23-000439-0028

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11272

TOLEDO POWER COMPANY,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. MARVEEN B. DE LA PAZ
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 **June 17, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 20, 2025.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

TOLEDO POWER COMPANY, *Petitioner,*	**CTA CASE NO. 11272**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 17 2025; 10:30AM

x - x

DECISION

CUI-DAVID, J.:

Before this Court is a *Petition*[1] filed on September 18, 2023, pursuant to Section 6, Rule 39 of the Revised Rules of Civil Procedure, seeking the revival and enforcement of the judgment rendered by the Court of Tax Appeals (CTA) First Division in its *Decision* dated October 23, 2009[2] in CTA Case No. 7471, entitled "*Toledo Power Company v. Commissioner of Internal Revenue.*"

In the said *Decision,* respondent Commissioner of Internal Revenue (CIR) was ordered to refund or issue a tax credit certificate in favor of petitioner Toledo Power Corporation in the amount of ₱8,617,425.41, representing unutilized input value-added tax (VAT) arising from petitioner's domestic purchases of goods and services and importations of goods, which are attributable to zero-rated sales for the taxable year (TY) 2004. This was affirmed in the *Resolution* dated January 21, 2010.[3]

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1 Docket, pp. 7–25.

2 Docket, pp. 225–246, Exhibit "P-1"; Penned by Associate Justice Caesar R. Casanova and concurred in by Associate Justice Lovell R. Bautista and Presiding Justice Ernesto D. Acosta (with Concurring and Dissenting Opinion).

3 Docket, pp. 248–251, Exhibit "P-2"; Penned by Associate Justice Caesar R. Casanova and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justice Lovell R. Bautista.

The *Decision* and the *Resolution* of the CTA First Division were subsequently upheld by the CTA *En Banc* in its *Decision* dated September 15, 2010,[4] as affirmed in its *Resolution* dated January 12, 2011.[5]

THE PARTIES

Petitioner Toledo Power Company is a general partnership duly organized and existing under the laws of the Republic of the Philippines, with its principal office in Sangi, Toledo City, Cebu.[6]

Respondent CIR is the head of the Bureau of Internal Revenue (BIR), the government agency responsible for the assessment and collection of all national and internal revenue taxes and is vested with the power and authority to refund any internal revenue tax erroneously or illegally assessed or collected, or any penalty claimed to have been collected with authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, or of input VAT attributable to zero-rated sales.[7]

THE FACTS

On October 23, 2009, the CTA First Division rendered a *Decision*[8] in CTA Case No. 7471, partially granting the *Petition* and ordering respondent to refund or issue a tax credit certificate in the amount of ₱8,617,425.41. The dispositive portion of the said *Decision* reads:

> In view of the foregoing, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in the amount of **EIGHT MILLION SIX HUNDRED SEVENTEEN THOUSAND FOUR HUNDRED TWENTY FIVE PESOS AND 41/100 (₱8,617,425.41)** representing unutilized input VAT arising from petitioner's domestic purchases of goods and services and importations of goods which are attributable to zero-rated sales for the taxable year 2004.

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4 Docket, pp. 253–262, Exhibit "P-3".
5 *Id.* at 264–268, Exhibit "P-4".
6 *Id.* at 9, par. 10.
7 Docket, p. 170, *Joint Stipulation of Facts and Issue* (JSFI), par. 1.3; 201, Pre-Trial Order, III. Admitted Facts and Stipulation of Facts, par. 3.
8 *Supra* note 2.

> **SO ORDERED**.

On November 16, 2009, respondent filed a *Motion for Partial Reconsideration*, which was denied by the CTA First Division in a *Resolution* dated January 21, 2010[9] with the following *fallo*:

> **WHEREFORE,** premises considered, respondent's *Motion for Partial Reconsideration* is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

Respondent appealed to the CTA *En Banc* (docketed as CTA *EB* No. 589), seeking to annul the CTA First Division's ruling.[10] However, in a *Decision*[11] dated September 15, 2010, the CTA *En Banc* denied the appeal and affirmed the earlier *Decision* and *Resolution*, *viz.*:

> **WHEREFORE**, premises considered, the Petition for Review *En Banc* is **DENIED** for lack of merit. Accordingly, the Decision dated October 23, 2009 and Resolution dated January 21, 2010 are **AFFIRMED**.
>
> **SO ORDERED**.

Respondent's *Motion for Reconsideration,* filed on October 6, 2010,[12] was likewise denied by the CTA *En Banc* in a *Resolution* dated January 12, 2011, *viz.*:[13]

> **WHEREFORE**, in view of the foregoing, petitioner's "Motion for Reconsideration" is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**.

Following this, respondent filed a *Petition for Review on Certiorari* before the Supreme Court (docketed as G.R. No. 195175)[14] seeking to reverse and set aside the CTA *En Banc*'s *Decision* and *Resolution* in CTA *EB* No. 589. The Supreme Court

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9 *Supra* note 3.
10 Docket, p. 170, JSFI, par. 1.8.
11 Docket, pp. 253–262, Exhibit "P-3"; Penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Presiding Justice Ernesto D. Acosta, Associate Justices Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotango-Manalastas.
12 Docket, p. 171, JSFI, par. 1.10.
13 Docket, pp. 264–268, Exhibit "P-4"; Penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Presiding Justice Ernesto D. Acosta, Associate Justices Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotango-Manalastas.
14 Docket, p. 171, JSFI, par. 1.11.

consolidated G.R. No. 195175 with G.R. No. 199645, a separate *Petition for Review on Certiorari* filed by petitioner assailing the ruling in CTA EB No. 708.[15]

In a *Decision* dated August 10, 2015,[16] the Supreme Court denied respondent's petition in G.R. No. 195175 and partially granted petitioner's petition in G.R. No. 199645, remanding the latter case to the CTA for recomputation of refundable input VAT for the first quarter of 2003. Its dispositive portion reads:

> **WHEREFORE**, premises considered, the Petition in G.R. No. 195175 is **DENIED**, while the Petition in G.R. No. 199645 is **PARTLY GRANTED**. Accordingly, the case in G.R. No. 199645 is hereby **REMANDED** to the Court of Tax Appeals insofar as the Petition in C.T.A. Case No. 7233, for the purpose of the computation of the refundable input VAT attributable to the zero-rated or effectively zero-rated sales of Toledo Power Corporation for the first quarter of 2003.
>
> **SO ORDERED.**

The Supreme Court resolved respondent's *Motion for Partial Reconsideration and/or Clarification (of the Decision dated August 10, 2015)* in G.R. No. 195175[17] in a *Resolution* dated July 20, 2016, as follows:[18]

> **WHEREFORE**, premises considered, this Court
>
> 1) **GRANTS** the prayer for clarification in the Motion for Partial Reconsideration and/or Clarification (of the Decision dated August 10 2015) filed by the CIR in G.R. No. 195175;
>
> 2) **GRANTS** the Motion for Clarification (of the Decision dated 10 August 2015) filed by the TPC in G.R. No. 195175; and
>
> 3) **DENIES** both the Motion for Partial Reconsideration (Re: Decision dated August 10, 2015) filed by CIR and the Motion for Partial Reconsideration (Re: Decision dated 10 August 2015) filed by the TPC in G.R. No. 199645.
>
> **SO ORDERED.**

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[15] *Id.* at 171, JSFI, par. 1.12.
[16] Docket, pp. 270–286, Exhibit "P-5"; Penned by Chief Justice Maria Lourdes P.A. Sereno and concurred in by Associate Justices Teresita J. Leonardo-de Castro, Lucas P. Bersamin, Jose Portugal Perez and Estela M. Perlas-Bernabe.
[17] Docket, p. 171, JSFI, par. 1.14.
[18] *Id.* at 279–283, Exhibit "P-6".

The *Decision* dated August 10, 2015 became final and executory on October 10, 2016,[19] as evidenced by the Entry of Judgment issued by the Supreme Court.

Despite the finality of the *Decision*, no Writ of Execution was issued in CTA Case No. 7471, as certified by the Executive Clerk of Court III of the CTA First Division on July 6, 2023.[20]

On September 18, 2023, petitioner filed the instant *Petition*.

On October 10, 2023, the Court issued a Summons[21] requiring respondent to file an Answer. On November 10, 2023, respondent filed a *Motion for Extension of Time to File Answer*,[22] which the Court granted on November 22, 2023.[23] Respondent filed his *Answer*[24] on December 12, 2023, within the extended period.

On December 21, 2023, the Court issued a Notice of Pre-Trial Conference[25] setting the case for pre-trial on March 21, 2024. Petitioner filed its Pre-Trial Brief on February 29, 2024,[26] while respondent filed his on March 8, 2024.[27] Due to lack of quorum, the Pre-Trial Conference was reset to April 11, 2024.[28]

During the Pre-Trial Conference, the Court directed the parties to submit a Joint Stipulation of Facts and Issues,[29] which they filed on May 2, 2024.[30] Thereafter, the Court issued the *Pre-Trial Order*[31] on June 19, 2024.

At trial, petitioner presented testimonial and documentary evidence through its lone witness, Atty. Ranulfo Gerardo V. Payos, Jr., who also submitted a Judicial Affidavit.[32] During the pre-trial, respondent, through counsel, manifested that he would no longer present any evidence. Thus, the Court directed the parties to submit their respective memoranda within thirty

[19] Docket, pp. 284–285, Exhibit "P-7".
[20] *Id.* at 286, Exhibit "P-8", Certification.
[21] *Id.* at 107.
[22] *Id.* at 110–112.
[23] *Id.* at 114, Notice of Resolution.
[24] *Id.* at 115–119.
[25] *Id.* at 121–123.
[26] *Id.* at 130–144.
[27] *Id.* at 148–150.
[28] *Id.* at 152, Notice of Resetting.
[29] *Id.* at 161–163, Order dated April 11, 2024.
[30] *Id.* at 169–179.
[31] *Id.* at 197–209.
[32] *Id.* at 31–41, Exhibit "P-9".

(30) days from receipt of the Court's resolution on petitioner's *Formal Offer of Evidence*.[33]

On June 24, 2024, petitioner filed its *Formal Offer of Evidence*,[34] to which respondent filed a *Comment (On Petitioner's Formal Offer of Evidence)*[35] on June 27, 2024. The Court admitted all of petitioner's exhibits into evidence.[36]

Petitioner filed its *Memorandum*[37] on October 28, 2024 while respondent failed to file his memorandum.[38]

On November 25, 2024, the case was submitted for decision.[39]

THE ISSUE

As agreed upon by the parties, the sole issue for resolution is:

> Whether the Petition for Revival of Judgment should be granted.[40]

Petitioner's Argument

Petitioner contends that all legal requirements for the revival of judgment have been satisfied, as the petition was filed within the prescribed period and is not barred by the statute of limitations.

Respondent's Counter-argument

On the other hand, respondent argues that petitioner failed to establish that the *Decision* dated October 23, 2009, in CTA Case No. 7471 has not yet been executed.

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[33] *Id.* at 211–212, Order dated June 19, 2024.
[34] *Id.* at 217–223.
[35] *Id.* at 299–301.
[36] *Id.* at 311–312, Resolution dated September 23, 2024.
[37] *Id.* at 313–331.
[38] *Id.* at 335, Records Verification dated November 5, 2024.
[39] *Id.* at 336, Notice of Resolution.
[40] *Id.* at 172, JSFI; 203, Pre-Trial Order.

THE COURT'S RULING

The Petition was timely filed.

Section 7, Rule 14 of the Revised Rules of the Court of Tax Appeals (RRCTA) governs the execution of judgments rendered by the CTA. It provides:

> SEC. 7. *Execution of judgment.* – Upon the expiration of the period to appeal from a judgment or order that disposes of the action or proceeding and no appeal has been duly perfected, **execution shall issue as a matter of right, on motion**.
>
> If an appeal has been duly perfected and finally resolved, **execution may be forthwith applied for in the court of origin, on motion of the judgment obligee, submitting therewith a certified true copy of the judgment or final order sought to be enforced and of its entry, with notice to the adverse party.** (*Emphasis supplied*)

While the above provision outlines the procedure for the execution of judgments, it does not specify a prescriptive period for filing an action to revive a judgment. Thus, the Court may apply the relevant provisions of the Revised Rules of Court by way of suppletory application.[41]

Section 6, Rule 39 of the Revised Rules of Court provides two modes for enforcing a final and executory judgment:

> SEC. 6. *Execution by <u>motion</u> or by <u>independent action</u>.* — **A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action.** The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations. (*Emphasis supplied*)

Accordingly, a prevailing party may execute a final judgment by *motion* within five years from the date of its entry. If this period lapses without execution, the judgment may still be enforced through an *independent action*, provided it is filed within the applicable prescriptive period.

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[41] Section 3, Rule 1 of the RRCTA states:
SEC. 3. *Applicability of the Rules of Court.* — The Rules of Court in the Philippines shall apply suppletorily to these Rules.

In this regard, Articles 1144(3) and 1152 of the Civil Code provide the prescriptive period and its reckoning point:

> ART. 1144. The following **actions must be brought within ten years from the time the right of action accrues**:
>
> (1) Upon a written contract;
> (2) Upon an obligation created by law;
> (3) **Upon a judgment.** (*Emphasis supplied*)
>
> ART. 1152. **The period for prescription of actions** to demand the fulfillment of obligation declared by a judgment **commences from the time the judgment became final.** (*Emphasis supplied*)

The foregoing provisions establish that an *independent action* to enforce a judgment must be filed within ten (10) years from the date the judgment becomes final and executory.

In *Zabarte v. Puyat,*[42] the Supreme Court clarified the application of these rules:

> The rules are clear. **Once a judgment becomes final and executory, the prevailing party can have it executed as a matter of right by mere motion within five years from the date of entry of judgment**. If the prevailing party fails to have the decision enforced by a motion **after the lapse of five years, the said judgment is reduced to a right of action which must be enforced by the institution of a complaint in a regular court within ten years from the time the judgment becomes final.** (*Emphasis supplied*)

In the present case, the Supreme Court *Decision* dated August 10, 2015 became final and executory on October 10, 2016. However, no Writ of Execution was issued in CTA Case No. 7471, as certified by the Executive Clerk of Court III of the CTA First Division on July 6, 2023.

Applying the above rules and jurisprudence, petitioner had until October 10, 2026 to file an *independent action* for revival of judgment. The present *Petition,* filed on September 18, 2023, was therefore timely.

[42] 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].

Respondent failed to prove execution of the October 23, 2009 Decision in CTA Case No. 7471.

Respondent's contention that petitioner failed to establish the non-execution of the October 23, 2009 *Decision* in CTA Case No. 7471 is misplaced. Basic rules on evidence dictate that the burden of proof rests upon the party who alleges a fact,[43] not upon the party who denies it, since, by the nature of things, a party who denies a fact cannot produce any proof of it.[44] As consistently held by the Supreme Court, "*bare and unsubstantiated allegations do not constitute substantial evidence and have no probative value.*"[45]

In this case, it is respondent who asserts that execution has already taken place. Thus, it is incumbent upon respondent to present competent and credible evidence to prove such execution. On the other hand, petitioner claims non-execution and cites, in support thereof, a certification issued by the Executive Clerk of Court III of the CTA First Division, attesting to the absence of a Writ of Execution in CTA Case No. 7471.[46]

Given these circumstances, the burden shifts to respondent to refute petitioner's claim by presenting proof of execution. However, respondent failed to offer any documentary or testimonial evidence during trial to establish that the judgment had, in fact, been executed. This failure renders respondent's contention unsubstantiated and devoid of merit.

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

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[43] *Survivors of Agrichemicals in Gensan (Saging), Inc., et al. v. Standard Fruit Company, et al.*, G.R. No. 206005, April 12, 2023 [Per J. Leonen, Second Division], citing *Republic v. Estate of Hans Menzi*, G.R. Nos. 152578, 154487 & 154518, November 23, 2005 [Per J. Tinga, *En Banc*]; *Bascon, et al. v. Negre, Jr.*, G.R. Nos. 191299-191302 (Resolution), March 14, 2023 [Per J. Hernando, *En Banc*], citing *MOF Company, Inc. v. Shin Yang Brokerage Corporation*, G.R. No. 172822, December 18, 2009 [Per J. Del Castillo, Second Division].

[44] *MOF Company, Inc. v. Shin Yang Brokerage Corporation*, G.R. No. 172822, December 18, 2009 [Per J. Del Castillo, Second Division], citing *Acabal v. Acabal*, G.R. No. 148376, March 31, 2005 [Per J. Carpio Morales, Third Division].

[45] *Loadstar International Shipping, Inc., et al. v. Erispe, Jr.*, G.R. No. 221227, February 19, 2020 [Per J. A. Reyes, Jr., Second Division], citing *LNS International Manpower Services v. Padua, Jr.*, G.R. No. 179792, March 5, 2010 [Per J. Del Castillo, Second Division]; See *Spouses Ramos v. Obispo, et al.*, G.R. No. 193804, February 27, 2013 [Per J. Villarama, First Division].

[46] Docket, p. 286,Exhibit "P-8", Certification.

₱8,617,425.41, representing its unutilized input VAT attributable to zero-rated sales for the taxable year 2004.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
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.

ROMAN G. DEL ROSARIO
Presiding Justice