REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

MEINAN PHILIPPINES INC., Petitioner,	**CTA CASE NO. 8839**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson* **UY,** *and* **MINDARO-GRULLA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 29 2018 : 2:40 pm

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RESOLUTION

MINDARO-GRULLA, *J.*:

For the Court's resolution is respondent's **Motion for Partial Reconsideration (Re: Decision promulgated 18 January 2018)**, filed on February 6, 2018, with petitioner's **Comment/Opposition to Respondent's Motion for Partial Reconsideration dated 06 February 2018**, filed on February 26, 2018.

Respondent moves for the reconsideration of the Decision promulgated on January 18, 2018, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. Accordingly, the assessment and the Final Decision on Disputed Assessment dated April 1, 2014 for alleged deficiency income tax and fringe benefits tax in the respective amounts of ₱2,519,352.27

and ₱984,180.53 or in the aggregate amount of ₱3,503,532.80 for calendar year 2007, is **CANCELLED**.

SO ORDERED."

Respondent claims that his basic right to fair play and due process was violated when the Court granted a relief that was never prayed for by petitioner. He contends that the issue on the validity of the Waiver was never raised as an issue in the Petition for Review. Moreover, respondent asserts that the Waiver was validly executed to toll the running of the prescriptive period.

Petitioner disagrees with respondent's allegation that his basic right to fair play and due process was violated when the Court granted a relief that was never prayed for. It argues that the issue on the validity of the Waiver is merely an evidentiary matter which is covered by the main issues raised in the Petition for Review and in the Pre-Trial Order. Petitioner further alleges that the Waiver is invalid and ineffective.

Respondent's arguments have no merit.

It must be noted that petitioner's liability to pay the alleged deficiency income tax and fringe benefits tax (FBT) largely depends on whether the assessment and collection of these taxes were made within the prescriptive period.

The statute of limitations on the right to assess and collect a tax means that once the period established by law for the assessment and collection of taxes has lapsed, the government's corresponding right to enforce that action is barred by provision of law. The period to assess and collect deficiency taxes may be extended only upon a written agreement between the Commissioner of Internal Revenue (CIR) and the taxpayer prior to the expiration of the three-year prescribed period in accordance with Section 222 (b) of the National Internal Revenue Code (NIRC). In relation to the implementation of this provision, the CIR issued Revenue Memorandum Order (RMO) No. 20-90 on April 4, 1990 to provide guidelines on the proper execution of the Waiver of the Statute of Limitations.[1]

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[1] *Commissioner of Internal Revenue vs. The Stanley Works Sales (Phils.), Incorporated,* G.R. No. 187589, December 3, 2014.

For this reason, it is necessary for the Court to resolve first on the validity of the Waiver to determine whether the period to assess and collect the subject taxes were validly extended or not.

Furthermore, Rule 14, Section 1 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, provides that the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. It must be stressed that the issue on the validity of Waiver is crucial in order to determine the right of respondent to assess and collect the taxes.

In this case, the Court found that the subject Waiver was defective and did not validly extend the original three (3)-year prescriptive period. Apparently, there was no date of acceptance by the Bureau of Internal Revenue (BIR) indicated in the Waiver, which is a requisite necessary to determine whether the waiver was validly accepted before the expiration of the original three (3)-year period. Consequently, the period to assess or collect deficiency taxes for the calendar year (CY) 2007 was never extended.

Considering that the period established by law for the assessment and collection of taxes already lapsed, respondent's corresponding right to enforce that action is barred by provision of law. Accordingly, the assessment and the Final Decision on Disputed Assessment (FDDA) dated April 1, 2014 for alleged deficiency income tax and FBT for CY 2007 is void. Thus, petitioner is not liable for deficiency tax assessments which were issued beyond the prescriptive period.

It is said that taxes are what we pay for civilized society. Without taxes, the government would be paralyzed for lack of the motive power to activate and operate it. Hence, despite the natural reluctance to surrender part of one's hard-earned income to the taxing authorities, every person who is able to must contribute his share in the running of the government. The government for its part, is expected to respond in the form of tangible and intangible benefits intended to improve the lives of the people and enhance their moral and material values. This symbiotic relationship is the rationale of taxation and should dispel the erroneous notion that it is an arbitrary method of exaction by those in the seat of power. But even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure. If it is not, then the

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taxpayer has a right to complain and the courts will then come to his succor. For all the awesome power of the tax collector, he may still be stopped in his tracks if the taxpayer can demonstrate, as it has here, that the law has not been observed.[2]

Accordingly, the Court finds no compelling reason to justify the reversal of the assailed Decision.

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration (Re: Decision promulgated 18 January 2018)** is **DENIED** for lack of merit.

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

[2] *Commissioner of Internal Revenue vs. San Miguel Corporation*, G.R. Nos. 205045 and 205723, January 25, 2017, citing the case of *Commissioner vs. Algue,* G.R. No. L-28896, February 17, 1988.