

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**HEIDE D. PANGILINAN, in
her official capacity as the
CITY ASSESSOR, And
FLORIDA R. OCA, in her
official capacity as the CITY
TREASURER, OF
CABANATUAN CITY,**
Petitioners,

-versus-

**THE CENTRAL BOARD OF
ASSESSMENT APPEALS
(CBAA)**

- and -

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP)**
Respondents.

CTA EB No. 2827
(CBAA Case Nos. L-120 & L-121)

Members:

**DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, JJ.**

Promulgated:

DEC 12 2024

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review* filed on October 11, 2023 by petitioners Heide D. Pangilinan, in her official capacity as City Assessor, and Florida R. Oca, in her official capacity as City Treasurer, both of Cabanatuan City (collectively referred to as "**Petitioners**"). The *Petition for Review* seeks to reverse the *Resolutions* of respondent Central Board of Assessment Appeals (**CBAA**) dated January 23, 2023 and April 20, 2023, in CBAA Case Nos. L-120 & L-121, which declared respondent National Grid Corporation of the Philippines' (**NGCP**) subject real properties exempt from real property taxes

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and canceled any subsequent assessment and collection of such taxes.

THE PARTIES

Petitioner Heide D. Pangilinan is the City Assessor of Cabanatuan City. Petitioner Florida R. Oca, who is now alleged to be retired, has been replaced in this petition by Maritza DR. Licup, the duly appointed City Treasurer of Cabanatuan City. Both petitioners hold office at City Hall, Kapitan Pepe Subdivision, Cabanatuan City.¹

Respondent CBAA is a public office, with its principal office located at the 7th Floor, EDCP Building, BSP Complex, Roxas Blvd., Manila.²

Respondent NGCP is a corporation organized under the laws of the Republic of the Philippines, with its principal office at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.³

THE FACTS

This case was remanded by the Supreme Court (Second Division) to the CBAA in a *Resolution* dated June 23, 2021, in the case entitled “*National Grid Corporation of the Philippines v. Central Board of Assessment Appeals, et al.*” (*NGCP v. CBAA*).⁴ The dispositive portion of the *Resolution* states:

“**WHEREFORE**, the petition is **PARTLY GRANTED**, and the assailed *Decision* dated January 28, 2015 in CTA *EB* Case No. 1052 and CTA *EB* Case No. 1053, is **SET ASIDE**.”

The case is remanded to the Central Board of Assessment Appeals which is directed to determine whether the subject machineries, buildings, and lands are actually and directly used in connection with the franchise of the [NGCP], and based on the result thereof, render a new judgment on its claim for exemption from payment of real property tax.

SO ORDERED.”

¹ *En Banc (EB)* Docket, p. 7, Petition for Review, par. 8.

² *Id.* at par. 9.

³ *Id.* at par. 10.

⁴ G.R. Nos. 218289-90 (Notice), June 23, 2021 [Per Resolution, Second Division]; *EB* Docket, pp. 85-95.

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The uncontroverted facts, as found by the Supreme Court,⁵ are as follows:

Commonwealth Act No. 120, otherwise known as the Original Charter of the National Power Corporation (NPC) took effect in 1936. In 1971, the NPC Charter was revised through Republic Act (RA) No. 6395. Under this law, the NPC was charged with the task of electric power generation and transmission to the entire country.

Since 1936, the NPC had been granted an exemption from real property tax. Upon the effectivity of the Local Government Code (LGC) on January 1, 1992, however, this exemption was withdrawn, except for real property taxes due on the NPC's machineries and equipment being actually, directly, and exclusively used in electric power generation and transmission. As regards other lands, buildings, and improvements owned and used by the NPC for electric power generation and transmission, the same are classified as Special Class and assessed at ten percent (10%) of their fair market values in accord with Sections 216 and 218 of the LGC.

When RA 9136 otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) subsequently got enacted, all the assets owned by the NPC including its franchise were transferred to the National Transmission Commission (TRANSCO). The real property tax exemption and privileges granted to the NPC had since been similarly applied to TRANSCO.

On January 15, 2009, TRANSCO's power transmission operation was privatized and turned-over to National Grid Corporation of the Philippines (NGCP).

On December 30, 2010, [respondent NGCP] received from the City Assessor of Cabanatuan, Nueva Ecija the following:

1) Notice of Assessment for the real property tax on land located at petitioner's substation in Cabanatuan City. The subject land was classified as industrial with an assessment level of fifty percent (50%); and

2) Real Property Field Appraisal and Assessment Sheet-Machinery for payment of real property tax on the transformer located within the above-mentioned substation. The subject transformer was likewise classified as industrial with an assessed level of eighty percent (80%).

⁵ *Id.*



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[Respondent NGCP] filed its protest before the Office of the Treasurer, Cabanatuan City. It alleged that during TRANSCO's operation as a power generation and transmission company, the subject properties were both classified as Special Class under the LGC. Each was assessed at ten percent (10%) of its fair market value. On the other hand, the transformer was declared exempt from real property tax. Since it is simply TRANSCO's successor, the same classification should also apply to it.

Since the Office of the Treasurer, Cabanatuan City did not respond to the protest, [respondent NGCP] was constrained to appeal before the Local Board of Assessment Appeals (LBAA).

Meanwhile, on October 11, 2010, [respondent NGCP] received yet another set of Notices of Real Tax Delinquencies from the City Treasurer of Cabanatuan City for its various properties assessed either at 30%, 35%, 50%, 70% and 80% assessment levels. The alleged real property taxes due were for the period January 15, 2009 to 2010.

[Respondent NGCP] paid the real property taxes under protest.

The City Treasurer, thereafter, dismissed petitioner's protest and held that the latter was not exempt from real property tax. [Respondent NGCP] further appealed to the LBAA which then ordered the consolidation of [respondent NGCP]'s first and second protests.

Ruling of the LBAA

By Joint Resolution dated July 25, 2011, the LBAA ruled that [respondent NGCP] is liable for real property tax. The tax exemption under Section 234 of the LGC cannot apply to [respondent NGCP] because unlike NPC and TRANSCO, it is not a Government-Owned and Controlled Corporation (GOCC), but a private entity.

[Respondent NGCP]'s motion for reconsideration was denied under Order dated September 14, 2011.

**Ruling of the Central Board of Assessment Appeals
(CBAA)**

On appeal, the CBAA affirmed under Decision dated January 30, 2013. The CBAA rejected [respondent NGCP]'s claim that under its franchise, RA 9511, it is exempt from real property taxes on subject properties. The CBAA cited Section

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234 (a) of the LGC as the specific governing law which states, in no uncertain terms, that taxable entities like [respondent NGCP] are liable to pay real property tax.

Too, the subject properties do not qualify as a special class of real properties under Sections 216 and 218 (d) of the LGC just because the same are actually or directly used by NGCP, a taxable private entity, in its electric power generation and transmission.

Under Resolution dated June 18, 2013, [respondent NGCP]'s motion for reconsideration was also denied.

Ruling of the Court of Tax Appeal (CTA) *En Banc*

[Respondent NGCP] sought further relief from the CTA *En Banc* where the two cases were, respectively, docketed as CTA *EB* Case No. 1052 and CTA *EB* Case No. 1053. These cases were also consolidated and jointly decided per assailed Decision dated January 28, 2015, affirming the ruling of the CBAA.

According to the CTA *En Banc*, [respondent NGCP]'s reliance on the phrase "in lieu of all taxes" in claiming for tax exemption is misplaced. The historical usage of this phrase in franchise laws shows that it is not a blanket grant of tax exemption, but only an exemption from paying the franchise tax. In other words, while [respondent NGCP] is exempt from paying its franchise tax, it is liable to pay real property tax. Also, [respondent NGCP] is not qualified to avail of the special tax rate of ten percent (10%) of the fair market value of the property under the LGC because: 1) [respondent NGCP] is not a GOCC, and 2) while it is engaged in electric power transmission, it is not engaged in power generation.

On June 23, 2021, the Supreme Court issued a *Resolution* that partly granted NGCP's petition, setting aside the *Decision* dated January 28, 2015, in CTA *EB* Case No. 1052 and CTA *EB* Case No. 1053 and remanding the case to the CBAA.

The Supreme Court subsequently issued an *Entry of Judgment* certifying that the June 23, 2021 *Resolution* became final and executory on September 10, 2021, and recorded it in the Book of Entries of Judgments.⁶



⁶ *EB* Docket, p. 96, Comment (To the Petitioners' Petition for Review, dated 10 October 2023) or "Comment", Annex "C".

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Following the remand, the CBAA ordered a joint ocular inspection. On November 4, 2022, the CBAA scheduled the inspection for November 24, 2022, at 2:00 p.m.⁷

On November 24, 2022, the CBAA, through its Hearing Officer for the Luzon Field Office, together with the respective counsels of the parties, conducted an ocular inspection at NGCP Substation, Cabanatuan City.⁸ The purpose was to assess whether the subject properties were actually and directly used in connection with NGCP's franchise.⁹

On December 1, 2022, the CBAA issued an *Order* directing both parties to submit their respective description, comment, or observation on each of the following properties:¹⁰

KIND OF PROPERTY CLASSIFICATION	TAX DEC ARP NO.	MARKET VALUE	ASSESSED VALUE	ASSESSMENT LEVEL	AMOUNT DUE (P)	DECLARED OWNER
Industrial Bldg. (Warehouse)	07323/06-09081	3,738,000.00	2,616,600.00	70%	165,140.17	NATIONAL TRANSMISSION CORPORATION
Commercial Bldg.	07324/06-09081	308,700.00	108,050.00	35%	5,360.65	NATIONAL TRANSMISSION CORPORATION
Industrial Bldg. (Old Control Bldg/Bodega)	07325/06-09081	201,160.00 363,030.00	80,460.00 145,210.00	40% 40%	15,156.68	NATIONAL POWER CORPORATION
Industrial (New Control Building)	07326/06-09081	2,538,250.00	1,776,780.00	70%	135,621.53	NATIONAL TRANSMISSION CORPORATION
Commercial (Administration) Bldg.	07327/06-09081	924,710.00	462,360.00	50%	30,179.33	NATIONAL TRANSMISSION CORPORATION
Industrial Building (Repair Bay/Stockroom)	07328/06-09081	153,260.00 114,950.00	45,980.00 34,490.00	30% 30%	5,658.32	NATIONAL POWER CORPORATION
Industrial (Lineman's Quarter/ Stockroom)	07329/06-09081	71,000.00 139,850.00	21,300.00 41,960.00	30% 30%	4,448.09	NATIONAL POWER CORPORATION
Commercial Building	07330/06-09081	572,440.00	228,980.00	40%	17,598.86	NATIONAL POWER CORPORATION

⁷ *Id.* at 97, Comment, Annex "D".⁸ *Id.* at 24, Petition for Review, par. 24; *Id.* at 71, Comment, par. 8.⁹ *Id.* at 99-100, Comment, Annex "E".¹⁰ *Id.*

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KIND OF PROPERTY CLASSIFICATION	TAX DEC ARP NO.	MARKET VALUE	ASSESSED VALUE	ASSESSMENT LEVEL	AMOUNT DUE (P)	DECLARED OWNER
Machinery	07331/06-09081	2,500,000.00	2,000,000.00	80%	109,139.08	NATIONAL TRANSMISSION CORPORATION
Industrial/Machinery	07332/06-09081	2,749,790.00	2,199,830.00	80%	254,410.97	NATIONAL POWER CORPORATION
50 MVA Transformer/Machinery	07333/06-09081	30,000,000.00	24,000,000.00	80%	1,190,700.00	NATIONAL POWER CORPORATION
30 MVA Transformer/Machinery	07334/06-09081	18,000,000.00	14,400,000.00	80%	714,420.00	NATIONAL TRANSMISSION CORPORATION
50 MVA Transformer/Machinery	07335/06-09081	30,000,000.00	24,000,000.00	80%	1,190,700.00	NATIONAL TRANSMISSION CORPORATION
Land/Residential	06-10025-00525 RL	37,100.00	3,710.00	10%	354.38	NATIONAL POWER CORPORATION
Land/Residential	06-10053-00336 SL				516.50	NATIONAL POWER CORPORATION
Land/Residential	06-09084-00267	5,724,000.00	2,862,000.00	50%	753,314.17	NATIONAL POWER CORPORATION
Land/Residential	06-09081-04104	5,724,000.00	2,862,000.00	10%	384,116.17	NATIONAL POWER CORPORATION
					TOTAL	P4,976,829.90

NGCP filed its *Compliance with Manifestation and Motion* on December 19, 2022.¹¹ Petitioners filed their *Comment* via registered mail on the same day.¹²

On January 23, 2023, the CBAА promulgated the assailed *Resolution*, the dispositive portion of which reads:

"WHEREFORE, the real properties subject of this case are hereby declared **EXEMPT** from payment of real property taxes effective taxable year 2009 and the Respondent-Appellees are hereby ordered to **ISSUE** a revised tax declarations on the subject properties with annotation **TAX EXEMPT** and to **REFUND** the real property [tax] paid by Petitioner-Appellant for the taxable year 2009-2010 in the

¹¹ *Id.* at 101-112, Comment, Annex "F".

¹² *Id.* at 50-56, Petition for Review, Annex "L".

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total amount of P3,817,898.70 under Official Receipt Nos. CBN-0050882 to CBN 005892, all dated 29 October 2010.

Likewise, Respondent-Appellees are hereby ordered to **CANCEL** subsequent assessment and/or collection of real property taxes inclusive of penalties on the properties subject of this case.

SO ORDERED."

On February 20, 2023, petitioners filed a *Motion for Reconsideration*, which was denied in the assailed *Resolution* dated April 20, 2023,¹³ with the dispositive portion stating:

"Finding no new, convincing, and persuasive arguments both legal and factual, in order to set aside our *Resolution* dated 23 January 2023, Respondents-Appellees' *Motion for Reconsideration* is hereby **DENIED**.

SO ORDERED."

Petitioners received the April 20, 2023 *Resolution* on September 13, 2023.¹⁴

PROCEEDINGS BEFORE THE COURT EN BANC

On October 11, 2023, petitioners filed their *Petition for Review* via registered mail,¹⁵ which was received by the Court on November 17, 2023. The *Petition for Review* was accompanied by an *Ex-Parte Manifestation*¹⁶ regarding the payment of docket fees. Upon finding that the attached postal money orders were insufficient to cover the full payment of the docket fees, the Court's Judicial Records Division informed petitioners of the deficiency through a *Letter* dated January 17, 2024.¹⁷ Petitioners complied on February 2, 2024,¹⁸ and their compliance was noted by the Court in a *Minute Resolution* dated February 13, 2024.¹⁹

¹³ *Id.* at 32-33.

¹⁴ *Id.* at 11, *Petition for Review*, par. 26.

¹⁵ *Id.* at 5-21.

¹⁶ *Id.* at 1-2.

¹⁷ *Id.* at 60.

¹⁸ *Id.* at 61, *Letter* dated January 31, 2024.

¹⁹ *Id.* at 65.

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After being ordered to comment,²⁰ respondent NGCP filed its *Comment (To the Petitioners' Petition for Review, dated 10 October 2023)* on March 21, 2024.²¹

On April 11, 2024, the Court submitted the case for decision.²²

Hence, this *Decision*.

THE ISSUES

Petitioners raise the following grounds for the grant of their *Petition for Review*:

A. RESPONDENT NGCP IS NOT EXEMPTED FROM PAYMENT OF REAL PROPERTY TAXES ON THE PROPERTIES NOT ACTUALLY AND DIRECTLY USE [SIC] IN CONNECTION WITH ITS FRANCHISE.

B. THE REAL PROPERTIES SUBJECT OF THIS PETITION CANNOT BE CLASSIFIED AS "SPECIAL CLASS OF REAL PROPERTY".

C. RESPONDENT CBAA GRAVELY ERRED IN DECLARING IN THE ASSAILED RESOLUTIONS THE PROPERTIES OF RESPONDENT NGCP SUBJECT MATTER OF THIS CASE AS EXEMPTED FROM PAYMENT OF REAL PROPERTY TAXES WITHOUT EXPRESSING THEREIN CLEARLY AND DISTINCTLY THE FACTS AND LAW ON WHICH IT IS BASED.

Petitioners' Arguments

Petitioners argue that two of NGCP's lots, *i.e.*, covered by Tax Declaration Nos. 06-09084-00267 and 06-09081-04104, are not actually and directly used for electric power transmission, citing that "there are still vacant portions in both lots."

Furthermore, petitioners contend that warehouses, stockrooms, commercial buildings, and linemen's quarters cannot be classified as properties actually and directly used in electric power transmission. They also assert that the land

²⁰ *Id.* at 66, Minute Resolution dated February 28, 2024.

²¹ *Id.* at 67-82.

²² *Id.* at 165.

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covered by Tax Declaration No. 06-10053-00336 SL is a vacant lot.

Petitioners likewise argue that the above properties cannot be classified as “Special Class of Real Property,” as they are not actually and directly used for electric power transmission.

Finally, petitioners assail the *Resolutions* of respondent CBAA, claiming that the rulings declared the properties exempt from real property taxes “without expressing therein clearly and distinctly the facts and law on which it is based.”

Respondent NGCP’s Counter-arguments

In its *Comment*, respondent NGCP argues that the scope of its franchise under Section 1 of Republic Act (RA) No. 9511²³ includes not only “the business of conveying or transmitting electricity,” but also “other activities that are necessary to support the safe and reliable operation of a transmission system, and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.” NGCP contends that the CBAA properly took into consideration the scope of its franchise.

Respondent NGCP further asserts that “it is absurd to conclude that just because [it] can already transmit or convey electricity, the other properties which are actually used to maintain the safe and reliable operation of transmission system or to repair, rehabilitate, improve, expand, and refurbish the transmission system can no longer be considered as actually and directly used in connection with its franchise.”

Finally, respondent NGCP states that factual findings of administrative bodies charged with their specific field of expertise, are given great weight by the courts. NGCP maintains that the CBAA, by virtue of its official mandate and functions, has developed expertise in specific matters within its jurisdiction, and its findings merit full respect.

²³ AN ACT GRANTING THE NATIONAL GRID CORPORATION OF THE PHILIPPINES A FRANCHISE TO ENGAGE IN THE BUSINESS OF CONVEYING OR TRANSMITTING ELECTRICITY THROUGH HIGH VOLTAGE BACK-BONE SYSTEM OF INTERCONNECTED TRANSMISSION LINES, SUBSTATIONS AND RELATED FACILITIES, AND FOR OTHER PURPOSES, December 1, 2008.

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THE COURT *EN BANC*'S RULING

The Court En Banc has jurisdiction over the instant Petition.

Before addressing the merits, the Court *En Banc* shall first determine whether it has jurisdiction over the present *Petition*.

Section 7(a)(5) of RA No. 1125, as amended by RA No. 9282, states:

"SEC. 7. Jurisdiction. — The CTA shall exercise:

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

...

"(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 of assessment appeals;

In relation to the aforesaid provision, Section 11 of the same law provides:

"SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. — Any party adversely affected by a decision, ruling... of ... the **Central Board of Assessment Appeals** ... may file an appeal with the CTA **within thirty (30) days after the receipt of such decision or ruling**

"..., That with respect to decisions or rulings of the Central Board of Assessment Appeals ... in the exercise of its appellate jurisdiction, **appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*.** [*Emphasis and underscoring supplied*]

Pursuant to the above provisions, an appeal assailing the resolution of the CBAA must be directly filed with the Court *En Banc* within thirty (30) days from receipt of the resolution.



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In this case, respondent CBAA denied petitioner's *Motion for Reconsideration* in a *Resolution* dated April 20, 2023. Petitioners received this *Resolution* on September 13, 2023. Therefore, in accordance with Section 11 of RA No. 1125, as amended by RA No. 9282, petitioners had thirty (30) days from said date, or until October 13, 2023, to file a *Petition for Review* before the Court *En Banc*.

Petitioners filed their *Petition for Review* on October 11, 2023. Therefore, it was timely filed, and the Court *En Banc* has acquired jurisdiction over the case.

Now, on the merits of the *Petition*.

In *NGCP v. CBAA*,²⁴ the Supreme Court addressed the core issue of whether NGCP is liable for real property taxes as follows:

... In *National Grid Corporation of the Philippines v. Oliva*, the Court settled, once and for all, the extent of the tax exemption granted to NGCP per its legislative franchise under **RA 9511**, specifically Section 9 thereof, thus:

... ..

In the present case, **Section 9 of RA 9511 provided for NGCP's tax liabilities and exemptions.**

Second. The "**in lieu of all taxes**" clause is strictly limited to the kind of taxes, taxing authority, and object of taxes specified in the law.

Section 9 of RA 9511 states that NGCP's payment of franchise tax is in lieu of payment of "income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise." Thus, in contrast to Smart's franchise as quoted above, **Section 9 of RA 9511 clearly stated that the NGCP's "in lieu of all taxes" clause includes taxes imposed by the local government on properties used in connection with NGCP's franchise.** (*Emphasis supplied*).

²⁴ *Supra* note 4.

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Verily, **petitioner's franchise constitutes an express and categorical statement that it is exempt from payment of real property taxes on the properties it actually and directly uses for its electric power transmission.**

The next question: does petitioner actually and directly use the subject properties for its electric power transmission?

Applying *Oliva*, a prior factual determination of the actual use of subject properties is a condition *sine qua non* to their exemption from paying real property tax. **Should it be determined that these properties are actually and directly used for petitioner's electric power transmission, then they are exempt, otherwise, they are not.**

The following matrix shows the particulars of the subject properties here: ...

Records, however, are devoid of any information regarding the nature or actual use of these properties. In *Oliva*, the Court noted the same deficiency, thus, it ordered the remand of the case to the CBAA to ascertain the actual and direct use of therein subject properties of NGCP, *viz.*: ...

Clearly, **there is also a need to remand this case to the CBAA to determine the actual and direct use of subject machineries, buildings, and lands** for the purpose of resolving the merits of petitioner's claim for exemption from paying real property taxes thereon. [*Emphasis supplied*]

The Supreme Court ruled that NGCP is *exempt* from paying real property taxes *on properties it actually and directly uses for electric power transmission*. However, having noted the absence of specific information on the nature and actual use of the properties, it ordered the remand of the case to the CBAA "to determine whether the subject machineries, buildings, and lands are actually and directly used in connection with NGCP's franchise."

On remand, the CBAA issued a *Resolution* dated January 23, 2023, ruling that the properties subject of this case are "clearly, openly and unmistakably used in connection with petitioner-appellant's (NGCP's) franchise" and were "EXEMPT from payment of real property taxes effective taxable year 2009."

The main question before the Court *En Banc* is *whether the CBAA correctly determined that the subject properties are*



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actually and directly used in connection with NGCP's franchise and are thus exempt from real property taxes.

The CBAA did not err in declaring that the subject properties are actually and directly used in connection with NGCP's franchise; hence, they qualify for exemption from real property taxes.

The term "**actual use**" refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.²⁵ Furthermore, the term "**directly**" means "without anything intervening" or "proximately or without intervening agency or person."²⁶

The nature and scope of **NGCP's franchise**, which includes activities necessary to maintain and support a safe and reliable nationwide transmission system, are defined under Section 1 of RA No. 9511.

Section 1 of RA No. 9511 reads as follows:

SECTION 1. Nature and Scope of Franchise. — Subject to the provisions of the Constitution and applicable laws, rules and regulations, ... there is hereby granted to the **National Grid Corporation of the Philippines**, hereunder referred to as the Grantee, its successors or assigns, a franchise **to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity** through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, **and other activities that are necessary to support the safe and reliable operation of a transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.** The scope of the franchise shall be nationwide in accordance with the Transmission Development Plan, subject to amendments or modifications of the said Plan, as may be approved by the Department of Energy of the Republic of the Philippines. [*Emphasis and underscoring supplied*]

²⁵ *Metropolitan Waterworks and Sewerage System v. Central Board of Assessment Appeals*, G.R. No. 215955, January 13, 2021 [Per J. Lopez, Second Division]; Local Gov't Code, sec. 199(b).

²⁶ *La Carlota Sugar Central v. Jimenez*, G.R. No. L-12436, May 31, 1961 [Per J. Dizon, *En Banc*], cited in *CE Casecanan Water and Energy Company, Inc. v. Province of Nueva Ecija*, CTA *EB* Case Nos. 1380 & 1420 (CBAA Case Nos. L-68, L-73, and L-78), November 10, 2017 [Per J. Uy, *En Banc*].

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As regards NGCP's tax liabilities and exemptions, the Supreme Court in *NGCP v. CBAA* held that Section 9 of RA No. 9511 clearly states that the "*in lieu of all taxes*" clause includes taxes imposed by the local government on properties used in connection with NGCP's franchise.²⁷

Section 9 of RA No. 9511 provides:

Section 9. *Tax Provisions.* — In consideration of the franchise and rights hereby granted, the Grantee [NGCP], its successors or assigns, shall pay a franchise tax equivalent to three percent (3%) of all gross receipts derived by the Grantee [NGCP] from its operation under this franchise. **Said tax shall be in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes, duties and charges, the Grantee is hereby expressly exempted:** Provided, That the Grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, **exclusive of this franchise**, as other corporations are now or hereby may be required by law to pay: Provided, further, That payment by Grantee of the concession fees due to PSALM under the concession agreement shall not be subject to income tax and value-added tax (VAT). (*Emphases and underscoring supplied*)

The Supreme Court further held that a prior factual determination of the actual use of the properties is a condition *sine qua non* for their exemption from real property tax. If these properties are determined to be actually and directly used for NGCP's electric power transmission, they are exempt; otherwise, they are not.²⁸

In this *Petition for Review*, petitioners contend that, based on the joint ocular inspection, the following properties may be considered actually and directly used in NGCP's electric power transmission:²⁹


²⁷ *National Grid Corporation of the Philippines v. Oliva*, G.R. No. 213157, August 10, 2016, 792 Phil. 769, 784-787 (2016) [Per J. Carpio, Second Division], cited in *National Grid Corporation of the Philippines v. Central Board of Assessment Appeals*, G.R. Nos. 218289-90 (Notice), June 23, 2021 [Per Resolution, Second Division].

²⁸ *Id.*

²⁹ *EB* Docket, pp. 12-13, *Petition for Review*, par. 30.

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KIND OF PROPERTY CLASSIFICATION	TAX DEC ARP NO.	MARKET VALUE	ASSESSED VALUE	ASSESSMENT LEVEL	AMOUNT DUE (P)	DECLARED OWNER
Machinery 1	07331/06-09081	2,500,000.00	2,000,000.00	80%	109,139.08	NATIONAL TRANSMISSION CORPORATION
Machinery 2 Industrial Machinery	07332/06-09081	2,749,790.00	2,199,830.00	80%	254,410.97	NATIONAL POWER CORPORATION
Machinery 3 50 MVA Transformer	07333/06-09081	30,000,000.00	24,000,000.00	80%	1,190,700.00	NATIONAL POWER CORPORATION
Machinery 4 30 MVA Transformer	07334/06-09081	18,000,000.00	14,400,000.00	80%	714,420.00	NATIONAL TRANSMISSION CORPORATION
Machinery 5 50 MVA Transformer	07335/06-09081	30,000,000.00	24,000,000.00	80%	1,190,700.00	NATIONAL TRANSMISSION CORPORATION
Building 4	07326/06-09081	2,538,250.00	1,776,780.00	70%	135,621.53	NATIONAL TRANSMISSION CORPORATION
Lot 1 Land/Residential	06-10025-00525 RL	37,100.00	3,710.00	10%	354.38	NATIONAL POWER CORPORATION
Lot 3 Land/Residential	06-09084-00267	5,724,000.00	2,862,000.00	50%	753,314.17	NATIONAL POWER CORPORATION
Lot 4 Land/Residential	06-09081-04104	5,724,000.00	2,862,000.00	10%	384,116.17	NATIONAL POWER CORPORATION

Petitioners claim that Lot 3 and Lot 4 are not entirely used for electric power transmission due to the presence of “vacant portions.” Nevertheless, these lots were not included in the list of taxable properties.³⁰

Given the foregoing, the Court *En Banc* finds no dispute regarding the tax-exempt status of these properties.

As for the other listed properties, petitioners assert that they are taxable because they are not actually and directly used for NGCP’s electric power transmission. These properties include:³¹

³⁰ *Id.* at 12–14, Petition for Review, pars. 30–32.

³¹ *Id.* at 13–14, Petition for Review, par. 32.

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KIND OF PROPERTY CLASSIFICATION	TAX DEC ARP NO.	MARKET VALUE	ASSESSED VALUE	ASSESSMENT LEVEL	AMOUNT DUE (P)	DECLARED OWNER
Building 1 Industrial Bldg. (Warehouse)	07323/06-09081	3,738,000.00	2,616,600.00	70%	165,140.17	NATIONAL TRANSMISSION CORPORATION
Building 2 Commercial Bldg.	07324/06-09081	308,700.00	108,050.00	35%	5,360.65	NATIONAL TRANSMISSION CORPORATION
Building 3 Industrial Bldg. (Old Control Bldg/Bodega)	07325/06-09081	201,160.00 363,030.00	80,460.00 145,210.00	40% 40%	15,156.68	NATIONAL POWER CORPORATION
Building 5 Commercial (Administration) Bldg.	07327/06-09081	924,710.00	462,360.00	50%	30,179.33	NATIONAL TRANSMISSION CORPORATION
Building 6 Industrial Building (Repair Bay/Stockroom)	07328/06-09081	153,260.00 114,950.00	45,980.00 34,490.00	30% 30%	5,658.32	NATIONAL POWER CORPORATION
Building 7 Industrial (Lineman's Quarter/ Stockroom)	07329/06-09081	71,000.00 139,850.00	21,300.00 41,960.00	30% 30%	4,448.09	NATIONAL POWER CORPORATION
Building 8 Commercial Building	07330/06-09081	572,440.00	228,980.00	40%	17,598.86	NATIONAL POWER CORPORATION
Lot 2 Land/Residential	06-10053-00336 SL				516.50	NATIONAL POWER CORPORATION

In support of their assertion that the above properties are taxable, petitioners allege that:³²

... ..

a. **Building 1** under Tax Declaration No. 07323/06-09081... **Building 3** under Tax Declaration No. 07325/06-09081... and **Building 6** under Tax Declaration No. 07328/06-09081 ... are Warehouse and Stockroom, and not actually and directly use [sic] in electric power transmission. ...

b. **Building 2** under Tax Declaration No. 07324/06-09081... **Building 5** under Tax Declaration No. 07327/06-09081... and **Building 8** under Tax Declaration No. 07330/06-09081... are all Commercial Buildings which are not actually and directly use [sic] in electric power transmission. ...

³² *Id.* at 14, Petition for Review, par. 33.

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c. **Building 7** under Tax Declaration No. 07329/06-09081... is a Lineman's [sic] Quarter/Stockroom, and definitely not actually and directly use [sic] in electric power transmission. ...

d. **Lot 2** under Tax Declaration No. 06-10053-00336 RL ... is a vacant lot, clearly therefore, the said property is not actually and directly use [sic] in respondent NGCP's electric power transmission and has no connection thereto. ...[*Emphasis supplied*]

In response, NGCP filed its *Comment (To the Petitioners' Petition for Review dated 10 October 2023)* explaining that these properties are, in fact, actually and directly used in connection with its franchise.³³

... ..

a. **Lots 3 and 4** ... are being used as site for the operation and maintenance of the Cabanatuan Substation, including the machineries, equipment and buildings found therein. The vacant portions of both lots formed part of the site and serve also as right-of-way for the operation and maintenance of the Cabanatuan Substation.

b. **Building 1**, ... is the New Warehouse which is being used as storage for materials, equipment and supplies that are being used and are necessary for the operation, maintenance, repair, rehabilitation, among others, of the substation, transmission lines/towers, machineries and buildings to ensure the safe and reliable transmission of power/electricity.

c. **Building 2**, ... is a Telecom Building, which is being used to protect the vital telecommunication equipment necessary for the communication to ensure the safe and reliable operation and maintenance of the substation and transmission of power/electricity.

d. **Building 3**, ... is the Old Control House/Bodega-Warehouse, which is being used as office/quarter of janitors, guards and drivers assigned at Cabanatuan Substation to maintain the cleanliness, sanitation, safety and protection of the Substation and employees to ensure the safe and reliable transmission of power/electricity and operation and maintenance of substation and transmission lines/towers.

³³ *Id.* at 77-79, Comment, par. 30.

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e. **Building 5**, ... is the Administration Building, which is being used by personnel such as substation engineers, transmission line engineers and staff who are in charge of the operation and maintenance of the substation and transmission lines/towers to ensure the safe and reliable transmission of electric power/electricity.

f. **Building 6**, ... is the Repair Bay Stock Room, which is being used as repair facility for equipment and materials, such as the lineman's truck, boom truck, transmission line hardware, fabrication, among others that are necessary to ensure the safe and reliable operation and maintenance of the substation, transmission lines/towers and transmission of power/electricity.

g. **Building 7**, ... is the Lineman's Quarter/Stockroom, which is being used as the lineman's office/quarter and storage of lineman's tools and equipment. The presence of Lineman in the Substation is necessary to ensure the constant safe and reliable operation and maintenance and necessary repair of the substation, transmission lines/towers and transmission of power/electricity.

h. **Building 8**, ... is the Old Warehouse, which is being used as extension of the New Warehouse for the storage of materials, equipment and supplies that are being used and are necessary for the operation, maintenance, repair, rehabilitation, among others, of the substation, transmission lines/towers, machineries and buildings to ensure the safe and reliable transmission of power/electricity.

i. **Lot 2** ... is not a vacant lot. This Lot 2 is being used by NGCP as the right-of-way/power line corridor of the Cabanatuan-Pantabangan 230kV Transmission Line/Tower and Cabanatuan-San Luis 69kV Transmission Line/Tower that are both being used for the safe and reliable transmission of power/electricity. [*Emphasis supplied*]

After a thorough review of the records and the parties' submissions, both before the CBAA and the Court *En Banc*, the Court *En Banc* finds that all the subject properties are indeed **actually and directly used** for electric power transmission in accordance with NGCP's franchise and are thus exempt from real property taxes.

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Regarding the buildings and lots that petitioners claim should be taxable for not being actually and directly used in connection with NGCP's franchise, the Court *En Banc* notes that petitioners' arguments primarily focus on the labels or descriptions of these properties, - such as "warehouse," "stockroom," "commercial building," or "vacant lot" - without substantiating why these properties should not be considered as actually and directly used for NGCP's electric power transmission. Petitioners fail to provide any explanation to support their claims and overlook the essential functional role these properties play in NGCP's operations.

In contrast, NGCP has sufficiently demonstrated that each property serves a crucial and specific function in ensuring the safe, reliable, and continuous transmission of electricity.

Buildings 1 and 8 are fundamental in NGCP's electric power transmission operations. Building 1, the New Warehouse, is a storage facility for critical materials, equipment, and supplies essential to the operation, maintenance, repair, and rehabilitation of NGCP's substations and transmission lines. This warehouse ensures that necessary components are readily available, thereby maintaining the integrity and reliability of the transmission network. Building 8, the Old Warehouse, is an extension of Building 1, providing additional storage space to support NGCP's infrastructure. Together, these buildings contribute directly to NGCP's capacity to sustain uninterrupted electric power transmission, qualifying them as properties that are actually and directly used for this purpose.

Buildings 2 and 5 are equally indispensable. Building 2, the Telecom Building, accommodates crucial telecommunications equipment that supports NGCP's communication systems, which are vital for the secure and reliable operation of the substation and efficient transmission of electricity. Without these telecommunications facilities, NGCP's ability to monitor and control power flow would be compromised, making the building integral to transmission operations. Building 5, the Administration Building, houses substation engineers, transmission line engineers, and other staff essential for the operation and maintenance of the substation and transmission lines. The work conducted within



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this building directly supports NGCP's electric power transmission activities, qualifying it as essential to NGCP's exempt operations.

Similarly, *Buildings 3 and 7* serve vital operational support roles. Building 3, the Old Control House/Bodega-Warehouse, provides office space and quarters for janitors, guards, and drivers responsible for the cleanliness, safety, and security of the Cabanatuan Substation. These personnel ensure the substation's stable, secure, and uninterrupted operation, reinforcing its role as essential to NGCP's operations. Building 7, the Lineman's Quarter/Stockroom, provides office space and storage for linemen's tools and equipment. Linemen are crucial to the maintenance, operation, and repair of substations and transmission lines, addressing any issues that may impact the safe and reliable transmission of electricity. Therefore, this building is also directly related to NGCP's transmission activities.

Building 6, the Repair Bay Stock Room, is a dedicated repair facility for essential equipment and materials, including linemen's trucks and transmission line hardware. This facility is essential for performing ongoing maintenance and repairs to keep the substation and transmission lines operational, ensuring the consistent transmission of electricity. As such, it is directly and actually used in NGCP's electric power transmission operations.

Finally, *Lots 2, 3, and 4* provide the physical and operational infrastructure essential to the safe and continuous delivery of electric power. Lot 2 is a critical right-of-way and power line corridor for the Cabanatuan-Pantabangan 230kV and Cabanatuan-San Luis 69kV Transmission Lines. These transmission lines transport high-voltage electricity over significant distances, directly supporting NGCP's mission to maintain a reliable transmission network. Lots 3 and 4 serve as the operational site for the Cabanatuan Substation, housing vital equipment, machinery, and structures essential to transmission. Any "vacant" portions are used as right-of-way space, ensuring secure access for ongoing substation operation and maintenance.



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The requirement of “**actual and direct use**” **does not imply total or exclusive usage**; it acknowledges that properties may be principally used in a manner that supports NGCP’s franchise. As noted above, the definition of “actual use” uses the modifiers “principally or predominantly.” The term “exclusive” was purposefully not used by Congress in defining NGCP’s tax exemption under RA No. 9511.

Based on NGCP’s unrefuted, detailed explanations, the subject machineries, buildings, and lands are integral to the day-to-day functioning of NGCP’s electric power transmission system. The safe, reliable, and continuous transmission of electricity depends on the operational, maintenance, and support functions provided by these properties. Therefore, they are actually and directly used in the pursuit of NGCP’s franchise activities.

Accordingly, the Court *En Banc* finds these properties exempt from real property taxes under Sections 1 and 9 of RA No. 9511.

The CBAA Resolution did not violate Section 14, Article VIII of the 1987 Constitution.

Petitioners argue that the CBAA Resolution dated January 23, 2023, fails to clearly and distinctly express the facts and law on which it is based. They contend that the assailed CBAA *Resolution* is null and void for being contrary to Section 14, Article VIII of the 1987 Constitution of the Republic of the Philippines (1987 Constitution), which provides:

Section 14. No **decision** shall be rendered by **any court** without expressing therein clearly and distinctly the facts and the law on which it is based.

At the outset, the Court *En Banc* notes that the CBAA *Resolution* dated January 23, 2023, lacks specific details from the joint ocular inspection and the parties’ respective submissions.

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Following the inspection, the CBAA directed the parties to submit their respective description, comment, or observation on the listed properties to determine if they are actually and directly used in connection with NGCP's franchise.³⁴

In response, NGCP submitted a *Compliance with Manifestation and Motion*,³⁵ detailing the connection of each property to its operations. Petitioners filed a *Comment* via registered mail³⁶ that merely provided a list of properties claimed to be actually and directly used for electric power transmission and a separate list of those considered taxable, as they are *not* actually and directly used for electric power transmission, without any comment or explanation. Like petitioners, the Court *En Banc* notes that their *Comment* was not mentioned in the *CBAA Resolution*. Furthermore, while the CBAA Hearing Officer for Luzon Field Office participated in the ocular inspection,³⁷ no report or observations were submitted or mentioned in the *Resolution*.

The *Resolution* arrived at a generalized conclusion that the properties are exempt without specific discussion on how each property connects to NGCP's franchise.

It contains only one paragraph attempting to address the issue, which lacks sufficient detail, *viz.*:

As found during the joint ocular inspection and the submission of compliance by the Petitioner-Appellant, the above listed real properties covered by their respective tax declarations are clearly, openly and unmistakably used in connection with Petitioner-Appellant's franchise as the land, buildings, machineries, and improvements therein are necessary for its operation, maintenance, repair, rehabilitation, in order to ensure the safe and reliable transmission of electricity, operation, maintenance of the substation, transmission lines, and towers.

Nonetheless, the absence of a more detailed discussion of facts and the law on which the *CBAA Resolution* was based, does not necessarily undermine the validity of the *Resolution*.

³⁴ *Supra* note 9.

³⁵ *Supra* note 11.

³⁶ *Supra* note 12.

³⁷ CBAA Records – Folder 5, p. 53.

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It must be emphasized that the assailed CBAA *Resolution* was issued pursuant to the Supreme Court's directive to the CBAA to determine the subject properties' use in connection with NGCP's franchise. It stems from a remand for specific fact-finding from the Supreme Court in *NGCP v. CBAA*. It is not the "decision" that would fall under Article VIII, Section 14 of the Constitution. If any decision might be subject to Section 14, it would be the CBAA's decision dated January 30, 2013, affirming the Local Board of Assessment Appeals' Joint Resolution.

In *Solid Homes, Inc. v. Laserna*,³⁸ the Supreme Court clarified that:

It must be stated that Section 14, Article VIII of the 1987 Constitution **need not apply to decisions rendered in administrative proceedings**, as in the case a bar. Said section applies only to decisions rendered in judicial proceedings. In fact, **Article VIII is titled "Judiciary", and all of its provisions have particular concern only with respect to the judicial branch of government.** Certainly, it would be error to hold or even imply that decisions of executive departments or administrative agencies are obliged to meet the requirements under Section 14, Article VIII. [*Emphasis supplied*]

Thus, it would be erroneous to hold that decisions of executive departments or administrative agencies, such as the CBAA, are obliged to meet the requirements under Section 14, Article VIII of the Constitution.³⁹

Nevertheless, the Constitution guarantees the right of a litigant to be informed of the facts and law on which decisions of courts and administrative tribunals are based.⁴⁰ This is echoed in *Ang Tibay v. Court of Industrial Relations*,⁴¹ where the Court enumerated the components of administrative due process, among them, "[The tribunal or officer] should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decision rendered. The

³⁸ G.R. No. 166051, April 8, 2008 [Per J. Chico-Nazario, Third Division].

³⁹ *Id.*

⁴⁰ *Seares, Jr. v. National Electrification Administration Board*, G.R. No. 254336, November 18, 2021 [Per J. Lazaro-Javier, First Division].

⁴¹ *Ang Tibay v. Court of Industrial Relations*, G.R. No. L-46496, February 27, 1940 [Per J. Laurel, *En Banc*].

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performance of this duty is inseparable from the authority conferred upon it."

Here, due process was afforded to both parties during the proceedings before the CBAA. Thus, the factual findings of the CBAA, as supported by its participation in the joint ocular inspection, remain persuasive to the Court *En Banc*, and the burden of proof lies on those who assail these findings to show error and consequently overturn them. Petitioners failed to overcome this burden of proof, and the CBAA enjoys the presumption that official duties were regularly performed.⁴²

Final note

This Court accords great respect to the factual findings of administrative bodies charged with their specific field of expertise, absent any erroneous appreciation of the evidence presented. The LBAA and the CBAA, by reason of their mandate of ascertaining the facts relative to the appeal from the action of the local assessor, have acquired expertise on specific matters within their jurisdiction. Their findings of fact will not be altered, modified, or reversed without justifiable reason.⁴³

The question of actual and direct use, being a question of fact, high regard is given to the factual findings of administrative bodies, it being a technical matter within their area of expertise.⁴⁴

Generally, it is not the task of an appellate court to weigh once more the evidence submitted before the administrative body and to substitute its own judgment for that of the administrative agency in respect of sufficiency of evidence.⁴⁵

In fine, the Court *En Banc* sees no compelling reason to disturb the findings of the CBAA in the assailed Resolution.



⁴² Rules of Court, Rule 131, sec. 3(m).

⁴³ *National Power Corporation v. Provincial Government of Bulacan*, G.R. No. 207140, January 30, 2023 [Per J. Lopez, M. Second Division].

⁴⁴ *Syjuco, Jr. v. Abaya*, G.R. Nos. 215650, 215653, 215703, 215704 & 216735, March 28, 2023 [Per J. Lopez, J, *En Banc*].

⁴⁵ *Civil Service Commission v. Fuentes*, G.R. No. 237322, January 10, 2023 [Per J. Lopez, J, *En Banc*].

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WHEREFORE, in light of the foregoing, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the *Resolutions* of respondent Central Board of Assessment Appeals (**CBAA**), dated January 23, 2023 and April 20, 2023, in CBAA Case Nos. L-120 & L-121 are hereby **AFFIRMED**.


SO ORDERED.

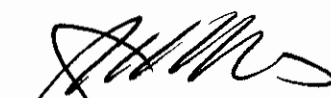

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HA
HENRY S. ANGELES
Associate Justice

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DECISION

CTA EB No. 2827 (CBAA Case Nos. L-120 & L-121)

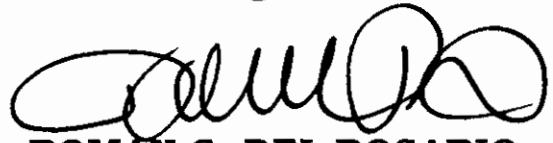
HEIDE D. PANGILINAN, in her official capacity as the CITY ASSESSOR, And FLORIDA R. OCA, in her official capacity as the CITY TREASURER, OF CABANATUAN CITY v. THE CENTRAL BOARD OF ASSESSMENT APPEALS (CBAA) and NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP)

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



ROMAN G. DEL ROSARIO

Presiding Justice

