

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

NATIONAL TRANSMISSION
CORPORATION (TRANSCO),
Petitioner-Appellant,

CBAA CASE NO. V-26

- versus -

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

- and -

THE PROVINCIAL ASSESSOR OF
LEYTE AND THE MUNICIPAL
ASSESSOR OF ISABEL, LEYTE.
Respondents-Appellees.

x ----- x

R E S O L U T I O N

On September 18, 2007, this Board rendered a Decision on the above-entitled case, the dispositive portion of which decision reads as follows:

“WHEREFORE, premises considered, the Decision of the Local Board of Assessment Appeals of the Province of Leyte dated April 12, 2007 is hereby REVERSED and SET ASIDE; and the Provincial Assessor of the Province of Leyte and the Municipal Assessor of Isabel Leyte, are hereby ORDERED to reclassify the subject control house at Isabel, Leyte, covered by Tax Declaration No. 20-17015-00290, from taxable to exempt.”

Not satisfied, Respondent-Appellant Provincial Assessor of Leyte, by himself as his own counsel, moves for a reconsideration of the said Decision. In his Motion for Reconsideration dated on September 28, 2007 at Tacloban City, Respondent-Appellee Provincial Assessor alleges that he received a copy of the aforementioned decision of this Board on September 8, 2007.

Respondent-Appellee Provincial Assessor takes exceptions to certain portions of the said decision as follows:

1. That it is not true that “Respondent-Appellee Provincial Assessor of Leyte in his Answer dated August 7, 2007, and received by this Board on August 14, 2007, does not refute or dispute the nature, purpose or function of the control house as argued by Petitioner. . .”; and

2. That it is not true that “the only objection by the appellee being that the control house physically appears to be a building.”

Both the abovementioned exceptions are in relation to the Supreme Court decision in the case of *RCPI vs. Provincial Assessor of Cotabato, et. al.*, G.R. No. 144486, April 13, 2005, which, Respondent-Appellee Provincial Assessor now claims, superseded the Supreme Court decisions in (1) *Lu Do & Ym Corporation, doing business under the trade name of Philippine Corn Products Company vs. Central Bank of the Philippines and Commissioner of Internal Revenue vs. Philippine Corn Products, Inc. (Lu Do & Ym Corporation)*, G.R. Nos. L-13033 and L-13701, 1960 May 31, First Division; and in (2) *Department of Environment and Natural Resources (DENR) vs. Gregorio Daraman, et. al.*, G.R. No. 125797, February 15, 2002.

The subject matter in *RCPI v. Provincial Assessor of South Cotabato*, supra, was the interpretation of the tax provision in RCPI's franchise. Says the Supreme Court's First Division:

“As found by the appellate court, RCPI's radio relay station tower, radio station building, and *machinery shed* are real properties and are thus subject to the real property tax. Section 14 of R.A. 2036, as amended by R.A. 4054, states that “[i]n consideration of the franchise and rights hereby granted and any provision of law to the contrary notwithstanding, **the grantee shall pay the same taxes as are now or may hereafter be required by law** from individuals, co-partnerships, private, public or quasi-public associations, corporations or joint stock companies, **on real estate, buildings** and other personal property x x x.” (Underscoring supplied)

The word “shed” is defined as “**1 a** : a slight structure (as a penthouse, lean-to, or partially open separate building built primarily for shelter or storage: OUTBUILDING: esp. a single-storied building with one or more sides unenclosed **b** : any of the various buildings felt to resemble a shed (as in openness of structure, in use; or in having a pent roof): as (1) : WOODSHED (2) : a covered structure for housing aerostats **2 archaic** : a place of shelter: **a** : an inferior dwelling or humble domicile; HUT **b** : the hiding or resting place of an animal : DEN, LAIR, NEST. (Webster's Third New International Dictionary of English Language, Unabridged, 1966 Ed., p. 2090)

Quite simply, the word “shed” is defined as “1 a one-storey usu. of wood for storage or shelter for animals, etc., or as a workshop. 2 a large roofed structure with one side open, for storing or maintaining machinery, etc.” (The Oxford American Dictionary of Current English, 1999 Ed., p. 743).

Simpler still, the word “shed” is a “small structure for shelter or storage.” (Webster’s New World Dictionary, 3rd ed., p. 541)

The instant appeal, on the other hand, involves the definitions of the words “machinery” and “equipment”.

In *Lu Do & Ym Corporation, etc. vs. Central Bank of the Philippines and Commissioner of Internal Revenue vs. Philippine Corn Products, Inc. (Lu Do & Ym Corporation)*, supra, the Supreme Court First Division said that “**Equipment** has been defined as ‘ - - - In industry, physical facilities available for production, including buildings, machineries, tools, etc. (Webster’s New International Dictionary, Second Edition).”

In *Department of Environment and Natural Resources (DENR) vs. Gregorio Daraman, et. al.*, supra, the Supreme Court ruled, that “*Machinery* is a collective term for machineries and appliances used in the industrial arts (Federico B. Moreno, Philippine Law Dictionary, 2nd ed., p. 371, citing *Kolambugan Lumber & Development Co. v. Yia*, 56 Phil. 201, 203, October 15, 1931); **equipment covers physical facilities available for production, including buildings, machineries and tools** (*Ibid*, p. 211, citing *Lu Do & Ym Corp. v. Central Bank of the Philippines*, 108 Phil, 566, 572, May 31, 1960)”. (Emphasis supplied)

Section 199(o) of R.A. 7160 states that “Machinery” embraces machines, **equipment**, mechanical contrivances, instruments, appliances or apparatus which may or may not be attached, permanently or temporarily, to the real property. It includes the physical facilities for production, the installations and appurtenant service facilities, those which are mobile, self-powered or self-propelled, and those not permanently attached to the real

property **which are actually, directly, and exclusively used to meet the needs of the particular industry, business or activity and which, by their very nature and purpose, are designed for or necessary to its manufacturing, mining, logging, commercial, industrial or agricultural purposes;**” (emphasis ours)

TRANSCO’s “control house” is definitely more than just a “machinery shed”. It is essentially an equipment within the purview of the definition of machinery under the law. The control house is the heart of the operation as it determines the transmission or electricity to the Municipality of Isabel and other parts of the Province of Leyte. Without the control house, the substation cannot activate its transmission system.

There is no way to separate the control house from the other equipment and mechanical contrivances therein, for the control house is an indispensable part of the equipment and machinery’s program to operate. Without the control house, the equipment and machinery cannot function to serve the purpose of transmitting electricity.

The control house, where the control panels and the monitoring equipment are located, is the “brains” of the system. It is the command post directing, regulating and monitoring the performance and operation of the machinery usually through sophisticated and high tech computers and integrated electronics, under prescribed and regulated atmosphere and temperatures. And these are manned by skilled personnel who must have office amenities conducive to 24-hour grind. These electronic panels and monitors cannot be left unattended.

To qualify for exemption under Section 234(c) of R.A. 7160, the following elements must be present, viz:

- a. The real property sought to be exempted must be a “machinery” as defined under Section 199(o) of R.A. 7160;
- b. The “machinery” must be owned and actually, directly and exclusively used by a local water district or a government-owned or –controlled corporation; and

- c. The local water district or government-owned or –controlled corporation must be engaged in the supply and distribution of water and/or generation and transmission of electric power.

Even if we, for argument purposes, placed RCPI's "machinery shed" in the same category with TRANSCO's "control house", still RCPI's "machinery shed", though may be classified as "equipment" embraced under the term "machinery", would not qualify for exemption from the realty tax under Section 234(c) for the simple reason that RCPI was neither a local water district or a government-owned or –controlled corporation nor is it engaged in the supply and distribution of water and/or generation and transmission of electric power. It did not matter, therefore, whether RCPI's "machinery shed" were classified as "building" or "equipment". Both classifications are subject to the same rate of realty tax.

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

SO ORDERED.

Manila, Philippines, November 15, 2007.

(Signed)
CESAR S. GUTIERREZ
Chairman

(Signed)
ANGEL P. PALOMARES
Member

(Signed)
RAFAEL O. CORTES
Member