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THIRD DIVISION**[G. R. NO. 152534, February 23, 2007]****DIGITAL TELECOMMUNICATIONS PHILIPPINES, INC., PETITIONER, VS. PROVINCE OF PANGASINAN REPRESENTED BY RAMON A. CRISOSTOMO, PANGASINAN PROVINCIAL TREASURER, RESPONDENT.****D E C I S I O N****CHICO-NAZARIO, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, as amended, seeking the reversal of the *Decision*^[1] dated 14 June 2001, and the *Resolution*^[2] dated 15 February 2002, both rendered by the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 68 in Civil Case No. 18037, with the latter ruling in favor of respondent Province of Pangasinan.

The present petition stemmed from a *Complaint*^[3] for *Mandamus, Collection of Sum of Money and Damages* instituted by respondent Province of Pangasinan represented by its Provincial Treasurer, Ramon A. Crisostomo, against petitioner Digital Telecommunications Philippines, Inc. (DIGITEL) on 1 March 2000. Said *complaint* docketed as Civil Case No. 18037, was filed before RTC, Br. 68 of Lingayen, Pangasinan.

Republic Act No. 7160, otherwise known as the Local Government Code of 1991, took effect on 1 January 1992. Of significance to the present petition are Sections 137 and 232^[4] of the Local Government Code. Section 137 of the Local Government Code, in principle, withdrew any exemption^[5] from the payment of a tax on businesses enjoying a franchise. Expressly, it authorized local governments to impose a franchise tax on businesses enjoying a franchise within its territorial jurisdiction, to wit:

SECTION 137. **Franchise Tax.** - Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on business enjoying a franchise, at the rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based

on the income receipt, or realized, within its territorial jurisdiction. (Emphasis supplied.)

Section 232 likewise authorizes the imposition of an *ad valorem* tax on real property by the local government of a province, city or municipality within the Metropolitan Manila Area wherein the land, building, machinery and other improvement not thereafter specifically exempted. The particular provision reads:

SECTION 232. ***Power to Levy Real Property Tax.*** A province or city or a municipality within the Metropolitan Manila Area may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specially exempted. (Emphasis supplied.)

On 13 November 1992, petitioner DIGITEL was granted, under ***Provincial Ordinance No. 18-92***, a provincial franchise to install, maintain and operate a telecommunications system within the territorial jurisdiction of respondent Province of Pangasinan. Under the said provincial franchise, the grantee is required to pay *franchise and real property taxes, viz:*

SECTION 6. The grantee shall pay to the Province of Pangasinan the applicable franchise tax as maybe provided by appropriate ordinances in accordance with the Local Government Code and other existing laws. Except for the foregoing and the real estate tax on its land and building, it shall be subject to no other tax. The telephone posts, apparatus, equipment and communication facilities of the grantee are exempted from the real estate tax. (Emphasis supplied.)

Pursuant to the mandate of Sections 137 and 232 of the Local Government Code, the *Sangguniang Panlalawigan* of respondent Province of Pangasinan enacted on 29 December 1992, ***Provincial Tax Ordinance No. 1***, entitled "*The Real Property Tax Ordinance of 1992.*" Section 4 thereof imposed a real property tax on real properties located within the territorial jurisdiction of the province. The particular provision, however, technically expanded the application of Sec. 6 of the provincial franchise of petitioner DIGITEL to include *machineries and other improvements*, not thereafter exempted, to wit:

Section 4. Imposition of Real Property Tax. - There shall be levied an annual AD VALOREM tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted, situated or located within the territorial jurisdiction of Pangasinan at the rate of one percent (1%) of the assessed value of said real property. (Emphasis supplied.)^[6]

On 10 September 1993, ***Provincial Tax Ordinance No. 4***, otherwise known as "*The Pangasinan Franchising Ordinance of 1993,*" was similarly ratified. Sections 4, 5 and 6 thereof, positively imposed a franchise tax on businesses enjoying a franchise within the

territorial jurisdiction of respondent Province of Pangasinan.

Thereafter, petitioner DIGITEL was granted by Republic Act No. 7678,^[7] a legislative franchise authorizing the grantee to install, operate and maintain telecommunications systems, this time, *throughout the Philippines*. Under its legislative franchise, particularly Sec. 5 thereof, petitioner DIGITEL became liable for the payment of a franchise tax "as may be prescribed by law of all gross receipts of the telephone or other telecommunications businesses transacted under it by the grantee,"^[8] as well as real property tax "on its real estate, and buildings "exclusive of this franchise." Sec. 5 reads in full that:

SECTION 5. Tax Provisions. - The grantee shall be liable to pay the same taxes on its real estate, buildings, and personal property exclusive of this franchise as other persons or corporations are now or hereafter may be required by law to pay. In addition thereto, the grantee shall pay to the Bureau of Internal Revenue each year, within thirty (30) days after the audit and approval of the accounts, franchise tax as may be prescribed by law of all gross receipts of the telephone or other telecommunications business transacted under this franchise by the grantee: Provided, that the grantee shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto. The grantee shall file the return with and pay the tax due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue. [Emphasis supplied.]

Later, respondent Province of Pangasinan, in its examination of its record found that petitioner DIGITEL had a franchise tax deficiency for the years 1992, 1993 and 1994. It was alleged that apart from the Php40,000.00 deposit representing the grantee's acquiescence or acceptance of the franchise, as required by respondent Province of Pangasinan, petitioner DIGITEL had never paid any franchise tax to respondent Province of Pangasinan since the former started its operation in 1992. Accordingly, the *Sangguniang Panlalawigan* passed Resolution No. 364 on 14 October 1994, categorically directing petitioner DIGITEL to:

[C]ommunicate its conformity to Ordinance No. 40 to the Sanggunian thru the Sangguniang Panlalawigan Secretary and to pay the necessary and overdue franchise taxes to the Provincial Treasurer of Pangasinan within fifteen (15) days from receipt hereof otherwise its franchise shall be declared in operative (sic) and its operations terminated;"

In the *interregnum*, on 16 March 1995, Congress passed Republic Act No. 7925, otherwise known as "*The Public Telecommunications Policy Act of the Philippines*." Section 23 of this law entitled Equality of Treatment in the Telecommunications Industry, provided for the *ipso facto* application to any previously granted telecommunications franchises of any advantage, favor, privilege, exemption or immunity granted under existing franchises, or those still to be granted, to be accorded immediately and unconditionally to earlier grantees. Section 23 reads below:

SECTION 23. Equality of Treatment in the Telecommunications Industry. - Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall ipso facto become part of previously granted telecommunications franchises and shall be accorded immediately and unconditionally to the grantees of such franchises x x x. (Emphasis supplied.)

The provincial franchise and real property taxes remained unpaid despite the foregoing measures instituted. Consequently, in a letter^[9] dated 30 October 1998, the Provincial Legal Officer of respondent Province of Pangasinan, Atty. Geraldine U. Baniqued, demanded from petitioner DIGITEL compliance with Provincial Tax Ordinance No. 4., specifically the first paragraph of Section 4 thereof but which was wittingly or unwittingly misquoted^[10] to read:

'No persons shall establish and / or operate a public utility business enterprises (sic) within the territorial jurisdiction of the Province of Pangasinan whether in one municipality or group of municipalities, except by virtue of a franchise granted by the Sangguniang Panlalawigan of Pangasinan.'

On 17 November 1998, petitioner DIGITEL took exception to respondent Province of Pangasinan's claim on the ground that prior to the approval of its legislative franchise, its operation of a telecommunications system was done under a *Facilities Management Agreement* it had previously executed with the Department of Transportation and Communication (DOTC). Such agreement was purportedly the result of a public bidding wherein petitioner DIGITEL was "awarded the right to manage the operation, maintenance and development of government telecommunications facilities under its Regional Telecommunications Development Project Phases A and B x x x and National Telephone Program Phase I Tranche 1 x x x covering Regions I to V."^[11] It clarified that since "the facilities in the Province of Pangasinan are just part of the government owned facilities awarded to DIGITEL," not only did the DOTC retain ownership of said facilities, the latter likewise "provided for the budget for (the) expenses under its allocation from the government;" hence, "all revenues generated from the operation of the facilities inured to the DOTC;" and all the fees received by petitioner DIGITEL were purely for services rendered.

1. Ordering the defendant to open its books, records and other pertinent documents so that the provincial government can make the proper assessment of the franchise tax and real property tax due;
2. After the determination of the defendant's capital investment and subsequent gross receipts, to pay plaintiff the sum equivalent to 1/20th of one percent (1%) of the total capital investment for the first year of its operation (1993), and thereafter, fifty percent (50%) of one percent (1%) of the gross receipts realized during the preceding calendar year 1993, 1994, 1995, 1996, 1997, 1998 and up to the present;
3. After determination of all of defendant's real properties, to pay Real Property Tax due after its proper computation, pursuant to Section 4 of the Real Property Tax Ordinance of 1992 of the plaintiff;
4. To pay 1) A surcharge of twenty-five percent of the amount of the franchise tax due or a fraction thereof until the delinquent tax shall have been fully paid; 2) To pay an interest of two percent (2%) per month on the unpaid amount or a fraction thereof, until the delinquent tax shall have been fully paid, but in no case shall the total interest on the unpaid tax or proportion thereof exceed 36 months;
5. To pay the cost of this suit.

In ruling against the claimed exemption, the court *a quo* held that petitioner DIGITEL's legislative franchise does not work to exempt the latter from payment of provincial franchise and real property taxes. The court *a quo* reasoned that the provincial and legislative franchises are separate and distinct from each other; and, that prior to the grant of its legislative franchise, petitioner DIGITEL had already benefited from the use of it. Moreover, it pointed out that Section 137 of the Local Government Code had already withdrawn any exemption granted to anyone; as such, the local government of a province may impose a tax on a business enjoying a franchise.

On the other hand, petitioner DIGITEL maintains that its legislative franchise being an earlier enactment, by virtue of Section 23 of Republic Act No. 7925, the *ipso facto*, immediate and unconditional application to it of the *tax exemption* found in the franchises of Globe, Smart and Bell, *i.e.*, in *Section 9 (b) of Republic Act No. 7229*, Globe's legislative franchise; in *Section 9 of Republic Act No. 7294*, Smart's legislative franchise; and *Section 9 of Republic Act No. 7294*, Bell's legislative franchise, all basically or similarly containing the phrase "shall pay a franchise tax equivalent to x x x of all gross receipts of the business transacted under this franchise by the grantee, its successors or assigns and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof.

Stated simply, Section 23 of Republic Act No. 7925, in relation to the pertinent provisions of the legislative franchises of Globe, Smart and Bell, "the national franchise tax for which petitioner (DIGITEL) is liable to pay shall be 'in lieu of any and all taxes of any kind, nature or description levied, established or collected by any authority whatsoever, municipal, provincial, or national, from which the grantee is hereby expressly granted."

Petitioner DIGITEL's *Motion for Reconsideration* was denied in a *Resolution* dated 15 February 2002.

As the controversy involves pure questions of law, this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, as amended, was filed directly with this Court, predicated on the following arguments:

I.

THE HONORABLE COURT ERRED IN DECLARING THAT THE LOCAL GOVERNMENT CODE IS A SPECIAL LAW.

II.

THE LOWER COURT ERRED IN RULING THAT PETITIONER IS LIABLE TO PAY REAL PROPERTY TAX AND FRANCHISE TAX.

III.

THE PROVISIONS OF THE LOCAL GOVERNMENT CODE MAY BE RECONCILED WITH THOSE OF PETITIONER'S LEGISLATIVE FRANCHISE.

IV.

THE HONORABLE COURT ERRED IN NOT RULING THAT PETITIONER'S LEGISLATIVE FRANCHISE, REPUBLIC ACT NO. 7678, IS IN CONFORMITY WITH THE CONSTITUTION.

V.

THE HONORABLE COURT ERRED IN RULING THAT THE NON-IMPAIRMENT CLAUSE OF THE CONSTITUTION DOES NOT EXTEND TO NOR COVER FRANCHISES ISSUED BY CONGRESS.

VI.

ASSUMING ARGUENDO THAT PETITIONER SHOULD BE HELD LIABLE TO PAY FRANCHISE AND REAL PROPERTY TAXES, IT IS NONETHELESS STILL EXEMPT FROM PAYMENT THEREOF IN VIEW OF ITS REGISTRATION WITH THE BOARD OF INVESTMENTS AS A NON-PIONEER BUSINESS ENTERPRISE IN ACCORDANCE WITH SECTION 133 (G) OF THE LOCAL GOVERNMENT CODE.

The plethora of arguments raised can be reduced to two basic but essential issues, namely: 1) Whether or not petitioner DIGITEL is entitled to the exemption from the payment of provincial franchise tax in view of Section 23 of Republic Act No. 7925,^[15] otherwise known as the "Public Telecommunications Policy Act of the Philippines," in relation to the tax exemption provisions found in the legislative franchises of *Globe Mackay Cable and Radio Corporation*, *Smart Information Technologies, Incorporated* and *Bell Telecommunication Philippines, Incorporated*.

Stated otherwise, are the "in-lieu-of-all-taxes" clauses/provisos found in Republic Act No. 7229, the legislative franchise of Globe; Republic Act No. 7294, the legislative franchise of Smart; and Republic Act No. 7692, the legislative franchise of Bell, *vis-à-vis* Section 23 of Republic Act No. 7925, applicable to petitioner DIGITEL such that the latter is now exempt from the payment of any other taxes except the national franchise and income taxes?

And, 2) if answered in the negative, whether or not petitioner DIGITEL's real properties found within the territorial jurisdiction of respondent Province of Pangasinan are exempt from the payment of real property taxes by virtue of the phrase "*exclusive of this franchise*" found in Section 5 of its legislative franchise, Republic Act No. 7678?

At the outset, worth noting is the fact that prior to the enactment and effectivity of its legislative franchise, with only a provincial franchise to speak of, petitioner DIGITEL did not enjoy any exemption from the payment of franchise and real property taxes. In fact, Provincial Ordinance No. 18-92, its provincial franchise, categorically made it liable for the payment of such taxes. It was only with the enactment of Republic Act No. 7925 in 1995 and succeeding legislative franchises containing the "in-lieu-of-all-taxes" clauses/provisos that petitioner DIGITEL can claim exemption to such tax liabilities.

The case at bar is actually not one of first impression. Indeed, as far back as 2001, this Court has had the occasion to rule against the claim for tax exemption under Republic Act No. 7925. In the case of *Philippine Long Distance Telephone Company, Inc. v. City of Davao*,^[16] we already clarified the confusion brought about by the effect of Section 23 of Republic Act No. 7925 - that the word "*exemption*" as used in the statute refer's or pertain's

merely to an exemption from regulatory or reporting requirements of the DOTC or the NTC and not to the grantee's tax liability.

The issue in the *PLDT v. City of Davao* case was whether or not, by virtue of Section 23 of Republic Act No. 7925 (Public Telecommunications Policy of the Philippines), PLDT is again entitled to an exemption from the payment of local franchise tax in view of the grant of a tax exemption to Globe and Smart telecommunications companies. Before the enactment of Republic Act No. 7925 in 1995, the Congress of the Philippines granted in favor of Globe^[17] and Smart^[18] franchises^[19] that contain "in-lieu-of-all-taxes" clauses or provisos. Then came Republic Act No. 7925, particularly Section 23 thereof, providing, more or less, that any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall be made part of previously enacted franchises and made automatically applicable to the grantees thereof. Subsequently, in "January 1999, when PLDT applied for a mayor's permit to operate its Davao Metro Exchange, it was required to pay the local franchise tax for the first to the fourth quarter of 1999 x x x. PLDT challenged the power of the city government to collect the local franchise tax and demanded a refund of what it had paid as local franchise tax for the year 1997 and for the first to the third quarters of 1998."^[20] The latter believed itself to be exempt from payment of such tax even though Section 12 of its franchise (Republic Act No. 7082) containing the "in-lieu-of-all-taxes" proviso had already been withdrawn by the provisions of the Local Government Code. Its belief was anchored on the *effect* of the above-mentioned Section 23 of Republic Act No. 7925 - that because the franchises of Globe and Smart contain "in-lieu-of-all-taxes" clauses or provisos, the same grant of tax exemption must be regarded to have become *ipso facto* part of PLDT's previously granted telecommunications franchise.

In denying PLDT's petition, this Court, speaking through Mr. Justice Vicente V. Mendoza, held that in approving Section 23 of Republic Act No. 7925, Congress did not intend it to operate as a blanket tax exemption to all telecommunications entities; thus, it cannot be considered as having amended petitioner PLDT's franchise so as to entitle it to exemption from the imposition of local franchise taxes. The *ponencia* went on further to elucidate that:

To begin with, tax exemptions are highly disfavored. x x x

The tax exemption must be expressed in the statute in clear language that leaves no doubt of the intention of the legislature to grant such exemption. And, even if it is granted, the exemption must be interpreted in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. (Citation omitted.)

In the present case, petitioner justifies its claim of tax exemption by strained inferences. First, it cites R.A. No. 7925, otherwise known as the Public

Telecommunications Policy Act of the Philippines, §23 x x x

x x x x

Petitioner then claims that Smart and Globe enjoy exemption from the payment of the franchise tax by virtue of their legislative franchises per opinion of the Bureau of Local Government Finance of the Department of Finance. Finally, it argues that because Smart and Globe are exempt from the franchise tax, it follows that it must likewise be exempt from the tax being collected by the City of Davao because the grant of tax exemption to Smart and Globe ipso facto extended the same exemption to it.

The acceptance of petitioner's theory would result in absurd consequences. To illustrate: In its franchise, Globe is required to pay a franchise tax of only one and one-half percentum (1 ½%) of all gross receipts from its transactions while Smart is required to pay a tax of three percent (3%) on all gross receipts from business transacted. Petitioner's theory would require that, to level the playing field, any 'advantage, favor, privilege, exemption, or immunity' granted to Globe must be extended to all telecommunications companies, including Smart. If, later, Congress again grants a franchise to another telecommunications company imposing, say, one percent (1%) franchise tax, then all other telecommunications franchises will have to be adjusted to 'level the playing field' so to speak. **This could not have been the intent of Congress in enacting §23 of Rep. Act 7925. Petitioner's theory will leave the Government with the burden of having to keep track of all granted telecommunications franchises, lest some companies be treated unequally. It is different if Congress enacts a law specifically granting uniform advantages, favor, privilege, exemption, or immunity to all telecommunications entities.**

The fact is that the term "exemption" in §23 is too general. A cardinal rule in statutory construction is that legislative intent must be ascertained from a consideration of the statute as a whole and not merely of a particular provision. x x x Hence, a consideration of the law itself in its entirety and the proceedings of both Houses of Congress is in order. [Citation omitted.]

x x x x

Art. VIII, entitled Telecommunications Development, where §23 is found, provides for public ownership of telecommunications entities, privatization of existing facilities, and the equality of treatment provision. (Citation omitted.)

x x x x

R.A. No. 7925 is thus a legislative enactment designed to set the national policy on telecommunications and provide the structures to implement it to keep up with the technological advances in the industry and the needs of the public. *The thrust of the law is to promote gradually the deregulation of the entry, pricing, and operations of all public telecommunications entities and thus promote a level playing field in the telecommunications industry* (citation omitted). ***There is nothing in the language of §23 nor in the proceedings of both the House of Representatives and the Senate in enacting R.A. No. 7925 which shows that it contemplates the grant of tax exemptions to all telecommunications entities, including those whose exemptions had been withdrawn by the LGC.***

'x x x When exemption is claimed, it must be shown indubitably to exist. At the outset, every presumption is against it. A well-founded doubt is fatal to the claim. It is only when the terms of the concession are too explicit to admit fairly of any other construction that the proposition can be supported.' **In this case, the word 'exemption' in §23 of R.A. No. 7925 could contemplate exemption from certain regulatory or reporting requirements, bearing in mind the policy of the law x x x.**^[21]

From the preceding discourse, there is nothing more left to be argued. The issue has been settled. The Court's pronouncement in the above-discussed case has been reiterated in a number of cases concerning the import of Section 23 of Republic Act No. 7925. Therefore, this Court has no recourse but to deny petitioner DIGITEL's claim for exemption from payment of provincial franchise tax.

The foregoing pronouncement notwithstanding, in view of the passage of Republic Act No. 7716,^[22] abolishing the franchise tax imposed on telecommunications companies effective 1 January 1996 and in its place is imposed a 10 percent Value-Added-Tax (VAT),^[23] the "in-lieu-of-all-taxes" clause/provision in the legislative franchises of Globe, Smart and Bell, among others, has now become *functus officio*, made inoperative for lack of a franchise tax. Therefore, taking into consideration the above, **from 1 January 1996, petitioner DIGITEL ceased to be liable for national franchise tax and in its stead is imposed a 10% VAT in accordance with Section 108 of the Tax Code.**

As to the issue relating to the claim of payment of real property taxes, of particular import is Section 5 of Republic Act No. 7678, the legislative franchise of petitioner DIGITEL. Sec. 5 of said law again states that:

SECTION 5. Tax Provisions. - The grantee shall be *liable to pay the same taxes on its real estate, buildings, and personal property exclusive of this franchise* as other persons or corporations are now or hereafter may be required by law to

pay x x x. (Emphasis supplied.)

Owing to the phrase "*exclusive of this franchise*," petitioner DIGITEL stands firm in its position that it is equally exempt from the payment of real property tax. It maintains that said phrase found in Section 5 above-quoted qualifies or delimits the scope of its liability respecting real property tax - that real property tax should only be imposed on its assets that are actually, directly and exclusively used in the conduct of its business pursuant to its franchise.

According to respondent Province of Pangasinan, however, "the phrase 'exclusive (of this) franchise' in the legislative franchise of Petitioner Digitel did not specifically or categorically express that such franchise grant intended to provide privilege to the extent of impliedly repealing Republic Act No. 7160."

Thus, the question is, whether or not petitioner DIGITEL's real properties located within the territorial jurisdiction of respondent Province of Pangasinan are exempt from real property taxes by virtue of Section 5 of Republic Act No. 7678.

We rule in the affirmative. However, it is with the *caveat* that such exemption solely applies to those real properties actually, directly and exclusively used by the grantee in its franchise.

The present issue actually boils down to a dispute between the inherent taxing power of Congress and the delegated authority to tax of the local government borne by the 1987 Constitution. In the afore-quoted case of *PLDT v. City of Davao*, we already sustained the power of Congress to grant exemptions over and above the power of the local government's delegated taxing authority notwithstanding the source of such power. And fairly recently, in the case of *The City Government of Quezon City v. Bayan Telecommunications, Inc.*,^[24] we again had the opportunity to echo the *ponencia* of Mr. Justice Vicente V. Mendoza that:

Indeed, *the grant of taxing powers to local government units under the Constitution and the LGC does not affect the power of Congress to grant exemptions to certain persons, pursuant to a declared national policy.* The legal effect of the constitutional grant to local governments simply means that in interpreting statutory provisions on municipal taxing powers, doubts must be resolved in favor of municipal corporations. [Emphasis supplied.]

Succinctly put, had the Congress of the Philippines intended to tax each and every real property of petitioner DIGITEL, regardless of whether or not it is used in the business or operation of its franchise, it would not have incorporated a qualifying phrase, which such manifestation admittedly is. And, to our minds, "the issue in this case no longer dwells on

whether Congress has the power to exempt"^[25] petitioner DIGITEL's properties from realty taxes by its enactment of Republic Act No. 7678 which contains the phrase "*exclusive of this franchise,*" in the face of the mandate of the Local Government Code. The more pertinent issue to consider is whether or not, by passing Republic Act No. 7678, Congress intended to exempt petitioner DIGITEL's real properties actually, directly and exclusively used by the grantee in its franchise.

The fact that Republic Act No. 7678 was a later piece of legislation can be taken to mean that Congress, knowing fully well that the Local Government Code had already withdrawn exemptions from real property taxes, chose to restore such immunity even to a limited degree. Accordingly:

The Court views this subsequent piece of legislation as an express and real intention on the part of Congress to once again remove from the LGC's delegated taxing power, all of the franchisee's x x x properties that are actually, directly and exclusively used in the pursuit of its franchise.^[26]

In view of the unequivocal intent of Congress to exempt from real property tax those real properties actually, directly and exclusively used by petitioner DIGITEL in the pursuit of its franchise, respondent Province of Pangasinan can only levy real property tax on the remaining real properties of the grantee located within its territorial jurisdiction not part of the above-stated classification. Said exemption, however, merely applies from the time of the effectivity of petitioner DIGITEL's legislative franchise and not a moment sooner.

In fine, petitioner DIGITEL is found accountable to respondent Province of Pangasinan for the following tax liabilities: 1) as to provincial franchise tax, from 13 November 1992 until actually paid; and 2) as to real property tax, for the period starting from 13 November 1992 until 28 December 1992, it shall be imposed only on the lands and buildings of petitioner DIGITEL located within the subject jurisdiction; for the period commencing from 29 December 1992 until 16 February 1994, in addition to the lands and buildings aforementioned, it shall similarly be imposed on machineries and other improvements,^[27] and, by virtue of the National Franchise of petitioner DIGITEL or Republic Act No. 7678, in accordance with the Court's ruling in the abovementioned *Bayantel* case, from the date of effectivity on 17 February 1994 until the present, it shall be imposed only on real properties ***NOT*** actually, directly and exclusively used in the franchise of petitioner DIGITEL. In addition to the foregoing summary, pertinent provisions of law respecting interests, penalties and surcharges shall also be made to apply to herein subject tax liabilities.

WHEREFORE, in view of the foregoing, the instant petition is **DENIED**. The assailed *Decision* dated 14 June 2001, and the *Resolution* dated 15 February 2002, both rendered by the RTC of Lingayen, Pangasinan, Branch 68 in Civil Case No. 18037, are hereby

AFFIRMED in so far as it finds petitioner DIGITEL liable for the payment of provincial franchise and real property taxes. However, the amount of taxes owing to respondent Province of Pangasinan must be recomputed in accordance with the foregoing discussion. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Callejo, Sr., JJ., concur. Nachura, J., on leave.

[1] Penned by Hon. Salvador P. Vedana; Annex "A" of the Petition; *rollo*, pp. 56-66.

[2] Annex "B" of the Petition; *id.* at 67-71.

[3] Annex "C" of the Petition; *id.* pp. 72-77.

[4] In relation to Section 234 of the Local Government Code, which provides that:

SECTION 234. *Exemptions from Real Property Tax.* The following are exempted from payment of the real property tax:

X X X X.

Except as provided herein, any exemption from payment of real property previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code. (Emphasis supplied.)

[5] Exemptions granted by any law or other special law.

[6] The expansion of petitioner DIGITEL's tax liability, *vis-à-vis* its real properties, was particularly sanctioned by Section 5 (f) of the preceding ordinance, *viz*:

Section 5. Exemptions from real property tax. - The following are exempted from payment of the real property tax:

X X X X

(f) Except as provided in this Section, any exemption from payment of real property

tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Ordinance, and therefore subject to real property tax. (Emphasis supplied.)

- [7] Enacted by the Congress of the Philippines and became effective on 17 February 1994.
- [8] Sec. 5 of Republic Act No. 7678.
- [9] Annex "F" of the Complaint; records, p. 52.
- [10] The phrase "by the Congress of the Philippines, an authorized franchising agency or/and (the conjunctive word 'and' was a later amendment as contained in Ordinance No. 40-94)," as relating to an additional source or grantor of the necessary franchise was omitted from the provision quoted in the letter.
- [11] Id at 55.
- [12] Records, pp. 53-54.
- [13] Annex "C" of the Petition; id. at 72-77.
- [14] Annex "A" of the Petition; *rollo*, pp. 56-66.
- [15] Entitled "AN ACT TO PROMOTE AND GOVERN THE DEVELOPMENT OF PHILIPPINE TELECOMMUNICATIONS AND THE DELIVERY OF PUBLIC TELECOMMUNICATION services."
- [16] 415 Phil. 764 (2001).
- [17] Globe Mackay Cable and Radio Corporation.
- [18] Smart Information Technologies, Incorporated.
- [19] Republic Act No. 7229 (Globe) and No. 7294 (Smart).
- [20] This Court's Resolution in G.R. No. 143867, 25 March 2003.

[21] Supra note 16 at 775-779.

[22] An Act Restructuring the Value-Added Tax (VAT) System, widening its tax base and enhancing its administration, and for these purposes amending and repealing the relevant provisions of the National Internal Revenue Code, as Amended, and for other purposes.

[23] Imposed on telecommunications companies under Sec. 108 of the Tax Code.

[24] G.R. No. 162015, 6 March 2006, 484 SCRA 169.

[25] Id at 185.

[26] Id at 186.

[27] Pursuant to "The Real Property Tax Ordinance" of respondent Province of Pangasinan.

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