Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

THE DEPARTMENT OF ENERGY,
Petitioner,

- versus -

COURT OF TAX APPEALS,
Respondent.

G.R. No. 260912

Present:

CAGUIOA, *J., Chairperson,*
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, *J.J.*

Promulgated:

August 17, 2022
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DECISION

SINGH, *J.*

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision, dated 4 November 2021, and the Resolution, dated 24 May 2022, of the Court of Tax Appeals *en banc*, in CTA EB No. 2241 (CTA Case No. 10198). The assailed Decision and Resolution dismissed the Petition for Review filed by the petitioner Department of Energy, against the Warrants of Distraint and/or Levy and Garnishment issued by the Commissioner of Internal Revenue, for lack of jurisdiction over the dispute involving two national government agencies – the Department of Energy and the Bureau of Internal Revenue.

The Facts

The dispute can be traced to the Bureau of Internal Revenue's (**BIR**) issuance of a Preliminary Assessment Notice (**PAN**) for deficiency excise taxes amounting to ₱18,378,759,473.44, to petitioner Department of Energy (**DOE**) on 7 December 2018. The DOE was given fifteen (15) days to pay the assessed deficiency taxes.[1]

The BIR then issued a Formal Letter of Demand (**FLD/FAN**) for the assessed amount, received by the DOE on 17 December 2018, ten (10) days after the issuance of the PAN.[2]

On 21 December 2018, the DOE responded to the BIR and asserted that it is not liable for the assessed amounts as DOE is not among those liable to pay excise taxes under Section 130(A)(1) of the National Internal Revenue Code (**NIRC**). The DOE maintained that it is not the "owner, lessee, concessionaire or operator of the mining claim,"[3] and that the agency merely grants mining rights or service contracts on behalf of the State. The DOE further contended that the subject transactions involve condensates, which are classified as liquified natural gas, that are exempt from excise taxes under Item 3.2 of BIR Revenue Regulations No. 1-2018 dated 5 January 2018.[4]

On 17 July 2019, the DOE was notified by the BIR that the assessment has become final, executory, and demandable. According to the BIR, the DOE failed to file a formal protest on the FLD/FAN within the thirty (30)-day period prescribed under existing revenue rules and regulations. The BIR likewise informed DOE that the Department of Science and Technology confirmed the BIR's position that condensates are separate and distinct from natural gas, which is exempt from excise tax.[5]

On 31 July 2019, the DOE replied that it has not yet received the FLD/FAN and that based on its records, the only document it received from

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1 *Rollo*, p.58.

2 Id. at 102-103.

3 NATIONAL INTERNAL REVENUE CODE. sec. 130, viz: "Sec. 130. Filing of Return and Payment of Excise Tax on Domestic Products.
(A) Persons Liable to File a Return, Filing of Return on Removal and Payment of Tax. –
(1) Persons Liable to File a Return. – Every person liable to pay excise tax imposed under this Title shall file a separate return for each place of production setting forth, among others the description and quantity or volume of products to be removed, the applicable tax base and the amount of tax due thereon: Provided, however, That in the case of indigenous petroleum, natural gas or liquefied natural gas, the excise tax, shall be paid by the first buyer, purchaser or transferee for local sale, barter or transfer, while the excise tax on exported products shall be paid by the owner, lessee, concessionaire or operator of the mining claim."

4 *Rollo*, pp. 60-61.

5 Id. at 62.

the BIR in December 2018 was the PAN, and no further notice or communication was received from the BIR until 17 July 2019.[6]

The Commissioner of Internal Revenue (**CIR**) issued the two assailed warrants on 19 September 2019.[7] This prompted the DOE to write the BIR. In its letter received by the BIR on 8 October 2019, the DOE recounted the exchanges between the two agencies and reiterated that it has yet to receive the FLD/FAN, from which the period for protest should be reckoned. The DOE claimed that the premature actions of the BIR deprived it of due process. Additionally, the DOE maintained that as natural gas is exempt from excise taxes, condensates which refer to a liquified form of natural gas, must similarly be exempt. Assuming *arguendo* that condensates are not so exempt, the DOE is not the entity liable for excise taxes as it is not the owner, lessee, concessionaire, operator, or service contractor of the mining claim.[8]

Finding no other recourse from the Warrants issued by the CIR, on October 18, 2019, the DOE filed a Petition for Review (with Urgent Motion for Suspension of Collection of Taxes), with the CTA assailing the said warrants.

The CTA Second Division Ruling

In a Resolution dated 8 November 2019, the CTA Second Division dismissed the petition for lack of jurisdiction. The CTA recognized that the matter was governed by this Court's ruling in *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue (PSALM v. CIR)*,[9] and that as such the CTA is not the proper forum to resolve what it characterized as a purely intra-governmental dispute.

> "In the present Petition for Review, both parties are public entities. Petitioner DOE is a department of the executive branch of government while respondent is the Commissioner of Internal Revenue, the head of the Bureau of Internal Revenue. Without a doubt, this is a purely intra-governmental dispute. Accordingly, this Court has no jurisdiction over the present case. Notably, this Court finds no merit in petitioner's arguments against the application of the PSALM in the present Petition for Review.
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> Given that the Supreme Court has already spoken on the matter, this Court has no other option but to strictly uphold and apply the same. Until and unless the doctrine laid down in PSALM is modified or reversed by the Supreme Court *En Banc*, the same remains to be binding and should be applied in determining the proper forum to resolve the disputes and claims solely between and among the departments, bureaus, offices, agencies, and instrumentalities of the National Government, including government-owned or controlled corporations. The Supreme Court, by tradition and in

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6 Id. at 65-67.
7 Id. at 63-64.
8 Id. at 68-70.
9 G.R. No. 198146, August 8, 2017.

> our system of judicial administration, has the last word on what the law is. It is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.
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> **WHEREFORE**, the present Petition for Review is **DISMISSED** for lack of jurisdiction.
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> **SO ORDERED.**"[10]

The DOE filed its Motion for Reconsideration which was likewise denied for lack of merit on 30 January 2020. The CTA Second Division maintained that the case before it is a purely intra-governmental dispute, and as such, it is bereft of jurisdiction to take cognizance of the same.

> "**WHEREFORE**, premises considered, petitioner's **Motion for Reconsideration (of the Resolution dated 08 November 2019)**, is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[11]

Following the dismissal, on 21 February 2020, the BIR filed a Money Claim for the assessed deficiency excise tax amounting to ₱18,378,759,473.44 with the Commission on Audit (**COA**), citing the finality of its assessment against the DOE.[12]

In the pleadings filed before the COA, which the DOE included in its submissions, it was finally clarified that the FLD/FAN was indeed served on the DOE, albeit not through the DOE's Records Management Division, which is its centralized receiving and releasing unit for all communications. The FLD/FAN was served through one of the DOE's employees, who according to it was not authorized to receive the same. As a result, the document was not routed properly and remained unknown to the concerned offices of the agency until the BIR alluded to the same in subsequent communications.[13]

The CTA *En Banc* Ruling

On 28 February 2020, the DOE filed a Petition for Review before the CTA *En Banc*. In its Decision dated 4 November 2021, the CTA *En Banc* affirmed its Division's earlier Resolutions.

> "**WHEREFORE**, considering the required affirmative vote of at least five (5) members of the Court *En Banc* was not obtained in the instant case, pursuant to ***Section 2 of the CTA Law*** in relation to ***Section 3, Rule***

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10 Resolution, CTA Case No. 10198, November 8, 2019.
11 Resolution, CTA Case No. 10198, January 30, 2020.
12 *Rollo*, pp. 91-101
13 Id. at 111.

2 of the Revised Rules of the CTA, the instant Petition is hereby **DENIED**. The Assailed Resolutions, dated 8 November 2019 and 30 January 2020, hereby **STAND AFFIRMED**.

SO ORDERED."[14]

Following the denial, the DOE filed a Motion for Reconsideration on 3 December 2021. The CTA *En Banc*, through the Resolution dated 24 May 2022, denied the DOE's prayer to set aside the 4 November 2021 Decision for lack of merit. The assailed Resolution reads:

"**WHEREFORE**, premises considered, the instant **MOTION FOR RECONSIDERATION (on the Decision dated 04 November 2021)** is hereby **DENIED** for lack of merit.

SO ORDERED."[15]

On June 9, 2022, petitioner DOE filed the present Petition for Review under Rule 45 before the Court.[16]

The Issue

For resolution of the Court is the issue of whether the CTA *En Banc* erred in dismissing the DOE's petition for lack of jurisdiction.

In resolving this issue, the Court is called to determine the proper tribunal or office which has jurisdiction over appeals on tax disputes solely involving agencies under the Executive Department – whether it is the CTA or the Executive, through the Secretary of Justice or the Solicitor General.

The DOE asserts that it is the CTA which has jurisdiction over the case as Republic Act (**R.A.**) No. 1125 prevails over Presidential Decree (**P.D.**) No. 242.[17] Moreover, the CTA has the requisite expertise and experience to resolve tax issues.[18]

The DOE further contends that the ruling in *PSALM v. CIR*[19] stemmed from a different factual milieu and should therefore not be applied to this instant case. Finally, it invokes that not all controversies between or among national government entities fall under the coverage of P.D. No. 242.[20]

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14 Decision, CTA EB NO. 2241 (CTA Case No. 10198), November 4, 2021.
15 Resolution, CTA EB NO. 2241 (CTA Case No. 10198), May 24, 2022.
16 *Rollo*, pp 3-30.
17 Id. at 13-15.
18 Id. at 10-11.
19 G.R. No. 198146, August 8, 2017.
20 *Rollo*, pp. 8-9,11-13.

Upon consideration of these points, the Court finds no reversible error on the part of the public respondent CTA. Hence, the Petition must be denied.

The Court's Ruling

The Court holds that all disputes, claims, and controversies, solely between or among executive agencies, including disputes on tax assessments, must perforce be submitted to administrative settlement by the Secretary of Justice or the Solicitor General, as the case may be.

The CTA correctly steered clear of the case as it lacked jurisdiction over this dispute between the DOE and the BIR.

It also correctly gave precedence to the provisions of P.D. No. 242,[21] now embodied in the Revised Administrative Code, which especially deals with the resolution of disputes, claims, and controversies between departments, bureaus, offices, agencies, and instrumentalities of the government, and carves out such disputes from the jurisdiction of the CTA, as provided in the NIRC and R.A. No. 1125.

This case falls squarely within the purview of *PSALM v. CIR,*[22] and the assailed Resolution of the CTA is consistent with our pronouncement therein. As will be hereafter discussed, the ratiocinations and conclusions of this Court, reflected therein, to this day remain valid and indisputable. Hence, *PSALM* remains good law and need not be revisited by this Court.

Special Laws prevail over General Laws

P.D. No. 242, as incorporated in the Revised Administrative Code in Chapter 14, Book IV, should prevail as against laws defining the general jurisdiction of the CTA, *i.e.,* R.A. No. 1125,[23] as amended, and the NIRC. This is consistent with the fundamental rule that special laws prevail over general laws. P.D. No. 242 deals specifically with the resolution of disputes, claims, and controversies where the parties involved are the various departments, bureaus, offices, agencies, and instrumentalities of the government.[24] P.D. No. 242 should be read as an exception to the general rule set in R.A. No. 1125 and the NIRC that the CTA has jurisdiction over tax disputes involving laws administered by the BIR.

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21 Entitled "PRESCRIBING THE PROCEDURE FOR ADMINISTRATIVE SETTLEMENT OR ADJUDICATION OF DISPUTES, CLAIMS AND CONTROVERSIES, BETWEEN OR AMONG GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND FOR OTHER PURPOSES," effective July 9, 1973.

22 G.R. No. 198146, August 8, 2017.

23 Entitled "AN ACT CREATING THE COURT OF TAX APPEALS," approved June 16, 1954.

24 PRES. DEC. NO. 242, sec 1.

The Court has defined a general law as "a law which applies *to all of the people* of the state or to *all of a particular class of persons* in the state, with equal force and obligation."[25] In *Valera v. Tuason, et al.*,[26] it was also described as "one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class."[27] On the other hand, a special law is one which "applies to particular individuals in the state or to a particular section or portion of the state only"[28] and which "relates to particular persons or things of a class."[29] As the Court has consistently held, where there are two laws which appear to apply to the same subject and where one law is general and the other special, the law specially designed for the particular subject must prevail over the other. Stated more simply, the special law prevails over the general law. *Generalia specialibus non derogant.*

The Court has had occasion to apply this principle in a number of cases such as in *City of Manila v. Teotico*[30] where it was ruled:

> "x x x The Court of Appeals, however, applied the Civil Code, and, we think, correctly. It is true that, insofar as its territorial application is concerned, Republic Act No. 409 is a special law and the Civil Code a general legislation; but, as regards the subject-matter of the provisions above quoted, Section 4 of Republic Act 409 establishes a general rule regulating the liability of the City of Manila for: "damages or injury to persons or property arising from the failure of" city officers "to enforce the provisions of" said Act "or any other law or ordinance, or from negligence" of the city "Mayor, Municipal Board, or other officers while enforcing or attempting to enforce said provisions." Upon the other hand, Article 2189 of the Civil Code constitutes a particular prescription making "provinces, cities and municipalities . . . liable for damages for the death of, or injury suffered by any person by reason" — specifically — "of the *defective condition of roads, streets, bridges, public buildings, and other-public works under their control or supervision.*" In other words, said section 4 refers to liability arising from negligence, in general, regardless of the object thereof, whereas Article 2189 governs liability due to "defective streets," in particular. Since the present action is based upon the alleged defective condition of a road, said Article 2189 is decisive thereon."

In *Bagatsing v. Ramirez*,[31] it was further elucidated:

> "There is no question that the Revised Charter of the City of Manila is a *special act* since it relates only to the City of Manila, whereas the Local Tax Code is a general law because it applies universally to all local governments. Blackstone defines general law as a universal rule affecting the entire community and special law as one relating to particular persons or things of a class. And the rule commonly said is that a prior special law is not ordinarily repealed by a subsequent general law. The fact that one is

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25 *United States v. Serapio*, G.R. No. L-7557, December 7, 1912; emphasis in the original.
26 G.R. No. L-1276, April 30, 1948.
27 Id.
28 *United States v. Serapio*, supra 25.
29 *Valera v. Tuason, et al*, G.R. No. L-1276, April 30, 1948.
30 G.R. No. L-23052, January 29, 1968.
31 G.R. No. L-41631, December 17, 1976; citations omitted.

> special and the other general creates a presumption that the special is to be considered as remaining an exception of the general, one as a general law of the land, the other as the law of a particular case. However, the rule readily yields to a situation where the special statute refers to a subject in general, which the general statute treats in *particular*. This exactly is the circumstance obtaining in the case at bar. Section 17 of the Revised Charter of the City of Manila speaks of "ordinance" in general, i.e., irrespective of the nature and scope thereof, *whereas*, Section 43 of the Local Tax Code relates to "ordinances levying or imposing taxes, fees or other charges" in particular. In regard, therefore, to ordinances in general, the Revised Charter of the City of Manila is doubtless dominant, but, that dominant force loses its continuity when it approaches the realm of "ordinances levying or imposing taxes, fees or other charges" in particular. There, the Local Tax Code controls. Here, as always, a general provision must give way to a particular provision. Special provision governs.
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> The case of *City of Manila v. Teotico* is opposite. In that case, Teotico sued the City of Manila for damages arising from the injuries he suffered when he fell inside an uncovered and unlighted catchbasin or manhole on P. Burgos Avenue. The City of Manila denied liability on the basis of the City Charter (R.A. 409) exempting the City of Manila from any liability for damages or injury to persons or property arising from the failure of the city officers to enforce the provisions of the charter or any other law or ordinance, or from negligence of the City Mayor, Municipal Board, or other officers while enforcing or attempting to enforce the provisions of the charter or of any other law or ordinance. Upon the other hand, Article 2189 of the Civil Code makes cities liable for damages for the death of, or injury suffered by any persons by reason of the defective condition of roads, streets, bridges, public buildings, and other public works under their control or supervision. On review, the Court held the Civil Code controlling. It is true that, insofar as its territorial application is concerned, the Revised City Charter is a special law and the subject matter of the two laws, the Revised City Charter establishes a *general rule* of liability arising from negligence in general, regardless of the object thereof, whereas the Civil Code constitutes a particular *prescription* for liability due to defective streets in particular. In the same manner, the Revised Charter of the City prescribes a rule for the publication of "ordinance" *in general*, while the Local Tax Code establishes a rule for the publication of ordinance levying or imposing taxes fees or other charges *in particular*."

Here, the NIRC and R.A. No. 1125, and specifically their provisions on the jurisdiction of the CTA over tax disputes involving tax laws enforced by the BIR, should be read as general provisions governing the settlement of disputes involving tax claims. These provisions apply to the resolution of this general class of tax cases involving all persons, without exception. Stated more simply, they apply with equal force to *all persons* involved in disputes pertaining to *all tax claims* arising from *all tax laws* being implemented by the BIR.

In clear contrast, P.D. No. 242, as now embodied in the Revised Administrative Code, applies only to particular persons involved in a uniquely specific category of cases – disputes, claims, and controversies where all the parties are government entities. The Court's ruling in *City of Manila v.*

Teotico, *Bagatsing v. Ramirez*, and other similar cases, dictate that an interpretation of P.D. No. 242 as a special law that functions as an exception to the general rule on the jurisdiction of courts, such as the CTA, to resolve disputes. Where the dispute involves government entities on opposing sides, P.D. No. 242, as embodied in the Revised Administrative Code, determines, in the first instance, the mode of dispute resolution.

In ruling that P.D. No. 242 is the special law (as opposed to R.A. No. 1125 and the NIRC), the Court also takes into consideration the rationale for the enactment of P.D. No. 242. The First and Second Whereas Clauses of P.D. No. 242 provide:

> "WHEREAS, it is necessary in the public interest to provide for the administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations, **to avoid litigation in court where government lawyers appear for such litigants to espouse and protect their respective interests although, in the ultimate analysis, there is but one real party in interest the Government itself in such litigations**;
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> WHEREAS, court cases involving the said government entities and instrumentalities have needlessly contributed to the clogged dockets of the courts, aside from dissipating or wasting the time and energies not only of the courts but also of the government lawyers and the considerable expenses incurred in the filing and prosecution of judicial actions;"[32] (emphasis supplied)

In the performance of our Constitutional duty to interpret the laws, it is essential that the Court do so with due regard to legislative intent. Given the purpose animating the enactment of P.D. No. 242, the Court must read it as a special law intended to govern the resolution of disputes involving government agencies. It is only by reading P.D. No. 242 as an exception to the general rule governing the jurisdiction of the CTA over tax disputes that the Court will be able to respect and uphold the legislative intent to submit all inter-governmental disputes to the jurisdiction of the Executive in the pursuit of avoiding litigation in cases where the opposing parties ultimately represent the government as the sole real party-in-interest. A contrary reading of P.D. No. 242 would defeat the purpose for its enactment as an entire class of cases (*i.e.*, tax cases under the jurisdiction of the CTA) would operate outside its ambit, thereby significantly limiting the Government's ability to resolve internal disputes and further clogging the CTA's dockets.

In *Philippine National Oil Company v. Court of Appeals (PNOC v. CA)*,[33] the Court found that R.A. No. 1125 should be read as an exception to P.D. No. 242. However, it cannot be overemphasized that *PNOC v. CA* did not involve the actual application of the P.D. No. 242 as we ultimately ruled

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32 PRES. DEC. NO. 242, Whereas Clauses.

33 G.R. Nos. 109976 and 112800, April 26, 2005.

in that case that P.D. No. 242 does not govern the dispute considering that it involved a private party and was therefore not a case involving solely the government. Given this, our elucidations on R.A. No. 1125 and P.D. No. 242 in that case was obiter. As for *Commission of Internal Revenue v. Secretary of Justice and the Philippine Amusement and Gaming Corporation,*[34] which relied on our obiter in *PNOC*, the case was decided prior to *PSALM*, and it was only in *PSALM* that the Court made the definitive and binding pronouncement that P.D. No. 242 is a special law and must be read as a carve out from the general jurisdiction of the CTA over tax cases. *PSALM* operates as *stare decisis* in this case and must, therefore, govern our ruling.

Ruling in PSALM v. CIR is not limited to disputes arising from contracts

The DOE insists that the CTA *En Banc* erred in relying on *PSALM v. CIR*[35] as the case stemmed from a different set of facts – the dispute involved a contract, a Memorandum of Agreement (**MOA**) executed by PSALM, BIR, and the National Power Corporation (**NPC**) relative to the payment of Value Added Tax deficiencies in relation to the NPC's sale of its two power plants. As the present case does not involve a similar contract or agreement between the parties, the DOE asserts that the ruling in *PSALM* does not apply to its Petition.

The Court is not persuaded.

A reading of *PSALM v. CIR*[36] clearly demonstrates that the decision was not merely hinged on the existence of the MOA among the government agencies concerned, but moreso on the very fact that there is a dispute among two government-owned or -controlled corporations, PSALM and the NPC, on the one hand, and a national government office, the BIR, on the other.

The CTA *En Banc* in the assailed Resolution correctly observed that the Court "was categorical in ruling that when the law says 'all disputes, claims and controversies solely among government agencies, the law means all, without exception."[37] So long as such dispute arises from any of the following – "the interpretation and application of statutes, contracts or agreements" – the same falls under the administrative settlement proceedings directed by P.D. No. 242.[38]

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34 G.R. No. 177387, November 9, 2016.

35 G.R. No. 198146, August 8, 2017.

36 Id.

37 *Rollo*, p. 39.

38 PRES. DEC. NO. 242, sec. 1, viz: "Section 1. Provisions of law to the contrary notwithstanding, all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies, arising from the interpretation and application of statutes, contracts or

Through *PSALM v. CIR*,[39] the Court harmonized conflicting laws, provided guidelines for when disputes ought to be referred to administrative settlement, and clarified the appropriate arbiter based on the nature of the issues. Thus, the decision was not limited to the same scenario which brought about the action, but was to be instructive for future scenarios conforming with the parameters drawn by the Court.

To hold that *PSALM v. CIR*[40] is applicable only to disputes, claims, or controversies, arising out of contracts or agreements among government agencies, to the exclusion of the other sources of disputes enumerated in Section 1 of P.D. No. 242, is to adopt a dangerously narrow interpretation.

Orion Water District v. GSIS and disposition in recent tax cases do not govern this dispute

The DOE argues that not all controversies between or among entities under the Executive fall under the coverage of P.D. No. 242. This is correct. The law itself limits its application to disputes, claims and conflicts solely involving offices under the Executive Department that arise from interpretation and application of statutes, contracts, or agreements. Beyond these instances, P.D. No. 242 should not apply.

However, the DOE speciously relies on *Orion Water District v. Government Service Insurance System (GSIS)*,[41] to justify its resort to the CTA. Indeed, the Court did mention that not all controversies between or among government agencies fall under the contested provision, but *Orion v. GSIS*[42] needs to be put in its proper context. The Court therein concluded that the situation does not fall under any of the instances warranting administrative settlement as essentially there was no dispute in the first place – there was no obscure question of law or ambiguous contract, there was only a clear violation of the Water District's duty to promptly remit GSIS contributions, which it did not even dispute or controvert.

Orion v. GSIS[43] cannot apply to this case as it involved not just the GSIS and the Water District, but also the latter's erring officials, clearly, removing it from the scope of P.D. No. 242.

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agreements, shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That, this shall not apply to cases already pending in court at the time of the effectivity of this decree."

39 G.R. No. 198146, August 8, 2017.

40 Id.

41 G.R. No. 195382, June 15, 2016.

42 Id.

43 Id.

The Court also observes that the assailed Resolution, while supported by the majority was not a unanimous disposition of the CTA *En Banc*, as three (3) Justices registered their dissent. The dissent pointed to a number of fairly recent tax related cases involving government agencies, which have proceeded with the CTA, or all the way to the Supreme Court, and which have not been dismissed on account of lack of jurisdiction – in particular, *Bases Conversion and Development Authority (BCDA) v. CIR,*[44] *CIR v. BCDA,*[45] and *PSALM v. CIR*[46] (decided in 2019, and which should not be confused with the *PSALM v. CIR* case decided in 2017 extensively discussed herein).

A quick look at these cases would reveal that they are glaringly silent on the issue of jurisdiction. Since the CTA's jurisdiction or the need for administrative settlement was not raised in these cases, they cannot be deemed controlling when there are unequivocal pronouncements from this Court that such disputes must be submitted to administrative settlement.

Executive's power of control necessitates administrative settlement of disputes

The President, under the Constitution, enjoys the power of control over the entire Executive Department.[47] Given that the President, as Chief Executive, has control over all the agencies in dispute, it is only proper and logical that he first be given a chance to resolve the dispute before resort to the courts. Only after the President has decided or settled the dispute can the court's jurisdiction be invoked.[48]

Neither the Judiciary, by prematurely taking cognizance of actions which are otherwise subject to administrative discretion, nor the Legislature, by circumscribing such power through legislation, can curtail such exercise of the President's power of control.

Veritably, the power to tax is legislative in nature, and under our constitutional framework, the power to execute and administer laws, tax laws included, pertains to the Executive.[49] Pursuant to this design, the Legislature, by enacting the NIRC, has yielded the power to assess and collect taxes to the BIR and the CIR, under the supervision and control of the Secretary of Finance.

> "Section 2. Powers and Duties of the Bureau of Internal Revenue. – **The Bureau of Internal Revenue shall be under the supervision and**

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44 G.R. No. 205466, January 11, 2021.
45 G.R. No. 217898, January 15, 2020.
46 G.R. No. 226556, July 3, 2019.
47 Constituion, Art. VII, sec. 17.
48 G.R. No. 198146, August 8, 2017.
49 const., art. VII, sec. 17.

> **control of the Department of Finance** and **its powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts.** The Bureau shall give effect to and administer the supervisory and police powers conferred to it by this Code or other laws."[50] (emphasis supplied)

The Secretary of Finance, in turn, is subject to the control of the President, along with all other executive departments, bureaus, and offices, through which he is expected to faithfully execute all laws.[51]

By the power of control we mean "the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter."[52] In *National Electrification Administration v. COA*,[53] this Court illustrated just how encompassing the President's power over the Executive Branch is.

> "**The presidential power of control over the executive branch of government extends to all executive employees from Cabinet Secretary to the lowliest clerk. The constitutional vesture of this power in the President is self-executing and does not require statutory implementation,** nor may its exercise be limited, much less withdrawn, by the legislature.
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> Executive officials who are subordinate to the President should not trifle with the President's constitutional power of control over the executive branch. There is only one Chief Executive who directs and controls the entire executive branch, and all other executive officials must implement in good faith his directives and orders. This is necessary to provide order, efficiency and coherence in carrying out the plans, policies and programs of the executive branch." (emphasis supplied)

Corollary to this, the President may also exercise powers conferred by law to his subordinates. In *City of Iligan v. Director of Lands*,[54] the Court acknowledged that the President, by virtue of his control over the Executive Department, may directly dispose of portions of public domain in exercise of the authority vested in the Director of Lands, one of his subordinates.

The following conclusions are, thus, inescapable: the President has the power of control over the BIR and the CIR; such power of control authorizes the President to alter, modify, or nullify decisions of the BIR and the CIR; the

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50 NATIONAL INTERNAL REVENUE CODE. sec. 2.
51 const. art. VII, sec. 17.
52 *Mondano v. Silvosa,*, G.R. No. L-7708, May 30, 1955.
53 G.R. No. 143481, February 15, 2002, 427 PHIL 464-485.
54 G.R. No. L-30852, February 26, 1988.

President can likewise act in the stead of his or her subordinates, and exercise powers directly conferred by law to the BIR and the CIR.

Because of such broad power vested in the President over the acts of subordinates in the Executive Department, it is not only constitutionally infirm, but likewise downright impractical, to allow the Judiciary to take cognizance of a matter which can still be undone, modified, or otherwise subjected to the discretion of the Executive.

It must be clarified that the administrative settlement procedure, as it applies to tax disputes between the BIR and other executive agencies, is not meant to supplant or override the power of Congress to tax. Foremost, it is circumscribed by the very duty of the Executive to "faithfully execute all laws."[55] In deciding such conflicts, the Executive is bound to observe tax laws – it cannot wantonly disregard them by haphazardly exempting executive agencies or transactions therefrom nor can it proceed with a pre-determined result in mind, as feared by the petitioners. Rather, the process must result in a determination of the most appropriate arrangement or course of action for the agencies involved, after the Executive has taken stock of all applicable laws, rules, and regulations, and how they may be reconciled and adhered to in relation to the dispute. It cannot be utilized as a vehicle for circumventing or disregarding existing laws or justifying illegalities, as these will undoubtedly constitute grave abuse of discretion. In *National Artist for Literature Virgilio Almario v. Executive Secretary*, the Court underscored the limits of Presidential discretion.

> "The President's discretion in the conferment of the Order of National Artists should be exercised in accordance with the duty to faithfully execute the relevant laws. The faithful execution clause is best construed as an obligation imposed on the President, not a separate grant of power. It simply underscores the rule of law and, corollarily, the cardinal principle that the President is not above the laws but is obliged to obey and execute them."[56]

The Executive has the expertise to settle administrative disputes

The DOE further argues that the CTA has the requisite expertise and experience in resolving tax issues. There is no dispute that this expertise lies with the CTA.

However, the resolution of disputes among agencies and offices of the Executive Department does not simply require technical or subject matter expertise, but necessarily demands an understanding of how the different and

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55 const. art.7, sec.17.

56 *National artist for literature Virgilio Almario v. Executive secretary*, G.R. No. 189028, July 16, 2013.

competing mandates and goals of its comprising agencies and offices affect one another, a determination which the Chief Executive is in the best position to make.

The astonishing breadth of the Executive Branch spans agriculture, land reform, environment, health, trade, finance, tourism, to name a few, and extends through many other critical areas of governance and general welfare of our countrymen.

Given the extensive scope of this branch, the Chief Executive must often navigate through a chasmic maze of laws, rules, regulations, mandates, and interests, often seemingly conflicting and irreconcilable, but more often capable of being harmonized and balanced. To this end, the Chief Executive must be given sufficient latitude to harmonize these differences and address conflicts and disagreements arising therefrom, with due consideration to the necessities of the day, and with the aim of ensuring government efficiency and agility. The Court recognized this in *National Electrification Administration v. Commission on Audit*,[57] when it reiterated that the President as administrative head of the government "is vested with the power to execute, administer and carry out laws into practical operation." Like our Constitution, our laws must not operate in a vacuum, but must be applied and adapted to persisting realities.

It has also been said that the procedure is not much different from arbitration, as it is "an alternative to, or a substitute for, traditional litigation in court with the added advantage of avoiding the delays, vexations and expense of court proceedings."[58]

P.D. No. 242 itself highlights the practical considerations for administrative settlement – to avoid litigation wherein the Government is ultimately the only party in interest, and to avoid needlessly contributing to clogged court dockets, and wasting government resources.[59]

By stepping in to resolve disputes between executive agencies before they are ripe for adjudication, the Chief Executive is not trespassing into the exclusive realm of the Legislature, nor is it arrogating judicial power. He or she is merely positively carrying out his or her mandate to execute laws

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57 G.R. No. 143481, February 15, 2002, 427 PHIL 464-485

58 *Philippine Veterans Investment Development Corp. v. Velez*, G.R. No. 84295, July 18, 1991.

59 PRES. DEC. NO. 242, recitals, viz: "WHEREAS, it is necessary in the public interest to provide for the administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations, to avoid litigation in court where government lawyers appear for such litigants to espouse and protect their respective interests altho, in the ultimate analysis, there is but one real party in interest the Government itself in such litigations;

WHEREAS, court cases involving the said government entities and instrumentalities have needlessly contributed to the clogged dockets of the courts, aside from dissipating or wasting the time and energies not only of the courts but also of the government lawyers and the considerable expenses incurred in the filing and prosecution of judicial actions; x x x"

faithfully. The Executive's attempt to reconcile disputes, claims, and controversies stemming from implementation of laws must be viewed as deference to the Legislature, for it is essentially an effort to breathe life and force to laws they have enacted whilst recognizing the complexities attendant to their implementation. It likewise guards the Judiciary from actions where there are no actual controversies between parties, as there is ultimately one real party-in-interest. Fealty to constitutional mandate demands no less.

Tax disputes involving executive agencies are of a unique character

This Court concedes that taxes are not ordinary claims for they are central to the very existence of government. Time and again, we have held that "taxes are the lifeblood of the government, and their prompt and certain availability an imperious need."[60]

Subjecting tax disputes among government agencies to administrative settlement does not contravene this precept.

Tax disputes concerning the BIR and other national government agencies are unique in the sense that taxes that might be due are already public funds. Regardless of the dispute's outcome, they will be dedicated for a public purpose in keeping with P.D. No. 1445.[61]

The BIR's collection does not change the nature of the funds, as they will remain public funds, but it may circumscribe the ways through which they may be used.

Under the NIRC, the national internal revenue collected shall accrue to the National Treasury and will be made available for general purposes of the Government, subject to certain exceptions.[62] Annual appropriations for the operation of the entire government are sourced from such funds with the National Treasury.[63] Thus, taxes paid are pooled before they are allotted for a public purpose, and it will be inherently impossible to attribute expenditures to the specific taxpayer. For a government agency paying taxes, this means that its funds may then be used for purposes other than its own mandate.

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60 *Bull v. U.S.* 295, U. S. 247 as cited in a number of cases decided by this Court – *Northern Camarines Lumber Co., v. CIR* (G.R. No. L-12353, *Roman Catholic Archbishop of Cebu v. CIR* (G.R. No. L-16683), *Valley Trading Co., Inc., v. Court of First Instance of Isabela, Branch II* (G.R. No. L-49529), *Asian Transmission Corp. v. CIR* (G.R. No. 230861), *Proton Pilipinas Corp. v. Republic* (G.R. No. 165027), among others.

61 GOVERNMENT AUDITING CODE, sec 4., viz: "Fundamental principles. Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit: x x x 2. Government funds or property shall be spent or used solely for public purposes."

62 NATIONAL INTERNAL REVENUE CODE, sec. 283. A similar provision is likewise found in the R.A. No. 11639, the General Appropriations Act FY 2022.

63 REP. ACT. NO. 11636, sec. 1.

This of course, does not give the Executive unbridled discretion, nor does it relieve the Executive from its duty to correctly determine the propriety of the BIR's assessments or the proper amount of taxes to be paid. However, it behooves us to distinguish the nature of taxes owed by government agencies, from those owed by private individuals or entities.

On a final note, it appears from the records that this case involves questions of fact beyond the Court's jurisdiction. These are inappropriate for a Petition under Rule 45 which is limited only to questions of law.[64] It should not be necessary for us to reiterate that this Court is not a trier of facts.

Clearly, the CTA *En Banc* committed no error in denying the petition. The foregoing discussions leave this Court with no other recourse but to deny the Petition, and to hold, as it did in *PSALM v. CIR*,[65] that:

> "(1) As regards **private entities and the BIR**, the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR is vested in the CIR subject to the exclusive appellate jurisdiction of the CTA, in accordance with Section 4 of the NIRC; and (2) Where the disputing parties are **all public entities** (covers disputes between the BIR and other government entities), the case shall be governed by PD 242." (emphasis in the original)

WHEREFORE, the Petition is **DENIED**. The Decision, dated 4 November 2021, and the Resolution, dated 4 November 2021, of the Court of Tax Appeals *en banc* in CTA EB No. 2241 (CTA Case No. 10198) are **AFFIRMED**.

SO ORDERED.

MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:

See Concurring Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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64 RULES OF COURT, Rule 45, sec. 1.
65 G.R. No. 198146, August 8, 2017.

I join the dissent of J. Dimaampao

HENRI JEAN PAUL B. INTING
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

I dissent.
See Dissenting Opinion

JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

I attest 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.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

ALEXANDER G. GESMUNDO
Chief Justice