Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

PILIPINAS SHELL PETROLEUM CORPORATION,
Respondent.

G.R. No. 197945

x - x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

PILIPINAS SHELL PETROLEUM CORPORATION and PETRON CORPORATION,
Respondents.

G.R. Nos. 204119-20

Present:

LEONARDO-DE CASTRO,*
Acting Chairperson,
PERALTA,**
DEL CASTILLO,
TIJAM, and
GESMUNDO,*** *JJ.*

Promulgated:

JUL 09 2018

x- -x

DECISION

LEONARDO-DE CASTRO, *J.*:

Before the Court are consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court, as amended, filed by petitioner Commissioner of Internal Revenue (CIR):

---

* Per Special Order No. 2559 dated May 11, 2018.
** Per Raffle dated February 26, 2018.
*** Per Special Order No. 2560 dated May 11, 2018.

1. **G.R. No. 197945** assailing the Decision[1] dated February 22, 2011 and Resolution[2] dated July 27, 2011 of the Court of Tax Appeals (CTA) in CTA *En Banc* Case No. 535; and

2. **G.R. Nos. 204119-20** assailing the Decision[3] dated March 21, 2012 and Resolution[4] dated October 10, 2012 of the Court of Appeals in CA-G.R. SP Nos. 55329-30.

Respondents Pilipinas Shell Petroleum Corporation (Shell) and Petron Corporation (Petron) are domestic corporations engaged in the production of petroleum products and are duly registered with the Board of Investments (BOI) under the Omnibus Investments Code of 1987.[5]

On different occasions during 1988 to 1996, respondents separately sold bunker oil and other fuel products to other BOI-registered entities engaged in the export of their own manufactured goods (BOI export entities).[6] These BOI-registered export entities used Tax Credit Certificates (TCCs) originally issued in their name to pay for these purchases.

To proceed with this mode of payment, the BOI-registered export entities executed Deeds of Assignment in favor of respondents, transferring the TCCs to the latter. Subsequently, the Department of Finance (DOF), through its One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center (DOF Center), approved the Deeds of Assignment.[7]

Thereafter, respondents sought the DOF Center's permission to use the assigned TCCs in settling respondents' own excise tax liabilities. The DOF Center issued Tax Debit Memoranda (DOF TDMs) addressed to the Collection Program Division of the Bureau of Internal Revenue (BIR),[8] allowing respondents to do so.

Thus, to pay for their excise tax liabilities from 1992 to 1997 (Covered Years),[9] respondents presented the DOF TDMs to the BIR. The BIR accepted the TDMs and issued the following: (a) TDMs signed by the

---

1 *Rollo* (G.R. No. 197945), pp. 62-109;.penned by Associate Justice Cielito N. Mindaro-Grulla with Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino and Amelia R. Cotangco-Manalastas concurring.

2 Id. at 110-117.

3 *Rollo* (G.R. Nos. 204119-20), pp. 52-68; penned by Associate Justice Ramon A. Cruz with Associate Justices Rosalinda Asuncion-Vicente and Antonio L. Villamor concurring.

4 Id. at 70-71.

5 Executive Order No. 226 dated July 16, 1987.

6 *Rollo* (G.R. Nos. 204119-20), p. 213.

7 The DOF Center was created pursuant to Administrative Order No. 266 dated February 7, 1992, in relation to EO 226, to centralize tax credit availment processing. It is composed of representatives from the DOF, the BOI, the Bureau of Customs, and the Bureau of Internal Revenue.

8 *See* Joint Stipulation of Facts and Issues in CTA Case No. 5728; *rollo* (G.R. Nos. 204119-20), pp. 579-580.

9 Inclusive of the years 1992, 1994 to 1997 for respondent Shell and 1993 to 1997 for respondent Petron.

BIR Assistant Commissioner for Collection Service[10] (BIR TDMs); (b) Authorities to Accept Payment for Excise Taxes (ATAPETs) signed by the BIR Regional District Officer; and (c) corresponding instructions to BIR's authorized agent banks to accept respondents' payments in the form of BIR TDMs.[11]

Three significant incidents arising from the foregoing antecedents resulted in the filing of several petitions before this Court, *viz.*:

Significant Incidents	Resultant Petition/s before the Court
(a) 1998 Collection Letters issued by the BIR against respondents	G.R. Nos. 204119-20 (one of the present petitions)
(b) 1999 Assessments issued by the BIR against respondents	*Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*, G.R. No. 172598, December 21, 2007 (*2007 Shell Case*) *Petron Corporation v. Commissioner of Internal Revenue*, G.R. No. 180385, July 28, 2010 (*2010 Petron Case*)
(c) 2002 Collection Letter issued by the BIR against respondent Shell	G.R. No. 197945 (one of the present petitions)

Said incidents and petitions are discussed in detail below.

A. 1998 Collection Letters (G.R. Nos. 204119-20)

In its collection letters[12] dated April 22, 1998 (1998 Collection Letters) addressed to respondents' respective presidents, the BIR[13] pointed out that respondents partly paid for their excise tax liabilities during the Covered Years using TCCs issued in the names of other companies; invalidated respondents' tax payments using said TCCs; and requested respondent Shell and respondent Petron to pay their delinquent tax liabilities amounting to ₱1,705,028,008.06 and ₱1,107,542,547.08, respectively. The 1998 Collection Letters similarly read:

> Our records show that for the years x x x, you have been paying part of your excise tax liabilities in the form of Tax Credit Certificate (TCC) which bear the name of a company other than yours in violation of Rule IX of the Rules and Regulations issued by the Board of Investments to implement P.D. No. 1789 and B.P. 391. **Accordingly, your payment through the aforesaid TCC's are considered invalid and therefore,**

---

10 *See* Joint Stipulation of Facts and Issues in CTA Case No. 5728; *rollo* (G.R. Nos. 204119-20), p. 579, and Amended Joint Stipulation of Facts and Issues in CTA Case No. 6547; *rollo* (G.R. No. 197945), p. 882. *See* also petitioner's Memorandum dated April 27, 2015; *rollo* (G.R. No. 197945), pp. 931, 934.

11 *See* Amended Joint Stipulation of Facts and Issues in CTA Case No. 6547; *rollo* (G.R. No. 197945), p. 883.

12 *Rollo* (G.R. Nos. 204119-20), pp. 141, 269.

13 Through its Revenue District Officer Ruperto P. Somera.

> **you are hereby requested to pay** the amount of x x x inclusive of delinquency for late payments as of even date, covering the years heretofore mentioned within thirty days (30) from receipt hereof, **lest we will be constrained to resort to administrative and legal remedies available in accordance with law.** (Emphasis supplied.)

Respondents separately filed their administrative protests[14] against the 1998 Collection Letters, but the BIR denied[15] said protests. The BIR maintained that the transfers of the TCCs from the BOI-registered export entities to respondents and the use of the same TCCs by respondents to pay for their self-assessed specific tax liabilities were invalid, and reiterated its demand that respondents pay their delinquent taxes.

This prompted respondent Petron to file a Petition for Review[16] before the CTA docketed as CTA Case No. 5657.

As for respondent Shell, it first requested for reconsideration of the denial of its protest by the BIR.[17] However, while said request for reconsideration was pending, the BIR issued a Warrant of Garnishment[18] against respondent Shell. Taking this as a denial of its request for reconsideration, respondent Shell likewise filed a Petition for Review[19] before the CTA docketed as CTA Case No. 5728.

In their respective petitions before the CTA, respondents raised similar arguments against petitioner, to wit: (a) The collection of tax without prior assessment was a denial of the taxpayer's right to due process; (b) The use of TCCs as payment of excise tax liabilities was valid; (c) Since the BIR approved the transfers and subsequent use of the TCCs, it was estopped from questioning the validity thereof; and (d) The BIR's right to collect the alleged delinquent taxes had already prescribed.

The CTA granted respondents' petitions in separate Decisions both dated July 23, 1999, decreeing as follows:

CTA Case No. 5657

> WHEREFORE, in view of the foregoing, the instant Petition for Review is hereby GRANTED. The collection of the alleged delinquent excise taxes in the amount of ₱1,107,542,547.08 is hereby CANCELLED AND SET ASIDE for being contrary to law. Accordingly, [herein petitioner and BIR Regional Director of Makati, Region No. 8] are

---

14 *Rollo* (G.R. Nos. 204119-20), pp. 152-156, 289-301, and 302-307.
15 Id. at 161, 308-318.
16 Id. at 247-266.
17 Id. at 161-165.
18 Signed by BIR Regional Director Antonio I. Ortega and received by Shell on July 17, 1998. (Id. at 166.)
19 Id. at 113-140.

> ENJOINED from collecting the said amount of taxes against [herein respondent Petron].[20]
>
> CTA Case No. 5728
>
> IN LIGHT OF ALL THE FOREGOING, the instant petition for review is GRANTED. The collection letter issued by [herein petitioner] dated April 22, 1998 is considered withdrawn and he is ENJOINED from any attempts to collect from [herein respondent Shell] the specific tax, surcharge and interest subject of this petition.[21]

In both Decisions, the CTA upheld the validity of the TCC transfers from the BOI-registered export entities to respondents, the latter having complied with the requirements of transferability. The CTA further ruled that the BIR's attempt to collect taxes without an assessment was a denial of due process and a violation of Section 228[22] of the National Internal Revenue Code of the Philippines of 1997 (Tax Code). The CTA also noted that the BIR might have purposely avoided the issuance of a formal assessment because its right to assess majority of respondents' alleged delinquent taxes had already prescribed.

Petitioner's motions for reconsideration of the above-mentioned decisions were denied by the CTA.[23] Thus, petitioner CIR sought recourse before the Court of Appeals[24] through the consolidated petitions docketed as CA-G.R. SP Nos. 55329-30.

However, the Court of Appeals dismissed the petitions and found the transfer and utilization of the subject TCCs were valid, in accordance with the *2007 Shell Case*.[25] The appellate court eventually denied petitioner's motion for reconsideration.

Undaunted, petitioner CIR filed the present petition docketed as G.R. Nos. 204119-20.

B. 1999 Assessments (The *2007 Shell Case* and *2010 Petron Case*)

During the pendency of the consolidated petitions in CA-G.R. SP Nos. 55329-30 before the Court of Appeals, the DOF Center conducted

---

20 Id. at 477.

21 Id. at 109.

22 As amended by the Tax Reform Act of 1997, Republic Act No. 8424 (December 11, 1997).

23 In Resolutions dated September 7, 1999. *Rollo* (G.R. Nos. 204119-20), p. 112 and 246.

24 Prior to the effectivity of Republic Act No. 9282, a CTA decision is appealable to the Court of Appeals. After its enactment, the CTA became an appellate court of equal rank to the Court of Appeals. Thus, a decision of a CTA Division is appealable to the CTA *En Banc*.

25 *Pilipinas Shell Petroleum Corp. v. Commissioner of Internal Revenue*, 565 Phil. 613 (2007).

separate post-audit procedures[26] on all of the TCCs acquired and used by respondents during the Covered Years, requiring them to submit documents to support their acquisition of the TCCs from the BOI-registered export entities. As a result of its post-audit procedures, the DOF Center cancelled the first batch of the transferred TCCs[27] used by respondent Shell and Petron, with aggregate amount of ₱830,560,791.00 and ₱284,390,845.00, respectively.

Following the cancellation of the TCCs, petitioner issued separate assessment letters to respondents in November 1999 (1999 Assessments) for the payment of deficiency excise taxes, surcharges, and interest for the Covered Years, which were also covered by the 1998 Collection Letters. Respondents filed their respective administrative protests against said assessments. While petitioner denied respondent Shell's protest, he did not act upon that of respondent Petron.

B.1 The *2007 Shell Case*

Respondent Shell raised petitioner's denial of its protest through a petition for review before the CTA, docketed as CTA Case No. 6003. The CTA Division rendered a Decision dated August 2, 2004 granting said petition and cancelled and set aside the assessment against respondent Shell; but then the CTA *en banc*, in its Decision dated April 28, 2006, set aside the CTA Division's judgment and ordered respondent Shell to pay petitioner deficiency excise tax, surcharges, and interest. Hence, respondent Shell filed a petition for review before this Court docketed as G.R. No. 172598, the *2007 Shell Case*.

In its Decision in the *2007 Shell Case*, the Court cancelled the 1999 assessment against respondent Shell and disposed thus:

> WHEREFORE, the petition is GRANTED. The April 28, 2006 CTA *En Banc* Decision in CTA EB No. 64 is hereby REVERSED and SET ASIDE, and the August 2, 2004 CTA Decision in CTA Case No. 6003 disallowing the assessment is hereby REINSTATED. The assessment of respondent for deficiency excise taxes against petitioner for 1992 and 1994 to 1997 inclusive contained in the April 22, 1998 letter of respondent is cancelled and declared without force and effect for lack of legal basis. No pronouncement as to costs.[28]

In nullifying petitioner's assessments, the Court upheld the TCCs' validity, respondent Shell's qualifications as transferees of said TCCs, respondent Shell's status as a transferee in good faith and for value, and respondent Shell's right to due process.

---

26 In letters dated August 31, 1999 and September 1, 1999 [*Rollo* (G.R. No. 197945), pp. 732-734].

27 In a letter addressed to respondent Shell dated November 3, 1999 [*Rollo* (G.R. No. 197945), pp. 736-742] and a letter addressed to respondent Petron dated October 24, 1999.

28 *Pilipinas Shell Petroleum Corp. v. Commissioner of Internal Revenue*, supra note 25 at 657.

The *2007 Shell Case* became final and executory on March 17, 2008.[29]

B.2 The *2010 Petron Case*

Considering petitioner's inaction on its protest, respondent Petron likewise filed a petition for review with the CTA, docketed as CTA Case No. 6136, to challenge the assessment. In a Decision dated August 23, 2006, the CTA Division denied the petition and ordered respondent Petron to pay petitioner deficiency excise taxes, surcharges, and interest. Said judgment was subsequently affirmed by the CTA *En Banc* in its Decision dated October 30, 2007. This prompted respondent Petron to seek relief from this Court through a petition for review, docketed as G.R. No. 180385, the *2010 Petron Case*.[30]

Citing the *2007 Shell Case*, the Court similarly cancelled the 1999 assessment against respondent Petron and decided the *2010 Petron Case* as follows:

> WHEREFORE, premises considered, the petition is GRANTED and the October 30, 2007 CTA *En Banc* Decision in CTA EB No. 238 is, accordingly, REVERSED and SET ASIDE. In lieu thereof, another is entered invalidating respondent's Assessment of petitioner's deficiency excise taxes for the years 1995 to 1997 for lack of legal bases. No pronouncement as to costs.[31]

Entry of Judgment[32] was made in the *2010 Petron Case* on November 2, 2010.

C. 2002 Collection Letter (G.R. No. 197945)

Meanwhile, during the pendency of respondent Shell's CTA Case No. 6003 (which was eventually elevated to this Court in the *2007 Shell Case*), the BIR requested respondent Shell to pay its purported excise tax liabilities amounting to ₱234,555,275.48, in a collection letter[33] dated June 17, 2002 (2002 Collection Letter), which read:

---

29 As per Entry of Judgment, Supreme Court of the Philippines Second Division.
30 *Petron Corporation v. Commissioner of Internal Revenue*, 640 Phil. 163 (2010).
31 Id. at 188.
32 Supreme Court of the Philippines, First Division.
33 *Rollo* (G.R. No. 197945), p. 765.

Collection Letter

x x x x

Our records show that a letter dated January 30, 2002 was served to you by our Collection Service, for the collection of cancelled Tax Credit Certificates and Tax Debit Memos which were used to pay your 1995 to 1998 excise tax liabilities. Said cancellation was embodied in EXCOM Resolution No. 03-05-99 of the Tax & Duty Drawback Center of the Department of Finance. Upon verification by this Office, however, some of these TCCs/TDMs were already included in the tax case previously filed in [the] Court of Tax Appeals. Accordingly, the collectible amount has been reduced from ₱691,508,005.82 to ₱234,555,275.48, the summary of which is hereto attached for your ready reference.

Basic	₱ 87,893,876.00
Surcharge	21,973,469.00
Interest	124,687,930.48
TOTAL	₱ 234,555,275.48

In view thereof, **you are hereby requested to pay the aforesaid tax liability/ties within ten (10) days from receipt** hereof thru any authorized agent bank x x x **Should you fail to do so, this Office, much to our regret, will be constrained to enforce the collection of the said amount thru the summary administrative remedies provided by law, without any further notice**. (Emphasis supplied.)

DOF Executive Committee Resolution No. 03-05-99 referred to in the aforequoted Collection Letter prescribed the guidelines and procedures for the cancellation, recall, and recovery of fraudulently-issued TCCs.

Respondent Shell filed on July 11, 2002 its administrative protest[34] to the 2002 Collection Letter. However, without resolving said protest, petitioner[35] issued a Warrant of Distraint and/or Levy dated September 12, 2002 for the satisfaction of the following alleged tax delinquency of respondent Shell:

WHEREAS, THERE IS DUE FROM:

PILIPINAS SHELL PETROLEUM CORP.

x x x x

The sum of TWO HUNDRED THIRTY[-]FOUR MILLION FIVE HUNDRED FIFTY[-]FIVE THOUSAND TWO HUNDRED TWENTY[-]FIVE PESOS AND 48 CENTAVOS as Internal Revenue Taxes shown hereunder, plus all increments incident to delinquency.

---

34 Id. at 767-773.

35 Through BIR Assistant Commissioner Edwin R. Abella.

Assessment Notice No.	:	Unnumbered
Date Issued	:	January 30, 2002
Tax Type	:	Excise Tax
Period Covered	:	Various Dates (December 18, 1995 to July 03, 1997)
Amount	:	₱234,555,275.48

> WHEREAS, the said taxpayer failed and refused and still fails and refuses to pay the same notwithstanding demands made by this Office.[36]

Aggrieved, respondent Shell filed a petition for review[37] before the CTA docketed as CTA Case No. 6547, arguing that: (a) the issuance of the 2002 Collection Letter and Warrant of Distraint and/or Levy and enforcement of DOF Center's Executive Committee Resolution No. 03-05-99 violated its right to due process; (b) The DOF Center did not have authority to cancel the TCCs; (c) The TCCs' transfers and utilizations were valid and legal; (d) It was an innocent purchaser for value; (e) The BIR was estopped from invalidating the transfer and utilization of the TCCs; and (f) The BIR's right to collect had already prescribed.

The CTA Second Division ruled in favor of respondent Shell in its Decision[38] dated April 30, 2009:

> WHEREFORE, premises considered, the instant Petition for Review is hereby GRANTED. The Collection Letters and Warrant of Distraint and/or Levy are CANCELLED and declared without force and effect for lack of legal basis.[39]

After the CTA Division denied[40] his motion for reconsideration, petitioner elevated the case to the CTA *En Banc* via a petition for review[41] docketed as CTA EB No. 535.

In its Decision dated February 22, 2011, the CTA *En Banc* denied the petition and affirmed the judgment of the CTA Division.

The CTA *En Banc* resolved the issues relying on the *2007 Shell Case*. Pursuant to this ruling, the real issue is not whether the BOI-registered export entities validly procured the TCCs from the DOF Center, but whether respondent Shell fraudulently obtained the TCCs from said BOI-registered export entities.

The CTA *En Banc* brushed aside petitioner's argument that respondent Shell was aware that the transferred TCCs were subject to post-audit procedures. It explained that the TCCs were valid and effective upon

---

36 *Rollo* (G.R. No. 197945), p. 731.
37 Id. at 681-730.
38 Id. at 174-216.
39 Id. at 215.
40 In a Resolution dated August 18, 2009. (Id. at 239-242.)
41 Id. at 243-301.

issuance and were not subject to post-audit procedures as a suspensive condition. Further, the TCCs could no longer be cancelled once these had been fully utilized or duly applied against any outstanding tax liability of an innocent transferee for value.

In this regard, the CTA *En Banc* found that respondent Shell did not participate in any fraud attending the issuance of the TCCs, as well as its subsequent transfers. Thus, respondent Shell is an innocent transferee in good faith and for value and could not be prejudiced by fraud attending the TCCs' procurement.

In the absence of fraud, petitioner could only reassess Shell for deficiency tax within the three-year prescriptive period under Section 203 of the Tax Code, not the 10-year period under Section 222(a) of the same Code. Further, petitioner violated respondent Shell's right to due process when he issued the 2002 Collection Letter without a Notice of Informal Conference (NIC) or a Preliminary Assessment Notice as required by Revenue Regulations No. (RR) 12-99.

The CIR moved for reconsideration but was denied.

Hence, petitioner now comes before this Court citing in the petitions at bar the following errors allegedly committed by the courts *a quo* in G.R. Nos. 204119-20 and G.R. No. 197945:

G.R. Nos. 204119-20

The Court of Appeals erred:

I.

IN NOT HOLDING THAT RESPONDENTS SHELL AND PETRON WERE NOT QUALIFIED TRANSFEREES OF THE TAX CREDIT CERTIFICATES (TCCs) SINCE THEY WERE NOT SUPPLIERS OF DOMESTIC CAPITAL EQUIPMENT OR OF RAW MATERIAL AND/OR COMPONENTS TO THEIR TRANSFERORS.

II.

IN NOT HOLDING THAT SINCE RESPONDENTS WERE NOT QUALIFIED TRANSFEREES OF THE TCCs, THE SAME COULD NOT BE VALIDLY USED IN PAYING THEIR EXCISE TAX LIABILITIES.

III.

IN NOT HOLDING THAT GOVERNMENT IS NOT ESTOPPED FROM COLLECTING TAXES DUE TO THE MISTAKES OF ITS AGENTS.

IV.

IN NOT HOLDING THAT SHELL WAS ACCORDED DUE PROCESS IN PETITIONER'S ATTEMPT TO COLLECT ITS EXCISE TAX LIABILITIES.[42]

G.R. No. 197945

I. The CTA *EN BANC* COMMITTED GRIEVOUS ERROR IN NOT RULING ON THE VALIDITY OF THE TCCs AND ITS CONSEQUENT EFFECTS ON THE RIGHTS AND OBLIGATIONS ASSUMED BY RESPONDENT.

II. THE CTA *EN BANC* COMMITTED GRIEVOUS ERROR IN HOLDING THAT RESPONDENT IS AN INNOCENT TRANSFEREE OF THE DISPUTED TCCs IN GOOD FAITH.

III. THE CTA *EN BANC* COMMITTED GRIEVOUS ERROR IN RULING THAT RESPONDENT IS NOT LIABLE TO PAY EXCISE TAXES.

IV. THE CTA *EN BANC* COMMITTED GRIEVOUS ERROR IN HOLDING THAT THE GOVERNMENT IS ESTOPPED FROM NULLIFYING THE TCCs, AND DECLARING THEIR USE, TRANSFER AND UTILIZATION AS FRAUDULENT.

V. THE CTA *EN BANC* COMMITTED GRIEVOUS ERROR IN RULING THAT RESPONDENT WAS DENIED DUE PROCESS.

VI. THE CTA *EN BANC* COMMITTED A GRIEVOUS ERROR IN DECLARING THAT THE PERIOD TO COLLECT RESPONDENT'S UNPAID EXCISE TAXES HAS ALREADY PRESCRIBED.

VII. THE CTA *EN BANC* COMMITTED A GRIEVOUS ERROR IN RULING THAT RESPONDENT IS NOT LIABLE TO PAY SURCHARGES AND INTERESTS.[43]

The Ruling of the Court

The petitions are without merit.

The issues concerning the transferred TCCs' validity, respondents' qualifications as transferees of said TCCs, and the respondents' valid use of the TCCs to pay for their excise tax liabilities for the Covered Years had been finally

---

42 *Rollo* (G.R. Nos. 204119-20), pp. 24-25.

43 *Rollo* (G.R. No. 197945), pp. 25-26.

settled in the 2007 Shell Case and 2010 Petron Case and are already barred from being re-litigated herein by the doctrine of res judicata in the concept of conclusiveness of judgment.

While the present petitions, on one hand, and the *2007 Shell Case* and *2010 Petron Case*, on the other hand, involve identical parties and originate from the same factual antecedents, there are also substantial distinctions between these cases, for which reason, the Court cannot simply dismiss the former on account of the latter based on the doctrine of *res judicata* in the concept of "bar by prior judgment."

The *2007 Shell Case* and *2010 Petron Case* were assessment cases. These initiated from respondents' protests of the **1999 Assessments** issued by petitioner CIR against them for deficiency excise taxes, surcharges, and interest, following cancellation of the transferred TCCs and the corresponding TDMs which respondents used to pay for said excise taxes. Said cases were primarily concerned with the legality and propriety of petitioner's issuance of the 1999 Assessments against respondents.

In contrast, the consolidated petitions now before the Court arose from respondents' protests of petitioner's **1998 and 2002 Collection Letters** for essentially the same excise tax deficiencies covered by the 1999 Assessments, but apparently issued and pursued by the petitioner and BIR separately from and concurrently with the assessment cases. At the crux of these cases is petitioner's right to collect the deficiency excise taxes from respondents.

In the instant petitions, petitioner asserts his right to collect as excise tax deficiencies the excise tax liabilities which respondents had previously settled using the transferred TCCs, impugning the TCCs' validity on account of fraud as well as respondents' qualifications as transferees of said TCCs. However, respondents already raised the same arguments and the Court definitively ruled thereon in its final and executory decisions in the *2007 Shell Case* and *2010 Petron Case*.

The re-litigation of these issues in the present petitions, when said issues had already been settled with finality in the *2007 Shell Case* and *2010 Petron Case*, is precluded by *res judicata* in the concept of "conclusiveness of judgment."

In *Ocho v. Calos*,[44] the Court extensively explained the doctrine of *res judicata* in the concept of "conclusiveness of judgment," thus:

---

[44] 399 Phil. 205, 215-218 (2000).

The doctrine of *res judicata* as embodied in Section 47, Rule 39 of the Rules of Court states:

> SECTION 47. *Effect of judgments or final orders.* – The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:
>
> x x x x
>
> (b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors-in-interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and
>
> (c) In any other litigation between the same parties or their successors-in-interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

It must be pointed out at this point that, contrary to the insistence of the Caloses, the doctrine of *res judicata* applies to both judicial and quasi-judicial proceedings. The doctrine actually embraces two (2) concepts: the first is "bar by prior judgment" under paragraph (b) of Rule 39, Section 47, and the second is "**conclusiveness of judgment" under paragraph (c)** thereof. In the present case, the second concept – conclusiveness of judgment – applies. The said concept is explained in this manner:

> **[A] fact or question which was in issue in a former suit and was there judicially passed upon and determined by a court of competent jurisdiction, is conclusively settled by the judgment therein as far as the parties to that action and persons in privity with them are concerned and cannot be again litigated in any future action between such parties or their privies, in the same court or any other court of concurrent jurisdiction on either the same or different cause of action, while the judgment remains unreversed by proper authority.** It has been held that in order that a judgment in one action can be conclusive as to a particular matter in another action between the same parties or their privies, **it is essential that the issue be identical**. If a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be **final and conclusive** in the second if that same point or question was in issue and adjudicated in the first suit. x x x.

Although the action instituted by the Caloses in Adm. Case No. 006-90 (Anomalies/Irregularities in OLT Transfer Action and Other Related Activities) is different from the action in Adm. Case No. (X)-014 (Annulment of Deeds of Assignment, Emancipation Patents and Transfer Certificate of Titles, Retention and Recovery of Possession and Ownership), the concept of conclusiveness of judgment still applies because under this principle **"the identity of causes of action is not required but merely identity of issues."**

[Simply] put, **conclusiveness of judgment bars the relitigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action**. In *Lopez vs. Reyes*, we expounded on the concept of conclusiveness of judgment as follows:

> The general rule precluding the relitigation of material facts or questions which were in issue and adjudicated in former action are commonly applied to all matters essentially connected with the subject matter of litigation. Thus it extends to questions necessarily involved in an issue, and necessarily adjudicated, or necessarily implied in the final judgment, although no specific finding may have been made in reference thereto, and although such matters were directly referred to in the pleadings and were not actually or formally presented. Under this rule, if the record of the former trial shows that the judgment could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties, and if a judgment necessarily presupposes certain premises, they are as conclusive as the judgment itself. Reasons for the rule are that a judgment is an adjudication on all the matters which are essential to support it, and that every proposition assumed or decided by the court leading up to the final conclusion upon which such conclusion is based is as effectually passed upon as the ultimate question which is solved.
>
> x x x x
>
> As held in *Legarda vs. Savellano*:
>
> x x x It is a general rule common to all civilized system of jurisprudence, that the solemn and deliberate sentence of the law, pronounced by its appointed organs, upon a disputed fact or a state of facts, should be regarded as a final and conclusive determination of the question litigated, and should forever set the controversy at rest. Indeed, it has been well said that this maxim is more than a mere rule of law; more even than an important principle of public policy; and that it is not too much to say that it is a fundamental concept in the organization of every jural system. Public policy and sound practice demand that, at the risk of occasional errors, judgments of courts should become final at some definite date fixed by law. The very

> object for which courts were constituted was to put an end to controversies.
>
> The findings of the Hearing Officer in Adm. Case No. 006-90, which had long attained finality, that petitioner is not the owner of other agricultural lands foreclosed any inquiry on the same issue involving the same parties and property. The CA thus erred in still making a finding that petitioner is not qualified to be a farmer-beneficiary because he owns other agricultural lands. (Emphases supplied, citations omitted.)

In the *2007 Shell Case*, the Court affirmed the validity of the TCCs, the transfer of the TCCs to respondent Shell, and the use of the transferred TCCs by respondent Shell to partly pay for its excise tax liabilities for the Covered Years. The Court ratiocinated as follows: *First*, the results of post-audit procedures conducted in connection with the TCCs should not operate as a suspensive condition to the TCCs' validity. *Second*, while it was one of the conditions appearing on the face of the TCCs, the post-audit contemplated therein did not pertain to the TCCs' genuineness or validity, but to computational discrepancies that might have resulted from their utilization and transfer. *Third*, the DOF Center or DOF could not compel respondent Shell to submit sales documents for the purported post-audit. As a BOI-registered enterprise, respondent Shell was a qualified transferee of the subject TCCs, pursuant to existing rules and regulations.[45] *Fourth*, respondent Shell was a transferee in good faith and for value as it secured the necessary approvals from various government agencies before it used and applied the transferred TCCs against its tax liabilities and it did not participate in the perpetuation of fraudulent acts in the procurement of the said TCCs. As a transferee in good faith, respondent Shell could not be prejudiced with a re-assessment of excise tax liabilities it had already settled when due using the subject TCCs nor by any fraud attending the procurement of the subject TCCs. *Fifth*, while the DOF Center was authorized to cancel TCCs it might have erroneously issued, it could no longer exercise such authority after the subject TCCs have already been utilized and accepted as payment for respondent Shell's excise tax liabilities. What had been used up, debited, and cancelled could no longer be voided and cancelled anew. While the State was not estopped by the neglect or omission of its agents, this principle could not be applied to the prejudice of an innocent transferee in good faith and for value.

And *finally*, the Court found in the *2007 Shell Case* that respondent Shell's right to due process was violated. Petitioner did not issue a Notice of Informal Conference (NIC) and Preliminary Assessment Notice (PAN) to respondent Shell, in violation of the formal assessment procedure required by Revenue Regulations No. (RR) 12-99.[46] Petitioner merely relied on the

---

45 October 5, 1982 Memorandum of Agreement between DOF and BOI, and the rules implementing the Omnibus Investments Code of 1987.

46 Dated September 6, 1999. Subject: Implementing the Provisions of the National Internal Revenue

DOF Center's findings supporting the cancellation of respondent Shell's TCCs. Thus, the Court voided the assessment dated November 15, 1999 issued by the CIR against herein respondent Shell.

On the other hand, the Court resolved the *2010 Petron Case* in accordance with its ruling in the *2007 Shell Case*, reiterating that: *First*, the subject TCCs' validity and effectivity should be immediate and should not be dependent on the outcome of a post-audit as a suspensive condition. *Second*, respondent Petron could not be prejudiced by fraud alleged to have attended such issuance as it was not privy to the issuance of the subject TCCs and it had already used said TCCs in settling its tax liabilities. *Third*, respondent Petron was also an innocent transferee in good faith and for value because it was a qualified transferee of the TCCs based on existing rules and regulations and the TCCs' transfers were approved by the appropriate government agencies. And *fourth*, while the government cannot be estopped from collecting taxes by the mistake, negligence, or omission of its agents, the rights of a transferee in good faith and for value should be protected.

The Court's aforementioned findings in the *2007 Shell Case* and *2010 Petron Case* are conclusive and binding upon this Court in the petitions at bar. *Res judicata* by conclusiveness of judgment bars the Court from re-litigating the issues on the TCCs' validity and respondents' qualifications as transferees in these cases. As a result of such findings in the *2007 Shell Case* and *2010 Petron Case*, then respondents could not have had excise tax deficiencies for the Covered Years as they had validly paid for and settled their excise tax liabilities using the transferred TCCs.

In any case, the present petitions are dismissed as petitioner violated respondents' right to due process for failing to observe the prescribed procedure for collection of unpaid taxes through summary administrative remedies.

The Court dismisses the present petitions for it cannot allow petitioner to collect any excise tax deficiency from respondents by mere issuance of the 1998 and 2002 Collection Letters. Petitioner had failed to comply with the prescribed procedure for collection of unpaid taxes through summary administrative remedies and, thus, violated respondents' right to due process.

Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

That taxation is an essential attribute of sovereignty and the lifeblood of every nation are doctrines well-entrenched in our jurisdiction. Taxes are the government's primary means to generate funds needed to fulfill its mandate of promoting the general welfare and well-being of the people[47] and so should be collected without unnecessary hindrance.[48]

While taxation *per se* is generally legislative in nature, collection of tax is administrative in character.[49] Thus, Congress delegated the assessment and collection of all national internal revenue taxes, fees, and charges to the BIR.[50] And as the BIR's chief, the CIR has the power to make assessments and prescribe additional requirements for tax administration and enforcement.[51]

The Tax Code provides two types of remedies to enforce the collection of unpaid taxes, to wit: (a) ***summary administrative remedies***, such as the distraint and/or levy of taxpayer's property;[52] and/or (b) ***judicial remedies***, such as the filing of a criminal or civil action against the erring taxpayer.[53]

Verily, pursuant to the lifeblood doctrine, the Court has allowed tax authorities ample discretion to avail themselves of the most expeditious way to collect the taxes,[54] **including summary processes**, with as little interference as possible.[55] However, the Court, at the same time, has not hesitated to strike down these processes in cases wherein tax authorities disregarded due process.[56] The BIR's power to collect taxes must yield to the fundamental rule that no person shall be deprived of his/her property

---

47 *See Philippine Bank of Communications v. Commissioner of Internal Revenue*, 361 Phil. 916, 927 (1999); *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, 549 Phil. 886, 903 (2007).

48 *Commissioner of Internal Revenue v. Algue, Inc.*, 241 Phil. 829, 830 (1988).

49 De Leon, Hector S., *Fundamentals of Taxation* (2004 Ed.), p. 7.

50 Section 2 of the Tax Code provides, "**Powers and Duties of the Bureau of Internal Revenue**. - The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance and its powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. The Bureau shall give effect to and administer the supervisory and police powers conferred to it by this Code or other laws." This section amended Section 3 of the National Internal Revenue Code of the Philippines of 1977.

51 Section 6, Tax Code.

52 *See* Section 207, Tax Code. Formerly Sections 304 and 310 of the National Internal Revenue Code of the Philippines of 1977.

53 *See* Sections 203 and 220, Tax Code. Formerly Sections 318 and 319 of the National Internal Revenue Code of the Philippines of 1977.

54 *Commissioner of Internal Revenue v. Pineda*, 128 Phil. 146, 150 (1967).

55 *Philippine Bank of Communications v. Commissioner of Internal Revenue*, supra note 47 at 927.

56 *See Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, 652 Phil. 172, 188 (2010), *Commissioner of Internal Revenue v. Algue, Inc.*, supra note 48 at 836; *Commissioner of Internal Revenue v. Reyes*, 516 Phil. 176, 190 (2006); *Commissioner of Internal Revenue v. BASF Coating + INKS Phils., Inc.*, 748 Phil. 760, 772 (2014).

without due process of law.[57] **The rule is that taxes must be collected reasonably and in accordance with the prescribed procedure.**[58]

In the normal course of tax administration and enforcement, the BIR must first make an **assessment** then enforce the **collection** of the amounts so assessed. "An assessment is not an action or proceeding for the collection of taxes. x x x It is **a step preliminary, but essential** to warrant distraint, if still feasible, and, also, to establish a cause for judicial action."[59] The BIR may summarily enforce collection only when it has accorded the taxpayer **administrative due process**, which vitally includes the issuance of a valid assessment.[60] A valid assessment sufficiently informs the taxpayer in writing of the legal and factual bases of the said assessment, thereby allowing the taxpayer to effectively protest the assessment and adduce supporting evidence in its behalf.

In *Commissioner of Internal Revenue v. Reyes*[61] (*Reyes Case*), the petitioner issued an assessment notice and a demand letter for alleged deficiency estate tax against the taxpayer estate. The assessment notice and demand letter simply notified the taxpayer estate of petitioner's findings, without stating the factual and legal bases for said assessment. The Court, absent a valid assessment, refused to accord validity and effect to petitioner's collection efforts – which involved, among other things, the successive issuances of a collection letter, a final notice before seizure, and a warrant of distraint and/or levy against the taxpayer estate – and declared that:

> x x x [P]etitioner violated the cardinal rule in administrative law that the taxpayer be accorded due process. Not only was the law here disregarded, but no valid notice was sent, either. A void assessment bears no valid fruit.
>
> **The law imposes a substantive, not merely a formal, requirement. To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: thattaxpayers should be able to present their case and adduce supporting evidence.** In the instant case, respondent has not been informed of the basis of the estate tax liability. Without complying with the unequivocal mandate of first informing the taxpayer of the government's claim, there can be no deprivation of property, because no effective protest can be made. The

---

57 *See* Article III, Section 1, 1987 Constitution. Also *see Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, id. at 187.

58 *See Commissioner of Internal Revenue v. BASF Coating + INKS Phils., Inc.*, supra note 56 at 772 citing *Commissioner of Internal Revenue v. Algue, Inc.*, supra note 48 at 836.

59 *Alhambra Cigar & Cigarette Manufacturing Co. v. Collector of Internal Revenue*, 105 Phil. 1337 (1959), as quoted in *Republic v. De Yu*, 119 Phil. 1013, 1017 (1964).

60 *Commissioner of Internal Revenue v. BASF Coating + INKS Phils., Inc.*, supra note 56. Also *see Remedies of the Bureau in the Audit Process and Collection of Delinquent Accounts*, https://www.bir.gov.ph/index.php/taxpayer-bill-of-rights.html#remedies-of-the-bureau-in-the-audit-process-and-collection-of-delinquent-accounts. (Last visited January 11, 2018.)

61 Supra note 56.

> haphazard shot at slapping an assessment, supposedly based on estate taxation's general provisions that are expected to be known by the taxpayer, is utter chicanery.
>
> Even a cursory review of the preliminary assessment notice, as well as the demand letter sent, reveals the lack of basis for – not to mention the insufficiency of – the gross figures and details of the itemized deductions indicated in the notice and the letter. This Court cannot countenance an assessment based on estimates that appear to have been arbitrarily or capriciously arrived at. Although taxes are the lifeblood of the government, their assessment and collection "should be made in accordance with law as any arbitrariness will negate the very reason for government itself."[62] (Emphasis supplied.)

The Court similarly found that there was no valid assessment in *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*[63] (*BASF Coating Case*) as the assessment notice therein was sent to the taxpayer company's former address. Without a valid assessment, the Court pronounced that petitioner's issuance of a First Notice Before Issuance of Warrant of Distraint and Levy to be in violation of the taxpayer company's right to due process and effectively blocked any further efforts by petitioner to collect by virtue thereof. The Court ratiocinated that:

> It might not also be amiss to point out that petitioner's issuance of the First Notice Before Issuance of Warrant of Distraint and Levy violated respondent's right to due process because no valid notice of assessment was sent to it. An invalid assessment bears no valid fruit. The law imposes a substantive, not merely a formal, requirement. 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. In the instant case, respondent has not properly been informed of the basis of its tax liabilities. Without complying with the unequivocal mandate of first informing the taxpayer of the government's claim, there can be no deprivation of property, because no effective protest can be made.
>
> x x x x
>
> It is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution.[64]

---

62 Id. at 189-190.
63 Supra note 56.
64 Id. at 771-772.

It is worthy to note that in the *Reyes Case* and *BASF Coating Case*, there were assessments actually issued against the taxpayers therein, except that said assessments were adjudged invalid for different reasons (*i.e.*, for failing to state the factual and legal bases for the assessment in the *Reyes Case* and for sending the assessment to the wrong address in the *BASF Coating Case*). In the instant cases, petitioner did not issue at all an assessment against respondents prior to his issuance of the 1998 and 2002 Collection Letters. Thus, there is even more reason for the Court to bar petitioner's attempts to collect the alleged deficiency excise taxes through any summary administrative remedy.

In the present case, it is clear from the wording of the 1998 and 2002 Collection Letters that petitioner intended to pursue, through said collection letters, **summary administrative remedies** for the collection of respondents' alleged excise tax deficiencies for the Covered Years. In fact, in the respondent Shell's case, the collection letters were already followed by the BIR's issuance of Warrants of Garnishment and Distraint and/or Levy against it.

That the BIR proceeded with the collection of respondents' alleged unpaid taxes **without a previous valid assessment** is evident from the following: *First*, petitioner admitted in CTA Case Nos. 5728[65] and 6547 that: (a) the collections letters were not tax assessment notices; (b) the letters were issued solely based on the DOF Center's findings; and (c) the BIR never issued any preliminary assessment notice prior to the issuance of the collection letters. *Second*, although the 1998 and 2002 Collection Letters and the 1999 Assessments against respondents were for the same excise taxes for the Covered Years, the former were evidently not based on the latter. The 1998 Collection Letters against respondents were issued prior to the 1999 Assessments; while the 2002 Collection Letter against respondent Shell was issued even while respondent Shell's protest of the 1999 Assessment was still pending before the CTA. And *third*, assuming *arguendo* that the 1998 and 2002 Collection Letters were intended to implement the 1999 Assessments against respondents, the 1999 Assessments were already nullified in the *2007 Shell Case* and *2010 Petron Case*.

Absent a previously issued assessment supporting the 1998 and 2002 Collection Letters, it is clear that petitioner's attempts to collect through said collection letters as well as the subsequent Warrants of Garnishment and Distraint and/or Levy are void and ineffectual. If an invalid assessment bears no valid fruit, with more reason will no such fruit arise if there was no assessment in the first place.

---

65 *Rollo* (G.R. Nos. 204119-20), p. 580.

The period for petitioner to collect the alleged deficiency excise taxes from respondents through judicial remedies had already prescribed.

After establishing that petitioner could not collect respondents' alleged deficiency excise taxes for the covered years through summary administrative remedies without a valid assessment, the Court next determines whether petitioner could still resort to judicial remedies to enforce collection.

The Court answers in the negative as the period for collection of the respondents' alleged deficiency excise taxes for the Covered Years through judicial remedies had already prescribed.

The alleged deficiency excise taxes petitioner seeks to collect from respondents in the cases at bar pertain to the Covered Years, *i.e.*, 1992 to 1997, during which, the National Internal Revenue Code of the Philippines of 1977[66] (1977 NIRC) was the governing law. Pertinent provisions of the 1977 NIRC read:

> Sec. 318. *Period of Limitation Upon Assessment and Collection.* — Except as provided in the succeeding section, internal-revenue taxes shall be assessed **within five years** after the return was filed, and **no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period**. For the 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: *Provided*, That this limitation shall not apply to cases already investigated prior to the approval of this Code. (Emphasis Supplied)
>
> Sec. 319. *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 a failure to file a return, the tax may be assessed, or a **proceeding in court for the collection of such tax may be begun without assessment, at any time within ten 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) Where before the expiration of the time prescribed in the preceding section for the assessment of the tax, both the Commissioner and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

---

[66] Section 318 of the National Internal Revenue Code of 1977 (Presidential Decree No. 1158, [June 3, 1977]) was previously Section 331 of the National Internal Revenue Code of 1939 (Commonwealth Act No. 466, [June 15, 1939]).

> (c) Where the assessment of any internal revenue tax has been made within the period of limitation above-prescribed, such tax may be collected by distraint or levy or by a proceeding in court, but only if began (1) within five years after assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such five-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Under Section 318 of the 1977 NIRC, petitioner had five years[67] from the time respondents filed their excise tax returns in question to: (a) issue an assessment; and/or (b) file a court action for collection without an assessment. In the petitions at bar, respondents filed their returns for the Covered Years from 1992 to 1997, and the five-year prescriptive period under Section 319 of the 1977 NIRC would have prescribed accordingly from 1997 to 2002.

As the Court has explicitly found herein as well as in the *2007 Shell Case* and *2010 Petron Case*, petitioner failed to issue any valid assessment against respondents for the latter's alleged deficiency excise taxes for the Covered Years. Without a valid assessment, the five-year prescriptive period **to assess** continued to run and had, in fact, expired in these cases. Irrefragably, petitioner is already barred by prescription from issuing an assessment against respondents for deficiency excise taxes for the Covered Years. Resultantly, this also bars petitioner from undertaking any **summary administrative remedies**, *i.e.*, distraint and/or levy, against respondents for collection of the same taxes.

Unlike summary administrative remedies, **the government's power to enforce the collection through judicial action is not conditioned upon a previous valid assessment**. Sections 318 and 319(a) of the 1977 NIRC expressly allowed the institution of court proceedings for collection of taxes without assessment within five years from the filing of the tax return and 10 years from the discovery of falsity, fraud, or omission, respectively.[68]

---

[67] Section 318 was amended by Republic Act No. 8424, shortening the prescriptive period to assess and collect national internal revenue taxes from five to three years, to quote: "SECTION 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." (Emphasis supplied.)

[68] In case an assessment had been timely issued, Section 319(c) of the 1977 NIRC provided: "Where the assessment of any internal revenue tax has been made within the period of limitation above-prescribed, such tax may be collected by distraint or levy or by a proceeding in court, but only if began (1) within five years after assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such five-year period. x x x"

A judicial action for the collection of a tax is begun: (a) by the **filing of a complaint** with the court of competent jurisdiction, or (b) where the assessment is appealed to the Court of Tax Appeals, by **filing an answer to the taxpayer's petition for review** wherein payment of the tax is prayed for.[69]

From respondents' filing of their excise tax returns in the years 1992 to 1997 until the lapse of the five-year prescriptive period under Section 318 of the 1977 NIRC in the years 1997 to 2002, **petitioner did not institute any judicial action for collection of tax** as aforedescribed. Instead, petitioner relied solely on summary administrative remedies by issuing the collection letters and warrants of garnishment and distraint and/or levy without prior assessment against respondents. Sifting through records, it can be said that petitioner's earliest attempts to **judicially** enforce collection of respondents' alleged deficiency excise taxes were his **Answers** to respondents' Petitions for Review filed before the CTA in Case Nos. 5657, 5728, and 6547 on August 6, 1998,[70] March 2, 1999,[71] and November 29, 2002,[72] respectively.

Verily, in a long line of jurisprudence, the Court deemed the filing of such pleadings as effective tax collection suits so as to stop the running of the prescriptive period in cases where: (a) the CIR issued an assessment and the taxpayer appealed the same to the CTA;[73] (b) the CIR filed the answer praying for the payment of tax within five years after the issuance of the assessment;[74] and (c) at the time of its filing, jurisdiction over judicial actions for collection of internal revenue taxes was vested in the CTA, not in the regular courts.[75]

However, judging by the foregoing conditions, even petitioner's Answers in CTA Case Nos. 5657, 5728, and 6547 cannot be deemed judicial actions for collection of tax. *First*, CTA Case Nos. 5657, 5728, and 6547 were not appeals of assessments. Respondents went before the CTA to challenge the 1998 and 2002 Collection Letters, which, by petitioner's own admission, are not assessments. *Second*, by the time petitioner filed his Answers before the CTA on August 6, 1998, March 2, 1999, and November 29, 2002, his power to collect alleged deficiency excise taxes, the returns for which were filed from 1992 to 1997, had already partially prescribed, particularly those pertaining to the earlier portion of the Covered Years. *Third*, at the time petitioner filed his Answers before the CTA, the

---

69 *Palanca v. Commissioner of Internal Revenue*, 114 Phil. 203, 207 (1962).
70 *Rollo* (G.R. Nos. 204119-20), p. 199.
71 Id. at 72.
72 *Rollo* (G.R. No. 197945), p. 181.
73 *See Philippine National Oil Company v. Court of Appeals*, 496 Phil. 506 (2005); *Fernandez Hermanos, Inc. v. Commissioner of Internal Revenue*, 140 Phil. 31, 47 (1969); *Palanca v. Commissioner of Internal Revenue*, supra note 69.
74 *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, 510 Phil. 1 (2005).
75 *China Banking Corporation v. Commissioner of Internal Revenue*, 753 Phil. 58 (2015).

jurisdiction over judicial actions for collection of internal revenue taxes was vested in the regular courts, not the CTA.[76] Original jurisdiction over collection cases[77] was transferred to the CTA only on April 23, 2004, upon the effectivity of Republic Act No. 9282.[78]

Without either a **formal tax collection suit** filed before the court of competent jurisdiction or an **answer** deemed as a judicial action for collection of tax within the prescribed five-year period under Section 318 of the 1977 NIRC, petitioner's **power to institute a court proceeding for the collection of respondents' alleged deficiency excise taxes without an assessment had already prescribed** in 1997 to 2002.

The Court's ruling remains the same even if the 10-year prescriptive period under Section 319(a) of the 1977 NIRC, in case of falsity, fraud, or omission in the taxpayer's return, is applied to the present cases.

Even if the Court concedes, for the sake of argument, that respondents' returns for the Covered Years were false or fraudulent, Section 319(a) of the 1977 NIRC similarly required petitioner to (a) issue an assessment; and/or (b) file a court action for collection without an assessment, but within 10 years after the discovery of the falsity, fraud, or omission in the taxpayer's return. As early as the 1998 Collection Letters, petitioner could already be charged with knowledge of the alleged falsity or fraud in respondents' excise tax returns, which precisely led petitioner to invalidate respondents' payments using the transferred TCCs and to demand payment of deficiency excise taxes through said letters. The 10-year prescriptive period under Section 319(a) of the 1977 NIRC wholly expired in 2008 without petitioner issuing a valid assessment or instituting judicial action for collection.

The Court cannot countenance the tax authorities' non-performance of their duties in the present cases. 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.[79] 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.

In sum, petitioner's attempts to collect the alleged deficiency excise taxes from respondents are void and ineffectual because (a) the issues

---

76 *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, supra note 74.

77 In which the principal amount involved is one million pesos or more.

78 Entitled, "An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes."

79 *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, 488 Phil. 218, 229-230 (2004).

regarding the transferred TCCs' validity, respondents' qualifications as transferees of said TCCs, and respondents' use of the TCCs to pay for their excise tax liabilities for the Covered Years, had already been settled with finality in the *2007 Shell Case* and *2010 Petron Case*, and could no longer be re-litigated on the ground of *res judicata* in the concept of conclusiveness of judgment; (b) petitioner's resort to summary administrative remedies without a valid assessment was not in accordance with the prescribed procedure and was in violation of respondents' right to substantive due process; and (c) none of petitioner's collection efforts constitute a valid institution of a judicial remedy for collection of taxes without an assessment, and any such judicial remedy is now barred by prescription.

WHEREFORE, premises considered, the Court **DENIES** the petition of the Commissioner of Internal Revenue in G.R. No. 197945 and **AFFIRMS** the Decision dated February 22, 2011 and Resolution dated July 27, 2011 of the Court of Tax Appeals *en banc* in CTA *En Banc* Case No. 535.

The Court likewise **DENIES** the petition of the Commissioner of Internal Revenue in G.R. Nos. 204119-20 and **AFFIRMS** the Decision dated March 21, 2012 and Resolution dated October 10, 2012 of the Court of Appeals in CA-G.R. SP Nos. 55329-30.

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

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

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Acting Chief Justice