25-000155-0021

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11776

EAGLES` WINGS CONSTRUCTION PHILS, INC., represented by its President **NELSON B. PANGAN,**
Petitioner,

- versus -

ROMEO D. LUMAGUI JR., in his capacity as the **COMMISSIONER OF THE INTERNAL REVENUE,**
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYLEEN B. ALMIRA
ATTY. ARLYN T. CORRO
ATTY. ANGIENETTE CUREG-TOLENTINO
Bureau of Internal Revenue - Revenue Region No. 5
Legal Division, 9th Floor, BIR Building
No. 10 G. Concepcion Street
Caloocan City

MAGPANTAY LAW OFFICES
Unit 6, 3rd Floor, CCRI Building
McArthur Highway, San Sebastian
Tarlac City, 2300 Tarlac

GREETINGS:

You are hereby notified by these presents that on **July 16, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 17, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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- versus -

ROMEO D. LUMAGUI JR., in his capacity as the **COMMISSIONER OF INTERNAL REVENUE**,
Respondent.

CTA CASE NO. **11776**

Members:

DEL ROSARIO, P.J., *Chairperson*,
BACORRO-VILLENA, *and*
CUI-DAVID, JJ.

Promulgated:
JUL 16 2025 2:10PM

x - x

RESOLUTION

For the Court's resolution is petitioner Eagles' Wings Construction Phils, Inc.'s (**petitioner**'s), as represented by its President Nelson B. Pangan (**Pangan**), Motion to Suspend Collection of Taxes (**Motion to Suspend**) incorporated in the Petition for Review[1], filed on 04 March 2025, with respondent's "Comment/Opposition (to the Petitioner's Motion for Suspension of Collection of Taxes And/or Issuance of Preliminary Injunction and/or Temporary Restraining Order)"[2] (**Comment on Motion to Suspend**) incorporated in the Motion to Admit[3], filed on 16 April 2025.

In the Motion to Suspend, petitioner asserts that the deficiency taxes amounting to ₱12,430,162.23 for taxable year (**TY**) 2017, based on respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) Decision dated 23 December 2024[4], can no longer be collected by respondent since the latter's right to collect had already prescribed.

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1 Division Docket, pp. 7-20.
2 Id., pp. 86-90.
3 Id., pp. 84-85.
4 Id., pp. 63-64.

In his or her Comment on the Motion to Suspend, respondent avers that the instant Petition for Review contains no allegation or indication of any loss or irreparable injury that would result from the collection of the deficiency taxes.

During the hearing on the motion, Atty. Jhoanne B. Raymundo (**Atty. Raymundo**), petitioner's substitute counsel, manifested that the handling counsel, Atty. Ferdinand H. Ramos (**Atty. Ramos**), was currently undergoing an intestinal operation and dialysis, rendering him unable to attend to the present proceedings. She further moved for a resetting of the proceedings, considering the medical condition of the counsel of record and the unavailability of the supposed witness, Nelson B. Pangan (**Pangan**).

Nonetheless, to avoid unnecessary delay and in the interest of judicial economy, the Court propounded clarificatory questions. As a result, they stipulated on record the purposes for which Pangan's testimony was being offered: (***i***) the Formal Letter of Demand (**FLD**) was issued on 15 March 2019; (***ii***) the Final Decision on Disputed Assessment (**FDDA**) was dated 21 January 2020; (***iii***) petitioner timely filed a motion for reconsideration (**MR**) to the FDDA on 20 February 2020 before the CIR; (***iv***) petitioner timely filed a Protest to the FLD (by way of request for reconsideration); (***v***) petitioner received the CIR's Decision dated 23 December 2024 on 03 February 2025; and (***vi***) as of 29 April 2025, no warrant of distraint and/or levy (**WDL**) was served on petitioner.[5] With the foregoing stipulations agreed upon with respondent's counsel, the Court dispensed with the testimony of Pangan.[6]

On 02 June 2025, respondent filed his or her Answer[7], interposing the following defenses concerning the latter's period to collect: (**1**) petitioner allegedly sought a reinvestigation, rather than a reconsideration, as evidenced by subsequent correspondence from petitioner's counsel, Atty. Ramos, indicating that petitioner submitted additional documents and schedules to the Bureau of Internal Revenue (**BIR**); thus, the period to collect was suspended; and (**2**) petitioner's pursuit of an administrative appeal to the assessment allegedly prevented the CIR from initiating distraint or levy or judicial

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[5] TSN dated 29 April 2025, pp. 9-15.
[6] See Order dated 29 April 2025, Division Docket, p. 98.
[7] Id., pp. 115-243, with attachments.

proceedings; thus, the same should have suspended the period to collect.

We resolve.

An examination of the present motion, as incorporated in the Petition for Review, reveals that respondent's right to collect deficiency taxes had already prescribed.

Section 203 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provides for the prescriptive period in the assessment and collection of internal revenue taxes:

> . . .
> **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 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.
> . . .

In *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*[8] (**QL Development**), the Supreme Court, citing the case of *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*[9] (**United Salvage**), ruled that in cases of valid assessment issued within the three (3)-year period, BIR has another three (3) years to collect the taxes reckoning from the date the assessment notice had been released, mailed or sent to the taxpayer:

> . . .
> The statute of limitations on assessment and collection of national internal revenue taxes was shortened from five (5) years to three (3) years by virtue of Batas Pambansa Blg. 700. Thus, petitioner has three (3) years from the date of actual filing of the tax return to assess a national internal revenue tax or to commence court proceedings

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[8] G.R. No. 258947, 29 March 2022; Emphasis and italics in the original text.
[9] G.R. No. 197515, 02 July 2014.

> for the collection thereof without an assessment. **However, when it validly issues an assessment within the three (3)-year period, it has another three (3) years within which to collect the tax due by distraint, levy, or court proceeding. The assessment of the tax is deemed made and the three (3)-year period for collection of the assessed tax begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer**.[10]
>
> . . .

However, in cases of fraud under Section 222 of the NIRC of 1997, as amended, the period of collection extends to five (5) years:

> . . .
>
> ... The five-year period for collection of taxes only applies to assessments issued within the extraordinary period of 10 years in cases of false or fraudulent return or failure to file a return. Indeed, Section 222 of the NIRC, as amended, provides:
>
> > 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: *Provided*, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.
> >
> > xxxx
> >
> > (c) Any internal revenue tax 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. (Emphasis supplied)[11]
>
> . . .

Meanwhile, Section 223 of the NIRC of 1997, as amended, provides for instances when the running of the statute of limitation may be suspended, to wit:

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[10] Citation omitted and emphasis supplied.

[11] Supra at note 8: Empasis supplied.

> . . .
> **SEC. 223**. *Suspension of Running of Statute of Limitations*. - The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter; **when the taxpayer requests for a reinvestigation which is granted by the Commissioner;** when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected: Provided, that, if the taxpayer informs the Commissioner of any change in address, the running of the Statute of Limitations will not be suspended; when the warrant of distraint or levy is duly served upon the taxpayer, his authorized representative, or a member of his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines.[12]
>
> . . .

The foregoing Section is plainly worded and could hardly be the subject of any other interpretation. To suspend the running of the prescriptive periods for assessment and collection, the CIR or his or her duly authorized representative must have granted the request for reinvestigation.[13]

In the case at bar, the Court notes that the FLD was issued on **15 March 2019** (and received by petitioner on 04 April 2019) and in the FLD, there was no allegation of a false or fraudulent return with intent to evade tax. In response to the FLD, petitioner timely filed a Protest to the FLD (by way of a request for reconsideration)[14] on 04 May 2019. Despite this clear designation, respondent treated the protest as a request for reinvestigation, as indicated in the FDDA.[15]

Such characterization, however, is unwarranted. For one, petitioner expressly identified its protest as a request for reconsideration. During the motion hearing, it was also stipulated that the protest was by way of "request for reconsideration".[16] Thus, there

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[12] Emphasis supplied and italics in the original text.
[13] *Bank of the Philippine Islands (Formerly: Far East Bank and Trust Company) v. Commissioner of Internal Revenue*, G.R. No. 174942, 07 March 2008.
[14] Division Docket, pp. 50-51.
[15] Id., pp. 52-54.
[16] TSN dated 29 April 2025, p. 13.
JUSTICE DEL ROSARIO

could no longer be any ambiguity as to the nature of the remedy pursued.

In *United Salvage*[17], the Supreme Court ruled that the period for collection of the assessed taxes begins to run on the date that the **assessment notice had been released, mailed or sent to the taxpayer**.

With the above parameters, the prescriptive period to collect would start to run on the FLD's issue date of **15 March 2019**. Counting three (3) years therefrom, respondent had until **15 March 2022** to collect the deficiency taxes.

Pursuant to Revenue Regulations (RR) Nos. 11-2020[18] and 12-2020[19], for purposes of computing respondent's period to collect, the days when the affected areas were placed under restrictive quarantines of enhanced community quarantine **(ECQ)** and modified enhanced community quarantine (**MECQ**) must be excluded. It is presumed that, during ECQ and MECQ, the BIR considered the suspension of the statute of limitations justified, as its personnel were unable to continue the assessment or the collection of the deficiency taxes. In contrast, when areas were placed under less restrictive quarantines such as general community quarantine **(GCQ)** or Modified GCQ (**MGCQ**), the BIR did not intend for these periods to suspend or toll the running of the prescriptive period to assess and/or collect.

Accordingly, to determine the duration of the suspension *vis-à-vis* the prescriptive period to collect from 2020-2022, consideration should be given to the quarantine restrictions imposed from 01 June 2020 up to 15 March 2022 to compute the total number of days (to exclude in the running of the statute of limitations). Below is a summary

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Number three, number four, number five is to prove that they filed for request for reconsideration, admitted also, right?

ATTY. ALMIRA
Yes, your Honors.

17 Supra at note 9.

18 Amends Section 2 of the Revenue Regulations No. 10-2020 relative to the extension of statutory deadlines and timeliness for the filing and submission of any document and the payment of taxes pursuant to Section 4(z) of Republic Act No. 11469, otherwise known as "Bayanihan to Heal as One Act".

19 Amends Revenue Regulations No. 10-2020, as Amended by Revenue Regulations No. 11-2020, Relative to the Extension of Statutory Deadlines and Timelines for the Filing and Submission of Any Document and the Payment of Taxes Pursuant to Section 4(z) of Republic Act No. 11469, Otherwise Known as "Bayanihan to Heal as One Act".

of the quarantine restrictions for National Capital Region (**NCR**) until 15 March 2022:

Dates	Imposed Quarantine Restriction	Number of days	Corona Virus Disease 2019 (COVID-19)-related Issuances
01 June 2020 to 15 June 2020	GCQ	15	Inter-Agency Task Force (**IATF**) Resolution No. 40, 27 May 2020
16 June 2020 to 30 June 2020	GCQ	15	IATF Resolution No. 46-A, 15 June 2020
01 July 2020 to 15 July 2020	GCQ	15	IATF Resolution No. 50-A, 29 June 2020
16 July 2020 to 31 July 2020	GCQ	16	IATF Resolution No. 55-A, 14 July 2020
01 August 2020 to 03 August 2020	GCQ	3	IATF Resolution No. 60-A, 30 July 2020
04 August 2020 to 18 August 2020	**MECQ**	**15**	**Memorandum from the Executive Secretary dated 03 August 2020**
19 August 2020 to 31 August 2020	GCQ	13	IATF Resolution No. 64, 17 August 2020
01 September 2020 to 30 September 2020	GCQ	30	IATF Resolution No. 66, 27 August 2020
01 October 2020 to 31 October 2020	GCQ	31	IATF Resolution No. 75-A, 28 September 2020
01 November 2020 to 30 November 2020	GCQ	30	IATF Resolution No. 81, 26 October 2020
01 December 2020 to 31 December 2020	GCQ	31	Memorandum from the Executive Secretary from 01 December 2020
01 January 2021 to 31 January 2021	GCQ	31	Memorandum from the Executive Secretary from 01 January 2021
01 February 2021 to 28 February 2021	GCQ	28	Memorandum from the Executive Secretary from 29 January 2021
01 March 2021 to 28 March 2021	GCQ	28	Memorandum from the Executive Secretary from 27 February 2021
29 March 2021 to 30 April 2021	**ECQ/MECQ**	**33**	**Memorandum from the Executive Secretary from 27 March 2021; IATF-EID Resolution No. 108-A, 04 April 2021; IATF-EID Resolution No. 109-A, 10 April 2021**
01 May 2021 to 14 May 2021	**MECQ**	**14**	**IATF-EID Resolution No. 113-A, 29 April 2021**

15 May 2021 to 31 May 2021	GCQ	17	IATF-EID Resolution No. 115-A, 13 May 2021
01 June 2021 to 30 June 2021	GCQ	30	IATF-EID Resolution No. 118-A, 31 May 2021; IATF-EID Resolution No. 121, 14 June 2021
01 July 2021 to 31 July 2021	GCQ	31	IATF-EID Resolution No. 124, s. 2021, 30 June 2021; IATF-EID Resolution No. 127-E, 15 July 2021
01 August 2021 to 05 August 2021	GCQ	5	**IATF-EID Resolution No. 130-A, 29 July 2021**
06 August 2021 to 20 August 2021	**ECQ**	**15**	
21 August 2021 to 31 August 2021	**MECQ**	**11**	**IATF-EID Resolution No. 134, 19 August 2021**
01 September 2021 to 07 September 2021	**MECQ**	**7**	**IATF-EID Resolution No. 135-A, 26 August 2021**
08 September 2021 to 30 September 2021	GCQ	23	IATF-EID Resolution No. 136-F, 06 September 2021
16 September 2021 to 15 March 2022	Alert Levels 4, 3, 2 and 1[20]	181	Guidelines on the Pilot Implementation of Alert Levels System for COVID-19 Response in the National Capital Region, 13 September 2021; IATF-EID Resolution No. 141-A, 30 September 2021; IATF-EID Resolution No. 143-A, 14 October 2021

From the foregoing tabulation, apart from 16 March 2020 to 31 May 2020, NCR was again placed under: (***i***) MECQ from 04 August 2020 to 18 August 2020, or for a total of fifteen (15) days; (***ii***) ECQ/MECQ from 29 March 2021 to 14 May 2021, or for a total of forty-seven (47) days; and (***iii***) ECQ/MECQ from 06 August 2021 to 07 September 2021, or for a total of thirty-three (33) days. Following RR No. 11-2020, as amended by RR No. 12-2020, adding sixty (60) days to each quarantine period, We are also to exclude a total of two hundred seventy-five (275) days[21] which suspended the running of

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20 The highest Alert Level imposed in Metro Manila was Alert Level 4, during which government agencies, such as the BIR, were already required to be fully operational.

21

04 August 2020 to 18 August 2020	15	+	60 =	75
29 March 2021 to 14 May 2021	47	+	60 =	107
06 August 2021 to 07 September 2021	33	+	60 =	93

statute of limitations. Hence, a total of **four hundred twelve (412) days** (one hundred thirty-seven [137] days *per* Revenue Memorandum Circular [RMC] No. 136-2020[22] and 275 days *per* RR Nos. 11-2020 and 12-2020) should be excluded in determining the new prescription period to collect.

Counting from 15 March 2022, respondent's right to collect the deficiency taxes (after considering the COVID-19-related issuances) now fell on **01 May 2023**. Therefore, before the said date, respondent should have initiated collection through the sanctioned methods. However, in this case, no WDL was served on petitioner within the said period. Notably, respondent only filed an Answer to the instant Petition for Review on **02 June 2025**.

As enunciated by the Supreme Court in *QL Development*[23], the BIR'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 WDL 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 Court of Tax Appeals (CTA), by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for. Clearly, respondent's filing of an Answer on **02 June 2025** was already time-barred.

Even assuming *arguendo* that petitioner filed a request for reinvestigation rather than reconsideration, the result remains the same.

The FLD was issued on **15 March 2019.** Respondent alleged, by appending a Letter dated 18 June 2019 (purportedly served on **20 June 2019**), that such request for reinvestigation was granted. Jurisprudence provides that the period between the request for reinvestigation and the revised assessment should be subtracted from the total prescriptive period for the assessment of the tax; and, once the assessment had been reconsidered at the taxpayer's instance, the

Total	275

[22] Clarification on the Suspension of the Statute of Limitation Provided Under Revenue Regulations (RR) No. 11-2020.

[23] Supra at note 8.

period for collection should begin to run from the date of the reconsidered or modified assessment.[24]

Thus, the period to collect began to run on **15 March 2019**, was tolled on **20 June 2019** and resumed upon the issuance of the FDDA on **21 January 2020** (received by petitioner on even date). Since there was no allegation of false or fraudulent return with intent to evade tax, the regular prescriptive period to collect of three (3) years shall apply. Consequently, respondent had only nine hundred ninety-nine (999) days[25] or until **16 October 2022** or up to **02 December 2023** (after considering the COVID-19-related issuances) to collect the deficiency taxes. Having failed to do so within this statutory window, the government's right to collect is now clearly barred by prescription.

We are not unaware that petitioner subsequently filed an MR to the FDDA before the CIR. However, even if the CIR had acted on the said MR, the same could not and did not toll the running of the prescriptive period to collect.

The wordings of Section 223 of the NIRC of 1997, as amended, are clear. Only a request for reinvestigation which the CIR has granted will suspend the running of the statute of limitations and not request for reconsideration. A reinvestigation, which entails the reception and evaluation of additional evidence, will take more time than a reconsideration of a tax assessment which will be limited to the evidence already at hand.[26] This justifies why the former can suspend the running of the statute of limitations on the collection of the assessed tax, while the latter cannot.[27]

Respondent argues that petitioner's administrative appeal to the CIR rendered the deficiency assessments still disputed and therefore not final, such that it effectively 'prevented' him or her to initiate the collection proceedings and suspended the running of the prescriptive period to collect until the he or she issued a final decision.

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[24] *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, G.R. No. 139736, 17 October 2005; *Republic of the Philippines v. Guadalupio Aquias*, G.R. No. L-21874, 30 June 1970; *The Commissioner of Internal Revenue v. Carlos Moran Sison and Priscila F. Sison*, G.R. No. L-13739, 30 April 1963.

[25]

Period to collect (3 years x 365.25 days/year)	1,096 days
Less: Suspension of the period to collect (15 March 2019 to 20 June 2019)	97 days
Remaining period to collect	999 days

[26] *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, G.R. No. 181836; 09 July 2014.

[27] Id.

We disagree with respondent.

The doctrine of *ejusdem generis* provides that "where general terms follow the designation of particular things or classes of persons or subjects, the general term will be construed to comprehend those things or persons of the same class or of the same nature as those specifically enumerated".[28] In the same vein, the doctrine of *noscitur a sociis* provides that "proper construction may be had by considering the company of words in which the term or phrase in question is founded or with which it is associated".[29] Applying the foregoing guidelines in the instant case, the phrase "the period during which the Commissioner is prohibited from...beginning distraint or levy or a proceeding in court" should be construed to mean those of the same class or nature as the succeeding grounds under Section 223 of the NIRC of 1997, as amended: (**1**) when the taxpayer requests for a reinvestigation and it is granted; (**2**) when the taxpayer cannot be located at the address stated in the return; (**3**) when a warrant is served but no property can be located; and (**4**) when the taxpayer is out of the Philippines. All of which suggests external factors or **taxpayer conduct beyond the CIR's immediate control**. It bears emphasis a request for reconsideration merely entails a re-evaluation of an assessment on the **basis of existing records without need of additional evidence from the taxpayer**.[30]

Additionally, to interpret the law otherwise (*i.e.*, to allow a pending request for reconsideration to *also* toll the prescriptive period) would make the specific mention of a granted request for reinvestigation "superfluous" or unnecessary, as the broader category would already cover it. This goes against a rule in statutory construction that no word, clause, sentence, provision or part of a statute shall be considered surplusage or superfluous, meaningless, void and insignificant.[31] To this end, a construction which renders every word operative is preferred over that which makes some words idle and nugatory.[32] Therefore, a pending request for reconsideration before the CIR cannot be considered as one that "prohibits" the CIR from initiating the collection proceedings.

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28 *National Power Corporation v. Honorable Zain B. Angas, District Judge of the Court of First Instance of Lanao del Sur, et.al.*, G.R. Nos. 60225-26. 08 May 1992.

29 *People of the Philippines v. Meinrado Enrique A. Bello, et. al.*, G.R. Nos. 166948-59, 29 August 2012.

30 *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, supra at note 24.

31 *Main T. Mohammad v. Office of The Secretary, Department of Justice, Menardo I. Guevarra, in his capacity as Secretary of Justice*, G.R. No. 256116. 27 February 2024.

32 Id.

Indeed, the law prescribing a limitation of actions for the collection of taxes is beneficial both to the State and to its citizens; to the State because tax officers would be obliged to act promptly in the making of assessment or collection, and to citizens because after the lapse of the period of prescription citizens would have a feeling of security against unscrupulous tax agents who will always find an excuse to inspect the books of taxpayers, not to determine the latter's real liability, but to take advantage of every opportunity to molest peaceful, law-abiding citizens.[33] Without such a legal defense taxpayers would furthermore be under obligation to always keep their books and keep them open for inspection subject to harassment by unscrupulous tax agents. The law on prescription being a remedial measure should be interpreted in a way conducive to bringing about the beneficent purpose of affording protection to the taxpayer.[34]

Further, We would like to point out that while what has been submitted for our resolution is the Motion to Suspend Collection of Taxes, We are not barred from consolidating it with the main case for purposes of expediency:

> . . .
>
> **SECTION 6**. *Hearing of the Motion.* — The movant shall, upon receipt of the opposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. **However, for the sake of expediency, the Court, *motu proprio*** or upon motion of the parties, **may consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case**.[35]
>
> . . .

Relative thereto, Section 1, Rule 9 of the Rules of Civil Procedure, as amended, also provides that the court shall dismiss the case *motu proprio* on the ground of prescription:

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[33] See *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, supra at note 24.
[34] Id.
[35] Emphasis supplied.

> ...
>
> SEC. 1. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, **when it appears from the pleadings or the evidence on record** that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or **that the action is barred** by a prior judgment or **by statute of limitations, the court <u>shall</u> dismiss the claim.**[36]
>
> ...

The use of the word "shall" underscores the mandatory character of the Rule. The term "shall" is a word of command, and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory.[37] Hence, using the above proviso, in *Bank of the Philippine Islands v. Commissioner of Internal Revenue*[38], the Supreme Court proceeded to dismiss the case *motu proprio* due to prescription:

> ...
>
> **If the pleadings or the evidence on record show that the claim is barred by prescription, the court is mandated to dismiss the claim even if prescription is not raised as a defense.** In *Heirs of Valientes v. Ramas*, we ruled that the CA may *motu proprio* dismiss the case on the ground of prescription despite failure to raise this ground on appeal. The court is imbued with sufficient discretion to review matters, not otherwise assigned as errors on appeal, if it finds that their consideration is necessary in arriving at a complete and just resolution of the case. More so, when the provisions on prescription were enacted to benefit and protect taxpayers from investigation after a reasonable period of time.[39]
>
> ...

Here, the issue of prescription was not merely implied or belatedly raised; rather, it was squarely alleged in the Petition for Review. A review of the available records, specifically respondent's Answer, shows that respondent failed to controvert petitioner's allegation concerning the prescription of respondent's right to collect taxes.

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36 Emphasis and underscoring supplied.

37 *Cipriano Enriquez, et al. v. Maximo Enriquez (Now Deceased), Substituted by Carmen Agana, et al.*, G.R. No. 139303, 25 August 2005.

38 G.R. No. 181836, supra at note 266.

39 Citations omitted, emphasis supplied and italics in the original text.

Where prescription has clearly set in and no valid cause for suspension or interruption exists, it becomes legally pointless to proceed to trial. To litigate further on the merits of petitioner's alleged deficiency tax liability that has already been extinguished by the passage of time would be an exercise in futility.

ACCORDINGLY, premises considered:

1. The Motion to Suspend Collection of Taxes, as incorporated in the Petition for Review filed on 04 March 2025, is **DENIED** for being moot and academic. There being no collection to suspend as the right of respondent Commissioner of Internal Revenue to collect the subject deficiency taxes is already barred by prescription.

2. The Petition for Review filed by petitioner Eagles' Wings Construction Phils, Inc. on 04 March 2025 is hereby **GRANTED**. Accordingly, the assessments and collection of the subject deficiency taxes are declared **VOID** for having been issued and/or enforced beyond the prescriptive period.

3. Respondent Commissioner of Internal Revenue, including any of the latter's authorized officers, agents, or representatives, is hereby **PERMANENTLY ENJOINED** from enforcing or collecting the deficiency taxes subject of the void assessments.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON OFFICIAL BUSINESS
LANEE S. CUI-DAVID
Associate Justice