CTA Form No. 8 (For DCC)

25-000155-0030

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11776

EAGLES` WINGS CONSTRUCTION PHILS, INC., represented by its President NELSON B. PANGAN,
Petitioner,

- versus -

NOTICE OF RESOLUTION

ROMEO D. LUMAGUI JR., in his capacity as the COMMISSIONER OF THE INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYLEEN B. ALMIRA
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Caloocan City

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Unit 6, 3rd Floor, CCRI Building
McArthur Highway, San Sebastian
Tarlac City, 2300 Tarlac

GREETINGS:

You are hereby notified by these presents that on **February 6, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 9, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

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Petitioner,

- versus -

ROMEO D. LUMAGUI JR., in his capacity as the **COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

CTA CASE NO. **11776**

Members:

BACORRO-VILLENA, *Acting Chairperson,* *and*
CUI-DAVID, *JJ.*

Promulgated:
FEB 06 2026, 10:15AM

x - x

RESOLUTION

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR's**) "Motion for Reconsideration (of the Resolution promulgated on July 16, 2025)"[1] (**MR**) personally filed on 13 August 2025 and emailed on 14 August 2025, with petitioner Eagles' Wings Construction Phils, Inc.'s (**petitioner**'s) "Comment/Opposition [On Respondent's [MR]" (**Comment**) filed *via* registered mail on 20 October 2025 and emailed on 22 October 2025.

The instant MR oppugns this Court's Resolution[2] promulgated on 16 July 2025 (**assailed Resolution**). The dispositive portion of the said Resolution reads:

> ...
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> **ACCORDINGLY**, premises considered:
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> 1. The Motion to Suspend Collection of Taxes, as incorporated in the Petition for Review filed on 04 March 2025, is **DENIED** for being moot and academic. There being no collection to

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[1] Division Docket, pp. 263-269.
[2] Id., pp. 248-261; Emphasis in the original text.

> suspend as the right of respondent Commissioner of Internal Revenue to collect the subject deficiency taxes is already barred by prescription.
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> 2. The Petition for Review filed by petitioner Eagles' Wings Construction Phils, Inc. on 04 March 2025 is hereby **GRANTED**. Accordingly, the assessments and collection of the subject deficiency taxes are declared **VOID** for having been issued and/or enforced beyond the prescriptive period.
>
> 3. Respondent Commissioner of Internal Revenue, including any of the latter's authorized officers, agents, or representatives, is hereby **PERMANENTLY ENJOINED** from enforcing or collecting the deficiency taxes subject of the void assessments.
>
> **SO ORDERED.**
>
> ...

In his or her MR, respondent effectively argues that: (**1**) because petitioner pursued administrative remedies (*i.e.,* an administrative appeal/protest pending with the Office of the Commissioner [**OCIR**]), the assessment did not become final, executory and demandable, such that any collection step premised on "delinquency" would be premature and void; hence, the prescriptive period for collection supposedly could not have begun to run; (**2**) in the case of *Light Rail Transit Authority v. Bureau of Internal Revenue*[3] (**LRTA**), collection issuances (*e.g.,* preliminary collection letter, final notice before seizure, warrant of distraint and/or levy [**WDL**]) issued while the assessment remains under administrative appeal are "void and should be of no force and effect," since they emanate from a non-demandable assessment; and (**3**) the Court should not have ruled on prescription at the stage of resolving the motion for suspension of collection, because prescription is allegedly a matter for full adjudication in the main petition for review after completion of pleadings and reception of evidence.

In its Comment, petitioner counters that: (**1**) respondent's MR rests on an erroneous premise, i.e., that petitioner's request for reconsideration of the FDDA before the OCIR automatically tolls the prescriptive period to collect on the theory that an assessment not yet "final" cannot be collected, because under the National Internal Revenue Code (**NIRC**) of 1997, as amended, prescription and its suspension are purely statutory, and suspension applies only in the

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[3] G.R. No. 231238, 20 June 2022.

instances enumerated under Section 223[4] of the NIRC of 1997, as amended, notably when the taxpayer requests a reinvestigation that is granted (not a mere reconsideration), *inter alia*; (**2**) as the assessment involved calendar year (**CY**) 2017 and was issued within the ordinary period to assess, petitioner argues that respondent had only the limited statutory period to collect by distraint/levy or court proceeding, reckoned from the release/mailing/sending of the Formal Letter of Demand (**FLD**) (here alleged as 15 March 2019), and respondent cannot evade this limitation by invoking the mere pendency of a request for reconsideration or the CIR's prolonged inaction thereon; (**3**) petitioner stresses that what it filed was a *request for reconsideration*, **not** a *request for reinvestigation*; thus, absent proof of a granted reinvestigation or other statutory suspension event under Section 223 of the NIRC of 1997, as amended, the prescriptive period "continued to run" and ultimately lapsed; and (**4**) petitioner further invokes *Commissioner of Internal Revenue, Petitioner, v. Court of Tax Appeals Second Division*[5] (**QL Development**) to argue that "collection efforts" must be initiated within the prescriptive period either through validly commenced distraint/levy (issuance and service of WDL) or by judicial action, *i.e.,* where the assessment is appealed to the Court of Tax Appeals (**CTA**), it may be initiated by filing an Answer praying for payment; and because respondent allegedly did neither within the prescriptive period, the right to collect is barred.

We resolve.

Incipiently, We observe that the present MR was filed out of time.

Respondent received a copy of the assailed Resolution on 29 July 2025.[6] The Office of the Solicitor General (**OSG**) received the same on 28 July 2025.[7]

Section 1 of Rule 15 of the Revised Rules of the Court of Tax Appeals (**RRCTA**), states that:

...

Rule 15
MOTION FOR RECONSIDERATION OR NEW TRIAL

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4 SEC. 223. *Suspension of Running of Statute of Limitations.*
5 G.R. No. 258947, 29 March 2022.
6 See Notice of Resolution, Division Docket, p. 247.
7 Id.

> SECTION 1. *Who may and when to file motion.* — Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court by filing a motion for reconsideration or new trial **within fifteen days from the date of receipt of notice of the decision, resolution or order of the Court in question**.[8]
>
> . . .

Verily, reiterating the cases of *National Power Corp. v. National Labor Relations Commission, et al.*[9] (**NAPOCOR**) and *Commissioner of Customs v. Court of Tax Appeals*[10] (**COC v. CTA**), in the recent case of *Claudine Monette Baldovino-Torres v. Jasper A. Torres*[11] (**Torres**), the Supreme Court clarified that the reckoning point of the 15-day reglementary period to file a reconsideration or new trial is counted from the receipt of the OSG, the latter being the representative of the government of the Philippines, its agencies and instrumentalities:

> . . .
>
> In the case of *National Power Corporation v. National Labor Relations Commission* (NAPOCOR), the Court held that **the proper basis for computing the reglementary period to file an appeal and in determining whether a decision had attained finality is service on the OSG**. In holding so, the **Court emphasized that the lawyer deputized by the OSG is considered as a mere representative of the latter who retains supervision and control over the deputized lawyer. As a consequence, copies of orders and decisions served on the deputized counsel, acting as agent or representative of the Solicitor General, are not binding until they are actually received by the latter**.
>
> The NAPOCOR case was cited in the subsequent case of *Commissioner of Customs v. Court of Tax Appeals*, where it was reiterated that **although the OSG may have deputized the lawyers in a government agency represented by it, the OSG continues to be the principal counsel and, therefore, service on it of legal processes, and not that on the deputized lawyers, is decisive**.
>
> In the same vein, **the period to file a motion for reconsideration in the present case should be counted from the receipt by the OSG of a copy of the RTC Decision on April 4, 2017**. Consequently, the filing by the OSG of its Motion for Reconsideration questioning the RTC Decision on April 18, 2017 was well within the reglementary period for filing such motion. **The counting of the period for its filing should be reckoned from the date of receipt of the assailed decision by the OSG and not by**

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8 Emphasis and underscoring supplied; Italics in the original text.
9 G.R. Nos. 90933-61, 29 May 1997.
10 G.R. No. 132929, 27 March 2000.
11 G.R. No. 248675, 20 July 2022.

> **the public prosecutor**. This is because the public prosecutor acted as a mere representative of the OSG which, in turn, retained supervision and control over the former.[12]
>
> ...

Applying *NAPOCOR*, *COC v. CTA* and *Torres*, since OSG received the assailed Resolution on **28 July 2025**[13], counting 15 days therefrom, respondent had until **12 August 2025** to file his or her MR. However, the same was only filed on **13 August 2025**.[14] Thus, it was belatedly filed.

At any rate, even assuming that the present MR was timely filed, respondent CIR's arguments are a mere rehash of the matters that the assailed Resolution has already exhaustively addressed and passed upon.[15] Nevertheless, to finally lay the matter to rest, the Court elaborates further below.

Firstly, it bears noting that once the Answer is filed, the issues are joined, meaning the parties have completed their initial pleadings such that the disputed factual and legal matters are already framed by the petition for review and the answer (through specific denials and/or affirmative defenses), with defenses not raised in the Answer generally deemed waived.[16] Here, prior to the promulgation of the assailed Resolution was promulgated, respondent had already filed an Answer to the instant Petition for Review on **02 June 2025**, which effectively prayed for the collection of the deficiency assessments.[17]

Secondly, the Supreme Court has clarified in *QL Development*[18] that the BIR's collection efforts are initiated by distraint, levy, or court proceeding. The distraint and levy proceedings are validly begun or commenced by the issuance of a WDL and service thereof on the taxpayer. And, 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 CTA, by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for. Thus, respondent's Answer in this case, i.e., filed before

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12 Citations omitted, emphasis supplied and italics in the original text.
13 Supra at note 6.
14 Division Docket, p. 263.
15 Supra at note 2, pp. 250-261.
16 See *Samuel M. Alvarado v. Ayala Land, Inc., et al.*, G.R. No. 208426, 20 September 2017.
17 Division Docket, pp. 115-123.
18 Supra at note 8.

the CTA and praying for payment, may be treated as the State's initiation of a judicial action to collect.

Thirdly, respondent's Answer does not meaningfully dispute the material reckoning dates alleged in the Petition for Review. Instead, respondent's position essentially rests on a single theory: that petitioner's pending request for reconsideration with the OCIR should toll the running of the statute of limitations, while largely admitting the timeline pleaded, except for its characterization of the protest (i.e., whether it is reconsideration or reinvestigation).[19]

Lastly, Section 1[20], Rule 9 of the Rules of Civil Procedure (**RCP**), as amended, expressly commands courts to dismiss *motu propio* claims that are barred by the statute of limitations when such bar appears from the pleadings or the evidence on record. In *Bank of the Philippine Islands v. Commissioner of Internal Revenue*[21], the Supreme Court proceeded to dismiss the case *motu proprio* due to prescription:

> . . .
>
> **If the pleadings or the evidence on record show that the claim is barred by prescription, the court is mandated to dismiss the claim even if prescription is not raised as a defense.** In *Heirs of Valientes v. Ramas*, we ruled that the CA may *motu proprio* dismiss the case on the ground of prescription despite failure to raise this ground on appeal. The court is imbued with sufficient discretion to review matters, not otherwise assigned as errors on appeal, if it finds that their consideration is necessary in arriving at a complete and just resolution of the case. More so, when the provisions on prescription were enacted to benefit and protect taxpayers from investigation after a reasonable period of time.[22]
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> . . .

Here, prescription was not merely implied or belatedly invoked—it was expressly pleaded in the Petition for Review. Moreover, a review of respondent's Answer shows that respondent failed to specifically

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19 Supra at note 17.

20 . . .
SEC. 1. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, **when it appears from the pleadings or the evidence on record** that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or **that the action is barred** by a prior judgment or **by statute of limitations, the court <u>shall</u> dismiss the claim.** (Emphasis and underscoring supplied)

21 G.R. No. 181836, 09 July 2014.

22 Citations omitted, emphasis supplied and italics in the original text.

controvert petitioner's allegation that respondent's right to collect had already prescribed; respondent instead relied principally on the theory of tolling due to the pending reconsideration with the OCIR, which the assailed Resolution has exhaustively passed upon.

WHEREFORE, premises considered, respondent Commissioner of Internal Revenue's "Motion for Reconsideration (of the Resolution promulgated on July 16, 2025)" filed on 13 August 2025, is hereby **DENIED** for lack of merit and for having been filed out of time.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice