REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MELCO RESORTS LEISURE (PHP) CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11418

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

4:00 pm

x - x

RESOLUTION

This addresses respondent's **Motion for Reconsideration (Re: Resolution promulgated on 01 July 2025)** filed on July 28, 2025, with petitioner's **Comment/Opposition [Re: Respondent's Motion for Reconsideration dated July 25, 2025]** filed on October 6, 2025.

In his *Motion for Reconsideration*, respondent contends that the Court erred in granting petitioner's motion for the issuance of a suspension order enjoining the collection of taxes on the ground that the assessments are not yet demandable; hence, the issuance of the warrant of distraint and or levy was premature. Moreover, respondent avers that, assuming that petitioner is entitled to the issuance of a suspension order, the Court erred in dispensing with the posting of the bond.

Respondent claims that the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) was issued and was due for payment which petitioner failed to pay on the due date. Accordingly, the subject deficiency taxes were delinquent. Petitioner's non-payment of the deficiency taxes due, as well as the imposition of a delinquency interest for such failure to pay is indicative that its tax liabilities are already delinquent.

Respondent points out that the Court applied the delinquency interest from the date as found in the assessment notices; and, the change of the delinquency interest rate was due to the effectivity of the Tax Reform for Acceleration and Inclusion (TRAIN) Law[1] and its accompanying revenue regulations. Correspondingly, respondent believes that delinquency started upon the failure of the taxpayer to pay the tax within the due date appearing in the assessment notice.

Further, respondent remains firm that delinquency is understood to occur when a taxpayer is unable to make the assessed tax payment by the due date specified in the FAN. He posits that the existence of an appeal does not automatically relieve the taxpayer of its obligation to pay the assessed amount.

Anent the dispensation of the posting of the bond, respondent avers that the payment of a bond is to protect the interest of the government in case of a suspension of collection – to ensure that the government's interest is not jeopardized. It cannot be emphasized enough that taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of the constituents.

In its *Comment/Opposition,* petitioner counters that the subject assessments are not delinquent, therefore any collection by respondent must be enjoined. Considering that it filed the present *Petition for Review* within the reglementary period, the assessments have not become final and executory, much less delinquent.

Petitioner likewise reiterates that the Court is correct in dispensing with the bond requirement since there was no valid assessment.

Respondent's motion is without merit.

As a rule, the Court may not grant an injunction to restrain the collection of any national internal revenue tax, fee, or charge pursuant to Section 218 of the National Internal Revenue Code (NIRC) of 1997, as amended. Nevertheless, Section 11 of Republic Act (R.A.) No. 1125,[2] as amended by R.A. No. 9282,[3] authorizes the Court to suspend the collection of tax if such collection would jeopardize the interest of the government and/or the taxpayer. In relation thereto, Section 2 of Rule 10 of the Revised Rules of

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1 Republic Act No. 10963, effective beginning January 1, 2018.

2 An Act Creating the Court of Tax Appeals.

3 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

the CTA provides that an interested party may file a motion for the suspension of the collection of the tax liability.

Notwithstanding the foregoing, as we have discussed in the assailed Resolution, the collection through summary remedies under the NIRC of 1997, as amended, presupposes the delinquency of the taxes sought to be collected. Notably, the NIRC of 1997, as amended, did not define the term *delinquent taxes*.

Respondent's argument that the accrual of delinquency interest pursuant to Section 249(C)(3) of the NIRC of 1997, as amended,[4] is proof that the taxes are delinquent justifying resort to summary remedies is specious.

While respondent CIR issued and duly served the FDDA to petitioner, it cannot be said that petitioner failed to pay the subject deficiency taxes *per se*, if, before the due date lapsed, petitioner opted to avail of the judicial remedy to appeal the disputed assessment to the CTA, which is an option available to a taxpayer pursuant to Section 228 of the NIRC of 1997, as amended.[5]

The Supreme Court had the occasion to discuss the concept of "delinquency" as a pre-condition for collection in *People of the Philippines vs. Joel Mendez*.[6] It was held therein that, in civil suits for collection, a tax becomes delinquent only after the CIR issued its final decision on the disputed assessment and the taxpayer failed to pay on the due date appearing in the decision. That being said, it is only after delinquency that the government may exercise its right to collect by civil action under Section 205 of the NIRC of 1997, as amended.

More recently, the Supreme Court in *Commissioner of Internal Revenue vs. Stradcom Corporation*[7] elucidated that a delinquent account, as

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4 SECTION 249. *Interest*. xxx xxx xxx
(C) Delinquency Interest. — In case of failure to pay:
(1) The amount of the tax due on any return required to be filed, or
(2) The amount of the tax due for which no return is required, or
(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.

5 SECTION 228. *Protesting of Assessment*. – xxx xxx xxx
xxx xxx xxx
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 supplied)*

6 G.R. Nos. 208310-11 & 208662, March 28, 2023.

7 G.R. No. 255520, April 21, 2025.

defined in Revenue Regulations No. 4-2019,[8] must be based on a final and demandable liability, to wit:

> Under RR No. 4-2019, a delinquent account is defined as a tax due from an assessment that has become final and executory. While this definition is framed within the context of Republic Act No. 11213, or the Tax Amnesty Act, it reflects long-standing and widely accepted principles of tax law, particularly the requirement that delinquency must be based on a final and demandable liability. RR No. 4-2019 provides that a tax becomes delinquent in the following instances:
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> Section 2. Definition of Terms. — For purposes of these Regulations, the words used herein shall be defined as follows:
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> A. **Delinquent Account — shall pertain to a tax due from a taxpayer arising from the audit of the Bureau of Internal Revenue (BIR) which had been issued <u>Assessment Notices that have become final and executory</u> due to the following instances:**
>
> 1. Failure to pay the tax due on the prescribed due date provided in the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and for which no valid Protest, whether a request for reconsideration or reinvestigation, has been filed within thirty (30) days from receipt thereof;
> 2. Failure to file an appeal to the Court of Tax Appeals (CTA) or an administrative appeal before the Commissioner of Internal Revenue (CIR) within thirty (30) days from receipt of the decision denying the request for reinvestigation or reconsideration; or
> 3. Failure to file an appeal to the CTA within thirty (30) days from receipt of the Decision of the CIR denying the taxpayer's administrative appeal to the Final Decision on Disputed Assessment (FDDA). *(Emphasis in the original)*
>
> Based on the foregoing, without an assessment that has gone through any of the above stages and has become final and executory, a tax cannot be deemed delinquent. None of the circumstances in RR No. 4-2019 are present here.

Petitioner was, thus, required to pay the deficiency tax liabilities **<u>or</u>**, if it disagrees with the assessment, to appeal the CIR's decision to the CTA. Clearly, petitioner opted for the latter; hence, with the timely filing of the appeal of the disputed assessment before the CTA, petitioner prevented the assessment from becoming final, executory and demandable. Consequently, the deficiency taxes are not yet delinquent and demandable as to justify the summary collection remedies commenced by the respondent.

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[8] SUBJECT: Implementing Rules and Regulations of Republic Act No. 11213, Otherwise Known as the "Tax Amnesty Act", Providing for the Guidelines on the Processing of Tax Amnesty Application on Tax Delinquencies.

All told, the Court reiterates the pronouncement of the Supreme Court in *Light Rail Transit Authority vs. Bureau of Internal Revenue*[9] and *Mannasoft Technology Corp. vs. Commissioner of Internal Revenue,*[10] that summary collection remedies are premised on the existence of delinquent taxes and that the collection of non-delinquent and non-demandable assessments is void.

ACCORDINGLY, premises considered, respondent's **Motion for Reconsideration (Re: Resolution promulgated on 01 July 2025)** is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Official Business)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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9 G.R. No. 231238, June 20, 2022.
10 G.R. No. 244202, July 10, 2023.