

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

5M STAR BUILDERS, INC., CTA CASE NO. 11871

Petitioner,

Members:

- versus -

BACORRO-VILLENA, Chairperson,
CUI-DAVID, and
TESTON, JJ.

**COMMISSIONER OF
INTERNAL REVENUE,**

Promulgated:

Respondent. _____

2:39 PM

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RESOLUTION

CUI-DAVID, J.:

On May 15, 2026, the Court promulgated a Resolution¹ the dispositive portion of which reads:

WHEREFORE, premises considered, petitioner's *Petition for Review* is **GRANTED**. The collection efforts of respondent Commissioner of Internal Revenue, through the issuance of a *Warrant of Distraint and/or Levy* and *Warrant of Garnishment*, are hereby declared **VOID** for having been issued beyond the prescriptive period to collect the subject deficiency taxes.

Accordingly, petitioner's *Urgent Motion to Suspend the Collection of Tax, Issue Temporary Restraining Order, and Dispense with the Payment of Bond* and *Motion to Lift Warrant of Garnishment Issued by the Bureau of Internal Revenue* are hereby rendered **MOOT AND ACADEMIC**.

Further, respondent Commissioner of Internal Revenue, including any of his authorized officers, agents, or representatives, is hereby **PERMANENTLY ENJOINED** from collecting the assessed deficiency taxes subject of this case.

SO ORDERED.

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¹ Docket – Vol. II, pp. 787-800.

RESOLUTION

CTA Case No. 11871

5M Star Builders, Inc. v. Commissioner of Internal Revenue

Page 2 of 5

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Unable to agree, respondent filed the instant *Motion for Reconsideration (re: Resolution dated 15 May 2026)* on June 15, 2026, praying for the Court to reverse and set aside the aforesaid Resolution, based on the following grounds:

- A. THERE WAS NO CONSOLIDATION OF THE HEARING OF THE MOTION FOR THE SUSPENSION OF THE COLLECTION OF THE TAX WITH THE HEARING ON THE MERITS OF THE CASE.
- B. THE ISSUE OF PRESCRIPTION IN THIS CASE IS ONE INVOLVING EVIDENTIARY MATTERS REQUIRING A FULL-BLOWN TRIAL.
- C. PETITIONER CANNOT AVAIL OF THE DEFENSE OF PRESCRIPTION SINCE IT FAILED TO PRESENT PROOF OF ACTUAL FILING OF ITS RETURNS.
- D. PETITIONER FILED A FALSE VAT AND EWT RETURNS. PETITIONER'S MISSTATEMENTS IN THESE RETURNS ARE SUBSTANTIAL. THUS, THE EXTRAORDINARY PRESCRIPTIVE PERIOD FOR COLLECTION IS APPLICABLE.

By way of an *Opposition (to the Respondent's Motion for Reconsideration dated 15 June 2026)*, petitioner submits that respondent's *Motion for Reconsideration* should be denied, arguing that:

- 1. RESPONDENT'S MOTION FOR RECONSIDERATION DATED 15 JUNE 2026 DID NOT PRESENT NEW FACT, LAW, OR ARGUMENT THAT WOULD WARRANT THE REVERSAL OF THE RESOLUTION DATED 15 MAY 2026.
- 2. THE HONORABLE COURT VALIDLY RESOLVED THE MAIN CASE TOGETHER WITH THE INCIDENT ON SUSPENSION OF COLLECTION.
- 3. THE RESPONDENT'S CLAIM THAT PRESCRIPTION REQUIRES A FULL-BLOWN TRIAL IS NOT SUPPORTED BY FACT AND LAW.
- 4. THE RESPONDENT FAILED TO ESTABLISH THE APPLICABILITY OF THE EXTRAORDINARY PRESCRIPTIVE PERIOD UNDER THE NATIONAL INTERNAL REVENUE CODE.
- 5. THE RESPONDENT'S PRAYER TO SET THE CASE FOR PRE-TRIAL IS NOT A VALID GROUND FOR RECONSIDERATION.



RESOLUTION

CTA Case No. 11871

5M Star Builders, Inc. v. Commissioner of Internal Revenue

Page 3 of 5

X-----X

Respondent's *Motion for Reconsideration* is bereft of merit.

Indeed, respondent raises no new matter, overlooked fact, or controlling law that would warrant the reversal or modification of the assailed Resolution dated May 15, 2026.

Notably, as correctly pointed out by petitioner, respondent does not dispute the material dates relied upon by the Court in resolving the issue of prescription, namely:

- a. The issuance of the Final Assessment Notice/ Formal Letter of Demand (FLD/FAN) on **September 18, 2020**;
- b. The issuance of the Final Decision on Disputed Assessment (FDDA) on **March 15, 2021**; and
- c. The issuance of the Warrant of Dstraint and/or Levy (WDL) on **July 9, 2025**.

These dates are reflected in the FLD/FAN, FDDA, and WDL, all of which are official documents issued by no less than respondent Bureau of Internal Revenue (BIR) itself. Neither does respondent challenge the authenticity of these documents, the accuracy of the dates appearing therein, nor the Court's computation of the prescriptive period, including the corresponding suspensions of the running thereof during the COVID-19 pandemic.

Instead, respondent argues that the Court should not have resolved the issue of prescription because there was no consolidation of the hearing on petitioner's *Motion to Suspend Collection* with the hearing on the merits of the case, citing Section 6, Rule 10 of the Revised Rules of the Court of Tax Appeals (RRCTA).

The argument fails to persuade.

To be sure, the Court did not rely solely on Section 6,² Rule 10 of the RRCTA. It likewise anchored its ruling on Section 1, Rule 9 of the Rules of Civil Procedure, as amended, which reads:

² SECTION 6. *Hearing of the motion.* — The movant shall, upon receipt of the opposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. However, for the sake of expediency, the Court, motu proprio or upon motion of the parties, may



RESOLUTION

CTA Case No. 11871

5M Star Builders, Inc. v. Commissioner of Internal Revenue

Page 4 of 5

X-----X

Section 1. *Defenses and objections not pleaded.* – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that **the action is barred** by a prior judgment or **by statute of limitations, the court shall dismiss the claim.** (Emphasis supplied)

The foregoing provision clearly mandates the dismissal of a claim when it appears from the pleadings or the evidence on record that the claim is barred by prescription. The Rule does not require that the issue be ventilated during a full-blown trial where the relevant facts are already established and undisputed. What the Rule demands is the existence of a sufficient factual basis in the record from which prescription may be determined.

In the instant case, the issue of prescription was not only raised in petitioner's *Urgent Motion to Suspend the Collection of Tax, Issue Temporary Restraining Order, and Dispense with the Payment of Bond and Motion to Lift Warrant of Garnishment Issued by the Bureau of Internal Revenue*, but was likewise specifically asserted in the *Petition for Review*, thereby placing the issue squarely before the Court for resolution.

More importantly, the determination of prescription in this case rests entirely on **undisputed dates** readily ascertainable from official BIR documents already on record. As such, there exists no genuine factual issue requiring the presentation of testimonial evidence, credibility assessments, or further reception of evidence before the Court may rule on the matter.

In closing, it bears emphasizing that once prescription has clearly set in, as in this case, further proceedings on the merits would serve no useful purpose. The Government's right to collect the alleged deficiency taxes having already prescribed, any trial on the validity of the assessment itself would be an exercise in futility and an unnecessary expenditure of judicial time and resources.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (re: Resolution dated 15 May 2026)* is **DENIED** for lack of merit.



consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case.

RESOLUTION

CTA Case No. 11871

5M Star Builders, Inc. v. Commissioner of Internal Revenue

Page 5 of 5

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SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON LEAVE
PAOLO S. TESTON
Associate Justice