REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1725** (CTA Case No. 8916)
	Present:
-*versus*-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
ASIA UNITED INSURANCE, INC., *Respondent.*	Promulgated: OCT 07 2019 2:30pm

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RESOLUTION

MANAHAN, J.:

For resolution is the *Motion for Reconsideration (Re: Decision promulgated on March 27, 2019)*[1] filed by petitioner Commissioner of Internal Revenue (CIR) on April 16, 2019, together with respondent Asia United Insurance, Inc. (AUII) *Comment (To Commissioner of Internal Revenue's Motion for Reconsideration dated 15 April 2019)*[2] filed on July 29, 2019.

In the Decision dated March 27, 2019, the Court *En Banc* affirmed the Court in Division's Decision which ruled that the collection of the alleged Php5,266,047.85 interest on deficiency documentary stamp tax (DST) assessment against AUII for

[1] *Rollo*, pp. 145-149.
[2] *Rollo*, pp. 154-170.

taxable year 2003 has already prescribed. The dispositive portion of the assailed Decision states:

> WHEREFORE, the instant Petition for Review is DISMISSED for lack of merit.
>
> SO ORDERED.[3]

In his *Motion*, the CIR argues that AUII's repeated acts of paying its principal deficiency DST liability by installment sans the interest, and its requests for reduction, waiver and abatement of the interest and increment, clearly demonstrate positive requests or positive acts on the part of AUII that justify the suspension of the prescriptive period for collection. Hence, the prescriptive period to collect the tax assessment commenced to run only on January 8, 2010, when AUII received petitioner's response to its request for abatement, and the latter has until January 8, 2015 to enforce collection. Based on the foregoing, the CIR argues that the issuance of the Warrant of Distraint and/or Levy on December 18, 2013 is valid since the same was issued within the prescriptive period for collection. Thus, the CIR argues that he is not barred from collecting the interest on the deficiency DST liability of AUII for taxable year 2003.

In its *Comment*, AUII states that the CIR's arguments are a mere verbatim rehash of previous arguments before the Court in Division and *En Banc*. AUII further reiterates that the *Suyoc*[4] case is inapplicable in the case at bar, and that its acts cannot be considered as a request for reinvestigation which would warrant the suspension of the running of the statute of limitations.

The motion lacks merit.

It is reiterated that Formal Assessment Notice (FAN) Demand No. 34-2003 was issued by the CIR on January 27, 2006 and was received by AUII on January 31, 2006. Counting five (5) years from January 31, 2006, the CIR had until January 31, 2011 within which to collect the interest on the deficiency DST liability. The Warrant of Distraint and/or Levy (WDL) was served on AUII only on December 13, 2013, which is clearly

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[3] *Rollo*, p. 134.
[4] *Collector of Internal Revenue v. Suyoc Consolidated Mining Co., et al.*, G.R. No. L-11527, November 25, 1058.

more than five (5) years after the FAN, and is therefore prescribed.

AUII requested the reduction, waiver or abatement of the 2003 deficiency interest for the late payment of DST in the letters to the CIR dated April 25, 2006 and June 26, 2006. In the said letters, there is nothing which would establish that AUII requested for extensions of time to pay or requested for investigation. Thus, the CIR may not invoke the ruling in the *Suyoc* case as there is nothing in AUII's acts which would induce the CIR to postpone the collection of the deficiency interest against AUII.

WHEREFORE, the *Motion for Reconsideration (Re: Decision promulgated on March 27, 2019)* filed by petitioner Commissioner of Internal Revenue is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice