REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2090** (CTA Case No. 9550)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** *JJ.*
STANDARD INSURANCE CO., INC., Respondent.	***Promulgated:*** JUN 2 1 2021 4:15pm

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DECISION

UY, *J.*:

Before the Court *En Banc* is a *Petition for Review*[1] filed on July 10, 2019 by petitioner, Commissioner of Internal Revenue (or CIR), against respondent, Standard Insurance Co., Inc. (or Standard Insurance), praying that the Decision dated March 25, 2019[2] and the Resolution dated June 4, 2019[3], both rendered by the Second Division of this Court (Court in Division) in CTA Case No. 9550 entitled *"Standard Insurance Co., Inc., Petitioner, versus*

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[1] EB Docket, pp. 5 to 13.
[2] Penned by Retired Associate Justice Cielito N. Mindaro-Grulla, and concurred by Associate Justice Juanito C. Castañeda, Jr., EB Docket, pp. 16 to 55.
[3] EB Docket, pp. 57 to 63.

Commissioner of Internal Revenue, Respondent" be set aside. The dispositive portions thereof respectively read as follows:
Decision dated March 25, 2019:

> "**WHEREFORE**, premises considered, this Court is constrained to **GRANT** the Petition for Review. The Decision dated January 31, 2017 of respondent Commissioner of Internal Revenue (CIR) is **SET ASIDE**. Accordingly, Assessment Notice No. 34-2001 against petitioner as to its 2001 Documentary Stamp Tax deficiency is **CANCELLED** and **SET ASIDE** on ground that respondent's right to collect the same has prescribed.
>
> **SO ORDERED**."

Resolution June 4, 2019:

> "**WHEREFORE**, premises considered, the "Motion for Reconsideration (Re: Decision promulgated on March 25, 2019)" is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**."

THE FACTS

Petitioner is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) empowered to perform the duties of said office including, among others, the power to collect internal revenue taxes for the support of the government, with office address at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On the other hand, Standard Insurance is a corporation duly organized and existing under and by virtue of the Philippine laws, with principal office address at 28th Floor, Petron Mega Plaza Building, 358 Sen. Gil Puyat Avenue, Makati City.

On December 5, 2002, Standard Insurance received a *Letter of Authority* (LOA) No. 19283 from BIR authorizing Revenue Officers Jocelyn Quevedo and Gemma Aguila and their Group Supervisor Carolina Realin of Revenue District Office No. 34, Revenue Region No. 6, Manila, to examine the books of accounts and other accounting records of Standard Insurance for taxable year 2001.

Said group found Standard Insurance liable for the following deficiency taxes:

KIND OF TAX	AMOUNT
Documentary Stamp tax	₱ 1,531,864.15
Value-Added Tax	2,150,299.73
Expanded Withholding Tax	1,732,142.05
Income Tax	3,000.00

After paying the foregoing deficiency taxes, Standard Insurance received a *Letter of Termination* dated June 26, 2003 from Regional Director (RD) Rupertro P. Somera.

However, the said *Letter of Termination* was recalled by RD Somera in his August 5, 2003 letter on the ground that his office learned only on August 4, 2003, that there was a Letter Notice No. 067-021 issued by then CIR Guillermo L. Parayno, Jr., informing Standard Insurance of the discrepancy found on its 2001 DST (based on a third-party information).

Standard Insurance's counsel, Atty. Wilfredo E.J.E. Reyes, questioned the withdrawal of the said *Termination Letter* in his *Letter* dated August 7, 2003, wherein he primarily argued that the "*Termination Letter was a product of a valid investigation conducted pursuant to a validly issued Letter of Authority.*"

On October 21, 2003, a *Pre-Assessment Notice (PAN)* was issued against Standard Insurance, which it protested on the ground that the investigation conducted pursuant to the said LOA was already final and can no longer be reopened as it would constitute harassment to the taxpayer.

On February 26, 2004, Assessment Notice No. 33-2001 was issued against Standard Insurance demanding payment of the amount of ₱208,337,600.00. In its *Letter* dated March 4, 2004, Standard contested the validity of said assessment on the ground that the data that were supposed to be the basis of the assessment have no basis in fact and in law.

Thereafter, a *Supplemental Protest* dated March 23, 2004 was filed by Standard Insurance alleging that the said assessment is void as it violated substantially its right to due process.

Standard Insurance subsequently received an *Amended Pre-Assessment Notice* (Amended PAN) dated March 24, 2004, finding it liable for deficiency DST in the amount of ₱215,461,407.91. The same was protested by Standard Insurance in its *Letter* dated April 12, 2004.

Thereafter, a *Final Assessment Notice* (FAN) No. 34-2001[4] dated May 5, 2004, was issued, which Standard Insurance protested through a *Letter* dated May 19, 2004.

In the Decision dated September 20, 2004, Regional Director Teodorica R. Arcega denied Standard Insurance's protest. Thus, Standard Insurance filed a *Request for Reconsideration* before the CIR reiterating its stand that it has been denied of its right to due process.

Meanwhile, pending resolution of the Motion for Reconsideration of Standard Insurance, the CIR commenced the enforcement of collection through the issuance of Preliminary Collection Letter dated December 9, 2004 and Final Notice Before Seizure dated January 5, 2005. Said documents were served at the registered business address of Standard Insurance located at Stanisco Tower, 999 P. Gil corner Agoncillo Street, Ermita, Manila.

However, the enforcement of collection was allegedly held in abeyance pursuant to the Memorandum dated January 24, 2005 issued by then Deputy Commissioner Jose Mario C. Bunag to the Regional Director of Revenue Region No. 6, Manila.

Subsequently, CIR Caesar R. Dulay denied Standard Insurance's *Motion for Reconsideration* in his *Decision* (or Final Decision) dated January 31, 2017.

Standard Insurance alleges that "it did not hear from the Bureau until February 15, 2017, when it received the aforesaid Decision dated January 31, 2017 affirming the denial of its protest and ordering it to pay the aggregate amount of P218,904,053.18 representing deficiency DST for taxable year 2001.

For such reason, Standard Insurance filed before the Court in Division a *Petition for Review (to Invalidate the Tax Deficiency*

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[4] BIR Records – Folder No. 2, pp. 378 to 379.

Assessment) with Urgent Motion to Dispense with the Surety Bond Requirement as a Condition to Restrain the Collection of Deficiency DST under Assessment Notice No. 34-2001[5] on March 20, 2017 which was docketed as CTA Case No. 9550.

On March 22, 2017, the Court in Division again received Standard Insurance's *Petition for Review (to Invalidate the Tax Deficiency Assessment) with Urgent Motion to Dispense with the Surety Bond Requirement as a Condition to Restrain the Collection of Deficiency DST under Assessment Notice No. 34-2001*[6], which was filed *via* registered mail on March 17, 2017.

During the hearing held on March 30, 2017, CIR's counsel failed to appear. Thus, the Court in Division gave the CIR a period of fifteen (15) days from notice to file his comment to Standard Insurance's *Urgent Motion to Dispense with the Surety Bond Requirement* as a Condition to Restrain the Collection of Deficiency DST under Assessment No. 34-2001, while Standard Insurance was granted a period of ten (10) days from notice to file its Reply thereto.

On even date, the Court received Standard Insurance's *Manifestation* filed *via* registered mail on March 20, 2017, stating that it is filing six (6) copies of its *Petition for Review.*

On April 11, 2017, the CIR filed an *Omnibus Motion (For Additional Time to File Answer and for Leave of Court to File Opposition/Comment to the Motion to Dispense with the Surety Bond Requirement),* which was granted by the Court in Division in the Order dated April 12, 2017. In the same Order, the Court in Division noted the *Manifestation* filed by Standard Insurance and granted the CIR an additional period to file his Answer and comment on the *Motion to Dispense with the Surety Bond Requirement.*

On April 18, 2017, the CIR filed an *Ex-parte Manifestation* praying that the additional four (4) copies of his *Opposition and/or Comment (To Motion to Dispense with the Surety Bond Requirement as a Condition to Restrain the Collection of Deficiency DST)* be noted and admitted on record. Said *Manifestation* was noted by the Court in Division in the Minute Resolution dated April 19, 2017.

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[5] Division Docket (CTA Case No. 9550) – Vol. I, pp. 10 to 34.
[6] Division Docket (CTA Case No. 9550) – Vol. I, pp. 72 to 96.

Thereafter, Standard Insurance filed *via* registered mail its *Reply (To the Opposition and/or Comment dated 11 April 2017)* on May 5, 2017.

On May 15, 2017, the CIR filed an *Ex-parte Manifestation* with attached *Answer Ex-Abudanti Ad Cautelam*, stating that he already filed his *Answer* on May 12, 2017, *via* registered mail. In his *Answer,* the CIR raised special and affirmative defenses, alleging among others:

a) the Honorable Court (in Division) has no jurisdiction over the *Petition for Review* in CTA Case No. 9550 because it was filed beyond the jurisdictional thirty (30)-day period;

b) Standard Insurance has no cause of action to seek the suspension of collection of taxes because provisional or ancillary remedies can only be granted by a court which has jurisdiction over the main action;

c) assuming that the Court (in Division) has jurisdiction, the subject assessments issued against Standard Insurance have legal and factual bases.

d) the right of the CIR to collect the subject deficiency taxes from the Standard Insurance has not yet prescribed;

e) the subject assessments are valid and lawful; and that all presumptions are in favor of the correctness of tax assessments.

On June 2, 2017, the CIR filed a *Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court*, alleging that since Standard Insurance received the *Final Decision* dated January 31, 2017 on February 15, 2017, it had thirty (30) days from February 15, 2017, or until March 17, 2017, within which to file its *Petition* with the CTA. Since Standard Insurance filed its *Petition for Review* only on March 20, 2017, it is the CIR's position that the Court in Division is bereft of jurisdiction over the case.

On May 29, 2017, Standard Insurance filed *via* registered mail its *Motion for Extension of Time to File Reply*, praying that it be granted an additional period of ten (10) days or until June 8, 2017, within which to file its Reply. On June 7, 2017, Standard Insurance filed *via* registered mail its *Reply (To: Respondent Commissioner of*

Internal Revenue's Answer dated 11 May 2017 and Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court), alleging among others, that the Court has jurisdiction over its *Petition* since the Final Decision issued by the CIR on January 31, 2017 was actually received by Standard Insurance on February 16, 2017, as shown in the copy of the Registry Return Receipt No. 720 372 699 ZZ, and not on February 15, 2017 as erroneously stated in its *Petition*. Thus, counting thirty (30) days from February 16, 2017, Standard Insurance had until March 20, 2017 within which to file its *Petition*. As such, it alleged that its *Petition for Review* in CTA Case No. 9550 was timely filed on March 20, 2017.

In the Resolution dated October 10, 2017, the Court in Division rendered moot Standard Insurance's *Motion for Extension of Time to File Reply* in view of the filing of the *Reply (To: Respondent Commissioner of Internal Revenue's Answer dated 11 May 2017)*; and denied CIR's *Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court*. The Court in Division ruled that the Final Decision dated January 31, 2017 was received by Standard Insurance on February 16, 2017. As such, it had until March 20, 2017 within which to file its *Petition for Review*. Further, it ruled that since the *Petition for Review* was filed by registered mail on March 17, 2017, it is of no consequence that the Court actually received the same on March 22, 2017. Accordingly, the Court in Division held that the *Petition* was seasonably filed and thus, it acquired jurisdiction to entertain the case.

In the same Resolution, the Court in Division scheduled the joint hearing of Standard Insurance's *Motion to Suspend Collection of Tax and Urgent Motion to Dismiss with Surety Bond Requirement as a Condition to Restrain the Collection of Deficiency DST under Assessment Notice No. 34-2001* on November 13, 2017.

During the hearing[7] on the *Motion to Suspend Collection of Tax and Urgent Motion to Dispense with the Surety Bond Requirement* held on January 24, 2018, Standard Insurance presented its First Vice President/Chief Accountant, Janet R. Inoceno[8], as its sole witness. Both parties' counsels agreed that the instant case only

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[7] *Minutes of the Hearing held on January 24, 2018*, Division Docket (CTA Case No. 9550) – Vol. I, pp. 415 to 416.

[8] Exhibit "P-1", *Judicial Affidavit of Janet R. Inoceno*, Division Docket (CTA Case No. 9550) – Vol. I, pp. 286 to 294; Exhibit "P-7", *Supplemental Judicial Affidavit of Janet R. Inoceno*, Division Docket (CTA Case No. 9550) – Vol. I, pp. 393 to 398.

involves the legal issue on whether the right of the CIR to collect deficiency DST from Standard Insurance is already barred by prescription.

Hence, the hearing on the *Motion to Suspend Collection of Tax and Urgent Motion to Dispense with the Surety Bond Requirement as a Condition to Restrain Collection of Deficiency Documentary Stamp Tax under Assessment No. 34-2001* was considered as a pre-trial conference and deemed trial on the merits.

On January 29, 2018, Standard Insurance filed *via* registered mail its *Formal Offer of Evidence*, without the CIR's comment, as per *Records Verification* dated February 13, 2018. In the Resolution dated March 9, 2018, the Court in Division admitted all exhibits offered by Standard Insurance.

On the other hand, the CIR presented Revenue Officer II Jefferson T. Ocampo[9], as his sole witness. Thereafter, the CIR filed his *Formal Offer of Evidence* on May 11, 2018. On May 22, 2018, Standard Insurance filed its *Comment* to the CIR's *Formal Offer of Evidence*. In the Resolution dated July 10, 2018, the Court in Division admitted all exhibits offered by the CIR.

On September 3, 2018, the Court in Division issued a Resolution submitting CTA Case No. 9550 for decision, taking into consideration Standard Insurance's *Legal Memorandum* filed on August 9, 2018, and the CIR's *Memorandum* filed on August 20, 2018.

In view of the reorganization of the three (3) Divisions of the Court effective September 18, 2018, the Resolution dated September 3, 2018 submitting the instant case for decision was recalled and set aside; and CTA Case No. 9550 was submitted anew for decision on October 2, 2018.

On March 25, 2019, the Court in Division rendered the assailed Decision[10] granting the *Petition for Review* in CTA Case No. 9550. The Court in Division set aside the Final Decision dated January 31,

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[9] Exhibit "R-5", *Judicial Affidavit of Jefferson T. Ocampo*, Division Docket (CTA Case No. 9550) – Vol. II, pp. 451 to 455.

[10] EB Docket, pp. 16 to 55; Division Docket (CTA Case No. 9550) – Vol. II, pp. 530 to 569.

2017 issued by the CIR and cancelled Assessment Notice No. 34-2001 against Standard Insurance on the ground that the right to collect the deficiency documentary stamp tax has prescribed.

On April 10, 2019, the CIR filed a *Motion for Reconsideration (Re: Decision promulgated on March 25, 2019)*[11] *via* registered mail and received by the Court in Division on April 16, 2019; while Standard Insurance filed its *Opposition to the Motion for Reconsideration of the Decision dated 25 March 2019*[12] on May 20, 2019.

In the Resolution[13] dated June 4, 2019, the Court in Division denied the CIR's *Motion for Reconsideration* for lack of merit.

On June 26, 2019, the CIR filed a *Motion for Extension of Time to File Petition for Review*[14] before the Court *En Banc*, praying for an extension of fifteen (15) days from June 26, 2019 or until July 11, 2019, within which to file the Petition for Review.

In the Minute Resolution[15] dated June 28, 2019, the Court *En Banc* granted the CIR a final and non-extendible period of fifteen days from June 26, 2019 or until July 11, 2019, within which to file his *Petition for Review*.

The CIR then filed the instant *Petition for Review*[16] before the Court *En Banc* on July 10, 2019.

In the Resolution dated November 7, 2019,[17] the Court *En Banc* directed the CIR to submit a copy of Revenue Delegation Authority Order (RDAO) No. 2-2007 establishing the authority of Regional Director Marina C. De Guzman to execute the *Verification and Certification (Against) Forum Shopping*, within three (3) days from notice.

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[11] Division Docket (CTA Case No. 9550) – Vol. II, pp. 570 to 574.
[12] Division Docket (CTA Case No. 9550) – Vol. II, pp. 578 to 594.
[13] EB Docket, pp. 57 to 63; Division Docket (CTA Case No. 9550) – Vol. II, pp. 598 to 604.
[14] EB Docket, pp. 1 to 3.
[15] EB Docket, p. 4.
[16] EB Docket, pp. 5 to 12.
[17] EB Docket, pp. 65 to 66.

On November 29, 2019, the CIR filed his *Compliance*[18] submitting a copy of RDAO No. 2-2007 dated March 1, 2007[19]. In the Resolution[20] dated January 28, 2020, the Court *En Banc* noted the CIR's *Compliance* and directed Standard Insurance to file its comment to the instant *Petition for Review* within ten (10) days from notice.

On February 6, 2020, Standard Insurance filed its *Comment/ Opposition to Petitioner's Petition for Review*[21].

In the Resolution[22] dated February 27, 2020, the Court *En Banc* noted Standard Insurance's *Comment/Opposition* and referred the case to mediation in the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) pursuant to Section II of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals* (or Interim Guidelines).

On July 7, 2020, the PMC-CTA issued a *Second Notice to Appear*[23], directing the parties to appear in person at the PMC-CTA on July 29, 2020.

On July 30, 2020, the Court *En Banc* received a Transmittal[24] from the PMC-CTA, signed by Avigail B. Sanchez, Mediation Staff Assistant II, returning the case to the Court *En Banc* due to non-appearance of parties during the scheduled initial appearance. In the Resolution[25] dated October 7, 2020, the Court *En Banc* directed the parties or their authorized representatives to proceed and personally appear before Avigail B. Sanchez, at the PMC-CTA.

On November 11, 2020, the Court *En Banc* received *PMC-CTA Form 6 – No Agreement to Mediate*[26] dated November 10, 2020, stating that the parties appeared before the PMC-CTA and after having carefully considered the benefits and advantages of mediation as fully explained to them, they decided not to have their case

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[18] EB Docket, pp. 67 to 68
[19] EB Docket, pp. 69 to 71
[20] EB Docket, pp. 73 to 74.
[21] EB Docket, pp. 75 to 98.
[22] EB Docket, pp. 102 to 103.
[23] EB Docket, p. 104.
[24] EB Docket, p. 105.
[25] EB Docket, pp. 108 to 109.
[26] EB Docket, p. 110. MO

mediated by the PMC-CTA. In the Resolution[27] dated January 6, 2021, the Court *En Banc* noted *PMC-CTA Form 6 – No Agreement to Mediate* and submitted the instant case for decision.

Hence, this Decision.

ASSIGNMENT OF ERROR

The CIR assigns the following error allegedly committed by the Court in Division, *to wit*:

> **"THE HONORABLE SECOND DIVISION OF THE CTA ERRED IN HOLDING THAT THE RIGHT OF [THE CIR] TO COLLECT ON [STANDARD INSURANCE'S] DEFICIENCY DOCUMENTARY STAMP TAX LIABILITY FOR TAXABLE YEAR 2001 IN THE AMOUNT OF ₱218,904,053.18 IS ALREADY BARRED BY PRESCRIPTION."** [28]

CIR's arguments:

The CIR argues that the Court in Division erred in holding that its right to collect the subject deficiency DST for taxable year 2001 is already barred by prescription.

According to the CIR, the service of the warrants of distraint/levy and garnishment were held in abeyance due to the issuance of *Memorandum* dated January 24, 2005 by Deputy Commissioner of the Legal and Inspection Group, Jose Mario C. Buñag, granting the request of Standard Insurance to hold in abeyance the service and execution of the warrants of distraint/levy and garnishment.

The CIR contends that Standard Insurance's request to hold in abeyance the service and execution of the warrants of distraint/levy and garnishment which was duly granted by the BIR, clearly demonstrates positive act on the part of Standard Insurance which would justify the suspension of the prescriptive period for collection.

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[27] EB Docket, pp. 114 to 115.
[28] *Petition for Review,* EB Docket, p. 9.

As such, it is the CIR's position that the prescriptive period to collect the subject tax assessment commenced to run only on February 16, 2017, when Standard Insurance received the Final Decision of the CIR, denying Standard Insurance's request for reconsideration.

Further, the CIR maintains that the fact that the service and execution of the warrants were not effected during the pendency of the resolution of Standard Insurance's request for reconsideration clearly shows that its request was granted and that there was no necessity of informing Standard Insurance of such fact.

Standard Insurance's counter-arguments:

Standard Insurance counter-argues that the CIR's Final Decision dated January 31, 2017, being issued beyond the prescriptive period to collect, should be rendered null and void, if not, unenforceable.

According to Standard Insurance, the BIR did not exercise its right to collect within the prescriptive period of five (5) years. It maintains that the BIR's right to collect is never endless, inexhaustible, nor absolute; and that the BIR does not have an indefinite period of time within which to collect taxes, since from the date of receipt of the FAN, the prescriptive period within which it could exercise its right to collect began to set in.

Standard Insurance likewise contends that its request for reconsideration did not suspend the running of the prescriptive period to collect.

Further, contrary to the CIR's contention, Standard Insurance claims that it was never made aware of the action taken by the CIR to hold in abeyance the service of the warrants of distraint/levy and garnishment; and that the BIR voluntarily or out of sheer negligence did nothing to pursue its assessment until the issuance of the CIR's Decision on January 31, 2017. Allegedly, the CIR' Decision after thirteen (13) years from the time the request for reconsideration was filed, is far beyond reasonable and not within the ambit of justice, fairness and equity.

In addition, Standard Insurance posits that the Court in Division's cancellation of Assessment Notice No. 34-2001 finds support on the *Letter of Termination* dated June 26, 2003, which shows that the assessment for taxable year 2001 is considered closed and terminated. Allegedly, the *Letter of Termination*, which was issued as a result of Standard Insurance's availment of Voluntary Assessment and Abatement Program on June 25, 2003, proves that the taxpayer's application for tax abatement has been approved.

Standard Insurance also points out that the PAN originated from a Letter Notice (LN) and not LOA. Said PAN eventually ripened to the FAN, which is the subject matter of the CIR's Final Decision. As such, Standard Insurance claims that the subject assessment was conducted pursuant to an LN, without the issuance of LOA.

Finally, Standard Insurance contends that it has been grossly deprived of its opportunity to fully support its arguments and defend itself from government's claim due to unreasonable lapse of time caused by the BIR's own negligence and advertence.

THE COURT *EN BANC*'S RULING

Before addressing the main issue raised in the instant Petition, this Court *En Banc* deems it necessary to address a vital and related issue, to achieve an orderly disposition of this case, to wit:

> "Whether or not the revenue officer(s) who conducted the audit investigation of the books of accounts and other accounting records of Standard Insurance was authorized by the CIR or his duly authorized representative, through an LOA."

While the foregoing issue was not stipulated by the parties in CTA Case No. 9550 , before the Court in Division, the resolution thereof is sanctioned under Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals, which read as follows.

> "RULE 14
>
> JUDGMENT, ITS ENTRY AND EXECUTION
>
> SECTION 1. - *Rendition of judgment* - xxx xxx
>
> **In deciding a case, the Court may not limit itself to the issues stipulated by the parties but may also**

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> **rule upon related issues necessary to achieve an orderly disposition of the case."** *(Emphasis supplied)*

Based on the said provision, this Court is not limited to resolve only the issues specifically raised by the parties, but may also rule upon related issues necessary to achieve an orderly disposition of the case. This was confirmed and recognized by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*[29], wherein the Supreme Court held as follows:

> **"On whether the CTA can resolve an issue which was not raised by the parties, <u>we rule in the affirmative</u>.**
>
> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. The text of the provision reads:
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> > SECTION 1. Rendition of judgment. - xxx xxx
> >
> > In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.
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> **The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA <u>even though the parties had not raised the same in their pleadings or memoranda.</u>** The CTA *En Banc* was likewise correct in sustaining the CTA Division's view concerning such matter." *(Emphasis and underscoring supplied)*

Indeed, pursuant to the foregoing pronouncements, it is within the authority of this Court to first resolve the issue on the scope of the authority of the revenue officer/s who conducted the audit investigation to achieve an orderly disposition of this case.

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[29] G.R. No. 183408, July 12, 2017.

The revenue officers were not duly authorized to conduct the audit investigation of Standard Insurance for its deficiency DST for taxable year 2001.

Sections 6(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, lays down the power of the CIR or his duly authorized representative to authorize the examination of any taxpayer and the assessment of the correct amount of tax, to wit:

> "SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
>
> (A) *Examination of Returns and Determination of Tax Due.* - After a return has been filed as required under the provisions of this Code, **the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax**: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer." *(Emphasis and underscoring supplied.)*

Clearly from the foregoing, an authority emanating from the CIR or his duly authorized representative is required before an examination of any taxpayer or assessment of the correct amount of tax may be made.

Relative thereto, Section 13 of the NIRC of 1997, as amended, provides that the authority of a revenue officer to examine or to recommend the assessment of any deficiency tax due must be exercised pursuant to a Letter Of Authority (LOA), to wit:

> "SEC. 13. *Authority of a Revenue Officer.* Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a **Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of**

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> **tax, or to recommend the assessment of any deficiency tax due** in the same manner that the said acts could have been performed by the Revenue Regional Director himself." *(Emphasis and underscoring supplied.)*

Evidently, a grant of authority by way of LOA must have been issued in favor of a revenue officer (RO), in order that such officer may validly examine taxpayers and perform tax assessment and collection functions.

In *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*,[30] the Supreme Court elucidated on the importance and significance of the LOA in examining the books of accounts and other accounting records of taxpayers and in assessing internal revenue taxes, to wit:

> "An LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. An LOA is premised on the fact that the examination of a taxpayer who has already filed his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives. Section 6 of the NIRC clearly provides as follows:
>
> > **SEC. 6**. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. –*
> >
> > (A) **Examination of Return and Determination of Tax Due**. - After a return has been filed as required under the provisions of this Code, **the Commissioner or his duly authorized representative may authorize the examination of any taxpayer** and the assessment of the correct amount of tax: Provided, however, That failure to file a return shall not prevent the Commissioner

[30] G.R. No. 222743, April 5, 2017.

> from authorizing the examination of any taxpayer.
>
> x x x x*(Emphasis and underlining ours)*

Based on the afore-quoted provision, it is clear that **unless authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken.** The circumstances contemplated under Section 6 where the taxpayer may be assessed through best-evidence obtainable, inventory-taking, or surveillance among others has nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. **Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority.**

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In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, the Court said that:

> Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment. Equally important is that the revenue officer so authorized must not go beyond the authority given. **In the absence of such an authority, the assessment or examination is a nullity**. (Emphasis and underlining ours)

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Contrary to the ruling of the CTA *en banc*, an LOA cannot be dispensed with just because none of the financial books or records being physically kept by MEDICARD was examined. **To begin with, Section 6 of the NIRC requires an authority from the CIR or from his duly authorized representatives before an examination 'of a taxpayer' may be made. The requirement of authorization is therefore not dependent on whether the taxpayer may be required**

> **to physically open his books and financial records but only on whether a taxpayer is being subject to examination.**
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> xxx xxx xxx
>
> **That the BIR officials herein were not shown to have acted unreasonably is beside the point because the issue of their lack of authority was only brought up during the trial of the case. What is crucial is whether the proceedings that led to the issuance of VAT deficiency assessment against MEDICARD had the prior approval and authorization from the CIR or her duly authorized representatives. <u>Not having authority to examine MEDICARD in the first place, the assessment issued by the CIR is inescapably void</u>."** *(Emphases and underscoring supplied)*

Based on the foregoing, revenue officers must be authorized by an LOA in order to validly examine the books of accounts and other accounting records of a taxpayer. In the absence thereof, the tax assessments issued by the BIR against such taxpayer shall be void.

In the instant case, records disclose that pursuant to LOA No. 2000 0019283 dated December 5, 2002[31], only ROs Jocelyn Quevedo, Gemma Aguila and Group Supervisor (GS) Carolina Realin, were authorized to examine the books of accounts and other accounting records of Standard Insurance for all internal revenue taxes for taxable year 2001. A *Memorandum*[32] was thereafter submitted by ROs Quevedo and Aguila, which was noted by GS Realin on June 2, 2003, finding Standard Insurance liable for the following deficiency taxes:

KIND OF TAX	AMOUNT
Documentary Stamp tax	₱ 1,531,864.15
Value-Added Tax	2,150,299.73
Expanded Withholding Tax	1,732,142.05
Income Tax	3,000.00

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[31] Exhibit "P-10", Division Docket (CTA Case No. 9550) – Vol. I, p. 411; BIR Records – Folder No. 2, p. 338/1076.
[32] BIR Records - Folder No. 2, p. 236/974.

Standard Insurance then paid the foregoing taxes. Hence, a *Letter of Termination*[33] dated June 26, 2003 was issued by RD Rupertro P. Somera, confirming the payments made by Standard Insurance and stating that the case under LOA No. 19283 dated December 5, 2002 is considered closed and terminated.

However, in the Letter[34] dated August 5, 2003, RD Ruperto P. Somera recalled and set aside the *Letter of Termination*, stating that his office only learned on August 4, 2003, that there was a Letter Notice No. 067-021 issued by the CIR to Standard Insurance relating to a discrepancy in the DST due and paid for taxable year 2001; and that there is a need to reconcile the findings in the said LN against the investigation.

After the recall of the *Letter of Termination*, an audit investigation was conducted relating to Standard Insurance's alleged deficiency DST for taxable year 2001.

Upon perusal of the BIR records, the Court finds that **ROs Nina Espiritu and Roberto Libardo** submitted their respective *Revenue Officer's Audit Reports on Documentary Stamp Tax (BIR Form No. 0509)*[35] indicating Standard Insurance's alleged basic deficiency DST in the amount of ₱109,109,067.70. The said Audit Reports were then used as basis for the issuance of the PAN[36] dated October 7, 2003.

Further, RO Gloria Maliwanag submitted a *Revenue Officer's Audit Report on Documentary Stamp Tax (BIR Form No. 0506)*[37] indicating Standard Insurance's alleged basic deficiency DST in the amount of ₱111,464,773.88. Said Audit Report was used as basis in the issuance of the Amended PAN[38] dated March 24, 2004 and FAN[39] dated May 5, 2004.

By issuing their respective Audit Reports, it is apparent that ROs Espitritu, Libardo and Maliwanag, continued the audit investigation of Standard Insurance's deficiency DST for taxable year

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[33] BIR Records - Folder No. 2, p. 246/984.
[34] BIR Records – Folder No. 2, pp. 256/994.
[35] BIR Records – Folder No. 2, pp. 279/1017 and 280/1018.
[36] BIR Records – Folder No. 2, p. 284/1022.
[37] BIR Records – Folder No. 2, p. 374/1111.
[38] BIR Records – Folder No. 1, pp. 1211; BIR Records – Folder No. 2, p. 324/1061.
[39] BIR Records – Folder No. 2, pp. 378 to 379.

2001, resulting in the issuance of the PAN dated October 7, 2003, Amended PAN dated March 24, 2020 and FAN dated May 5, 2004. The foregoing finding is bolstered by the fact that the name of ROs Espiritu and Maliwanag are indicated in the PAN and Amended PAN, respectively.

It bears noting, however, that the record is bereft of any evidence which would show that a new LOA was issued specifically authorizing the said ROs to conduct the audit investigation.

The failure of the CIR to issue a new LOA runs counter to Revenue Memorandum Order No. 43-90 dated September 20, 1990, which lays down the guideline for the audit/investigation and issuance of LOA, pertinent portions of which states, to wit:

> "C. Other policies for issuance of L/As.
>
> 1. **<u>All</u> audits/investigations, whether field or office audit, should be conducted under a Letter of Authority**.
>
> xxx xxx xxx
>
> 5. Any re-assignment/transfer of cases to another RO(s), and revalidation of L/As which have already expired, shall require the issuance of a new L/A, with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As." *(Emphases and underscoring supplied.)*

It is explicit from the foregoing that **<u>all</u>** audit investigations must be conducted by a duly designated RO authorized to perform audit and examination of taxpayer's books and accounting records, pursuant to an LOA. In case of re-assignment or transfer of cases to another RO, it is mandatory that a new LOA shall be issued with the corresponding notation thereto. In the absence of such an authority, the assessment or examination is a nullity.[40]

In the present case, no new LOA was issued authorizing ROs Espiritu, Libardo and Maliwanag. Further, the record of the case is

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[40]*Commissioner of Internal Revenue vs. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.

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bereft of any showing of the authority of ROs Espitritu, Libardo and Maliwanag to conduct the audit investigation of Standard Insurance.

Accordingly, since the said revenue officers were not duly authorized by a new LOA, the subject tax assessments that were issued as a result of their audit investigation of Standard Insurance's alleged deficiency DST liability for taxable year 2001, are void. It bears emphasis that an invalid assessment bears no valid fruit.[41]

Thus, the subsequent issuance of the Final Decision dated January 31, 2017 demanding the payment of the deficiency DST is likewise void and of no effect. It must be noted that to proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence.[42]

The right of the BIR to collect the assessed deficiency DST is barred by prescription.

Even assuming *arguendo* that the assessment is valid, the Final Decision dated January 31, 2017 issued by the CIR demanding payment of the deficiency DST cannot be enforced, simply because, as will be shown momentarily, the right of the BIR to collect the subject deficiency DST had already prescribed.

The rules relating to the prescriptive periods in the assessment and collection of internal revenue taxes, are provided under Sections 203 and 223 of the NIRC of 1997, as amended, *to wit*:

> "**SEC. 203**. *Period of Limitation Upon Assessment and Collection.* — Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be

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41 *Commissioner of Internal Revenue vs. BASF Coating + Inks Phil.*, Inc., G.R. No. 198677, November 26, 2014.

42 *Ibid.*

> counted from the day the return was filed. For 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.
>
> xxx xxx xxx
>
> **SEC. 223**. *Suspension of Running of Statute of Limitations.* — **The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and <u>the beginning of distraint or levy or a proceeding in court for collection</u>**, in respect of any deficiency, shall be suspended for the period during which <u>the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court</u> and for sixty (60) days thereafter; <u>when the taxpayer requests for a reinvestigation which is granted by the Commissioner</u>; when the taxpayer cannot be located in the address given by him in the 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 running of the Statute of Limitations will not be suspended; when the warrant of distraint or 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 supplied)

Based on the foregoing provisions, the BIR has a period of three (3) years to assess internal revenue taxes which is reckoned from the last day prescribed by law for the filing of the tax return or the actual date of filing of such return, whichever comes later.[43]

In case where the BIR issues the assessment within the three-year period to assess taxes, it has another **three (3) years** to collect the taxes, following the ruling in *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*[44], to wit:

> ... [P]etitioner has three (3) years from the date of actual filing of the tax return to assess a national internal

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[43] *Commissioner of Internal Revenue v. Kudos Metal Corporation*, G.R. No. 178087, May 5, 2010.
[44] G.R. No. 197515, July 2, 2014.

> revenue tax or to commence court proceedings for the collection thereof without an assessment. **However, when it validly issues an assessment within the three (3)-year period, it has another three (3) years within which to collect the tax due by distraint, levy, or court proceeding.** The assessment of the tax is deemed made and the three (3)-year period for collection of the assessed tax begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer." (Emphasis supplied.)

In the instant case, considering that the subject assessment was issued within the three-year prescriptive period to assess, the BIR therefore had another three years within which to initiate the collection of taxes by distraint or levy or by court proceeding.

It bears noting, however, that pursuant to Section 223 of the NIRC of 1997, as amended, the running of the statute of limitations for the collection of deficiency taxes shall be suspended on the following grounds:

a. When the Commissioner is prohibited from making the assessment, or beginning distraint, or levy or proceeding in court and for sixty (60) days thereafter;

b. When the taxpayer requests for, and is granted a reinvestigation by the commissioner;

c. When the taxpayer could not be located in the address given by him in the return filed upon which the tax is being assessed or collected;

d. 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

e. When the taxpayer is out of the Philippines.

As found by the Court in Division, none of the foregoing grounds for suspension are present in this case. The CIR, however, insists that Standard Insurance's **request to hold in abeyance** the service and execution of the warrants of distraint/levy, as embodied in the *Letter*[45] dated January 21, 2005, and which was granted by the BIR, demonstrate positive requests/acts that justify the suspension of the prescriptive period for collection.

We are not persuaded.

Under the *first ground* for suspension, it must be shown that the CIR is **prohibited** from beginning distraint, or levy or proceeding in court.

The word "prohibit" means ***"to forbid by law***" or "***to prevent or hinder***".[46]

Contrary to the CIR's argument, the Court cannot consider Standard Insurance's request as one which would prevent or hinder the CIR from proceeding with the collection of the deficiency DST. Further, there is no law forbidding the BIR from enforcing the collection of taxes by distraint or levy on the sole basis of a mere plea from the taxpayer to hold in abeyance the collection of tax. Accordingly, Standard Insurance's request cannot validly justify the suspension of the running of the prescriptive period.

Moreover, the said *Letter* does not amount to a waiver of the prescriptive period to collect the assessed deficiency DST. In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*[47], the Supreme Court discussed the nature of a valid waiver of the statute of limitations in this wise:

> "A waiver of the statute of limitations under the NIRC, to a certain extent, is a derogation of the taxpayers' right to security against prolonged and unscrupulous investigations and **must therefore be carefully and strictly construed**. The waiver of the statute of limitations is not a waiver of the right to invoke the

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[45] Exhibit "R-4", Division Docket (CTA Case No. 9550) – Vol. 2, p. 460.
[46] Blacks Law Dictionary, Eight Edition, p. 1248.
[47] G.R. No. 162852, December 16, 2004.

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> defense of prescription as erroneously held by the Court of Appeals. **It is an agreement between the taxpayer and the BIR that the period to issue an assessment and <u>collect the taxes due is extended to a date certain</u>**. The waiver does not mean that the taxpayer relinquishes the right to invoke prescription unequivocally particularly where the language of the document is equivocal. For the purpose of safeguarding taxpayers from any unreasonable examination, investigation or assessment, **our tax law provides a statute of limitations in the collection of taxes**. Thus, the law on prescription, being a remedial measure, should be liberally construed in order to afford such protection. As a corollary, the **<u>exceptions to the law on prescription should perforce be strictly construed</u>**..." (*Emphasis and underscoring supplied.*)

It is clear from the foregoing that a waiver of the statute of limitations under the NIRC is an agreement between the taxpayer and the BIR that the period to collect the taxes due is extended to a date certain. Further, such waiver does not mean that the taxpayer relinquishes the right to invoke prescription where the language of the document is equivocal. It must therefore be carefully and strictly construed as it is a derogation of the taxpayers' right to security against prolonged and unscrupulous investigations.

Upon careful perusal of the *Letter* dated January 21, 2005, the Court notes that there is **<u>no</u>** categorical nor unequivocal statement therein to the effect that Standard Insurance waived the statute of limitations under the NIRC. At the very least, it is a mere plea to the BIR to restrain from collecting taxes. Thus, it cannot be considered as a relinquishment of Standard Insurance's right to invoke the defense of prescription. It bears stressing that the law on prescription, being a remedial measure, should be liberally construed in order to afford such protection; while the exceptions to the law on prescription should perforce be strictly construed.[48]

With respect to the <u>*second ground*</u>, there must be a ***request for reinvestigation*** filed by the taxpayer, and that the said request was granted by the CIR.

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[48] *Ibid.*

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In the case of *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*,[49] (or BPI case) the Supreme Court, in interpreting Section 224 of the Tax Code of 1977 (now Section 223 of the NIRC of 1997, as amended), clarified the nature of a request for reinvestigation which interrupts the running of the statute of limitations on the collection of tax, *to wit*:

> "Of particular importance to the present case is one of the circumstances enumerated in Section 224 of the Tax Code of 1977, as amended,[50] wherein the running of the statute of limitations on assessment and collection of taxes is considered suspended 'when the taxpayer requests for a reinvestigation which is granted by the Commissioner.'
>
> This Court gives credence to the argument of petitioner BPI that there is a distinction between a request for reconsideration and a request for reinvestigation. Revenue Regulations (RR) No. 12-85, issued on 27 November 1985 by the Secretary of Finance, upon the recommendation of the BIR Commissioner, governs the procedure for protesting an assessment and distinguishes between the two types of protest, as follows —
>
> *PROTEST TO ASSESSMENT*
>
> > SEC. 6. *Protest.* — The taxpayer may protest administratively an assessment by filing a written request for reconsideration or reinvestigation...
> >
> > For purposes of the protest herein —
> >
> > (a) *Request for reconsideration.* — refers to a plea for a re-evaluation of an 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 for re-evaluation of an

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[49] G.R. No. 139736, October 17, 2005.
[50] Now Section 223, NIRC of 1997, as amended.

assessment **<u>on the basis of newly-discovered or additional evidence</u>** that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or law or both.

With the issuance of RR No. 12-85 on 27 November 1985 providing the above quoted distinctions between a request for reconsideration and a request for reinvestigation, the two types of protest can no longer be used interchangeably and their differences so lightly brushed aside. **It bears to emphasize that under Section 224 of the Tax Code of 1977, as amended, the running of the prescriptive period for collection of taxes can only be suspended by a request for reinvestigation, not a request for reconsideration. Undoubtedly, a reinvestigation, which entails the reception and evaluation of additional evidence, will take more time than a reconsideration of a tax assessment, which will be limited to the evidence already at hand; this justifies why the former can suspend the running of the statute of limitations on collection of the assessed tax, while the latter cannot.**

The protest letter of petitioner BPI, dated 16 November 1989 and filed with the BIR the next day, on 17 November 1989, did not specifically request for either a reconsideration or reinvestigation. A close review of the contents thereof would reveal, however, that it protested Assessment No. FAS-5-85-89-002054 based on a question of law, in particular, whether or not petitioner BPI was liable for DST on its sales of foreign currency to the Central Bank in taxable year 1985. The same protest letter did not raise any question of fact; neither did it offer to present any new evidence. In its own letter to petitioner BPI, dated 10 September 1992, the BIR itself referred to the protest of petitioner BPI as a request for reconsideration. These considerations would lead this Court to deduce that the protest letter of petitioner BPI was in the nature of a request for reconsideration, rather than a request for reinvestigation and, consequently, Section 224 of the Tax Code of 1977, as amended, on the suspension of the running of the statute of limitations should not apply." (*Emphasis and underscoring supplied.*)

Based on the foregoing, to suspend the running of the prescriptive period for the collection of tax, the request made by the taxpayer should be a *request for reinvestigation* which entails the reception and evaluation of additional evidence, and **not** a *request for reconsideration* which is a plea for a re-evaluation of an assessment on the basis of existing records without need of additional evidence.

As ruled by the Court in Division, the record of the case is bereft of any showing that Standard Insurance filed a request for reinvestigation. In fact, Court in Division noted that the CIR's witness, RO Jefferson T. Ocampo, confirmed that no request for reinvestigation was filed by Standard Insurance. The said finding was not controverted nor refuted by the CIR.

Thus, We sustain the findings of the Court in Division.

A perusal of the protest/supplemental protest letters dated October 28, 2003[51], March 4, 2004[52], March 23, 2004[53], April 12, 2004[54] and May 19, 2004[55] filed by Standard Insurance shows that the said protest letters are requests for re-evaluation of the assessment on the basis of evidence already on record. There is likewise no showing that Standard Insurance submitted additional evidence. Thus, applying the *BPI case*, these protest letters are in the nature of a request for reconsideration and not request for reinvestigation.

Further, it bears noting that a reading of the pertinent portions of the CIR's Final Decision dated January 31, 2017 would reveal that the protests filed by Standard Insurance were treated by the CIR as a request for reconsideration, to wit:

> "This refers to the **request for reconsideration** of the decision denying the protest of Standard Insurance Co., INC. (hereinafter referred to as "STANDARD") against Assessment Notice No. 34-2001 demanding payment of the total amount of ₱218,904,053.18

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[51] BIR Records – Folder No. 2, p. 286.
[52] BIR Records – Folder No. 2, pp. 339 to 340.
[53] BIR Records – Folder No. 2, pp. 358 to 362.
[54] BIR Records – Folder No. 2, p. 363.
[55] BIR Records – Folder No. 2, p. 380.

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> increments included, representing deficiency documentary stamp tax (DST) for taxable year 2001.
>
> xxx xxx xxx
>
> Subsequently, an Amended Pre-Assessment Notice and Final Assessment Notice No. 34-2001 were respectively issued against STANDARD on March 24, 2004 and May 5, 2004 in the amount of ₱218,904,053.18 as deficiency documentary stamp tax for the year 2001, which were again protested by STANDARD in its protest letters dated April 12, 2004 and May 19, 2004 **reiterating substantially all the grounds in its protest and supplemental protest** to Assessment Notice No. 33-2001.
>
> xxx xxx xxx
>
> In a **Motion for Reconsideration** filed simultaneously with the Office of the Assistant Commissioner-Legal Service and with the Revenue District Office No. 34, Paco-Pandacan-Sta. Ana, Manila, STANDARD again reiterated its stand that it has been denied of due process as mandated by Section 228 of the Tax Code, as implemented by RR No. 12-99.
>
> xxx xxx xxx" (*Emphasis and underscoring Ours*)

In view thereof, it can be reasonably concluded that the protests filed by Standard Insurance are mere requests for reconsideration and not requests for reinvestigation. Accordingly, these protests did not have the effect of suspending the three (3)-year prescriptive period of the collection of the subject tax.

As for the remaining grounds for suspension of the prescriptive period, *i.e., taxpayer or its property cannot be located; and that the taxpayer is out of the Philippines,* there is no showing that these grounds are present in this case. Thus, the same finds no application in this case.

Taking all the foregoing into consideration, the Court *En Banc* finds that the CIR failed to establish that that the three-year period to collect the deficiency DST by distraint or levy or by a proceeding in

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court was suspended or interrupted by any of the instances mentioned under Section 223 of the NIRC of 1997, as amended.

In determining the reckoning date of the three-year prescriptive period to collect taxes, the *BPI case* is instructive, to wit:

> "When the BIR validly issues an assessment, within either the three-year or ten-year period, whichever is appropriate, then the BIR has another three years after the assessment within which to collect the national internal revenue tax due thereon by distraint, levy, and/or court proceeding. **The assessment of the tax is deemed made and the three-year period for collection of the assessed tax <u>begins to run on the date the assessment notice had been released, mailed or sent by the BIR to the taxpayer</u>.**" (*Emphasis and underscoring supplied.*)

It is clear from the foregoing that the collection of the assessed tax begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer.

In the instant case, considering that the FAN was issued on May 5, 2004, the CIR had a period of (3) three years reckoned from said date or until **<u>May 5, 2007,</u>** to enforce collection of the subject deficiency DST by distraint or levy or by a proceeding in court. Evidently, prescription had already set in, making subsequent events in connection with the said assessment, such as the issuance by the CIR of the subject Final Decision dated January 31, 2017, moot and of no effect.

It must be remembered that the law provides for a statute of limitations on the assessment and collection of internal revenue taxes in order to safeguard the interest of the taxpayer against unreasonable investigation. While taxes are the lifeblood of the nation, the Court cannot allow tax authorities indefinite periods to assess and/or collect alleged unpaid taxes. Certainly, it is an injustice to leave any taxpayer in perpetual uncertainty whether he will be made liable for deficiency or delinquent taxes.[56]

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[56] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation,* G.R. No. 197945 and G.R. Nos. 204119-20, July 09, 2018.

[initials]

In sum, the Court *En Banc* finds no cogent reason to deviate from Court in Division's ruling that the right of the CIR to collect the deficiency DST for taxable year 2001 had already prescribed.

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Decision dated March 25, 2019 and Resolution dated June 4, 2019, both rendered by the Court in Division in CTA Case No. 9550 are **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ROMAN G. DEL ROSARIO
Presiding Justice