REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2090** (CTA Case No. 9550)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO,** *and* **CUI-DAVID,** JJ.
STANDARD INSURANCE CO. INC., Respondent.	***Promulgated:*** MAR 18 2022 1:30pm

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RESOLUTION

UY, J.:

For resolution is petitioner's ***MOTION FOR RECONSIDERATION (Re: Decision promulgated on June 21, 2021)*** filed on July 15, 2021, with respondent's ***COMMENT & OPPOSITION TO PETITIONER'S MOTION FOR RECONSIDERATION DATED 15 JULY 2021*** filed on December 15, 2021, seeking a reconsideration of this Court's Decision dated June 21, 2021, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Decision dated March 25, 2019 and Resolution dated June 4, 2019, both

rendered by the Court in Division in CTA Case No. 9550 are **AFFIRMED**.

SO ORDERED."

Commissioner of Internal Revenue's (CIR) arguments:

In his *Motion*, the CIR argues that the Court *En Banc* erred in granting a relief that was not prayed for by Standard Insurance Co. Inc. (or Standard Insurance). According to the CIR, the issue on the lack of authority of the revenue officers who conducted the audit investigation was never part of the issues raised during trial. Thus, the CIR's right to fair play and due process was allegedly violated.

The CIR further asserts that the examination conducted by the revenue officers, as well as the subject assessment notices, are valid.

Finally, the CIR reiterates that Standard Insurance's request to hold in abeyance the service and execution of the warrants of distraint/levy and garnishment which was duly granted by the BIR, clearly demonstrates a positive act on the part of Standard Insurance which would justify the suspension of the prescriptive period for collection.

Standard Insurance's counter-arguments:

In its *Comment & Opposition*, Standard Insurance counter-argues that the power of the Court *En Banc* to rule on related issues necessary to achieve an orderly disposition of the case is sanctioned under Rule 14 of the Revised Rules of the Court of Tax Appeals (RRCTA).

Moreover, Standard Insurance maintains that its request for reconsideration did not amount to a positive act that would justify the suspension of the prescriptive period for collection; that it was never made aware of the action taken by the CIR to hold in abeyance the service of the warrants of distraint/levy and garnishment; and that the CIR's Decision after thirteen (13) years from the time the request for reconsideration was filed, is far beyond reasonable and not within the ambit of justice, fairness and equity.

Standard Insurance likewise claims that the cancellation of Assessment Notice No. 34-2001 finds support on the *Letter of Termination* dated June 26, 2003, which shows that the assessment for taxable year 2001 is considered closed and terminated. Allegedly, the *Letter of Termination*, which was issued as a result of Standard Insurance's availment of the Voluntary Assessment and Abatement Program on June 25, 2003, proves that its application for tax abatement has been approved.

THE COURT'S RULING

After careful examination and consideration of the instant *Motion*, it is noted that the arguments raised therein are mere reiterations of matters which have already been thoroughly considered, weighed and resolved in the assailed Decision.

The Court En Banc is empowered to rule on related issues necessary to achieve an orderly disposition of the case.

The CIR argues that his basic right to fair play and due process was violated when this Court ruled on the issue of the want of authority of the revenue officers who conducted the subject tax assessment, as the same was never raised by Standard Insurance during trial.

We disagree.

It bears noting that while the issue on the lack of authority of the revenue officers was not raised by Standard Insurance before the Court *a quo*, its resolution is nonetheless sanctioned under Section 1, Rule 14 of the RRCTA, which reads as follows.

"RULE 14

JUDGMENT, ITS ENTRY AND EXECUTION

SECTION 1. - *Rendition of judgment* - xxx xxx

> **In deciding a case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case."** *(Emphasis supplied)*

To reiterate, the power of this Court to rule upon related issues was confirmed and recognized by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*[1], to wit:

> **"On whether the CTA can resolve an issue which was not raised by the parties, <u>we rule in the affirmative.</u>**
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> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. The text of the provision reads:
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>> SECTION 1. Rendition of judgment. - xxx xxx
>>
>> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.
>
> **The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA <u>even though the parties had not raised the same in their pleadings or memoranda.</u>** The CTA *En Banc* was likewise correct in sustaining the CTA Division's view concerning such matter." *(Emphasis and underscoring supplied)*

Evidently, the Supreme Court did not only affirm this Court's authority to rule upon related issues necessary to achieve an orderly disposition of the case; but also specifically stated that this Court may consider the question on the scope of authority of revenue officers

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[1] G.R. No. 183408, July 12, 2017.

who were named in the LOA, which impliedly covers the issue of whether a revenue officer is authorized through an LOA in the first place. Thus, this Court is authorized to resolve the said issue in this case.

Moreover, in *Commissioner of Internal Revenue vs. Eastern Telecommunications Philippines, Inc.*,[2] the Supreme Court held that the Court may relax the rule against raising new issues on appeal when compelling reasons so warrant or when justice requires it, to wit:

> "The general rule is that appeals can only raise questions of law or fact that (a) were raised in the court below, and (b) are within the issues framed by the parties therein. An issue which was neither averred in the pleadings nor raised during trial in the court below cannot be raised for the first time on appeal. The rule was made for the benefit of the adverse party and the trial court as well. Raising new issues at the appeal level is offensive to the basic rules of fair play and justice and is violative of a party's constitutional right to due process of law. Moreover, the trial court should be given a meaningful opportunity to consider and pass upon all the issues, and to avoid or correct any alleged errors before those issues or errors become the basis for an appeal.
>
> xxx xxx xxx
>
> **The rule against raising new issues on appeal is not without exceptions; it is a procedural rule that the Court <u>may relax when compelling reasons so warrant or when justice requires it</u>.** What constitutes good and sufficient cause that would merit suspension of the rules is discretionary upon the courts. Former Senator Vicente Francisco, a noted authority in procedural law, cites an instance when the appellate court may take up an issue for the first time:
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>> **<u>The appellate court may, in the interest of justice</u>, properly take into consideration in deciding the case matters of record having some**

[2] G.R. No. 163835, July 7, 2010.

> **bearing on the issue submitted which the parties failed to raise or the lower court ignored, although they have not been specifically raised as issues by the pleadings**. This is in consonance with the liberal spirits that pervades the Rules of Court, and the modern trend of procedure which accord the courts broad discretionary power, consistent with the orderly administration of justice, in the decision of cases brought before them. [Emphasis supplied.]
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> xxx xxx xxx
>
> **Another exemption from the rule against raising new issues on appeal is when <u>the question involves matters of public importance</u>**." (Emphasis and underscoring supplied.)

Based from the foregoing, it is clear that while it is a general rule that appeals can only raise questions of law or fact that (a) were raised in the court below, and (b) are within the issues framed by the parties therein, the same admits of certain exceptions, namely:

(i) in the interest of justice, matters of record having some bearing on the issue submitted which the parties failed to raise or the lower court ignore; and

(ii) questions involving matters of public importance.

The question of whether or not the revenue officers who conducted the investigation of Standard Insurance's books of accounts and other accounting records for taxable year 2001 were authorized to do so is a matter of record. The BIR Records submitted by the CIR vis-a-vis the evidence presented by the parties in the proceedings below can easily be examined to answer the said question. Furthermore, the same question is a matter of public importance.

Taxpayers must always be assured that the revenue officers who conduct the examination of their books of accounts and other accounting records for any given period are properly authorized by an

LOA, pursuant to Section 6(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.

With the foregoing disquisitions, the Court *En Banc* is justified in resolving the issue of whether or not the revenue officers who examined Standard Insurance were authorized by the CIR or his duly authorized representative through an LOA.

Standard Insurance's request to hold in abeyance the service and execution of the warrants of distraint/levy and garnishment does not justify the suspension of the prescriptive period for collection.

Contrary to the CIR's argument, the Court cannot consider Standard Insurance's request to hold in abeyance the service and execution of the warrants of distraint/levy and garnishment as one which would justify the suspension of the prescriptive period for collection.

It bears emphasis that there is no law forbidding the BIR from enforcing the collection of taxes by distraint or levy on the sole basis of a mere plea from the taxpayer to hold in abeyance the collection of tax. Accordingly, Standard Insurance's request cannot validly toll the running of the prescriptive period.

Moreover, the said request to hold in abeyance the service and execution of the warrants of distraint/levy, as embodied in the *Letter* dated January 21, 2005, does not amount to a waiver of the prescriptive period to collect the assessed deficiency DST.

In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*[3], the Supreme Court discussed the nature of a valid waiver of the statute of limitations in this wise:

> "A waiver of the statute of limitations under the NIRC, to a certain extent, is a derogation of the taxpayers'

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

> right to security against prolonged and unscrupulous investigations and **must therefore be carefully and strictly construed**. The waiver of the statute of limitations is not a waiver of the right to invoke the defense of prescription as erroneously held by the Court of Appeals. **It is an agreement between the taxpayer and the BIR that the period to issue an assessment and <u>collect the taxes due is extended to a date certain</u>**. The waiver does not mean that the taxpayer relinquishes the right to invoke prescription unequivocally particularly where the language of the document is equivocal. For the purpose of safeguarding taxpayers from any unreasonable examination, investigation or assessment, **our tax law provides a statute of limitations in the collection of taxes**. Thus, the law on prescription, being a remedial measure, should be liberally construed in order to afford such protection. As a corollary, the **<u>exceptions to the law on prescription should perforce be strictly construed</u>**..." (*Emphasis and underscoring supplied.*)

It is clear from the foregoing that a waiver of the statute of limitations under the NIRC is an agreement between the taxpayer and the BIR that the period to collect the taxes due is extended to a date certain. Further, such waiver does not mean that the taxpayer relinquishes the right to invoke prescription where the language of the document is equivocal. It must therefore be carefully and strictly construed as it is a derogation of the taxpayers' right to security against prolonged and unscrupulous investigations.

In this case, it bears reiterating that upon examination of the said *Letter*, the Court notes that there is **<u>no</u>** categorical nor unequivocal statement therein to the effect that Standard Insurance waived the statute of limitations under the NIRC. At the very least, it is a mere plea to the BIR to restrain from collecting taxes. Thus, it cannot be considered as a relinquishment of Standard Insurance's right to invoke the defense of prescription.

In sum, finding no compelling reason to reconsider, modify or reverse the assailed Decision, We reiterate our ruling that the right of the CIR to collect the subject deficiency DST for taxable year 2001 had already prescribed.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice