Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

Third Division

UNITED COCONUT PLANTERS BANK, *Petitioner,*	**CTA CASE NO. 8945** Members:
- versus -	**FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 10 2018 3:56 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For this Court's resolution is respondent's **Motion for Reconsideration Re: Decision dated 20 March 2018,** filed through registered mail on April 18, 2018 and received by this Court on April 26, 2018, with petitioner's **Comment (Re: Motion for Reconsideration dated 17 April 2018),** filed through registered mail on May 31, 2018 and received by this Court on June 8, 2018.

Respondent seeks reconsideration of the Court's Decision dated March 20, 2018 (assailed Decision)[1], the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **GRANTED**. Accordingly, the Notice of Denial dated October 29, 2014 is **CANCELLED** and **SET ASIDE** insofar as Petitioner is ordered to pay the aggregate amount of Php132,773,876.27 inclusive of surcharge and legal interest, which corresponds to the total tax deficiencies for 1999 and 2001 gross receipts tax and 2001 final tax on onshore income of Php140,772,691.60, net of the amount of Php7,998,815.33 paid as

[1] Docket vol. 8, pp. 3638-3657.

an offer of compromise for the alleged deficiency taxes for the covered period.

SO ORDERED."[2]

Respondent seeks the reversal of the assailed Decision on the following grounds:

1. The Court has no jurisdiction over the subject matter;
2. The instant petition has no cause of action; and
3. Respondent's right to collect has not prescribed.

Respondent argues that his decision denying the petitioner's request for compromise settlement does not fall under the phrase "other matters" arising from the National Internal Revenue Code (NIRC) of 1997, as amended, pursuant to Section 7(a)(1) of Republic Act (RA). No. 1125, as amended by RA Nos. 9282 and 9503. Thus, the Court does not have jurisdiction over the subject matter.

Respondent, citing Commissioner of Internal Revenue vs. Court of Tax Appeals and Petron Corporation[3], avers that "other matters" must 1) pertain to a quasi-judicial proceeding, and 2) similar in nature to the preceding enumeration.

Moreover, respondent states that a compromise agreement is a contract and requesting another party to enter into a contract is not a quasi-judicial proceeding covered by "other matters" and thus, the Court never had jurisdiction in this case.

Respondent further argues that the Petition for Review has no cause of action since a person's refusal to enter into a compromise agreement is not an act or omission that gives right to a cause of action.

Finally, respondent argues that his right to collect has not yet prescribed considering that petitioner is estopped from invoking prescription and collection has already commenced.

On the other hand, petitioner alleges that respondent's contentions are bereft of merit. It prays for the denial of respondent's motion on the following grounds:

1. The Court has jurisdiction over the instant case;

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[2] Docket vol. 8, p. 3656.
[3] G.R. No. 207843, July 15, 2015.

2. Petitioner has a cause of action against the respondent; and
3. The Bureau of Internal Revenue's (BIR's) right to collect the alleged deficiencies of petitioner for gross receipts tax (GRT) for taxable years 1999 and 2001, and the final tax on onshore income for taxable year 2001, has already prescribed.

Petitioner argues that contrary to respondent's contentions, the Notice of Denial dated October 29, 2014 denying its request for compromise settlement involves the interpretation and application of Section 204(A) of the NIRC, and it falls under the phrase "other matters" arising from the NIRC, pursuant to Section 7(a)(1) of RA No. 1125, as amended.

Respondent's motion for reconsideration is bereft of merit.

After a careful evaluation of the arguments raised by respondent in his motion, the Court finds that the same are a mere rehash of the same facts and issues which have already been duly considered and extensively discussed in the assailed Decision.

There is no merit in respondent's argument that the Court has no jurisdiction over the instant petition on the ground that the denial of petitioner's request for compromise settlement does not fall under the phrase "other matters" arising from the NIRC of 1997, as amended, pursuant to Section 7(a)(1) of RA. No. 1125, as amended by RA Nos. 9282 and 9503.

In *Commissioner of Internal Revenue, et al. vs. T Shuttle Services, Inc.*[4], the Court *En Banc* held that in a myriad of cases, the term "other matters" has been ruled to include, but not limited to: review of the BIR's authority and decision to compromise;[5] prescription of the CIR's right to collect taxes;[6] determination of the validity of a warrant of distraint and levy issued by the CIR and the validity of a waiver of the statute of limitations.[7]

Furthermore, in the assailed Decision, the Court held that the Notice of Denial dated October 29, 2014 is a decision or ruling of respondent which falls under the phrase "other matters" arising from the NIRC, since the denial of petitioner's request for compromise settlement, involves the interpretation and application of Section 204(A) of the NIRC of 1997, as amended. Thus, the Court has jurisdiction over the instant petition.

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[4] CTA EB No. 1565 (CTA Case No.8650), July 16, 2018.

[5] *Consolidated cases of Philippine National Oil Company vs. Court of Appeals, et al., and Philippine National Bank vs. Court of Appeals, et al.*, G.R. Nos. 109976 and 112800, April 26, 2005.

[6] *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010.

[7] *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.

Moreover, contrary to respondent's contention, the petition states a cause of action. Petitioner's cause of action is grounded on the fact that BIR's right to collect the alleged deficiency taxes of petitioner for GRT for taxable years 1999 and 2001, and the final tax on onshore income for taxable year 2001, has already prescribed.

Finally, the prescription of respondent's right to collect the alleged deficiency taxes has already been ruled upon by the Court in the assailed Decision, the pertinent portion of which is quoted below:

> "During trial, it was not established when Respondent released or sent the Formal Letters of Demand (FLDs) and Final Assessment Notices (FANs) upon which the above-mentioned deficiency tax assessments were based. However, records show that the subject FLDs and FANs were received by Petitioner on the following dates:

TAX TYPE/YEAR	BASIC	INTEREST	TOTAL	DATE OF RECEIPT OF FLD AND FAN
Gross Receipts Tax 1999	64,010,540.40	44,940,072.20	108,950,612.60	August 5, 2003
Gross Receipts Tax 2001	2,170,564.47	2,152,476.43	4,323,040.90	January 2, 2007
Final Tax – Onshore Income – 2001	13,807,048.42	13,691,989.68	27,499,038.10	January 2, 2007
TOTAL	**79,988,153.29**	**60,784,538.31**	**140,772,691.60**	

> Applying the ruling in the *BPI* case, the five-year prescriptive period for collection of taxes is deemed to have begun to run on August 5, 2003 for the GRT assessment for taxable year 1999, and on January 2, 2007 for the GRT and FT assessment for taxable year 2001. Thus, Respondent had until August 5, 2008 and January 2, 2012, respectively, within which to collect the balance of the deficiency taxes.

> However, it was only on November 13, 2014 when Petitioner received the Notice of Denial dated October 29, 2014. Respondent failed to act in promptly resolving and denying the application/ offer of compromise filed by Petitioner and in enforcing collection on the assessment. Evidently, Respondent's right to collect Petitioner's total tax deficiencies for 1999 and 2001 GRT and 2001 FT on onshore income had already prescribed.

It must be emphasized that said application/ offer for compromise did not have the effect of temporarily staying the hands of Respondent. An application for compromise does not impede nor delay or postpone collection. Under the NIRC of 1997, an application for compromise does not affect the power of the BIR to collect. Further, nowhere in Revenue Regulations No. 30-2002, as amended, is collection suspended or disallowed by the mere filing of an application for compromise."

Considering the foregoing, the Court finds no cogent reason to reverse or modify the assailed Decision promulgated on March 20, 2018.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration Re: Decision dated 20 March 2018** is **DENIED** for lack of merit.

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice