REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA *EB* NO. 3132** (CTA Case No. 11231) Present:
-versus-	**RINGPIS-LIBAN,** *Acting P.J.,* **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.*
PERF RESTAURANTS, INC., Respondent.	Promulgated: NOV 06 2025 3:45p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a Petition for Review, filed on May 13, 2025, assailing Resolutions rendered by this Court's Third Division ("Court in Division") in CTA Case No. 11231 on September 4, 2024 and March 31, 2025 ("assailed Resolutions").

The Parties[1]

Petitioner is the head of the Bureau of Internal Revenue ("BIR"), duly appointed with the power and duty to, among others, decide disputed assessments.

Respondent is a corporation duly organized under Philippine Laws.

The Facts

On March 20, 2019, petitioner issued a Letter of Authority for the examination of respondent's accounting records for taxable year 2018.[2]

After the execution of two separate Waivers of the Defense of Prescription under the Statute of Limitations, dated November 27, 2020 and May 17, 2021, petitioner issued a Notice of Discrepancy with Details of Discrepancies on November 9, 2021.[3]

The parties executed another Waiver on November 15, 2021, before petitioner issued a Preliminary Assessment Notice on March 28, 2022, to which respondent filed a Reply on April 12, 2022.[4]

This was followed by two more Waivers, dated May 16, 2022 and August 15, 2022.[5]

Petitioner eventually issued a Formal Letter of Demand with Details of Discrepancies and Final Assessment Notices on November 14, 2022. Respondent protested by requesting a reinvestigation on December 22, 2022.[6]

After reinvestigation, petitioner issued a Final Decision on Disputed Assessment ("FDDA") with Amended Final Assessment Notices on June 27, 2023.[7]

Aggrieved, respondent filed a Petition for Review before the Court in Division on July 27, 2023.[8]

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1 Petition for Review, p. 3, *Rollo*, p. 11.
2 *Id.*
3 Petition for Review, pp. 3-4, *id.* at 11-12.
4 Petition for Review, p. 4, *id.* at 12.
5 *Id.*
6 Petition for Review, pp. 5-6, *id.* at 12-13.
7 Petition for Review, p. 6, *id.* at 13.
8 *Id.*

While the case was pending before the Court in Division, petitioner issued a Warrant of Distraint and/or Levy, dated September 4, 2023.[9] Wishing to assail the Warrant, respondent filed an Urgent Motion to Suspend Collection of Taxes on September 12, 2023.[10]

After trial on the Urgent Motion,[11] the Court in Division issued the first assailed Resolution, dated September 4, 2024, granting said Motion and lifting the Warrant, prohibiting petitioner from collecting the relevant tax, and dispensing with the bond usually required.[12]

Aggrieved, petitioner filed a Motion for Reconsideration against the first assailed Resolution, but this was denied in the second assailed Resolution on March 31, 2025, which petitioner received on April 11, 2025.[13]

Still aggrieved, petitioner filed a Motion for Extension to File Petition for Review on April 25, 2025,[14] before filing the instant Petition before this Court *En Banc* on May 13, 2025. Respondent filed its Comment[15] to the same on June 23, 2025, leading this Court to submit the case for decision on July 30, 2025.[16]

Hence, this Decision.

The Assigned Errors

Petitioner asserts that the Court in Division erred in ruling that his right to assess the subject taxes had already prescribed when he issued his assessments.

The Arguments

Petitioner mainly argues that the Waivers validly extended the prescriptive period for his assessment. He bases this on three claims:

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[9] Resolution, dated September 4, 2024, p. 1, *id.* at 39.
[10] Petition for Review, p. 6, *id.* at 13.
[11] *Id.*
[12] Resolution, dated September 4, 2024, p. 7, *id.* at 44-45.
[13] Petition for Review, p. 6, *id.* at 13.
[14] *Id.* at 1-4.
[15] *Id.* at 62-70.
[16] Minute Resolution, dated July 30, 2025, *id.* at 73.

(a) While the Court in Division's finding assumes that the BIR must accept a Waiver in order for it to be valid, *Revenue Memorandum Order* ("*RMO*") *No. 14-2016* already removed such requirement;[17]

(b) Both petitioner and respondent received the Waivers;[18] and

(c) *RMO No. 14-2016* and *Revenue Memorandum Circular No. 141-19* are valid and executory issuances.[19]

Respondent opposes the above with the following:

(a) The Court *En Banc* lacks jurisdiction over this case;[20] and

(b) The Waivers are null and void.[21]

The Ruling of the Court

The Petition must be dismissed.

The Court En Banc cannot entertain appeals from interlocutory orders of the Court in Division

Under *Rule 4, Section 2(a)(1) of the Revised Rules of the Court of Tax Appeals, as amended*, this Court *En Banc* has jurisdiction over decisions and resolutions rendered by the Court in Division in the exercise of its own jurisdiction on cases arising from administrative agencies, such as the BIR:

> Sec. 2. Cases within the jurisdiction of the Court *en banc*. — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> (a) Decisions or *resolutions on motions for reconsideration* or new trial *of the Court in Division* in the exercise of its exclusive appellate jurisdiction over:
>
> (1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

17 Petition for Review, pp. 8-16, *id.* at 22-23.
18 Petition for Review, pp. 16-17, *id.* at 23-24.
19 Petition for Review, pp. 17-21, *id.* at 24-28.
20 Comment (Re: Petition for Review), pp. 3-4, *id.* at 64-65.
21 Comment (Re: Petition for Review), pp. 4-7, *id.* at 65-68.

. . . .

(Italics supplied.)

Note that the above specifies that appeals to the Court *En Banc* can come from the Court in Division's resolutions on motions for reconsideration or new trial specifically. Applied here, the March 31, 2025 assailed Resolution was promulgated to act on petitioner's Motion for Reconsideration, so this case seems to fall under the jurisdiction of the Court *En Banc*.

However, the Supreme Court has long held that the Court *En Banc* does not have jurisdiction over the Court in Division's *interlocutory* judgments, maintaining such since at least *Santos v. People*.[22] There, the Supreme Court drew from *De La Cruz v. Hon. Paras*[23] and *BA Finance Corporation v. Court of Appeals*[24] and distinguished between final and interlocutory judgments in this wise:

> [A]fter a final order or judgment, the court should have nothing more to do in respect of the relative rights of the parties to the case. Conversely, "an order that does not finally dispose of the case and does not end the Court's task of adjudicating the parties' contentions in determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is interlocutory."

Citing *Matute v. Court of Appeals*[25] and *Sitchon v. Provincial Sheriff of Occidental Negros*,[26] the Supreme Court also reviewed the rationale behind barring appeals from interlocutory judgments, noting that a lower court can still change its interlocutory actions until it has rendered its final judgment and that allowing such appeals would result in multiplicities of appeals and delays in the lower courts' trials on the merits.

The above was reiterated in *Commissioner of Internal Revenue v. Court of Tax Appeals (2015)*[27] ("*CTA 2015*"). There, the Supreme Court quoted *Investments, Inc. v. Court of Appeals*,[28] via *Denso (Phils.), Inc. v. The Intermediate Appellate Court*,[29] to define a final judgment as one that "finally disposes of a case, leaving nothing more to be done by the Court in respect thereto" and an interlocutory judgment or order as one "that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court." Thus, the Supreme Court, in *CTA 2015*, found that the Court in

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[22] G.R. No. 173176, August 26, 2008.
[23] G.R. No. L-41053, February 27, 1976.
[24] G.R. No. 84294, October 16, 1989.
[25] G.R. No. L-26751, L-26085, and L-26106, January 31, 1969.
[26] G.R. No. L-1853, February 27, 1948.
[27] G.R. No. 203054-55, July 29, 2015.
[28] G.R. No. L-60036, January 27, 1987.
[29] G.R. No. 75000, February 27, 1987.

Division's declaration of the Commissioner of Internal Revenue as being in default could not be appealed to the Court *En Banc*. Despite such declaration of default, the Court in Division had yet to determine the taxpayer's entitlement to its claim for tax credit certificates, after all.

The distinction between final and interlocutory orders, and the barring of appeals from the latter, was also more recently reaffirmed in *Commissioner of Internal Revenue v. Court of Tax Appeals (2022)*.[30]

To sum up, this Court *En Banc* has jurisdiction over final judgments of the Court in Division, *i.e.*, those that fully dispose of the case and leave nothing more to be done. However, We lack jurisdiction over appeals from *interlocutory* judgments, orders, or resolutions of the Court in Division, *i.e.*, those that do *not* fully dispose of the case and *do* leave room for more to be done.

This leads Us to the central question regarding this Court *En Banc*'s jurisdiction over this case: were the assailed Resolutions final or interlocutory judgments?

In the first assailed Resolution, the Court in Division characterized its finding of prescription as *preliminary*, even emphasizing and italicizing the word "preliminarily" throughout:

> We grant the suspension order prayed for, along with the dispensation of the required bond, ***solely*** because the parties' evidence ***preliminarily*** demonstrated that the BIR's right to assess petitioner for deficiency VAT. . . covering TY 2018, is barred by prescription.
>
> . . . .
>
> In fine, the parties' evidence ***preliminarily*** exhibited prescription of internal revenue tax assessment in this case. . . .[31]
> (Emphasis and italics in original.)

This characterization is carried through to the dispositive portion of the Resolution, which contains no action or declaration on the assessment or respondent's issuances regarding such:

[30] G.R. No. 258947, March 29, 2022.
[31] Resolution, dated September 4, 2024, pp. 3 & 5, *Rollo*, pp. 41 & 43.

WHEREFORE we **RESOLVE** to:

a. **ADDRESS** Respondent's Formal Offer of Evidence (For the Urgent Motion to Suspend Collection of Taxes), in accordance with the foregoing findings as to the admissibility of his exhibits; and

b. **GRANT** petitioner's Urgent Motion to Suspend Collection of Taxes (A) Motion to Lift and Cancel Warrant of Distraint and/or Levy; and (B) Motion to Restrain the Issuance and Service of Warrant of Garnishment ...;

c. **LIFT** respondent's Warrant of Distraint and/or Levy dated September 4, 2023;

d. **PROHIBIT** respondent, his agents, and other persons acting in his behalf from collecting on petitioner, the deficiency Value-Added Tax covering Taxable Year 2018; and

e. **DISPENSE** with the bond required for the grant of the suspension order.

SO ORDERED.[32]

The second assailed Resolution, meanwhile, simply affirms the above ruling without adding any action on the assessment:

> **WHEREFORE**, respondent's Motion for Reconsideration (Re: Resolution promulgated on 04 September 2024) filed on October 4, 2024 is **DENIED**, for lack of merit. The Resolution dated September 4, 2024 is **AFFIRMED**.
>
> **SO ORDERED.**[33]

Indeed, the Court in Division even closes the first assailed Resolution by stating that the preliminary finding of prescription would not determine the result of the main case:

> In closing, we underscore that the findings and observations herein are without prejudice to the result of the parties' evidence in the main case.

From the above, the preliminary finding of prescription still left more to be done by the Court in Division. It did not negate the need for the Court in Division to receive, examine, and analyze evidence from both parties in the main case. It did not negate the need for the Court in Division to make a *final judgment* in the main case, which has yet to be disposed.

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[32] Resolution, dated September 4, 2024, pp. 6-7, *id.* at 44-45.
[33] Resolution, dated March 31, 2025, p. 4, *id.* at 59.

The Court in Division thus made *exceedingly* clear that the two Resolutions did *not* constitute a final judgment on the case. The passages quoted above could even be interpreted as the Court in Division acting with foresight by attempting to carefully avoid any ambiguity as to the kind of judgment being rendered. By repeatedly characterizing the finding of prescription as preliminary, by refraining from directly acting on petitioner's assessment, Assessment Notices, and FDDA, and by treating the *main* case as separate and distinct from its actions on respondent's Urgent Motion, the Court in Division did *not* fully dispose of the case and even strongly emphasized the *interlocutory* nature of its Resolutions. Said Resolutions are thus undoubtedly interlocutory and not final judgments.

As interlocutory, then, this Court *En Banc* lacks jurisdiction over the assailed Resolutions and must consequently dismiss the instant Petition. To be clear, this dismissal does not bar any appeal, if any, from the Court in Division's final ruling in the case before it, once it actually renders such a final ruling.

ACCORDINGLY, the instant *Petition for Review*, filed on May 13, 2025, is hereby **DISMISSED** for lack of jurisdiction, without prejudice to any appeal raised from the Court in Division's final ruling in CTA Case No. 11231.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice