23-000439-0034

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11272

TOLEDO POWER COMPANY,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Bldg.
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

PUNO AND PUNO
33rd Floor, The Podium West Tower
12 ADB Avenue, Ortigas Center
Mandaluyong City 1550

GREETINGS:

You are hereby notified by these presents that on **September 25, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 29, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST DIVISION

TOLEDO POWER COMPANY, *Petitioner,*

- versus -

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

CTA CASE NO. 11272

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

SEP 2 5 2025; 11:06AM

x - x

RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration (Re: Decision promulgated 17 June 2025),* filed on July 7, 2025, with petitioner's *Opposition (To the Motion for Reconsideration dated 7 July 2025)* filed on July 25, 2025.

Respondent seeks the reversal and setting aside of the Decision dated June 17, 2025 (assailed *Decision*), which disposed of the case as follows:

> **WHEREFORE**, the instant *Petition* is **GRANTED**. Accordingly, the *Decision* dated October 23, 2009 in CTA Case No. 7471 is **REVIVED** and the Commissioner of Internal Revenue is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of ₱8,617,425.41, representing its unutilized input VAT attributable to zero-rated sales for the taxable year 2004.
>
> **SO ORDERED.**

Respondent argues that the Court erred in reviving the *Decision* dated October 23, 2009 in CTA Case No. 7471 and in ordering the refund or issuance of a tax credit certificate in favor of petitioner amounting to ₱8,617,425.41. Respondent insists that petitioner failed to establish the legal requisites for revival of judgment, particularly that the Supreme Court *Decision* dated August 10, 2015 had attained finality and that the Court in Division's October 23, 2009 *Decision* had not been executed. Respondent maintains that the burden of proof lies with petitioner to show that the judgment remains unenforced, and asserts that mere allegations are insufficient to justify revival.

In its Opposition, petitioner argues that the present motion lacks merit, as respondent failed to point out any specific errors in the assailed *Decision*. Petitioner emphasizes that it presented a Certification dated July 6, 2023 issued by the Executive Clerk of Court III, attesting to the absence of a writ of execution in CTA Case No. 7471. This, petitioner claims, shifted the burden to respondent to prove otherwise. Petitioner further asserts that respondent failed to present any documentary or testimonial evidence to establish that the judgment had been executed, whether by writ or voluntary compliance.

Citing jurisprudence, petitioner underscores that once the burden shifts, respondent is expected to present readily available evidence from its own records. The absence of such evidence, coupled with the disputable presumption that suppressed evidence would be adverse if produced, supports the conclusion that the judgment remains unenforced. Petitioner further argues that its petition for revival of judgment was timely filed within the ten (10)-year prescriptive period and that the refund claim is now conclusive as to the parties.

The motion is unmeritorious.

It is well-settled that bare allegations, unsubstantiated by evidence, are not equivalent to proof[1] and the burden of proof lies with the party asserting a fact.[2] Once petitioner has discharged its burden, the burden of evidence shifts to respondent.[3]

Moreover, as discussed in the assailed *Decision*, under Article 1144(3)[4] of the Civil Code, actions upon a judgment must

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1 *Real v. Belo*, G.R. No. 146224, January 26, 2007 [Per J. Austria-Martinez, Third Division].

2 *Survivors of Agrichemicals in Gensan (Saging), Inc. v. Standard Fruit Company, et al.*, G.R. No. 206005, April 12, 2023 [Per J. Leonen, Second Division].

3 See *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015 [Per J. Mendoza, Second Division].

4 ART. 1144. The following **actions must be brought within <u>ten years</u> from the time the right of action accrues**:
(1) Upon a written contract;
(2) Upon an obligation created by law;

be brought within ten (10) years from the time the judgment becomes final. The Supreme Court *Decision* dated August 10, 2015 was recorded in the Book of Entries of Judgments on October 10, 2016. The petition for revival filed on September 18, 2023 was well within the prescriptive period.

The Court also finds no merit in respondent's claim that the revival was improper. The Court reiterates *Zabarte v. Puyat*,[5] which held that once a judgment becomes final and executory, it may be enforced by motion within five (5) years, and thereafter by independent action within ten (10) years.

In view of the foregoing, the Court finds no compelling reason to disturb its Decision dated June 17, 2025.

WHEREFORE, respondent's *Motion for Reconsideration (Re: Decision promulgated 17 June 2025)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

(On Leave)
ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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(3) **Upon a judgment.** (Emphasis supplied)

5 G.R. No. 234636, February 13, 2023 [Per J. Zalameda, First Division] citing *Villeza v. German Management and Services, Inc., et al.*, G.R. No. 182937, August 8, 2010 [Per J. Mendoza, Second Division]; *Piedad, et al. v. Bobilles, et al.*, G.R. No. 208614, November 27, 2017 [Per J. Leonen, Third Division].