REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

INFORMATICS ALABANG CENTER, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7255

Members:

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

Promulgated:

OCT 1 3 2009

9:00 a.m.

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DECISION

CASTAÑEDA, JR., *J.*:

Before this Court is a Petition for Review filed on May 25, 2005, praying that judgment be rendered ordering the cancellation and withdrawal of the Formal Assessment Notice dated August 20, 2004 against petitioner for deficiency income tax and value-added tax in the sum of P3,660,481.05 for taxable year ended March 31, 2000.

The facts of the case, as stipulated by the parties and as established by the evidence on record, are as follows:

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office located at the Lower Ground Level of SM South Mall, Las Piñas City.

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), the government agency charged with the assessment and collection of all national internal revenue taxes, fees, and charges, as well as the enforcement of all forfeitures, penalties, and fines connected therewith. He holds office at the 4th Floor, BIR Building, Agham Road, Diliman, Quezon City.

On October 31, 2000, Regional Director Lucien E. Sayuno of BIR Revenue Region No. 8–Revenue District Office (RDO) No. 53 issued Letter of Authority No. 00013728, authorizing Revenue Officer Ma. Fe Lucas and Group Supervisor Regina dela Cruz to examine petitioner's books of accounts and other accounting records for taxable period 1999.[1]

On January 28, 2002, Mr. Leonardo A. Rungen, President of petitioner, executed the first Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code (NIRC) for the year 1999.[2]

On June 19, 2003, Acting Regional Director Anselmo G. Adriano issued a Pre-Assessment Notice (PAN) finding petitioner liable for deficiency income tax and value-added tax for fiscal year ended March 2000.[3]

On September 12, 2003, petitioner through counsel wrote BIR Revenue Region No. 8-Assessment Division a letter protesting the PAN.[4] *je*

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[1] BIR Records, p. 1.
[2] BIR Records, p. 176.
[3] Exhibit "4", BIR Records, pp. 213-214.
[4] Exhibit "8", BIR Records, pp. 218-222.

On September 19, 2003, Mr. Rungen executed a second Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code for fiscal year 1999-2000.[5]

On March 10, 2004, Mr. Rungen executed a third Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code for fiscal year March 2000.[6]

On September 4, 2004, petitioner received from the BIR Revenue Region No. 8-Assessment Division a Formal Assessment Notice dated August 20, 2004, assessing petitioner deficiency income tax for the year ended March 31, 2000, plus surcharges and interests, in the sum of P1,231,868.49; and deficiency value-added tax (VAT), plus surcharges and interest, in the sum of P2,428,612.56 for the period covering the first to fourth quarters of fiscal year ended March 31, 2000.[7] Said deficiency taxes are computed as follows:

I. Deficiency Income Tax

Taxable Net Income per Return		P 2,242,284.00
Add: Discrepancies per investigation		
Disallowed disbursements (unsupported expense)		52,092.20
Taxable Income per Audit		P 2,294,376.20
Tax Due thereon: 1999 (33%)		P 567,858.11
2000 (32%)		183,550.10
Total		P 751,408.21
Less: Payments		224,228.00
Basic Deficiency		527,180.21
Add: Surcharge - 50%	P 263,590.10	
Interest - 20% (7/16/00 to 9/20/04)	441,098.18	704,688.28
Total Amount Due		P 1,231,868.49

II. Deficiency Value-added Tax

Taxable Sales per Financial Statements	P 10,199,558.00

[5] Exhibit "13", BIR Records, p. 226.
[6] Exhibit "14", BIR Records, p. 233.
[7] Pars. 3 and 4 of the Admissions, Joint Stipulation of Facts and Issues, docket, p. 225-226; Exhibits "B", "C", and "D".

Output Tax		P 1,019,955.80
Less: Input Tax/Payments		-
Value-aAdded Tax		P 1,019,955.80
Add: Surcharge - 50%	P 509,977.90	
Interest - 20% (4/26/00 to 9/20/04)	898,678.86	1,408,656.76
Total Amount Due		P 2,428,612.56

Petitioner filed with the BIR a letter protesting said deficiency income tax and value-added tax assessments, enclosing therewith copies of relevant documents which would aid in the resolution of the contested deficiency tax assessments. Said letter-protest was received by respondent on October 1, 2004.[8]

On October 27, 2004, petitioner wrote BIR Revenue Region No. 8-Assessment Division and submitted summary of the expenses disallowed, photocopies of the receipts, and other documents in support of its protest.[9]

Petitioner wrote a letter dated March 2, 2005 to BIR RDO-53 Las Piñas-Alabang to follow up the status of its protest, after being advised by the BIR Revenue Region No. 8-Assessment Division that its letter-protest, together with the entire tax docket thereof, was transmitted to BIR RDO-53 Las Piñas-Alabang for evaluation and necessary action.[10]

As the one hundred eighty (180) day-period has lapsed without respondent resolving petitioner's protest, petitioner filed the instant case on May 25, 2005.

[8] Par. 6 of the Admissions and Par. 1 of the Additional Matters Admitted and Stipulated Upon, Joint Stipulation of Facts and Issues, docket, pp. 226-227; Exhibit "D".
[9] Exhibits "F," "H" to "FF-2".
[10] Par. 5 of the Admissions, Joint Stipulation of Facts and Issues, docket, p. 227; Exhibit "G".

In his Answer filed on August 25, 2005, respondent denied petitioner's allegations in the instant Petition and interposed the following Special and Affirmative Defenses:[11]

"*A)* ***DEFICIENCY INCOME TAX:***

11) Section 34(A)(1)(b) of the 1997 Tax Code provides that no deduction for expenses shall be allowed unless the taxpayer shall substantiate with sufficient evidence, such as official receipt or other adequate records: (i) the amount of the expense being deducted, and (ii) the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of trade, business or profession of the taxpayer;

12) Verification of the BIR record of this case disclosed that Petitioner failed to substantiate the various expenses of their books of accounts in the amount of P52,092.20, hence, the same was disallowed in accordance with the foregoing provision;

13) Further, Section 27(B) of the 1997 Tax Code provides for a rate of 10% on the taxable income of proprietary educational institution with a permit to operate from the Department of Education, Culture and Sports (DECS), Commission on Higher Education (CHED), or the Technical Education and Skills Development Authority (TESDA), as the case maybe;

14) Verification disclosed that Petitioner failed to submit its permit to operate from TESDA for the curricular year 1999-2000, hence, it was subjected to an income tax rate of 33% and 32% for taxable years 1999 and 2000, respectively;

B) DEFICIENCY VALUE ADDED TAX:

15) Section 109(m) of the 1997 Tax Code provides that educational services rendered by private educational institution, duly accredited by TESDA are exempt from VAT;

16) As mentioned in the preceding paragraphs, Petitioner failed to show any accreditation from TESDA for curricula *ge*

[11] Docket, pp. 189-191.

year 1999-2000, thus, its educational services are not exempt from VAT;

17) Section 222(b) of the 1997 Tax Code provides that if before the expiration of the prescriptive period for the assessment of tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement before the expiration of the period previously agreed upon;

18) In this case, Petitioner executed two waivers of prescription, the first, extended the period of assessment until June 2004 and the other extended the period of assessment until 30 September 2004;

19) Granting but without admitting that the waivers are invalid, Petitioner did not file any VAT return for taxable year 1999-2000 despite being liable for VAT due to its failure to submit any TESDA accreditation for the said period, thus, the applicable prescriptive period is ten years in accordance with Section 222(a) of the 1997 Tax Code;

C) SURCHARGE:

20) Section 248(B) of the 1997 Tax Code provides that in case of willful neglect to file a return or in case of a false return, the penalty to be imposed is fifty percent of the tax or deficiency tax, in case any payment has been made on the basis of such return before the discovery of the falsity or fraud;

21) In this case, Petitioner filed a false income tax return as it subjected its taxable income for fiscal year that ended 31 March 2000 to a tax rate of ten percent under Section 27 (B) despite knowing fully well that it does not qualify therefrom as it has no permit to operate from TESDA for the year 1999-2000;

22) A false return has been define as a deviation from the truth, whether intentional or not (Aznar vs. CIR, G.R. L-20569, 23 August 2003);

23) Further, Petitioner willfully neglected to file a VAT return for taxable year 1999-2000. This is shown by the fact that it purposely did not file a VAT return for 1999-2000 notwithstanding the its failure to obtain a permit to

> operate from TESDA for the said period, thus, was not qualified to claim an exemption from VAT;"

Issues were joined and trial proceeded. Both parties presented their respective evidence and submitted their memoranda. Thus, on October 27, 2008, this Court issued a Resolution submitting the case for decision.[12]

The parties submitted the following issues for the Court's resolution:[13]

> "I
>
> Whether or not the Respondent is correct in disallowing the Php52,092.20 expense account in their books of account for the fiscal year that ended 31 March 2000 as deductions from Gross Income for being allegedly improperly supported in violation of Sec. 34 (A) (1) b of the Tax Code of 1997.
>
> II
>
> Whether or not the petitioner ('Informatics-Alabang') is an educational institution accredited by the TESDA for fiscal year ended 31 March 2000 and thus entitled to the preferential income tax rate of 10% as provided by Section 27 (B) of the National Internal Revenue Code.
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> III
>
> Whether or not ('Informatics-Alabang') is an educational institution accredited by TESDA for fiscal year ended March 31, 2000 and thus not subject to value added tax (VAT) on its transactions.
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> IV
>
> Whether or not the right of respondent Commissioner of Internal Revenue to assess petitioner Informatics Alabang has prescribed under Section 203 in relation to Section 114 of the National Internal Revenue Code.
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> V
>
> Whether or not petitioner Informatics Alabang is liable for the payment of a 50% surcharge on the assessed deficiency income tax and value added tax.
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> VI
>
> Whether Petitioner is liable for deficiency Income Tax for year ended March 31, 2000 plus surcharges and interest in the total amount of Php1,231,868.49 and deficiency Value-Added Tax

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[12] Docket, p. 600.
[13] Docket, pp. 228-229.

(VAT) plus surcharges and interest in the total amount of Php2,428,612.56 for the period covering the 1st to 4th quarters of taxable year ended March 31, 2000."

THIS COURT'S RULING

Whether petitioner is an educational institution accredited by TESDA for fiscal year ended March 31, 2000.

In order to prove that it is an educational institution accredited by the Technical Education and Skills Development Authority (TESDA), petitioner presented the following:

Exhibit	Description
DD	TESDA Certification dated May 26, 2005, stating that petitioner is an institution recognized by TESDA with Government Recognition No. V-0017 Series 1997 covering the year 1997-2001.
DD-1	TESDA Certification dated July 16, 2004, stating that petitioner is an institution recognized by the government, with Government Permit No. V-0031 s. 1995 dated November 16, 1995; Government Permit No. V-0017 s. 1997 dated December 9, 1997; Prov. Certificate of TVET Reg. No. 13-0124 s. 2001 dated August 7, 2001; Prov. Certificate of TVET Reg. No. 13-0143 s. 2002 dated August 30, 2002.
FF	Government Permit (NCR) No. V-0031 Series 1995 dated November 16, 1995, for the School Year 1995-1996 only.
FF-1	Government Recognition (NCR) No. V-0016 Series 1997 dated December 9, 1997, effective as of School Year 1996-1997.
FF-1	Government Recognition (NCR) No. V-0017 Series 1997 dated December 9, 1997, effective as of School Year 1996-1997.
KK	Affidavit of Ms. Irene M. Isaac.
LL	TESDA Order No. 502 s. 1998.

During the July 2, 2008 hearing, witness Irene M. Isaac, Director of TESDA, testified that petitioner was issued TESDA recognitions, and such recognitions are in continuity; to quote:

"ATTY. FAGELA
Q. Are you familiar with the petitioner in this case, Informatics Alabang Center, Inc.?

MS. ISAAC
A. Familiar in the sense that their program is recognized by the government thru TESDA.

ATTY. FAGELA
Q. So, do you recall having issued TESDA recognitions to Informatics Alabang Center, Inc.?

MS. ISAAC
A. Yes, your Honor.

ATTY. FAGELA
Q. If shown to you, would you be able to recognize these recognitions?

MS. ISAAC
A. Yes.

ATTY. FAGELA
Your Honors, I am showing to the witness Exhibit FF-1 attached to the record.

Q. Ms. Witness, can you look at this document captioned as Government Recognition and marked as Exhibit FF-1. What relation does this document bear to the recognition that you mentioned?

MS. ISAAC
A. This is the document that shows that Alabang Informatics is authorized to offer those two (2) programs that are so stated.

ATTY. FAGELA
I am showing to the witness a document marked as Exhibit FF-2 and also captioned as Government Recognition.

Q. Can you identify this document, Ms. Witness?

MS. ISAAC
A. That is the document that shows Government Recognition for the programs so stated, your Honor.

ATTY. FAGELA
Q. In Exhibit FF-1, a signature appears above the name, Irene M. Isaac. Can you identify that signature?

MS. ISAAC
A. Yes, that is my signature.

ATTY. FAGELA
Q. In Exhibit FF-2, there is a signature that appears above the name, Irene M. Isaac. Can you identify this signature?

MS. ISAAC
A. Yes, that is my signature.

ATTY. FAGELA
Q. So, do you confirm that you were the one who issued these Government Recognitions?

MS. ISAAC
A. Yeah, in my capacity as Regional Director of TESDA-NCR.

ATTY. FAGELA
Q. What is the significance of these of these Government Recognitions, if any?

MS. ISAAC
A. Government Recognition is issued to an institution authorizing the conduct of the program in those institutions.

xxx xxx xxx

ATTY. FAGELA
Q. Ms. Witness, do you know if petitioner was still recognized by TESDA in 1999?

MS. ISAAC
A. The recognition is issued in continuity as so stated in the TESDA Order of Director General Elisio Dela Torre.

ATTY. FAGELA
Q. So, do you confirm that Informatics Alabang Center was still recognized by TESDA in 1999?

MS. ISAAC
A. Yes, your Honor.

ATTY. FAGELA
Q. In 1999, were you still the Regional Director for TESDA-NCR?

MS. ISAAC
A. Yes, your Honor.

ATTY. FAGELA
Q. And were you still the Regional Director for TESDA-NCR in the year 2000?

MS. ISAAC
A. Yes, your Honor.

ATTY. FAGELA
Q. Do you know if petitioner was still recognized by TESDA in the year 2000?

MS. ISAAC
A. Yes, your Honor.

xxx xxx xxx

ATTY. FAGELA

xxx xxx xxx

Q. Ms. Witness, what is the relevance of Exhibit LL, the TESDA Order that you made mentioned in your Affidavit, to your claim that petitioner was still accredited by TESDA in 1999 and 2000?

xxx xxx xxx

MS. ISAAC
A. TESDA Order 502 states that all the government recognitions that had been issued shall remain to be valid until a training regulation is promulgated by the TESDA.

xxx xxx xxx

ATTY. FAGELA
You can continue now, Ms. Witness. gr

MS. ISAAC
A. TESDA Order 502 states that all TVET programs that had been recognized shall continue to be recognized until a new and pertinent training regulation is issued/is promulgated by the TESDA.

ATTY. FAGELA
Q. Ms. Witness, I am showing to you the penultimate paragraph of Exhibit FF-1. It is states that, '*It is also stipulated that the government recognition hereby granted does not extend to any branch of the said school nor to any other course, grade or curricular year.*' I am calling your attention particularly to the phrase, '*curricular year*'. You said that this recognition was still valid in 1999 and 2000. Do you confirm that?

MS. ISAAC
A. TESDA Order 502 was issued to state that all of those government recognitions previously issued are valid until a new training regulation is issued.

ATTY. FAGELA
Q. So, are you aware of when the training regulation was issued?

MS. ISAAC
A. The training regulation pertinent to this government recognition of Two-Year Diploma in Computer Studies and Two-Year Advance Diploma in Computer Studies, the pertinent training regulation was issued in 2005.

ATTY. FAGELA
Q. So, before 2005, do you confirm that government recognitions, Exhibit FF-1 and Exhibit FF-2, were still valid?

MS. ISAAC
A. Yes, your Honor.

ATTY. FAGELA
Q. So, again, do you confirm that these government recognitions pre-marked as Exhibits FF-1 and FF-2, were valid in 1999 and 2000?

MS. ISAAC
A. Yes, your Honor."

On the other hand, respondent did not present any documentary evidence showing that petitioner was not duly recognized nor presented witness from TESDA to controvert Ms. Isaac's testimony.

Accordingly, this Court must give credence to petitioner's claim that it is a government-recognized educational institution as established by petitioner's documentary and testimonial evidence. Ms. Isaac is a credible witness as she was then Regional Director of TESDA-NCR, and knew of the certificates of recognitions and/or government recognition granted to petitioner.

Is petitioner subject to value-added tax?

The Court answers in the negative.

Sec. 105 of the NIRC of 1997 provides:

> "SEC. 105. *Persons Liable.* — Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.
>
> The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of Republic Act No. 7716.
>
> The phrase '*in the course of trade or business*' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a nonstock, nonprofit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.
>
> The rule of regularity, to the contrary notwithstanding, services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in the course of trade or business." *gr*

In relation thereto, Section 109 (1) (H) of the same Code provides:

"SEC. 109. *Exempt Transactions.*- (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:

xxx xxx xxx

(H) Educational services rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA) and those rendered by government educational institutions;

xxx xxx xxx"

As previously discussed, petitioner is an educational institution duly recognized by the TESDA. Thus, under Section 109(1)(H) of the NIRC of 1997, petitioner is exempt from paying VAT.

Issue on prescription

Sections 203 and 222 of the NIRC of 1997 provide:

"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 a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be 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."

"SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* —

(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: *Provided,* That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

> (b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.
>
> xxx xxx xxx"

Pursuant to the above-quoted Section 203 of the NIRC, the three-year period to assess commences from the date of actual filing of the return or from the last date prescribed by law for the filing of such return, whichever comes later.

It is respondent's contention that the applicable prescriptive period for the assessment is ten (10) years for petitioner filed a false income tax return and failed to file VAT returns.

As regards the allegation of filing of false income tax return, records show that there was no finding that petitioner filed false Annual Income Tax Return or that there was intention to evade tax whereby the Government was placed at a disadvantage so as to prevent its lawful agent from making a proper assessment of tax liabilities due to fraudulent returns. Thus, the 10-year prescriptive period within which to assess deficiency tax does not apply.[14] Moreover, there is no merit in respondent's argument that petitioner filed a false return when it subjected its income tax to the preferential tax rate of 10% applicable to proprietary educational institution under Section 27(B) of the NIRC of 1997, as amended. Being an educational institution recognized by TESDA, petitioner is entitled to the preferential tax rate of 10%. Jc

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[14] *Commissioner of Internal Revenue v. The Estate of Benigno P. Toda, Jr., represented by Special Co-Administrators Lorna Kapunan and Mario Luza Bautista*, G.R. No. 147188, September 14, 2004; *Aznar vs. Court of Tax Appeals*, L-20569, August 23, 1974.

Proceeding therefrom, respondent has three years within which to assess petitioner for deficiency taxes, as provided in Section 203 of the NIRC, as amended.

Now, Section 77(B) of the NIRC provides that the final adjustment return shall be filed on or before the fifteenth (15th) day of April, or on or before the fifteenth (15th) day of the fourth (4) month following the close of the fiscal year, as the case may. As petitioner observes fiscal year ending in March 2000, respondent has 3 years counted from April 15, 2000 or until April 14, 2003 within which to assess petitioner for deficiency income tax.

In the present case, petitioner received the Formal Assessment Notice on September 4, 2004, which is beyond the reglementary period. However, respondent argues that petitioner executed Waivers of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code.

Petitioner executed the first Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code on January 28, 2002, and it was accepted by the BIR on March 10, 2002. A scrutiny of the first Waiver shows that petitioner was not furnished a copy of the first Waiver.

In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue,*[15] the Supreme Court pointed out that under RMO No. 20-90, the waiver must be executed in three copies with the second copy for the taxpayer; and that there is compliance with the provision of RMO No. 20-90 only after the taxpayer receives the copy of the waiver accepted by the BIR. The jc

[15] G.R. No. 162852, December 16, 2004.

requirement to furnish the taxpayer with a copy of the waiver is not only to give notice of the existence of the document but of the acceptance by the BIR and the perfection of the agreement. Therefore, the first Waiver is defective and the three-year prescriptive period was not tolled or extended.

It is also noted that the second and third Waivers were executed on September 19, 2003, and March 10, 2004. As respondent's right to assess deficiency income tax for fiscal year 1999-2000 has prescribed on April 14, 2003, there was no more period that can be extended when petitioner executed the second and third Waivers.[16] As pointed out by the Supreme Court in *Bank of the Philippine Islands vs. Commissioner of Internal Revenue,*[17] one of the requisites of a valid waiver is that the waiver must be executed *before* the expiration of the ordinary prescriptive periods for assessment and collection. As there was no valid waiver previously agreed upon, no valid extension can be made.[18]

In the case of deficiency VAT, the period to assess deficiency VAT shall be counted from the last day prescribed for filing of the return, which is twenty-five (25) days following the close of each taxable quarter. However, if the return was filed beyond the period prescribed by law, the three-year period shall be counted from the day the return was filed. Nonetheless, as previously determined, petitioner is exempt from VAT pursuant to Section 109(1)(H) of the NIRC of 1997.

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[16] *Philippine Hoteliers, Inc. vs. Commissioner of Internal Revenue*, C.T.A. Case No. 6985, March 9, 2009.
[17] G.R. No. 139736, October 17, 2005.
[18] *Luzon Packaging Products, Inc. vs. Vinzons-Chato*, C.T.A. Case No. 5016, June 23, 1997.

Other Issues

As respondent's right to assess and to collect deficiency income tax has prescribed, the resolution of the first, second, and fifth issues becomes moot.

WHEREFORE, the Petition for Review is hereby **GRANTED.** The Formal Assessment Notice dated August 20, 2004 against petitioner for deficiency income tax and value-added tax in the sum of THREE MILLION SIX HUNDRED SIXTY THOUSAND FOUR HUNDRED EIGHTY-ONE and FIVE CENTAVOS (P3,660,481.05) for taxable year ended March 31, 2000 is hereby **WITHDRAWN** and **CANCELLED**.

SO ORDERED.

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

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ERNESTO D. ACOSTA
Presiding Justice