CTA Form No. 8 (For DCC)

23-000316-0060

**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

**SPECIAL FIRST DIVISION**

**CTA CASE NO. 11211**

**REMIE R. TALAVER,**
Petitioner,

- versus -

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

**NOTICE OF RESOLUTION**

**To:**

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

**ATTY. SYLVIA R. ALMA JOSE**
**ATTY. AYESHA HANIA B. GUILING-MATANOG**
**ATTY. KARL KENNY M. RAMO**
**ATTY. DOROTHY JOY A. CAY-AN**
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City, Philippines

**ISNANI & CULAJARA**
2F, MP Towers, Nuñez Street
Zamboanga City

***GREETINGS:***

You are hereby notified by these presents that on **March 9, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 10, 2026.**

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

REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
QUEZON CITY

## SPECIAL FIRST DIVISION

**REMIE R. TALAVER,**
Petitioner,

- versus -

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

CTA CASE NO. **11211**

Members:

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

Promulgated:
MAR 09 2026, 11:15AM

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# RESOLUTION

***BACORRO-VILLENA, J.:***

For the Court's resolution are the following:

1. Respondent Commissioner of Internal Revenue's (**Respondent**'s/**CIR**'s) "Motion for Reconsideration (Re: Decision dated 22 August 2025)"[1] (**MR**) filed on 15 September 2025, with petitioner Remie R. Talaver's (**petitioner**'s) "Comment with Compliance"[2] (**Comment**) filed on 10 November 2025; and,

2. Petitioner's "Motion for Partial Reconsideration"[3] (**MPR**) filed on 23 September 2025 *via* private courier, with respondent's

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[1] Division Docket, Volume II, pp. 676-683.
[2] Id., pp. 713-714.
[3] Id., pp. 688-696.

"Opposition (Re: Petitioner's Motion for Partial Reconsideration)"[4] (**Opposition**) filed on 06 November 2025.

Both MR and MPR assail the Decision promulgated on 22 August 2025[5] (**assailed Decision**) which partially granted the Petition for Review, denied the claim for refund and enjoined CIR from collecting the deficiency taxes due to prescription. The dispositive portion states –

> ...
>
> **WHEREFORE**, premises considered, petitioner Remie R. Talaver's Petition for Review filed on 13 July 2023 is hereby **PARTIALLY GRANTED**. As to petitioner's prayer to declare null and void the Final Assessment Notices (FANs) dated 24 February 2010, 28 December 2010, and 10 March 2011, as well as the Notice of Denial dated 17 January 2023, the same is **DENIED**. Consequently, the prayer for the refund of ₱532,502.40 paid as compromise settlement is likewise **DENIED**.
>
> Additionally, the prayer to enjoin the enforcement and collection of the remaining deficiency taxes is **GRANTED**, on the ground that the right of respondent Commissioner of Internal Revenue to collect the same has prescribed. Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his or her behalf is thus **ENJOINED** and **PROHIBITED** from collecting the remaining deficiency taxes against petitioner Remie R. Talaver.
>
> **SO ORDERED.**
>
> ...

Subsequently, the Court noted that petitioner filed insufficient copies of the MPR[6] thus, it directed the latter to file one (1) additional copy thereof.[7] Accordingly, petitioner filed the Comment, attaching thereto the additional MPR. However, the Court noted that petitioner only filed two (2) copies of the said Comment.[8] Hence, in the Minute Resolution of 03 December 2025,[9] the Court directed petitioner to file two (2) more copies thereof.

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4 Id., pp. 703-710.
5 Id., pp. 641-671.
6 See Records Verification dated 25 September 2025, id., p. 687.
7 See Minute Resolution dated 22 October 2025, id., pp. 700-701.
8 See Records Verification dated 12 November 2025, id., p. 712.
9 Id., pp. 728-729.

Accordingly, on 07 January 2026, petitioner filed the two (2) copies of the said Comment. With petitioner's due Compliance, We shall proceed to resolve the pending incidents.

RESPONDENT'S MOTION FOR RECONSIDERATION (MR).

In the MR, respondent reiterates his or her previous argument that this Court has no jurisdiction over the case. He or she submits that the authority to approve (or deny) applications for compromise is purely an executive function and could not be judicially appealed. Thus, the Notice of Denial may not be considered as within the scope of "other matters" as the Court had ruled.

Respondent also prays for a full-blown trial since he or she could present pieces of documentary evidence (contained in the Bureau of Internal Revenue [**BIR**] Records) to show that the period of assessment had been extended, and that the period to collect had been suspended. Thus, respondent maintains that his or her right to collect the subject taxes is valid and subsisting.

In the Comment, petitioner counters that respondent failed to raise any new matters that the Court had not addressed or considered in the assailed Decision.

**Respondent's MR is unmeritorious.**

At the outset, it is noted that while respondent vehemently maintained that the prescription for assessment and collection had been suspended, no documentary evidence was submitted to substantiate such claim. In particular, the respondent failed to attach supporting documents to the pleadings filed before Us, particularly, in the Comment[10] to the Motion for Suspension, Answer *Ad Cautelam*,[11] MR to Resolution of 02 May 2024,[12] Memorandum,[13] and MR to Resolution of 03 December 2024.[14]

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10 Division Docket, Volume I, pp. 406-415.
11 Id., pp. 459-472.
12 Id., pp. 517-530.
13 Id., pp. 571-583.
14 Id., pp. 597-610.

Consequently, due to respondent's failure to present competent proof, We submitted the case for summary judgment as the Answer (and the other pleadings) failed to tender a genuine issue on the facts related to the prescription of collection.

Nevertheless, even if We are to examine the alleged documents in the records, these would not persuade Us to modify the assailed Decision. A perusal of the said waivers[15] in the BIR Records reveals that the assessment for taxable year (**TY**) 2006 was extended until **30 September 2010** only. Moreover, a document provisionally marked as Exhibit "**P-10**"[16] also shows a waiver that extended the assessment for TY 2006 until **31 July 2011**. *Assuming* that the said waivers are valid and/or admitted as evidence, these did not effectively toll the running of the prescriptive period to collect considering that it only suspended the period of assessment for a particular period. It is further observed that after the lapse of the indicated dates in the above waivers, the parties did not execute other agreements to validly extend the period of assessment.

As for the allegation that the period to collect was also suspended, the BIR Records and the case docket are also bereft of any documents to support such claim. Apart from the averments that the case was referred to the proper office for filing of a Run Against Tax Evader (**RATE**) case, respondent failed to append any document to show that a case has indeed been filed against petitioner.

As We have previously declared, the BIR's collection efforts are initiated by distraint, levy, or court proceeding.[17] However, in this case, no warrant of distraint and/or levy (**WDL**) was served on petitioner and respondent did not initiate any judicial proceedings within the prescriptive period to collect. Hence, absent any valid and legal collection efforts within the prescriptive period (to collect), respondent's right to demand payment is no longer feasible.

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15 BIR Records, p. 145.
16 Division Docket, Volume I, p. 306.
17 *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*, G.R. No. 258947, 29 March 2022.

PETITIONER'S MOTION FOR PARTIAL RECONSIDERATION (MPR).

In the MPR, petitioner vehemently maintains that the subject assessments for TYs 2006 and 2007 are void and, thus, could not attain finality. Consequently, petitioner prays for the refund of the compromise amount of ₱532,502.40 that it previously paid to settle the tax assessments.

In the Opposition, respondent avers that the MPR failed to point out the Court's findings or conclusion in the assailed Decision that are not supported with evidence and/or contrary to law. Moreover, respondent claims that the instant MPR failed to set the said motion for hearing.

**We are not convinced.**

At the preliminary stage, We are not unaware that in the Petition for Review, petitioner assailed the validity of the subject assessments for TYs 2006 and 2007 for his alleged failure to receive the Letter of Authority (**LOA**) and failure of the assessment notices (**ANs**) to indicate the due date for payment. However, while petitioner avers the said procedural infirmities, We have duly observed that he did not file the mandatory and jurisdictional requirements for a claim for refund.

Sections 204(C) and 229 of the NIRC of 1997, as amended, state –

...

***SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** –

...

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years**

**after the payment of the tax or penalty as provided under Section 229 of this Code**: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund: Provided, further, that the Commissioner shall process and decide the refund under this provision within one hundred eighty (180) days from date of submission of complete documents in support of the application filed: Provided, furthermore, That should the Commissioner deny, in full or in part, the claim for refund, the Commissioner shall state the legal and/or factual basis for the denial: Provided, finally, That failure on the part of any official, agent, or employee of the BIR to process and decide on the application within the one hundred eighty (180)-day period shall be punishable under Section 269 of this Code.

...

***SEC. 229. Recovery of Tax Erroneously or Illegally Collected.*** - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, **until a claim for refund or credit has been duly filed with the Commissioner**; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204 of this Code; Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

**In case of full or partial denial of the claim for tax refund, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred eighty (180)-day period, appeal the decision with the Court of Tax Appeals.**"[18]

...

18 Emphasis supplied.

Explaining the above, in *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*,[19] the Supreme Court ruled that for claim for refund to prosper, the same should have been filed before the CIR before appealing the same before this court, to wit –

> ...
>
> Section 204 refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, **an administrative claim for refund or credit must be filed within two years from payment of the tax.**
>
> Section 229, on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) **the judicial claim must be filed within two years after payment of the tax sought to be refunded**.
>
> Reading the two provisions together, **both administrative and judicial claims must be filed within the two-year period**. Furthermore, the administrative claim must be filed before the judicial claim. This Court has previously declared that "[t]imeliness of the filing of the claim is mandatory and jurisdictional. **The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund filed either prematurely or out of time**.
>
> ...

Apart from petitioner's allegation that it had paid a partial compromise amount of ₱532,502.40 on 04 April 2011,[20] he did not aver that he filed an administrative claim before the BIR within two (2) years from the date of what he alleged as an erroneous payment made on a seemingly void assessment. It is also apparent that except for the Petition for Review, petitioner did not also file a judicial claim within two (2) years from the date of payment. Further, the offered evidence also does not show proof that petitioner filed the required administrative and judicial claims for refund.

It is worthy to point out that had petitioner firmly believed that the assessments were issued in violation of his right to due process, he should have continued to protest the subject tax assessments. Unfortunately, as the records bear, when he was informed that the CIR

19 G.R. No. 226592, 27 July 2021. Emphasis supplied.

20 See par. 53 of the Petition for Review, Division Docket, Volume I, p. 19, vis-à-vis Exhibits "P-21", id., p. 349, "P-22", id., p. 355, "P-23", id., p. 361 and "P-24", id., p. 367.

treated his application for compromise settlement for the 2026 assessments as an abandonment of his protest, he did not dispute the same. Instead, he accomplished the forms for compromise settlement and paid the first installments thereof. As for the 2007 assessments, petitioner did not attempt to protest the same. Consequently, by failing or opting to not protest the subject tax assessments, petitioner did not also file a judicial claim thereto. This lapse on petitioner's part proved fatal to his refund claim.

In view of the above disquisition, considering that this Court cannot take cognizance of petitioner's claim for refund, it is only proper to deny it.

**WHEREFORE**, premises considered, respondent Commissioner of Internal Revenue's Motion for Reconsideration filed on 15 September 2025 and petitioner Remie R. Talaver's Motion for Partial Reconsideration filed on 23 September 2025 are both **DENIED** for lack of merit.

**SO ORDERED.**

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**WE CONCUR:**

**LANEE S. CUI-DAVID**
Associate Justice