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trial court correctly dismissed the case against the latter. Petitioner's remedy now is to file a money claim in the settlement proceedings of de Villa's estate, if not too late, as indicated in Rule 86[29] of the Rules of Court.

WHEREFORE, the petition is hereby *DENIED*. The October 18, 2001 decision of the Court of Appeals in CA-G.R. CV No. 61755 is *AFFIRMED*.

Costs against petitioner.

SO ORDERED.

Puno (Chairperson), Sandoval-Gutierrez, and *Garcia, JJ.*, concur.

Azcuna, J., on official business.

SECOND DIVISION

[G.R. No. 150812. August 22, 2006]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **CITYTRUST BANKING CORPORATION,** *respondent.*

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[29] Sec. 5. Claims which must be filed under the notice. If not filed, barred; exceptions. — All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expenses for the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants . . .

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SYLLABUS

REMEDIAL LAW; APPEALS; FINDINGS OF THE COURT OF TAX APPEALS, RESPECTED.— Because of the CTA's recognized expertise in taxation, its findings are not ordinarily subject to review specially where there is no showing of grave error or abuse on its part. "This Court will not set aside lightly the conclusion reached by the Court of Tax Appeals which, by the very nature of its function, is dedicated exclusively to the consideration of tax problems and has necessarily developed an expertise on the subject, unless there has been an abuse or improvident exercise of authority."

APPEARANCES OF COUNSEL

The Litigation Division (BIR) for petitioner.
Pelaez Gregorio Sipin Bala & Robles for respondent.

D E C I S I O N

CORONA, *J.*:

The Commissioner of Internal Revenue (CIR) assails the decision[1] of the Court of Appeals (CA) and its resolution[2] upholding the decision of the Court of Tax Appeals (CTA) in CTA Case No. 4099 which ordered the refund of ₱13,314,506.14 to respondent Citytrust Banking Corporation (Citytrust)[3] as its alleged overpaid income taxes for the years 1984 and 1985.

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[1] Decision dated May 21, 2001; penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Fermin A. Martin, Jr. (retired) and Mercedes Gozo-Dadole (retired) of the Second Division of the Court of Appeals; *rollo*, pp. 17-23.

[2] Resolution dated October 26, 2001; penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Romeo A. Brawner (retired) and Mercedes Gozo-Dadole (retired) of the Second Division of the Court of Appeals; *id.*, pp. 24-26. Justice Brawner took the place of Justice Martin after the latter's retirement.

[3] Now absorbed by the Bank of the Philippine Islands.

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On May 28, 1991, the CTA ordered the CIR to grant Citytrust a refund in the amount of ₱13,314,506.14 representing Citytrust's overpaid income taxes for 1984 and 1985. The CIR filed a motion for reconsideration (MR) on the ground that the Certificate of Tax Withheld was inconclusive evidence of payment and remittance of tax to the Bureau of Internal Revenue. In its supplemental MR, the CIR alleged an additional ground: that Citytrust had outstanding deficiency income and business tax liabilities of ₱4,509,293.71[4] for 1984, thus, the claim for refund was not in order. The tax court denied both motions.

The case was elevated to the CA[5] in CA-G.R. SP No. 26839 but the appellate court affirmed the CTA's ruling. On petition for review on *certiorari* to this Court, however, we ruled that there was an apparent contradiction between the claim for refund and the deficiency assessments against Citytrust, and that the government could not be held in estoppel due to the negligence of its officials or employees, specially in cases involving taxes. For that reason, the case was remanded to the CTA for further reception of evidence.[6]

The tax court thereafter conducted the necessary proceedings. One of the exhibits presented and offered in the hearings was a letter dated February 28, 1995, signed by the CIR, stating the withdrawal and cancellation of the following assessments:[7]

Kind of Tax	Year Involved		Amount
1. [Deficiency] Fixed Tax	1984	₱	44,132.88

[4] *Rollo*, p. 33.

[5] Under RA 9282, the CTA was upgraded to the same level as the CA. Hence, upon its effectivity in 2004, decisions of the CTA are now appealable directly to the Supreme Court.

[6] See *Commissioner of Internal Revenue v. Court of Tax Appeals, et al.*, G.R. No. 106611, 21 July 1994, 234 SCRA 348.

[7] CTA Decision, *rollo*, p. 33. Penned by Presiding Judge Ernesto D. Acosta with Associate Judges Ramon O. de Veyra and Amancio Q. Saga concurring.

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2. [Deficiency] Withholding Tax on deposit substitutes (1-1-84 to 10-15-84)	1984	22,363,791.31
3. [Deficiency] Withholding Tax on deposit substitutes (10-15-84 to 12-31-84)	1984	11,292,140.50
4. [Deficiency] Documentary Stamp Tax on deposit substitutes	1984	17,825,342.30

In the same letter, the CIR demanded the following sums from Citytrust for 1984: (1) as deficiency income tax — ₱3,301,578.19; (2) as deficiency gross receipts tax — ₱1,193,090.52 and (3) as fixed tax as real estate dealer — ₱14,625. Citytrust paid these deficiency tax liabilities.[8]

From the exhibits presented to it, the CTA determined that: (1) the deficiency and gross receipts taxes had been fully paid and (2) the deficiency income tax was only partially settled.[9]

Except for a pending issue in another CTA proceeding,[10] Citytrust considered all its deficiency tax liabilities for 1984 fully settled, hence, it prayed that it be granted a refund. The CIR interposed his objection, however, alleging that Citytrust still had unpaid deficiency income, business and withholding

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[8] CTA Decision, *id.*, pp. 33-34.

[9] *Id.*, pp. 34-35.

[10] Petitioner only paid ₱2,405,940.90 of its deficiency income tax. The amount was the result of excluding the expenses allocable to non-taxable income from the tax base. The issue of whether expenses allocable to non-taxable income are deductible from the tax base was raised in a separate proceeding (CTA Case No. 5261, *Citytrust Banking Corporation v. The Commissioner of Internal Revenue*) which, at the time CTA decided CTA Case No. 4099, was still pending.

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taxes for the year 1985.[11] Due to these deficiency assessments, the CIR insisted that Citytrust was not entitled to any tax refund.

On October 16, 1997, the CTA set aside the CIR's objections and granted the refund.[12]

On May 21, 2001, the CA denied the CIR's petition for review[13] for lack of merit and affirmed the CTA decision.[14]

Before us in this petition for review on *certiorari*, the CIR contends that respondent is not entitled to the refund of ₱13,314,506.14 as alleged overpaid income taxes for 1984 and 1985. The CIR claims that the CA erred in not holding that payment by Citytrust of its deficiency income tax was an admission of its tax liability and, therefore, a bar to its entitlement to a refund of income tax for the same taxable year.

In resolving this case, the CTA did not allow a set-off or legal compensation of the taxes involved.[15] The CTA reasoned:

Again, the BIR interposed objection to the grant of such refund. **It alleged that there are still deficiency income, business and**

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[11] *Rollo*, pp. 35-36. The assessments were contained in a Delinquency Verification Slip dated June 5, 1990 (marked as Exhibit "5" before the CTA).

[12] *Id.*, p. 38.

[13] Docketed as CA-G.R. SP No. 46793.

[14] *Rollo*, p. 23.

[15] *Id.*, p. 38. *See* Vitug and Acosta, TAX LAW AND JURISPRUDENCE 46 (2000). *See also Francia v. Intermediate Appellate Court and Fernandez*, G.R. No. 67649, 28 June 1988, 162 SCRA 753 and *Caltex Philippines, Inc. v. Commission on Audit, et al.*, G.R. No. 92585, 8 May 1992, 208 SCRA 726. The prevalent rule in our jurisdiction disfavors set-off or legal compensation of tax obligations for the following reasons: (1) taxes are of a distinct kind, essence and nature, and these impositions cannot be so classed in merely the same category as ordinary obligations; (2) the applicable laws and principles governing each are peculiar, not necessarily common to each and (3) public policy is better subserved if the integrity and independence of taxes be maintained.

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withholding taxes proposed against petitioner for 1985. These assessments are contained in a **Delinquency Verification Slip, dated June 5, 1990,** which was marked as Exh. "5" for respondent. Due to these deficiency assessments, respondent insisted that petitioner is not entitled to any tax refund.

[The CTA] sets aside respondent's objection and grants to petitioner the refund of the amount of ₱13,314,506.14 on several grounds.

First, [respondent's position] violates the order of the Supreme Court in directing [the CTA] to conduct further proceedings for the reception of petitioner's evidence, and the disposition of the present case. Although the Supreme Court did not specifically mention what kind of petitioner's evidence should be entertained, [the CTA] is of the opinion that the **evidence should pertain only to the 1984 assessments which were the only assessments raised as a defense on appeal to the Court of Appeals and the Supreme Court.** The assessments embodied in Exhibit "5" of respondent were never raised on appeal to the higher [c]ourts. Hence, evidence related to said assessments should not be allowed as this will lead to endless litigation.

Second, **[the CTA] has no jurisdiction to try an assessment case which was never appealed to it.** With due respect to the Supreme Court's decision, it is [the CTA's] firm stand that in hearing a refund case, the CTA cannot hear in the same case an assessment dispute even if the parties involved are the same parties.[16] xxx xxx xxx. (Citations omitted and emphasis supplied)

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[16] *Rollo*, pp. 35-37, citing the CTA Resolution in CTA Case No. 4231, *Chemo-Technische Manufacturing, Inc. v. The Commissioner of Internal Revenue*, pp. 7-8, promulgated on August 31, 1995:

Our second reason why we refuse to take cognizance of petitioner's deficiency tax assessment is that to do so would create utter confusion among taxpayers. It is of common knowledge that the laws or rules governing claims for refund are separate and distinct from those applicable to assessment appeals. For example, the period of time to appeal a refund case is within (2) years from the date of payment, while the filing of an assessment appeal requires the observance of thirty (30) days from the date of receipt of denial of protest. Using this example for illustration, let us take a taxpayer who has an erroneously paid capital gains tax in August 1992. Sometime in August 1994, an assessment was issued against him for deficiency income tax for the same taxable year. Supposing, he immediately protested the said assessment but the BIR did not immediately act on his protest, will he still

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We uphold the findings and conclusion of the CTA and the CA.

Records show that this Court made no previous direct ruling on Citytrust's alleged failure to substantiate its claim for refund. Instead, the order of this Court addressed the apparent failure of the Bureau of Internal Revenue, by reason of the mistake or negligence of its officials and employees, to present the appropriate evidence to oppose respondent's claim.[17] In the earlier case, we directed the joint resolution of the issues of tax deficiency assessment and refund due to its particular circumstances.[18]

The CTA complied with the Court's order to conduct further proceedings for the reception of the CIR's evidence in CTA Case No. 4099. In the course thereof, Citytrust paid the assessed deficiencies to remove all administrative impediments to its claim for refund. But the CIR considered this payment as an admission of a tax liability which was inconsistent with Citytrust's claim for refund.

There is indeed a contradiction between a claim for refund and the assessment of deficiency tax. The CA pointed out that

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wait for the [BIR's] decision before he can go to [the CTA] to file his claim for refund? What about if the two-year period to appeal his refund is [nearing expiration], will he still wait indefinitely for the decision on his protest, so he can file both suits simultaneously with this Court? Of course, the answer will be No.

Now, let us reverse the scenario. Supposing, the [BIR's] assessment came first but this time no protest was made by the taxpayer. [H]ence, the assessment became final and executory and so, the [BIR] filed a collection case in the regular trial court. During the pendency of the collection suit, taxpayer discovered that he made an erroneous payment of a different kind of tax. To avoid multiplicity of suits, will the [BIR] allow the taxpayer to ventilate his claim for refund in the same collection case? Of course, the [BIR] will object on the ground of jurisdiction.

[17] *Rollo*, p. 31. See *Commissioner of Internal Revenue v. Court of Tax Appeals, supra.*

[18] *Commissioner of Internal Revenue v. Court of Tax Appeals, supra,* at 358.

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the case was remanded to the CTA for the reception of additional evidence precisely to resolve the apparent contradiction.

Because of the CTA's recognized expertise in taxation, its findings are not ordinarily subject to review specially where there is no showing of grave error or abuse on its part.[19]

> This Court will not set aside lightly the conclusion reached by the Court of Tax Appeals which, by the very nature of its function, is dedicated exclusively to the consideration of tax problems and has necessarily developed an expertise on the subject, unless there has been an abuse or improvident exercise of authority.[20]

WHEREFORE, the petition is hereby *DENIED*. The May 21, 2001 decision of the Court of Appeals in CA-G.R. SP No. 46793 is *AFFIRMED*.

SO ORDERED.

Puno (Chairperson), Sandoval-Gutierrez, and *Garcia, JJ.,* concur.

Azcuna, J., on official business.

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[19] See *Philippine Refining Company* (now known as Unilever Philippines [PRC], Inc.) *v. Court of Appeals*, 326 Phil. 680 (1996).

[20] *Sea-Land Service, Inc. v. Court of Appeals*, G.R. No. 122605, 30 April 2001, 357 SCRA 441, 445-446.