REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

UNITED INTERNATIONAL PICTURES AKTIEBOLAG (UIPA),
Respondent,

EB CASE NO. 2823
(CTA Case No. 9930)

Present:
Del Rosario, *P.J.,*
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, *and*
Angeles, *JJ.*

Promulgated:
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DECISION

RINGPIS-LIBAN, J.:

Before this Court is the Petition for Review filed by petitioner Commissioner of Internal Revenue (CIR) on November 22, 2023[1] assailing the Amended Decision[2] dated June 29, 2023 and Resolution[3] dated October 13, 2023 promulgated by the Court of Tax Appeals First Division (Court in Division) in the case entitled "*United International Pictures Aktiebolag vs. Commissioner of Internal Revenue,*" docketed as CTA Case No. 9930.

The dispositive portion of the Amended Decision reads:

> "**WHEREFORE**, in light of the foregoing, petitioner's "Motion for Reconsideration" incorporated in its "Omnibus Motion" is hereby **GRANTED**. The Petition for Revival of

[1] Rollo, CTA EB No. 2823, pages 7-17.
[2] Ibid., pp. 23-32.
[3] Ibid., pp. 33-35.

Judgment" filed by petitioner United International Pictures Aktiebolag on September 18, 2018 is **GRANTED**.

Accordingly, the Decision rendered in CTA Case No. 6912 promulgated on August 10, 2008 is hereby **REVIVED** and the Commissioner of Internal Revenue is hereby **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner United Internal Pictures Aktiebolag in the amount of P7,200,302.97, representing excess/unutilized creditable withholding taxes for taxable year 2002. Let the corresponding Writ of Execution be issued.

SO ORDERED."

The dispositive portion of the Resolution reads:

"**WHEREFORE**, premises considered, respondent's "**Motion for Reconsideration**" is hereby **DENIED** for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner CIR is a public officer duly appointed by the President of the Philippines and is the head of the Bureau of Internal Revenue (BIR), vested with the power to decide disputed assessments, refund of internal revenue taxes, fees or other charges, and penalties imposed in relation thereto. The CIR is being represented in this case by the Legal Officers of the Legal Division, Revenue Region 8A, Makati City, with office address at 2/F Legal Division, BIR Bldg., No. 313 Sen. Gil Puyat Ave., Makati City, where summons, pleadings, notices and other processes of the Court may be served.[4]

Respondent United International Pictures Aktiebolag (UIP Aktiebolag) is the Philippine branch of United International Pictures Aktiebolag, a corporation duly and existing under the laws of Sweden, duly licensed to engage in business in the Philippines, with office address at 18th Floor, Philamlife Tower, 8767 Paseo de Roxas, Makati City. It may be served with notices and other processes through its counsel at 3rd Floor, Sycip Law Center Center, 105 Paseo de Roxas, Makati City.[5]

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[4] Decision, p. 2.
[5] Ibid., pp. 1-2.

THE FACTS

The undisputed facts[6] as found by the Court in Division are as follows:

"On August 28, 2008, the First Division of the Court of Tax Appeals (CTA) rendered a Decision in CTA Case No. 6912 entitled *United International Pictures AB vs. Commissioner of Internal Revenue*, the dispositive portion of which reads:

> '**WHEREFORE**, premises considered, the Petition is hereby **PARTIALY GRANTED**. Respondent is **ORDERED** to **REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of Seven Million Two Hundred Thousand Three Hundred Two Pesos and 97/100 (P7,200,302.97) representing excess/unutilized creditable withholding taxes for taxable year 2002.
>
> **SO ORDERED**.'

The CIR received the said Decision on September 3, 2008. Despite the period provided under the Revised Rules of the Court of Tax Appeals (RRCTA), the CIR did not file a Motion for Reconsideration. Consequently, the Decision dated August 28, 2008 became final and executory on September 19, 2008 and was recorded in the Book of Entries of Judgments.

On October 21, 2008, United International Pictures AB (UIP AB) filed a Motion for Issuance of Writ of Execution which the Court granted. A Writ of Execution was issued by the Court on November 17, 2008.

On November 19, 2009, UIP AB caused the service of the Writ of Execution on the BIR and the same was received by Ms. Amafe Ingal, Litigation Receiving Clerk.

On October 26, 2011, Sheriff Adelberto Juan of the CTA followed up on the status of the Writ of Execution served upon the CIR and was informed that the docket of the case was forwarded to the BIR, Revenue Region No. 7 for appropriate action.

After ten (10) years, there was no action from the BIR to satisfy the judgment of the Court as decreed in the Decision dated August 28, 2008; hence, UIP Aktiebolag filed the present Petition for Revival of Judgment on September 18, 2018.

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[6] Decision, pp. 2-5.

On December 12, 2018, the CIR filed his Answer and raised the following Special and Affirmative Defenses: (i) Taxes are the lifeblood of the government, and, (ii) Section 6, Rule 39 of the Rules of Court is not applicable in the present case.

On September 12, 2019, the CIR filed his Pre-Trial Brief, 13 while UIP Aktiebolag filed its Pre-Trial Brief[1] on September 13, 2019.

The Pre-Trial Conference was held on September 19, 2019.15 The parties filed their Joint Stipulation of Facts and Issue (JSFI) 16 on November 8, 2019 via registered mail.

On January 29, 2020, UIP Aktiebolag filed a Request for Admissions" pursuant to Rules 26 and 29 of the Rules of Court, questing respondent to admit under oath the truth of the following matters:

> '1. There is no document in the records of the Bureau of Internal Revenue (BIR) for United International Pictures AB v Commissioner of Internal Revenue, docketed as Court of Tax Appeals (CTA) Case No 6912, which would show that the Decision dated August 28, 2008 in CTA Case No. 6912, has already been satisfied;
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> 2. There is no document in the records of the BIR for CTA Case No. 6912 which would show that the Writ of Execution dated November 17, 2008 has already been satisfied;
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> 3. There is no document in the records of the BIR for CTA Case No. 6912 which would show that the CIR either (1) refunded to UIP or (ii) issued a tax credit certificate in favor of UIP for Php7,200,302.97, pursuant to the CTA Decision; and,
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> 4. To date, the CIR has yet to refund or issue a tax credit certificate in favor of UIP for Php7,200,302 97, pursuant to the CTA Decision.'

On February 12, 2020, the CIR filed a Compliance (With Reply/Objection and Manifestation to Petitioner's Request for Admission).

On March 9, 2020, UIP Aktiebolag filed a Motion for Leave to File and to Admit Reply with attached Reply.

On August 3, 2020, the Court issued a Resolution directing the CIR to answer the Request for Admissions by filing a sworn certification denying specifically the matters for admission and/or setting forth in detail the reasons why he cannot truthfully admit or deny them.

On September 16, 2020, the CIR filed a Reply (To Request for Admission) via electronic mail and by registered mail.

On October 1, 2020, the Court issued a Resolution declaring that the matters stated in UIP Aktiebolag's Request for Admission are deemed admitted due to the CIR's failure to submit the required sworn statement denying specifically the matters requested for admission.

During trial, UIP Aktiebolag presented documentary evidence UIP Aktiebolag also offered in evidence the testimony of its witness, Renz Jeffrey A Ruiz, together with his corresponding Judicial Affidavit. UIP Aktiebolag's formally offered exhibits, as contained in its Formal Offer of Evidence filed on October 23, 2020, were admitted in evidence in the Resolution dated January 21, 2021.

Considering that the CIR manifested during the hearing on October 24, 2020 that he will not be presenting any witness or documentary evidence, the Court, in the Resolution dated January 21, 2021, ordered the parties to submit their respective memoranda within thirty (30) days from notice.

UIP Aktiebolag filed its Memorandum on March 17, 2021, while the CIR filed his Memorandum on March 22, 2021 via registered mail. The case was submitted for decision on May 20, 2021.

On October 12, 2021, UIP Aktiebolag filed a Manifestation and Submission with attached Memorandum stating that the Memorandum submitted to the Court on March 17, 2021 was an earlier draft and not the final version. The Court noted UIP Aktiebolag's Manifestation and Submission in the Resolution dated November 11, 2021."

On March 15, 2022, the Court in Division promulgated a Decision dismissing for lack of cause of action the Petition for Review.

On April 6, 2022, respondent filed a "Motion for Reconsideration" praying that the Court *(i)* reconsider the assailed Decision, *(ii)* revive the Decision dated August 28, 2008 in CTA Case No. 6912; and *(iii)* order respondent CIR to refund or issue a tax credit in the amount of P7,200,302.97 in its favor.

On June 29, 2023, the Court in Division issued the assailed Amended Decision.

On July 26, 2023, petitioner filed by registered mail his "Motion for Reconsideration" of the Amended Decision.

On October 13, 2023, the Court in Division issued the assailed Resolution denying for lack of merit the petitioner's "Motion for Reconsideration."

On November 6, 2023, petitioner filed by registered mail a "Motion for Extension of Time to File Petition for Review,"[7] stating that petitioner has until November 7, 2023 within which to file the Petition for Review. Petitioner prays for an extension of fifteen (15) days from November 7, 2023 or until November 22, 2023, within which to file the Petition for Review. On November 17, 2023, the Court issued a Minute Resolution granting petitioner's "Motion for Extension of Time to File Petition for Review."

On November 22, 2023, petitioner filed by registered mail the instant Petition for Review, which was received by the Court on November 30, 2023.

On February 14, 2024, the Court *En Banc* issued Minute Resolution ordering respondent to file Comment on the Petition for Review within ten (10) days from notice.

On March 4, 2024, respondent filed a "Comment (on the *Petition for Review* dated November 21, 2023)."[8]

On March 14, 2024, the Court *En Banc* issued a Minute Resolution which noted respondent's "Comment (on the *Petition for Review* dated November 21, 2023)" and considered the case submitted for decision.

THE ISSUE

"Whether or not the Court in Division erred in granting the Petition for Revival of Judgment filed by respondent."

THE ARGUMENTS

Petitioner mainly argues that respondent has demonstrated estoppel by laches by neglecting to pursue its tax refund through administrative channels. Respondent slept on its right to enforce the tax refund against petitioner. It failed

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[7] Rollo, pp. 1-4.

[8] Ibid., pp. 59-74, with attachments.

to explain the cause of the delay to follow up its tax refund in this case with the office of the CIR or any office of the BIR. Hence, respondent is already barred by laches to execute the tax refund by revival of judgment.

Conversely, respondent states that the Petition for Review does not have a proper Verification and Certification Against Forum Shopping since it was executed and notarized twelve (12) days before the petition was prepared. The petition is dated November 21, 2023, while the verification was subscribed and sworn to before the Officer-in-Charge of the Legal Division of the BIR on November 9, 2023.

Respondent further claims that new arguments cannot be raised on appeal. The sole ground raised by petitioner on appeal is estoppel by laches. This issue was never raised by the CIR during trial of the Petition for Revival of Judgment before the Court in Division.

Additionally, respondent asserts that the remedy of filing an independent action to revive a judgment within ten (10) years is expressly granted by the Civil Code and the Rules of Court, and it timely filed the Petition for Revival of Judgment within the ten-year period.

THE RULING OF THE COURT *EN BANC*

Timeliness of the Petition

On July 11, 2023, the petitioner received the Amended Decision of the Court in Division. On July 26, 2023, petitioner filed a Motion for Reconsideration of the said Amended Decision. On October 23, 2023, the Court in Division issued the assailed Resolution denying petitioner's motion. Said Resolution was received by petitioner on October 23, 2023.

From receipt of the said Resolution on October 23, 2023, petitioner has until November 7, 2023 within which to file the Petition for Review. On November 6, 2023, petitioner filed a Motion for Extension of Time to File Petition for Review, praying that an extension of fifteen (15) days be granted to petitioner from November 7, 2023 or until November 22, 2023, within which to file the instant Petition for Review.

The Petition for Review was filed by registered mail on November 22, 2023, and received by the Court on November 30, 2023. Hence, this Petition for Review was timely filed.

The Court in Division did not commit any error in granting the Petition for Revival of Judgment

After a careful review of petitioner's arguments and the records of the case, the Court *En Banc* finds the Court in Division did not err in granting respondent's Petition for Revival of Judgment.

First, there is no doubt that the Decision in CTA Case No. 6912 entitled *United International Pictures AB vs. Commissioner of Internal Revenue* has not yet been executed since it became final.

Second, the action for the revival of said judgment was timely filed before the Court in Division.

In *Douglas F. Anama vs. Citibank, N.A. (formerly First National City Bank)*,[9] the Supreme Court emphasized when can an action for revival judgment be brought to Court for the enforcement of a final and executory judgment, viz:

> "An action to revive a judgment is an action whose exclusive purpose is to enforce a judgment which could no longer be enforced by mere motion. Section 6, Rule 39 of the Revised Rules of Court provides:
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> Sec. 6. Execution by motion or by independent action. - 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.
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> Section 6 is 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 10 years from the time the judgment becomes final.**
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> Further, a revival suit is a new action, having for its cause of action the judgment sought to be revived. It is different and distinct

[9] G.R. No. 192048, December 13, 2017. Citations omitted.

from the original judgment sought to be revived or enforced. It is a new and independent action, wherein the cause of action is the decision itself and not the merits of the action upon which the judgment sought to be enforced is rendered. Revival of judgment is premised on the assumption that the decision to be revived, either by motion or by independent action, is already final and executory." *(Emphasis supplied)*

Pursuant to the Entry of Judgment,[10] the Decision dated August 28, 2008 in CTA Case No. 6912 became final and executory on September 19, 2008.

On October 20, 2008, respondent filed a Motion for Issuance of Writ of Execution[11] before the Court in Division. During the hearing on October 31, 2008,[12] Court in Division granted the Motion for Issuance of Writ of Execution. However, the said Decision remained unexecuted.

As previously stated, the subject judgment became final on **September 19, 2008**. Thus, Respondent has until **September 19, 2018** within which to file an action to enforce said judgment. On **September 18, 2018**, Respondent timely filed before the Court in Division, a Petition for Revival of Judgment.

The principle of estoppel by laches does not apply in this case.

In *Republic of the Philippines vs. Sixto Sundiam, L & F Marketing, Inc., Jose Ma. Lopez, Rosendo D. Bondoc, Augusto F. Del Rosario, and Liberty Engineering Corporation,*[13] the Supreme Court explains the concept of estoppel by laches. It states that:

> "In a general sense, laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier. Stated differently, it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. The doctrine of laches or of "stale demands" is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims, and is not a mere question of time but is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted."

Records show that upon finality of the August 28, 2008 Decision on September 19, 2008, respondent immediately applied and obtained a Writ of

[10] Docket, CTA Case No. 6912, p. 294
[11] Ibid., pp. 295-297.
[12] Ibid., Minutes of the Hearing, p. 299.
[13] G.R. No. 236381, August 27, 2020. Citations omitted.

Execution to enforce the said Decision. Next, it coordinated with the sheriffs of the Court in Division who served the Writ of Execution to the BIR in 2009 and 2011.[14] Afterwards, Respondent timely filed the Petition for Revival of Judgment before the Court in Division.

Therefore, the Court *En Banc* finds that there was no failure or neglect, for an unreasonable length of time on the part of respondent, to do that which, by exercising due diligence, could or should have been done earlier. In fact, it was the petitioner who should be guilty of neglect for failure to act on the Court's order to refund to respondent the amount of Php7,200,302.97 representing excess/unutilized creditable taxes for taxable year 2002. Respondent has established its right to refund its money that was erroneously taken by petitioner for a very long of period time.

WHEREFORE, premises considered, the Petition for Review is **DENIED for lack of merit**. The Amended Decision dated June 29, 2023 and Resolution dated October 13, 2023 are **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[14] Docket, CTA Case No. 6912, pp. 300, 303.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
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 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