Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

GOLDEN LAOAG FOODS CORPORATION,
Respondent.

CTA EB CASE NO. 536
(CTA Case No. 7013)

Present:
ACOSTA, *P.J.*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
PALANCA-ENRIQUEZ,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, JJ.

Promulgated:
SEP 29 2010 9:25 a.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review filed on September 24, 2009 for the Court *en banc*, pursuant to Section 18 of Republic Act No. 1125, as amended by Republic Act No. 9282, of the Decision[1] and Resolution[2] dated December 23, 2008 and August 28,

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[1]Penned by Associate Justice Lovell R. Bautista with the concurrence of Associate Justice Caesar A. Casanova. Presiding Justice Ernesto D. Acosta was on leave.
[2] Penned by Associate Justice Lovell R. Bautista with the concurrence of Presiding Justice Ernesto D. Acosta and Associate Justice Caesar A. Casanova.

2009, respectively, rendered by the former First Division of this Court. The dispositive portions thereof read as follows:

Decision dated December 23, 2008:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the assessments for deficiency income tax, value-added tax, and withholding tax for calendar year ending December 31, 2000 are hereby **CANCELLED** and **WITHDRAWN**.
>
> **SO ORDERED**."

Resolution dated August 28, 2009:

> "**WHEREFORE**, finding no cogent reason to reverse the previous ruling of this Court, the Motion for Reconsideration is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**."

The antecedent facts as culled from the Decision of this Court's former First Division are summarized herein below.

Petitioner is the duly appointed Commissioner of Internal Revenue mandated by law to enforce and implement the provisions of the National Internal Revenue Code, related tax statutes, and their implementing rules and regulations; including the power to issue deficiency tax assessments and evaluate and decide upon the merits of the protest against deficiency tax assessments.

Respondent Golden Laoag Foods Corporation, a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, is principally engaged in the business of establishing, operating and maintaining restaurants, coffee shops, refreshments parlors, cocktail lounges and catering foods.

On April 19, 2004, respondent received a Formal Letter of Demand dated 13 April 2004 and the corresponding Assessment Notices Nos. IT-01-00-005-508-945, WT-01-00-005-508-945, and VT-01-00-005-508-945, all dated 14 April 2004, for alleged deficiency tax liabilities for the calendar year ended 31 December 2000, to wit:

A. **Withholding Tax**

	Management Fee	Rental	Contractors
January	P2,399.93	P9,237.14	P10,704.46
February	2,480.94	9,418.32	9,832.74
March	2,128.90	8,268.85	5,588.37
April	2,359.61	9,438.44	6,343.22
May	2,318.71	9,274.85	4,893.74
June	14,988.25	8,353.01	4,559.88
July	8,539.76	17,359.04	4,188.68
August	8,365.65	12,162.61	3,732.78
September	1,917.68	12,170.72	3,599.17
October	8,794.96	12,479.83	4,221.34
November	8,229.19	8,516.76	3,314.59
December	8,619.81	10,079.25	5,292.87
Total	71,143.39	126,758.82	66,271.84
Gross Payment	P1,422,867.80	P2,535,176.40	P6,627,184.00
Per FS/Audit	2,455,683.95	3,222,280.45	
Discrepancy	P1,032,816.15	P 687,104.05	
Withholding Tax	P122,784.20	P161,114.02	
Less: Amount Remitted	77,843.39	137,006.32	
Deficiency Tax	P 44,940.81	P 24,107.70	
Add: Interest	29,279.23	15,706.33	
Total	P 74,220.04	P 39,814.03	P114,034.07
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Increments for late payment of tax withheld

	Management Fee	Rentals	
Base Amount	P6,700.00	P10,247.50	
Interest	111.67		111.67
January 10, 2001 to February 10, 2002			

December 10, 2001 to February 10, 2002		150.75	150.75
January 10, 2001 to March 10, 2001		157.50	157.50
Fringe Benefit Tax			
Fringe Benefit	P 97,683.35		
Basis	P437,769.63		
Fringe Benefit Tax		P140,086.28	
Add: Surcharge		35,021.57	
Interest		91,267.15	
Compromise Penalty		16,000.00	282,375.00
TOTAL			**P396,828.99**

B. Income Tax

Taxable Income/Return		P779,431.00
Adjustments:		
Disallowed Expenses		
Donations	P 18,759.95	
Taxes & Licenses	32,984.70	
Freight & Cartages (Service Fee)	804,750.65	
Depreciation- Bldg.	1,129,613.28	
Depreciation- machinery and equipment	658,574.76	2,644,683.34
Taxable Income/Return		3,424,114.34
Tax Due		1,095,716.59
Less: Tax Paid		249,418.00
Deficiency Tax		846,298.59
Add: Interest		514,271.28
TOTAL		**P1,360,569.87**

C. Value-Added Tax

Sales per Return			P 52,686,781.00
Output Tax			P 5,268,678.10
Less: Input Tax per Return		P3,698,936.12	
Less: Disallowed input tax			
Chicken	P293,171.08		
Building	1,123,873.20		
Machineries & Equipment	672,299.46		1,609,592.38
		2,089,343.74	
VAT Due			P 3,659,085.72
Less: VAT Paid/Carry-Over			2,130,417.23
Total			P 1,528,668.49
Add: VAT carried over on succeeding year			560,675.19
Deficiency VAT			P 2,089,343.68
Add: Interest			1,361,221.69
TOTAL			**P 3,450,565.37**
TOTAL FOR ALL TAXES			**P 5,207,964.23**

6

On May 12, 2004, respondent immediately filed a Protest Letter assailing the above-subject assessment. Petitioner denied the same in a Letter dated May 25, 2004 and instead recommended the issuance of a warrant of distraint and levy for the collection of the assessed taxes. In the same letter, petitioner categorically stated that any protest on the denial should now be filed with the proper tax court.

On 25 June 2004, respondent filed a Petition for Review before the Court in Division docketed as CTA Case No. 7013 entitled: "*Golden Laoag Foods Corporation vs. Commissioner of Internal Revenue*" on ground that the assailed assessments had prescribed.

After trial, the Court in Division rendered its Decision dated December 23, 2008 in favor of respondent, thus, ordering the cancellation and withdrawal of the assessments for deficiency income tax, value-added tax, and withholding tax for the calendar year ending 31 December 2000 due to prescription (deficiency withholding tax and VAT) and payment (deficiency income tax). Petitioner's Motion for Reconsideration[3] of the aforesaid Decision was likewise denied in a Resolution dated August 28, 2009.

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[3] Filed on 23 January 2009 by registered mail and received by the Court on 04 February 2009.

Hence, petitioner filed the instant Petition for Review before the Court *En Banc* praying that the assailed Decision[4] and Resolution[5] of the Court in Division be set aside and instead order respondent to pay the amounts of P1,360,569.87, P396,828.99 and P3,450,565.37 as deficiency income tax, withholding tax and value-added tax respectively, for the taxable year 2000, inclusive of 25% surcharge and 20% annual interest from May 14, 2004, the due date indicated in the assessment notice, until fully paid pursuant to Sections 248 and 249 of the NIRC of 1997, as amended.

In compliance with the Court *En Banc*'s Resolution[6], respondent filed its Comment on November 16, 2009.[7] Thereafter, both parties were required to submit their memoranda within thirty (30) days from receipt of the Resolution dated November 26, 2009. Petitioner and Respondent submitted their respective Memorandum on January 7, 2010[8] and January 4, 2010, respectively, and the case was then deemed submitted for decision[9].

Petitioner states the issues as follows:

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[4] Promulgated on 23 December 2008.
[5] Promulgated on 28 August 2009.
[6] Promulgated on 09 October 2009 ordering respondent to file its Comment within ten (10) days from receipt of the said Resolution.
[7] Respondent filed a Motion for Additional Time to File Comment on 23 October 2009. In a Resolution dated 27 October 2009, CTA *En Banc* granted a final and non-extendible period of twenty (20) days or until 14 November 2009 within which to file its Comment.
[8] Petitioner's Motion to Admit Attached Memorandum was granted by the CTA *En Banc* in a Resolution dated 26 January 2010.
[9] In a Resolution dated 26 January 2010.

1. Whether petitioner's right to assess respondent for deficiency withholding tax, income tax and value-added tax for the taxable year ending 31 December 2000 had already prescribed;
2. Whether respondent's failure to submit supporting documents for its protest within the sixty-day period under Section 228 of NIRC, as amended, barred the presentation of such documents before the CTA in Division; and
3. Whether respondent presented conclusive proof of payment of its deficiency income tax for the taxable year ending 31 December 2000.

We discuss the issues hereunder in seriatim.

1. Suffice it to say that petitioner's right to assess the deficiency Withholding and Value-added Taxes for the calendar year ended 31 December 2000 had already prescribed, while the Deficiency Income Taxes for the same period had been paid.

Section 203 of the National Internal Revenue Code (NIRC) of 1997, as amended, provides for the three (3)-year prescriptive period reckoned from the filing of the tax return within which internal revenue taxes shall be assessed. We quote:

> "**SEC. 203. Period of Limitation Upon Assessment and Collection.** — Except as provided in Section 222, **internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return**, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this

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Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day." [Emphasis supplied]

As expressly provided therein, the BIR has three (3) years, counted from the date of actual filing of the return or from the last date prescribed by law for the filing of such return, whichever comes later, to assess a national internal revenue tax or to begin a court proceeding for the collection thereof.

In the case at bar, it is undisputed that respondent received only on April 19, 2004 or after the lapse of the three (3) – year prescriptive period pursuant to Section 203 of the 1997 NIRC, the Formal Letter of Demand dated April 13, 2004 and the corresponding Assessment Notices for deficiency income, withholding, and value-added taxes for the taxable year 2000, all dated April 14, 2004.

Petitioner, however, vigorously argue that although respondent received the assessments outside the prescriptive period provided by law, the pivotal fact to consider is the date when petitioner released the assailed assessment notices, which was on April 14, 2004 or within the prescribed period.

Petitioner erroneously concluded that the three (3)-year prescriptive period under Sec. 203 of the 1997 NIRC, as amended, is exclusively reckoned from the actual date or last date prescribed by law for filing a Final Adjustment Return for corporate income tax purposes. As correctly ruled by the Court in Division, since respondent's deficiency assessments consist of withholding tax, income tax, and value-added tax, the filing of the required returns involve different period –

> 'In cases of withholding taxes, the relevant provision is hereby quoted:
>
> "**SEC. 58. Returns and Payment of Taxes Withheld at Source. —**
>
> > **(A) Quarterly Returns and Payments of Taxes Withheld.** — Taxes deducted and withheld under Section 57 by withholding agents shall be covered by a return and paid to, except in cases where the Commissioner otherwise permits, an authorized agent bank, Revenue District Officer, Collection Agent, or duly authorized Treasurer of the city or municipality where the withholding agent has his legal residence or principal place of business, or where the withholding agent is a corporation, where the principal office is located.
> >
> > The taxes deducted and withheld by the withholding agent shall be held as a special fund in trust for the government until paid to the collecting officers.
> >
> > The return for final withholding tax shall be filed and the payment made within twenty-five (25) days from the close of each calendar quarter, while the return for creditable withholding taxes shall be filed and the payment made not later than the last day of the month following the close of the quarter during which withholding was made: Provided, That **the Commissioner, with the approval of the Secretary of Finance, may require these withholding agents to pay or deposit the taxes deducted or withheld at more frequent intervals** when necessary to protect the interest of the government." (Emphasis supplied)
>
> Revenue Regulations No. 2-98 provides for the period for the filing of the return, in the following manner:
>
> > "**SECTION 2.58.** *Returns and Payment of Taxes Withheld at Source.*
> >
> > xxx xxx xxx

> (2) WHEN TO FILE —
> (a) **The withholding tax return, whether creditable or final, shall be filed and payments should be made within ten (10) days after the end o[f] each month except for taxes withheld for December which shall be filed on or before January 25 of the following year."** (Emphasis supplied)

From the foregoing, the three-year period within which respondent can validly issue an assessment shall be counted from the last day required by law for filing a monthly remittance return, which is ten (10) days after the end of each calendar month, except December, which is twenty-five (25) days after the end of December or the case of actual filing of the return, whichever is later.

On the other hand, in cases of income taxes, Section 77 (B) of the NIRC of 1997, as amended, provides for the period for filing income tax return, to wit:

> **"SEC. 77. Place and Time of Filing and Payment of Quarterly Corporate Income Tax. —**
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> (A) xxx
>
> **(B) Time of Filing the Income Tax Return. — The corporate quarterly declaration shall be filed within sixty (60) days following the close of each of the first three (3) quarters of the taxable year. The final adjustment return shall be filed on or before the fifteenth (15th) day of April, or on or before the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year, as the case may be."** (Emphasis supplied)

It is long established in our jurisdiction that the first three (3) quarterly returns are mere installments of the annual tax due, and the final adjustment return is the one truly reflective of the operations of an establishment. Thus, the three-year period is to be reckoned from the fifteenth (15th) day of April or the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year, as the case may be; or the date of actual filing of the final adjustment return, whichever is later.

Finally, in cases of value-added taxes, Section 114 (A) of the NIRC of 1997, as amended, provides as follows:

> **"SEC. 114. Return and Payment of Value-added Tax. —**

> **(A) In General.** — Every person liable to pay the value-added tax imposed under this Title **shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer:** Provided, however, That VAT-registered persons shall pay the value-added tax on a monthly basis." (Emphasis supplied)

By plain reading from the provision, the running of the three-year period within which the BIR can make an assessment is reckoned from the filing of the quarterly VAT returns. Unlike in corporate income tax, which is reported and paid on installment every quarter, but is eventually subjected to a final adjustment at the end of the taxable year, VAT is computed and paid on a purely quarterly basis without need for a final adjustment at the end of the taxable year. Hence, each return has its own prescriptive period.

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In the case of **Commissioner of Internal Revenue vs. Primetown Property Group, Inc.** [G.R. No. 162155, 28 August 2007], it is however declared that Section 31, Chapter VIII, Book I of the Administrative Code of 1987, being the more recent law, governs the computation of legal periods. *Lex posteriori derogat priori*. Section 31, Chapter VIII, Book I of the Administrative Code provides:

> "**SECTION 31.** Legal Periods. — **'Year' shall be understood to be twelve calendar months**; 'month' of thirty days, unless it refers to a specific calendar month in which case it shall be computed according to the number of days the specific month contains; 'day', to a day of twenty-four hours and; 'night' from sunrise to sunset." (Emphasis supplied)

In this manner, the three-year periods are computed as follows:

A. Withholding tax liabilities:

Exhibits	Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) for the Year 2000	Date of Filing	Last day of the 3-year period within which to issue an assessment
"CC-1"	January	April 11, 2000	April 11, 2003

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1288

"CC-2"	February	April 11, 2000	April 11, 2003
"CC-3"	March	April 11, 2000	April 11, 2003
"CC-4"	April	May 10, 2000	May 10, 2003
"CC-5"	May	June 9, 2000	June 9, 2003
"CC-6"	June	July 7, 2000	July 7, 2003
"CC-7"	July	August 10, 2000	August 10, 2003
"CC-8"	August	September 12, 2000	September 12, 2003
"CC-9"	September	October 10, 2000	October 10, 2003
"CC-10"	October	November 10, 2000	November 10, 2003
"CC-11"	November	December 11, 2000	December 11, 2003
"CC-12"	December	January 10, 2001	January 10, 2004

B. VAT liabilities

Exhibits	**Quarterly VAT Tax Returns for the Year 2000**	**Date of Filing**	**Last day of the 3-year period within which to issue an assessment**
"G"	1st Quarter	April 25, 2000	April 25, 2003
"J"	2nd Quarter	July 25, 2000	July 25, 2003
"M"	3rd Quarter	October 16, 2000	October 25, 2003
"P"	4th Quarter	January 24, 2001	January 25, 2004

C. Income tax liabilities

Petitioner [respondent herein] filed its Annual Income Tax Return for calendar year 2000 on April 16, 2001. Therefore, the three-year period is counted from the actual filing, which is April 16, 2001, and will prescribe on April 16, 2004; within which the BIR may validly issue an assessment thereof.

Hence, respondent [petitioner herein] had the above-mentioned periods within which to issue the corresponding deficiency tax assessments.'

Based on the foregoing, petitioner's right to assess deficiency Withholding and Value-Added Taxes had already prescribed at the time the Formal Letter of Demand dated April 13, 2004 and the corresponding Assessment Notices dated April 14, 2004 were released. It must be underscored that "[f]or 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."[10]

On another score, petitioner's right to assess deficiency Income Tax has not prescribed pursuant to Sec. 203 in relation to Sec. 77 (B) of the 1997 NIRC, as amended. It is a long established doctrine that in computing the prescriptive period for assessment, the latter is deemed made when notice to this effect is released, mailed or sent by the Commissioner, and it is not required that the notice is received by the taxpayer within the said period. [11]

Applying the foregoing doctrine in the instant case, the disputed notice of assessment released by the petitioner on April 14, 2004 was made within the prescribed three-year period although the same was received late by respondent on April 19, 2004. Thus, petitioner's right to assess deficiency income tax for the calendar year ending 31 December 2000 is clearly established.

2. On the corollary issues of admissibility of respondent's documentary evidence to prove payment, petitioner assails the admissibility of the documentary evidence presented before the Court in Division due to respondent's failure to present the same within the sixty-

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[10] Commissioner of Internal Revenue vs. B.F. Goodrich Phils., Inc. (now SIME DARBY INTERNATIONAL TIRE CO., INC.), et al., G.R. No. 104171, February 24, 1999.
[11] Basilan Estates, Inc. vs. Commissioner of Internal Revenue, G.R. No. L-22492, 21 SCRA 17, September 5, 1967.

day (60) period under Sec. 228 of the NIRC, as amended; hence, in the opinion of petitioner, the disputed assessments are deemed final and incontestable.[12] Stated otherwise, petitioner argues that failure to submit or present pertinent documents for scrutiny and evaluation by the Revenue Officer conducting the audit would render such documents inadmissible in a petition for review before the Court of Tax Appeals.

Petitioner's argument is misplaced. Failure to submit supporting documents within the sixty-day period from the filing of an administrative protest under Section 228 of the NIRC, as amended, does not bar presentation of the same in a Petition for Review before the CTA in Division.

Section 228 of the NIRC, as amended, provides for the procedure in protesting an Internal Revenue Tax assessment, which reads:

> **SEC. 228. *Protesting of Assessment.*** - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: *Provided, however,* That a pre-assessment notice shall not be required in the following cases:
> xx x xxx xxx
>
> The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

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[12] Petitioner's Petition for Review dated 24 September 2009, Docket, pp. 12-13.

> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.** [Emphasis supplied]

As provided in the above-cited provision, a tax assessment may be protested within thirty (30) days from receipt thereof, and a sixty (60)-day period is given from the filing of the protest within which to submit relevant supporting documents. Likewise, said provision clearly and categorically states therein that the taxpayer adversely affected by the decision or inaction of the Commissioner or the authorized representatives is given a thirty (30)-day period reckoned from receipt of the said decision or after the lapse of the one hundred eighty (180)-day period within which to file an appeal before the Court of Tax Appeals. It is worthy to emphasize that what may be the subject of judicial review is the decision of the Commissioner on the protest against assessment, and not the assessment itself.[13]

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[13] Justice Japar B. Dimaampao, Tax Principles and Remedies, Second Edition, 2005, p.186 *citing* Commissioner of Internal Revenue vs. Villa, No. L-23998, 22 SCRA 3, January 2, 1968.

Likewise, it is significant to note that petitioner denied respondent's Letter of Protest in a Letter dated May 25, 2004 or merely thirteen (13) days thereafter, and it recommended the issuance of a warrant of distraint and levy for the collection of the assessed taxes prior to the expiration of the 60-day period provided under the aforesaid provision or until July 11, 2004. More importantly, petitioner stated therein that any protest on the denial should now be filed with the proper court.[14]

Since petitioner denied respondent's administrative protest prior to the lapse of the 60-day period within which to submit the pertinent documents to support the same, judicial recourse to the Court of Tax Appeals is legally valid and permissible. Respondent's appeal then before this Court is proper.

3. Anent the third issue, petitioner assailed the Decision[15] and Resolution[16] of the Court in Division in ordering the cancellation of respondent's deficiency income tax assessment due to the latter's failure to present conclusive proof of payment, which in the opinion of petitioner should be a certification from the Revenue Accounting Division (RAD) of the BIR.

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[14] Par. 6, Joint Stipulation of Facts and Issues, Docket, p. 157.
[15] Promulgated on 23 December 2008.
[16] Promulgated on 28 August 2009.

The records show that respondent presented documents before this Court's former First Division to prove the reduced deficiency income tax assessments as well as payment thereof, as follows:

1. Petitioner's Revised Computation of Deficiency Income Tax and Details of Discrepancies[17];
2. BIR Payment Form covering respondent's payment of deficiency income tax for CY 2000 in the amount of P1,001,179.56[18];
3. Chinabank BTr-BIR Deposit Slip covering respondent's payment of the amount of P1,001,179.56 on 06 July 2004[19]; and
4. Petitioner's Memorandum Report dated 12 July 2004.[20]

On this matter, we quote with approval the discussion of this Court's former First Division in ruling that respondent's deficiency income tax assessments for the calendar year ending 31 December 2000 has already been satisfied and the same is now rendered moot[21], thus:

> "As categorically declared in the assailed Decision, records indicate that respondent [petitioner herein] reduced the deficiency income tax assessment against petitioner [respondent herein] from P1,360,569.87 to P1,001,179.56, and that petitioner [respondent herein] paid the reduced deficiency income tax assessment on July 6, 2004; as evidenced by a BTr-BIR Deposit Slip issued by Chinabank. **A certification from the BIR-RAD, although serves as an acknowledgement by the BIR, is not the only conclusive proof of payment of internal revenue taxes.** Even assuming *arguendo* that a BIR-RAD certification is the required documentary evidence to prove payment of taxes, the attached BIR-RAD certification attached to petitioner's [respondent's] Opposition, which is not necessarily admitted, corroborates the earlier finding of this Court that petitioner [respondent herein] already paid its deficiency income tax. " [Emphasis supplied]

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[17] Exhibit "R-6", Docket, p. 284.
[18] Exhibit "R", Docket, p. 284.
[19] Exhibit "R-5", Docket, p. 284.
[20] Exhibit "DD", Docket, pp. 358-362.
[21] Resolution promulgated on 28 August 2009, Docket, p. 39.

To reiterate, a certification from the BIR-RAD is not the sole conclusive proof of payment of internal revenue taxes. It is essential for taxpayers to prove the fact of payment of internal revenue taxes and not merely the existence of a certification from the BIR-RAD. Otherwise stated, it is the substance rather than the form that matters most in proving tax deficiency payments. Moreover, we cannot allow the government to collect deficiency income taxes from respondent after the latter has conclusively proved that the government already collected and received the same without running afoul with the principle of unjust enrichment.

Considering that the documentary evidence presented before the Court in Division conclusively proved that respondent had paid and fully satisfied its deficiency income tax for the calendar year ending 31 December 2000, the case before us has been rendered moot and academic.

In fine, we find no cogent reason to reverse the former First Division's findings. The grounds relied upon and the matters raised therein are mere restatements of the previous arguments before this Court's former first Division, which had been exhaustively discussed and passed upon both in the assailed Decision[22] and Resolution[23].

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[22] Promulgated on 23 December 2008.
[23] Promulgated on 28 August 2009.

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WHEREFORE, the instant Petition is **DENIED** for lack of merit. The Decision of this Court's former First Division in CTA Case No. 7013, dated December 23, 2008, and its Resolution dated August 28, 2009, are **AFFIRMED.** No pronouncement as to costs.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
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 among the members of the Court En Banc before the case was assigned to the writer of the opinion of the Court En Banc.

ERNESTO D. ACOSTA
Presiding Justice