REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

SECURITY BANK CORPORATON,
Petitioner,

C.T.A. CASE NO. 6564

Members:

- versus -

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

NOV 2 8 2006

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DECISION

CASTAÑEDA, JR., J.:

This Petition for Review seeks to set aside the Decision of the Commissioner of Internal Revenue dated August 8, 2002 which ordered petitioner to pay the aggregate amount of **THIRTEEN MILLION EIGHT HUNDRED FIFTY FIVE THOUSAND THREE HUNDRED NINE AND 79/100 PESOS (P13,855,309.79)** as deficiency income and documentary stamp taxes for the taxable year 1982, exclusive of increments that may have accrued thereon until actual payment thereof.

Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at 6776 Ayala

Avenue, Makati City. It is engaged in the business of banking and is a member of the Bankers Association of the Philippines. It is registered with the Bureau of Internal Revenue and was issued the Taxpayer Identification No. 047-000-498-020.[1]

Respondent is the Commissioner of the Bureau of Internal Revenue (BIR) who is vested with authority under the National Internal Revenue Code (NIRC) to exercise the functions of said office, including, *inter alia*, the power to decide disputed assessments, with office address at the BIR Building, Diliman, Quezon City.

For the taxable year 1982, petitioner duly filed its Annual Income Tax Return on April 13, 2003.[2] On October 15, 1987, the Senior Operations Office of the BIR sent petitioner a pre-assessment notice[3] covering the latter's income and business tax liabilities for the year 1982. In this regard, petitioner, on October 30, 1987,[4] sent a reply to the said pre-assessment notice requesting for a breakdown of the disallowed expenses pertaining to the non-taxable income amounting to P13,092,712.51.

Subsequently, on November 16, 1987, respondent issued against petitioner three (3) assessment notices covered under Assessment Nos. FAS-1-82-87-007151 for unpaid income for the year 1982 plus interest in the amount of P5,773,315.34, inclusive of interests; FAS-1-82-87-007152 for deficiency documentary stamp taxes on petitioner's sale of securities for the year 1982 in the amount of P7,039,037.25, inclusive of the compromise fee of

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[1] Petition for Review, Records, p. 2
[2] Exhibit M
[3] par 3, Summary of Admitted Facts, Records, p. 132
[4] par 4, Summary of Admitted Facts, Records, p. 133

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P600.00; and FAS-1-82-87-007153 for deficiency documentary stamp taxes on the promissory notes issued by petitioner for the year 1982 in the amount of P1,042,957.20, inclusive of the compromise fee of P300.00.[5]

On November 23, 1987, petitioner wrote a letter to the respondent , addressed to the Chief, Receivable Accounts Division, informing the said office that on October 30, 1987, it had already made a reply to Mr. Fortunato Aguas, Assistant Commissioner Sector Operations Office, as regards the pre-assessment notice on its 1982 tax liabilities.[6]

On September 21, 1990, the Chief of Collection Enforcement Division of the BIR, Cecilio T. Marcelo, wrote petitioner a letter notifying the latter that through the issuance of Revenue Memorandum Order (RMO) No. 29-90 on June 18, 1990, the BIR has extended the effectivity of the administrative compromise settlement of delinquent accounts under RMO 1-88, subject, however, to the evaluation and approval of higher authorities, and giving petitioner a period of ten (10) days from receipt thereof to make the necessary settlement of its liabilities under the aforesaid assessment notices, otherwise, the BIR would enforce the collection thereof.[7]

On August 8, 2002, respondent rendered the assailed Decision.[8]

On October 10, 2002, petitioner received a Final Notice Before Seizure from the Chief, Large Taxpayer – Collection and Enforcement Division requiring the former to pay the assessments in dispute, within ten (10) days from receipt thereof, otherwise collection thru administrative summary

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[5] Petition for Review, Records, pp. 4-5
[6] Exhibit H
[7] Petition for Review, Records, p. 6
[8] Annex A, Petition for Review

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remedies without further notice shall be enforced.[9]

Petitioner filed this present petition through registered mail on November 6, 2002.

In his Answer, respondent raised the following as his Special and Affirmative Defenses:

1. The questioned Assessment Notices FAS-1-82-87-007151, FAS-1-82-87-007152 and FAS-1-82-87-007153 are valid Assessments and not arbitrary and confiscatory as alleged by petitioner for they are results or findings from the examination of petitioner's books of accounts and other accounting records by virtue of a Letter of Authority issued on May 7, 1984;

2. The assessment for deficiency income tax is based on costs and expenses incurred in the production of non-taxable revenues which cannot be deducted against the taxable income of the petitioner;

3. The non-negotiable promissory notes issued by the petitioner in its money market operation are in the nature of investment securities falling under the category of certificate of indebtedness subject to Documentary Stamp Tax under Section 223 of the Tax Code;

4. Said Assessment Notices for deficiency income tax and Documentary Stamp Taxes for the year 1982 were issued within the prescriptive period, and the period to collect the same has not prescribed;

5. As a matter of fact, petitioner failed to establish that it indeed protested the Assessment Notices for nothing in its letter dated November 23, 1987 would indicate that it pleaded for reinvestigation or reconsideration nor did it state the facts and laws supporting a protest. Hence, the assessments have become final, executory and demandable;

6. The assessments were issued in accordance with law and regulations; and

7. All presumptions are in favor of the correctness of tax assessments.

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[9] Annex K, Petition for Review

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Upon the filing of the parties' respective memorandum, this case was deemed submitted for decision on May 22, 2006.

The issues as stipulated by the parties are as follows:

1. Whether or not petitioner is liable for payment of deficiency income tax in the amount of P5,773,315.34 including interest for the year 1982;

2. Whether or not petitioner is liable for payment of deficiency documentary stamp taxes (DST) on the sale of securities for the year 1982 in the total amount of P7,039,037.25;

3. Whether or not petitioner is liable for payment of deficiency documentary stamp taxes on promissory notes issued for the year 1982 in the total amount of P1,042,957.20;

4. Whether or not petitioner validly protested the assessments;

5. Whether or not the right to assess and collect the tax deficiencies has prescribed;

6. Whether or not the respondent violated the rights of petitioner to due process when he assessed the latter for income tax and DST deficiency on November 16, 1987 by issuing pre-assessment notices and the formal letter of demand and formal assessment notice without showing the facts and the law on which the assessment is based;

7. Whether or not the basis for the assessment for the DST on securities under FAS-1-82-87-007152 is Section 223 of the 1977 NIRC and not Section 229;

8. Whether or not the basis for the assessment of DST on promissory notes under FAS-1-82-87-007153 is Section 229 of the 1977 NIRC and not Section 223 of the same code; and

9. Whether or not petitioner has filed a proper "protest" pursuant to Section 6 of Revenue Regulations No. 12-85.

Before probing into the issues of whether or not petitioner indeed incurred deficiency income and documentary stamp taxes for the taxable year 1982, this Court deems it proper to discuss first in substance the issues relating to the validity of the alleged protest filed by petitioner with the office of the respondent since a thorough examination and analysis of the assailed Decision dated August 8, 2002 shows that the main point as to the denial of petitioner's alleged protest was due to the findings of the respondent that no protest was filed by the petitioner.

Petitioner admitted the fact of receipt of the October 15, 1987 preliminary assessment notice (PAN) for deficiency income and business taxes for the taxable year 1982, to which a letter dated October 30, 1987 was sent by petitioner in response to the said PAN.[10] When respondent issued three (3) Final Assessment Notices[11] against petitioner for deficiency income and documentary stamp taxes including interests and penalties for the taxable year 1982, petitioner wrote a letter dated November 30, 1987 to respondent informing him that it had made a reply to Mr. Fortunato Aguas, Asst. Commissioner, Sector Operations Office, regarding the pre-assessment notice on its 1982 tax liabilities.[12]

A careful examination of the records of this case reveals that petitioner indeed failed to file a valid protest pursuant to Section 319-A[13] of the Tax Code of 1977, as amended. To quote:

> **Sec. 319-A. Protesting an Assessment**. – When the Commissioner of Internal Revenue or his duly authorized representative finds that proper taxes be assessed, he shall first notify the taxpayer of his findings. Within a period to be prescribed by implementing regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner shall issue an assessment based on his findings.

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[10] Exhibit H-1
[11] FAS-1-82-87-007151, FAS-1-82-87-007152 & FAS-1-82-87-007153
[12] Exhibit H
[13] now Section 228

> **Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation in such form and manner as may be prescribed by implementing regulations within thirty (30) days from receipt of the assessment; otherwise, the assessment shall become final and unappealable.**
>
> If the protest is denied in whole or in part, the individual, association or corporation adversely affected by the decision on the protest may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision; otherwise, the decision shall become final, executory and unappealable. *(Emphasis supplied.)*

Verily, a protest may be filed through a request for reconsideration or reinvestigation in such form and manner as may be prescribed by implementing regulations. Revenue Regulations 12-85, more particularly Sections 6 & 7, provide for the procedure or guidelines in administratively protesting a final assessment notice issued by the respondent, to wit:

PROTEST TO ASSESSMENT

> **SECTION 6. Protest**. — The taxpayer may protest administratively an assessment **by filing a written request for reconsideration or reinvestigation specifying the following particulars**:
>
> (a) Name of the taxpayer and address for the immediate past three (3) taxable years.
> (b) Nature of request whether reinvestigation or reconsideration specifying newly discovered evidence he intends to present if it is a request for investigation.
> (c) The taxable periods covered.
> (d) Assessment number.
> (e) Date of receipt of assessment notice or letter of demand.
> (f) Itemized statement of the findings to which the taxpayer agrees as a basis for computing the tax due, which amount should be paid immediately upon the filing of the protest. For this purpose, the protest shall not be deemed validly filed unless payment of the agreed portion of the tax is paid first.

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> (g) The itemized schedule of the adjustments with which the taxpayer does not agree.
>
> (h) A statement of facts and/or law in support of the protest.
>
> A request for reconsideration or reinvestigation of an assessment shall be accompanied by a waiver of the Statute of Limitations in favor of the government.
>
> For the purpose of the protest herein —
>
> (a) **Request for reconsideration** — refers to a plea of re-evaluation of the assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.
>
> (b) **Request for reinvestigation** — refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or law or both.
>
> **SECTION 7. When to file protest** — A protest must be filed within thirty (30) days from receipt of the assessment. *(Emphasis and underscoring Ours.)*

In the filing of an administrative protest, Section 6 of Revenue Regulations No. 12-85 requires that a taxpayer file either a request for reinvestigation or reconsideration, stating therein important information relating to the assessment, taxpayer, and nature of the request filed. For the purpose of clarification, a request for a reinvestigation is defined as a "plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or law or both." On the other hand, a request for reconsideration is defined as "a plea or re-evaluation of the assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both."

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In the case at bench, the alleged "protest letter" filed by petitioner in response to the final assessments it received dated November 16, 1987, basically informed respondent that it had already written or answered the pre-assessment notice and that it explained its position to the tax assessment, to wit:

> *"This refers to the assessment notice number FAS-1-82-87-007151/7152/7153 we received dated November 16, 1987.*
>
> *Please be informed that on October 30, 1987, we have already made a reply to Mr. Fortunato Aguas, Asst. Commissioner, Sector Operations Office, regarding the pre-assessment notice on our 1982 tax liabilities. We attach a copy of this letter for your perusal.*
>
> *We would also like to inform you that we have complied with the compromise agreement with BIR on the Disallowance of Interest Expense by paying in full the compromised amount for 1982-1983 tax. Attached is our letter to the BAP Secretariat regarding this payment.*
>
> *We hope we have explained our position on this tax assessment to your satisfaction and we further hope that all matters regarding our tax assessment will be settled by the above explanations.*
>
> *xxx xxx xxx"*[14]

An analytical view of the above letter shows that the same is neither a request for reinvestigation nor a request for reconsideration. It merely informed the respondent that petitioner had already answered on October 30, 1987 the preliminary assessment of October 15, 1987 issued against it and that it had complied with the compromise agreement with the BIR on the disallowed interest expense. Petitioner has not satisfactorily complied with

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[14] Exhibit H

the requirements under Section 319-A of the Tax Code of 1977, as amended, Section 6 of Revenue Regulations No. 12-85 and the compromise agreement.

It must be emphasized that a protest to the preliminary assessment notice is not the same as the protest required to be filed as an answer to the final assessment notice. In fact, a preliminary assessment notice may or may not even be protested to by the taxpayer, and the fact of non-protest shall not in any way make the preliminary assessment notice final and unappealable. What is clear from Section 319-A of the Tax Code of 1977, as amended, is that failure on the part of the taxpayer to protest or reply to a preliminary assessment notice paves the way for the issuance of a final assessment notice. However, evident under the said Section is that failure on the part of the taxpayer to file a valid administrative protest through a request for reconsideration or reinvestigation on the final assessment notice, shall result in the finality of the said FAN.

Anent respondent's preliminary assessment on petitioner's deficiency income taxes, petitioner contends that upon its receipt of the pre-assessment notice dated October 15, 1987, it requested from the respondent for the details and breakdown of the disallowed expenses pertaining to non-taxable income as stated in the notice. Accordingly, such breakdown and legal basis for the disallowance of such expense were necessary and indispensable to the petitioner to enable it to contest the assessment.

Petitioner likewise alleges that it is not liable to the payment of deficiency documentary stamp taxes on promissory notes, under Section 229 of the Tax Code of 1977, as amended, and securities, under Section 223 of the same Code, for the taxable year 1982 on the grounds that these assessment were not only issued in violation of its rights to due process, but the same were issued without basis in law.

Such arguments are untenable. It bears stressing that it is the duty of the petitioner to contest and protest the preliminary assessment notice it received from the respondent by giving its arguments and basis for such protest. It is basically the duty of the petitioner to show proof, through the submission of pertinent documents, if necessary, that the notice issued against it is erroneous.

In this instant case, petitioner failed to do so. When it received the preliminary assessment notice on October 15, 1987, it filed a letter requesting for a breakdown of the details of the deficiency income taxes for the taxable year 1982. Thus, instead of providing arguments on the validity of such preliminary assessment, petitioner requested for a breakdown. In a Memorandum dated August 29, 1986 issued by the Supervising Revenue Enforcement Officer, Armando G. Pascasio, addressed to the Commissioner of Internal Revenue,[15] an examination of petitioner's documents was made pursuant to the Letter of Authority dated May 7, 1985.[16] Apparently, petitioner was not unaware of the said examination. In fact, in the said Memorandum, there is an express statement by Revenue Officer Pascasio that "the deficiencies noted in this investigation were presented to and duly acknowledged by the Controller of the Bank who made his manifestation to contest the proposed assessments upon receipt of the Letter of Demand" thus

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[15] Exhibit 3
[16] LOA No. 0003080NA

belying petitioner's allegations. Moreover, it would be absurd to even imagine that petitioner was not informed of what investigation was being made on its receipts, invoices and other documents. Evidently, there was basis in law when the preliminary assessments were made.

As regards petitioner's explanation that its income tax liabilities have already been settled through the execution of the Compromise Agreement dated July 25, 1984,[17] records show that said compromise does not cover the deficiency assessment of petitioner. Under the said agreement, it is specifically stated that the petitioner "offers to compromise its income tax liabilities relating to disallowed interest expense xxx". Verily, respondent's assessment of petitioner's income tax liabilities relating to its non-taxable revenues which cannot be deducted against petitioner's taxable income[18] is not covered under the said agreement.

In addition, petitioner's Compromise Agreement for its deficiency documentary stamp tax issues[19] clearly states that "other issues raised in the tax assessments or which may be raised for open and assessed/pre-assessed years respectively, not involving documentary stamp tax on all types of promissory notes issued prior to October 15, 1984, are not included in, nor affected by this compromise."[20] Therefore, if the subject Compromise Agreement specifically provided that it would only cover documentary stamp tax assessments on all types of promissory notes, definitely, it would **not cover documentary stamp tax assessments on securities sold under a**

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[17] Exhibits I to I-4
[18] Exhibit 3
[19] Exhibit C
[20] Exhibit C-1, par. VI

repurchase agreement and all other documentary stamp tax assessments. It is a well-settled rule that "a compromise agreement must be strictly interpreted and must be understood as including only matters specifically determined therein or which, by necessary inference from its wording must be deemed included."[21]

Based on the foregoing, not only petitioner had not validly protested the assessment notices for deficiency income and documentary stamp taxes covering the taxable year 1982, it had not settled its 1982 tax assessments by executing a compromise agreement. Thus, it appears that petitioner is liable for the subject deficiency income and documentary stamp taxes. In relation thereto, this Court at this point will have to resolve the issue of whether or not the right of respondent to collect the tax deficiencies in question has already prescribed. Section 318 of the National Internal Revenue Code of 1977, as amended, provides:

> **Sec. 318. Period of limitation upon assessment and collection**. - Except as provided in the succeeding section, internal revenue taxes shall be assessed within five years after the return was filed, and **no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.** For the 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: Provided, That this limitation shall not apply to cases already investigated prior to the approval of this Code. *(Emphasis supplied)*

Our Tax Code clearly provides for two main periods of prescription; the first one referring to assessments, while the other period refers to the remedy of collection. Thus, where an assessment of any internal revenue tax has

[21] Ferrer vs. Ignacio, 39 Phil 446

been made within the period of limitation of five (5) years from the date of filing of the annual income tax returns, such tax may be collected through the remedy of a court proceeding only if the same is begun within five (5) years after the assessment of the tax has been made. Explicit are the wordings of the law that the five (5) year period is absolute with the Code itself, however, recognizing one exception, that is, when the "suit has started prior to the expiration of any period for collection agreed upon in writing by the Commissioner of Internal Revenue and the taxpayer before the expiration of such five-year period."[22] On the other hand, Section 320 of the same Code provides for the suspension of the running of the statute, thus:

> **Sec. 320. Suspension of running of statute**. – The running of the statute of limitations pro vided in Sections 318 and 319 on the making of assessment and the beginning of distraint or levy or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessments of beginning distraint or levy or a proceeding in court and for sixty days thereafter; **<u>when the taxpayer requests for a re-investigation which is granted by the Commissioner</u>**; when the taxpayer cannot be located in the address given by him in return filed upon which a tax is being assessed or collected: Provided, That if the taxpayer informs the Commissioner of any change in address, the statute will not be suspended; when the warrant of distraint and levy is duly served upon the taxpayer, his authorized representative, or a member of his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines. *(Emphasis and underscoring Ours.)*

As thoroughly discussed earlier on, there was no request for reinvestigation or reconsideration from the petitioner, thus, the assessment notices had become final and demandable. The law requires upon the respondent that within the prescribed period, he should have started to initiate

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[22] Section 319 (c), Tax Code of 1977, as amended

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the proceedings for the collection of the assessed taxes. However, this was not present in the case at bar.

As a recap, respondent issued his assessment notices on November 16, 1987 and petitioner failed to protest the same within the period allowed by law. This case does not fall on any exception as to period of limitation of collection nor does the period to collect in this case was suspended. Thus, pursuant to the provisions of Section 318 of the Tax Code of 1977, as amended, respondent had a period of five (5) years within which to institute the remedies of collection or until **November 16, 1992**. Considering that there was no Warrant of Distraint and/or Levy served on the petitioner nor any judicial proceedings initiated by the respondent to collect the taxes so assessed, the earliest attempt of the respondent to collect the subject taxes due was when he filed his Answer in this case on March 31, 2006, which was several years beyond the five (5)-year period allowed by law to collect. Indubitably, respondent is now barred from collecting the assessed taxes.

It bears stressing that when respondent issued the assailed Decision on August 8, 2002, or fifteen (15) years after the issuance of the final assessment notices, said Decision stated that there was no compelling reason to withdraw or cancel the assessments as petitioner failed to administratively file a protest on the assessment. Therefore, the assessments became final and unappealable. To arrive at this conclusion would not require fifteen (15) years. It must be noted that no written agreement existed between the parties[23] and the grounds for the suspension of the running of the

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[23] Section 319 (c) of the Tax Code of 1977, as amended

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statute[24] did not exist here, the original five-year period prevails. Clearly, there was no legal obligation preventing respondent from collecting the assessed taxes against the petitioner.

The Supreme Court, in the recent case of ***Commissioner of Internal Revenue vs. Philippine Global Communications, Inc.,***[25] clarified that the statute of limitations on the collection of taxes should benefit both the Government and the taxpayers. In citing several cases, the Supreme Court further illustrated the harmful effects that the delay in the assessment and collection of taxes inflicts upon the taxpayers, to wit:

> In the case of *Republic of the Philippines v. Ablaza (108 Phil. 1105, 1108),* this Court emphatically explained that the statute of limitations of actions for the collection of taxes is justified by the need to protect law-abiding citizens from possible harassment:
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> > The law prescribing a limitation of actions for the collection of the income tax is beneficial both to the Government and to its citizens; to the Government because tax officers would be obliged to act promptly in the making of assessment, and to citizens because after the lapse of the period of prescription citizens would have a feeling of security against unscrupulous tax agents who will always find an excuse to inspect the books of taxpayers, not to determine the latter's real liability, but to take advantage of every opportunity to molest, peaceful, law-abiding citizens. Without such legal defense taxpayers would furthermore be under obligation to always keep their books and keep them open for inspection subject to harassment by unscrupulous tax agents. The law on prescription being a remedial measure should be interpreted in a way conducive to bringing about the beneficient purpose of affording protection to the taxpayer within the contemplation

[24] Section 320 of the Tax Code of 1977, as amended
[25] G.R. No. 167146, October 31, 2006

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> of the Commission which recommended the approval of the law.

And again in the recent case of *Bank of the Philippine Islands v. Commissioner of Internal Revenue (G.R. No. 139736, October 17, 2005),* this Court, in confirming these earlier rulings, pronounced that:

> Though the statute of limitations on assessment and collection of national internal revenue taxes benefits both the Government and the taxpayer, it principally intends to afford protection to the taxpayer against unreasonable investigation. The indefinite extension of the period for assessment is unreasonable because it deprives the taxpayer of the assurance that he will no longer be subjected to further investigation for taxes after the expiration of a reasonable period of time.

As a final note, the law on prescription should be liberally construed in order to protect taxpayers and that, as a corollary, the exceptions to the law on prescription should be strictly construed.[26]

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered in favor of the petitioner. Accordingly, the Decision of the respondent dated August 8, 2002 is hereby **REVERSED** and **SET ASIDE** and respondent is **ORDERED** to **WITHDRAW** and **CANCEL** Assessment Notice Nos. FAS-1-82-87-007151, FAS-1-82-87-007152 and FAS-1-82-87-007153 issued against petitioner for deficiency income and documentary stamp taxes for the taxable year 1982 because respondent's right to collect the same has already prescribed. Respondent s likewise **ORDERED** to **DESIST** from further

[26] Commissioner of Internal Revenue vs. Philippine Global Communications, Inc., *supra*, citing the case of Commissioner of Internal Revenue vs. B.F. Goodrich (363 Phil. 169, 178)

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collecting the subject amounts from petitioner.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

I hereby certify that the decision was reached after due consultation with the members of the Division of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Justice