REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

CANLUBANG WATERWORKS CORPORATION, *Petitioner,*	**CTA CASE NO. 10682**
-versus-	Members: **RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 10 2024

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9:15 a.m.

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review[1] ("Petition"), filed on 22 November 2021, praying that this Court declare (a) the Warrant of Distraint and/or Levy,[2] issued against it on 15 October 2021 ("Assailed WDL"), void; and (b) petitioner no longer liable to pay any of the alleged deficiency national internal revenue taxes as assessed in Assessment Notice No. 56/1999.[3] Said Assessment Notice was allegedly attached to the Formal Letter of Demand[4] ("FLD"), dated 15 October 2002, which assessed petitioner for Income Tax ("IT"), Percentage Tax ("PT"), and Expanded Withholding TAX ("EWT") for calendar year ("CY") 1999.

The Parties

Petitioner Canlubang Waterworks Corporation ("Canlubang") is a corporation duly organized and existing under the laws of the Republic of the Philippines and is engaged in the business of operating and maintaining a water system in Canlubang, Calamba City, Laguna.[5]

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[1] Records, pp. 8-28.
[2] Exhibit "P-4", *id.*, pp. 308-309.
[3] *See* Petition for Review, p. 20, *id.*, p. 27.
[4] Exhibit "P-6", pp.322-323.
[5] *See* Petition for Review, p. 1, *id.*, p. 8.

Respondent is the duly appointed Commissioner of Internal Revenue ("CIR") who is tasked to assess and collect all national internal revenue taxes, fees, and charges, and to enforce all forfeitures, penalties, and fines connected therewith.[6]

The Facts

On 15 August 2002, respondent issued a Preliminary Assessment Notice[7] against petitioner.

Respondent then issued the FLD against petitioner on 15 October 2002 for the total amount of ₱271,100.61,[8] which the latter received in or around the year 2002.[9] Respondent followed this up with two (2) informal Collection Notices, dated 6 November 2003[10] and 14 January 2004.[11]

Petitioner responded by requesting a compromise settlement of its alleged tax liabilities through a letter, dated 8 March 2005.[12] Then, without waiting for respondent's reply to said request and treating it as approved, it paid a total of ₱56,879.80 representing down payment for the requested compromise settlement and submitted proof of such payments on 11 March 2005, a mere three (3) days after filing its request.[13]

Respondent subsequently issued a Final Notice Before Seizure on 8 March 2007, demanding that petitioner settle the full amount assessed in the FLD.[14] Petitioner replied via a letter, dated 18 April 2007, claiming to have already settled the amount through the aforementioned payments.[15]

Undeterred, respondent issued Warrant of Garnishment No. 056-02-08-001 on 18 March 2008[16] for the collection of ₱10,000.00.[17] Petitioner paid the amount sought,[18] and Revenue District Officer ("RDO") Artemio D. Aquino then lifted the Warrant of Garnishment on 2 September 2008.[19]

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6 *See* Pre-Trial Order, p. 2, *id.*, p. 504.
7 BIR Records, pp. 126-130.
8 *Supra* note 6.
9 *See* Petition for Review, p. 4, *id.*, p. 11.
10 BIR Records, p. 138.
11 *Id.*, p. 139.
12 *Supra* note 9.
13 *See* Petition for Review, pp. 4-5, *id.*, pp. 11-12.
14 *Supra* note 6.
15 *See* Petition for Review, p. 5, *id.*, p. 12.
16 *Supra* note 6.
17 *Supra* note 12.
18 *Ibid.*
19 *Ibid*; *see also* Exhibit "P-18", *id.*, p. 348.

Later, respondent issued the undated Warrant of Distraint and/or Levy No. 056-02-10-217.[20] The WDL sought to collect ₱271,400.60 and was received by petitioner on 29 March 2010, who replied on 6 April 2010 claiming that it had already settled its deficiency taxes for CY 2009, as allegedly stated in the 2 September 2008 letter of RDO Aquino.[21]

Almost a decade later, on 20 January 2020, respondent sent a letter to petitioner, inviting it to avail of the tax amnesty program as it still had a delinquent account relative to CY 1999.[22] Petitioner replied on 31 January 2020, once again insisting that its liabilities had already been settled and that respondent had allegedly even recognized this in the 2 September 2008 letter of RDO Aquino.[23]

Respondent answered this letter with a Notice of Denial on 13 September 2021, denying petitioner's application for compromise settlement and demanding the payment of ₱204,520.80 representing its alleged deficiency internal revenue taxes for CY 1999.[24] Petitioner argued against this through a letter, dated 28 September 2021, claiming that it had already settled the subject tax liabilities in full and that respondent's right to collect the subject amount has long since prescribed.[25]

Respondent, unconvinced, issued the Assailed WDL.,[26] which was personally served to petitioner on 21 October 2021.[27] Aggrieved, petitioner filed its Petition for Review with Urgent Motions to Suspend Collection of Tax and Dispense with Bond before this Court on 22 November 2021.

Acting on the pleading, the Court ordered respondent to comment on the Urgent Motions on 7 December 2021[28] and issued Summons[29] on 10 December 2021. Respondent complied with these by filing his Comment (on Petitioner's Urgent Motions to Suspend Collection of Tax and Dispense with Bond)[30] via registered mail on 22 December 2021 and his Answer (*Ad Cautelam*)[31] on 4 March 2022.

The Urgent Motions were then heard on 16 March 2022.[32]

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20 *Supra* note 6.
21 *See* Petition for Review, p. 6, *id.*, p. 13.
22 *See* Petition for Review, p. 7, *id.*, p 14.
23 *Ibid.*
24 *Ibid.*
25 *Ibid.*
26 *See* Pre-Trial Order, pp. 2-3, *id.*, pp. 504-505.
27 *See* Petition for Review, p. 7-8, *id.*, pp. 14-15.
28 *See* Resolution, dated 7 December 2021, *id.*, p. 200.
29 *Id.*, p. 201.
30 *Id.*, pp. 214-223.
31 *Id.*, pp. 240-252.
32 *See* Minutes of the hearing held on 16 March 2022, *id.*, p. 264.

Petitioner, in support of its Urgent Motions, filed a Formal Offer of Evidence[33] on 26 March 2022, while respondent filed his Comment/Opposition (on Petitioner's Formal Offer of Evidence for its Urgent Motions to Suspend Collection of Tax and Dispense with Bond) on 1 April 2022.[34] The Court admitted all offered exhibits and submitted the Urgent Motions for resolution on 5 May 2022.[35]

On 20 June 2022, the Court denied the Urgent Motions for lack of merit.[36]

Earlier, petitioner had also filed a Motion for Summary Judgment[37] on 8 June 2022, with respondent filing his Comment/Opposition Re: Petitioner's Motion for Summary Judgment dated 08 June 2022[38] on 29 June 2022. The Court denied the Motion for Summary Judgment for lack of merit on 20 September 2022.[39]

In relation to the main case, petitioner filed its Pre-Trial Brief[40] on 3 June 2022 while respondent filed his own Pre-Trial Brief on 6 June 2022.[41] Pre-Trial ensued on 20 September 2022,[42] and after the parties filed their Joint Stipulation of Facts and Issues[43] on 20 October 2022, the Court issued a Pre-Trial Order[44] on 24 November 2022.

Petitioner presented its sole witness on 29 November 2022.[45] Accordingly, it filed its Formal Offer of Evidence[46] on 9 December 2022, while respondent filed his Comment/Opposition (on Petitioner's Formal Offer of Evidence)[47] on 16 December 2022. The Court admitted all offered exhibits in a Resolution,[48] dated 8 February 2023.

Respondent presented his sole witness on 4 May 2023[49] and submitted his List of Exhibits[50] on 19 May 2023. As reply, petitioner filed its Comment/Opposition (to Respondent's Formal Offer of Evidence Dated May

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33 *Id.*, pp. 273-286.
34 *Id.*, pp. 396-399.
35 *See* Resolution, dated 5 May 2022, *id.*, pp. 405-406.
36 *See* Resolution dated 20 June 2022, *id.*, pp. 264-269.
37 *Id.*, pp. 437-446.
38 *Id.*, pp. 470-478.
39 *See* Resolution, dated 20 September 2022, *id.*, pp. 483-485.
40 *Id.*, pp. 407-428.
41 *Id.*, pp. 429-432.
42 *See* Minutes of the hearing held on 20 September 2022, *id.*, p. 487.
43 *Id.*, pp. 490-495.
44 *Id.*, pp. 503-510.
45 *See* Minutes of the hearing held on 29 November 2022, *id.*, p. 514.
46 *Id.*, pp. 519-532.
47 *Id.*, pp. 534-537.
48 *Id.*, pp. 546-547.
49 *See* Minutes of the hearing held on 4 May 2023, *id.*, p. 548.
50 *Id.*, pp. 550-556.

16, 2023)[51] on 6 June 2023. The Court admitted all offered exhibits in a Resolution,[52] dated 14 July 2023.

As ordered, petitioner filed its Memorandum[53] on 22 August 2023 while respondent filed his Memorandum[54] on 4 September 2023. Accordingly, the Court submitted the case for decision on 12 September 2023.[55]

Hence, this Decision.

The Issues

The sole issue in the case at bar is whether petitioner is liable to pay ₱271,400.61, plus additional interest, representing its alleged deficiency IT, EWT, and PT for calendar year 1999.[56]

Arguments of the Parties

Petitioner's Arguments

Petitioner's sole argument is that as the subject assessment was issued on 15 October 2002 and respondent's earliest valid collection effort was enacted on 18 March 2008, respondent's right to collect the assessed amount has already prescribed.[57]

Respondent's Arguments

Respondent, meanwhile, raises a number of arguments against petitioner's case:

1) The Petition for Review was filed late, as the thirty (30)-day reglementary period for filing an appeal to the Court of Tax Appeals ("CTA") should be counted from petitioner's receipt of the respondent's various assessment and collection notices, not its receipt of the WDL executed on 15 October 2021;[58]
2) The instant Petition for Review is actually an action for Mandamus seeking to compel respondent to compromise the subject tax and interest, but as the denial of petitioner's application of compromise is a

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[51] *Id.*, pp. 562-568.
[52] *Id.*, p. 572.
[53] *Id.*, pp. 573-592. The final page of the Memorandum was inadvertently excluded from the docket's pagination.
[54] *Id.*, pp. 593-605.
[55] *See* Minute Resolution, dated 12 September 2023, *id.*
[56] *See* Pre-Trial Order, p. 4, *id.*, p. 506.
[57] *See* Memorandum for Petitioner, pp. 13-19, *id.*, pp. 585-591.
[58] *See* Memorandum for Respondent, pp. 4-5, *id.*, pp. 596-597.

discretionary power of respondent that cannot be appealed from before the CTA, this Court does not have any jurisdiction over the case at bar;[59] and

3) As respondent has five (5) years from assessment within which to collect the assessed amount, and considering that he sent Collection Notices to petitioner as early as 6 November 2003, his right to collect the assessed amount has not yet prescribed.[60]

The Ruling of the Court

The Petition for Review must be granted.

This Court has jurisdiction over the instant Petition for Review, which can be fully resolved without affecting respondent's denial of petitioner's application for compromise.

Respondent insists that this Court lacks jurisdiction over the instant case. It offers two (2) arguments in support of this claim: (a) the Petition was filed late as it should have been filed thirty (30) days from one of respondent's collection or assessment notices; and (b) the instant Petition is actually an action for Mandamus seeking to compel respondent to accept petitioner's application for compromise. However, respondent's denial of said application is a discretionary power which cannot be appealed from before this Court.

Respondent is mistaken on both counts.

A taxpayer may raise an appeal to this Court from a Warrant of Distraint and/or Levy.

While this Court's jurisdiction over tax cases primarily covers decisions on disputed assessments and claims for refund, it also has jurisdiction over the CIR's decisions on "other matters" arising from the ***National Internal Revenue Code of 1997, as amended*** ("***NIRC***"). This is enshrined in ***Sec. 7(a)(1) of Republic Act*** ("***RA***") ***No. 1125, as amended***:

> "SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

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[59] *See* Memorandum for Respondent, pp. 5-8, *id.*, pp. 597-600.
[60] *See* Memorandum for Respondent, pp. 8-11, *id.*, pp. 600-603.

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**;

x x x"

(Emphasis supplied.)

This is then echoed in ***Sec. 3(a)(1), Rule 4 of the 2005 Revised Rules of the Court of Tax Appeals, as amended***:

"SEC. 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**;

x x x"

(Emphasis supplied.)

The term "other matters" is vague; exactly what matters arising from the relevant tax laws can be considered to fall under such a category is admittedly open to debate.

That said, the Supreme Court has consistently held that a Warrant of Distraint and/or Levy, and the validity thereof, is one (1) such example of a decision on an "other matter" falling squarely under the CTA's jurisdiction. The landmark case of ***Philippine Journalists, Inc. v. Commissioner of Internal Revenue***[61] is instructive here:

"The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of [Sec. 7(1) of RA No. 1125] covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. **The wording of the provision is clear and simple. It gives the CTA the jurisdiction to**

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[61] G.R. No. 162852, 16 December 2004.

> **determine if the warrant of distraint and levy issued by the BIR is valid and to rule if the Waiver of Statute of Limitations was validly effected.**" (Emphasis supplied.)

The Supreme Court has since upheld this stance in a long line of cases. A few recent such cases are ***Commissioner of Internal Revenue v. Manila Medical Services, Inc.***,[62] ***Commissioner of Internal Revenue v. Court of Tax Appeals Second Division, et al.***,[63] and ***La Flor Dela Isabela, Inc. v. Commissioner of Internal Revenue***.[64] These undermine respondent's contention that petitioner should have filed a judicial appeal thirty (30) days after its receipt of the assessment notices: as the CTA's jurisdiction is not limited to assessments and refunds, petitioner validly appealed the Assailed WDL to this Court. And as the latter is the issuance from which its Petition arose, the reglementary period should be counted from its receipt of said WDL.

Neither, for that matter, can the Court accept respondent's contention that petitioner should have filed a judicial appeal within thirty (30) days from receipt of the collection notices. To do so would be premature, as it had yet to file any administrative protest to said collection notices. Furthermore, respondent's argument that petitioner should have filed a judicial appeal rather than an application for compromise is obviously made in bad faith: respondent's own letter, dated 6 November 2003,[65] invited petitioner to apply for a compromise settlement. Agreeing with respondent on this point would thus put taxpayers in a lose-lose situation: reacting to an early and informal "Collection Notice" by filing a judicial appeal would be premature and contradict the principle of the exhaustion of administrative remedies; however, not filing such a judicial appeal would mean any future appeal would be filed late.

This Court cannot support the above position, so obviously unfair to taxpayers and clearly contradictory to the opinions of the Supreme Court itself. We must thus follow the *dicta* of the High Court and count the thirty (30)-day reglementary period from petitioner's receipt of the Assailed WDL on 21 October 2021, giving it until 20 November 2021 within which to file its judicial appeal. Considering that (a) the instant Petition was filed on 22 November 2021; and (b) 20 November 2021 and 21 November 2021 fell on a Saturday and Sunday, respectively, the instant Petition was filed on time.

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62 G.R. No. 255473, 13 February 2023.
63 G.R. No. 258947, 29 March 2022.
64 G.R. No. 202105, 28 April 2021.
65 *Supra* note 10.

Respondent's denial of the application for compromise is immaterial to the issue at hand.

As for respondent's contention that the instant Petition is actually an action for Mandamus, the Court is also unconvinced of the same.

In the instant Petition, petitioner insists that the subject tax liabilities had already been settled through its compromise settlement. It adheres to this contention in its narration of its version of the precedent facts of this case. However, its *only* argument in support of its actual case concerns the prescription of respondent's right to collect the subject tax liabilities—it does *not* invoke the alleged compromise settlement or respondent's denial of its application for such.

This silence on its alleged compromise settlement is even more striking when one considers the letters, dated 28 September 2021 and 21 October 2021, it sent in response to respondent's Notice of Denial. In those letters, petitioner still clung to the contention that it had validly settled its liabilities by paying an alleged compromise settlement, using such compromise settlement as a major argument in support of its protest.[66] To repeat, however, this line of argument was omitted from the instant Petition, implying that petitioner itself has abandoned the idea. Respondent's denial of the same is thus immaterial to the case at bar.

Indeed, petitioner specifically prays that this Court declare that it "may no longer be held liable to pay" the subject tax liabilities as "[r]espondent's right to collect . . . has already prescribed."[67] The Court need not compel respondent to retract his denial of petitioner's application for compromise to determine whether petitioner is still liable to pay the alleged deficiency taxes or to judge whether respondent's right to collect said deficiency taxes has already prescribed. Such an act of compelling would be immaterial to the latter two. We thus cannot conclude that petitioner is actually seeking to reverse the denial of its application for compromise.

As an aside, the Court would not have ordered respondent to reverse his denial if such had been prayed for. Jurisdictional issues aside, petitioner's application was woefully inadequate in its non-compliance with ***Revenue Regulations No. 7-2001***, implementing ***Sec. 204(a) of the NIRC***. Said application lacked any explanation as to why the assessment was of doubtful validity to justify the 40% rate and does not seem to have included any of the documentary requirements. Worse still, petitioner did not wait for respondent's decision on the matter, paying an amount it arbitrarily chose and considering that sufficient to settle its liabilities. The Court cannot endorse

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[66] *See* Exhibit "P-23", p. 1-2, *id.*, pp. 353-354; *see also* Exhibit "P-24", pp. 1-2. *Id.*, pp. 356-357.
[67] Petition for Review, p. 20, *id.*, p. 27.

such a cavalier attitude; to do so would be akin to allowing a taxpayer to pay any amount of its choosing, even a single peso or centavo, before treating all of its liabilities as fully settled. This is obviously an absurdity that the Court cannot accept.

To petitioner's benefit, however, the instant Petition is argued on different grounds and does not pray for any action on respondent's denial of its application for compromise. Respondent's argument thus fails, and this Court, to return to the issue at hand, has jurisdiction over this case.

Respondent's right to collect the subject taxes has prescribed.

Petitioner, to reiterate, argues that respondent's right to collect the assessed taxes has already prescribed. This is so, petitioner claims, as respondent's assessment was issued on 15 October 2002 while his earliest valid collection effort was enacted on 18 March 2008, beyond the five (5)-year period to collect under ***Sec. 222 of the NIRC***. Respondent counters this by claiming to have sent collection notices to petitioner as early as 6 November 2003, well within the aforementioned period.

The Court agrees with petitioner.

Under standard circumstances, respondent has three (3) years to collect assessed taxes, not five (5) years.

As a brief aside, the Court first notes that both petitioner and respondent agree that respondent has five (5) years within which to collect assessed taxes. Petitioner bases this claim on ***Sec. 222(c) of the NIRC*** whereas respondent cites ***Sec. 222(d)***.

This is incorrect. As the Supreme Court recently ruled in ***Commissioner of Internal Revenue v. Court of Tax Appeals Second Division & QL Development, Inc.***[68] ("***QL Development***") the CIR normally has *three (3)* years to collect assessed taxes. This is based on ***Sec. 203 of the NIRC***:

> "Sec. 203. *Period of Limitation Upon Assessment and Collection.* — Except as provided in Section 222, internal revenue taxes shall be assessed within **three (3) years** after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: *Provided*, That in a case where a return is filed beyond the period prescribed by law, the

[68] G.R. No. 258947, 29 March 2022.

three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day" (Emphasis supplied.)

The above provision admittedly lacks a specific period for collection, only mandating three (3) years for assessment. This is so despite the title of the provision clearly announcing that said section is supposed to govern the period allowed for assessments *and* collections.

This perceived gap, however, has already been addressed by jurisprudence. Long before, ***QL Development***, the High Court has consistently applied the three (3)-year period under ***Sec. 203*** to the collection of taxes and not just to assessments.[69] And as has long since been settled, the Supreme Court's interpretation of a law must be considered part of said law.[70]

Sec. 222 of the NIRC may directly provide for five (5)-year periods to collect, but these are supposed to be *exceptions* to the norm and only applicable under specific circumstances:

> "Sec. 222. ***Exceptions*** *as to Period of Limitation of Assessment and Collection of Taxes. —*
>
> (a) **In the case of a false or fraudulent return with intent to evade tax or of failure to file a return**, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission; x x x
>
> (b) **If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the [CIR] and the taxpayer have agreed in writing to its assessment after such time**, the tax may be assessed within the period agreed upon. x x x
>
> (c) Any internal revenue **which has been assessed within the period of limitation as prescribed in paragraph (a) hereof** may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax.
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> (d) Any internal revenue tax, **which has been assessed within the period agreed upon as provided in paragraph (b) hereinabove**, may be collected by distraint or levy or by a proceeding in court within the period agreed upon in writing before the expiration of the five (5)-year period. x x x

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69 *See* Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc., G.R. No. 197515, 2 July 2014; *see also* Bank of the Philippine Islands v. Commissioner of Internal Revenue, G.R. No. 174946, 7 March 2008.

70 *See* Roque Senarillos v. Epifanio Hermosisima, et al., G.R. No. L-10662, 14 December 1956; *see also* Columbia Pictures, Inc., et al. v. Court of Appeals, et al., G.R. No. 110318, 28 August 1996; *see also* San Miguel Corporation v. Commissioner of Internal Revenue, G.R. Nos. 257697 & 2259446, 12 April 2023.

x x x"
(Emphasis and underscoring supplied.)

The above provisions are clear: the five (5)-year periods they provide are applicable only when certain conditions are met. In particular, ***Sec. 222(c)*** is applicable only in cases involving false or fraudulent returns with intent to evade taxes or a failure to file a return. ***Sec. 222(d)***, meanwhile, is only applicable when the CIR and the taxpayer agree, in writing, to extend the period for assessment. As neither petitioner nor respondent has shown, or even attempted to show, that either of these conditions are present at the case at bar, then neither of the five (5)-year periods provided by ***Sec. 222*** are applicable. It is instead the three (3)-year period provided by ***Sec. 203***, as interpreted by the Supreme Court, that is appropriate here.

Of course, this Court only discusses the issue for the edification of the parties, as the above is strictly academic to the present Petition. Whether the three (3)- or five (5)-year period is used, the facts show that respondent's right to collect the assailed assessment has already prescribed.

Respondent's collection notices did not suspend the running of the prescriptive period.

To repeat, respondent's right to collect the assessed taxes was limited to a certain period of time. Under ***Sec. 223***, this prescriptive period can only be interrupted by the following:

(a) When "the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter";

(b) When respondent grants the taxpayer's request for reinvestigation;

(c) When respondent or his agents cannot locate the taxpayer at the provided address, with the caveat that this does not apply when the taxpayer has already informed respondent of its change of address;

(d) When respondent has duly served a warrant of distraint or levy upon the taxpayer or its authorized representative; and

(e) When the taxpayer is abroad.

The fourth exception, (d), is what is relevant to the present case. If the CIR has three (3) years to collect an assessed tax, said period is naturally interrupted once the CIR has properly initiated collection efforts.

Sec. 223, however, is specific as to what constitutes such an initiation: it specifically identifies a "warrant of distraint or levy". As such, it is the service of a WDL that interrupts the prescriptive period for collection. This is emphasized in ***QL Development***:

> "In an attempt to convince this Court that its right to collect the deficiency taxes had not yet prescribed, the CIR avers that the FDDA received by QLDI effectively operated as a collection letter for the satisfaction of deficiency tax liabilities.
>
> The Court finds no merit in the CIR's assertion.
>
> **To reiterate, the CIR's collection efforts are initiated by distraint, levy, or court proceeding. The distraint and levy proceedings are validly begun or commenced by the issuance of a warrant of distraint and levy and service thereof on the taxpayer.** And a judicial action for the collection of a tax is initiated: (a) by the filing of a complaint with the court of competent jurisdiction; or (b) where the assessment is appealed to the CTA, by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for. However, in this case no warrant of distraint and/or levy was served on QLDI, and no judicial proceedings were initiated by the CIR within the prescriptive period to collect."
> ("Citations omitted; emphasis supplied.")

The above is clear. A collection effort must be initiated by court proceedings or, more relevant to the case bar, by distraint or levy. And distraint or levy are "validly begun" through the issuance of a WDL. This position is once again based on a long line of rulings by the Supreme Court, including ***Bank of the Philippine Islands v. Commissioner of Internal Revenue,***[71] ***Republic of the Philippines v. Salud V. Hizon***[72] ("***Hizon***"), and ***Clara Diluangco Palanca, et al. v. Commissioner of Internal Revenue, et al.***[73] ("***Palanca***").

Considering the above, the Court cannot accept respondent's contention that his collection efforts began upon the issuance of his 6 November 2003 letter. Nothing in the letter implies the initiation of collection efforts via distraint or levy. It is at most a reiteration of respondent's demand for payment, asking that respondent either pay the amount assessed or apply for a compromise settlement.

Instead, the earliest issuance by respondent that can be considered to have validly initiated any collection effort was the Warrant of Garnishment[74] No. 056-02-08-001, dated 18 March 2008;

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[71] G.R. No. 139736, 17 October 2005.
[72] G.R. No. 130430, 13 December 1999.
[73] G.R. No. L-16661, 31 January 1962.
[74] BIR Records, p. 198.

> "x x x I, ARTEMIO D. AQUINO, x x x Revenue District Officer, **do hereby seize, distraint and garnish so much of [the] bank account and such other property, tangible or intangible, of [petitioner]** now in your possession or under control as may be available and sufficient to cover the above-mentioned tax obligation of [petitioner]."

The above clearly and unequivocally effects an act of distraint and levy against petitioner by garnishing its bank account. By contrast, the 6 November 2003 letter merely reiterated the demand for payment, without any actual act of distraint or levy:

> "The records of this office show that an assessment notice, due to deficiency Income [Tax], Percentage [Tax], & EWT has been sent to you for an early settlement of your tax liability which remains outstanding to date. Your total account balance is P 271,400.60. Please note that the interest is being accumulated and is being adjusted/recomputed up to the actual date of payment. To avoid further interest and/or penalties, **we request that the aforementioned amount be paid immediately upon receipt of this letter to any BIR-authorized Agent Bank or Revenue Collection Office (RCO).**
>
> **You may avail of the Compromise Settlement of Internal Revenue Tax Liabilities** which, under Revenue Regulations (RR) No. 7-2001, provides a taxpayer with outstanding receivable accounts and disputed assessments with the Bureau, including those already filed in court, the opportunity to settle their tax liabilities and, accordingly reduce the percentage of the amount to be settled."
> (Emphasis supplied.)

To repeat, the above merely (a) demanded payment of the alleged deficiency taxes; and (b) informed petitioner of the opportunity to enter into a compromise settlement. It did *not* enforce any manner of distraint or levy. It does not even contain any use of the word "collection". It is thus not an act of collection, despite respondent's sly insistence on referring to it as a "Collection Notice", and to rule otherwise would be to confuse *assessing* the tax liabilities of a taxpayer and *collecting* said tax liabilities from the taxpayer, which are obviously separate and distinct.

The aforementioned Warrant of Garnishment is thus the earliest valid collection effort initiated by respondent. The same was issued on 18 March 2008, one thousand nine hundred and eighty-one (1,981) days after respondent's 15 October 2002 issuance of the assailed FLD. This is well beyond the three (3)-year period under ***Sec. 203 of the NIRC*** and almost half a year beyond the inapplicable five (5)-year period under ***Sec. 222 of the NIRC***. It was thus too late to interrupt the prescriptive period, whether one correctly pegs the end of said period on 15 October 2005 or insists on the later deadline of 15 October 2007.

Given all of the foregoing, the Court finds that respondent's right to collect the assailed assessment has prescribed.

WHEREFORE, the instant Petition for Review, filed on 22 November 2021, is hereby **GRANTED**. Respondent's right to collect the alleged deficiency taxes subject of Assessment Notice No. 56/1999 and the Formal Letter of Demand, dated 15 October 2002, is hereby declared to have **PRESCRIBED**.

Accordingly, the assailed Warrant of Distraint and/or Levy, dated 15 October 2021, is hereby declared **NULL AND VOID**. Respondent is also hereby **ENJOINED AND PROHIBITED** from collecting any amount in relation to Assessment Notice No. 56/1999 and the Formal Letter of Demand, dated 15 October 2002.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusion in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice