REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

JINNA MARIA O. YAP,
Respondent.

CTA EB NO. 2789
(CTA Case No. 10019)

x -x

JINNA MARIA O. YAP,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2790
(CTA Case No. 10019)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JUL 01 2026 3:20

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AMENDED DECISION

***FERRER-FLORES, J.*:**

For this Court's resolution is the **Motion for Reconsideration** filed by Jinna Maria O. Yap (Yap) on April 4, 2025, with the **Comment/Opposition (To Petitioner's Motion for Reconsideration)** filed by the Commissioner of Internal Revenue (CIR) on June 26, 2025.

In the instant *Motion*, Yap prays for the Court *En Banc* to set aside its Decision dated March 17, 2025 (*assailed Decision*),[1] which denied both parties' *Petitions for Review*, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue in CTA EB No. 2789, and the *Petition for Review* filed by Jinna Maria O. Yap in CTA EB No. 2790 are both **DENIED** for lack of merit. Accordingly, the Decision dated March 9, 2023 and the Resolution dated July 14, 2023 in CTA Case No. 10019 are **AFFIRMED**.
>
> **SO ORDERED.**

To recall, in the Decision dated March 9, 2023 rendered by the Court in Division, it was declared that the Court has jurisdiction over Yap's *Petition* and that the assessments for taxable years (TYs) 2011, 2012, and 2013 are partially incorrect. The Court in Division then ordered Yap to pay the modified amounts for subject assessments.

In the *assailed Decision*, the Court *En Banc* affirmed the above ruling that the Court in Division has jurisdiction over the Yap's *Petition* under "other matters" arising from the National Internal Revenue Code (NIRC) of 1997, as amended. This Court then declared that the Court in Division did not err in holding that the assessments for TYs 2011, 2012, and 2013 are partially incorrect.

Yap reiterates in the present *Motion* that the Preliminary Collection Letter (PCL) dated July 9, 2018 and Warrant of Distraint and/or Levy (WDL) No. 2019-00007 dated January 30, 2019 should be declared void. In addition, in her bid to have the assailed Decision reversed, Yap now raises that the CIR's period to collect has already prescribed.

The CIR, on the other hand, counters that Yap's *Motion* should be denied as the grounds raised have already been considered and passed upon in the Decisions of the Court in Division and *En Banc*. Instead, the CIR insists that the present case should have been dismissed in its entirety as the Court in Division did not have jurisdiction over the issues raised before it.

RULING OF THE COURT *EN BANC*

After a careful re-evaluation of the case and the arguments raised by the parties, this Court finds Yap's *Motion for Reconsideration* meritorious.

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[1] *Rollo*, pp. 83 to 108.

At the outset, it is worth reiterating that the Court in Division has jurisdiction over the case under "other matters" arising from the NIRC of 1997, as amended.

Note that the term "other matters" has been ruled to include, among others, the issue on *prescription* of the CIR's right to collect taxes,[2] and a determination of the *validity of a WDL*.[3]

Yap claims that, when the assailed WDL was issued, the CIR's right to collect the subject taxes had already prescribed.

Section 203 of the NIRC of 1997, as amended, provides for the prescriptive period to assess and collect taxes as follows:

> 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 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 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)*

On the other hand, Section 222 of the NIRC of 1997, as amended, provides that, in case of false or fraudulent return with intent to evade tax or of failure to file a return, the 10-year extraordinary period to assess and another five years to collect, instead of the three-year ordinary period to assess and another three years to collect, are the applicable periods:

> SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* —
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> (a) In the case of a **false or fraudulent return with intent to evade tax or of failure to file a return**, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: *Provided*, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

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2 *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division*, G.R. No. 258947, March 29, 2022; *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines. Inc.*, G.R. No. 169225, November 17, 2010.

3 *La Flor Dela Isabela, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 202105, April 28, 2021; *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.

xxx xxx xxx

> (c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in **paragraph (a) hereof** may be collected by distraint or levy or by a proceeding in court **within five (5) years** following the assessment of the tax. *(Emphasis supplied)*

In relation thereto, Section 223 of the NIRC of 1997, as amended, provides for when the period to collect is suspended, to wit:

> SEC. 223. *Suspension of Running of Statute of Limitations.* — The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy a proceeding in court for collection, in respect of any deficiency, shall be **suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter; when the taxpayer requests for a reinvestigation which is granted by the Commissioner; when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected**: Provided, that, if the taxpayer informs the Commissioner of any change in address, the running of the Statute of Limitations will not be suspended; when the warrant of distraint or levy is duly served upon the taxpayer, his authorized representative, or a member of his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines. *(Emphasis supplied)*

In *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division & QL Development, Inc.,*[4] the Supreme Court clarified that the CIR's collection efforts are initiated by distraint, levy, or court proceeding. The distraint and levy proceedings begin or commence with the issuance of a warrant of distraint and levy and service thereof on the taxpayer. On the other hand, a judicial action for the collection of a tax is initiated: (a) by the filing of a complaint with the Court of competent jurisdiction; or, (b) where the assessment is appealed to the Court of Tax Appeals (CTA), by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for.

Firstly, a perusal of the records reveals that none of the circumstances provided in Section 223 of the NIRC of 1997, as amended, that may suspend the period to collect, is present.

As established earlier, collection is initiated by the issuance of a WDL and service thereof on the taxpayer or by judicial proceeding. As will be

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[4] G.R. No, 258947, March 29, 2022, citing *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*, G.R. No. 139736, October 17, 2005, and *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. Nos. 197945 & 204119-20, July 9, 2018.

illustrated below, no WDL was served upon Yap, nor was there any judicial proceeding initiated by the CIR within the period to collect. As such, the respective prescriptive periods counted from the "release" of the FLDs for TYs 2011, 2012 and 2013 on June 25, 2015, September 1, 2015, and July 8, 2015, respectively, remained uninterrupted.

The Court observes that the subject assessments were released on the following dates, to wit:

TY	Release of FLD/FAN	Last day of the 3-year period to collect	Date of initiation of collection (i.e., issuance of WDL)
2011	June 25, 2015[5]	June 25, 2018	January 30, 2019
2012	September 1, 2015[6]	September 1, 2018	January 30, 2019
2013	July 8, 2015[7]	July 8, 2018	January 30, 2019

Clearly, when collection of the alleged deficiency taxes for TYs 2011, 2012 and 2013 was initiated on **January 30, 2019**, through the issuance of the assailed WDL, the CIR's right to collect had already prescribed.

Furthermore, the Court finds no justification to apply the extraordinary prescriptive period under Section 222 (a) and (c) of the NIRC of 1997, as amended.

In *McDonald's Philippines Realty Corp. vs. Commissioner of Internal Revenue*[8] (McDonald's), the Supreme Court laid down, among others, the due process requirements for the application of the extraordinary prescriptive period:

> *ii. Due Process Requirements*
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> (1) **First Due Process Requirement**. The *assessment notice* issued to the taxpayer must clearly state the following:
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> (a) that extraordinary prescriptive period (not the basic three-year period) is being applied, and
> (b) the bases of allegations of falsity or fraud, *e.g.*, if the CIR seeks to rely on the *presumption of falsity or fraud* particularly, the formal notice to the taxpayer *must set out the computation by which it ascertained that the misdeclaration in the return surpassed the 30% threshold.*

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5 Exhibit "P-7", Division Docket, pp. 357 to 362.
6 Exhibit "P-8", Division Docket, pp. 363 to 366.
7 Exhibit "P-9", Division Docket, pp. 369 to 372.
8 G.R. No. 247737, August 8, 2023.

> (2) **Second Due Process Requirement**. The tax authorities have not acted in a manner that is inconsistent with the invocation of the extraordinary prescriptive period or have otherwise misled the taxpayer that the basic period will be applied. *(Emphasis and italics in the original text)*

Here, the FLDs and the attached Details of Discrepancies[9] did not expressly state that the extraordinary 10-year prescriptive period under Section 222 (a) of the NIRC of 1997, as amended, was being applied. It was merely stated in the FLD that 50% surcharge was imposed pursuant to Section 248 of the NIRC of 1997, as amended. To the Court's mind, such does not constitute a clear invocation of the extraordinary 10-year prescriptive period. Moreover, neither the FLD nor Details of Discrepancies particularly alleged the basis for the invocation of the extraordinary prescriptive period (*i.e.*, falsity or fraud).

In fine, the extraordinary 10-year prescriptive period to assess finds no application in this case; hence, the extraordinary five-year prescriptive period to collect also does not apply. Consequently, applying the ordinary three-year prescriptive period to collect, the collection which was commenced on **January 30, 2019**, was already barred by prescription.

All told, the CIR's right to collect on the assessments for TYs 2011, 2012 and 2013 had already prescribed. As such, the WDL dated January 30, 2019 is void due to prescription.

ACCORDINGLY, the **Motion for Reconsideration** filed by Jinna Maria O. Yap in CTA EB No. 2790 is **GRANTED**. In view thereof, the assailed Decision dated March 17, 2025 is hereby **REVERSED** and **SET ASIDE**.

Consequently, the Decision dated March 9, 2023 and the Resolution dated July 14, 2023, both rendered by the then First Division of this Court in CTA Case No. 10019 are **REVERSED** and **SET ASIDE**.

The Warrant of Distraint and/or Levy (WDL) No. 2019-00007 dated January 30, 2019 is **CANCELLED** and **SET ASIDE**, for being **NULL** and **VOID**.

Further, the Commissioner of Internal Revenue, his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** from

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9 Exhibit "P-7", Division Docket, pp. 357 to 362; Exhibit "P-8", Division Docket, pp. 363 to 368; Exhibit "P-9", Division Docket, pp. 369 to 375.

enforcing the collection of deficiency assessments against Jinna Maria O. Yap as contained in such WDL.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

With Separate Concurring Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the consolidated cases were assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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BACORRO-VILLENA,
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ANGELES, ***JJ.***

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUL 01 2026 3:25

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SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Corazon G. Ferrer-Flores.

The dispositive issue is whether Jinna Maria O. Yap (**Yap**'s) request for reinvestigation suspended the running of the prescriptive period for collection. I agree with the *ponencia* that it did not, and that the Commissioner of Internal Revenue's (**CIR**'s) right to collect had already prescribed.

Section 223[1] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, is explicit: the running of the statute of limitations is suspended only "when the taxpayer requests for a reinvestigation which is granted by the Commissioner." The law does not make the mere filing of a protest, or the taxpayer's submission of additional documents, a tolling event. The statutory prerequisite is a grant of the request, and the burden of proving such grant rests on the CIR.[2]

The records here do not show an express grant. Nor do they show an implied grant within the contemplation of the law. What appears are internal acts of the Bureau of Internal Revenue (**BIR**): the forwarding of the protest,[3] the assignment of the case for reinvestigation[4] and the acceptance of additional documents submitted by Yap. These acts, standing alone, are insufficient. They are internal administrative movements, not outward acts clearly demonstrating that the CIR or the latter's authorized representative granted the request for reinvestigation in a manner that tolled prescription.

A grant may indeed be implied from the CIR's action or the latter's authorized representative in response to the request. But the implied grant doctrine presupposes objective responsive action attributable to the request itself. It does not follow from the mere existence of internal correspondence or file routing inside the BIR. Here, there is no showing that Yap was informed that her request had been granted, or that the protest was officially treated as

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1 SEC. 223. *Suspension of Running of Statute of Limitations.*

2 See *Bank of the Philippine Islands (formerly: Far East Bank and Trust Company) v. Commissioner of Internal Revenue*, G.R. No. 174942, 07 March 2008.

3 BIR Records, Folder 2, pp. 450-451.

4 Id., pp. 452-453.

a reinvestigation in a way that could suspend the running of time. Based on the records before Us, the government failed to discharge its burden.[5]

Petitioner's submission of additional documents does not alter the result. A taxpayer's belief in good faith that it was undergoing reinvestigation does not substitute for the statutory requirement of a granted request. Its cooperation with the BIR may explain the taxpayer's conduct, but it cannot create tolling where the law requires proof of a grant. To hold otherwise would enlarge the government's authority to collect beyond the period fixed by law, contrary to the strict nature of prescriptive statutes in tax cases.

I likewise agree that the issue of prescription was not waived despite being raised only in Yap's "Motion for Reconsideration" (**MR**) before the Court *En Banc*. In tax cases, prescription may be considered even if raised for the first time on appeal, provided the facts establishing the bar are already apparent on the record.[6] In this case, the fact that the claim of the government is time-barred is a matter of record. As discussed in the *ponencia*, the dates of the issuance of the assessment notices and the receipt of the Warrant of Distraint and/or Levy (**WDL**) were not disputed. Notably, CIR's comment on the MR was silent on the issue of raising the question of prescription only in the MR before the Court *En Banc*.

We must apply the statute as written. When the CIR fails to prove that the request for reinvestigation was granted, the law does not permit Us to presume tolling from internal BIR papers alone. Prescription is a matter of law and must be enforced when established on the record.

Accordingly, I concur in the *ponencia*'s disposition that the CIR's right to collect had prescribed.

All told, I vote to **GRANT** Jinna Maria O. Yap's Motion for Reconsideration filed and emailed on 04 April 2025, and to **REVERSE** and **SET ASIDE** the Court *En Banc*'s Decision dated 17 March 2025.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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5 See *China Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 172509, 04 February 2015.

6 Id.