REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AUGUSTO A. PEDROSA,
Petitioner,

- versus -

C.T.A. CASE NO. 5586

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated: JUL 23 1998

x - x

RESOLUTION

After considering respondent's "Motion to Dismiss" filed on April 27, 1998, this Court hereby resolves to dismiss herein petition for review on the ground of prescription. When reckoned from February 26, 1996 which is the date of payment of the expanded withholding and documentary stamp taxes being sought for refund in this case, with that of the date of filing of the instant petition for review on March 27, 1998 (Annexes "B-1" and "B-2" of Petition), petitioner's claim for refund is clearly shown to have been filed beyond the two-year prescriptive period for instituting a judicial claim for refund, as provided under Section 230 of the Tax Code, as amended, to wit:

x-x-x x-x-x x-x-x

> In any case, **no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax** or penalty regardless of any supervening cause that may arise after payment: x-x-x (Emphasis supplied)

ACCORDINGLY, the instant **Motion to Dismiss** is hereby **GRANTED**. Herein **Petition for Review** is hereby **DISMISSED** on the ground of prescription.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

AMANCIO Q. SAGA
Associate Judge

RAMON O. DE VEYRA
Associate Judge