



Republic of the Philippines  
**Supreme Court**  
Manila

SECOND DIVISION

**TEAM  
CORPORATION,**

**PACIFIC**  
**Petitioner,**

**G.R. No. 167732**

- versus -

Present:

CARPIO, J.,  
Chairperson,  
BRION,  
PEREZ,  
SERENO, and  
REYES, JJ.

**JOSEPHINE DAZA in her  
capacity as MUNICIPAL  
TREASURER OF TAGUIG,  
Respondent.**

Promulgated:

**JUL 11 2012**

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**DECISION**

**PEREZ, J.:**

The proper remedy from the denial of an assessment protest by a local treasurer is at issue in this Rule 45 petition for review on *certiorari* filed by petitioner Team Pacific Corporation (TPC), assailing the Order dated 5 April 2005 issued by the Regional Trial Court (RTC), Branch 152, Pasig City in SCA No. 2662, dismissing its Rule 65 petition for *certiorari*.<sup>1</sup>

<sup>1</sup> RTC Order dated 5 April 2005, *rollo*, pp. 32-34.

The facts are not in dispute.

A domestic corporation engaged in the business of assembling and exporting semiconductor devices, TPC conducts its business at the FTI Complex in the then Municipality of Taguig. It appears that since the start of its operations in 1999, TPC had been paying local business taxes assessed at one-half (1/2) rate pursuant to Section 75 (c) of Ordinance No. 24-93, otherwise known as the *Taguig Revenue Code*. Consistent with Section 143 (c)<sup>2</sup> of Republic Act (RA) No. 7160, otherwise known as the *Local Government Code of 1991*, said provision of the *Taguig Revenue Code* provides as follows:

Section 75. *Imposition of Tax.* – There is hereby imposed on the following persons, natural or juridical, who establish, operate conduct or maintain their respective businesses within the Municipality of Taguig, a graduated business tax in the amounts hereafter prescribed:

x x x x

(c) On exporters, and on manufacturers, millers, producers, wholesalers, distributors, dealers or retailers of essential commodities enumerated hereunder at a rate not exceeding one-half (1/2) of the rates prescribed under subsections (a), (b) and (d) of this Section:

(1) Rice and corn;

(2) Wheat or cassava flour, meat, dairy products, locally manufactured, processed or preserved food, sugar, salt and other agricultural, marine, and fresh water products, whether in their original state or not;

(3) Cooking oil and cooking gas;

<sup>2</sup> SEC. 143. *Tax on Business.* - The municipality may impose taxes on the following businesses:

x x x x

(c) On exporters, and on manufacturers, millers, producers, wholesalers, distributors, dealers or retailers of essential commodities enumerated hereunder at a rate not exceeding one-half (1/2) of the rates prescribed under subsections (a), (b) and (d) of this Section:

(1) Rice and corn;

(2) Wheat or cassava flour, meat, dairy products, locally manufactured, processed or preserved food, sugar, salt and other agricultural, marine, and fresh water products, whether in their original state or not;

(3) Cooking oil and cooking gas;

(4) Laundry soap, detergents, and medicine;

(5) Agricultural implements, equipment and post- harvest facilities, fertilizers, pesticides, insecticides, herbicides and other farm inputs;

(6) Poultry feeds and other animal feeds;

(7) School supplies; and

(8) Cement.

- (4) Laundry soap, detergents, and medicine;
- (5) Agricultural implements, equipment and post- harvest facilities, fertilizers, pesticides, insecticides, herbicides and other farm inputs;
- (6) Poultry feeds and other animal feeds;
- (7) School supplies; and
- (8) Cement.

x x x x

When it renewed its business license in 2004, however, TPC's business tax for the first quarter of the same year was assessed in the sum of ₱208,109.77 by respondent Josephine Daza, in her capacity as then Municipal Treasurer of Taguig. The assessment was computed by Daza by applying the full value of the rates provided under Section 75 of the *Taguig Revenue Code*, instead of the one-half (1/2) rate provided under paragraph (c) of the same provision. Constrained to pay the assessed business tax on 19 January 2004 in view of its being a precondition for the renewal of its business permit, TPC filed on the same day a written protest with Daza, insisting on the one-half (1/2) rate on which its business tax was previously assessed. In support of its position, TPC invoked Section 143 (c) of the *Local Government Code of 1991* and Section 2 of Local Finance Circular No. 4-93 of the Department of Finance which provided guidelines for the imposition of business taxes on exporters by municipalities.<sup>3</sup>

Subsequent to its 13 April 2004 demand for the refund and/or issuance of a tax credit for the sum of ₱104,054.88 which it considered as an overpayment of its business taxes for the same year,<sup>4</sup> TPC filed its 15 April 2004 Rule 65 petition for *certiorari* which was docketed as SCA No. 2662 before the RTC. Alleging that no formal action was taken regarding its protest on or before 19 March 2004 or within the period of sixty (60) days from the filing thereof as prescribed under Article 195 of the *Local Government Code*, TPC maintained that it was simply informed by Atty.

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<sup>3</sup> TPC's 19 January 2004 Letter-Protest, *rollo*, p. 35.

<sup>4</sup> TPC's 13 April 2004 Demand for Refund, *id.* at 36.

Marianito D. Miranda, Chief of the Taguig Business Permit and Licensing Office, that the assessment of its business tax at the full rate was justified by the fact that it was not an exporter of the essential commodities enumerated under Section 143 of the *Local Government Code* and Section 75 of the *Taguig Revenue Code*. Arguing that Daza acted with grave abuse of discretion in not applying the one-half (1/2) rate provided under paragraph (c) of the same provisions, TPC prayed for the issuance of a temporary restraining order and/or permanent injunction to restrain the former from assessing business taxes at the full rate, the refund of its overpayment as well as the grant of its claims for exemplary damages and attorney's fees.<sup>5</sup>

On 25 June 2004, Daza filed her comment to the foregoing petition, contending that the change in the administration in the then Municipality of Taguig brought about the assessment and imposition of the correct business tax on TPC. Not being an exporter of the essential commodities enumerated under the provisions in question, it was argued that TPC is not entitled to the fifty (50%) percent business tax exemption it had been granted in the previous years. Having supposedly denied the letter-protest thru Atty. Miranda, Daza likewise faulted TPC for not filing its appeal in court within thirty (30) days from receipt of the denial in accordance with Article 195 of the *Local Government Code*. Denigrating TPC's 13 April 2004 demand for the refund and/or issuance of a tax credit as a vain attempt to rectify its procedural error, Daza prayed for the dismissal of the petition for *certiorari* on the ground that the same cannot be resorted to as a substitute for a lost right of appeal and was, by itself, bereft of merit.<sup>6</sup>

In its 14 July 2004 reply, TPC insisted that Daza failed to act formally on its letter-protest and took the latter to task for not attaching to her

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<sup>5</sup> TPC's 15 April 2004 Petition for *Certiorari*, id. at 37-48.

<sup>6</sup> Daza's 10 June 2004 Comment, id. at 59-62.

comment a copy of the supposed denial issued by Atty. Miranda.<sup>7</sup> Acting on the memorandum<sup>8</sup> and motions to resolve filed by TPC,<sup>9</sup> the RTC went on to render the herein assailed Order dated 5 April 2005, dismissing the petition for lack of merit. While finding that the absence of proof of Atty. Miranda's denial of TPC's letter-protest meant that the latter had thirty (30) days from the lapse of the sixty (60) days prescribed under Article 195 of the *Local Government Code* within which to perfect its appeal, the RTC ruled that, rather than the special civil action of *certiorari* provided under Rule 65 of the *1997 Rules of Civil Procedure*, an ordinary appeal would have been the proper remedy from the assessment complained against.<sup>10</sup> Without moving for the reconsideration of the foregoing order, TPC filed the petition at bench on 28 April 2005, on pure questions of law.<sup>11</sup>

In its 6 June 2006 Memorandum, TPC proffers the following issues for resolution, to wit: (a) whether or not it availed of the correct remedy against Daza's illegal assessment when it filed its petition for *certiorari* before the RTC; and, (b) whether or not, as an exporter of semiconductor devices, it should be assessed business taxes at the full rate instead of the one-half (1/2) rates provided under Section 75 (c) of the *Taguig Revenue Code* and 143 (c) of the *Local Government Code*. In urging the reversal of the RTC's assailed 5 April 2005 Order, TPC argues that, without the remedy of appeal being specified with particularity under Article 195 of the *Local Government Code*, a Rule 65 petition for *certiorari* is the proper and logical remedy since Daza acted with grave abuse of discretion in assessing its business taxes at the full rate. Although it is an exporter of semiconductors, TPC insists that its business tax should have been computed at one-half (1/2) rate in accordance with the clear intendment of the law. It likewise claimed

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<sup>7</sup> TPC's 14 July 2004 Reply, id. at 63-67 .

<sup>8</sup> TPC's 27 October 2004 Memorandum, id. at 68-86.

<sup>9</sup> TPC's 9 December 2004 and 19 January 2005 Motions to Resolve, id. at 98-105.

<sup>10</sup> RTC's 5 April 2005 Order, id. at 32-34.

<sup>11</sup> TPC's 27 April 2005 Petition, id. at 3-28.

that its position is congruent with administrative determinations as well as Daza's own act of reverting back to the half rate assessment of its business tax for the second quarter of 2006.<sup>12</sup>

In her memorandum, Daza, in turn, asserted that the RTC correctly dismissed TPC's petition for *certiorari* in view of its failure to avail of the proper remedy of ordinary appeal provided under Article 195 of the *Local Government Code*. As then Municipal Treasurer of Taguig, Daza argued that she did not exceed her jurisdiction or abuse her discretion in assessing TPC's business tax pursuant to Section 143 (c) of the same Code and Section 75 (c) of the *Taguig Revenue Code*. Not being an exporter of the basic commodities enumerated under the subject provisions, TPC cannot insist on the computation of its business taxes on the basis of the one-half (1/2) rate prescribed for a category of taxpayers to which it clearly did not belong. In view of TPC's choice of the wrong mode of appeal, Daza maintained that the assailed assessment had already attained finality and can no longer be modified.<sup>13</sup>

We find the dismissal of the petition in order.

Considering that the RTC's assailed 5 April 2005 order did not delve on the proper rate of business tax imposable on TPC as an exporter, we shall limit our discussion to the procedural aspects of the petition.

A taxpayer dissatisfied with a local treasurer's denial of or inaction on his protest over an assessment has thirty (30) days within which to appeal to the court of competent jurisdiction. Under the law, said period is to be reckoned from the taxpayer's receipt of the denial of his protest or the lapse of the sixty (60) day period within which the local treasurer is required to

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<sup>12</sup> TPC's 6 June 2006 Memorandum, id. at 136-162.

<sup>13</sup> Daza's 7 May 2007 Memorandum, id. at 199-208.

decide the protest, from the moment of its filing. This much is clear from Section 195 of the *Local Government Code* which provides as follows:

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

Absent any showing of the formal denial of the protest by Atty. Miranda, then Chief of the Taguig Business Permit and Licensing Office, we find that TPC's filing of its petition before the RTC on 19 April 2004 still timely. Reckoned from the filing of the letter protest on 19 January 2004, Daza had sixty (60) days or until 19 March 2004 within which to resolve the same in view of the fact that 2004 was a leap year. From the lapse of said period, TPC, in turn, had thirty (30) days or until 18 March 2004 within which to file its appeal to the RTC. Since the latter date fell on a Sunday, the RTC correctly ruled that TPC's filing of its petition on 19 April 2004 was still within the period prescribed under the above quoted provision. Whether or not a Rule 65 petition for *certiorari* was the appropriate remedy from Daza's inaction on TPC's letter-protest is, however, an entirely different issue which we are now called upon to resolve, considering the RTC's ruling that it should have filed an ordinary appeal instead. As correctly observed by TPC, after all, Section 195 of the *Local Government*

*Code* does not elaborate on how an appeal is to be made from the denial by a local treasurer of a protest on assessment made by a taxpayer.<sup>14</sup>

In the case of *Yamane vs. BA Lepanto Condominium Corporation*<sup>15</sup> (BLCC), this Court saw fit to rule that the remedy to be pursued by the taxpayer is one cognizable by the RTC in the exercise of its original – not its appellate – jurisdiction. In said case, BLCC’s *appeal* from the denial of its protest by the Makati City Treasurer was dismissed for lack of merit by the RTC, prompting said taxpayer to file a Rule 42 petition for review with the Court of Appeals (CA). After reconsidering its earlier decision to dismiss the petition on the ground that said remedy is restricted to decisions rendered by the RTC on appeal, the CA went on to render a decision finding BLCC not liable for the business tax assessed by the Makati City Treasurer. Sustaining the latter’s position that the jurisdiction exercised by the RTC over BLCC’s appeal was original in character, this Court ruled as follows:

x x x x [S] significantly, the Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer. On the other hand, Section 22 of B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts. Unlike in the case of the Court of Appeals, B.P. 129 does not confer appellate jurisdiction on Regional Trial Courts over rulings made by non-judicial entities.

From these premises, it is evident that the stance of the City Treasurer is correct as a matter of law, and that the proper remedy of the Corporation from the RTC judgment is an ordinary appeal under Rule 41 to the Court of Appeals. However, we make this pronouncement subject to two important qualifications. *First*, in this particular case there are nonetheless significant reasons for the Court to overlook the procedural error and ultimately uphold the adjudication of the jurisdiction exercised by the Court of Appeals in this case. *Second*, *the doctrinal weight of the pronouncement is confined to cases and controversies that emerged prior*

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<sup>14</sup> Pimentel, Jr., *The Local Government Code Revisited*, 2011 ed., p. 370.

<sup>15</sup> G.R. No. 154993, 25 October 2005, 474 SCRA 258.



*to the enactment of Republic Act No. 9282, the law which expanded the jurisdiction of the Court of Tax Appeals (CTA). (Emphasis supplied)*<sup>16</sup>

The foregoing pronouncements notwithstanding, we find that TPC erroneously availed of the wrong remedy in filing a Rule 65 petition for *certiorari* to question Daza's inaction on its letter-protest. The rule is settled that, as a special civil action, *certiorari* is available only if the following essential requisites concur: (1) it must be directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions; (2) the tribunal, board, or officer must have acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction; and, (3) there is no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law.<sup>17</sup> Judicial function entails the power to determine what the law is and what the legal rights of the parties are, and then undertakes to determine these questions and adjudicate upon the rights of the parties. Quasi-judicial function, on the other hand, refers to the action and discretion of public administrative officers or bodies, which are required to investigate facts or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for their official action and to exercise discretion of a judicial nature.<sup>18</sup>

Gauged from the foregoing definitions, Daza cannot be said to be performing a judicial or quasi-judicial function in assessing TPC's business tax and/or effectively denying its protest as then Municipal Treasurer of Taguig. For this reason, Daza's actions are not the proper subjects of a Rule 65 petition for *certiorari* which is the appropriate remedy in cases where a the tribunal, board, or officer exercising judicial or quasi-judicial functions

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<sup>16</sup> Id. at 269.

<sup>17</sup> *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission*, G.R. No. 144322, 6 February 2007, 514 SCRA 346, 356.

<sup>18</sup> *Destileria Limtuaco & Co., Inc. v. Advertising Board of the Philippines*, G.R. No. 164242, 28 November 2008, 572 SCRA 455, 460.

acted without or in grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in law.<sup>19</sup> Narrow in scope and inflexible in character,<sup>20</sup> *certiorari* is an extraordinary remedy designed for the correction of errors of jurisdiction and not errors of judgment.<sup>21</sup> It is likewise considered mutually exclusive with appeal<sup>22</sup> like the one provided by Article 195 of the *Local Government Code* for a local treasurer's denial of or inaction on a protest.

Even if, in the interest of substantial justice, we were to consider its petition for *certiorari* as an appeal from Daza's denial of its protest, TPC's availment of the wrong mode of appeal from the RTC's assailed 5 April 2005 Order has, moreover, clearly rendered the same final and executory. Granted that a Rule 45 petition for review on *certiorari* is the proper mode of appeal when the issues raised are purely questions of law,<sup>23</sup> TPC lost sight of the fact that, as amended by RA No. 9282,<sup>24</sup> paragraph c (2) [a], Section 7<sup>25</sup> of RA No. 1125<sup>26</sup> has vested the Court of Tax Appeals (CTA) with the exclusive appellate jurisdiction over, among others, appeals from the judgments, resolutions or orders of the RTC in tax collection cases originally decided by them in their respective territorial jurisdiction. As amended by

<sup>19</sup> *Sebastian v. Hon. Horacio R. Morales*, 445 Phil. 595, 608 (2003).

<sup>20</sup> *Valdez v. Government Service Insurance System*, G.R. No. 146175, 30 June 2008, 556 SCRA 580, 594.

<sup>21</sup> *Julie's Franchise Corporation v. Hon. Chandler O. Ruiz*, G.R. No. 180988, 28 August 2009, 597 SCRA 463, 473.

<sup>22</sup> *Obando v. Court of Appeals*, 419 Phil. 124, 130 (2001).

<sup>23</sup> *Korea Exchange Bank v. Filkor Business Integrated, Inc.*, 430 Phil. 170, 179 (2002).

<sup>24</sup> *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 30 March 2004.

<sup>25</sup> "Section 7. Jurisdiction – The Court of Tax Appeals shall exercise:

x x x x

(c) x x x x

x x x x

(2) Exclusive appellate jurisdiction in tax collection cases:

a. Over appeals from the judgments, resolutions or orders of the Regional Trial Court in tax collection cases originally decided by them, in their respective territorial jurisdiction.

<sup>26</sup> *An Act Creating the Court of Tax Appeals*.

Section 9 of RA No. 9282,<sup>27</sup> Section 11 of RA No. 1125 likewise requires that the appeal be perfected within thirty (30) days after receipt of the decision and shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the *1997 Rules of Civil Procedure*.

To our mind, TPC's erroneous availment of the wrong mode of appeal and direct resort to this Court instead of the CTA both warrant the dismissal of the petition at bench. The rule is settled that the perfection of an appeal in the manner and within the period fixed by law is not only mandatory but jurisdictional and non-compliance with these legal requirements is fatal to a party's cause.<sup>28</sup> In *Zamboanga Forest Managers Corp. vs. Pacific Timber and Supply Co.*,<sup>29</sup> we ruled as follows:

Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory. Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not and no court — not even the Supreme Court — has the power to revise, review, change or alter the same. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk

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Section 9. Section 11 of the same Act is hereby amended as follows:

SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

"Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: Provided, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court 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.

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<sup>28</sup>

*Yao v. Court of Appeals*, 398 Phil. 86, 100 (2000).

<sup>29</sup>

G.R. No. 173342, 13 October 2010, 633 SCRA 82, 92-93.

of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law.

**WHEREFORE**, premises considered, the petition is **DENIED** for lack of merit and being the wrong mode of appeal.


**SO ORDERED.**

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice

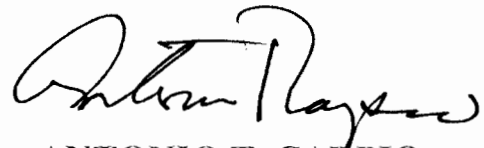
  
**ARTURO D. BRION**  
Associate Justice

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

  
**BIENVENIDO L. REYES**  
Associate Justice

**CERTIFICATION**

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



**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. 296,  
The Judiciary Act of 1948, as amended)