REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 3049** (CTA Case No. 10907)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES** *JJ.*
TRIDHARMA MARKETING CORP., Respondent.	Promulgated: APR 08 2026 11:50am

x- x

DECISION

FERRER-FLORES, J.:

Before Us is a **Petition for Review**[1] filed on January 8, 2025 by the **Commissioner of Internal Revenue (CIR)** assailing the Decision dated July 22, 2024[2] (assailed Decision) and Resolution dated November 26, 2024[3] (assailed Resolution) of the Court's First Division (Court in Division) in the case entitled *Tridharma Marketing Corp. vs. Commissioner of Internal Revenue*, docketed as CTA Case No. 10907. The dispositive portions of the assailed Decision and Resolution read as follows:

Assailed Decision

> **WHEREFORE**, premises considered, the Petition for Review filed on July 1, 2022 is hereby **GRANTED**. As prayed for, respondent

---

1 *Rollo,* pp. 9-22.
2 *Id.* at 31-51; Penned by (Ret.) Presiding Justice Roman G. Del Rosario, concurred in by Associate Justice Jean Marie A. Bacorro-Villena, with Associate Justice Lanee S. Cui-David inhibiting.
3 *Id.* at 53-56.

Commissioner of Internal Revenue is **ORDERED TO REFUND IN CASH**, in favor of petitioner Tridharma Marketing Corp., the compromise offer it paid amounting to ₱20 Million.

SO ORDERED.

Assailed Resolution

WHEREFORE, respondent's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

THE PARTIES

Petitioner is the Commissioner of the Bureau of Internal Revenue (BIR), duly appointed to exercise the powers and perform the duties of his office including, inter alia, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (NIRC) of 1997, as amended.

Respondent **Tridharma Marketing Corp.** is a domestic corporation organized to engage in buying, selling, distributing and marketing all kinds of goods.

FACTUAL ANTECEDENTS

The factual antecedents as narrated in the assailed Decision are as follows:[4]

> On June 4, 2014, [respondent] filed with the BIR a letter requesting compromise of the income tax and VAT assessments for TY 2010 (2010 Assessment) based on their doubtful validity. For the income tax assessment, [respondent] offered a compromise settlement of ₱73,325,706.00 and for the VAT assessment (2010 VAT Assessment), it offered a compromise settlement of ₱122,544,705.00. On May 29, 2014, [respondent] partially paid ₱50 Million as compromise offer for the income tax assessment and ₱20 Million for the 2010 VAT Assessment.
>
> On June 13, 2014, [respondent] filed a Petition for Review with the Court of Tax Appeals (CTA) questioning the 2010 Assessment. The petition was docketed as CTA Case No. 8833 and raffled to the Second Division of the CTA (CTA-Second Division).

---

[4] *Rollo*, pp. 35-41.

On October 24, 2014, the BIR issued a Notice of Denial, disapproving [respondent's] application for compromise settlement for lack of factual basis.

On February 15, 2018, the CTA-Second Division promulgated a Decision in CTA Case No. 8833, partially granting the petition thereby reducing the 2010 Assessment. The dispositive portion thereof provides:

> **WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, [petitioner's] deficiency VAT assessment for taxable year 2010 in the amount of ₱1,298,134,526.24 is hereby **CANCELLED AND WITHDRAWN**. On the other hand, [petitioner's] deficiency income tax assessment for taxable year 2010 is hereby **UPHELD IN PART**. Consequently, [respondent] is **ORDERED TO PAY** [petitioner] the amount of **FIFTY-FOUR MILLION SEVEN HUNDRED FIFTEEN THOUSAND SIX HUNDRED ELEVEN PESOS AND FIFTY-THREE CENTAVOS (₱54,715,611.53)** representing basic deficiency income tax and the 25% surcharge imposed under Section 248 (A) (3) of the NIRC of 1997, as amended, computed as follows:

Basic Deficiency Income Tax	₱43,772,489.22
Add: 25% Surcharge	10,943,122.31
Total	**₱54,715,611.53**

> In addition, [respondent] is also hereby **ORDERED TO PAY**:
>
> a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax of P43,772,489.22 computed from April 15, 2011 until full payment thereof pursuant to Section 249(8) of the NIRC, as amended.
>
> b) Delinquency interest at the rate of twenty percent (20%) per annum on the total amount of P54,715,611.53, and on the 20% deficiency interest, which have accrued as aforestated in (a) computed from June 2, 2014 until full payment thereof pursuant to Section 249 (C) of the 1997 NIRC, as amended.
>
> Provided, further, the amount of P50,000,000.00 paid by [respondent] as offer of compromise shall be deducted in the final settlement of the above deficiency income tax including surcharge, deficiency interest, and delinquency interest.
>
> SO ORDERED.

Upon the parties' separate motions for partial reconsideration, the CTA-Second Division promulgated an Amended Decision on July 6, 2018 further reducing the 2010 Assessment by deducting petitioner's ₱50 Million

y

partial payment of the compromise offer for the income tax assessment made on May 29, 2014 and adjusting the computation of the deficiency and delinquency interests imposed. The dispositive portion thereof reads:

> **WHEREFORE**, premises considered, [petitioner's] Motion [for] Partial Reconsideration (Re: Decision promulgated on 15 February 2018) is **DENIED** for lack of merit. On the other hand, [respondent's] Motion for Partial Reconsideration (of the Decision dated 15 February 2018) is **PARTIALLY GRANTED**, and that the Decision dated February 15, 2018 is hereby **AMENDED** to read as follows, *viz.*:
>
> **WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, [petitioner's] assessment as to the deficiency VAT assessment for taxable year 2010 in the amount of ₱1,298,134,526.24 is hereby **CANCELLED AND WITHDRAWN**. On the other hand, [petitioner's] deficiency income tax assessment for taxable year 2010 is hereby **UPHELD IN PART**. Consequently, [respondent] is **ORDERED TO PAY** [petitioner] the amount of **THIRTY-TWO MILLION FIFTY-EIGHT THOUSAND FOUR HUNDRED TWENTY-SIX PESOS AND SEVENTY-TWO CENTAVOS (₱32,058,426.72)** representing the amount still due after [respondent's] partial payment of its income tax liability on May 29, 2014, including surcharges and interests imposed under Section 248(A)(3) and Section 249(B), respectively, of the NIRC of 1997, as amended, to be computed as follows:

Basic deficiency income tax	₱43,772,489.23
Add: 25% Surcharge	10,943,122.31
20% p.a. Deficiency interest from April 15, 2011 to May 29, 2014	
(₱43,772,489.23 x 20% x 1,140/365 days)	27,342,815.19
Total amount due	**₱82,058,426.73**
Less: Partial payment on May 29, 2014	50,000,000.00
Amount still due after the payment made on May 29, 2014	**₱32,058,426.73**

> In addition, [respondent] is further **ORDERED TO PAY**:
>
> a) Delinquency interest on the unpaid amount of ₱32,058,426.73 at the rate of 20% per annum from June 2, 2014 ***until December 31, 2017***, pursuant to Section 249(C) of the NIRC of 1997; and,
>
> b) Delinquency interest at the rate of 12% per annum on the unpaid amount of ₱32,058,426.73 ***from January 1, 2018 until the amount is fully paid pursuant***

> ***to Sec. 249(C) of the NIRC of 1997, in relation to Sec. 249(A) of the same Code, as amended by the TRAIN law.***
>
> SO ORDERED.

SO ORDERED.

The CTA-Second Division affirmed the Amended Decision in its Resolution dated August 31, 2018.

Both parties appealed the Amended Decision to the CTA *En Banc*. Their appeals were consolidated under CTA EB Nos. 1891 and 1931, respectively.

While CTA EB Nos. 1891 and 1931 were pending, the parties entered into a Judicial Compromise Agreement (JCA) on February 12, 2019.

On July 20, 2020, the CTA *En Banc* promulgated a Judgment on Compromise Agreement (Judgment) approving the parties' JCA, and deeming the case closed and terminated.

Following the finality of the CTA *En Banc's* Judgment, on February 3, 2021, [respondent] filed a Letter dated January 25, 2021 with the BIR to claim a refund of the ₱20 Million compromise offer it paid in connection with the 2010 VAT Assessment.

In the Decision dated May 26, 2022, received by [respondent] on June 2, 2022, [petitioner] denied [respondent's] claim for refund of the ₱20 Million compromise offer solely on the ground that it was filed beyond the two (2)-year period for filing of refund claims under Section 229 of the National Internal Revenue Code of 1997 (NIRC), as amended, to wit:

> It is well settled that the prescriptive period runs from the time the right of action has already accrued. Your application/offer for compromise settlement was denied in a letter dated October 24, 2014. Upon denial of compromise settlement, the prescriptive period for filing for a refund was already running from its reckoning period (*i.e.*, date of payment of offer of compromise) as provided for under the above provision. Hence, you have two years from May 29, 2014 or until May 29, 2016 within which to file for a refund. Your request was only filed February 3, 2021 which is beyond the two-year period to file for a refund.
>
> In view of the foregoing and in adherence to the principle that refund of or exemption to any internal revenue taxes should be construed *strictissimi juris* against the taxpayer, your request for the refund of the offer of compromise for VAT assessment for the taxable year 2010 amounting to ₱20,000,000.00 cannot be granted for being filed beyond the prescriptive period.

In granting respondent's claim for refund, the Court in Division ruled that the Judgment on Compromise Agreement in CTA EB Nos. 1891 and 1931 does not constitute *res judicata* by way of bar by prior judgment. Moreover, the Court in Division pronounced that respondent's claim falls within the ambit of Sections 204(C) and 229 of the NIRC of 1997, as amended; and, both administrative and judicial claims were timely filed.

On August 13, 2024, petitioner filed his *Motion for Reconsideration,* but was denied for lack of merit in the assailed Resolution.[5]

PROCEEDINGS BEFORE THE COURT *EN BANC*

Undeterred, petitioner filed the present *Petition for Review* on January 8, 2025.[6]

Respondent filed his *Comment (To Petition for Review dated 08 January 2025)* on March 17, 2025.[7]

On April 10, 2025, the Court *En Banc* noted respondent's *Comment* and submitted the case for decision.[8]

ISSUES

Petitioner assigns the following errors:[9]

a. Whether the Court in Division erred in ruling that it has jurisdiction over respondent's petition; and,

b. Whether the Court in Division erred in ruling that respondent is entitled to its claim for refund.

PARTIES' ARGUMENTS

In support of its *Petition*, petitioner forwards the following arguments:

First, the doctrine of *res judicata* applies in this case. Contrary to the Court in Division's finding, petitioner submits that there is identity of parties, subject matter and cause of action between CTA EB Nos. 1891 and 1931

---

5 *Supra* at note 3.
6 *Supra* at note 1.
7 *Rollo*, pp. 59-75.
8 *Id.* at 125.
9 *Id.* at 15.

(CTA Case No. 8833) and the instant case. In both cases, the subject matter and cause of action of both cases stems from the assessment issued by petitioner against respondent for taxable year (TY) 2010. Here, the same evidence would support and establish the action for invalidation of the 2010 assessment and claim for refund as the entitlement for refund would rest on whether the assessment is void. For respondent, the filing of a separate claim for refund is tantamount to splitting causes of action which is prohibited by law.

Second, even assuming that *res judicata* is not applicable, petitioner contends that the Court in Division does not have jurisdiction because the administrative and judicial claims were filed out of time. Petitioner points out that respondent paid ₱20 million on May 29, 2014 corresponding to its application for compromise of value added tax (VAT); thus, the administrative and judicial claim should have been filed not later that May 28, 2016. Since respondent filed its administrative claim on June 13, 2019, and the judicial claim on February 3, 2021, it is then clear that the claims were filed out of time. Respondent's right of action accrued from the moment its application for compromise was denied by petitioner and not from the time the decision in CTA EB Nos. 1891 and 1931 was promulgated.

Lastly, petitioner avers that respondent is not entitled to its claim for refund. The judicial compromise agreement was executed to end CTA Case No. 8833 and the related petitions in CTA EB Nos. 1891 and 1931. This means that any matter relating to the issues therein are encompassed in the judicial compromise agreement to include the offer of compromise for the 2010 assessment. Petitioner, on the honest belief that all matters relating to the 2010 assessment have been settled by the judicial compromise agreement, did not appeal the cancellation of the VAT assessment.

In refutation, respondent raises the following contentions:

First, respondent echoes the Court in Division's finding that there is no identity of subject matter and causes of action between the present case and CTA Case No. 8833 and CTA EB Nos. 1891 and 1931. In the prior case, the subject matter was the validity and enforceability of the income tax and VAT assessments for TY 2010; whereas, the subject matter of this case is the claim for refund of the payment initially offered to petitioner pursuant to Section 204 of the NIRC of 1997, as amended, which was later rejected.

Respondent insists that the entitlement to the refund of the compromise payment could not have been taken up in the prior case because it was precisely the finality of the prior case declaring the VAT assessment invalid, which rendered petitioner's retention of the ₱20 million payment unjustified and gave rise to the cause of action in this case. Stated differently, the cause of action in this case arose only after the judgment in the prior case has become final and executory.

Second, with the claim for refund hinged on the finality of the prior case, respondent likewise resonates with the Court in Division's finding that the administrative and judicial claims were timely filed. Respondent reasons that, although the BIR's denial of the compromise was certain during the pendency of the prior case, the taxpayer's right to claim a refund of the ₱20 million payment was not. The right to a refund was determinable only after the judgment of the Court in CTA EB Nos. 1891 and 1931 became final.

RULING OF THE COURT *EN BANC*

The *Petition for Review* is devoid of merit.

The Court En Banc has jurisdiction

Prior to discussing the merits, We shall first determine the Court *En Banc's* jurisdiction.

Section 3(b) of Rule 8 of the Revised Rules of the CTA (RRCTA) provides:

> Sec. 3. *Who may appeal; period to file petition.* –
>
> (b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of he reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Emphasis supplied)

Records reveal that the Office of the Solicitor General (OSG) received the assailed Decision on July 29, 2024. Petitioner filed a *Motion for Reconsideration* on August 13, 2024. Thereafter, on December 9, 2024, the OSG received the assailed Resolution. Petitioner filed a *Motion for Extension to File Petition for Review* on December 19, 2024, which the Court *En Banc* granted, thereby, giving petitioner until January 9, 2025 within which to file a petition for review.[10]

[10] Minute Resolution dated January 2, 2025, *Rollo*, p. 8.

Petitioner, thus, timely filed the instant *Petition for Review* before the Court *En Banc* on January 8, 2025.

Proceeding to the substantive facet of this case, it is noteworthy that petitioner's assigned errors have already been considered and passed upon by the Court in Division. Nonetheless, considering the novelty of the issues at hand, the Court *En Banc* finds it judicious to tackle the merits.

Res judicata, in the concept of bar by prior judgment, does not apply

Petitioner claims that *res judicata* in the concept of bar by prior judgment applies as there is identity of the parties, subject matter, and cause of action between CTA EB Nos. 1891 and 1931 and the present case. The parties are petitioner and respondent and that the subject matter and cause of action in both cases sprung from the assessment issued against respondent for TY 2010.

This argument is specious.

While it is true that the subject of the claim for refund herein is the compromise payment for TY 2010 VAT assessment, thus, inherently intertwined with the assessment, there is no identity in subject matter and causes of action.

Res judicata literally means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." It lays the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit.[11]

Rule 39, Section 47 of the Rules of Court encompasses the principle of *res judicata,* to wit:[12]

> Section 47. *Effect of judgments or final orders.* — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:
>
> xxx xxx xxx
>
> (b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their

---

[11] *Aguila v. Perfect Dimension Corporation,* G.R. No. 243317, August 4, 2025.
[12] *2019 Amendments to the 1997 Rules of Civil Procedure,* A.M. No. 19-10-20-SC, Effective May 1, 2020.

> successors in interest, by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and
>
> (c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto. (49a)

The principle of *res judicata* embraces two concepts: 1) bar by prior judgment in Section 47(b); and, 2) conclusiveness of judgment in Section 47(c). The Supreme Court in *Aguila vs. Perfect Dimension Corporation*, citing *Spouses Ocampo vs. Heirs of Dionisio*,[13] distinguished the two concepts, viz.:[14]

> There is "bar by prior judgment" when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action. Otherwise put, the judgment or decree of the court of competent jurisdiction on the merits concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or other tribunal.
>
> But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein. This is the concept of *res judicata known as "conclusiveness of judgment." Stated differently, any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.* (Italics in the original)

In *Civil Service Commission vs. Soliva,*[15] the Supreme Court elucidated:

> The concept of *res judicata* ***"precludes parties from relitigating issues actually litigated and determined by a prior and final judgment."***
>
> xxx xxx xxx
>
> The elements of *res judicata are as follows:*
>
> **(1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the**

---

[13] G.R. No. 191101, October 1, 2014.

[14] *Supra* at note 10.

[15] G.R. No. 275125, July 30, 2025.

> **parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action.**
>
> xxx xxx xxx
>
> In *Philippine College of Criminology, Inc. v. Bautista*, We emphasized that for the element of identity of causes of action to be met, absolute identity is not required:
>
>> Identity of causes of action does not mean absolute identity. Otherwise, a party could easily escape the operation of *res judicata by changing the form of the action or the relief sought. The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action.*
>
> We also confirmed in that case that the ultimate test in determining the presence of identity of cause of action is the same evidence test, which provides:
>
>> It is a settled rule that the application of the doctrine of *res judicata to identical causes of action does not depend on the similarity or differences in the forms of the two actions. A party cannot, by varying the form of the action or by adopting a different method of presenting his case, escape the operation of the doctrine of res judicata. The test of identity of causes of action rests on whether the same evidence would support and establish the former and the present causes of action.*
>>
>> We held in *Esperas v. The Court of Appeals* that the ultimate test in determining the presence of identity of cause of action is to consider whether the same evidence would support the cause of action in both the first and the second cases. Under the same evidence test, when the same evidence support and establish both the present and the former causes of action, there is likely an identity of causes of action. (Emphasis supplied; italics in the original)

Guided by the foregoing pronouncements, We find that *res judicata* in the concept of bar by prior judgment does not apply in this case, as the fourth requisite is lacking. While there is identity of parties, the subject matter and cause of action in the two cases are different.

We affirm the disquisition of the Court in Division on the difference of the prior and present cases in subject matter and cause of action, to wit:

> The subject matter of the action is "the matter or thing with respect to which the controversy has arisen, concerning which the wrong has been done, and this ordinarily is the property, or the contract and its subject matter, or the thing in dispute." The cause of action is "the legal wrong threatened or committed."
>
> The subject matter of CTA Case No. 8833 and CTA EB Nos. 1891 and 1931 is the 2010 Assessment issued by respondent against petitioner, while the subject matter of the present case is the refund of the compromise offer previously paid by petitioner to support its application for compromise of its 2010 VAT Assessment. Clearly, there is no identity of subject matter in the present Petition for Review, CTA Case No. 8833 and CTA EB Nos. 1891 and 1931.
>
> As regards the causes of action, the cause of action in CTA Case No. 8833, which was the subject of appeal in CTA EB Nos. 1891 and 1931, is respondent's alleged issuance of an invalid assessment. In the present case the cause of action is respondent's alleged unjustified retention of the compromise offer paid by petitioner to settle the 2010 VAT assessment, premised on the Judgment in CTA EB Nos. 1891 and 1931 which supposedly settled the 2010 assessment, which includes the 2010 VAT Assessment.

Moreover, the prior and present cases fail the *same evidence test.* In the prior case, what was crucial for respondent to prove was the invalidity of the assessment. Here, respondent needs to establish payment of ₱20 million and the fact that it was unduly retained by petitioner despite the lack of legal basis, among other things. Clearly, the claims in the prior and present cases rest on different sets of facts and evidence.

Verily, the danger of relitigating issues already determined in a prior and final judgment, that the principle of *res judicata* seeks to avert, is not present. The Judgment on Compromise Agreement in CTA EB Nos. 1891 and 1931 corresponding to the assessment for TY 2010 will remain immutable. The present case, on the other hand, will only pass upon the propriety of respondent's claim for refund.

Res judicata in the concept of bar by prior judgment, therefore, finds no relevance in this case.

No splitting a single cause of action

In insisting that the present case is dismissible, petitioner likewise contends that the filing of a separate claim for refund is considered splitting a cause of action, which the law prohibits.

Again, this argument is misplaced.

Rule 2, Section 4 of the Rules of Court states:

> Section 4. *Splitting a single cause of action; effect of.* – If two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment upon the merits in any one is available as a ground for the dismissal of the others. (4a)

In determining whether two suits relate to a single cause of action, "the test is whether there is the possibility that courts will, in different proceedings, consider substantially the same evidence such that there is the possibility of diverging interpretations." This is the same evidence test.[16]

In the same vein as the test applied in determining *res judicata,* the *same evidence test* is also used to determine whether there is splitting a single cause of action. What is being prevented here is the possibility that different fora will render different interpretations on the same set of evidence.

In the prior case, the cause of action arose when petitioner denied respondent's appeal on its assessment for TY 2010. When the assessment was brought before the Court, the crux of the controversy was the validity and enforceability of petitioner's assessment. Respondent, thus, needed to prove that it is not liable to pay deficiency taxes. Juxtaposed with the present *Petition*, the cause of action arose when petitioner denied respondent's claim for refund on the ground that the administrative claim was filed beyond the two-year period from date of payment. Respondent needs to establish that its claim for refund is warranted. Clearly then, the prior and present cases fail the *same evidence test.*

With the present *Petition* anchored on a different cause of action, We find that there is no violation of the rule against splitting a single cause of action in this case.

The administrative and judicial claims for refund were timely filed

Petitioner posits that respondent's claim for refund was belatedly filed. He reckons the two-year period under Sections 204(C) and 229 of the NIRC of 1997, as amended, on the date of payment of the ₱20 million on May 29, 2014. Hence, for petitioner, respondent only had until May 28, 2016 within which to file its administrative claim.

Petitioner is gravely mistaken.

---

16 *Heirs of Ligot v. Republic*, G.R. Nos. 257827, 257940, 258109 & 259593, March 5, 2025.

Sections 204(C) and 229 of the NIRC of 1997, as amended, read in part:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund. x x x
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation or by some officer having no authority to levy the tax, or one which is some other similar respect is illegal.[17] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively or in any manner wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[18]

The definition above presupposes a wrongful payment. At the time of payment, however, the payment was correct to support its application for

---

[17] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.

[18] *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

compromise before petitioner. The Decision of the Court in Division in CTA Case No. 8833 cancelling the VAT assessment was promulgated only on February 15, 2018. Respondent, therefore, could not have filed a claim for refund within the two-year period reckoned from May 29, 2014 since during that time, there was no ruling yet on the assessment and no basis for an "erroneous or illegal" tax. Stated differently, the right to claim for a refund has yet to accrue.

Moreover, it bears stressing that Revenue Regulations (RR) No. 30-2002,[19] as amended, provides that, in case of disapproval of an application for compromise settlement, the amount paid as compromise offer upon filing of the application shall be deducted from the total outstanding liabilities of the taxpayer-applicant. Evidently, until there is a final determination that respondent had no more outstanding liabilities where the payment may be applied, it cannot validly claim for refund the compromise offer.

We agree with respondent that its right to claim for a refund only ripened upon the finality of the Judgment on Compromise Agreement in CTA EB Nos. 1891 and 1931 considering that it was only at this instance that the assessment for TY 2010 has been concluded. Any time before this, the cancellation of the VAT assessment has not attained finality, thus, removing the payment of ₱20 million from the ambit of erroneous or illegally paid tax.

As aptly found by the Court in Division, the two-year period began on July 20, 2020. We affirm the ruling of the Court in Division with respect to the timeliness of the administrative and judicial claims for refund, to wit:

> The amount of petitioner's tax liabilities was only determinable when the Judgment in CTA EB Nos. 1891 and 1931 approving their JCA was promulgated on July 20, 2020. At that point, petitioner knew for certain that it no longer has tax liabilities which the P20 Million may be applied as payment. As such, it has excess tax payment which may be claimed for refund under Sections 204 (C) and 229 of the NIRC, as amended.
>
> In this light, petitioner's right to refund accrued upon the finality of the Judgment in CTA EB Nos. 1891 and 1931 on July 20, 2020. Consequently, petitioner had until July 19, 2022 to file its administrative and judicial claims for refund reckoned from July 20, 2020. Having filed its administrative claim for refund on February 3, 2021 and its judicial claim for refund on July 1, 2022, petitioner's refund claims were timely filed.

Finally, this Court upholds the finding of the Court in Division that respondent was able to prove its entitlement to the refund of ₱20 million payment, viz.:

---

[19] SUBJECT: Revenue Regulations Implementing Sections 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001, December 16, 2002.

> To support its refund claim, petitioner presented the eFPS Payment Details as proof of successful payment of the ₱20 Million compromise offer and the Judgment in CTA EB Nos. 1891 and 1931 as proof that the JCA was judicially approved. As there is no proof that petitioner has outstanding tax liabilities with the BIR, the Court finds these sufficient to establish that petitioner has excess tax payments which may be refunded.

The Court emphasizes that while tax refunds are strictly construed against the taxpayer, the Government should not resort to technicalities and legalisms, much less frivolous appeals, to keep the money it is not entitled to at the expense of the taxpayers.[20]

ACCORDINGLY, the instant **Petition for Review** is **DENIED** for lack of merit. The Decision dated July 22, 2024 and Resolution dated November 26, 2024 in CTA Case No. 10907 are hereby **AFFIRMED.**

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[20] *Commissioner of Internal Revenue vs. Co*, G.R. No. 241424, February 26, 2020.

With due respect, please see D.O.
MARIAN IVY F. REYES-FAJARDO
Associate Justice

Inhibited
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB No. 3049** (CTA Case No. 10907)
	Present:
-versus-	**RINGPIS-LIBAN,** PJ **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
TRIDHARMA MARKETING CORP., *Respondent.*	Promulgated: APR 08 2026

x - x

DISSENT

REYES-FAJARDO, *J.*:

The *ponencia* sustained the Court of Tax Appeals - First Division's conclusion that respondent is entitled to the refund of ₱20,000,000.00, corresponding to the compromise amount on the 2010 deficiency Value-Added Tax (VAT) paid on May 29, 2014.

I submit otherwise.

First. Based on a straightforward application of Section 229 of the 1997 NIRC, said refund claim by respondent should be rejected, for being filed out of time. Said provision reads:

> Section 229. *Recovery of Tax Erroneously or Illegally Collected.* — **No suit or proceeding shall be maintained in any court for the**

> **recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected**, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, **until a claim for refund or credit has been duly filed with the Commissioner**; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.[1]

Pertinently, when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the provisions are clear, plain, and free from ambiguity, they must be given their literal meaning and applied without attempted interpretation. This is what is known as the plain meaning rule, as expressed in the maxim, *verba legis non est recedendum*, or from the words of a statute there should be no departure.[2]

Section 229 of the 1997 NIRC is clear; hence, should be applied *sans* construal—the administrative claim for refund or credit should be filed within two (2) years from payment of, among others, the tax to be refunded or credited.

On May 29, 2014, respondent paid the compromise amount pertaining to the 2010 deficiency VAT in the sum of ₱20,000,000.00.[3] Counting two (2) years therefrom, respondent had until May 29, 2016 to institute its administrative claim for refund thereof. Therefore, petitioner is correct in denying respondent's refund claim because it belatedly filed its administrative claim for refund[4] on February 3, 2021.

---

1 Boldfacing mine.
2 See *Dubongco, et al. v. Commission on Audit,* G.R. No. 237813, March 5, 2019.
3 Docket (CTA Case No. 10907), pp. 291-294; and 355-356.
4 Docket (CTA Case No. 10907), p. 261.

To be sure, the compromise amount (for 2010 deficiency VAT assessment) of ₱20,000,000.00 paid by respondent on May 29, 2014 was legal at first, because Section 6 of RR No. 30-2002, as amended by RR No. 9-2013 requires that "[t]he compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement...." It then attained the status of an excessively collected tax only when petitioner and respondent agreed to amicably settle the 2010 deficiency internal revenue tax assessments, through their execution of Joint Compromise Agreement (JCA) on February 12, 2019. Despite the supervening cause of amicable settlement on the 2010 deficiency taxes, it did ***not*** alter the running of the two (2)-year prescriptive period from payment thereof on May 29, 2014. The reason—Section 229 of the 1997 NIRC is upfront in that "[i]n any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty **regardless of any supervening cause that may arise after payment.**"

Second. The historical background leading to Section 229 of the 1997 NIRC shows that Congress intended to narrow down the running of the two (2)-year prescriptive period solely from the date of payment of tax, irrespective of any supervening cause that may arise after its payment. The execution of the JCA on February 12, 2019 as supervening cause is *no* exception.

Section 306 of the 1939 NIRC[5] is the origin of Section 229 of the 1997 NIRC, providing as follows:

> Sec. 306. *Recovery of tax erroneously or illegally collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. 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.

[5] Commonwealth Act No. 466, entitled "AN ACT TO REVISE, AMEND AND CODIFY THE INTERNAL REVENUE LAWS OF THE PHILIPPINES," then also known as the "NATIONAL INTERNAL REVENUE CODE," approved on June 15, 1939.

In *Commissioner of Internal Revenue v. Insular Lumber Company, et al. (ILC)*,[6] the Supreme Court *En Banc* interpreted the two (2)-year prescriptive period under Section 306 of the 1939 NIRC, in this wise:

> In fine, when the tax sought to be refunded is illegally or erroneously collected, the period of prescription starts from the date the tax was paid; ***but when the tax is legally collected, the prescriptive period commences to run from the date of occurrence of the supervening cause which gave rise to the right of refund****....*[7]

Despite the existence of the foregoing pronouncement in *ILC*, in 1977, Congress recodified[8] the 1939 NIRC. Section 306 of the 1939 NIRC was re-numbered to Section 292 of the 1977 NIRC. Under Section 292 of the 1977 NIRC, Congress forged the *second* and *new* paragraph thereof, particularly inserting the phrase "[i]n any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment." Thus:

> Section 292. *Recovery of tax erroneously or illegally collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal-revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **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**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.[9]

---

6 G.R. No. L-24221, December 11, 1967.
7 Emphases mine.
8 PD 1158, entitled "A DECREE TO CONSOLIDATE AND CODIFY ALL THE INTERNAL REVENUE LAWS OF THE PHILIPPINES," also known as the "NATIONAL INTERNAL REVENUE CODE OF 1977" (June 3, 1977).
9 Boldfacing mine.

In 1997, Congress recodified[10] the 1977 NIRC. Then Section 292 of the 1977 NIRC was transposed to Section 229 of the 1997 NIRC, *sans* variations in content. Specifically, the phrase "[i]n any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment[,]" was retained in *verbatim*, to wit:

> Section 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.[11]

As I see it, under Section 306 of the 1939 NIRC, as construed in *ILC*, there are ***initially*** *two (2)* incidents wherein the two (2)-year prescriptive period for refund of illegal, erroneous, excessive internal revenue taxes may commence: *first,* from date of payment of tax, if the tax was illegally or erroneously collected from the start; **or** *second,* from date of occurrence of supervening cause which gave rise to the right to refund, if the tax was legally collected at first. Still, with the enactment of the 1977 and 1997 NIRC, Congress condensed the reckoning point of said two (2)-year prescriptive period into a *single* circumstance.

To be exact, with the introduction of the phrase "[i]n any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty **regardless of**

10 Republic Act No. 8424, entitled "AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, As AMENDED, AND FOR OTHER PURPOSES" (January 1, 1998).
11 Boldfacing mine.

any supervening cause that may arise after payment...," under the second paragraph of Section 292 of the 1977 NIRC and Section 229 of the 1997 NIRC, Congress intended to do away with the *second* circumstance (from date of occurrence of supervening cause which gave rise to right to refund, if the tax was rightfully collected at first) as point of commencement of said two (2)-year period, previously permitted in *ILC* and Section 306 of the 1939 NIRC. Therefore, for purposes of counting said prescriptive period, only the date of payment of internal revenue tax or penalty is to be considered. Indeed, "... [t]he legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by use of such words as are found in the statute."[12]

Parenthetically, had Congress envisaged that the two (2)-year prescriptive period would commence from the date when the claimant's right to refund arose, it could have said so in Section 292 of the 1977 NIRC and Section 229 of the 1997 NIRC. Nay, Congress did *not*. *Ergo*, the will of the Legislature is to count the same *solely* from the date of payment of internal revenue tax or penalty. *Development Bank of the Philippines v. Commission on Audit*[13] is on point:

> It is a settled rule of statutory construction that **the express mention of one** person, thing, **act, or consequence excludes all others**. This rule is expressed in the familiar maxim *expressio unius est exclusio alterius*. **Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others**. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.

Once more, on May 29, 2014, respondent paid the compromise amount pertaining to the 2010 deficiency VAT in the sum of ₱20,000,000.00.[14] Counting two (2) years therefrom, respondent had until May 29, 2016 to institute, among others, its administrative claim for refund. Therefore, respondent's belated filing of its administrative claim for refund[15] on February 3, 2021 warrants the outright denial

12 *Review Center Association of the Philippines v. Executive Secretary*, G.R. No. 180046, April 2, 2009.
13 G.R. No. 221706, March 13, 2018. Boldfacing mine.
14 Docket (CTA Case No. 10907), pp. 291-294; and 355-356.
15 Docket (CTA Case No. 10907), p. 261.

thereof, subject of CTA Case No. 10907, by express provision of Section 229 of the 1997 NIRC.

Third. In 2024, RA No. 11976[16] was enacted, recalibrating Section 229 of the 1997 NIRC. Among the recalibrations made is the deletion of, *inter alia,* the first sentence of the second paragraph of Section 229 of the 1997 NIRC, containing the phrase "[i]n any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty **regardless of any supervening cause that may arise after payment**...," *viz.*:

> Section 229. Recovery of Tax Erroneously or Illegally Collected. - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204 of this Code: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund, or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.
>
> ...

By erasing the phrase "[i]n any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause

---

[16] Republic Act No. 11976, entitled "AN ACT INTRODUCING ADMINISTRATIVE TAX REFORMS, AMENDING SECTIONS 21, 22, 51, 56, 57, 58, 76, 77, 81, 90, 91, 103, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 128, 200, 204, 229, 235, 236, 237, 238, 241, 243, 245, 248, AND 169; AND REPEALING SECTION 34(K) OF THE NATIONAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES" (January 5, 2024). This is also known as "Ease of Paying Taxes Act."

that may arise after payment[,]" in Section 229 of the 1997 NIRC, RA No. 11976 quelled the unfairness arising from the situation wherein the right to refund of taxes was foreclosed, just because it sprung *after* the expiration of such two (2)-year prescriptive period, like respondent's situation in this case. The only legal proscription at present is that RA No. 11976 has yet to be enacted, much more, effective at the time of respondent's refund claim instituted on February 3, 2021; hence, Section 229 of the 1997 NIRC should be applied in this case. *Lex prospicit, non respicit.* The law looks forward not backward.[17]

Fourth. I commiserate with the inequity of respondent's circumstance here. Its refund claim must be disallowed notwithstanding that the incident justifying its entitlement thereto came after the expiration of the two (2)-year prescriptive period in Section 229 of the 1997 NIRC. Yet, "[e]quity, which has been aptly described as 'justice outside legality,' is applied only in the absence of, and never against, statutory law or judicial rules of procedure. Positive rules prevail over all abstract arguments based on equity *contra legem*."[18] Too, while Section 229 of the 1997 NIRC is somewhat unforgiving, "[t]he rule must stand no matter how harsh it may seem. ***Dura lex sed lex.***"[19]

ACCORDINGLY, I **VOTE** to: (1) **GRANT** the Petition for Review filed by the Commissioner of Internal Revenue in CTA EB No. 3049; and (2) **REVERSE** the Decision dated July 22, 2024 and Resolution dated November 26, 2024, in CTA Case No. 10907.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

---

17 See *San Miguel Corporation v. Commissioner of Internal Revenue*, G.R. No. 257697, April 12, 2023.

18 See *Delos Santos, et al. v. Abejon, et al.*, G.R. No. 215820, March 20, 2017; and *Cheng v. Spouses Donini*, G.R. No. 167017, June 22, 2009.

19 *Spouses Reyes v. Court of Appeals*, G.R. No. 94524, September 10, 1998. Emphases in the original.