



Republic of the Philippines
CENTRAL BOARD OF ASSESSMENT APPEALS
M a n i l a

PETRON CORPORATION,
Petitioner-Appellant,

-versus-

CBAA Case No. L-107
(LBAA Case No. BAT-06-01)

LOCAL BOARD OF ASSESSMENT
APPEALS OF THE PROVINCE OF
BATAAN,
Appellee,

-and-

MUNICIPALITY OF LIMAY, MS. JOCELYN
LINAO, in her capacity as Municipal
Assessor, HON. MUNICIPAL MAYOR, and
ENGR. RICARDO C. HERRERA, in his
capacity as OIC-Provincial Assessor,
Province of Bataan,
Respondents-Appellees.

X ----- X
PETRON CORPORATION,
Petitioner-Appellant,

-versus-

CBAA Case No. L-108
(LBAA Case No. BAT-06-02)

LOCAL BOARD OF ASSESSMENT
APPEALS OF THE PROVINCE OF
BATAAN,
Appellee,

-and-

MUNICIPALITY OF LIMAY, MS. JOCELYN
LINAO, in her capacity as Municipal
Assessor, HON. MUNICIPAL MAYOR OF
THE MUNICIPALITY OF LIMAY, BATAAN
and ENGR. RICARDO C. HERRERA, in his
capacity as OIC-Provincial Assessor,
Province of Bataan,
Respondents-Appellees.

X ----- X
PETRON CORPORATION,
Petitioner-Appellant,

-versus-

CBAA Case No. L-112
(LBAA Case No. 2007-01)

LOCAL BOARD OF ASSESSMENT
APPEALS OF THE PROVINCE OF
BATAAN,

Appellee,

-and-

HON. ENRIQUE T. GARCIA, in his
capacity as Provincial Governor, MS.
EMERLINDA S. TALENTO, in her Capacity
as Provincial Treasurer, and ENGR.
RICARDO C. HERRERA, in His capacity
as OIC-Provincial Assessor, Province of
Bataan.

Respondents-Appellee.

X ----- X

PETRON CORPORATION,
Petitioner-Appellant,

-versus

CBAA Case No. L-114
(LBAA Case No. 2009-01)

LOCAL BOARD OF ASSESSMENT
APPEALS OF THE PROVINCE OF
BATAAN,

Appellee,

-and-

ENGR. RICARDO C. HERRERA, in his
Capacity as OIC-Provincial Assessor,
Province of Bataan.

Respondent-Appellee.

X ----- X

JOINT DECISION

These Appeals were separately filed by petitioner-appellant Petron Corporation against the above respondents-appellees but subsequently consolidated.

In CBAA Case No. L-107, petitioner-appellant Petron assailed the Resolution dated August 17, 2010 (Annex A, Appeal Memorandum) of the Local Board of Assessment Appeals (LBAA) of Balanga City, Bataan which dismissed Petron's Petition dated February 2, 2006 wherein Petron sought to nullify the revised assessment of real property tax and the corresponding tax declarations of Petron's property in Bataan.

In the Resolution of the LBAA of Balanga City, Bataan, the Board said:

“In its Appeal, petitioner contends that the assessment covering the production equipment and machineries related to Petron’s LVN Isomerization and Gas oil Hydrotreater Project is unjust, contrary to law, public policy and national economic policy and is null and void as it is beyond the power of the respondents to make.

According to the Petitioner, the Isomerization and Hydrotreater facilities of Petron enjoyed a five-year real property tax exemption considering that these are new investments under the Downstream Oil Industry Deregulation Act of 1998 (RA 8479) which have been registered as such with the Board of Investments (BOI). Petitioner submitted copies of BOI Certificates of Registration Nos. 2004-004 and 2004-005, both dated January 7, 2004 (Annexes M & N of the Petition)”.

As adverted to above, petitioner-appellant’s appeal was dismissed by the LBAA of Balanga City, Bataan. Hence, the instant appeal to this Board.

In connection with CBAA Case No. L-108, Petron is questioning the Resolution of the LBAA of Balanga City of Balanga, Bataan dated August 17, 2010 which dismissed Petron’s Petition dated April 20, 2006 seeking to nullify the revised assessment of real property tax for the years 1996 to 2006 in the total amount of P17,216,366.22 and the corresponding tax declarations issued for the leased foreshore area in Limay, Bataan.

It appears that petitioner’s leased foreshore lands were assessed by the Municipal Assessor of Limay, Bataan for the years 1996 to 2006. The assessment was appealed by petitioner to the LBAA of Balanga, Bataan.

The grounds for the appeal are as follows:

- a) Foreshore lands are owned by the State and hence, exempt from real property tax;
- b) Granting that the leased foreshore lands are subject to real property tax, payment has already been made by petitioner Petron;
- c) The revised market values of the leased foreshore lands are not fair and reasonable; and;
- d) The collection of the real property tax has lapsed.

On August 17, 2010, the LBAA of Balanga, Bataan dismissed petitioner-appellant’s appeal for lack of merit.

Thus, the case before us.

Relative to CBAA Case No. L-112, petitioner-appellant Petron is appealing the Resolution of the LBAA of Balanga City dated August 31, 2010 which dismissed Petron's Petition dated August 16, 2007 seeking to nullify the assessment of real property tax against Petron's machineries and equipment in Limay, Bataan.

The records show that Petron owns machineries and equipment in the Province of Bataan with an aggregate value of P14,804,401,609.62: The Provincial Treasurer of Bataan sent a Notice of Delinquent taxes to petitioner requiring the payment of real property tax due as of June 30, 2007 in the total sum of P1,731,025,403.06.

In support of its appeal, petitioner cites the following grounds:

- 1. The subject assessments for back taxes are made for real properties that have been previously declared and cover a period of more than ten (10) years in violation of law;*
- 2. The increased assessments of the Provincial Assessor did not comply with the law and its implementing regulations;*
- 3. The Fair market Value/Replacement Cost used by the Provincial Assessor erroneously included items that should have been properly excluded;*
- 4. Advance payment and prompt payment discounts were not considered by the Provincial Assessor in determining the fair market value and the assessment value of the real properties;*
- 5. The subject assessments, having been made after January 1, 2007 shall take effect on January 1, 2008.*

As earlier mentioned, petitioner-appellant's appeal was dismissed. Hence, this case before the Board.

Anent CBAA Case No. L-114, petitioner questions the ruling of the LBAA of Balanga City, Bataan in the Resolution dated December 22, 2010 in so far as the assailed Resolution held that the five (5) year exemption of petitioner Petron for real estate tax under Section 9 of R.A. No. 8479 (Downstream Oil Industry Oil Deregulation Act of 1998) does not commence from the date of the commercial operation of the machineries but from the date of the issuance of the Board of Investments of Petron's Certificate of Registration on December 20, 2005 or until December 20, 2010 only.

Respondents-appellees interposed their respective Answers and Petitioner-Appellant, its Reply thereto.

On April 25, 2011, the parties filed a Joint Motion (Annex "A", pages 1 to 3), assisted by their respective counsel, submitting their attached Compromise Agreement dated April 15, 2011, stating that the parties have terminated their dispute amicably and praying that the same be approved and judgment rendered in accordance therewith. Attached thereof are Resolutions dated March 28, 2011 and April 4, 2011 of the Sangguniang Panlalawigan (Annexes "B", pages 1 to 4 and "C", pages 1 to 5).

On April 26, 2011, they submitted a Joint Manifestation and Motion attaching therewith a Resolution of the Sangguniang Bayan of Limay, Bataan expressing its strong support to the Sangguniang Panlalawigan's Resolution and its conformity to the Compromise Agreement.

The Compromise Agreement is reproduced herein as follows:

COMPROMISE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

*This **Compromise Agreement** made and entered into this ____ day of April 15, 2011, at Makati City, by and between:*

***RICARDO C. HERRERA**, in his capacity as OIC Provincial Assessor of the Province of Bataan (the "Provincial Assessor"), **EMERLINDA S. TALENTO**, in her capacity as the Provincial Treasurer of the Province of Bataan (the "Provincial Treasurer") and the Provincial Governor of Bataan, **HON. ENRIQUE T. GARCIA JR.** all with official address at Capitol Compound, Balanga City, Bataan, as authorized under Sangguniang Panlalawigan Resolution Nos. 42 and 44, dated March 28 and April 4, 2011, respectively, copies of which are attached hereto and made integral parts hereof as **Annexes "A" and "B"**;*

- and -

***PETRON CORPORATION**, a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at SMC Head Office Complex, 40 San Miguel Avenue, Mandaluyong City, represented in this transaction by **ERIC O. RECTO**, President and **JOEL ANGELO C. CRUZ**, AVP-General Counsel, whose authority to sign this Agreement is evidenced by a copy of the Secretary's Certificate attached hereto and made an integral part hereof as **Annex "C"**, and hereinafter referred to as **"PETRON"**;*

WITNESSETH, That:

WHEREAS, on June 18, 2007, the Province of Bataan, through its Provincial Assessor, issued a Notice of Revised Assessment and Tax Declaration Nos. 19406 to 19430 (the "2007 Tax Declarations") over real properties consisting of machineries and equipment located within the refinery plant of PETRON based on their replacement value as derived from the acquisition report submitted by PETRON;

WHEREAS, on the basis of such 2007 Tax Declarations, the Provincial Treasurer, on June 19, 2007, issued a Notice of Delinquent Real Property Tax against PETRON for deficiency taxes for the period beginning in the year 1994 up to June 30, 2007 in the total amount of One Billion Seven Hundred Thirty One Million Twenty Five Thousand Four Hundred Three and 6/100 Pesos (P1,731,025,403.06);

WHEREAS, the Provincial Assessor and the Provincial Treasurer also assessed Petron for real property taxes on its foreshore and offshore lease with the Department of Environment and Natural Resources (Tax Declaration Nos. 17225 and 17226), the Hydrotreater and Isomerization and Power Rationalization projects and facilities (Tax Declaration Nos. 16288 and 17116) and the Petro Fluid Catalytic Cracker Project (Tax Declaration Nos. 21739 to 21753);

WHEREAS, Petron disputed and appealed all the foregoing assessments before the Local Board of Assessment Appeals of Bataan (LBAA), to wit:

1. LBAA Case No. BAT-06-01 entitled "Petron Corporation v. Municipality of Limay, Bataan, Ms. Jocelyn B. Linao, in her capacity as Municipal Assessor, Hon. Nelson C. David, in his capacity as Municipal Mayor and Engr. Ricardo C. Herrera, in his capacity as OIC-Provincial Assessor, Province of Bataan";
2. LBAA Case No. 2009-01 entitled "Petron Corporation v. Eng'r. Herrera, in his capacity as OIC-Provincial Assessor, Province of Bataan";
3. LBAA Case No. 2007-01 entitled "Petron Corporation v. Gov. Enrique T. Garcia, in his capacity as Provincial Governor, Ms. Emerlinda S. Talento, in her capacity as Provincial Treasurer, and Eng'r. Ricardo C. Herrera, in his capacity as OIC-Provincial Assessor, Province of Bataan";
4. LBAA Case No. BAT-06-02 entitled "Petron Corporation v. Municipality of Limay, Bataan, Ms. Jocelyn B. Limay (sic), in her capacity as Municipal Assessor, Hon. Nelson C. David, in his capacity as Municipal Mayor and Engr. Ricardo C. Herrera, in his capacity as OIC-Provincial Assessor, Province of Bataan"

where some issues were decided in favor of the Province of Bataan and others in favor of Petron;

WHEREAS, Petron elevated the LBAA rulings to the Central Board of Assessment Appeals (CBAA) to wit:

1. CBAA Case No. L-107 entitled "Petron Corporation v. LBAA, Municipality of Limay, Bataan et al."
2. CBAA Case No. L-114 entitled "Petron Corporation v. LBAA and Engr. Ricardo C. Herrera, in his capacity as OIC-Provincial Assessor, Province of Bataan"

3. CBAA Case No. L-112 entitled "Petron Corporation v. LBAA, Gov. Enrique T. Garcia, et al."
4. CBAA Case No. L-108 entitled "Petron Corporation v. LBAA, Municipality of Limay, Bataan, et al."

which cases are presently pending before the CBAA;

WHEREAS, PETRON posted surety bonds with the LBAA in lieu of payment under protest in all its appealed cases;

WHEREAS, the Supreme Court, in the case of Talento, etc. vs. Escalada, et al. (G.R. No. 180884, 27 June 2008), held that the posting of surety bond may be allowed in lieu of the collection of real property taxes by a local government unit pending the resolution of a tax protest;

WHEREAS, the resolution of protests on, and appeals of, assessments of real property taxes ordinarily takes several years and such cases may eventually reach the Supreme Court before they are finally resolved;

WHEREAS, the Bureau of Local Government Finance ("BLGF"), through a letter dated December 7, 2010, in response to the request for an opinion of Governor Enrique T. Garcia, Jr. dated November 4, 2010, addressed to the Department of Finance ("DOF"), stated that the formula for the computation of Reproduction/Replacement Cost as provided in the Manual on Real Property Appraisal and Assessment Operations, where foreign currency exchange rates at the time of acquisition and during reassessments are considered, applies only to machineries other than brand new machineries, which opinion has been reaffirmed in several other opinions by the BLGF;

WHEREAS, to buy peace and put an end to a protracted litigation, the parties have agreed on a compromise settlement;

WHEREAS, the signatories of this Compromise Agreement are authorized by the respective boards of the parties they are representing to enter into this agreement;

NOW THEREFORE, for and in consideration of the foregoing premises, the parties herein have agreed to settle their disputes with respect to all outstanding real property taxes assessed against PETRON up to the end of the year 2011, and to put an end to any and all prior, existing and future claims by, or litigation between, them arising from the facts and circumstances relating to the properties covered by said tax declarations and hereby mutually agree as follow:

Section 1. Approval by the CBAA. – This Compromise Agreement shall be valid and effective only upon approval by the CBAA and its determination that the same is not contrary to law, morals, public policy and public order in the case pending before it.

Section 2. Issuance of New Tax Declarations. - Upon approval of this Compromise Agreement by the CBAA, the Provincial Assessor shall issue new tax declarations over the same properties covered by the 2007 Tax Declarations applying the allowable depreciations from 1994 to 2011 in accordance with the provisions of the Local Government Code on allowable depreciations of machineries.

All newly constructed structures or brand new plants or equipment shall be assessed their fair market value based on acquisition costs as provided in the Local Government Code.

Section 3. Full Settlement of Real Property Taxes on Properties subject of CBAA Case No. L-112, the Hydrotreater and Isomerization facilities subject of CBAA Case No. 107, the Foreshore and Offshore

Assessments subject of CBAA Case No. L-108 and the Petro Fluid Catalytic Cracker Project subject of CBAA Case No. L-114. –

Upon approval of this Compromise Agreement by the CBAA, and issuance of the new tax declarations as provided in Section 2 hereof, PETRON shall pay to the Provincial Treasurer the total amount of Three Hundred Million Seventy Three Thousand Three Hundred Thirty-Nine and 72/100 Pesos. (P300,073,339.72) in full settlement and satisfaction of the disputed assessments for deficiency real property taxes from 1994 to 2011, for the above described properties of Petron, inclusive of interests and penalties. The Provincial Treasurer shall remit the respective shares of the other local government units from the said real property taxes in accordance to the provisions of the Local Government Code.

The amount of P300,073,339.72 shall be in addition to the payments of P2,659,555,530.17 made by Petron for real property taxes from 1994 to 2011.

The payment of the real property tax for 2011 includes the real property taxes for the foreshore and offshore lease, the LVN Isomerization, Gas Oil Hydrotreater, and Power Rationalization projects and facilities.

Petron further undertakes to pay the real property taxes for all the above described properties including its Petro Fluid Catalytic Cracker Project beginning the year 2012.

Section 4. Dismissal of CBAA Cases. – *All the aforementioned CBAA cases shall be dismissed with prejudice upon approval of this Compromise Agreement by the CBAA subject to compliance by each of the parties of their respective obligations under this Compromise Agreement.*

Section 5. Mutual Release and Discharge. – *Upon compliance by each of the parties of their respective obligations under this Compromise Agreement and the dismissal of the cases:*

(a) Each of the parties hereby irrevocably and forever, absolutely and unconditionally waive, release, quitclaim, discharge and hold free and harmless each of the other parties, and any of their respective officials, directors, officers, agents, assigns, representatives, or successors-in-interest, from any and all suits, actions, sums of money, damages, claims or demands of whatever nature and kind, disclosed or undisclosed, pending or potential, arising out of or in connection with the controversy arising from the same facts, incident, claim, cause or causes of action, including but not limited to claims for any deficiency or back real property taxes, interest and/or penalties.

(b) The parties hereby undertake and warrant that they will not directly or indirectly, institute or cause the institution or any complaint, action, suit, claim or demand whatsoever of whatever nature and kind, whether civil, criminal or administrative, against each other, including their respective officials, officers, directors, agents, assigns or successors-in-interest, in any court of law, prosecutor's office, administrative body or any other forum, body or tribunal in connection with the controversy arising from the same facts, incidents, claim, cause or causes of action in LBAA Case No. 2007-01/CBAA Case No. L-112, LBAA Case No. BAT-06-01/CBAA Case No. L-107, LBAA Case No. BAT-06-02/CBAA Case No. L-108 and LBAA Case No. 2009-01/CBAA Case No. L-114.

Section 6. Non-Admission. – *The execution of this Compromise Agreement and/or the performance of the obligations and actions provided herein shall not be deemed, nor constitute an admission, express or implied, by either party of any claim or demand whatsoever of the other, it being understood that the parties have mutually and freely entered into and performed these acts in the spirit of good faith and understanding and to avoid or terminate protracted and expensive litigations.*

Section 7. Good Faith. – The parties have voluntarily and in good faith entered into this Compromise Agreement in order to settle any and all liability with respect to real property taxes due on properties subject of the mentioned cases until calendar year 2011. The parties further confirm that the execution of this Compromise Agreement is not tainted by any mistake, fraud, violence, undue influence or falsity of documents on the part of any party.

IN WITNESS WHEREOF, the parties hereto have caused this Compromise Agreement to be signed by their authorized signatories on the date and place above written.

THE PROVINCE OF BATAAN

Represented By:

(Signed)
RICARDO C. HERRERA
In his capacity as Provincial Assessor of the Province of Bataan

(Signed)
EMERLINDA S. TALENTO
In her capacity as Provincial Treasurer of the Province of Bataan

(Signed)
ENRIQUE T. GARCIA, JR.
*Governor
as authorized under
Sangguniang Panlalawigan
Resolution Nos. 42 and 44, series of 2011*

PETRON CORPORATION

Represented By:

(Signed)
ERIC O. RECTO
President

(Signed)
JOEL ANGELO C. CRUZ
AVP-General Counsel

SIGNED IN THE PRESENCE OF:

(Signed)

(Signed)

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
) S.S.

BEFORE ME, a Notary Public for and in Makati City, this 15 APR 2011, personally appeared:

<u>Name</u>	<u>Competent Evidence of Identity</u>	<u>Date/Place Issued</u>
ENRIQUE T. GARCIA, JR. <i>in his capacity as Provincial Governor of the Province of Bataan</i>	Voter's ID No. 08030165A11340ETG10000	November 7, 2003/ Balanga City
ERIC O. RECTO, <i>President, Petron Corporation</i>	Passport No. XX-2110242	September 25, 2008/ Manila
JOEL ANGELO C. CRUZ, <i>AVP-General Counsel, Petron Corporation</i>	SSS No. 03-8389844-7	

identified by me through competent evidence of their identities bearing their photographs and signatures to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their own free act and voluntary deed and the free act and voluntary deed of the corporation they represent, they being duly authorized to execute the foregoing instrument.

This instrument refers to a Compromise Agreement, which consists of seven (7) pages, including the pages whereon this acknowledgement is written excluding the Annexes.

WITNESS MY HAND AND NOTARIAL SEAL on the date, year and place first above written,

Doc. No. 105;
Page No. 22;
Book No. III;
Series of 2011.

(Signed)
CHRISTINE F. BIO
Appointment No. M-162
Notary Public for Makati City
Until December 31, 2011
Roll No. 54285
PTR No. 260714/01-08-2011/Makati City
IBP No. 844880/01-06-2011/Sorsogon
MCLE Compliance No. III-0003203/May 4, 2009
15/F Sagittarius Condominium
H.V. dela Costa St., Salcedo Village, Makati City

REPUBLIC OF THE PHILIPPINES)
) S.S.

BEFORE ME, a Notary Public for and in Balanga City, Bataan, this 15 April 2011, personally appeared:

<u>Name</u>	<u>Competent Evidence of Identity</u>	<u>Date/Place Issued</u>
RICARDO C. HERRERA , in his capacity as OIC-Provincial Assessor of the Province of Bataan	Voter's ID No. 08030162BL2763RCH10000	December 9, 2003/ Balanga City
EMERLINDA S. TALENTO , in her capacity as Provincial Treasurer of the Province of Bataan	Passport No. EB-0700839	August 5, 2010/ DFA Pampanga

identified by me through competent evidence of their identities bearing their photographs and signatures to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their own free act and voluntary deed and the free act and voluntary deed of the corporation they represent, they being duly authorized to execute the foregoing instrument.

This instrument refers to a Compromise Agreement, which consists of seven (7) pages, including the pages whereon this acknowledgement is written excluding the Annexes.

WITNESS MY HAND AND NOTARIAL SEAL on the date, year and place first above written,

Doc. No. 9;
Page No. 3;
Book No. II;
Series of 2011.

(Signed)
Atty. Jenny Vi C. Trinidad-Laygo
Notary Public
NC-284-10 Until December 31, 2011
PTR No. 0486488
01/03/2011; Balanga City, Bataan
IBP No. 662041; 01/0 /2011

After a close examination of the Compromise Agreement, this Board finds the same to be in order, fair, equitable and not contrary to existing laws, morals, good customs, public order and public policy.

WHEREFORE, premises considered and in the interest of sound and speedy administration of justice, the COMPROMISE AGREEMENT is approved to the extent compatible with law.

As prayed for by the parties, these cases are dismissed with prejudice. They are hereby enjoined to strictly comply with the terms and conditions of the same.

SO ORDERED.

Manila, Philippines, May 3, 2011.

(Signed)
OFELIA A. MARQUEZ
Chairman

(Signed)
RAFAEL O. CORTES
Member

(Signed)
ROBERTO D. GEOTINA
Member