REPUBLIC OF THE PHILIPPINES
Court Of Tax Appeals
QUEZON CITY

THIRD DIVISION

BELLE CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 8175

Members:

BAUTISTA, Chairperson,
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, JJ.

Promulgated:

SEP 18 2012
PBFernando 3:50p.m.

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DECISION

PALANCA-ENRIQUEZ, J.:

The doctrine of estoppel cannot be applied in this case as an exception to the statute of limitations on the assessment of taxes considering that there is a detailed procedure for the proper execution of the waiver, which the BIR must strictly follow. Moreover, the BIR cannot hide behind the doctrine of estoppel to cover its failure to comply with *RMO 20-90 and RDAO 05-01*, which the BIR itself issued. To stress, a waiver of the statute of limitations, being a derogation of the taxpayer's right to security against prolonged and unscrupulous investigations, must be carefully and strictly construed (*Commissioner of Internal Revenue vs. Kudos Metal Corporation, 620 SCRA 246).*

THE CASE

This is a Petition for Review filed by Belle Corporation (hereafter "petitioner") praying for the cancellation of the Revised Final Decision on Disputed Assessment (RFDDA) issued on September 2, 2010 by respondent Commissioner of Internal Revenue (hereafter "respondent") for deficiency a) expanded withholding tax (EWT) amounting to P3,028,702.54; b) final withholding tax (FWT) amounting to P16,482,905.12; and c) compromise penalty on withholding tax on compensation (WTC) amounting to P25,000.00, or for an aggregate amount of P19,536,607.66, all for taxable year 2002.

THE PARTIES

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue, authorized under the *NIRC of 1997, as amended,* to examine any taxpayer and to assess the correct amount of internal revenue tax. She may be served with summons and other court processes at the BIR National Office Building, BIR Road, Diliman, Quezon City.

THE FACTS

The facts, as culled from the records, are, as follows:

Petitioner filed its EWT and FWT Returns for taxable year 2002 on the following dates:

Month	EWT Returns Date Filed	FWT Returns Date Filed
January	February 11, 2002	February 11, 2002
February	March 11, 2002	March 11, 2002
March	April 10, 2002	April 10, 2002
April	May 10, 2002	May 10, 2002
May	June 10, 2002	June 10, 2002
June	July 10, 2002	July 10, 2002
July	August 9, 2002	August 12, 2002
August	September 10, 2002	September 10, 2002
September	October 10, 2002	October 9, 2002
October	November 8, 2002	November 8, 2002
November	December 10, 2002	December 10, 2002
December	January 15, 2003	January 14, 2003

On April 21, 2008, petitioner received a Formal Letter of Demand/Final Assessment Notice (FLD/FAN) dated April 16, 2008.

On May 21, 2008, petitioner filed a protest to the FLD/FAN.

On May 25, 2009, petitioner received a Final Decision on Disputed Assessment (FDDA) dated May 8, 2009, issued by Zenaida Garcia, OIC-Assistant Commissioner, Large Taxpayers Service.

On June 24, 2009, petitioner filed an Appeal to then Commissioner Sixto Esquivas IV, pursuant to *Revenue Regulation (RR) No. 12-99*, questioning the propriety of the assessment for deficiency EWT and FWT, and the compromise penalty on WTC.

On September 8, 2010, petitioner received a Revised Final Decision on Disputed Assessment (RFDDA) dated September 2, 2010, issued by Assistant Commissioner Nestor Valeroso, Large Taxpayers Service-Regular.

On October 7, 2010, petitioner filed the instant Petition for Review.

On December 2, 2010, respondent filed her Answer and alleged by way of special and affirmative defenses that: petitioner is liable to pay its deficiency withholding taxes for calendar year 2002 in the total amount of P18,029,811.21 including penalties and interests; withholding tax is not an internal revenue tax that can be subject of an assessment; the period of limitation under *Section 203* of the Tax Code is not applicable to assessment of deficiency withholding tax; petitioner was assessed in its capacity as a withholding agent and not in its personality as a taxpayer; the instant petition was filed out of time considering that petitioner received the FDDA on May 25, 2009, hence, it had until June 25, 2009 within which to file a Petition for Review to the CTA; the assessment for taxable year 2002 was issued in accordance with law and regulations; and the burden of proof is on the taxpayer to establish the fact that it is not liable for any deficiency taxes subject of the assessment.

Petitioner presented Amelita Vanta, as its sole witness and documentary evidence, marked as *Exhibits "A" to "GG"*, inclusive of their submarkings, which were all admitted by the Court in a Resolution dated October 14, 2011.

On the other hand, respondent presented Melinda Rugayan, as witness, and documentary evidence, marked as *Exhibits "1" to "16"*, inclusive of their submarkings, which were all admitted by the Court in a Resolution dated March 29, 2012.

Thereafter, both parties were ordered to file their simultaneous memoranda, within thirty (30) days from notice; afterwhich, the case shall be deemed submitted for decision.

Considering petitioner's "Memorandum" filed on May 4, 2012 and respondent's "Memorandum (for Respondent)" filed on May 23, 2012, this case was deemed submitted for decision on June 25, 2012.

THE ISSUES

As stipulated upon by the parties, the following are the issues for this Court's consideration:

I

WHETHER OR NOT PETITIONER'S LIABILITY FOR DEFICIENCY EWT AND FWT AND COMPROMISE PENALTY FOR WTC FOR CALENDAR YEAR 2002 HAD ALREADY PRESCRIBED.

II

WHETHER OR NOT THE ASSESSMENT FOR DEFICIENCY EWT AND FWT AND COMPROMISE PENALTY FOR WTC IS VALID.

III

WHETHER OR NOT THE INSTANT PETITION WAS FILED OUT OF TIME.

IV

WHETHER OR NOT THE HONORABLE COURT HAS JURISDICTION OVER THE INSTANT PETITION.

V

WHETHER OR NOT THE WITHHOLDING TAX CAN BE CLASSIFIED AS AN INTERNAL REVENUE TAX.

Principal Issue

The foregoing issues raised by both parties boil down to the principal issue of whether or not petitioner may be held liable for deficiency EWT, FWT and compromise penalty on WTC in the total amount of P19,536,607.66, including penalties and interests, for taxable year 2002.

THE COURT'S RULING

The petition is meritorious.

Petitioner contends that the assessments for deficiency EWT and FWT, and compromise penalty on WTC had already prescribed; there is no valid waiver of the statute of limitations allowing respondent to assess petitioner beyond the three (3) year prescriptive period; the first waiver is null and void as it was executed by Ms. Patricio without the required notarized written authority from petitioner; even assuming that she was authorized, the waiver was only applicable to November and December EWT and December FWT of 2002; likewise, the subsequent waivers are null and void for having infirmities; strict requirements apply only to the execution of a waiver of the statute of limitations and not to a protest to an assessment, thus estoppel does not apply; and the RFDDA has no legal and factual basis.

On the other hand, respondent alleges that the subject assessments have become final and executory for failure of petitioner to file a petition within the period prescribed by law; the appeal of petitioner from the denial of the administrative protest does not toll the 30-day period to appeal to the CTA under *Section 228 of the NIRC of 1997*; the withholding tax is not an internal revenue tax, but is only a system to collect tax in advance, thus, the period of limitation under *Section 203 of the NIRC of 1997* is not applicable; petitioner is liable for deficiency withholding taxes for taxable year 2002; and the assessments were issued within the prescriptive period provided by law considering the waivers executed by petitioner until June 30, 2008.

Timeliness of the filing of the instant Petition for Review

This Court deems it necessary to first resolve the issue of the timeliness of the filing of the instant Petition for Review.

In this regard, *Section 228 of the NIRC of 1997, as amended*, provides:

> "SEC. 228. Protesting of Assessment. — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:
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> xxx xxx
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> **Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment** in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
>
> **If the protest is denied in whole or in part**, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision**, or from the lapse of the one hundred eighty (180)-day period; **otherwise, the decision shall become final, executory and demandable**."(Emphasis ours)

Pursuant to the above provision, a taxpayer may file an administrative protest, within thirty (30) days from receipt of the assessment. Consequently, if the protest is denied, the taxpayer adversely affected by the decision may appeal to the CTA, within thirty (30) days from receipt of the said decision; otherwise, the decision shall become final, executory and demandable.

In this case, records show that petitioner received the FLD/FAN on April 21, 2008 and filed its administrative protest on May 21, 2008, well within the thirty (30) day period prescribed by law.

On May 25, 2009, petitioner received a FDDA dated May 8, 2009 issued by Zenaida Garcia, OIC-Assistant Commissioner, Large Taxpayers Service. Applying *Section 228*, petitioner had until June 24, 2009 within which to appeal said decision to this Court.

However, on June 24, 2009, instead of filing an appeal to this Court, petitioner filed an Appeal to then Commissioner Sixto Esquivas IV, pursuant to *RR 12-99*.

Thus, on September 8, 2010, petitioner received a RFDDA dated September 2, 2010, which is now the subject of the instant Petition For Review.

Respondent CIR maintains that the assessment had long become final and executory for failure of petitioner to appeal the FDDA dated May 8, 2009 to this Court and the appeal to the Commissioner did not toll the running of the prescribed thirty (30) day period to appeal to the CTA from petitioner's receipt of the FDDA on May 25, 2009. Hence, citing the case of *Fishwealth Canning Corporation vs. Commissioner of Internal Revenue (610 SCRA 524)*, respondent asserts that this Court has no jurisdiction to entertain the instant Petition.

We do not agree.

Section 3.1.5 of RR 12-99, provides:

> "SEC. 3.1.5 Disputed Assessment. —
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> xxx xxx
>
> If the protest is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable.
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> In general, if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable: **Provided, however, that if the taxpayer elevates his protest to the Commissioner within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative, the latter's decision shall not be considered final, executory, demandable, in which case, the protest shall be decided by the Commissioner**.
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> xxx xxx." (Emphasis ours)

Pursuant to the above provision, a taxpayer may still elevate his protest to the Commissioner, within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative, and the latter's decision shall not be considered final, executory and demandable. *Section 3.1.5 of RR 12-99*, implementing *Section 228 of the NIRC of 1997, as amended*, provides for a remedy of appeal to the Commissioner in cases where the protest is decided by the Commissioner's duly authorized representative.

Applying the foregoing, considering that the FDDA dated May 8, 2009 was issued by Zenaida Garcia, OIC-Assistant Commissioner, Large Taxpayers Service, this Court finds that petitioner's appeal to then Commissioner Sixto Esquivas IV is with legal basis. Therefore, the RFDDA, dated September 2, 2010, issued by Nestor Valeroso, Assistant Commissioner, Large Taxpayers Service -Regular, is a final decision which is appealable to this Court within thirty (30) days from receipt thereof, pursuant to *Section 228 of the NIRC of 1997, as amended,* in relation to *Section 3.1.5 of RR 12-99.* Considering that petitioner received the RFDDA on September 8, 2010, we find that the instant Petition for Review filed on October 7, 2010 was timely filed. Accordingly, this Court has jurisdiction over the instant Petition.

It must be emphasized that *Fishwealth Canning Corporation vs. Commissioner of Internal Revenue (supra)* is not applicable to this case considering that in said case, Commissioner Jose Mario Buñag himself, issued the subject FDDA, thus, the Supreme Court found that a motion for reconsideration of said decision is not the remedy allowed under *Section 3.1.5 of RR 12-99.*

Prescription of Assessments

Having resolved this Court's jurisdiction over the instant Petition, we now proceed to determine whether the right of respondent to assess petitioner for deficiency EWT, FWT and compromise penalty on WTC had prescribed.

Section 203 of the NIRC of 1997, as amended, provides:

> "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 a 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."

Pursuant thereto, the three (3) year period to assess commences from the date of actual filing of the return or from the last date prescribed by law for the filing of such return, whichever comes later.

Corollary thereto, *Section 2.58 (A) (2) of RR 2-98, as amended by RR 6-2001,* provides that withholding tax returns are required to be filed and the payment is to be made, within ten (10) days after the end of each month, except for taxes withheld for the month of December, which shall be filed and paid on or before January 15 of the following year, and for the period where petitioner availed of the EFPS, fifteen (15) days after the end of each month, except for taxes withheld for the month of December, which shall be paid on or before January 20th of the following year.

Accordingly, respondent had until the following dates within which to assess petitioner, to wit:

a) EWT for taxable year 2002, to wit:

Month	**Return Filed**	**Last Day to File Return**	**Last Day to Assess**
January	February 11, 2002	February 11, 2002 *February 10 is a Sunday	February 11, 2005
February	March 11, 2002	March 11, 2002 *March 10 is a Sunday	March 11, 2005
March	April 10, 2002	April 10, 2002	April 10, 2005
April	May 10, 2002	May 10, 2002	May 10, 2005
May	June 10, 2002	June 10, 2002	June 10, 2005
June	July 10, 2002	July 10, 2002	July 10, 2005
July	August 9, 2002	August 15, 2002	August 15, 2005
August	September 10, 2002	September 15, 2002	September 15, 2005
September	October 10, 2002	October 15, 2002	October 15, 2005
October	November 8, 2002	November 15, 2002	November 15, 2005
November	December 10, 2002	December 15, 2002	December 15, 2005
December	January 15, 2003	January 20, 2003	January 20, 2006

b) FWT for taxable year 2002, to wit:

Month	**Return Filed**	**Last Day to File Return**	**Last Day to Assess**
January	February 11, 2002	February 11, 2002 *February 10 is a Sunday	February 11, 2005
February	March 11, 2002	March 11, 2002 *March 10 is a Sunday	March 11, 2005
March	April 10, 2002	April 10, 2002	April 10, 2005

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April	May 10, 2002	May 10, 2002	May 10, 2005
May	June 10, 2002	June 10, 2002	June 10, 2005
June	July 10, 2002	July 10, 2002	July 10, 2005
July	August 12, 2002	August 15, 2002	August 15, 2005
August	September 10, 2002	September 15, 2002	September 15, 2005
September	October 9, 2002	October 15, 2002	October 15, 2005
October	November 8, 2002	November 15, 2002	November 15, 2005
November	December 10, 2002	December 15, 2002	December 15, 2005
December	January 14, 2003	January 20, 2003	January 20, 2006

Records show that it was only on April 21, 2008 that petitioner received the FLD/FAN dated April 16, 2008 for deficiency EWT, FWT and compromise penalty on WTC, which is clearly beyond the three (3) year period to assess.

However, respondent claims that petitioner executed various waivers of the statute of limitations.

In conjunction thereto, *Section 222 (b) of the NIRC of 1997, as amended*, provides that if before the expiration of the time prescribed under *Section 203*, both the Commissioner and taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon.

Records show that petitioner executed six (6) waivers of the statute of limitations, showing the following dates:

Date Executed	**Date of Acceptance**	**Last Day Agreed Upon**
November 29, 2005	November 30/December 2	June 30, 2006
May 29, 2006	June 8, 2006	September 30, 2006
August 8, 2006	August 25, 2006	December 31, 2006
November 16, 2006	November 28, 2006	June 30, 2007

May 15, 2007	May 18, 2007	December 31, 2007
November 20, 2007	No date	June 30, 2008

The Supreme Court, citing *Revenue Memorandum Order (RMO) No. 20-90* and *Revenue Delegation Authority Order (RDAO) No. 05-01,* laid down the procedure for the proper execution of the waiver of the statute of limitation in the case of *Commissioner of Internal Revenue vs. Kudos Metal Corporation (supra, p.241)*, thus:

> "Section 222 (b) of the NIRC provides that the period to assess and collect taxes may only be extended upon a written agreement between the CIR and the taxpayer executed before the expiration of the three-year period. RMO 20-90 issued on April 4, 1990 and RDAO 05-01issued on August 2, 2001 lay down the procedure for the proper execution of the waiver, to wit:
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> 1. The waiver must be in the proper form prescribed by RMO 20-90. The phrase "but not after ______ 19 ___", which indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription, should be filled up.
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> 2. The waiver must be signed by the taxpayer himself or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials. **In case the authority is delegated by the taxpayer to a representative, such delegation should be in writing and duly notarized.**
>
> 3. **The waiver should be duly notarized.**
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> 4. **The CIR or the revenue official authorized by him must sign the waiver indicating that the BIR has accepted and agreed to the waiver. The date of such acceptance by the BIR should be indicated.** However, before signing the waiver, the CIR or the revenue official

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authorized by him must make sure that the waiver is in the prescribed form, duly notarized, and executed by the taxpayer or his duly authorized representative.
5. Both the date of execution by the taxpayer and date of acceptance by the Bureau should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed.

6. The waiver must be executed in three copies, the original copy to be attached to the docket of the case, the second copy for the taxpayer and the third copy for the Office accepting the waiver. The fact of receipt by the taxpayer of his/her file copy must be indicated in the original copy to show that the taxpayer was notified of the acceptance of the BIR and the perfection of the agreement."

A careful examination of the waivers executed for petitioner reveals that the first and last waivers failed to comply with the above procedure.

To begin with, it is imperative to pass upon the validity of the first waiver executed by Cecilia Patricio on November 29, 2005 *(Exhibit "10")* in order to determine the propriety of the subsequent waivers.

Upon a careful perusal of the first waiver executed on November 29, 2005, this Court finds the following infirmities:

1) the waiver was executed without the notarized written authority from petitioner authorizing Cecilia Patricio to sign the waiver in behalf of the corporation;

2) the date of acceptance of the waiver was not clearly indicated, as there are two (2) dates appearing to be the date of

acceptance: November 30, 2005, which is indicated on the space provided for the date of acceptance; and December 2 (with no year), which is indicated beside the signature of the signatory, Corazon Pangcog, Head Revenue Executive Assistant, Large Taxpayers Service; and

3) the waiver was not properly notarized considering that: the name of the affiant was not specified; there was a superimposition on the date and place of notarization without any counter-signature; and the date and place of issuance of the Community Tax Certificate was not indicated therein.

Considering the above defects in the execution of the first waiver, this Court finds the same invalid, hence, without force and legal effect. Thus, it necessarily follows that the subsequent waivers are likewise without force and effect for having been executed based on an invalid first waiver. There was nothing to extend when the subsequent waivers were executed, as the period for assessment was not tolled nor extended, and had prescribed on February 11, 2005, at the earliest and January 20, 2006, at the latest.

Therefore, for failure of the waiver of the statute of limitation to strictly conform with *RMO 20-90* and *RDAO 05-01,* the period of limitation was not extended, hence, the FLD/FAN dated April 16, 2008, which was received by petitioner on April 21, 2008, is void for having been issued beyond the three (3) year period to assess.

In the case of *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue (447 SCRA 227)*, the Supreme Court ruled that a waiver of the statute of limitations under the NIRC, to a certain extent being a derogation of the taxpayer's right to security against prolonged and unscrupulous investigations, must be carefully and strictly construed. The waiver of the statute of limitations does not mean that the taxpayer relinquishes the right to invoke prescription. For the purpose of safeguarding taxpayers from any unreasonable examination, investigation or assessment, our tax law provides a statute of limitations in the assessment and collection of taxes. Thus, the law on prescription, being a remedial measure, should be liberally construed in order to afford such protection.

As regards respondent CIR's claim that petitioner is estopped from disputing the defects of the waiver, the Supreme Court had already ruled on this issue in the case of *Commissioner of Internal Revenue vs. Kudos Metal Corporation (supra, p.244)*, thusly:

> ***"Estoppel does not apply in this case***
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> We find no merit in petitioner's claim that respondent is now estopped from claiming prescription since by executing the waivers, it was the one which asked for additional time to submit the required documents.

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In *Collector of Internal Revenue v. Suyoc Consolidated Mining Company,* the doctrine of estoppel prevented the taxpayer from raising the defense of prescription against the efforts of the government to collect the assessed tax. However, it must be stressed that in the said case, estoppel was applied as an exception to the statute of limitations on *collection* of taxes and not on the *assessment* of taxes, as the BIR was able to make an assessment within the prescribed period. More important, there was a finding that the taxpayer made several requests or positive acts to convince the government to postpone the collection of taxes, *viz*:

xxx xxx

The doctrine of estoppel cannot be applied in this case as an exception to the statute of limitations on the assessment of taxes considering that there is a detailed procedure for the proper execution of the waiver, which the BIR must strictly follow. As we have often said, the doctrine of estoppel is predicated on, and has its origin in, equity which, broadly defined, is justice according to natural law and right. As such, the doctrine of estoppel cannot give validity to an act that is prohibited by law or one that is against public policy. It should be resorted to solely as a means of preventing injustice and should not be permitted to defeat the administration of the law, or to accomplish a wrong or secure an undue advantage, or to extend beyond them requirements of the transactions in which they originate. Simply put, the doctrine of estoppel must be sparingly applied.

Moreover, **the BIR cannot hide behind the doctrine of estoppel to cover its failure to comply with RMO 20-90 and RDAO 05-01, which the BIR itself issued**. As stated earlier, the BIR failed to verify whether a notarized written authority was given by the respondent to its accountant, and to indicate the date of acceptance and the receipt by the respondent of the waivers. **Having caused the defects in the waivers, the BIR must bear the consequence. It cannot shift the blame to the taxpayer. To stress, a waiver of the statute of limitations, being a derogation of the taxpayer's right to security against prolonged and unscrupulous investigations, must be carefully and strictly construed.**" (Emphasis ours)

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Likewise, we find respondent's contention that withholding taxes are not internal revenue taxes that is covered by *Section 203*, devoid of merit. *Section 21 of the NIRC of 1997, as amended*, provides:

> "SEC. 21. Sources of Revenue. - The following taxes, fees and charges are deemed to be national internal revenue taxes:
> (a) Income tax;
> (b) Estate and donor's taxes;
> (c) Value-added tax;
> (d) Other percentage taxes;
> (e) Excise taxes;
> (f) Documentary stamp taxes; and
> (g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue."

Withholding taxes are taxes withheld from income payments by withholding agents, which is clearly mandated under the *NIRC* and collected by the BIR. In this case, respondent allegedly found deficiency EWT and FWT from income payments made by petitioner pursuant to *Sections 57 and 28 of the NIRC of 1997, as amended*, respectively. It is clear, therefore, that the alleged deficiency EWT and FWT are covered by the period of limitation of assessment and collection under *Section 203 of the NIRC of 1997, as amended.*

With the above conclusion reached, we find no need to resolve the other issues raised by both parties, for being moot and academic.

WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the assessments for deficiency expanded withholding tax and final withholding tax and compromise penalty on withholding tax on compensation in the total amount of P19,536,607.66 for taxable year 2002 are hereby **CANCELLED** and **SET ASIDE** for having been issued beyond the three year prescriptive period.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

I attest 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's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ERNESTO D. ACOSTA
Presiding Justice