

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

CAMBAYAS MINING CORPORATION
and HERITAGE RESOURCES & MINING
CORPORATION (Service Contractor),
Petitioners-Appellants,

CBAA CASE NO. V-23

- versus -

THE PROVINCIAL ASSESSOR OF,
EASTERN SAMAR,
Respondent- Appellee

LBAA Case No. 001-(2005)

- and –

THE LOCAL BOARD OF ASSESSMENT
APPEALS OF THE PROVINCE OF
EASTERN SAMAR,
Appellees,

X-----X

R E S O L U T I O N

On January 11, 2006, this Board promulgated a Decision in the above-entitled case, the dispositive portion of which reads:

“WHEREFORE, the questioned assessments herein are hereby DECLARED null and void for lack of authority on the part of the Respondent Provincial Assessor to issue said assessments.”

Not satisfied, Respondent-Appellee filed his Motion for Reconsideration on May 3, 2006.

Alleging that he received this Board’s Decision on April 11, 2006, Respondent-Appellee states that this Board gravely erred in holding that:

I

THE PETITIONERS-APPELLANTS MAY NOT PAY THE REALTY TAXES ON THE QUESTIONED ASSESSMENTS BEFORE THE LOCAL BOARD MAY ENTERTAIN PETITIONER-APPELLANT’S APPEAL.

II

THE RESPONDENT PROVINCIAL ASSESSOR HAD NO AUTHORITY, POWER AND/OR JURISDICTION TO ISSUE THE QUESTIONED ASSESSMENT.

On the matter of the first supposed error cited by Respondent-Appellee, this Board, in its Decision of January 11, 006, thoroughly discussed the subject of

whether or not Petitioners-Appellants should first pay the realty taxes as assessed by Respondent-Appellee before the Local Board may entertain Petitioners-Appellants appeal thereat. We feel, therefore, that it would be redundant for us to discuss the same matter here.

On the matter of the Respondent-Appellee's authority – or lack thereof – to issue the questioned assessments, the Provincial Assessor of Eastern Samar, through its Provincial Legal Officer, attached to the instant motion, as Annex "A" thereof, a machine copy of the "questioned legislative enactment" consisting of three hundred sixty (360) pages, excluding the Letter of Transmittal and the Table of Contents.

In reality, the said "legislative enactment" is nothing more than the Schedule of Fair Market Values transmitted by Respondent-Appellee to the Sangguniang Panlalawigan of Eastern Samar for enactment by ordinance of or by the latter.

It remains, therefore, that the provisions of Sections 212 and 218 of R.A. 7160, otherwise known as the Local Government Code of 1991, have not been complied with.

We sympathize with the plight of the Province of Eastern Samar but, needless to say, the law must be strictly observed. In *Reyes, et al. v. Almanzor, et al.* (G.R. No. L-49839-46), the Supreme Court said:

" . . .The power to tax is an attribute of sovereignty. In fact, it is the strongest of the powers of government. But for all its plenitude, the power to tax is not unconfined as there are restrictions. Adversely affecting as it does property rights, both the due process and equal protection clauses of the Constitution may be invoked to invalidate in appropriate cases a revenue measure. If it were otherwise, then there would be truth to the 1903 dictum of Chief Justice Marshall that 'the power to tax includes the power to destroy.' The web of unreality spun from Marshall's famous dictum was brushed away by one stroke of Mr. Justice Home's pen, thus, 'the power to tax is not the power to destroy while this Court sits.' So it is in the Philippines.: (*Sison, Jr. v. Ancheta*, 130 SCRA 655 [1984]; *Abelgas, Jr. v. Commissioner of Internal Revenue*, 139 SCRA 439 [1985]).

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

Manila, Philippines, February 14, 2007.

(Signed)
CESAR S. GUTIERREZ
Chairman

(Signed)
ANGEL P. PALOMARES
Member

(Signed)
RAFAEL O. CORTES
Member