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of time within which to file their brief are set aside, petitioners' appeal ordered reinstated and their brief admitted.

No costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *De Castro, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-31364. March 30, 1979]

MISAEL P. VERA, as Commissioner of Internal Revenue, and JAIME ARANETA, as Regional Director, Revenue Region No. 14, Bureau of Internal Revenue, *petitioners, vs.* **HON. JOSE F. FERNANDEZ, Judge of the Court of First Instance of Negros Occidental, Branch V, and FRANCIS A. TONGOY, Administrator of the Estate of the late LUIS D. TONGOY,** *respondents.*

SYLLABUS

1. **STATUTORY CONSTRUCTION; PRINCIPLE OF *EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS;* APPLIED TO SECTION 5, RULE 86, RULES OF COURT.** — Since Section 5, Rule 86 of the Rules of Court makes no mention of claims for monetary obligations of the decedent created by law, such as taxes which is entirely of different character from the claims expressly enumerated therein, such as: "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," it necessarily,

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and by implication excludes the same from its operation and effect, under the familiar rule of statutory construction of *expressio unius exclusio alterius.*

2. **TAXATION; GOVERNING RULES.** — The assessment, collection and recovery of taxes, as well as the matter of prescription thereof are governed by the provisions of the National Internal Revenue Code and not by other provisions of law.

3. **REMEDIAL LAW; SPECIAL PROCEEDINGS; SETTLEMENT OF ESTATE; CLAIMS FOR TAXES AGAINST DECEDENT'S ESTATE; LIENS IN FAVOR OF THE GOVERNMENT** — Claims for taxes against a decedent's estate are liens in favor of the Government of the Philippines from the time the assessment was made by the Commissioner of Internal Revenue until paid with interests, penalties, etc. By virtue of such lien, the property of the estate already in the hands of an heir or transferee may be subject to the payment of the tax due the estate. A *fortiori*, before the inheritance has passed to the heirs, the unpaid taxes due from the decedent may be collected, even without its having been presented under Section 2, Rule 86 of the Rules of Court.

4. **ID.; ID.; ID.; ID.; ID.; REASON FOR EXCEPTION FROM APPLICABILITY OF STATUTE OF NON-CLAIMS** — The reason for the more liberal treatment of claims for taxes against a decedent's estate in the form of exception from the application of the statute of non-claims, is not hard to find. Taxes are the livelihood of the Government and their prompt and certain availability are imperious need. Upon taxation depends the Government ability to serve the people for whose benefit taxes are collected. To safeguard such interest, neglect or omission of government officials entrusted with the collection of taxes should not be allowed to bring harm or detriment to the people in the same manner as private persons may be made to suffer individually on account of his own negligence, the presumption being that they take good care of their personal affairs. This should not hold true to government officials with respect to matters not of their own personal concern. This is the philosophy behind the Government's exception, as a general rule, from the operation of the principle of estoppel.

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DECISION

DE CASTRO, *J.*:

Appeal from two orders of the Court of First Instance of Negros Occidental, Branch V in Special Proceedings No. 7794, entitled: "Intestate Estate of Luis D. Tongoy," the first dated July 29, 1969 dismissing the Motion for Allowance of Claim and for an Order of Payment of Taxes by the Government of the Republic of the Philippines against the Estate of the late Luis D. Tongoy, for deficiency income taxes for the years 1963 and 1964 of the decedent in the total amount of ₱3,254.80, inclusive 5% surcharge, 1% monthly interest and compromise penalties, and the second, dated October 7, 1969, denying the Motion for reconsideration of the Order of dismissal.

The Motion for allowance of claim and for payment of taxes dated May 28, 1969 was filed on June 3, 1969 in the abovementioned special proceedings, (par. 3, Annex A, Petition, pp. 19-20, *Rollo*). The claim represents the indebtedness to the Government of the late Luis D. Tongoy for deficiency income taxes in the total sum of ₱3,254.80 as above stated, covered by Assessment Notices Nos. 11-50-29-1-11061-21-63 and 11-50-29-1-110875-64, to which motion was attached Proof of Claim (Annex B, Petition, pp. 21-22, *Rollo*). The Administrator opposed the motion solely on the ground that the claim was barred under Section 5, Rule 86 of the Rules of Court (par. 4, Opposition to Motion for Allowance of Claim, pp. 23-24, *Rollo*). Finding the opposition well-founded, the respondent Judge, Jose F. Fernandez, dismissed the motion for allowance of claim filed by herein petitioner, Regional Director of the Bureau of Internal Revenue, in an order dated July 29, 1969 (Annex D, Petition p. 26, *Rollo*). On September 18, 1969, a motion for reconsideration was filed, of the Order of July 29, 1969, but was denied in an Order dated October 7, 1969.

Hence, this appeal on *certiorari*, petitioner assigning the following errors:

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"1. The lower court erred in holding that the claim for taxes by the government against the estate of Luis D. Tongoy was filed beyond the period provided in Section 2, Rule 86 of the Rules of Court.

2. The lower court erred in holding that the claim for taxes of the government was already barred under Section 5, Rule 86 of the Rules of Court."

which raise the sole issue of whether or not the statute of non-claims, Section 5, Rule 86 of the New Rule of Court, bars claim of the government for unpaid taxes, still within the period of limitation prescribed in Section 331 and 332 of the National Internal Revenue Code.

Section 5, Rule 86, as invoked by the respondent Administrator in his Opposition to the Motion for Allowance of Claim, *etc.* of the petitioners reads as follows:

"All claims for money against the decedent, arising from contracts, 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. Where an executor or administrator commence an action, or prosecutes an action already commenced by the deceased in his lifetime, the debtor may set forth by answer the claims he has against the decedent, instead of presenting them independently to the court has herein provided, and mutual claims may be set off against each other in such action; and if final judgment is rendered in favor of the defendant, the amount so determined shall be considered the true balance against the estate, as though the claim had been presented directly before the court in the administration proceedings. Claims not yet due, or contingent may be approved at their present value."

A perusal of the aforequoted provisions shows that it makes no mention of claims for monetary obligations of the decedent created by law, such as taxes which is entirely of different character from the claims expressly enumerated therein, such as: "all claims for money against the decedent arising from contract, express or implied, whether the same be due, not due

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or contingent, all claims for funeral expenses and expenses for the last sickness of the decedent and judgment for money against the decedent." Under the familiar rule of statutory construction of *expressio unius est exclusio alterius,* the mention of one thing implies the exclusion of another thing not mentioned. Thus, if a statute enumerates the things upon which it is to operate, everything else must necessarily, and by implication be excluded from its operation and effect (Crawford, *Statutory Construction,* pp. 334-335).

In the case of *Commissioner of Internal Revenue vs. Ilagan Electric & Ice Plant, et al.,* G.R. No. L-23081, December 30, 1969, it was held that the assessment, collection and recovery of taxes, as well as the matter of prescription thereof are governed by the provisions of the National Internal Revenue Code, particularly Sections 331 and 332 thereof, and not by other provisions of law. (See also *Lim Tio, Dy Heng and Dee Jue vs. Court of Tax Appeals & Collector of Internal Revenue,* G. R. No. L-10681, March 29, 1958). Even without being specifically mentioned, the provisions of Section 2 of Rule 86 of the Rules of Court may reasonably be presumed to have been also in the mind of the Court as not affecting the aforecited Section of the National Internal Revenue Code.

In the case of *Pineda vs. CFI of Tayabas,* 52 Phil. 803, it was even more pointedly held that "taxes assessed against the estate of a deceased person x x x need not be submitted to the committee on claims in the ordinary course of administration. In the exercise of its control over the administrator, the court may direct the payment of such taxes upon motion showing that the taxes have been assessed against the estate." The abolition of the Committee on Claims does not alter the basic ruling laid down giving exception to the claim for taxes from being filed as the other claims mentioned in the Rule should be filed before the Court. Claims for taxes may be collected even after the distribution of the decedent's estate among his heirs who shall be liable therefor in proportion of their share in the inheritance. (*Government of the Philippines vs. Pamintuan,* 55 Phil. 13).

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The reason for the more liberal treatment of claims for taxes against a decedent's estate in the form of exception from the application of the statute of non-claims, is not hard to find. Taxes are the lifeblood of the Government and their prompt and certain availability are imperious need. (*Commissioner of Internal Revenue vs. Pineda,* G. R. No. L-22734, September 15, 1967, 21 SCRA 105). Upon taxation depends the Government ability to serve the people for whose benefit taxes are collected. To safeguard such interest, neglect or omission of government officials entrusted with the collection of taxes should not be allowed to bring harm or detriment to the people, in the same manner as private persons may be made to suffer individually on account of his own negligence, the presumption being that they take good care of their personal affairs. This should not hold true to government officials with respect to matters not of their own personal concern. This is the philosophy behind the government's exception, as a general rule, from the operation of the principle of estoppel. (*Republic vs. Caballero*, L-27473, September 30, 1977, 79 SCRA 177; Manila Lodge No. 761, Benevolent and Protective Order of the *Elks, Inc. vs. Court of Appeals*, L-41001, September 30, 1976, 73 SCRA 162; *Sy vs. Central Bank of the Philippines,* L-41480, April 30, 1976, 70 SCRA 571; *Balmaceda vs. Corominas & Co., Inc.*, 66 SCRA 553; *Auyong Hian vs. Court of Tax Appeals*, 59 SCRA 110; *Republic vs. Philippine Rabbit Bus Lines, Inc.*, 66 SCRA 553; *Republic vs. Philippine Long Distance Telephone Company*, L-18841, January 27, 1969, 26 SCRA 620; *Zamora vs. Court of Tax Appeals*, L-23272, November 26, 1970, 36 SCRA 77; *E. Rodriguez, Inc. vs. Collector of Internal Revenue,* L-23041, July 31, 1969, 28 SCRA 119.) As already shown, taxes may be collected even after the distribution of the estate of the decedent among his heirs (*Government of the Philippines vs. Pamintuan, supra; Pineda vs. CFI of Tayabas, supra; Clara Diluangco Palanca vs. Commissioner of Internal Revenue*, G. R. No. L-16661, January 31, 1962).

Furthermore, as held in *Commissioner of Internal Revenue vs. Pineda, supra*, citing the last paragraph of Section 315 of the Tax Code payment of income tax shall be a lien in favor

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of the Government of the Philippines from the time the assessment was made by the Commissioner of Internal Revenue until paid with interests, penalties, *etc*. By virtue of such lien, this Court held that the property of the estate already in the hands of an heir or transferee may be subject to the payment of the tax due the estate. *A fortiori,* before the inheritance has passed to the heirs, the unpaid taxes due to the decedent may be collected, even without its having been presented under Section 2 of Rule 86 of the Rules of Court. It may truly be said that until the property of the estate of the decedent has vested in the heirs, the decedent, represented by his estate, continues as if he were still alive, subject to the payment of such taxes as would be collectible from the estate even after his death. Thus in the case abovecited, the income taxes sought to be collected were due from the estate, for the three years 1946, 1947 and 1948 following his death in May, 1945.

Even assuming *arguendo* that claims for taxes have to be filed within the time prescribed in Section 2, Rule 86 of the Rules of Court, the claim in question may be filed even after the expiration of the time originally fixed therein, as may be gleaned from the italicized portion of the Rule herein cited which reads:

"Section 2. Time within which claims shall be filed. — In the notice provided in the preceding section, the court shall state the time for the filing of claims against the estate, which shall not be more than twelve (12) nor less than six (6) months after the date of the first publication of the notice. *However, at any time before an order of distribution is entered, on application of a creditor who has failed to file his claim within the time previously limited, the court may, for cause shown and on such terms as are equitable, allow such claim to be filed within a time not exceeding one (1) month.*" (italics supplied)

In the instant case, petitioners filed an application (Motion for Allowance of Claim and for an Order of Payment of Taxes) which, though filed after the expiration of the time previously limited but before an order of the distribution is entered, should have been granted by the respondent court, in the absence of any valid ground, as none was shown, justifying denial of the

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motion, specially considering that it was for allowance of claim for taxes due from the estate, which in effect represents a claim of the people at large, the only reason given for the denial that the claim was filed out of the previously limited period, sustaining thereby private respondents' contention, erroneously as has been demonstrated.

WHEREFORE, the order appealed from is reversed. Since the Tax Commissioner's assessment in the total amount of ₱3,254.80 with 5% surcharge and 1% monthly interest as provided in the Tax Code is a final one and the respondent estate's sole defense of prescription has been herein overruled, the Motion for Allowance of Claim is herein granted and respondent estate is ordered to pay and discharge the same, subject only to the limitation of the interest collectible thereon as provided by the Tax Code. No pronouncement as to costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *Melencio Herrera, JJ.*, concur.

FIRST DIVISION

[G.R. Nos. L-32097-98. March 30, 1979]

CITY OF LAOAG and MUNICIPALITY OF SAN NICOLAS, ILOCOS NORTE, *petitioners, vs.* **THE PUBLIC SERVICE COMMISSION and ILOCOS NORTE ELECTRIC COMPANY, INC.,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; FINDINGS OF FACT OF PUBLIC SERVICE COMMISSION, UPHELD.—