THIRD DIVISION

[G.R. No. 202105; April 28, 2021]

LA FLOR DELA ISABELA, INC., *Petitioner*, *v.* **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.*

D E C I S I O N

HERNANDO, *J.*:

Challenged in this Petition[1] are the February 2, 2012 Decision[2] and May 24, 2012 Resolution[3] of the Court of Tax Appeals *En Banc* (CTA *En Banc*) in CTA EB No. 672, which denied petitioner La Flor Dela Isabela, Inc.'s (La Flor) petition for cancellation of assessments issued by respondent Commissioner of Internal Revenue (CIR) for lack of merit.

The Antecedents:

On September 6, 2000, the CIR issued a Letter of Authority[4] for the examination of La Flor's books of account for "all internal revenue taxes for the period January 1, 1999 to December 31, 1999."

In connection thereto, La Flor executed five waivers of the statute of limitations to extend the CIR's period to assess and collect the deficiency taxes, to wit:

a) First Waiver[5] dated May 28, 2002 to expire on December 1, 2002;

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[1] *Rollo*, pp. 31-50.

[2] Id. at 6-29; penned by Associate Justice Esperanza R. Fabon-Victorino and concurred in by Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Caesar A. Casanova, Olga Palanca-Enriquez, and Amelia R. Contangco-Manalastas. Associate Justices Lovell R. Bautista and Cielito N. Mindaro-Grulla were on wellness leave.

[3] Records, pp. 709-713.

[4] Folder of Exhibits, pp. 1-2.

[5] Records, pp. 270-271.

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b) Second Waiver[6] dated October 2, 2002 effective until June 30, 2003. The waiver was received by the CIR on the same day but was notarized only on November 4, 2002;
c) Third Waiver[7] dated April 11, 2003 which was effective until December 31, 2003. The said Waiver was notarized on the same day but was submitted to the CIR's Large Taxpayers Audit and Investigation Division (LTAID) II only on April 14, 2003. It was signed by Assistant Commissioner for LTAID II Edwin R. Abella;
d) Fourth Waiver[8] dated January 6, 2004 effective until December 31, 2004; and
e) Fifth and final Waiver[9] on November 4, 2004 effective until June 30, 2005.

On April 8, 2003, the company received a Preliminary Assessment Notice dated March 19, 2003.[10]

On March 14, 2005, La Flor received a Formal Letter of Demand (FLD)[11] with the following attachments: (a) Assessment No. LTAID II IT-99-00077 for deficiency income tax (IT); (b) Assessment No. LTAID II VT-99-0091 for value-added tax (VAT); (c) Assessment No. LTAID II WC-99-00019 for withholding tax (WT) on compensation; and (d) Assessment No. LTAID II CP-99-00020 for compromise penalty.

The company filed its protest[12] on March 30, 2005 against the FLD and a Supplemental Protest Letter[13] on April 12, 2005.

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[6] Id. at 272.

[7] Records, p. 273.

[8] Id. at 274.

[9] Id. at 275.

[10] Folder of Exhibits, pp. 449-458.

[11] Records, pp. 276-278.

[12] Id. at 279-281.

[13] Id. at 282-283.

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Thereafter, on July 9, 2007, it received the CIR's Final Decision on Disputed Assessments (FDDA)[14] dated June 1, 2007, with a total assessment of deficiency taxes in the amount ₱10,460,217.23.

On October 8, 2007, La Flor applied for a tax amnesty under Republic Act No. (RA) 9480,[15] as well as for a compromise on October 18, 2007 pursuant to Section 204 of the National Internal Revenue Code (NIRC).

On November 23, 2007, the company received an undated Warrant of Distraint and/or Levy (WDL)[16] issued by the CIR. This prompted petitioner to file a Petition for Review with the CTA on November 29, 2007, assailing the CIR's issuance of WDL.

Ruling of the Court of Tax Appeals in Division:

In its June 9, 2010 Decision,[17] the CTA's Former Second Division dismissed La Flor's petition on the ground that it was filed out of time. It held that La Flor had thirty (30) days or until August 8, 2007 from July 9, 2007 within which to appeal the CIR's FDDA as per Section 228 of the NIRC, as amended, or to elevate its protest to the Commissioner as provided in Section 3.1.5 of Revenue Regulations No. 12-99. However, instead of appealing the said FDDA or elevating its protest to the Commissioner, La Flor availed of the tax amnesty under RA 9480 for its assessed IT and VAT deficiencies and filed an application for compromise for its assessed WT deficiencies on October 8, 2007 and October 18, 2007, respectively. Hence, its Petition for Review which was filed on November 29, 2007, or three months from July 9, 2007, with the CTA in Division was clearly beyond the 30-day reglementary period. The FDDA dated June 1, 2007, therefore, had become final, executory, and demandable.

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[14] Id. at 284-286.

[15] Id. at 290. AN ACT ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2005 AND PRIOR YEARS. (Approved: May 24, 2007)

[16] Records, pp. 291-292.

[17] Id. at 430-444.

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La Flor filed a Motion for Reconsideration, which was denied by the CTA Division in its August 4, 2010 Resolution.[18]

Hence, La Flor filed a Petition for Review with the CTA *En Banc* on September 7, 2010.

Ruling of the Court of Tax Appeals *En Banc*:

In the assailed February 2, 2012 Decision,[19] the CTA *En Banc* denied La Flor's petition for lack of merit. It held that if a protest is not acted upon by the CIR within 180 days from submission of supporting documents, the taxpayer may appeal to the CTA within 30 days from the lapse of the 180-day period. When the CIR issued its FLD dated March 21, 2005, petitioner timely filed its protest on March 30, 2005. It subsequently filed a Supplemental Protest Letter to submit additional documents on April 12, 2005.

However, since the CIR did not act on La Flor's protest within 180 days from the submission of its Supplemental Protest Letter on April 12, 2005, petitioner had 30 days from October 9, 2005, or until November 8, 2005, within which to file a Petition for Review before the CTA. However, petitioner slept on its right and sought relief only on November 29, 2007, or more than two years beyond the reglementary period. According to the CTA *En Banc,* even granting that the 30-day period to appeal commenced to run only from July 9, 2007, when La Flor received the CIR's FDDA dated June 1, 2007, still La Flor's petition filed on November 29, 2007 was beyond the 30-day reglementary period.

Moreover, the CTA *En Banc* found all waivers executed by La Flor to be valid. The tax court noted that before the expiration of the last waiver, the CIR issued FLD dated March 14, 2005, which was received by petitioner on March 21, 2005. Hence, considering that all waivers were validly executed, the subsequent issuance by the CIR of the WDL for the purpose of collecting the assessed tax due was necessarily valid.

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[18] Id. at 479-480.

[19] *Rollo*, pp. 6-29.

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Petitioner filed a Motion for Reconsideration which was denied by the CTA *En Banc* in its May 24, 2012 Resolution.[20]

Hence, this Petition.

Issues

The issues presented for Our resolution are as follows:

1. Whether the CTA erred in not ruling that the assessment and WDL are null and void;
2. Whether the CTA erred in not ruling that La Flor's obligation to pay IT and VAT deficiency has been absolved by its availment of the tax amnesty; and
3. Whether the CTA erred in ruling that petitioner is liable for compromise penalty.[21]

Arguments of the Petitioner:

Petitioner argues that the waivers were null and void and thus did not toll the running of the prescriptive period for the CIR to make the assessment.[22] It also claims that the CTA had jurisdiction to rule on the validity or invalidity of the assessments and the WDL.

La Flor further contends that the ruling in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue (Philippine Journalists)*[23] that invalidated the therein assessments and warrant of distraint and levy due to the nullity of the waiver executed by the taxpayer for its failure to strictly comply with the requisites of a valid, binding, and enforceable waiver of statute of limitations should similarly apply in this case.

Petitioner insists that the first waiver was null and void as to the assessed VAT deficiency for the first quarter of 1999 and WT deficiency from January to April 1999 as it was executed only on

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[20] Records, pp. 709-713.

[21] *Rollo*, p. 36.

[22] Id. at 39.

[23] 488 Phil. 218, 228-229 (2004).

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May 28, 2002, when the said assessed VAT and WT deficiencies had already prescribed. Similar to the first waiver, the second waiver was also null and void as it was executed on October 2, 2002 beyond the three-year prescriptive period.[24]

As regards the third waiver, petitioner avers that no date of acceptance was provided by the CIR, hence, it was null and void for being incomplete and defective.[25] The fourth waiver was not accepted by the CIR or any duly authorized representative. The Chief of LTAID II, Manuel V. Mapoy, had no authority to accept and agree with the waiver for and on behalf of the CIR. Also, the fourth waiver was executed only on January 6, 2004 or six days after the expiration of the third waiver.[26] Lastly, the fifth waiver was necessarily null and void considering the nullity of the previous four waivers.[27]

Moreover, La Flor opines that it has been absolved from paying its IT and VAT deficiencies by virtue of its availment of the tax amnesty under RA 9480 on October 8, 2007. Petitioner further maintains that Section 8 (f)[28] of RA 9480 does not apply to its case as there was yet no final and executory judgment by the courts on the validity and finality of the assessment. Hence, as to its IT and VAT deficiencies, petitioner is immune from paying the same.[29]

Lastly, petitioner argues that it is not liable to pay compromise penalty considering that the CIR failed to present proof that La Flor agreed to a ₱25,000 compromise penalty.[30]

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[24] *Rollo*, pp. 43-44.

[25] Id. at 44.

[26] Id.

[27] Id. at 44-45.

[28] Republic Act No. 9480
SECTION 8. Exceptions. – The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:
x x x
(f) Tax cases subject of final and executory judgment by the courts.

[29] *Rollo*, pp. 46-47.

[30] Id. at 48.

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Arguments of the Respondent:

On the other hand, respondent CIR insists that La Flor cannot question the validity of assessments in the guise of requesting the cancellation of an undated WDL because the latter was issued pursuant to an FDDA which had already become final, executory, and demandable.[31] It argues that *Philippine Journalists* cannot be applied in the case at bar as there is no issue as to whether the CTA could assume jurisdiction over a cancellation of WDL since the present petition disputing the assessment made by the CIR was belatedly filed. Hence, the tax court cannot anymore assume jurisdiction over the present petition.[32]

Further, respondent CIR contends that due to La Flor's failure to file on time its petition before the CTA, its right to question the validity of the five waivers had been waived. In addition, the CTA *En Banc* already passed upon the issue of the validity of these waivers. As a highly specialized agency, the conclusions of the CTA are not set aside as a matter of principle.[33]

Lastly, respondent CIR maintains that the CTA did not err when it did not rule on petitioner's obligation to pay IT and VAT in lieu of its application for tax amnesty and to pay a compromise penalty. Since the petition was filed beyond the reglementary period, the tax court correctly refrained from ruling on said issues. Besides, La Flor had applied for tax amnesty on October 8, 2007. Ten days later or on October 18, 2007, it also applied for a compromise agreement. Hence, with its subsequent application for compromise agreement, petitioner abandoned its previous application for a tax amnesty.[34]

Our Ruling

The petition is meritorious.

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[31] Id. at 157-161.

[32] Id. at 161-162.

[33] Id. at 162-166.

[34] Id. at 166.

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Jurisdiction of the Court of Tax Appeals:

Section 7 of RA 9282 provides for the exclusive appellate jurisdiction of the CTA on matters arising under the NIRC or other law administered by the Bureau of Internal Revenue (BIR), to wit:

Sec. 7. Jurisdiction. — The CTA shall exercise:

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

x x x x

2. Inaction by 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 matter arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; (Emphasis supplied.)

In *Philippine Journalists*, we ruled that the CTA's appellate jurisdiction is not limited to cases involving decisions of the CIR on matters relating to assessments or refunds. Section 7 (a) (2) of RA 9282 also covers "other matter arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue." Clearly, the CTA has jurisdiction to determine whether the WDL issued by the BIR is valid and rule on the validity of the five waivers of the statute of limitations and La Flor's application for tax amnesty under RA 9480.

CIR's period to assess and collect internal revenue taxes:

Section 203 of the NIRC, as amended, provides for a period of three years for the BIR to assess and collect internal revenue taxes, counted from the last day prescribed by law for the filing of the return or from the day the return was filed, whichever comes later. Consequently, any assessment issued after the expiration of such period is no longer valid and effective.

On the other hand, Section 222 of the NIRC provides for the period to collect taxes by WDL, to wit:

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Section 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes*.

x x x x

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

x x x x

(d) Any internal revenue tax, which has been assessed within the period agreed upon as provided in paragraph (b) hereinabove, may be collected by distraint or levy or by a proceeding in court within the period agreed upon in writing before the expiration of the five (5)-year period. The period so agreed upon may be extended by subsequent written agreements made before the expiration of the period previously agreed upon.

x x x x

In this case, the Court is confronted with the issue of whether the CIR validly issued the WDL to collect the alleged deficiency taxes of La Flor. Verily, the validity of the WDL hinges on the validity of the FLD issued by the CIR, which must be within the prescriptive period of three years or the period agreed upon in the waiver/s of statute of limitations. Hence, it is important to determine at this point whether the waivers executed by La Flor were valid.

To stress, Section 222 (b) of the NIRC provides that any internal revenue tax which has been assessed within the period of limitation may be collected by distraint or levy or by a proceeding in court within five years from the assessment. The law is clear that for a collection to be valid, the assessment must be within the period of limitation. Essentially, when the assessment is issued beyond the prescriptive period, the government's right to collect deficiency taxes also prescribes. Hence, there is no more basis for its collection save for certain exceptions.[35]

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[35] Section 222 (a) and Section 223 of NIRC.

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Validity of the Waivers:

Section 222 (b) of the NIRC, as amended, states that:

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

x x x x

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

On April 4, 1990, the BIR issued Revenue Memorandum Order (RMO) No. 20-90, which provides for the guidelines in the proper execution of the waiver of statute of limitations under the NIRC. It holds that a valid waiver of statute of limitations must be: (a) in writing; (b) agreed to by both the Commissioner and the taxpayer; (c) before the expiration of the ordinary prescriptive periods for assessment and collection; and (d) for a definite period beyond ordinary prescriptive period for assessment and collection.[36] The period agreed upon can still be extended by subsequent written agreement, provided that it is executed prior to the expiration of the first period agreed upon.[37]

Parenthetically, Revenue Delegation Authority Order (RDAO) No. 05-01 dated August 2, 2001 authorized subordinate officials to sign the waivers and introduced a new waiver form. It provides for the following procedures for the proper execution of a valid waiver, to wit:

1. The waiver must be in the proper form prescribed by RMO 20-90. The phrase "but not after ____ 19 _____," which indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription, should be filled up.

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[36] *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, 510 Phil. 1, 21 (2005).

[37] Id. at 21-22.

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2. The waiver must be signed by the taxpayer himself or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials. In case the authority is delegated by the taxpayer to a representative, such delegation should be in writing and duly notarized.

3. The waiver should be duly notarized.

4. The CIR or the revenue official authorized by him must sign the waiver indicating that the BIR has accepted and agreed to the waiver. The date of such acceptance by the BIR should be indicated. However, before signing the waiver, the CIR or the revenue official authorized by him must make sure that the waiver is in the prescribed form, duly notarized, and executed by the taxpayer or his duly authorized representative.

5. Both the date of execution by the taxpayer and date of acceptance by the Bureau should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed.

6. The waiver must be executed in three copies, the original copy to be attached to the docket of the case, the second copy for the taxpayer and the third copy for the Office accepting the waiver. The fact of receipt by the taxpayer of his/her file copy must be indicated in the original copy to show that the taxpayer was notified of the acceptance of the BIR and the perfection of the agreement.[38]

This Court had invalidated waivers which did not strictly comply with the provisions of RMO No. 20-90 and RDAO No. 05-01, such as, but not limited to: (a) failure to state the specific date within which the BIR may assess and collect revenue taxes;[39] (b) failure to sign by the CIR as mandated by law or by his duly authorized representative;[40] (c) failure to indicate the date of

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[38] *Commissioner of Internal Revenue v. Systems Technology Institute, Inc.*, 814 Phil. 933, 942-943 (2017) *citing Commissioner of Internal Revenue v. The Stanley Works Sales (Phils.), Inc.*, 749 Phil. 280, 290 (2014), citing *Commissioner of Internal Revenue v. Kudos Metal Corporation*, 634 Phil. 314, 325-326 (2010), further citing *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, supra note 23 at 231 (2004).

[39] Id. at 943, citing *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, supra note 23 at 232.

[40] Id. at 943-944, citing *Philippine Journalists, Inc. v. Commissioner of*

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acceptance to determine whether the waiver was validly accepted before the expiration of the original three-year period;[41] (d) failure to furnish the taxpayer of a copy of the waiver;[42] (e) failure to indicate on the original copies of the waivers the date of receipt by the taxpayer of their file copy;[43] (f) execution of the waivers without the written authority of the taxpayer's representative to sign the waiver on their behalf;[44] (g) absence of any proof that the taxpayer was furnished a copy of the waiver;[45] (h) a waiver signed by the Assistant Commissioner-Large Taxpayers Service and not by the CIR;[46] (i) failure to specify the kind and amount of tax due;[47] and (j) a waiver which refers to a request for extension of time within which to present additional documents and not for reinvestigation and/or reconsideration of the pending internal revenue case.[48]

Applying Section 222 (b) in relation with Section 203 of the NIRC, as well as the applicable BIR issuances, namely, RMO 20-90 and RDAO 05-01, and the relevant jurisprudence, We find

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Internal Revenue, supra note 23 at 232-233, *Commissioner of Internal Revenue v. FMF Development Corporation*, 579 Phil. 174, 185 (2008), *Commissioner of Internal Revenue v. The Stanley Works Sales (Phils.), Inc.*, supra note 38 at 290.

[41] Id. citing *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, supra note 23 at 234, *Commissioner of Internal Revenue v. FMF Development Corporation*, supra note 40 at 185 *Commissioner of Internal Revenue v. Kudos Metal Corporation*, supra note 38 at 326, *Commissioner of Internal Revenue v. Standard Chartered Bank*, 765 Phil. 102, 116-117, (2015).

[42] Id. citing *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, supra note 23 at 234-235 and *Commissioner of Internal Revenue v. FMF Development Corporation*, supra note 40 at 185.

[43] Id. at 944 citing *Commissioner of Internal Revenue v. Kudos Metal Corporation*, supra note 38 at 326.

[44] Id.

[45] Id. citing *Commissioner of Internal Revenue v. The Stanley Works Sales (Phils), Inc.*, supra note 38 at 290.

[46] Id. citing *Commissioner of Internal Revenue v. Standard Chartered Bank*, supra note 41 at 117.

[47] Id.

[48] Id.

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that the waivers subject of this case failed to strictly comply with the requirements under the law.

First, the first and fourth waivers executed on May 28, 2002 and January 6, 2004, respectively, failed to specify the date of acceptance by the CIR or his duly authorized representative for the purpose of determining whether the said waivers were validly accepted before the expiration of the original three-year period and the period agreed upon in case of subsequent agreement.

Second, all five waivers were signed by Cesar C. Maranan (Maranan), the Accounting Manager of petitioner La Flor. Section 25 of Batas Pambansa Blg. 68, also known as *The Corporation Code of the Philippines*, states that the corporate officers of a stock corporation are the president, secretary, treasurer, or any other officers as may be provided for in the by-laws. No notarized written authority was attached to the waivers authorizing Maranan to sign the waivers for and on behalf of La Flor. Neither was there any evidence showing that Maranan was among the responsible officials of petitioner La Flor authorized by its by-laws to execute a waiver.

Third, even assuming that the first three waivers were validly executed and that Maranan had authority to sign the waivers on behalf of petitioner, the fourth Waiver was executed and notarized only on January 6, 2004, clearly beyond the expiry of the third waiver on December 31, 2003. The fourth waiver did not also indicate the date of acceptance by the CIR or his duly authorized representative. It bears noting that both the execution and the acceptance of the subsequent waiver should be made before the expiration of the period of prescription or before the lapse of the period agreed upon in the prior or preceding waiver. Patently, the fourth Waiver was executed and accepted on January 6, 2004, or beyond the period agreed upon by La Flor and the CIR in the third Waiver, *i.e.*, until December 31, 2003.

Consequently, with the nullity of the fourth waiver, the execution and acceptance of the fifth waiver on November 4, 2004 were not valid since there was no more period to extend for which the CIR could assess La Flor's internal revenue taxes for taxable year 1999. Section 222 (b) of the NIRC is explicit that the period

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agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.

Considering the foregoing defects in the waivers executed by the parties, the periods for the CIR to assess or collect the alleged Withholding Tax on Compensation (WTC) and Expanded Withholding Tax (EWT) deficiencies were not extended. The period within which the CIR could assess the internal revenue taxes of La Flor had already prescribed. In fine, the assessments issued by the BIR are therefore considered void and of no legal effect. Without a valid waiver, the statute of limitations on assessment and consequently on collection of the deficiency taxes could not have been suspended. We thus hold that La Flor's assessed EWT and WTC deficiencies under FDDA dated July 9, 2007 had already prescribed on the ground that the subject waivers failed to strictly comply with the requirements under the law. Hence, the CIR's issuance of the FLD dated March 14, 2005 was null and void as it was issued beyond the period agreed upon in the third Waiver or until December 31, 2003. In turn, the issuance of the WDL to collect the deficiency taxes under FLD dated March 14, 2005 was therefore null and void as it was clearly issued beyond the prescriptive period. Thus, the CTA erred when it denied La Flor's petition for the cancellation of the undated WDL on the ground of prescription.

Thus, assuming that La Flor indeed failed to timely file an appeal within 30 days (a) from the lapse of the 180-day period from April 12, 2005; or (b) from receipt of the denial of its protest on July 9, 2007, its failure to file an appeal with the CTA on the disputed assessment is immaterial in view of the invalidity of the assessments.

In any event, petitioner rightly and timely filed an appeal with the CTA assailing the validity of the WDL upon its availment of the tax amnesty of its assessed IT and VAT deficiencies under RA 9480. Its subsequent filing of the application and the payment of the corresponding amnesty tax under RA 9480 operate as suspensive and resolutory conditions which vested La Flor with immunities and privileges under RA 9480 and finally settled La Flor's IT and VAT deficiencies for taxable year 1999, respectively.

Evidently, the CTA had jurisdiction over the petition for review filed by petitioner La Flor questioning the validity of the undated WDL issued by the BIR after its availment of the Tax Amnesty Program under RA 9480.

It bears stressing that petitioner applied for tax amnesty under RA 9480 after the CIR's issuance of FLD dated March 14, 2005 and FDDA dated July 9, 2007. In *Commissioner of Internal Revenue v. Transfield Philippines, Inc.*,[49] We upheld the subsequent application and completion of the tax amnesty of the taxpayer under RA 9480 even after the issuance by the BIR of the *Final Notice before Seizure* dated December 20, 2007, to wit:

> As regards the issue on the propriety and timeliness of the petition for review, suffice it to say that in this case, the reckoning point of the 30-day period to appeal the assessments is immaterial because the assessments have already been extinguished by respondent's compliance with the requirements for tax amnesty under R.A. No. 9480. **To sustain petitioner's contention that respondent should have elevated an appeal to the CTA when it received the Final Notice before Seizure, or at most, when it received the July 10, 2008 Letter of the BIR, would lead to an absurd and unjust situation wherein the taxpayer avails of the benefits of a tax amnesty law, yet the BIR still issues a WDAL simply because the taxpayer did not appeal the assessment to the CTA. The requirement of filing an appeal with the CTA even after the taxpayer has already complied with the requirements of the tax amnesty law negates the amnesty granted to the taxpayer and creates a condition which is not found in the law**. It is worthy to note that respondent filed a protest to the assessments, but because of the passage of R.A. No. 9480, it no longer pursued its legal remedies against the assessments. **Thus, respondent cannot be faulted for filing a petition for review with the CTA only upon receipt of the WDAL for it rightfully relied on the provision of R.A. No. 9480 that "those who availed themselves of the tax amnesty x x x, and have fully complied with all its conditions x x x shall be immune from the payment of taxes x x x."** Finally, in *CS Garment, Inc. v. Commissioner of Internal Revenue*, the Court pronounced that taxpayers may immediately enjoy the privileges and immunities under R.A. No. 9480 as soon as they fulfill the suspensive condition imposed therein, *i.e.*, submission of 1) Notice

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[49] G.R. No. 211449, January 16, 2019.

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of Availment of Tax Amnesty Form; 2) Tax Amnesty Return Form (BIR Form No. 2116); 3) SALN as of December 31, 2005; and 4) Tax Amnesty Payment Form (Acceptance of Payment Form or BIR Form No. 0617). In fine, the deficiency taxes for Fiscal Year July 1, 2001 to June 30, 2002 are deemed settled in view of respondent's compliance with the requirements for tax amnesty under R.A. No. 9480.[50] (Emphasis supplied.)

Tax Amnesty Program under RA 9840:

On May 24, 2007, RA 9480 was enacted into law. It granted a tax amnesty to all national internal revenue taxes for the taxable year 2005 and prior years, with or without assessments duly issued therefor, that have remained unpaid as of December 31, 2005 with the following exceptions:

SECTION 8. *Exceptions*. — The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:

(a) Withholding agents with respect to their withholding tax liabilities;
(b) Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
(c) Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;
(d) Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
(e) Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and
(f) Tax cases subject of final and executory judgment by the courts.

On August 15, 2007, the Department of Finance (DOF) issued DOF Department Order No. 29-07 (DOF DO No. 29-07), otherwise known as the *Rules and Regulations to Implement RA 9840*. On October 8, 2007, petitioner La Flor filed an application for tax amnesty under RA 9480. Section 6 of DOF DO No. 29-07 provides for the method of availing a tax amnesty under RA 9480, to wit:

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[50] Id.

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SEC. 6. *Method of Availment of Tax Amnesty*. –

1. *Forms/Documents to be filed*. – To avail of the general tax amnesty, concerned taxpayers shall file the following documents/requirements:

a. **Notice of Availment in such forms as may be prescribed by the BIR**.

b. **Statement of Assets, Liabilities and Net worth (SALN) as of December 31, 2005 in such forms as may be prescribed by the BIR**.

c. **Tax Amnesty Return in such form as may be prescribed by the BIR**.

2. *Place of Filing of Amnesty Tax Return*. – The Tax Amnesty Return, together with the other documents stated in Sec. 6 (1) hereof, shall be filed as follows:

a. Residents shall file with the Revenue District Officer (RDO)/Large Taxpayer District Office of the BIR which has jurisdiction over the legal residence or principal place of business of the taxpayer, as the case may be.

b. Non-residents shall file with the office of the Commissioner of the BIR, or with the RDO.

c. At the option of the taxpayer, the RDO may assist the taxpayer in accomplishing the forms and computing the taxable base and the amnesty tax payable, but may not look into, question or examine the veracity of the entries contained in the Tax Amnesty Return, Statement of Assets, Liabilities and Net worth, or such other documents submitted by the taxpayer.

3. *Payment of Amnesty Tax and Full Compliance*. - Upon filing of the Tax Amnesty Return in accordance with Sec. 6 (2) hereof, the taxpayer shall pay the amnesty tax to the authorized agent bank or in the absence thereof, the Collection Agents or duly authorized Treasurer of the city or municipality in which such person has his legal residence or principal place of business.

The RDO shall issue sufficient Acceptance of Payment Forms, as may be prescribed by the BIR for the use of — or to be accomplished by — the bank, the collection agent or the Treasurer, showing the acceptance by the amnesty tax payment. In case of the authorized agent bank, the branch manager or the assistant branch manager shall sign the acceptance of payment form.

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The Acceptance of Payment Form, the Notice of Availment, the SALN, and the Tax Amnesty Return shall be submitted to the RDO, which shall be received only after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of RA 9480.

Petitioner La Flor presented as evidence the following documents to support its availment of the Tax Amnesty under R.A. No. 9480: (a) Tax Amnesty Return dated October 8, 2007;[51] (b) Tax Amnesty Payment Form dated October 8, 2007;[52] (c) Tax Payment Deposit Slip dated October 8, 2007;[53] (d) Notice of Availment of Tax Amnesty dated October 4, 2007;[54] and (e) Statement of Assets and Liabilities (SALN) as of December 31, 2005.[55]

Section 7 of DOF DO No. 29-07 provides that "qualified tax payers are required to pay an amnesty tax equivalent to five percent (5%) of their total declared networth as of December 31, 2005, as declared in the SALN as of the said period, or resulting increase in networth by amending such previously filed statements for purposes of this tax amnesty, thereby including still undeclared assets and/or liabilities, as the case may be, as of December 31, 2005, or the absolute minimum amnesty payment, whichever is higher." Below is the schedule of tax amnesty payments:[56]

1. Individual (whether resident or nonresident, including resident or nonresident aliens), Estates, and Trusts	5% or ₱50,000 whichever is higher
2. Corporations	
(a) With subscribed capital above ₱50 million	5% or ₱500,000 whichever is higher
(b) With subscribed capital above ₱20 million up to ₱50 million	5% or ₱250,000 whichever is higher

[51] Records, p. 287.

[52] Id. at 288.

[53] Id. at 289.

[54] Id. at 290.

[55] Id. at 1128.

[56] Section 5 of R.A. No. 9480.

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(c) With subscribed capital of P5 million up to P20 million	5% or ₱100,000 whichever is higher
(d) With subscribed capital of P5 million	5% or ₱25,000 whichever is higher
3. Other judicial entities, including partnerships, but not limited to, cooperatives and foundations, that have become taxable as of December 31, 2005	5% or ₱50,000 whichever is higher
4. Taxpayers who filed their balance sheets/SALN, together with their income tax returns for 2005, and who desire to avail of the tax amnesty under this Act by amending such previously file statements thereby including still undeclared assets and/or liabilities	5% base on the resulting increase in networth or the minimum absolute amounts of amnesty tax prescribed above, whichever is higher

Verily, petitioner La Flor complied with all the requirements under RA 9480 as implemented by DOF DO No. 29-07 and paid the corresponding amnesty tax. Thus, having fully complied with the conditions under RA 9480 and DOF DO No. 29-07, La Flor is entitled to the following immunities and privileges:

SEC. 6. *Immunities and Privileges*. — Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

(a) The taxpayer shall be immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

(b) The taxpayer's Tax Amnesty Return and the SALN as of December 31, 2005 shall not be admissible as evidence in all proceedings that pertain to taxable year 2005 and prior years, insofar as such proceedings relate to internal revenue taxes, before judicial, quasi-judicial or administrative bodies in which he is a defendant or respondent, and except for the purpose of ascertaining the networth beginning January 1, 2006, the same shall not be examined, inquired or looked into by any person or government office. However, the taxpayer may use this as a defense, whenever appropriate, in cases brought against him.

(c) The books of accounts and other records of the taxpayer for the years covered by the tax amnesty availed of shall not be examined: *Provided*,

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That the Commissioner of Internal Revenue may authorize in writing the examination of the said books of accounts and other records to verify the validity or correctness of a claim for any tax refund, tax credit (other than refund or credit of taxes withheld on wages), tax incentives, and/or exemptions under existing laws.

All these immunities and privileges shall not apply where the person failed to file a SALN and the Tax Amnesty Return, or where the amount of networth as of December 31, 2005 is proven to be understated to the extent of thirty percent (30%) or more, in accordance with the provisions of Section 3 hereof. [Emphasis supplied.]

Petitioner La Flor's compliance with the requirements under RA 9480 as implemented by DOF DO No. 29-07 extinguished its tax liabilities, additions, and all appurtenant civil, criminal, or administrative penalties under the NIRC.[57] Specifically, petitioner La Flor is already immune from the payment of deficiency taxes assessed for taxable year 1999 as per FLD dated March 14, 2005 and FDDA dated July 9, 2007, namely, IT, VAT, and compromise penalty, except the EWT and WTC, which are not covered by RA 9480.

Further, La Flor's immunity from paying taxes under RA 9480 is effective despite the fact that the CIR already issued the FDDA dated July 9, 2007 prior to its application for tax amnesty and subsequent payment thereof. In *Commissioner of Internal Revenue v. Philippine Aluminum Wheels, Inc.*,[58] we ruled that only persons with "tax cases subject of final and executory judgment by the courts" are disqualified to avail of the Tax Amnesty Program under RA 9480, which means that there must be a final and executory judgment promulgated by a court. The FDDA dated July 9, 2007 issued by the BIR is not a tax case subject of final and executory judgment by the court as contemplated under Section 8 (f) of RA 9480. Hence, even with the issuance of the subject FDDA dated July 9, 2007, petitioner La Flor is not disqualified to avail of the immunities and privileges under RA 9480.

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[57] *Commissioner of Internal Revenue v. Philippine Aluminum Wheels, Inc.*, 816 Phil. 638, 645 (2017), citing *Philippine Banking Corporation v. Commissioner of Internal Revenue*, 597 Phil. 363, 388 (2009).

[58] Id. at 647.

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In addition, the alleged compromise agreement for EWT and WTC filed by petitioner is not considered as an abandonment of its availment of the tax amnesty under RA 9480. This is especially when the Tax Amnesty Program does not include its assessed EWT and WTC deficiencies for taxable year 1999 as per FDDA dated July 9, 2007. Clearly, La Flor validly applied for a compromise agreement even after filing its application for tax amnesty under RA 9480.

Considering petitioner La Flor's compliance with the requirements under RA 9480 as implemented by DOF DO No. 29-07, it is now deemed absolved of its obligations and is already immune from the payment of the said taxes as well as additions, civil, criminal and administrative penalties.

Finally, the doctrine of estoppel cannot be applied as an exception to the statute of limitations on assessment of taxes considering that the BIR provides a detailed procedure for the proper execution of waiver which must be strictly followed.[59] The BIR cannot simply invoke the doctrine of estoppel to conceal its failure to comply with its own issuances, namely, RMO No. 20-90 and RDAO No. 05-01.[60] It cannot just collect taxes based on an already prescribed assessment, even when taxes are considered the lifeblood of government. A waiver of the statute of limitations is a derogation of a taxpayer's right to security against prolonged and unscrupulous investigations. Thus, it must be carefully and strictly construed.[61] Hence, both the assessment and collection "should be made in accordance with law as any arbitrariness will negate the very reason for government itself."[62]

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[59] *Commissioner of Internal Revenue v. Systems Technology Institute, Inc.*, supra note 38 at 946 citing *Commissioner of Internal Revenue v. Kudos Metal Corporation*, supra note 38 at 328.

[60] Id. citing *Commissioner of Internal Revenue v. Kudos Metal Corporation*, supra note 38 at 329.

[61] Id.

[62] *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 224327, June 11, 2018 citing *Marcos II v. CA*, 339 Phil. 253, 263 (1997).

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WHEREFORE, the instant Petition is hereby **GRANTED**. The assailed February 2, 2012 Decision and May 24, 2012 Resolution of the Court of Tax Appeals *En Banc* in CTA EB No. 672 (CTA Case No. 7709) are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.

Leonen (Chairperson), Inting, Delos Santos, and *J. Lopez, JJ.*, concur.

APPEARANCES OF COUNSEL

Ponferrada Orbe & Altubar for petitioner.
Leo Mauricio for respondent.