

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

QUALFON PHILIPPINES, CTA EB NO. 2741
INC., (CBA Case No. V-40-2018)
Petitioner,

Present:

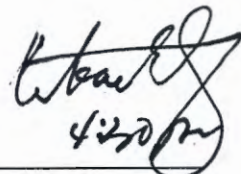
- versus -

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

THE CITY OF DUMAGUETE,
THE CITY TREASURER OF
DUMAGUETE CITY as
represented by CRISTINA M.
MERCED, and THE CITY
ASSESSOR OF DUMAGUETE
CITY as represented by
PACIFICO BULADO, JR.,
Respondents.

Promulgated:

JAN 15 2025



X-----X

DECISION

ANGELES, J.:

Before the Court *En Banc* is a **Petition for Review**¹ posted on February 27, 2023 by petitioner Qualfon Philippines, Inc. (QPI) pursuant to Section 3(c), Rule 8, in relation to Section 2(e), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), and Section 7(a)(5) of Republic Act (RA) No. 9282² (CTA Law), seeking the reversal

¹ Petition for Review dated February 23, 2023, EB Docket – Vol. 1, pp. 3-50.

² 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.

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 2 of 21

of the **Decision**³ dated January 3, 2022, and **Resolution**⁴ dated October 20, 2022, both issued by the Central Board of Assessment Appeals (CBAA) in CBAA Case No. V-40-2018, entitled “*Qualfon Philippines Incorporated vs. Local Board of Assessment Appeals of the City of Dumaguete, and Cristina M. Merced, in her capacity as City Treasurer of Dumaguete City, and Pacifico Bulado, Jr., in his capacity as City Assessor of Dumaguete City*”, which affirmed the decision of the Local Board of Assessment Appeals (LBAA) in holding QPI liable for real property tax (RPT) on its desktop computers.

THE PARTIES

Petitioner QPI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines. It is a Philippine Economic Zone Authority (PEZA) – registered Ecozone IT (Export) Enterprise with Registration Certificate No. 06-21-IT dated April 26, 2006.⁵ Its principal office is located at 9th Floor Skyrise Building 3, Cebu IT Park, Apas, Cebu City, Philippines, and it may be served with orders and processes of the Court through its counsel, Angara Abello Concepcion Regala & Cruz with office address at 6th Floor, Cebu Holdings Center, Cebu Business Park (Ayala), Cebu City.⁶

Respondent City of Dumaguete as represented by the City Mayor, may be served with summons and other processes of the Court at Santa Catalina Street, Dumaguete City, Negros Oriental, Philippines 6200.⁷

Respondent Cristina M. Merced, who is impleaded in her official capacity as the City Treasurer of Dumaguete City, may be served with summons and other processes of the Court at Treasurer’s Office, G/F, City Hall Building, Dumaguete City.⁸

Respondent Pacifico Bulado, Jr., who is impleaded in his official capacity as the City Assessor of Dumaguete City, may be served with summons and other processes of the Court at City Assessor’s Office, Second Floor, GSO Building, City Hall Compound, Dumaguete City.⁹

³ Decision dated March 28, 2023, EB Docket – Vol. 1, pp. 16-32.

⁴ Resolution dated September 4, 2023, EB Docket – Vol. 1, pp. 34-39.

⁵ *Supra* note 2, pp. 1-2.

⁶ *Supra* note 1, pp. 4-5.

⁷ *Supra* note 1, p. 5.

⁸ *Id.*

⁹ *Id.*

v

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 3 of 21

THE FACTS

On April 26, 2006, QPI registered with PEZA as an Ecozone IT Enterprise at the Asiatown IT Park and Eros Building, pursuant to an Amended Certificate of Registration No. 06-21-IT.¹⁰

In a Certification No. 2011-0692¹¹ issued by the PEZA on February 9, 2011, Deputy Director General for Operations, Ms. Mary Harriet O. Abordo, certified that QPI at the Asiatown IT Park in Cebu City and Eros Building in Dumaguete City, is registered with PEZA as an Ecozone IT (Export) Enterprise to: (1) set-up an IT-enabled facility to provide customer contact center services; (2) provide inbound and outbound calls support service (expansion project); (3) Customer Interaction Services (contact center services) at the 1st, 2nd, 3rd, and 4th Floors at the Eros Building; and (4) increase in volume and capacity of its customer contact center.

In Certification No. 2011-0692, it was further stated that the available incentives to QPI include, among others:

1. Incentives under Book VI of EO No. 226 which include the following:
 - a. Corporate income tax holiday for four (4) years for original project effective on the committed date of start of commercial operations, or the actual date of start of commercial operations, whichever is earlier; ITH entitlement for the original project can also be extended for another three (3) years provided specific criteria are met for each additional year and prior PEZA approval is obtained; duly approved and registered "Expansion" and "New" projects are entitled to a three (3)-year, and four (4)-year ITH, respectively;
 - b. xxx;
 - c. xxx;
 - d. xxx; and
 - e. Exemption from payment of any and all local government imposts, fees, licenses or taxes except real estate tax; however, machineries installed and operated in the ecozone for manufacturing, processing or for industrial purposes shall not be subject to payment of real estate taxes for the first three (3) years of operation of such machineries; production equipment not attached to real estate shall be exempt from real property taxes.

2. After the lapse of ITH, the following incentives shall apply:

¹⁰ Position Paper, Annex "A", CBAA Records – Folder 1, CBAA-V-Page No. 172.

¹¹ Position Paper, Annex "F", CBAA Records – Folder 1, CBAA-V-Page No. 211.

r

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 4 of 21

- a. Exemption from national and local taxes, in lieu thereof payment of 5% final tax on gross income as provided in Section 24 of R.A. 7916 and Rule XX of the Rules and Regulations to implement R.A. 7916; and
- b. xxx.

Availment of the foregoing incentives in favor of QPI is subject to all evaluation and/or processing requirements and procedures prescribed under PEZA Rules and Regulations, pertinent circulars and directives. QPI's entitlement to incentives shall continue as long as it remains in good standing, commit no violation of PEZA Rules and Regulations, pertinent circulars and directives, or the terms and conditions of its Registration Agreement with PEZA.

On April 3, 2017, QPI received a *Notice of Assessment of RPT* covering its desktop computers amounting to ₱6,351,075.30.¹²

On June 8, 2017¹³, QPI received an undated *Notice of Delinquency in the Payment of Real Property Tax in the City of Dumaguete* from the Office of the City Treasurer of Dumaguete City, imposing RPT on its desktop computers covering the years 2014 to 2017 in the amount of ₱6,351,075.30 computed as of June 30, 2017. Said *Notice* contains uniform assessed values and taxes for all QPI's desktop computers.¹⁴

On July 10, 2017, QPI paid the assessed taxes.¹⁵ Thereafter, on July 14, 2017, QPI wrote a letter to respondent City Treasurer, expressing its protest to the assessment of its desktop computers, and formally requesting for the refund of the amount paid.¹⁶

In response to the protest letter dated July 14, 2017, respondent City Treasurer, taking into consideration the letter-reply of the OIC-City Assessor dated July 20, 2017, denied with finality QPI's protest pursuant to a letter dated July 25, 2017.¹⁷

On August 8, 2017, QPI submitted a letter to respondent City Treasurer, alleging that the letter-reply of the OIC-City Assessor was made only two (2) weeks after it caused the payment of the assessed taxes thereby depriving QPI with the thirty (30) day-period allegedly afforded to it under Section 252 of the Local Government Code of 1991

¹² *Supra* note 1, p. 11.

¹³ *Id.*

¹⁴ *Supra* note 2, p. 61.

¹⁵ Memorandum of Appeal, Annex "C", CBAA Records – Folder 1, CBAA-V-Page No. 28; *Supra* note 1, p. 14.

¹⁶ Memorandum of Appeal, Annex "B", CBAA Records – Folder 1, CBAA-V-Page Nos. 26-27.

¹⁷ Memorandum of Appeal, Annex "E", CBAA Records – Folder 1, CBAA-V-Page Nos. 31-33.

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 5 of 21

(1991 LGC). In that regard, QPI manifested that it has attached to such letter its formal protest and the supporting annexes.¹⁸

On September 18, 2017, QPI sent a follow-up letter to respondent City Treasurer relative to its formal protest.¹⁹

In a letter dated September 26, 2017 which was received by QPI on even date, respondent City Treasurer reiterated the denial with finality of QPI's protest.²⁰

Consequently, on October 27, 2017, QPI filed an *Appeal to the Local Board of Assessment Appeals by Taxpayer Qualfon Philippines Inc.*²¹ to which the LBAA of Dumaguete City issued a Resolution dated May 15, 2018²², dismissing the appeal and sustaining the validity of the RPT assessment on QPI's desktop computers. QPI received said LBAA Resolution on May 28, 2018.²³

On June 29, 2018, QPI filed with the CBAA a Notice of Appeal dated June 26, 2018 with attached Memorandum of Appeal.²⁴

After trial on the merits, the CBAA issued the assailed *Decision* dated January 3, 2022, partially granting QPI's appeal, as follows:

WHEREFORE, premises considered, [QPI's] appeal is hereby **PARTIALLY GRANTED**. The appealed Decision of the Local Board of Assessment Appeals (LBAA) of Dumaguete City is hereby upheld insofar as to the real property taxability of the desktop computers. However, the assessments indicated from Tax Declaration No. 14-0008-00856 to Tax Declaration No. 14-0008-01003 should be revised to factor in the yearly depreciation from the year 2014 up to the current and latest year of assessment in accordance with Sec. 225 of the Local Government Code. Based on the foregoing:

1. The City Assessor of Dumaguete is ordered to reassess Tax Declaration No. 14-0008-00856 to Tax Declaration No. 14-0008-01003 to factor in the yearly depreciation in accordance with Sec. 225 of the Local Government Code.

¹⁸ Memorandum of Appeal, Annex "F", CBAA Records – Folder 1, CBAA-V-Page No. 34.

¹⁹ Memorandum of Appeal, Annex "G", CBAA Records – Folder 1, CBAA-V-Page No. 35.

²⁰ Memorandum of Appeal, Annex "H", CBAA Records – Folder 1, CBAA-V-Page No. 36.

²¹ Memorandum of Appeal, Annex "I", CBAA Records – Folder 1, CBAA-V-Page Nos. 37-45.

²² Memorandum of Appeal, Annex "J", CBAA Records – Folder 1, CBAA-V-Page Nos. 48-52.

²³ *Supra* note 2, p. 62.

²⁴ CBAA Records – Folder 1, CBAA-V-Page Nos. 4-87.

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 6 of 21

2. The City Treasurer of Dumaguete is ordered to recompute real property tax due covering Tax Declaration No. 14-0008-00856 to Tax Declaration No. 14-0008-01003 based on the new reassessments by the Dumaguete City Assessor.

SO ORDERED.

Thereafter, the *Motion for Reconsideration Re: Notice of Decision dated January 3, 2022*²⁵ filed by QPI via registered mail on May 26, 2022, was denied by the CBAA in the assailed *Resolution* dated October 20, 2022, the dispositive portion of which provides:

WHEREFORE, absent any cogent reason to disturb said Decision, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

On February 27, 2023, QPI filed via registered mail the instant *Petition* before this Court *En Banc*, praying for the (a) reversal of both assailed *Decision* and *Resolution*; (b) cancellation of the Notice of Assessment and undated Notice of Delinquency; (c) refund of the RPT paid under protest; (d) cancellation of Tax Declaration Nos. 14-0008-01081 to 14-0008-01206 of QPI's desktop computers which are allegedly not machineries under Section 199(o) of the 1991 LGC; or (5) in the alternative, issuance of Tax Declaration identifying and classifying QPI's desktop computers as exempt from RPT.

In a *Minute Resolution* dated June 23, 2023, the Court directed respondents to file their comment on the *Petition*. Considering that respondents failed to file their comment on the *Petition*²⁶, the present *Petition* was submitted for decision on January 16, 2024.²⁷

ISSUE

Petitioner raises the following issues²⁸, to wit:

1. Whether or not QPI's claim for exemption from RPT in view of the fiscal incentives granted to QPI by virtue of its PEZA registration as a response to respondents'

²⁵ CBAA Records – Folder 2, pp. 306-319.

²⁶ Records Verification dated December 11, 2023, EB Docket – Vol. 2, p. 666.

²⁷ Minute Resolution dated January 16, 2024, EB Docket – Vol. 2, p. 669.

²⁸ *Supra* note 1, p. 18.

✓

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 7 of 21

Notice of Assessment is within the jurisdiction of the LBAA and CBAA;

2. Whether or not QPI's desktop computers are real properties subject to RPT; and
3. Whether or not QPI's desktop computers are subject to RPT for the period 2014 to 2016.

ARGUMENTS OF THE PETITIONER

In the *Petition*, QPI alleges that pursuant to Sections 226 and 229 of the 1991 LGC, the LBAA and CBAA have jurisdiction over its appeal to the Notice of Assessment. According to QPI, the CBAA was mistaken in ruling that the issue on whether respondent City is authorized to assess and collect RPT was beyond the LBAA and CBAA's jurisdiction for being a pure question of law, which is cognizable by regular courts. It is QPI's position that in claiming exemption from RPT, it is questioning the correctness and reasonableness of the assessment which is a question of fact cognizable by the LBAA and CBAA.

At any rate, QPI submits that the desktop computers are not real properties. QPI asserts that its desktop computers do not fall under the definition of machinery in Section 199(o) of the 1991 LGC. Even assuming that its desktop computers are considered machinery, QPI contends that such is of general-purpose use, and thus, exempt from RPT under Article 290(o) of Administrative Order (AO) No. 270 or the 1991 LGC Implementing Rules and Regulations (IRR).

Finally, QPI argues that assuming *arguendo* that its desktop computers are real properties, the same are nonetheless exempt from RPT because QPI, being a PEZA-registered entity, is not subject to RPT pursuant to Section 23 of RA No. 7916 or The Special Economic Zone Act of 1995, as amended (1995 PEZA Law), in relation to Section 78(b) of Executive Order (EO) No. 226, as amended, otherwise known as the Omnibus Investment Code of 1987 (1987 OIC).

RULING OF THE COURT EN BANC

The *Petition for Review* is bereft of merit.

W

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 8 of 21

The Court En Banc has jurisdiction to take cognizance over the Petition.

Section 7(a)(5) of the CTA Law provides for the CTA's exclusive appellate jurisdiction to review by appeal the decisions, orders or resolutions of the CBAA in the exercise of its appellate jurisdiction over cases involving RPT assessments, thus:

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

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

xxx

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; xxx (Emphasis supplied)**

Relative thereto, Section 2(e), Rule 4 of the RRCTA provides that:

**RULE 4
JURISDICTION OF THE COURT**

xxx

SEC. 2. Cases within the jurisdiction of the Court *en banc*. – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

xxx

- (e) **Decisions of the Central Board of Assessment Appeals (CBAA) 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; xxx (Emphasis supplied)**

As the *Petition for Review* filed by QPI before the Court *En Banc* prays for the reversal of the assailed *Decision* and *Resolution* of the CBAA, the Court *En Banc* has appellate jurisdiction to review by appeal

✓

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 9 of 21

the subject matter of the instant *Petition* pursuant to Section 2(e), Rule 4 of the RRCTA.

As to the timeliness of filing the *Petition*, Section 3(c), Rule 8 of the RRCTA, provides:

RULE 8
PROCEDURE IN CIVIL CASES

xxx

SEC. 3. Who may appeal; period to file petition. –

xxx

(c) A party adversely affected by a decision or ruling of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of their appellate jurisdiction may **appeal to the Court by filing before it a petition for review within thirty days from receipt of a copy of the questioned decision or ruling.** (Emphasis supplied)

A perusal of the records shows that on January 25, 2023, QPI received the assailed *Resolution*, denying its *Motion for Reconsideration* filed before the CBAA.²⁹

Pursuant to Section 3(c), Rule 8 of the RRCTA, QPI has thirty (30) days from January 25, 2023 or until February 27, 2023³⁰, within which to appeal the assailed *Resolution* with the Court *En Banc*.

On February 27, 2023, QPI timely filed the instant *Petition for Review*. Therefore, the Court *En Banc* has validly acquired jurisdiction to take cognizance over the present *Petition*.

QPI's claim for exemption from RPT involves question of fact which is within the jurisdiction of the LBAA and CBAA.

In the *Petition*, QPI assigns as error the CBAA's ruling that the issue in QPI's appeal before the CBAA on whether the respondent City

²⁹ EB Docket – Vol. 2, pp. 619-620; CBAA Records – Folder 2, pp. 381-382.

³⁰ February 24, 2023 was declared as a special (non-working) day pursuant to the Presidential Proclamation No. 167 dated February 23, 2023; February 25 and 26 fell on a Saturday and Sunday.

u

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 10 of 21

is authorized to assess and collect RPT involves purely question of law. According to QPI, it raised the issue of whether or not the desktop computers are exempt from RPT which is a question of fact that is cognizable by the LBAA and CBAA.

We find merit in QPI's argument.

In Section 206 of the 1991 LGC, it provides that a taxpayer who claims exemption from RPT must file with the assessor sufficient documentary evidence to support its claim, thus:

CHAPTER II

Appraisal and Assessment of Real Property

xxx

Section 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, by-laws, 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.

(Emphasis supplied)

Verily, the law provides that the taxpayer has the burden of proving its claim for exemption from RPT. As such, before determining whether a taxpayer's claim for exemption is proper, factual allegations or issues must first be confirmed.

In *National Power Corporation vs. Provincial Government of Bulacan, et al.*³¹, it was held that a claim for exemption from RPT involves the reasonableness or correctness of the assessment, which is a question of fact, to wit:

A claim for exemption from real property tax (RPT), whether full or partial, does not deal with the authority and

³¹ G.R. No. 207140, January 30, 2023.

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 11 of 21

power of the local assessor to impose the assessment or the local treasurer to collect the tax. The issue of exemption that pertains to the reasonableness or correctness of the assessment is a question of fact that administrative agencies should resolve.

xxx

The issue is not novel. This is not the first occasion where this Court ruled that NPC, in claiming tax exemption, questions the reasonableness or correctness of the assessment and not the legality of the assessment or the authority or power of the assessor to impose the assessment or the treasurer to collect the tax. As early as in *National Power Corporation v. Province of Quezon*, this Court ruled that **a claim for exemption is a question of fact that pertains to the correctness of an assessment.** xxx

We reiterated this in *National Power Corporation v. The Provincial Treasurer of Benguet*. The principles were also applied in *Camp John Hay Development Corporation v. Central Board of Assessment Appeals*. In that case, Camp John Hay Development Corporation (CJHDC) was challenging the legality and validity of the RPT assessment on the ground that it was exempted from paying taxes, national and local, including RPT, pursuant to Republic Act (RA) No. 7227 or the Bases Conversion and Development Act of 1992. CJHDC did not pay the questioned assessment under protest. The Court explained that the **claim of exemption from RPT is a question of fact that should be resolved at the first instance by the proper administrative bodies and by paying under protest the tax.** Thus:

[A] claim for exemption from 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.

(Emphasis supplied)

Similar to *National Power Corporation vs. Provincial Government of Bulacan, et al.*, the case at bar likewise involves a claim for exemption from the payment of RPT. Thus, pursuant to *National Power Corporation vs. Provincial Government of Bulacan, et al.*, herein petitioner's case involves a question of fact that is cognizable and within the jurisdiction of the LBAA and CBAA.

The Court *En Banc* also notes that the CBAA's ruling that petitioner's arguments and allegations contemplate question of law which is beyond the LBAA and CBAA's jurisdiction, is directly contrary

✓

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 12 of 21

to its own action considering that the CBAA still exercised its jurisdiction over petitioner's administrative appeal when it rendered the assailed *Decision* upholding petitioner's RPT liability, and ordering respondents to re-assess the tax declarations and re-compute the RPT due.

Nevertheless, after a careful review of the case records as will be discussed below, the Court *En Banc* determines that the assessment has already attained finality.

The RPT assessment has attained finality in view of QPI's belated appeal to the LBAA.

Section 252 of the 1991 LGC provides the rule on Payment Under Protest of RPT assessments, to wit:

CHAPTER VI
Collection of Real Property Tax

xxx

Section 252. *Payment Under Protest.* –

(a) **No protest shall be entertained unless the taxpayer first pays the tax.** There shall be annotated on the tax receipts the words "paid under protest". **The protest in writing must be filed within thirty (30) days from payment of the tax** to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall **decide the protest within sixty (60) days from receipt.**

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

(c) In the event that the protest is finally decided in favor of the taxpayer, the amount or portion of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability.

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

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 13 of 21

Based on the above-quoted provision, should a taxpayer intend to protest an RPT assessment, the taxpayer must first make payment of the assessed RPT. Thereafter, the taxpayer may file its written protest within a period of thirty (30) days from the payment date, and in case of a denial thereof, the taxpayer may avail of the remedies under Chapter III, Title II, Book II of the 1991 LGC.

The taxpayer's remedies in case of a denial of its protest as found in Chapter III, Title II, Book II of the 1991 LGC pertain to appeals to the LBAA and CBAA, viz:

CHAPTER III
Assessment Appeals

Section 226. **Local Board of Assessment Appeals.** – Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, **within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the provincial or city by filing a petition** under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.

xxx

Section 229. **Action by the Local Board of Assessment Appeals.** –

- (a) **The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal.** The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.
- (b) In the exercise of its appellate jurisdiction, the Board shall have the power to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue subpoena and subpoena duces tecum. The proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts without necessarily adhering to technical rules applicable in judicial proceedings.
- (c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. **The owner of the property**

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 14 of 21

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.

(Emphasis supplied)

Consistent with the above provisions, the 1991 LGC IRR also provides that the remedies available to a taxpayer in case of denial of its protest are appeals to the LBAA and CBAA, thus:

ARTICLE 317. ***Local Board of Assessment Appeals.*** — (a) Any property owner or person having legal interest or claim in the property who is not satisfied with the assessment of his property made by the provincial, city, or municipal assessor pursuant to the provisions of this Rule may, **within sixty (60) days from the date of receipt of the written notice of assessment, appeal to local board of assessment appeals** of the province or city where the subject property is situated by filing a petition under oath in the standard form prescribed therefore, together with copies of the tax declaration and such affidavits or documents in support of the appeal.

xxx

ARTICLE 320. ***Action by the Local Board of Assessment Appeals.*** — xxx

(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 or municipal assessor within MMA with a copy of the decision of the board. In case the provincial or city assessor or municipal assessor within MMA concurs with 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 the board, appeal to the Central Board of Assessment Appeals as herein provided.** The decision of the Central Board shall be final and executory.

ARTICLE 343. ***Payment Under Protest.*** — xxx

(d) In the event that the protest is denied or upon the lapse of the sixty-day period prescribed in paragraph (a) hereof, the taxpayer may avail of the remedies provided in Articles 317 and 320 of this Rule. (Emphasis supplied)

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 15 of 21

In *Camp John Hay Development Corporation vs. Central Board of Assessment Appeals, et al.*³², the Supreme Court also explained the above administrative remedies available to a taxpayer who does not agree with the assessment of RPT, as follows:

The language of the law is clear. No interpretation is needed. The elementary rule in statutory construction is that if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. *Verba legis non est recedendum*. From the words of a statute there should be no departure.

To begin with, **Section 252 emphatically directs that the taxpayer/real property owner questioning the assessment should first pay the tax due before his protest can be entertained**. As a matter of fact, the words "paid under protest" shall be annotated on the tax receipts. Consequently, **only after such payment has been made by the taxpayer may he file a protest in writing** within thirty (30) days from said payment of tax to the provincial, city, or municipal treasurer, who shall decide the protest within sixty (60) days from its receipt. **In no case is the local treasurer obliged to entertain the protest unless the tax due has been paid**.

Secondly, **within the period prescribed by law, any owner or person having legal interest in the property not satisfied with the action of the provincial, city, or municipal assessor in the assessment of his property may file an appeal with the LBAA of the province or city concerned, as provided in Section 226 of RA No. 7160 or the LGC of 1991**. Thereafter, **within thirty (30) days from receipt, he may elevate, by filing a notice of appeal, the adverse decision of the LBAA with the CBAA**, which exercises exclusive jurisdiction to hear and decide all appeals from the decisions, orders, and resolutions of the Local Boards involving contested assessments of real properties, claims for tax refund and/or tax credits, or overpayments of taxes. (Emphasis supplied)

Furthermore, in *Napocor vs. Province of Quezon, et al.*³³, the Supreme Court ruled that Sections 252 (Payment Under Protest) and 226 (Assessment Appeals) are successive administrative remedies available to a taxpayer, such that without the local assessor's denial of the protest, the LBAA's appellate authority cannot be invoked, *viz*:

By providing that real property not declared and proved as tax-exempt shall be included in the 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

³² G.R. No. 169234, October 2, 2013.

³³ G.R. No. 171586, January 25, 2010.

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 16 of 21

exemption shall be allowed only when sufficient proof has been adduced supporting the claim. **Since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252, particularly the requirement of payment under protest. Napocor's failure to prove that this requirement has been complied with thus 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.**

It was an ill-advised move for Napocor to directly file an appeal with the LBAA under Section 226 without first paying the tax as required under Section 252. **Sections 252 and 226 provide successive administrative remedies to a taxpayer who questions the correctness of an assessment.** Section 226, in declaring that "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 x x x appeal to the Board of Assessment Appeals x x x," should be read in conjunction with Section 252 (d), which states that "in the event that the protest is denied x x x, the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of the LGC [Chapter 3 refers to Assessment Appeals, which includes Sections 226 to 231]. The "action" referred to in Section 226 (in relation to a protest of real property tax assessment) **thus refers to the local assessor's act of denying the protest filed pursuant to Section 252. Without the action of the local assessor, the appellate authority of the LBAA cannot be invoked.** Napocor's action before the LBAA was thus prematurely filed. (Emphasis supplied)

In ruling that the taxpayer's administrative remedies in disputing the correctness of an assessment is successive, the Supreme Court clarified that the taxpayer must first avail of the remedy of payment under protest pursuant to Section 252 of the 1991 LGC, and in the event that the protest is denied, the taxpayer may then exercise the remedy of appeal to the LBAA and CBAA under Sections 226 to 231 of the 1991 LGC.

In consideration of the foregoing, it can be inferred that the taxpayer's administrative remedies in questioning the correctness of RPT assessment must be exercised in the following manner:

1. Taxpayer must first pay the assessed RPT.
2. Within thirty (30) days from the payment date, the taxpayer must file a written protest to the local assessor who shall decide the same within a period of sixty (60) days from receipt.

4

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 17 of 21

3. In case the protest is denied or after the lapse of the sixty (60)-day period for the local assessor's action, the taxpayer may appeal the same to the LBAA within sixty (60) days from receipt.
4. If the taxpayer is not satisfied with the LBAA's decision, it may appeal the same to the CBAA within thirty (30) days from receipt.

In the case at bar, records show that on **July 10, 2017**, QPI paid the alleged RPT assessment in the amount of ₱6,351,075.30. Thus, QPI complied with the requisite payment of the assessed RPT.

Thereafter, on **July 14, 2017**, or within the thirty (30)-day prescriptive period under Section 252 of the 1991 LGC, QPI filed a letter expressing its protest to the RPT assessment issued by respondent City Treasurer, and formally seeking the refund of the amount paid.

QPI's protest was **denied with finality** through respondent City Treasurer's letter dated July 25, 2017, which was received by QPI on **July 27, 2017**. Pursuant to Section 226 of the 1991 LGC, QPI has sixty (60) days from receipt of the final denial of its protest on July 27, 2017 or until **September 25, 2017**, to appeal the denial to the LBAA.

However, records reveal that the appeal to the LBAA was only made on **October 27, 2017**, or **92 days** from QPI's receipt of the final denial of its protest on July 27, 2017. Thus, QPI's appeal to the LBAA was **32 days late** counted from September 25, 2017.

While the Court *En Banc* notes QPI's allegation that it filed another formal protest as manifested in its letter dated August 8, 2017 addressed to respondent City Treasurer, the conclusion of the Court *En Banc* will still be the same as will be explained below.

Petitioner's Letter of Manifestation dated August 8, 2017 is not considered a valid protest.

The petitioner asserts that the letter dated August 8, 2017 is its formal written protest to the respondent City Treasurer's assessment considering that respondent City Treasurer's decision dated July 25, 2017 denying with finality QPI's first protest letter dated July 14, 2017,

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 18 of 21

was made only two (2) weeks after it caused the payment of the assessed taxes, thereby depriving QPI with the thirty (30) day-period allegedly afforded to it under Section 252 of the 1991 LGC.

We are not convinced.

The letter dated August 8, 2017 is reproduced below for ease of reference:

ANNEX "S"

August 08, 2017

CHRISTINA M. MERCED
City Treasurer, Dumaguete City
City Hall, Dumaguete City

Dear Madam:

I write in behalf of Qualfon Philippines, Inc. on the matter of the letter protest filed

On July 14, 2017, Qualfon Philippines, Inc. paid under protest its real property taxes in the amount of **six million three hundred fifty-one thousand seventy-five pesos and thirty centavos (P 6,351,075.30)**. Upon payment, we have also attached our protest letter. It is our intent that we will file our formal protest within thirty (30) days from the date we paid under protest the aforementioned real property tax liability. Our position is supported by legal basis, to wit:

SECTION 252 of the Local Government Code of 1991 provides:

"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 Manila Area, who shall decide the protest within sixty (60) days from receipt xxx.

However, on July 27, 2017, Mr. Rowel Berbon through your good office, has sent a reply to our protest letter which pretakes as a decision categorically denying our cause. With all due respect, your reply-decision addressed to us was made only two weeks after we caused the payment of the tax liability and the appropriate annotation of the receipt thereby depriving us with the thirty-day (30) period afforded to us by law which is supposedly not later than August 14, 2017.

In view of the foregoing, we humbly submit to reconsider your judgment and allow us to represent more of our position. Attached in this letter of manifestation is our formal protest and the concerned supporting annexes.

It is with ardent hope and favor that we look forward that you may reconsider your findings and examine the merits of our case.

Thank you very much.

Yours truly,

Marie Carlene Yibo
MARIE CARLENE YIBO
[for the Taxpayer QPI]

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 19 of 21

First, petitioner in its letter dated August 8, 2017 stated that “Attached in this **letter of manifestation** is our formal protest and the concomitant supporting annexes”. However, a perusal of the case records reveals that no “formal protest” was submitted to the CBAA and attached to the instant *Petition*. As already admitted by QPI, such August 8, 2017 letter is only a letter of manifestation and thus, cannot be deemed as QPI’s protest to the RPT assessment.

Second, the manifestation of QPI in the August 8, 2017 letter that it was deprived of the thirty (30)-day period under Section 252(a) of the LGC when the July 25, 2017 decision of the respondent City Treasurer to its protest was issued only two (2) weeks after its payment of the assessed RPT, deserves scant consideration.

It should be emphasized that the language of Section 252(a) of the 1991 LGC is clear and unequivocal, such that the period to file a written protest must be made **within** thirty (30) days from payment of the assessed RPT, and that the local assessor’s decision thereto must be made **within** sixty (60) days from receipt of the protest. The provision did not require that the thirty (30) day-period be fully utilized by the taxpayer before the local assessor can issue a decision on the protest. The elementary rule in statutory construction is that if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.³⁴

In this regard, respondent City Treasurer’s issuance of a decision dated July 25, 2017 was made in accordance with Section 252(a) of the 1991 LGC. Thus, to reiterate, QPI’s failure to timely appeal the denial of its protest within sixty (60) days from July 27, 2017 or until September 25, 2017, is fatal to its cause thereby rendering the subject assessment final.

Finally, under the doctrine of primacy of administrative remedies, an error in the assessment must be administratively pursued to the exclusion of ordinary courts whose decisions would be void for lack of jurisdiction.³⁵ The failure to appeal within the statutory period shall render the assessment final and unappealable.³⁶ Having failed to duly exhaust the administrative remedies available to it, the Court *En Banc* is constrained to rule that the assessment against QPI already attained finality.

³⁴ *Supra* note 34.

³⁵ *Manila Electric Company vs. Nelia A. Barlis, et al.*, G.R. No. 114231, May 18, 2001.

³⁶ *Id.*

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 20 of 21

In view of the foregoing, We therefore see no cogent reason to delve upon the other issues raised in the instant *Petition for Review*.


WHEREFORE, premises considered, the *Petition for Review* filed by petitioner Qualfon Philippines, Inc. on February 27, 2023, is hereby **DENIED** for lack of merit. Accordingly, the *Decision* dated January 3, 2022, and *Resolution* dated October 20, 2022, both issued by the Central Board of Assessment Appeals, are **SET ASIDE** for failure of the petitioner to timely appeal the denial of its protest to the Local Board of Assessment Appeals.

SO ORDERED.


HENRY S. ANGELES
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice

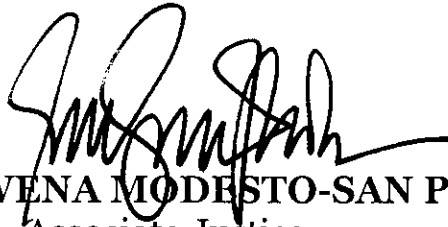

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

DECISION

CTA EB No. 2741 (CBAA Case No. V-40-2018)

Qualfon Philippines, Inc. vs. The City of Dumaguete, The City Treasurer of Dumaguete City as represented by Cristina M. Merced, and The City Assessor of Dumaguete City as represented by Pacifico Bulado, Jr.

Page 21 of 21




MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



MARIAN IVO F. REYES-FAJARDO
Associate Justice



LANEE S. CUI-DAVID
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice

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