



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**COMMISSIONER OF INTERNAL
 REVENUE,**

G.R. No. 258947

Petitioner,

Present:

-versus-

GESMUNDO, C.J., *Chairperson*,
 CAGUIOA,
 INTING,
 GAERLAN, and
 DIMAAMPAO, JJ.

**COURT OF TAX APPEALS
 SECOND DIVISION and QL
 DEVELOPMENT, INC.,**

Promulgated:

MAR 29 2022

Respondents.

X-----X

DECISION

CAGUIOA, J.:

This is a Petition for *Certiorari* and Prohibition under Rule 65 (with Urgent Prayer for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction)¹ (Petition) filed by petitioner Commissioner of Internal Revenue (CIR) directly with the Court against respondents Court of Tax Appeals (CTA) Second Division (CTA Division) and QL Development, Inc. (QLDI), praying for the following reliefs:

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that the instant petition be given **DUE COURSE** and after consideration thereof:

1. **A TEMPORARY RESTRAINING ORDER and/or WRIT OF PRELIMINARY INJUNCTION** be **ISSUED** against the Second Division of the Court of Tax Appeals, enjoining the latter from proceeding with CTA Case No. 10291 and from implementing the prohibition against petitioner from collection

¹ Rollo, pp. 3-44.

of deficiency taxes against private respondent, pending resolution of the instant petition;

2. A **WRIT OF CERTIORARI** be **ISSUED** declaring the Resolutions dated 07 June 2021 and 11 December 2021, as well as the Writ of Prohibition enjoining petitioner from collecting deficiency taxes against private respondent for TY 2010 as **NULL and VOID** for being issued with grave abuse of discretion and/or lack of jurisdiction, setting aside the same;
3. A **WRIT OF PROHIBITION** be **ISSUED** to the Second Division of the Court of Tax Appeals, enjoining the latter from proceeding with CTA Case No. 10291, and from implementing the Writ of Prohibition against petitioner, and ordering the said court to dismiss the said case for lack of jurisdiction.

Other relief just and equitable under the premises are likewise prayed for.²

The CIR essentially challenges the June 7, 2021³ and December 11, 2021⁴ Resolutions in CTA Case No. 10291, which cancelled QLDI's deficiency tax assessment for taxable year 2010 on the ground of prescription and enjoined the CIR from collecting the assessed deficiency taxes against QLDI.

The Facts

On November 12, 2012, QLDI received a Letter of Authority (LOA) SN: eLA2010000021857/LOA-065-2012-00000060⁵ dated October 30, 2012, covering taxable year 2010 for deficiency taxes. On November 28, 2014, the CIR served the Preliminary Assessment Notice (PAN) together with the Details of Discrepancies⁶ to QLDI.⁷ Thereafter, QLDI filed its reply to the PAN on December 15, 2014.⁸

On December 12, 2014, the CIR sent out the Formal Assessment Notice (FAN) or Formal Letter of Demand⁹ (FLD) with Details of Discrepancies to QLDI.¹⁰ Despite receipt of the FAN/FLD, QLDI failed to file a protest within the 30-day period provided by law. Subsequently, as there was no disputed assessment to speak of, as no protest was filed, the CIR issued a Final Decision on Disputed Assessment¹¹ (FDDA), which QLDI received on March 3, 2015.

² Id. at 39-40; emphasis in the original.

³ Id. at 50-58. Signed by Associate Justices Juanito C. Castañeda, Jr. and Jean Marie A. Bacorro-Villena.

⁴ Id. at 59-73. Signed by Associate Justices Juanito C. Castañeda, Jr., Jean Marie A. Bacorro-Villena and Lane S. Cui-David.

⁵ Id. at 86.

⁶ Id. at 12, 87-91.

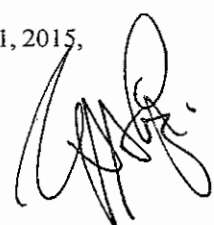
⁷ Id. at 12. *See also* id. at 104-105, where QLDI alleged that it received the PAN on December 11, 2014.

⁸ Id. at 105.

⁹ Attached to the Petition as Annex "F," Formal Letter of Demand with Details of Discrepancies dated December 11, 2014, id. at 92-96.

¹⁰ Id. at 57.

¹¹ Attached to the Petition as Annex "G," Final Decision on Disputed Assessment dated February 11, 2015, id. at 97.



QLDI filed with the CIR a request for reconsideration dated March 30, 2015, which was denied by the CIR in the Decision dated February 4, 2020.¹² Consequently, the CIR ordered QLDI to pay the deficiency taxes and the compromise penalty for taxable year 2010.

Proceedings before the CTA Division

On June 30, 2020, QLDI filed a Petition for Review¹³ before the CTA Division, challenging the CIR's February 4, 2020 Decision. Particularly, QLDI questioned the validity of the assessment against it, and the prescription of the CIR's right to collect taxes.

On March 5, 2021, QLDI filed a Motion for Early Resolution of the Issue of Prescription of Collection of Taxes with Motion to Defer Pre-Trial.¹⁴ QLDI alleged in its Motion that the CIR's right to collect taxes had already prescribed as early as December 12, 2019, or five years from the date of mailing/release/sending of the FAN/FLD on December 12, 2014.

On February 1, 2021, the CTA Division issued an Order stating that "Considering the manifestation of [the CIR's] counsel that he will no longer present evidence on the issue of prescription, but will instead present its evidence in the main case, the issue of prescription is now submitted for resolution."¹⁵

In the assailed Resolution dated June 7, 2021, the CTA Division held that the period within which the CIR may collect deficiency taxes had already lapsed. Accordingly, the CTA Division cancelled the assessment for deficiency taxes against QLDI for taxable year 2010.

The dispositive portion of the June 7, 2021 Resolution provided:

WHEREFORE, premises considered, petitioner's **Motion for Early Resolution of the Issue of Prescription of Collection of Taxes - with - Motion to Defer Pre-Trial** is **GRANTED**. Accordingly, the assessment for deficiency taxes for taxable year 2010 issued against petitioner and contained in the FAN/FLD dated December 11, 2014 and Questioned Decision dated February 4, 2020, is **CANCELLED**.

SO ORDERED.¹⁶

The CTA Division ruled that when an assessment is timely issued, the CIR has five years to collect the assessed tax, reckoned from the date the assessment notice had been released, mailed, or sent by the Bureau of Internal Revenue (BIR) to the taxpayer. Thus, in this case, the CIR had five years from December 12, 2014, or until December 12, 2019, to collect the deficiency

¹² Id. at 98.

¹³ Id. at 98-138.

¹⁴ Id. at 13.

¹⁵ Id. at 50.

¹⁶ Id. at 58; emphasis and underscoring in the original.

taxes. However, the CIR issued the BIR letters for the collection of taxes on various dates in 2020, which were all beyond December 12, 2019. Accordingly, the CTA Division ruled that the government's demand for payment of deficiency taxes was already barred by prescription.

The CIR filed a Motion for Reconsideration, which the CTA Division denied in its assailed Resolution dated December 11, 2021. The CTA Division enjoined the CIR from collecting from QLDI the deficiency taxes either by distraint or levy. It likewise held that its jurisdiction over "other matters" arising under the National Internal Revenue Code of 1997¹⁷ (NIRC) includes the issue as to whether the CIR's right to collect taxes has already prescribed. The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, petitioner's **Compliance [Re: Resolution dated March 3, 2021]** and **Compliance [Re: Resolution dated 05 July 2021]**, are **NOTED**. Thus, finding the surety bond and the attached documents to be in order, the surety bond is hereby **APPROVED**.

On the basis of the posting of the Surety Bond, respondents are hereby **ENJOINED** from collecting from petitioner the amount of tax subject of the present Petition for Review either by distraint, levy, or otherwise by any other means provided for by law, until further orders from the Court.

On the other hand, respondents' **Motion for Reconsideration (Re: Resolution dated 7 June 2021)** is **DENIED** for lack of merit.

SO ORDERED.¹⁸

Hence, the present Petition.

The Issue

The core of the issue is whether the CIR's right to collect taxes had already prescribed.

The Court's Ruling

After a careful study of the allegations and the records of this case, the Court resolves to dismiss the Petition and uphold the Resolutions dated June 7, 2021 and December 11, 2021 issued by the CTA Division.

The CIR availed itself of the wrong remedy in filing the instant Petition before the Court.

¹⁷ Republic Act No. 8424, December 11, 1997.

¹⁸ *Rollo*, pp. 72-73; emphasis in the original.



At the outset, it bears noting that the CIR directly filed a petition for *certiorari* and prohibition with the Court, alleging that the twin Resolutions issued by the CTA Division are interlocutory orders that cannot be appealed before the CTA *En Banc*.

In *CIR v. Court of Tax Appeals*,¹⁹ the Court held that the CTA *En Banc* has jurisdiction over a final judgment or order but not over an interlocutory order issued by the CTA Division. In reaching this conclusion, the Court explained the concept of a final judgment or order and distinguished it from an interlocutory order, as follows:

In *Denso (Phils.), Inc. v. Intermediate Appellate Court*, we expounded on the differences between a “final judgment” and an “interlocutory order,” to wit:

x x x A “final” judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, *e.g.*, an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of *res judicata* or prescription. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court except to await the parties’ next move x x x and ultimately, of course, to cause the execution of the judgment once it becomes “final” or, to use the established and more distinctive term, “final and executory.”

x x x x

Conversely, an order that does not finally dispose of the case, and does not end the Court’s task of adjudicating the parties’ contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is “interlocutory,” *e.g.*, an order denying a motion to dismiss under Rule 16 of the Rules x x x. Unlike a “final” judgment or order, which is appealable, as above pointed out, an “interlocutory” order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.²⁰

Given the distinctions between a final judgment or order and an interlocutory order, there is no doubt that the CTA Resolutions dated June 7, 2021 and December 11, 2021, which cancelled the assessment against QLDI on the basis of prescription and enjoined the CIR from collecting the deficiency taxes for taxable year 2010, are final judgments or orders. The

¹⁹ G.R. Nos. 203054-55, July 29, 2015, 764 SCRA 212.

²⁰ *Id.* at 222; italics in the original, citations omitted.

CIR's proper remedy on the adverse Resolutions of the CTA Division was to file an appeal by way of a petition for review with the CTA *En Banc*. Thus, the CIR's filing of the instant Petition before this Court assailing the twin Resolutions issued by the CTA Division is erroneous.

It is elementary in remedial law that the use of an erroneous remedy is a cause for the outright dismissal of the petition for *certiorari* and it has been repeatedly stressed that a petition for *certiorari* is not a substitute for a lost appeal. This is due to the nature of a Rule 65 petition which lies only where there is "no appeal," and "no plain, speedy and adequate remedy in the ordinary course of law."²¹

Nonetheless, even if the Court were to disregard the impropriety of the remedy resorted to by the CIR, the Petition would still be dismissed.

The CTA has jurisdiction over the case.

On the merits of the case, the CIR attributes grave abuse of discretion to the CTA Division when it assumed jurisdiction over QLDI's Petition for Review. The CIR claims that QLDI's failure to file a valid protest to the FAN/FLD rendered the assessment against it already final, executory, and demandable. As such, the assessments are not subject to judicial scrutiny, as it is already beyond the CTA Division's jurisdiction.

The CIR's argument must fail in light of Section 7(a)(1) of Republic Act No. (RA) 1125,²² as amended by RA 9282,²³ which confers upon the CTA the jurisdiction to decide not only cases on disputed assessments and refunds of internal revenue taxes, but also "other matters" arising under the NIRC:

SEC. 7. Jurisdiction. – The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, **or other matters arising under the National Internal Revenue [Code]** or other laws administered by the Bureau of Internal Revenue[.] (Emphasis supplied)

²¹ *Rondina v. Court of Appeals*, G.R. No. 172212, July 9, 2009, 592 SCRA 346, 355; citation omitted.

²² AN ACT CREATING THE COURT OF TAX APPEALS, June 16, 1954.

²³ 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, March 30, 2004.

Based on the foregoing provision, the exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or matters relating to assessments or refunds. In *CIR v. Hambrecht & Quist Philippines, Inc.*,²⁴ the Court held that the issue of prescription of the CIR's right to collect taxes is covered by the term "other matters" over which the CTA has appellate jurisdiction:

x x x [T]he issue of prescription of the BIR's right to collect taxes may be considered as covered by the term "other matters" over which the CTA has appellate jurisdiction.

Furthermore, the phraseology of Section 7, number (1), denotes an intent to view the CTA's jurisdiction over disputed assessments and over "other matters" arising under the NIRC or other laws administered by the BIR as separate and independent of each other. This runs counter to petitioner's theory that the latter is qualified by the status of the former, *i.e.*, an "other matter" must not be a final and unappealable tax assessment or, alternatively, must be a disputed assessment.²⁵

To be sure, the fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. However, the validity of the assessment itself is a separate and distinct issue from the issue of whether the right of the CIR to collect the validly assessed tax has prescribed. This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.²⁶

The CIR's right to collect taxes had prescribed. The three-year, and not the five-year, period applies to this case.

Regarding the period to collect taxes, the CTA Division held that when an assessment is timely issued, the CIR has five years within which to collect the assessed tax. Considering that the collection letters were issued beyond five years, the CIR's right to collect from QLDI the assessed deficiency taxes had already prescribed.

Section 203 of the NIRC, as amended, which provides for the prescriptive period in the assessment and collection of internal revenue taxes, reads:

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,

²⁴ G.R. No. 169225, November 17, 2010, 635 SCRA 162.

²⁵ *Id.* at 169.

²⁶ *Id.* at 170.

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.

In *CIR v. United Salvage and Towage (Phils.), Inc.*,²⁷ the Court held that in cases of assessments issued within the three-year ordinary period, the CIR has another three years within which to collect taxes, thus:

The statute of limitations on assessment and collection of national internal revenue taxes was shortened from five (5) years to three (3) years by virtue of *Batas Pambansa Blg. 700*. Thus, petitioner has three (3) years from the date of actual filing of the tax return to assess a national internal revenue tax or to commence court proceedings for the collection thereof without an assessment. However, **when it validly issues an assessment within the three (3)-year period, it has another three (3) years within which to collect the tax due by distraint, levy, or court proceeding.** The assessment of the tax is deemed made and the three (3)-year period for collection of the assessed tax begins to run **on the date the assessment notice had been released, mailed or sent to the taxpayer.**²⁸

Applying the foregoing ruling, the Court holds that the CTA Division erred when it applied the five-year period to collect taxes. The five-year period for collection of taxes only applies to assessments issued within the extraordinary period of 10 years in cases of false or fraudulent return or failure to file a return. Indeed, Section 222 of the NIRC, as amended, provides:

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.

X X X X

(c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in **paragraph (a) hereof** may be collected by distraint or levy or by a proceeding in court **within five (5) years** following the assessment of the tax. (Emphasis supplied)

Here, given that the subject assessment was issued within the three-year ordinary prescriptive period to assess, the CIR had another three years to initiate the collection of taxes by distraint or levy or court proceeding. Accordingly, since the FAN/FLD was mailed on December 12, 2014,²⁹ the CIR had another three years reckoned from said date, or until December 12,

²⁷ G.R. No. 197515, July 2, 2014, 729 SCRA 113.

²⁸ *Id.* at 133; emphasis supplied, citations omitted and italics in the original.

²⁹ *Rollo*, p. 57.

2017, to enforce collection of the assessed deficiency taxes. Verily, prescription had already set in when the CIR initiated its collection efforts only in 2020.³⁰ The Court also notes that regardless of which period to apply, *i.e.*, five years as determined by the CTA Division or three years, the CIR's collection efforts were, as they are, barred by prescription.

In an attempt to convince this Court that its right to collect the deficiency taxes had not yet prescribed, the CIR avers that the FDDA received by QLDI effectively operated as a collection letter for the satisfaction of deficiency tax liabilities.³¹

The Court finds no merit in the CIR's assertion.

To reiterate, the CIR's collection efforts are initiated by distraint, levy, or court proceeding. The distraint and levy proceedings are validly begun or commenced by the issuance of a warrant of distraint and levy and service thereof on the taxpayer.³² And a judicial action for the collection of a tax is initiated: (a) by the filing of a complaint with the court of competent jurisdiction; or (b) where the assessment is appealed to the CTA, by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for.³³ However, in this case no warrant of distraint and/or levy was served on QLDI, and no judicial proceedings were initiated by the CIR within the prescriptive period to collect.

At this juncture, the Court ought to reiterate that while taxes are the lifeblood of the nation, the Court cannot allow tax authorities indefinite and infinite periods to assess and collect alleged unpaid taxes. Certainly, it is an injustice to leave taxpayers in perpetual uncertainty whether they will be made liable for deficiency or delinquent taxes.³⁴ The Court has elaborated on the significance of adopting a statute of limitations on tax assessment and collection in this wise:

The law prescribing a limitation of actions for the collection of the income tax is beneficial both to the Government and to its citizens; to the Government because tax officers would be obliged to act promptly in the making of assessment, and to citizens because after the lapse of the period of prescription citizens would have a feeling of security against unscrupulous tax agents who will always find an excuse to inspect the books of taxpayers, not to determine the latter's real liability, but to take advantage of every opportunity to molest peaceful, law-abiding citizens. Without such legal defense taxpayers would furthermore be under obligation to always keep their books and keep them open for inspection subject to harassment by unscrupulous tax agents. The law on prescription being a remedial measure should be interpreted in a way conducive to bringing about the

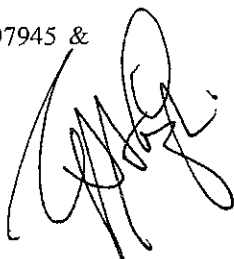
³⁰ *Id.*

³¹ *Id.* at 27.

³² *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, G.R. No. 139736, October 17, 2005, 473 SCRA 205, 224.

³³ *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. Nos. 197945 & 204119-20, July 9, 2018, 871 SCRA 183, 222.

³⁴ *Id.* at 225.



beneficent purpose of affording protection to the taxpayer within the contemplation of the Commission which recommends the approval of the law.³⁵

The CTA has authority to enjoin the collection of taxes; requirements.

The Court also rejects the CIR's argument that the CTA Division acted without jurisdiction when it was enjoined to collect taxes against QLDI. For the CIR, the CTA Division has no power to issue writs of injunction and prohibition, but may only suspend the collection of taxes.³⁶

While an injunction is not available to restrain the collection of taxes,³⁷ this rule admits of exception under Section 11 of RA 1125, as amended by RA 9282, which allows the suspension of collection of taxes if, in the Court's opinion, the collection may jeopardize the interest of the government and/or the taxpayer, *viz.* :

SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

x x x x

No appeal taken to the CTA from the decision of the Commissioner of Internal Revenue or the Commissioner of Customs or the Regional Trial Court, provincial, city or municipal treasurer or the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture, as the case may be, shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law: *Provided, however, That when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer the Court [at] any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court.* (Emphasis supplied)

Pursuant to the foregoing, the CTA may enjoin the collection of taxes if such collection will jeopardize the interest of the government or the

³⁵ *Commissioner of Internal Revenue v. The Stanley Works Sales (Phils.), Incorporated*, G.R. No. 187589, December 3, 2014, 743 SCRA 642, 654-655, citing *Republic of the Phils. v. Ablaza*, 108 Phil. 1105, 1108 (1960).

³⁶ *Rollo*, pp. 27-28.

³⁷ Section 218 of the NIRC, as amended, reads:

SEC. 218. *Injunction not Available to Restrain Collection of Tax.* – No court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by this Code.

taxpayer. In this regard, the Court ruled that the CTA has ample authority to issue injunctive writs to restrain the collection of tax,³⁸ especially in cases where prescription has set in.³⁹

To recall, the December 11, 2021 CTA Resolution enjoined the CIR from collecting the deficiency taxes against QLDI until further orders from the CTA Division. The Court finds that the CTA Division's act of enjoining the CIR from collecting deficiency taxes had sufficient basis, as it was centered on the finding that the CIR's right to collect the assessed deficiency taxes had already lapsed. Moreover, QLDI posted a surety bond, which the CTA Division approved.

On the strength of the foregoing observations, the Court cannot grant the CIR's application for injunctive relief. The CIR failed to establish that it is entitled to the reliefs demanded in the Petition.⁴⁰ Neither was it able to show the material and substantial invasion of a right sought to be protected. The application for a temporary restraining order and writ of preliminary injunction is therefore denied.⁴¹


WHEREFORE, premises considered, the Petition is **DISMISSED**. The June 7, 2021 and December 11, 2021 Resolutions of the Court of Tax Appeals Second Division in CTA Case No. 10291 are hereby **AFFIRMED**.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



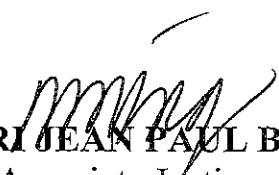
ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

³⁸ *Pacquiao v. Court of Tax Appeals, First Division*, G.R. No. 213394, April 6, 2016, 789 SCRA 19, 43.

³⁹ *See id.* at 43. *See also Collector of Internal Rev. v. Reyes and Court of Tax Appeals*, 100 Phil. 822, 831 (1957).

⁴⁰ RULES OF COURT, Rule 58, Sec. 3.

⁴¹ In *Cayabyab v. Dimson*, G.R. No. 223862, July 10, 2017, 830 SCRA 520, 528, the Court enumerated the requisites for an applicant to be entitled to the injunctive writ: (a) there exists a clear and unmistakable right to be protected; (b) the right is directly threatened by an act sought to be enjoined; (c) the invasion of the right is material and substantial; and (d) there is an urgent and paramount necessity for the writ to prevent serious and irreparable damage.


HENRI JEAN PAUL B. INTING
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.


ALEXANDER G. GESMUNDO
Chief Justice

