated their contentions about the taxability of the subject properties. They added that, pursuant to Section 252 of the LGC, payment under protest was a necessary condition to a protest against the assessment issued by respondents.<sup>9</sup>

On July 28, 2011, the CBAA dismissed the appeal for being filed out of time, thus:

IN VIEW THEREOF, the instant appeal is hereby dismissed for having filed out of time. (Petitioner) is advised to proceed under Section 206 of R.A. No. 7160 (the Local Government Code of 1991) and take the necessary steps in support of its claim for exemption (sic) to be dropped from the assessment roll.

SO ORDERED.<sup>10</sup>



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<sup>5</sup> *Id.* at 33-34.

<sup>6</sup> *Id.* at 34.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 35.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

The CBAA, in an Order dated February 23, 2012, denied NPC's motion for reconsideration. It ruled that it is incumbent upon NPC to pay under protest before the LBAA could entertain its appeal as provided under Section 252 of the LGC. It also stressed that the meetings and ocular inspection during the pendency of the case were all pursuant to R.A. 9285<sup>11</sup> or the Alternative Dispute Resolution Act of 2004.

Undaunted, NPC appealed to the CTA *En Banc* by filing a Petition for Review dated April 13, 2012. The CTA *En Banc* denied the same for lack of merit.<sup>12</sup> It ruled that as expressly provided in Section 252 of the LGC, a written protest against the assessment may be filed before the LBAA within thirty (30) days from payment under protest. NPC failed to pay under protest the contested assessment, a condition *sine qua non* for invocation of LBAA's appellate authority.<sup>13</sup>

Hence, NPC filed the instant petition raising the sole issue:

THE CTA *EN BANC* ERRED IN DISMISSING THE PETITION BASED ON PRESCRIPTION AS SAID ISSUE WAS NEVER RAISED IN THE LBAA. IN FACT, WHEN PETITIONER ELEVATED THE CASE BEFORE THE CBAA, THE LATTER EVEN CONCLUDED THAT THE ONLY ISSUE TO BE RESOLVED THEREIN WAS WHETHER THE QUESTIONED PROPERTIES ARE MACHINERIES AND EQUIPMENT THAT ARE ACTUALLY, DIRECTLY AND EXCLUSIVELY USED BY NPC IN THE GENERATION AND TRANSMISSION OF ELECTRIC POWER. THUS, THE CTA *EN BANC* SHOULD HAVE RESOLVED THE CASE BASED ON THE ISSUE PRESENTED AND ON THE MERITS CONSIDERING THE FAR-REACHING IMPLICATIONS OF ITS DECISION ON THE OTHER PROPERTIES OF NPC WHICH ARE SIMILARLY SITUATED AS THE SUBJECT PROPERTIES HEREIN, INSTEAD OF DENYING THE PETITION BASED ON PRESCRIPTION.<sup>14</sup>

This Court finds the instant petition without merit.

At the outset, settled is the rule that should the taxpayer/real property owner question the excessiveness or reasonableness of the assessment, Section 252 of the LGC of 1991 directs that the taxpayer should first pay the tax due before his protest can be entertained, thus:

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<sup>11</sup> AN ACT TO INSTITUTIONALIZE THE USE OF AN ALTERNATIVE DISPUTE RESOLUTION SYSTEM IN THE PHILIPPINES AND TO ESTABLISH THE OFFICE FOR ALTERNATIVE DISPUTE RESOLUTION, AND FOR OTHER PURPOSES

<sup>12</sup> *Id.* at 45.

<sup>13</sup> *Id.* at 40.

<sup>14</sup> *Id.* at 14-15.



SEC. 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 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.

(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 credits 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 Two, Book II of this Code.**<sup>15</sup>

There shall be annotated on the tax receipts the words "paid under protest." It is only after the taxpayer has paid the tax due that he may file a protest in writing within 30 days from payment of the tax to the Provincial, City or Municipal Treasurer, who shall decide the protest within sixty days from receipt. In no case is the local treasurer obliged to entertain the protest unless the tax due has been paid.<sup>16</sup>

Relevant thereto, Chapter 3, Title Two, Book II of the LGC of 1991, Sections 226 to 231,<sup>17</sup> provides for the administrative remedies available to a

<sup>15</sup> Emphases supplied.

<sup>16</sup> *Olivares v. Marquez*, G.R. No. 155591, 482 Phil. 183 (2004).

<sup>17</sup> SEC. 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 province 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.**

SEC. 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 powers 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.**

SEC. 231. *Effect of Appeal on the Payment of Real Property Tax.* — **Appeal on assessments of real property made under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal.** (Emphases supplied)

taxpayer or real property owner who does not agree with the assessment of the real property tax sought to be collected, particularly, the procedural and substantive aspects of appeal before the LBAA and CBAA, including its effect on the payment of real property taxes.

NPC alleges that payment under protest under Section 252 of the LGC is required when the reasonableness of the amount assessed is being questioned. Challenging the very authority and power of the assessor to impose the assessment and of the treasurer to collect the tax is an attack on the very validity on any increase and not merely on the amounts of increase in tax. Thus, such payment is not a condition *sine qua non* for the LBAA to entertain the NPC's challenge on the validity of the tax imposed on its tax-exempt properties.<sup>18</sup>

We are not persuaded. As settled in jurisprudence, a claim for exemption from the payment of real property taxes does not actually question the assessor's authority to assess and collect such taxes, but pertains to the reasonableness or correctness of the assessment by the local assessor, a question of fact which should be resolved, at the very first instance, by the LBAA.<sup>19</sup> The same may be inferred in Section 206 of the LGC of 1991, to wit:

*SEC. 206. Proof of Exemption of Real Property from Taxation. —* Every person by or for whom real property is declared, **who shall claim tax exemption for such property** under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, bylaws, contracts, affidavits, certifications and mortgage deeds, and similar documents.

**If the required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll.**<sup>20</sup>

Section 206 of the LGC categorically provides that every person by or for whom real property is declared, who shall claim exemption from payment of real property taxes imposed against said property, shall file with the provincial, city or municipal assessor sufficient documentary evidence in support of such claim. The burden of proving exemption from local taxation is upon whom the subject real property is declared. By providing that real property not declared and proved as tax-exempt shall be included in the

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<sup>18</sup> *Rollo*, pp. 17-18.

<sup>19</sup> *National Power Corporation v. Province of Quezon*, G.R. No. 171586, 624 Phil. 738 (2010).

(Emphases supplied)

<sup>20</sup> Emphases supplied.

assessment roll, the above quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim. Thus, if the **property being taxed has not been dropped from the assessment roll, taxes must be paid under protest if the exemption from taxation is insisted upon.**<sup>21</sup>

As held in *Camp John Hay Development Corp. v. Central Board of Assessment Appeals*:<sup>22</sup>

x x x the restriction upon the power of courts to impeach tax assessment without a prior payment, under protest, of the taxes assessed is consistent with the doctrine that taxes are the lifeblood of the nation and as such their collection cannot be curtailed by injunction or any like action; otherwise, the state or, in this case, the local government unit, shall be crippled in dispensing the needed services to the people, and its machinery gravely disabled. The right of local government units to collect taxes due must always be upheld to avoid severe erosion. This consideration is consistent with the State policy to guarantee the autonomy of local governments and the objective of RA No. 7160 or the LGC of 1991 that they enjoy genuine and meaningful local autonomy to empower them to achieve their fullest development as self-reliant communities and make them effective partners in the attainment of national goals.

x x x<sup>23</sup>

Records reveal that the petitioner sent a letter dated September 5, 2000 to the respondent Municipal Treasurer seeking clarification on the assessment levels used by the Assessor in the billing taxes, as well as claiming tax exemption on certain properties. It reiterated its claim of exemption in its letter dated April 19, 2001. NPC received the final demand for payment of tax delinquency issued by the Provincial Treasurer in a letter dated February 16, 2006. Thereafter, petitioner filed a petition purportedly questioning the authority of the respondents to assess and to collect taxes against some of its properties before the LBAA, without payment under protest of the assessed real property taxes.

Nothing in the said petition before the LBAA supports petitioner's claim regarding the respondents' alleged lack of authority. Instead, it raises the following issues, which involve a question of fact: 1.) the properties such as reservoir, machineries and equipment which are actually, directly and exclusively used by NPC in the generation and transmission of electricity, and the school buildings are exempt from taxation; and 2.) regarding the escape revision which was made retroactive from 1994, said taxes could no

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<sup>21</sup> *Id.*

<sup>22</sup> 718 Phil. 543 (2013).

<sup>23</sup> *Id.*

longer be assessed and collected since they should have been assessed within five (5) years from the date they became due.<sup>24</sup> Though couched in terms which challenge the validity of the assessment and authority of the respondents, NPC, as a government-owned and controlled corporation engaged in the generation and transmission of electric power, essentially anchors its petition based on a claim of exemption from real property tax.

Records are bereft of evidence which proves that, within 30 days from the filing of its Tax Declaration, NPC filed with the Municipal Assessor of Itogon, Benguet an application for exemption or any documentary evidence of the exempt status of its properties. Respondent Municipal Assessor assessed petitioner's properties for real property tax since they were not dropped from the assessment roll upon failure of NPC to comply with the requirements of the law. As found by the CTA *En Banc*:

x x x Evidently, the two letters requesting exemption from payment of realty tax dated September 3, 2000 and April 19, 2001 addressed to respondent Municipal Assessor were filed beyond the required thirty (30)-day period from the declaration of the subject properties for realty tax purposes in May 2000. There is also no showing that petitioner submitted together with the said formal requests sufficient documents in support of such claim. Significantly, in the proceedings below, respondents categorically stated that petitioner failed to prove its claimed tax exemption. This declaration remains undisputed to date. Precisely, the subject properties were listed as taxable in the assessment roll giving respondents the authority to issue the assailed assessment.

x x x<sup>25</sup>

Based on the foregoing backdrop and the above-cited jurisprudence, it is evident that NPC's failure to comply with the mandatory requirement of payment under protest in accordance with Section 252 of the LGC was fatal to its appeal. We note that it is not the first occasion where this Court ruled that the NPC, in claiming tax exemption, questions the reasonableness or correctness of the assessment by the local assessor and not the legality of the assessment or his authority to assess real property tax.<sup>26</sup> As such, petitioner should have first complied with Section 252. Its failure to prove that this requirement has been complied with renders its administrative protest under Section 226 of the LGC without any effect. No protest shall be entertained unless the taxpayer first pays the tax.

Notwithstanding such failure to comply therewith, the LBAA opted not to immediately dismiss the case but instead deferred the hearing subject to the condition that payment of the real property tax should first be made

<sup>24</sup> LBAA Records, Folder 3, pp. 6-7.

<sup>25</sup> *Rollo*, p. 39.

<sup>26</sup> *National Power Corporation v. Province of Quezon*, *supra* note 18.

before proceeding, as provided for under Section 7,<sup>27</sup> Rule V of the Rules of Procedure of the LBAA. We held that, in requiring the payment under protest before proceeding with the case, the LBAA simply recognized the importance of the requirement of "payment under protest" before an appeal may be entertained, pursuant to Section 252, and in relation with Section 231<sup>28</sup> of the same Code as to non-suspension of collection of the realty tax pending appeal.<sup>29</sup>

NPC alleged that the filing of the motion for reconsideration before the LBAA, though not required under Section 229 (c) of the LGC, should not be taken against it for choosing to exhaust all the means to prove that the properties are tax-exempt. It should not be deprived of its right to appeal and ventilate its case before the courts where the decision on the issue of taxability of the properties will have a far-reaching implication on its other properties similarly situated. It would have been more prudent for the CBAA and the CTA *En Banc* to have resolved the case based on the evidence and arguments advanced rather than dismiss the same on pure technicality and require NPC to present all over again its evidence of exemption of its properties, which are already deemed exempt during the proceedings before the CBAA.<sup>30</sup>

In its statement of the timeliness of the appeal, the NPC alleged that as provided under Section 229 (c) of the LGC, it has 30 days from its receipt of the assailed Order on October 16, 2006 to file its appeal before the CBAA. However, the CBAA dismissed the same on the ground that it was filed beyond the period of appeal, *viz.*:

x x x [NPC] failed to realize that the period of prescription starts from receipt of the Order of the LBAA which deferred the hearing on the [NPC]'s Petition. By its own admission, said Order was "received by

<sup>27</sup> Section 7. *Effect of Appeal on Collection of Taxes.* — An appeal shall not suspend the collection of the corresponding realty taxes on the real property subject of the appeal as assessed by the Provincial, City or Municipal Assessor, without prejudice to the subsequent adjustment depending upon the outcome of the appeal. An appeal may be entertained but **the hearing thereof shall be deferred until the corresponding taxes due on the real property subject of the appeal shall have been paid under protest or the petitioner shall have given a surety bond**, subject to the following conditions:

- (1) the amount of the bond must not be less than the total realty taxes and penalties due as assessed by the assessor nor more than double said amount;
- (2) the bond must be accompanied by a certification from the Insurance Commissioner (a) that the surety is duly authorized to issue such bond; (a) that the surety bond is approved by and registered with said Commission; and (c) that the amount covered by the surety bond is within the writing capacity of the surety company; and
- (3) the amount of the bond in excess of the surety company's writing capacity, if any, must be covered by Reinsurance Binder, in which case, a certification to this effect must likewise accompany the surety bond. (Emphasis supplied)

<sup>28</sup> SECTION 231. *Effect of Appeal on the Payment of Real Property Tax.* — Appeal on assessments of real property made under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal.

<sup>29</sup> *Camp John Hay Development Corp. v. Central Board of Assessment Appeals*, *supra* note 20.

<sup>30</sup> *Id.* at 22-23.

[NPC] on August 9, 2006," hence the period of appeal to the CBAA should have prescribed thirty (30) days thereafter, or to be exact, on September 8, 2006.

The provision does not require [NPC] to file a Motion for Reconsideration. But if it does, it files the same at its own risk as the Motion for Reconsideration does not stay the period of prescription.

To repeat therefore, [NPC] has thirty (30) days from August 9, 2006 or not later than September 8, 2006 within which to appeal to the Central Board of Assessment Appeals (CBAA). Clearly timeliness has been considerably breached when the herein Appeal reached this Board on November 22, 2006, seventy-five (75) days, way beyond the September 8, 2006 deadline.

x x x<sup>31</sup>

On August 9, 2006, NPC received the LBAA's Order dated July 28, 2009 postponing the hearing. Thereafter, petitioner opted to file a motion for reconsideration before the LBAA on August 25, 2006, or on the sixteenth day from receipt of the Order.<sup>32</sup> On October 17, 2006, NPC received the Resolution of the LBAA dated October 3, 2006 denying its motion for reconsideration. Therefore, NPC had the remaining period of 14 days, or until October 31, 2006, within which to appeal.

While it is evident in jurisprudence that the filing of motion for reconsideration before the LBAA is allowed,<sup>33</sup> this Court finds that, inevitably, the filing of the appeal before the CBAA through registered mail on November 16, 2006 was already late. It is settled that the "fresh period rule" in the case of *Domingo Neypes, et al. v. Court of Appeals, et al.*<sup>34</sup> applies only to judicial appeals and not to administrative appeals.<sup>35</sup>

In *Panolino v. Tajala*,<sup>36</sup> We elucidated that:

x x x The "fresh period rule" in *Neypes* declares:

To standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, the Court deems it practical to allow a fresh period of 15 days within which to file the notice of appeal in the Regional Trial Court, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.

<sup>31</sup> *Id.* at 156-17.

<sup>32</sup> CBAA Records, Folder 1, p. 12.

<sup>33</sup> *Camp John Hay Development Corp. v. Central Board of Assessment Appeals*, *supra* note 20.

<sup>34</sup> 469 SCRA 633 (2005).

<sup>35</sup> *San Lorenzo Ruiz Builders and Developers Group, Inc. v. Bayang*, G.R. No. 194702, April 20, 2015.

<sup>36</sup> 636 Phil. 313 (2010).

Henceforth, this "fresh period rule" shall also apply to Rule 40 governing appeals from the Municipal Trial Courts to the Regional Trial Courts; Rule 42 on petitions for review from the Regional Trial Courts to the Court of Appeals; Rule 43 on appeals from *quasi-judicial* agencies to the Court of Appeals; and Rule 45 governing appeals by *certiorari* to the Supreme Court. The new rule aims to regiment or make the appeal period uniform, to be counted from receipt of the order denying the motion for new trial, motion for reconsideration (whether full or partial) or any final order or resolution.

x x x

As reflected in the above-quoted portion of the decision in *Neypes*, the "fresh period rule" shall apply to Rule 40 (appeals from the Municipal Trial Courts to the Regional Trial Courts); Rule 41 (appeals from the Regional Trial Courts to the Court of Appeals or Supreme Court); Rule 42 (appeals from the Regional Trial Courts to the Court of Appeals); Rule 43 (appeals from quasi-judicial agencies to the Court of Appeals); and Rule 45 (appeals by *certiorari* to the Supreme Court). **Obviously, these Rules cover judicial proceedings under the 1997 Rules of Civil Procedure.**

Petitioner's present case is *administrative* in nature involving an appeal from the decision or order of the DENR regional office to the DENR Secretary. Such appeal is indeed governed by Section 1 of Administrative Order No. 87, Series of 1990. As earlier quoted, Section 1 clearly provides that if the motion for reconsideration is *denied*, the movant shall perfect his appeal "during the remainder of the period of appeal, reckoned from receipt of the resolution of denial;" whereas if the decision is *reversed*, the adverse party has a fresh 15-day period to perfect his appeal. (Emphasis supplied.)

x x x<sup>37</sup>

In the instant case, the subject appeal, *i.e.*, appeal from a decision of the LBAA to the CBAA, is not judicial but administrative in nature. Thus, the "fresh period rule" in *Neypes* does not apply. Contrary to NPC's allegation that it has 30 days from receipt of the Order denying its motion for reconsideration within which to appeal before the CBAA, it only has the remaining 14 days from the 30-day period of appeal.

Considering that the LBAA has not resolved the merits of the case, the CBAA cannot rule on the very issue of real property tax exemption of some of NPC's properties as it has yet to acquire jurisdiction. This Court, in compliance with the procedural steps prescribed in the law, cannot delve on the issue of NPC'S alleged non-taxability on the ground of exemption. As such, this Court's role in addressing NPC's concerns and the interests at stake is not all-encompassing. This Court cannot tackle the feared far-reaching implication of the decision on the other properties of NPC similarly

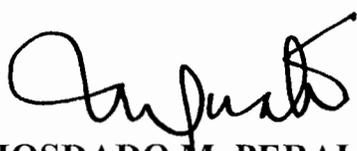
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<sup>37</sup> *Id.* at 317-319.

situated as the subject properties, as discussed earlier, the LBAA has yet to decide on the merits of the case. We can only resolve the current controversy through a reading and interpretation of the law.

**WHEREFORE**, the petition is **DENIED** for lack of merit. The Decision of the Court of Tax Appeals *En Banc* in C.T.A. EB No. 891 is **AFFIRMED**. The case is **REMANDED** to the Local Board of Assessment Appeals for further proceedings subject to payment under protest of the assailed assessment.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

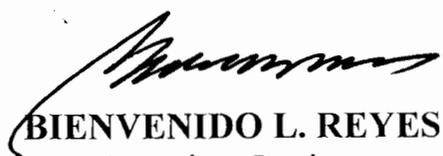
On official leave  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**TERESITA J. LEONARDO DE-CASTRO**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division  
NOV 28 2016