REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

****

CITIPARKING MANAGEMENT CORPORATION, Petitioner,	**CTA Case No. 9451**
	Members:
- versus -	**UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:***
	JUL 2 3 2021 1:00 p.m.

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DECISION

UY, J.:

Before this Court is the *Petition for Review*[1] filed on August 26, 2016 by petitioner, Citiparking Management Corporation, against respondent, Commissioner of Internal Revenue (CIR), praying for the cancellation of the *Formal Letter of Demand* (FLD) and the *Warrant of Distraint and/or Levy* (WDL) dated July 26, 2016 issued against petitioner for taxable year (TY) 2007.

THE FACTS

As culled from the records of the case, evidence presented in Court, and as stipulated by the parties in their *Joint Stipulation of Facts and Issues* (JSFI)[2], the following are the facts of the case:

Petitioner is a corporation duly organized and existing under Philippines laws.[3]

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[1] Docket, pp. 10 to 17.
[2] Docket, pp. 148 to 152.
[3] Par. 1, *Summary of Admitted Facts*, JSFI, Docket, p. 148.

Respondent is the public officer authorized under the National Internal Revenue Code (NIRC) of 1997, as amended, to examine any taxpayer and to assess the correct amount of internal revenue tax.[4]

On July 27, 2009, *Letter of Authority* (LOA) No. 00032885[5] was issued by Antonio F. Montemayor, Regional Director of Revenue Region 7, authorizing Revenue Officer (RO) Rehmar Mortiz under Group Supervisor (GS) Anna Kristel Dela Vega of the Assessment Division of Revenue Region 7, Quezon City to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for 2007.

On August 12, 2010, a *Memorandum of Assignment* (MOA) was issued, referring the docket of the case relative to petitioner's 2007 internal revenue tax examination to RO Saladin B. Domato and GS Anna Kristel K. Dela Vega for the continuation of the audit investigation.[6]

On November 23, 2010, respondent through Assistant Regional Director Jonas Amora, issued the *Preliminary Assessment Notice* (PAN)[7], with *Details of Discrepancies*[8] assessing petitioner for deficiency taxes for the TY 2007, detailed as follows:

Tax Type	**Amount**
Income Tax	₱1,928,930.90
Value Added Tax (VAT)	528,272.22
Expanded Withholding Tax (EWT)	122,325.39
Documentary Stamp Tax (DST)	7,599.48
Improperly Accumulated Earnings Tax (IAET)	463,335.13
TOTAL	**₱3,050,463.12**

On December 15, 2010, respondent issued Assessment Notices[9] and *Formal Letter of Demand* No. OA-043A-B0088-07[10] with Details of Discrepancies[11] (FAN/FLD) for the alleged 2007 deficiency taxes, detailed as follows: MO

[4] Par. 2, *Summary of Admitted Facts*, JSFI, Docket, par. 2, p. 148.
[5] Exhibit "P-8", BIR Records, p. 1055.
[6] Exhibit "R-2", Docket, p. 228.
[7] Exhibit "R-6", BIR Records, pp. 1328 to 1329.
[8] Exhibit "R-6-1", BIR Records, pp. 1326 to 1327.
[9] Exhibits "R-7", "R-7-1", "R-7-2", "R-7-3", "R-7-4", and "R-7-5", Docket, pp. 243 to 248.
[10] Exhibit "P-1", Docket, pp. 20 to 23; Exhibits "R-8" and "R-8-1", Docket, pp. 249 to 251.
[11] Exhibit "R-9", Docket, pp. 252 to 253.

Tax Type	Amount
Income Tax	₱1,970,742.99
VAT	539,397.64
EWT	124,892.56
DST	6,718.56
IAET	456,420.38
Compromise Penalty	17,000.00
TOTAL	**₱3,115,172.13**

In response to the FAN/FLD, petitioner filed its *Protest*[12] dated March 7, 2011, with the Regional Director, Revenue Region No. 7, BIR, Quezon City, requesting for the re-investigation of the assessments.

On November 2, 2011, OIC-Regional Director Jonas Amora issued a Decision[13] denying petitioner's *Protest* for its failure to submit documents in support of its protest; and requesting the payment of petitioner's tax liability under the FAN/FLD dated December 15, 2010.

On December 8, 2011, petitioner through its Chairman/ President, Ronaldo S. Salonga, filed a *Letter*[14] before the CIR requesting for reconsideration of the Decision issued by OIC-Regional Director Jonas Amora dated November 2, 2011.

On March 30, 2016, CIR Kim Jacinto-Henares issued the *Final Decision*[15] affirming the denial of petitioner's *Protest* to the FAN/FLD; and demanding the payment of deficiency taxes as indicated in the FAN/FLD in the total amount of ₱3,115,172.13.

Thereafter, respondent through the Head of Arrears Management Team, Albert Joy Araño, issued the *Final Notice Before Seizure* (FNBS) [16] against the petitioner requesting the settlement of the deficiency taxes in the total amount of ₱3,115,172.13.

On July 26, 2016, respondent through Chief of Collection Division, Alice S.A. Gonzales, issued the subject WDL No. RR7-

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[12] Exhibit "P-2", Docket, p. 24; Exhibit "R-10", Docket, p. 254.
[13] Exhibit "P-3", Docket. P. 25; Exhibit "R-12", Docket, p. 256.
[14] Exhibit "R-13", Docket, p.257.
[15] Exhibit "P-5", Docket, pp. 26 to 35; Exhibit "R-14", Docket, pp. 258 to 267.
[16] Exhibit "P-6", Docket, p. 37.

2016-07-15-0596[17] in view of petitioner's alleged failure and refusal to pay the subject deficiency taxes for TY 2007. The said WDL was received by petitioner on July 28, 2016.

Thereafter, on August 26, 2016, petitioner filed the instant *Petition for Review*[18].

On September 16, 2016, the Court issued a Resolution[19], dismissing the instant *Petition for Review* for lack of jurisdiction. The Court ruled that the assessment has become final, executory and demandable for petitioner's failure to timely appeal to this Court the Decision dated November 2, 2011.

On October 26, 2016, petitioner filed a *Motion for Reconsideration*[20] praying for the reversal and setting aside of the Resolution dated September 16, 2016. Petitioner argues that it timely filed the Request for Reconsideration of the Regional Director's decision to the CIR within the 30-day period, in accordance with Revenue Regulations No. 12-99, as amended by RR No. 18-2013. Further, petitioner maintains that the issue on the validity of the assessment is separate and distinct from the issue of whether the right of respondent to collect has prescribed; and that the issue of prescription is well within the jurisdiction of the Court to decide.

In the Resolution[21] dated December 5, 2016, the Court granted Petitioner's *Motion for Reconsideration*; and held that it has jurisdiction over the instant case considering that the *Petition for Review* is not an appeal from the inaction of the CIR on petitioner's protest nor an appeal of the of the Decision of the CIR denying petitioner's request for reconsideration, but a remedy afforded to petitioner which the Court has jurisdiction under the "other matters" clause in Section 7 (a)(1) of Republic Act No. 1125, as amended by RA No. 9282. The Court ordered that summons be issued to respondent to file his Answer.

On January 23, 2017, respondent filed his *Answer*[22], interposing, among others, the following special and affirmative defenses: that the subject assessment has become final, executory

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[17] Exhibit "P-7", Docket, p. 38.
[18] Docket, pp. 10 to 18.
[19] Docket, pp. 40 to 43.
[20] Docket, pp. 44 to 52.
[21] Docket, pp. 54 to 56.
[22] Docket, pp. 62 to 65.

and demandable for failure of petitioner to timely file a valid protest; that its protest is void and of no effect for its failure to specify newly discovered or additional evidence as well as the applicable law, rules and regulations or jurisprudence on which its protest is based. Further, respondent contends that petitioner failed to timely the instant *Petition for Review*.

After the Pre-Trial Conference held on June 6, 2017[23], the parties submitted their Joint Stipulation of Facts and Issues (JSFI)[24] on June 21, 2017. Subsequently, the Court issued its *Pre-Trial Order*[25] on July 14, 2017.

During trial, petitioner's counsel presented a sole witness, petitioner's Finance and Accounting Manager, Fely Charito C. Sarmiento.[26]

Petitioner filed its *Formal Offer of Evidence*[27] on September 14, 2017. On October 13, 2017, a *Records Verification Report*[28] was issued by the Judicial Records Division of this Court stating that respondent failed to file his comment on petitioner's *Formal Offer of Evidence*. In the Resolution[29] dated November 20, 2017, the Court admitted all of petitioner's exhibits.

On the other hand, respondent presented as witnesses, RO Saladin B. Domato[30] and RO Eddie Mar Dela Torre[31].

On December 27, 2018, respondent filed his *Formal Offer of Evidence*[32]. On January 17, 2019, petitioner filed its *Comment/Opposition to Respondent's Formal Offer of Evidence with Motion for Presentation of Rebuttal Evidence*[33], alleging among others, that based on the evidence presented by respondent, the subject assessment is void on the ground that the revenue officers who conducted the tax investigation had no authority; and that

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[23] Minutes of Hearing, Docket, p. 144; Order, Docket, pp. 146 to 147.
[24] Docket, pp. 148 to 153.
[25] Docket, pp. 156 to 161.
[26] Exhibit "P-8", Docket, pp. 80 to 86.
[27] Docket, pp. 169 to 174.
[28] Docket, p. 177.
[29] Docket, pp. 179 to 180.
[30] Exhibit "R-20", Docket, pp. 221 to 226.
[31] Exhibit "R-21, Docket, pp. 270 to 273.
[32] Docket, pp. 306 to 315.
[33] Docket, pp. 316 to 319.

petitioner deems it necessary to present rebuttal evidence to prove the said lack of authority.

In the Resolution[34] dated March 6, 2019, the Court directed respondent to file his comment/opposition to petitioner's *Motion for Presentation of Rebuttal Evidence* within five (5) days from notice. On March 28, 2019, a *Records Verification Report*[35] was issued by the Judicial Records Division of this Court stating that respondent failed to file his comment/opposition on petitioner's *Motion for Presentation of Rebuttal Evidence*.

In the Resolution[36] dated June 17, 2019, the Court admitted all of respondent's exhibits; and granted petitioner's *Motion for Presentation of Rebuttal Evidence* and accordingly set the presentation of petitioner's rebuttal evidence.

However on September 25, 201, petitioner filed a *Motion to Mark Rebuttal Evidence*[37], alleging, among others, that after a careful perusal of the documents intended to be presented as rebuttal evidence of petitioner, these were found to have all been identified by respondent's own witness, Revenue Officer Saladin B. Domato ("RO Domato") during his own testimony on September 4, 2018. Thus, petitioner will be adopting, as part of its rebuttal evidence, documents already identified by RO Domato during his direct testimony.

In the Resolution dated October 3, 2019, the Court granted petitioner's said motion and set a Commissioner's Hearing to mark petitioner's rebuttal evidence on October 10, 2019; and noted that the presentation of petitioner's rebuttal evidence is eliminated and that petitioner will be adopting, as part of its rebuttal evidence, documents already identified by RO Domato.

In view thereof, petitioner filed its *Formal Offer of Rebuttal Evidence*[38] on November 4, 2019. On February 6, 2020, a *Records Verification Report*[39] was issued by the Judicial Records Division of this Court stating that respondent failed to file his comment on petitioner's *Formal Offer of Evidence*.

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[34] Docket, pp. 322 to 323.
[35] Docket, p. 324.
[36] Docket, pp. 329 to 331.
[37] Docket, pp. 334 to 336.
[38] Docket, pp. 345 to 349
[39] Docket, p. 372.

In the Resolution[40] dated February 27, 2020, the Court admitted petitioner's rebuttal evidence; and ordered both parties to file their respective memoranda. Petitioner's *Memorandum*[41] was filed on July 1, 2020, while respondent failed to file his memorandum as per *Records Verification Report*[42] dated September 8, 2020.

Thus, the instant case was submitted for Decision in the Resolution[43] dated September 23, 2020.

Hence, this Decision.

THE ISSUES

The parties stipulated the following issues[44] for this Court's resolution, *to wit*:

"**<u>STATEMENT OF ISSUES</u>**

1. WHETHER OR NOT THE DEFICIENCY ASSESSMENT FOR 2007 HAS BECOME FINAL, EXECUTORY, AND DEMANDABLE.

2. WHETHER OR NOT RESPONDENT'S RIGHT TO COLLECT UPON THE DEFICIENCY ASSESSMENT FOR 2007 HAS ALREADY PRESCRIBED."

Petitioner's arguments:

Petitioner argues that the subject assessment is null and void for being based upon an unauthorized examination of petitioner's books of account.

Allegedly, the only LOA which was issued by the Regional Director of Revenue Region 7 was LOA no. 00032885 authorizing Rehmar Mortiz to conduct the examination of petitioner for 2007. Upon reassignment of the examination to RO Domato on August 12, 2010 by reason of Memorandum of Assignment with Reference no. AO-OLA-0078-2010 issued by the Chief of the Assessment Division,

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[40] Docket, pp. 374 to 375.
[41] Docket, pp. 376 to 384.
[42] Docket, p. 388.
[43] Docket, p. 390.
[44] JSFI, Docket, p. 149.

neither respondent nor the Regional Director of Revenue Region 7 issued a new LOA in favor of RO Domato.

Therefore, since no LOA was issued in favor of RO Domato, he was bereft of any authority to conduct the examination of the books of petitioner. Accordingly, the Memorandum Report and Audit Reports resulting from the examination of petitioner's records were all prepared without any valid authority because RO Domato was not validly authorized to conduct the audit examination. Thus, the resulting assessment against petitioner is null and void.

It is petitioner's position that the issuance of a new LOA is mandatory in cases of reassignment of the investigation to another revenue officer.

Assuming arguendo however that RO Domato was not bereft of any authority to conduct the examination of petitioner's 2007 tax deficiency, respondent still has no right to collect upon the assessments as the same is null and void on the ground of prescription.

Under Section 222 of the NIRC, respondent is given five (5) years from the issuance of a tax assessment to collect the same. As can be seen from FLD No. OA-043A-B0088-07, the same was issued on December 15, 2010. Hence any collection made after the lapse of the five-year period, which ended on December 15, 2015 is null and void. The WDL dated July 26, 2016 is clearly an attempt at collection beyond the five-year period when respondent's right to collect has prescribed.

Petitioner likewise asserts that the prescriptive period was not interrupted since no actual reinvestigation was conducted.

Respondent's counter-arguments:

Respondent counter-argues that the assessment has become final, executory and demandable by reason of petitioner's failure to timely file a valid protest.

In addition, respondent contends that petitioner failed to specify newly discovered or additional evidence as well as the applicable law, rules and regulations or jurisprudence in its protest. Thus, petitioner's protest is allegedly void and without force or effect.

Finally, respondent avers that the assessment has become final and executory by reason of petitioner's failure to timely file the instant *Petition*, in violation of Section 228 of the NIRC of 1997, as amended.

THE COURT'S RULING

At the outset, the Court deems it necessary to first determine whether it has jurisdiction to entertain the present *Petition for Review.*

Jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy.[45] The CTA, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[46]

Pertinent to the determination of this Court's jurisdiction over the instant case, Section 7 paragraph (a) (1) of Republic Act No. 1125 (RA 1125)[47], as amended by Republic Act No. 9282 (RA 9282), provides as follows:

> "SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (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 <u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**;" (*Emphasis and underscoring supplied.*)

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[45] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. 185666, February 4, 2015, citing *Commissioner of Internal Revenue v. Villa, et al.*, 130 Phil. 3, 4 (1968).

[46] *Commissioner of Internal Revenue v. V.Y. Domingo Jewelers, Inc.,* G.R. No. 221780, March 25, 2019, citing *CIR v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, 146 Phil. 139, 152 (2014).

[47] *An Act Creating the Court of Tax Appeals.*

Relative thereto, Section 3 (a) (1), Rule 4 of the Revised Rules of the CTA likewise states:

> "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 **<u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**;" (*Emphasis and underscoring supplied.)*

Based on the foregoing, the jurisdiction of the CTA is not limited to decisions of the CIR involving disputed assessments, but also includes "***other matters***" arising under the NIRC or other laws administered by the BIR.

In the instant case, petitioner questions the issuance of WDL No. RR7-2016-07-15-0596[48], dated July 26, 2016; and prays that the same be annulled and set aside on the ground that respondent is barred from collecting the assessment.

In *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*[49], the Supreme Court clarified the jurisdiction of the CTA over "other matters", as follows:

> " xxx xxx we have previously ruled that the **appellate jurisdiction of the CTA is <u>not limited</u> to cases which involve decisions of the CIR on matters relating to assessments or refunds**. The second part of the provision covers other cases that **arise out of the National Internal Revenue Code (NIRC) or related laws administered by the Bureau of Internal Revenue (BIR)**.
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> xxx xxx xxx

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[48] Exhibit "P-7", Docket, p. 38.
[49] G.R. No. 169225, November 17, 2010.

> Furthermore, the phraseology of Section 7, number (1), denotes an intent to view the CTA's jurisdiction over disputed assessments and over 'other matters' arising under the NIRC or other laws administered by the BIR as separate and independent of each other. This runs counter to petitioner's theory that the latter is qualified by the status of the former, i.e., an 'other matter' must not be a final and unappealable tax assessment or, alternatively, must be a disputed assessment." *(Emphasis and underscoring supplied.)*

Based on the foregoing, the jurisdiction of this Court over decisions of the CIR on disputed assessments is separate and independent from his decisions over "other matters" arising under the NIRC.

Further, in *Philippine Journalist, Inc. vs. Commissioner of Internal Revenue*,[50] the Supreme Court in recognizing the jurisdiction of the CTA to determine if the warrant of distraint and levy issued by the BIR is valid, held as follows:

> "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 the provision 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 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).

Applying the foregoing jurisprudential pronouncements, it is evident that this Court has jurisdiction on the issue of validity of the subject WDL, as the same falls under "other matters arising under the NIRC or other laws administered by the BIR".

Timeliness of the instant Petition for Review.

As regards to the timeliness of the subject *Petition for Review*, Section 11 of RA No. 1125, as amended, provides that any party

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

adversely affected by a decision or ruling of the CIR may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling.

In this case, considering that the subject WDL was received by petitioner on July 28, 2016[51], it had thirty (30) days therefrom or until August 27, 2016, to appeal and challenge its validity with the CTA.

Thus, the filing of the *Petition for Review* on August 26, 2016, vested this Court with jurisdiction over the present petition.

The right of the BIR to collect the assessed deficiency taxes has prescribed.

Section 203 of the NIRC of 1997, as amended, provides for the prescriptive periods in the assessment and collection of internal revenue taxes, *to wit*:

> "**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 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."

Based on the foregoing, the BIR has a period of three (3) years to assess internal revenue taxes, reckoned from the last day prescribed by law for the filing of the tax return or the actual date of filing of such return, whichever comes later.[52]

In case where the BIR issues the assessment within the said three-year period, it has another **three (3) years** to collect the taxes,

[51] Exhibit "P-7", Docket, p. 38.
[52] *Commissioner of Internal Revenue v. Kudos Metal Corporation*, G.R. No. 178087, May 5, 2010.

following the ruling in *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*[53], *to wit:*

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

In the instant case, considering that the subject assessment was issued within the three-year prescriptive period to assess, the BIR had another three (3) years within which to initiate the collection of taxes by distraint or levy or by court proceeding. Further, said period for collection began to run on the date the assessment notice was released, mailed or sent to the taxpayer.

Accordingly, since the FLD/FAN was issued on December 15, 2010, the CIR had a period of three (3) years reckoned from said date or until **<u>December 15, 2013,</u>** to enforce collection of the subject deficiency taxes by distraint or levy or by a proceeding in court. Evidently, prescription had already set in when the subject WDL was issued by the CIR on July 26, 2016.

<u>Petitioner's motion for reinvestigation did not interrupt or suspend the prescriptive period to collect.</u>

Section 223 of the NIRC of 1997, as amended, provides *inter alia*, that the running of the statute of limitations for the collection of deficiency taxes shall be suspended when the taxpayer requests for and is granted a reinvestigation by the commissioner, to wit:

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[53] G.R. No. 197515, July 2, 2014.

> **"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 <u>the beginning of distraint or levy or a proceeding in court for collection</u>**, 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; <u>when the taxpayer requests for a reinvestigation which is granted by the Commissioner</u>; 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." *(Emphasis supplied.)*

In the case of *China Banking Corporation vs. Commissioner of Internal Revenue*[54], the Supreme Court emphasized that a request for reinvestigation alone will not suspend the statute of limitation, to wit:

> "The provision is clear. **<u>A request for reinvestigation alone will not suspend the statute of limitations. Two things must concur: there must be a request for reinvestigation and the CIR must have granted it</u>**. *BPI v. Commissioner of Internal Revenue* emphasized this rule by stating:
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>> In the case of *Republic of the Philippines v. Gancayco,* taxpayer Gancayco requested for a thorough reinvestigation of the assessment against him and placed at the disposal of the Collector of Internal Revenue all the [evidence] he had for such purpose; yet, the Collector ignored the request, and the records and documents were not at all examined. Considering the given facts, this Court pronounced that –

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[54] G.R No. 172509, February 4, 2015.

> xxx **The act of requesting a reinvestigation alone does not suspend the period**. The request should first be granted, in order to effect suspension. Moreover, the Collector gave appellee until April 1, 1949, within which to submit his evidence, which the latter did one day before. There were no impediments on the part of the Collector to file the collection case from April 1, 1949 xxx xxx. (*Underscoring and emphasis supplied, Citations omitted.*)

As gleaned from the foregoing legal provision and jurisprudential pronouncement, two (2) requisites must concur before the period to collect taxes may be suspended or interrupted: ***(1) there must be a request for reinvestigation; and (2) the CIR must have granted it***.

Additionally, in the case of *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*,[55] the Supreme Court clarified the nature of a request for reinvestigation which interrupts the running of the statute of limitations on the collection of tax, *to wit*:

> "With the issuance of RR No. 12-85 on 27 November 1985 providing the above quoted distinctions between a request for reconsideration and a request for reinvestigation, the two types of protest can no longer be used interchangeably and their differences so lightly brushed aside. It bears to emphasize that under Section 224 of the Tax Code of 1977, as amended, the running of the prescriptive period for collection of taxes can only be suspended by a request for reinvestigation, not a request for reconsideration. **Undoubtedly, <u>a reinvestigation, which entails the reception and evaluation of additional evidence</u>, will take more time than a reconsideration of a tax assessment, which will be limited to the evidence already at hand; this justifies why the former can suspend the running of the statute of limitations on collection of the assessed tax, while the latter cannot.**"*(Underscoring and emphasis supplied.)*

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[55] G.R. No. 139736, October 17, 2005.

Accordingly, for purposes of interrupting the running of the prescriptive period to collect taxes, respondent must have conducted a reinvestigation, which entails the reception and examination of additional evidence.

In the instant case, while records disclose that a request for reinvestigation was filed by petitioner, there is however, no showing that a reinvestigation was conducted by respondent. In fact, it is apparent from the Decision[56] dated November 2, 2011, issued by the Regional Director, that no additional documents were examined by the revenue officers when they recommended the reiteration of the assessment. Pertinent portions of said Decision, are as follows:

> "Please be informed that your case was returned by the investigating officer, Revenue Officer Saladin Domato and Revenue Officer Anna Kristel K. Dela Vega, **recommending for the reiteration of the assessments issued against you considering that you failed to submit documents in support of your protest.**" (*Emphasis supplied.*)

Likewise, a comparison of the FAN/FLD[57] dated December 15, 2010 and the Final Decision[58] dated March 30, 2016 issued by CIR Kim S. Jacinto-Henares reveals that the assessment in the FAN/FLD was merely reiterated without any modification or adjustment, further bolstering the fact that respondent did not act on petitioner's request for reinvestigation, *to wit:*

Tax Type	FAN/FLD dated December 15, 2010	Final Decision dated March 30, 2016
Income Tax	₱1,970,742.99	₱1,970,742.99
VAT	539,397.64	539,397.64
EWT	124,892.56	124,892.56
DST	6,718.56	6,718.56
IAET	456,420.38	456,420.38
Compromise Penalty	17,000.00	17,000.00
TOTAL	**₱3,115,172.13**	**₱3,115,172.13**

Thus, in view of respondent's failure to conduct an actual reinvestigation in this case, the running of the prescriptive period to

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[56] Exhibit "P-3", Docket, p. 118.

[57] Exhibit "P-1", Docket, pp. 20 to 23.
[58] Exhibit "P-5", Docket, pp. 26 to 35.

collect the deficiency taxes for taxable year 2007 was not interrupted nor suspended.

To reiterate, considering that respondent had until December 15, 2013 to enforce collection of the subject deficiency taxes, the subject WDL issued on July 26, 2016 is already barred by prescription.

It must be remembered that the law provides for a statute of limitations on the assessment and collection of internal revenue taxes in order to safeguard the interest of the taxpayer against unreasonable investigation. While taxes are the lifeblood of the nation, the Court cannot allow tax authorities indefinite periods to assess and/or collect alleged unpaid taxes. Certainly, it is an injustice to leave any taxpayer in perpetual uncertainty whether he will be made liable for deficiency or delinquent taxes.[59]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **GRANTED**. Accordingly, the WDL dated July 26, 2016 is hereby **CANCELLED** and **SET ASIDE** on the ground that respondent's right to collect the deficiency taxes for taxable year 2007 has prescribed.

Respondent is hereby **ENJOINED** from proceeding with the collection of the assailed deficiency taxes assessed against petitioner arising from Assessment/Demand No. OA-043A-B0088-07 for taxable year 2007 in the total amount of ₱3,115,172.13 as indicated in WDL No. RR7-2016-07-15-0596[60] dated July 26, 2016.

SO ORDERED.

ERLINDA P. UY
Associate Justice

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[59] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation,* G.R. No. 197945 and G.R. Nos. 204119-20, July 09, 2018.
[60] Exhibit "P-7", Docket, p. 38.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest 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's Division.

ERLINDA P. UY
Associate Justice
Chairperson, 3rd Division

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