

FIRST DIVISION

[G.R. No. 225226, July 07, 2020]

THE CITY OF MAKATI, PETITIONER, VS. THE MUNICIPALITY OF BAKUN AND LUZON HYDRO CORPORATION, RESPONDENTS.

DECISION

REYES, J. JR., J.:

Before us is a Petition for Review on Certiorari under Rule 45 seeking the reversal of the Decision^[1] in CTA EB Case No. 1179 rendered by the Court of Tax Appeals (CTA) *En Banc* on January 14, 2016 and its Resolution^[2] dated June 8, 2016 denying reconsideration.

The case sprang from a special civil action for interpleader under Rule 62, with prayer for preliminary injunction and/or temporary restraining order, filed before the Regional Trial Court (RTC) of Makati City, Branch 134 on January 16, 2007.^[3] Luzon Hydro Corporation (LHC) sought to compel the City of Makati (Makati), the Municipality of Alilem (Alilem), and the Municipality of Bakun (Bakun) to litigate among themselves their conflicting claims on LHC's liability for local business tax under Republic Act (R.A.) No. 7160.^[4]

LHC operates a hydroelectric power plant harnessing the Bakun River that runs through the Provinces of Ilocos Sur and Benguet. The major components of the facility, such as the power station and switch yard are situated in Alilem, Ilocos Sur. Other structures, such as the conveyance tunnel, penstock, weir, intakes, and desander are located in Bakun, Benguet. LHC maintained an office in Makati City.^[5]

Until 2003, LHC enjoyed a six-year tax holiday as an entity engaged in a pioneer area of investment registered with the Board of Investments. In 2004, LHC began paying local business taxes to Alilem, Bakun, and Makati. LHC pays Alilem the 30% portion of its local business tax allocated for the site of the principal office, conformably with Section (Sec.) 150 of R.A. No. 7160,^[6] given that Alilem is specified as the location of LHC's principal office in its Articles of Incorporation. For three years since 2004, the 70% portion of the local business tax was equally apportioned among Alilem, Bakun, and Makati, such that each local government unit (LGU) received 23.33% -Alilem and Bakun as power plant sites and Makati as a "project office" site.^[7] It is the sharing in the 70% portion that became the bone of contention among the three LGUs.

Via Resolution No. 168-2004 dated September 20, 2004, Bakun questioned the sharing scheme and claimed the entire 70% portion of the local business tax. The matter was submitted to the Bureau of Local Government and Finance (BLGF) for determination.^[8]

On February 8, 2006, the BLGF opined that only Bakun and Alilem should share in the 70% portion of LHC's local business tax because LHC's Makati office was a mere "administrative office" and not among the sites enumerated in Sec. 150 of R.A. No. 7160.^[9] According to the BLGF, Makati can only collect the mayor's permit fee and other regulatory fees under its existing local tax ordinances.^[10]

Consequently, Bakun passed Resolution No. 134-2006 requiring LHC to prospectively comply with the BLGF opinion, and assessed LHC deficiency taxes for the years 2004 to 2006. Alilem followed suit and issued Resolution No. 07-02, also requiring LHC to comply with the BLGF opinion. Makati, on the other hand, informed LHC that it would still assess the latter's local business tax notwithstanding the BLGF opinion. To resolve the ensuing uncertainty, LHC filed the action for interpleader.^[11]

The RTC of Makati City found that LHC's Makati office was a "project office," which entitled Makati to an equal share with LHC's power plant sites from the 70% portion of LHC's business tax. In view, however, of Makati's representation^[12] on the witness stand that it was willing to have its share in the tax reduced, as long as its share is not completely done away with, the RTC reduced its share to 20% instead. Thus, in a Decision dated April 20, 2012, the RTC of Makati City, Branch 134, disposed:

WHEREFORE, premises considered, the petition for interpleader is hereby given due course. Defendants Municipalities of Alilem and Bakun as well as the City of Makati are all declared entitled to the 70% business tax allocation of the plaintiff to be distributed starting taxable year 2012, as follows:

Municipality of Alilem - 25% (as site of the plant)
Municipality of Bakun - 25% (as site of the plant)
City of Makati - 20% (as "project office")

SO ORDERED.^[14]

Bakun moved for reconsideration, which was denied by the RTC on September 12, 2012, prompting the said municipality to file a petition for review before the CTA.^[15]

Finding this time that LHC's Makati office was merely an "administrative office" where none of LHC's sales were recorded or undertaken, the CTA Special First Division issued a Decision^[16] on November 8, 2013, disposing:

WHEREFORE, the Petition for Review dated November 14, 2012 filed by petitioner Municipality of Bakun is **PARTIALLY GRANTED**. Accordingly, the Decision dated April 20, 2012 and the Order dated September 12, 2012 of the RTC in Civil Case No. 07-049 are hereby **REVERSED and SET ASIDE**. The Municipalities of Bakun and Alilem are hereby declared the only local government units entitled to equally share in the 70% allocation made by LHC for the payment of its local business [tax].

SO ORDERED.^[17]

Makati sought reconsideration of the CTA Special First Division's Decision on December 23, 2013, while Bakun moved for its partial reconsideration on January 15, 2014. Both these motions were denied for lack of merit in a Resolution^[18] dated April 30, 2014. Aggrieved by the tax court's reversal of the RTC's decision, Makati filed a Petition for Review^[19] before the CTA *En Banc*.

Concurring with its Special First Division's findings and conclusion, the CTA *En Banc* arrived at the currently assailed Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit. The Decision of the Special First Division of this Court in CTA AC No. 100, promulgated on November 8, 2013 and its Resolution, promulgated on April 30, 2014, are hereby **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.^[20]

Makati moved for reconsideration of the CTA *En Banc*'s Decision, which was denied for lack of merit on June 8, 2016 via its now assailed Resolution.^[21]

Undeterred, Makati filed the present petition submitting the following for our review:

- I. WHETHER OR NOT THE COURT OF TAX APPEALS EN BANG AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN IGNORING THE FINDINGS OF [FACT] OF THE TRIAL COURT, RTC-MAKATI CITY, BRANCH 134, WHICH CONDUCTED THE HEARINGS AND TRIALS OF THE PRESENT CASE, WHEREIN IT WAS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE IN THE HONORABLE REGIONAL TRIAL COURT THAT LUZON HYDRO CORPORATION'S ("LHC") OFFICE IN MAKATI CITY IS A PRODUCER/POWER GENERATION OFFICE OR "PROJECT OFFICE", NOT A MERE ADMINISTRATIVE OFFICER]
- II. WHETHER OR NOT THE COURT OF TAX APPEALS EN BANC AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN APPLYING LOCAL FINANCE CIRCULAR NO. 03-95 ENTITLED "PRESCRIBING GUIDELINES GOVERNING THE POWER OF CITIES AND MUNICIPALITIES TO IMPOSE BUSINESS TAX ON CONSTRUCTION CONTRACTORS PURSUANT TO SECTION 143(e), REPUBLIC ACT NO. 7160, xxx" dated MAY 22, 1995 TO SUPPORT ITS RULING THAT THE OFFICE OF LHC IN MAKATI IS NOT A PROJECT OFFICER]
- III. WHETHER OR NOT THE BLGF OPINION DATED 08 MARCH 2006 HAS NO BINDING AND MANDATORY EFFECT[;]
- IV. WHETHER OR NOT THE COURT OF TAX APPEALS EN BANC AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN RULING IN FAVOR OF A PARTY, MUNICIPALITY OF ALILEM, WHICH DID NOT EVEN FILE AN APPEAL BEFORE THE COURT OF TAX APPEALS, AND THEREFORE, AS FAR AS MUNICIPALITY OF ALILEM IS CONCERNED, THE DECISION DATED 20 APRIL 2012 RENDERED BY THE HONORABLE RTC-MAKATI CITY SHOULD

HAVE BECOME FINAL AND EXECUTORY[; AND]

V. WHETHER OR NOT THE COURT OF TAX APPEALS EN BANC AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN TAKING COGNIZANCE OF THE PRESENT APPEAL FROM A "SPECIAL CIVIL ACTION FOR INTERPLEADER", WHICH IS NOT WITHIN THE APPELLATE JURISDICTION OF THE COURT OF TAX APPEALS.^[22]

On October 12, 2016, Bakun filed its Comment^[23] on the current petition, reiterating that LHC's Makati office was a mere "administrative office" and consequently not entitled to share in LHC's local business tax allocation.

LHC also filed a Comment^[24] on the petition on October 20, 2016 maintaining that the CTA had jurisdiction over the case, involving as it did an appeal from a decision of the RTC in a local tax case. LHC also informs us that it ceased any business presence in Makati as of March 31, 2013. Furthermore, it had consigned its local business tax allocations up to 2012 with the RTC of Makati City. Thus, LHC asserts that it had fully settled its local business taxes from 2004 up to the present, either directly paid to the LGUs or consigned with the RTC.

We put the matter to rest.

Certainly, the CTA has appellate jurisdiction over local tax cases decided by the RTC in the exercise of the latter's original jurisdiction. Sec. 7, paragraph (a) (3) of R.A. No. 1125, as amended by R.A. No. 9282,25 provides:

Section 7 of the same Act is hereby amended to read as follows: SEC. 7. Jurisdiction. - The [Court of Tax Appeals] shall exercise:

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

x x x x

3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction[^]

x x x x

That the case filed before the RTC was in the mode of a special civil action for interpleader does not detract from its nature as a local tax case, involving as it does the application of the rules on situs on the payment of local business taxes. There is no need to distinguish it from other local tax cases "considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power."^[26]

We now address the core issue of whether LHC's Makati office was a project office or a mere administrative office, in order to determine whether or not it had a right to participate in the 70% portion of LHC's business tax.