REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

PFIZER, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8237

Present:

BAUTISTA, *Chairperson*
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, *JJ.*

Promulgated: OCT 3 2012
ABFernando 10:35a.m.

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DECISION

BAUTISTA, J.:

This case involves the "Petition for Revival of Judgment" filed by petitioner, asking for the revival of CTA Case No. 6135 entitled, *"Pfizer, Inc. versus Commissioner of Internal Revenue,"* pursuant to Section 6, Rule 39 of the Revised Rules of Civil Procedure, in relation to Article 1144 of the Civil Code.

The Parties

Pfizer, Inc. ("Pfizer"), petitioner, is a corporation duly organized and existing under Philippines Laws, engaged in the business of manufacturing and distributing chemical pharmaceutical, medicinal, and biological products, with office address at 23rd Floor, Ayala Life-FGU Center, 6811 Ayala Avenue, Makati City.[1]

[1] *Rollo,* (CTA Case No. 8237), p. 8.

Commissioner of Internal Revenue ("CIR"), respondent, is the official of the Republic of the Philippines authorized, among others, to issue and cancel assessments pursuant to Section 6 of the National Internal Revenue Code of 1997 ("NIRC"), as amended, with office at the Bureau of Internal Revenue ("BIR") National Office Building, BIR Road, Diliman, Quezon City.[2]

The Facts of the Case

On July 10, 2000, petitioner filed a "Petition for Review" with the Court assailing the assessment for alleged deficiency income tax and value-added tax in the total amount of P52,895,130.82 for the fiscal year ended November 30, 1995 issued by the BIR.

On April 21, 2003, the Court rendered its Decision granting the petition, and ordering the cancellation and withdrawal of the deficiency tax assessments, the dispositive portion of which reads as follows:

> "**WHEREFORE**, in the light of the foregoing, the instant petition for review is GRANTED. Accordingly, the deficiency assessments issued by respondent against petitioner for income tax and value-added tax in the amounts of P18,217,037.82 and P34,678,093.00, respectively, are hereby **CANCELLED** and **WITHDRAWN**, due to prescription."[3]

Respondent filed a "Petition for Review" docketed as CA-G.R. SP No. 78458, appealing the April 21, 2003 Decision of this Court before the Court of Appeals

[2] *Rollo*, (CTA Case No. 8237), p. 105.
[3] *Rollo*, (CTA Case No. 8237), pp. 8 – 32.

("CA"). The same was subsequently denied via Resolutions dated October 7, 2003,[4] December 9, 2003,[5] and January 23, 2004.[6]

Respondent, in turn, filed a "Petition for Review on Certiorari," docketed as G.R. No. 162444, appealing the aforementioned Resolutions of the Court of Appeals before the Supreme Court. The Supreme Court denied respondent's petition in a Resolution dated May 17, 2004.[7] The Supreme Court Resolution attained finality on June 28, 2004 and was entered into the Book of Entries of Judgments.[8]

The Issue

Whether or not the revival of "*Pfizer, Inc. versus Commissioner of Internal Revenue*" CTA Case No. 6135 is proper.

Petitioner states that pursuant to Section 6 of Rule 39 of the Revised Rules of Civil Procedure, and in conjunction with Article 1144 of the Civil Code of the Philippines, as amended, while more than five (5) years has lapsed from June 28, 2004, when the Decision of the Court dated April 21, 2003 became final and executory, its action to revive judgment was filed within the ten (10) year-period provided by law.

On the other hand, respondent argues that it is essential to petitioner's claim to submit documents it has alleged in support of its claim to prove substantial compliance with Section 6 of Rule 39 of the Revised Rules of Civil Procedure.

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[4] *Rollo*, (CTA Case No. 8237), pp. 63 – 65.
[5] *Rollo*, (CTA Case No. 8237), pp. 66 – 69.
[6] *Rollo*, (CTA Case No. 8237), pp. 70 - 71.
[7] *Rollo*, (CTA Case No. 8237), p. 72.
[8] *Rollo*, (CTA Case No. 8237), p. 73.

Respondent argues further, that petitioner's action to revive judgment was filed beyond the period required by law.

In recent years, Petitioner, was denied a tax clearance by the BIR, on the basis that the deficiency assessment issued for its alleged income tax and value-added tax deficiency for the fiscal year ended November 30, 1995 were still outstanding. Hence this Decision.

The Ruling of the Court

The Court finds the "Petition for Revival of Judgment" meritorious.

Section 6, Rule 39 of the Revised Rules of Court states:

> "Sec. 6. *Execution by motion or by independent action.* –A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations."

While Article 1144 of the Civil Code of the Philippines states:

> "Article 1144. The following actions must be brought within ten years from the time the right of action accrues:
>
> (1) Upon a written contract;
>
> (2) Upon an obligation created by law;
>
> (3) Upon a judgment."

Read together, it is clear, once a judgment becomes final and executory, the prevailing party can move for its execution as a matter of right, within five (5) years from the date of entry of judgment. If the prevailing party fails to do so after the lapse of five years, the said judgment is reduced to a right of action which must be enforced via the institution of an action within ten (10) years from the time the judgment becomes final.[9] The purpose of prescribing time limitations for enforcing judgment by action is to prevent the winning parties from sleeping on their rights.[10]

The judgment sought to be revived became final and executory on June 28, 2004,[11] and was accordingly entered into the Book of Entries of Judgments of the Supreme Court on the same date. On the other hand, the "Petition for Revival of Judgment" was filed on March 2, 2011. It is clear that the petition was filed well within the period provided by law.

Furthermore, petitioner has complied with the order of the Court and submitted certified true copies of the following documents in support of its petition:

1. Decision dated April 21, 2003 issued by the Court of Tax Appeals;
2. Resolution dated October 7, 2003, issued by the Fifteenth Division of the Court of Appeals;
3. Resolution dated December 9, 2003 issued by the Fifteenth Division of the Court of Appeals;
4. Resolution dated January 23, 2004, issued by the Fifteenth Division of the Court of Appeals;

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[9] *Ernesto Villeza v. German Management and Services, Inc., Domingo Rene Jose, Pio Diokno, Sesinando Fajardo, Bayani Olpino, Rolando Romilo, and John Does*, G.R. No. 182937, August 8, 2010, 625 SCRA 425.
[10] *Macias v. Lim, G.R. No. 139284*, June 4, 2004, 431 SCRA 20, 38.
[11] *Rollo*, (CTA Case No. 8237), p. 73.

5. Resolution dated May 17, 2004, issued by the First Division of the Supreme Court; and

6. Entry of Judgment issued by the Deputy Clerk of Court and Chief Judicial Records Officer, Teresita G, Dimaisip.

Respondent is mistaken in arguing that petitioner needs to submit a copy of a Motion for Issuance of Writ of Execution, Writ of Execution issued by this Court, and proof that respondent failed to comply with said Writ issued by the Court. The point of the petition filed before the Court is a step in the procurement of the abovementioned Writs. Nowhere is it alleged by petitioner that respondent has failed to comply with a Writ issued by the Court in CTA Case No. 6135 .

WHEREFORE, given the above, petitioner's "Petition for Revival of Judgment" is here by **GRANTED**.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

OLGA PALANCA - ENRIQUEZ
Associate Justice

AMELIA R. COTANGCO - MANALASTAS
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.

LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII 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's Division.

ERNESTO D. ACOSTA
Presiding Justice