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THIRD DIVISION

[G.R. No. 105208. May 29, 1995]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* THE PHILIPPINE AMERICAN LIFE INSURANCE CO., THE COURT OF TAX APPEALS and THE COURT OF APPEALS, *respondents.*

SYLLABUS

1. **TAXATION; TAX REFUND; PRESCRIPTIVE PERIOD TO CLAIM THEREFOR IN CASE TAXPAYER FILES INCOME TAX RETURNS ON A QUARTERLY BASIS.** -- It is true that in the *Pacific Procon* case, we held that the right to bring an action for refund had prescribed, the tax having been found to have been paid at the end of the first quarter when the withholding tax corresponding thereto was remitted to the Bureau of Internal Revenue, not at the time of filing of the Final Adjustment Return in April of the following year. However, this case was overturned by the Court in *Commissioner of Internal Revenue v. TMX Sales Incorporated and the Court of tax Appeals,* wherein we said: ". . . in resolving the instant case, it is necessary that we consider not only Section 292 (now Section 230) of the National Internal Revenue Code but also the other provisions of the Tax Code, particularly Sections 84, 85 (now both incorporated as Section 68), Section 86 (now Section 70) and Section 87 (now Section 69) on Quarterly Corporate Income Tax Payment and Section 321 (now Section 232) on keeping of books of accounts. All these provisions of the Tax Code should be harmonized with each other." Section 292 (now Section 230) stipulates that the two-year prescriptive period to claim refunds should be counted from date of payment of the tax sought to

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be refunded. When applied to tax payers filing income tax returns on a quarterly basis, the date of payment mentioned in Section 292 (now Section 230) must be deemed to be qualified by Sections 68 and 69 of the present Tax Code. It may be observed that although quarterly taxes due are required to be *paid* within sixty days from the close of each quarter, the fact that the amount shall be *deducted* from the tax due for the succeeding quarter shows that until a final adjustment return shall have been filed, the taxes paid in the preceding quarters are merely partial taxes due from a corporation. Neither amount can serve as the final figure to quantify what is due the government nor what should be refunded to the corporation. This interpretation may be gleaned from the last paragraph of Section 69 of the Tax Code which provides that the refundable amount, in case a refund is due a corporation, is that amount which is shown on its final adjustment return and not on its quarterly returns. Therefore, when private respondent paid P3,246,141.00 on May 30, 1983, it would not have been able to ascertain on that date, that the said amount was refundable. The same applies with cogency to the payment of P396,874.00 on August 29, 1983.

2. **ID.; ID.; ID.; RUNS ONLY FROM THE TIME THE REFUND IS ASCERTAINED, WHICH CAN ONLY BE DETERMINED AFTER A FINAL ADJUSTMENT RETURN IS ACCOMPLISHED.** — The prescriptive period of two years should commence to run only from the time that the refund is ascertained, which can only be determined after a final adjustment return is accomplished. In the present case, this date is April 16, 1984, and two years from this date would be April 16, 1986. The record shows that the claim for refund was filed on December 10, 1985 and the petition for review as brought before the CTA on January 2, 1986. Both dates are within the two-year reglementary period.

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Private respondent being a corporation, Section 292 (now Section 230) cannot serve as the sole basis for determining the two-year prescriptive period for refunds. As we have earlier said in the *TMX Sales* case, Sections 68, 69, and 70 on Quarterly Corporate Income Tax Payment and Section 321 should be considered in conjunction with it.

3. ID.; ID.; ID.; MAY BE SUSPENDED FOR REASONS OF EQUITY AND OTHER SPECIAL CIRCUMSTANCES.- Even if the two-year period had already lapsed, the same is not jurisdictional and may be suspended for reasons of equity and other special circumstances.

VITUG, *J., concurring opinion*:

1. TAXATION; CORPORATIONS; INCOME TAX RETURNS ON A CUMULATIVE BASIS FOR PRECEDING QUARTER; MUST BE RENDERED WITHIN SIXTY (. — Domestic corporations, as well as foreign corporations engaged in trade or business in the Philippines, are required to render within sixty days following the close of each quarter income tax returns on a *cumulative basis* for the preceding quarter or quarters, upon which their income tax is paid, and a *final adjustment* return on or before the 15th day of April or of the fourth month following the close of the fiscal year covering the *entire* taxable income of the preceding calendar or fiscal year. The tax thus computed, adjusted and thereupon paid each time for any of the quarters preceding the last quarter of the taxable year is *provisional* in nature. The income tax liability of taxpayers is determined on the basis of a full taxable period.

2. ID.; TAX REFUND; LIMITATIONS ON ACTION TO CLAIM THEREFOR. — Section 230 of the National Internal Revenue Code precludes any suit or proceeding from being maintained in any court

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for the recovery of any national internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum said to have been excessive or in any manner wrongfully collected unless (a) a written claim for the refund or credit thereof has been duly filed with the Commissioner *and* (b) the suit or proceeding shall have been instituted within two years from the date of payment of the tax or penalty regardless of any supervening cause that might arise after such payment (revoking the rule announced in Commissioner *vs.* National Power Corporation, 31 SCRA 112 and Commissioner *vs.* Victorias Milling Company, 22 SCRA 13).

3. **ID.; ID.; ID.; TWO (2) YEAR PRESCRIPTIVE PERIOD TO FILE CLAIMS; APPLICATION.** — The two-year period, it may be observed, is a limitation of action not only in submitting the written claim for the refund of the tax to the Commissioner but likewise in filing the case (appeal) with the Court of Tax Appeals (which has jurisdiction thereover exclusive of the regular courts). This two-year period, unlike the thirty-day period of appeal from the decision of the Commissioner, is not jurisdictional and it may thereby be suspended under exceptional circumstances. It may also be well to point out, parenthetically, that this two-year prescriptive period is intended to apply to suits or proceedings for the recovery of taxes, penalties or sums erroneously, excessively, illegally or wrongfully collected; accordingly, an availment of a tax credit granted by law may have a different prescriptive period. Absent any specific provision in the Tax Code or special laws, that period would be ten years under Article 1144 of the Civil Code.

4. **ID.; ID.; ID.; ID.; STARTS FROM THE FULL AND FINAL PAYMENT OF THE TAX SOUGHT**

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TO BE RECOVERED. — Whenever applicable, the two-year prescriptive period starts from the *full* and *final* payment of the tax sought to be recovered. In Collector of Internal Revenue *vs.* Prieto, the Court quoted with approval the disquisition of the court of Tax Appeals thusly: "The defunct Board of Tax Appeals in the case of RCA Communications, Inc. *vs.* David (B.T.A. Case No. 116, Resolution, June 18, 1953) held that when the tax is paid in installments, the prescriptive period of two years provided in Section 306 of the Revenue Code should be counted from the date of the final payment. We agree with this view as being reasonable and which appears to be the uniform doctrine in American jurisdiction. This rule proceeds from the theory that, in contemplation of tax laws, there is no payment until the whole or entire tax liability is completely paid. Thus, a payment of a part or portion thereof, can not operate to start the commencement of the statute of limitations. In this regard the word 'tax,' or words 'the tax' in statutory provisions comparable to Section 306 of our Revenue Code have been uniformly held to refer to the entire tax and not a portion thereof (Clark *vs.* U.S. 69 F. 2d 748; A.S. Kriedner Co. *vs.* U.S. 30 F Supp. 724; Hills *vs.* U.S. 50 F 2d 302, 55 F 2d 1001), and the vocables 'payment of tax' within statutes requiring refund claim, refer to the date when all the tax was paid, not when a portion was paid (Braun *vs.* U.S. 8 F Supp. 860, 863)."

5. **ID.; ID.; ID.; ID.; IN CASES OF THE QUARTERLY INCOME TAX PAYMENT SYSTEM FOR CORPORATION, DEEMED TO START ONLY FROM THE TIME THE FINAL ADJUSTMENT TAX IS DUE AND DEMANDABLE.** — The two-year period, in the case of the quarterly income tax payment system for corporations, should be deemed to start only from the time the final adjustment tax is due and payable. In Gibbs *vs.*

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Commissioner, the Court said that if the tax is withheld at source, a concept similar to, *albeit* not on all fours with, the corporate quarterly tax payment scheme, the two year period starts when the tax falls due at the end of the taxable year. In fine, corporate income tax payments for the first three quarters of the taxable year should, for purposes of the two-year prescriptive period, be deemed to have been paid on the 15th day of April or of the fourth month following the close of the fiscal year covering the entire taxable income of the preceding calendar or fiscal year.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Anita A. Dimalanta-Arcinue for private respondents.

D E C I S I O N

ROMERO, *J.*:

This is a petition for review on certiorari filed by petitioner, Commissioner of Internal Revenue, of the Decision[1] dated March 26, 1992 of the Court of Appeals in CA-GR No. 26598, entitled "*Commissioner of Internal Revenue v. The Philippine American Life Insurance Co. & the Court of Tax Appeals*" affirming the decision of respondent Court of Tax Appeals which ordered the refund to the Philippine American Life Insurance Co. (Philamlife) of the amount of P3,643,015.00 representing excess corporate income taxes for the first and second quarters of 1983.

Private respondent filed a case before the Court of Tax Appeals (CTA) docketed as CTA Case No.

[1] CA - G.R. No. 26598, Jose C. Campos, Jr., *J*, ponente, Alfredo M. Marigomen and Fortunato A. Vailoces, *JJ.*, concurring; *Rollo*, p. 49.

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4018 entitled "The Philippine American Life Insurance Company *versus* Commissioner of Internal Revenue."

On September 16, 1991, the CTA rendered a decision in the above-entitled case, the dispositive portion of which states:

"WHEREFORE, petitioner's claim for refund for P3,246,141.00 and P396,874.00 representing excess corporated income tax payments for the first and second quarters of 1983, respectively, or a total of P3,643,015.00 is hereby GRANTED. Accordingly, respondent Commissioner of Internal Revenue, is hereby ordered to refund to petitioner Philippine American Life Insurance Company the total amount of P3,643,015.00.

With respect to petitioner's claim for refund of P215,742.00 representing 1983 withholding taxes on rental income the same is hereby DENIED for failure to present proof of actual withholding and payment with the Bureau of Internal Revenue. No costs."

The facts, uncontroverted by petitioner, are:

On May 30, 1983, private respondent Philamlife paid to the Bureau of Internal Revenue (BIR) its first quarterly corporate income tax for Calendar Year (CY) 1983 amounting to P3,246,141.00.

On August 29, 1983, it paid P396,874.00 for the Second Quarter of 1983.

For the Third Quarter of 1983, private respondent declared a net taxable income of P2,515,671.00 and a tax due of P708,464.00. After crediting the amount of P3,899,525.00 it declared a refundable amount of P3,158,061.00.

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For its Fourth and Final quarter ending December 31, private respondent suffered a loss and thereby had no income tax liability. In return for that quarter, it declared a refund of P3,991,841.00 representing the first and second quarterly payments: P215,742.00 as withholding taxes on rental income for 1983 and P133,084.00 representing 1982 income tax refund applied as 1983 tax credit.

In 1984, private respondent again suffered a loss and declared no income tax liability. However, it applied as tax credit for 1984, the amount of P3,991,841.00 representing its 1982 and 1983 overpaid income taxes and the amount of P250,867.00 as withholding tax on rental income for 1984.

On September 26, 1984, private respondent filed a claim for its 1982 income tax refund of P133,084.00. On November 22, 1984, it filed a petition for review with the Court of Tax Appeals (C. T. A. Case No. 3868) with respect to its 1982 claim for refund of P133,084.00.

On December 16, 1985, it filed another claim for refund with petitioner's appellate division in the aggregate amount of P4,109,624.00, computed as follows:

"1982 income tax refundable applied as tax credit	—	P 133,084.00
1983 income tax refundable applied as tax credit	—	P3,858,757.00
1984 tax credit on rental	—	P 250,867.00
T o t a l		P 4,242,708.00

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Less:	1983 claim for refund already filed with the BIR and the CTA (Case No. 3868) —	P 133,084.00
Net Amount Refundable —		P 4,109,624.00"

On January 2, 1986, private respondent filed a petition for review with the CTA, docketed as CTA Case No. 4018 regarding its 1983 and 1984 claims for refund in the above-stated amount.

Later, it amended its petition by limiting its claim for refund to only P3,858,757.00 computed as follows:

"Calendar Year

Ending 12-31-83	*Date paid*	*O.R. No.*	*Amount Paid*
First Quarter	5-30-83	B2269337	P3,246,141.00
Second Quarter	8-29-83	B19381	396,874.00
1983 Withholding Tax on rental income			215,742.00
1983 Income Tax Refundable			P3,858,757.00"

The issue in this case is the reckoning date of the two-year prescriptive period provided in Section 230 of the National Internal Revenue Code (formerly Section 292) which states that:

"Recovery of tax erroneously or illegally collected. - No suit or proceeding shall be maintained in any court

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for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

Forfeiture of refund. - A refund check or warrant issued in accordance with the pertinent provisions of this Code which shall remain unclaimed or uncashed within five (5) years from the date the said warrant or check was mailed or delivered shall be forfeited in favor of the government and the amount thereof shall revert to the General Fund."

Petitioner poses the following question: In a case such as this, where a corporate taxpayer remits/ pays to the BIR tax withheld on income for the first quarter but whose business operations actually resulted in a loss for that year, as reflected in the Corporate Final Adjustment Return subsequently filed with the BIR, should not the running of the prescriptive period commence from the remittance/ payment at the end of the first quarter of the withheld *instead* of from the filing of the Final Adjustment Return?

In support of its contention, petitioner cites the case of *Pacific Procon Ltd. v. Court of Tax Appeals,*

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et al.[2] wherein the CTA denied therein petitioner's claim for refund after it construed Section 292 (now Section 230) of the NIRC to be mandatory and "not subject to any qualification," hence it applies regardless of the conditions under which payment may have been made. The Tax Court ruled:

"Under Section 292 (formerly Section 306) of the National Internal Revenue Code, a claim for refund of a tax alleged to have to have been erroneously or illegally collected shall be filed with the Commissioner of Internal Revenue within two years from the date of payment of the tax, and that no suit or proceeding for refund shall be begun after the expiration of the said two-year period (Citation omitted). As a matter of fact, the said section further provides that: x x x In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment."

Petitioner states that the phrase "regardless of supervening cause that may arise after the payment" is an amendatory phrase under the said Section 292 which did not appear in Section 306 of the old Tax Code before it was amended by Presidential Decree No. 69, which became effective January 1, 1973. Petitioner argues that the incorporation of the said phrase did away with any other interpretation and, therefore, the reckoning period of prescription under Section 292 (now Section 230) is from the date of payment of tax regardless of financial loss (the "supervening cause"). Thus, the claim for refund of the amounts of P3,246,141.00 and P396,874.00 paid on May 30, 1983 and August 29, 1983, respectively, has prescribed.

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[2] G.R. No. 68013, November 12, 1984.

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We find petitioner's contentions to be unmeritorious.

It is true that in the *Pacific Procon* case, we held that the right to bring an action for refund had prescribed, the tax having been found to have been paid at the end of the first quarter when the withholding tax corresponding thereto was remitted to the Bureau of Internal Revenue, not at the time of filing of the Final Adjustment Return in April of the following year.

However, this case was overturned by the Court in *Commissioner of Internal Revenue v. TMX Sales Incorporated and the Court of Tax Appeals,*[3] wherein we said:

". . . in resolving the instant case, it is necessary that we consider not only Section 292 (now Section 230) of the National Internal Revenue Code but also the other provisions of the Tax Code, particularly Sections 84, 85 (now both incorporated as Section 68), Section 86 (now Section 70) and Section 87 (now Section 69) on Quarterly Corporate Income Tax Payment and Section 321 (now Section 232) on keeping of books of accounts. All these provisions of the Tax Code should be harmonized with each other."

Section 292 (now Section 230) stipulates that the two-year prescriptive period to claim refunds should be counted from date of payment of the tax sought to be refunded. When applied to taxpayers filing income tax returns on a quarterly basis, the date of payment mentioned in Section 292 (now Section 230) must be deemed to be qualified by Sections 68 and 69 of the present Tax Code which

[3] G.R. No. 83736, January 13, 1992.

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respectively provide:

"Section 68. Declaration of Quarterly Income Tax. — Every corporation shall file in duplicate a quarterly summary declaration of its gross income and deductions on a cumulative basis for the preceding quarter or quarters upon which the income tax, as provided in Title II of this Code shall be levied, collected and paid. The Tax so computed shall be decreased by the amount of tax previously paid or assessed during the preceding quarters and shall be paid not later than sixty (60) days from the close of each of the first three (3) quarters of the taxable year.

Section 69. Final Adjustment Return. — Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total net income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable net income of that year the corporation shall either:

(a) Pay the excess still due; or

(b) Be refunded the excess amount paid, as the case may be.

In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year."

It may be observed that although quarterly taxes due are required to be *paid* within sixty days from the close of each quarter, the fact that the amount shall be *deducted* from the tax due for the succeeding quarter shows that until a final adjustment return shall have been filed, the taxes paid in the preceding

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quarters are merely partial taxes due from a corporation. Neither amount can serve as the final figure to quantify what is due the government nor what should be refunded to the corporation.

This interpretation may be gleaned from the last paragraph of Section 69 of the Tax Code which provides that the refundable amount, in case a refund is due a corporation, is that amount which is shown on its final adjustment return and not on its quarterly returns.

Therefore, when private respondent paid P3,246,141.00 on May 30, 1983, it would not have been able to ascertain on that date, that the said amount was refundable. The same applies with cogency to the payment of P396,874.00 on August 29, 1983.

Clearly, the prescriptive period of two years should commence to run only from the time that the refund is ascertained, which can only be determined after a final adjustment return is accomplished. In the present case, this date is April 16, 1984, and two years from this date would be April 16, 1986. The record shows that the claim for refund was filed on December 10, 1985 and the petition for review was brought before the CTA on January 2, 1986. Both dates are within the two-year reglementary period. Private respondent being a corporation, Section 292 (now Section 230) cannot serve as the sole basis for determining the two-year prescriptive period for refunds. As we have earlier said in the *TMX Sales* case, Sections 68, 69, and 70 on Quarterly Corporate Income Tax Payment and Section 321 should be considered in conjunction with it.

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Moreover, even if the two-year period had already lapsed, the same is not jurisdictional[4] and may be suspended for reasons of equity and other special circumstances.[5]

Petitioner also raises the issue of whether or not private respondent has satisfactorily shown by competent evidence that it is entitled to the amount sought to be refunded. This being a question of fact, this Court is bound by the findings of the Court of Tax Appeals which has clearly established the propriety of private respondent's claim for refund for excess 1983 quarterly income tax payments. On the other hand, petitioner Commissioner of Internal Revenue has failed to present any documentary or testimonial evidence in support of his case. Instead, he opted to postpone the hearings several times and later chose to submit the case for decision on the basis of the records and pleadings of instant case.

To repeat, we find that private respondent has presented sufficient evidence in support of its claim for refund, whereas petitioner has failed to controvert the same adequately.

WHEREFORE, the instant petition is DISMISSED and the decision of the Court of Appeals is hereby AFFIRMED *in toto*. No costs.

SO ORDERED.

Melo and *Francisco, JJ.*, concur.
Vitug, J., see concurring opinion.

[4] Oral & Dental College *vs.* Court of Tax Appeals, 102 Phil. 912.

[5] Panay Electric Co *vs.* Collector, 103 Phil. 819.

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Feliciano, J. (Chairman), took no part as he was previously a member of the Board of Directors of respondent company.

VITUG, *J., concurring opinion:*

Domestic corporations, as well as foreign corporations engaged in trade or business in the Philippines, are required to render within sixty days following the close of each quarter income tax returns on a *cumulative basis* for the preceding quarter or quarters, upon which their income tax is paid, and a *final adjustment* return on or before the 15th day of April or of the fourth month following the close of the fiscal year covering the *entire* taxable income of the preceding calendar or fiscal year. The tax thus computed, adjusted and thereupon paid each time for any of the quarters preceding the last quarter of the taxable year is *provisional* in nature. The income tax liability of taxpayers is determined on the basis of a full taxable period.

Section 230 of the National Internal Revenue Code precludes any suit or proceeding from being maintained in any court for the recovery of any national internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum said to have been excessive or in any manner wrongfully collected unless (a) a written claim for the refund or credit thereof has been duly filed with the Commissioner *and* (b) the suit or proceeding shall have been instituted within two years from the date of payment of the tax or penalty regardless of any supervening cause that might arise after such payment (revoking the rule announced in Commissioner *vs.* National Power

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Corporation, 31 SCRA 112 and Commissioner *vs.* Victorias Milling Company, 22 SCRA 13). The two-year period, it may be observed, is a limitation of action not only in submitting the written claim for the refund of the tax to the Commissioner but likewise in filing the case (appeal) with the Court of Tax Appeals (which has jurisdiction thereover exclusive of the regular courts). This two-year period, unlike the thirty-day period of appeal from the decision of the Commissioner, is not jurisdictional[1] and it may thereby be suspended under exceptional circumstances.[2] It may also be well to point out, parenthetically, that this two-year prescriptive period is intended to apply to suits or proceedings for the recovery of taxes, penalties or sums erroneously, excessively, illegally or wrongfully collected; accordingly, an availment of a tax credit granted by law may have a different prescriptive period. Absent any specific provision in the Tax Code or special laws, that period would be ten years under Article 1144 of the Civil Code.[3]

Whenever applicable, the two-year prescriptive period starts from the *full* and *final* payment of the tax sought to be recovered.[4] In Collector of Internal Revenue *vs.* Prieto,[5] the Court quoted with approval the disquisition of the Court of Tax Appeals thusly:

"The defunct Board of Tax Appeals in the case of RCA Communications, Inc. *vs.* David (B.T.A. Case No. 116, Resolution, June 18, 1953) held that when the tax is paid in installments, the prescriptive period of two

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[1] Oral and Dental College *vs.* Court of Tax Appeals, 102 Phil. 912.

[2] Panay Electric Company *vs.* Collector, 103 Phil. 819.

[3] See Victorias Mining Company *vs.* Central Bank, 13 SCRA 479.

[4] See Commissioner *vs.* Palanca, 18 SCRA 496.

[5] 2 SCRA 1007.

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years provided in Section 306 of the Revenue Code should be counted from the date of the final payment. We agree with this view as being reasonable and which appears to be the uniform doctrine in American jurisdiction. This rule proceeds from the theory that, in contemplation of tax laws, there is no payment until the whole or entire tax liability is completely paid. Thus, a payment of a part or portion thereof, can not operate to start the commencement of the statute of limitations. In this regard the word 'tax,' or words 'the tax' in statutory provisions comparable to Section 306 of our Revenue Code have been uniformly held to refer to the entire tax and not a portion thereof (Clark *vs.* U.S. 69 F. 2d 748; A.S. Kriedner Co. *vs.* U.S. 30 F Supp. 724; Hills *vs.* U.S. 50 F 2d 302, 55 F 2d 1001), and the vocables 'payment of tax' within statutes requiring refund claim, refer to the date when all the tax was paid, not when a portion was paid (Braun *vs.* U.S. 8 F Supp. 860, 863)."

The two-year period, in the case of the quarterly income tax payment system for corporations, should be deemed to start only from the time the final adjustment tax is due and payable. In Gibbs *vs.* Commissioner,[6] the Court said that if the tax is withheld at source, a concept similar to, *albeit* not on all fours with, the corporate quarterly tax payment scheme, the two year period starts when the tax falls due at the end of the taxable year. In fine, corporate income tax payments for the first three quarters of the taxable year should, for purposes of the two-year prescriptive period, be deemed to have been paid on the 15th day of April or of the fourth month following the close of the fiscal year covering the entire taxable income of the preceding calendar or fiscal year.[7]

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[6] 15 SCRA 318.

[7] See Sections 75-77, National Internal Revenue Code.

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I subscribe, therefore, to the *ponencia* of my esteemed colleague, Mme. Justice Flerida Ruth P. Romero, affirming the decision of the Court of Appeals that sustained the judgment of the Court of Tax Appeals.

FIRST DIVISION

[G.R. Nos. 106385-88. May 29, 1995]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* ALEJANDRO MANDAP, *accused-appellant.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF THE WITNESS; TESTIMONY OF THE VICTIM; MADE BASIS OF CONVICTION; CASE AT BAR.** -- It cannot be denied that the principal basis of the court *a quo* in convicting accused-appellant was the direct testimony of the complaining witness that her father raped her on four (4) occasions. This was corroborated by the victim's brother who testified having witnessed one occasion when he saw his father on top of her and sexually assaulting her. As pointed out by the Solicitor General, whether Marian and her brother Marvin were possessed with enough credibility to testify against their father was a question of motive. Being the children of accused-appellant, what possible motive strong enough could compel them to implicate their own flesh and blood other than the equally forceful compulsion to seek justice for the beleaguered daughter?