

**\*\*Title:\*\* Commissioner of Internal Revenue vs. Next Mobile, Inc. (Formerly Nextel Communications Phils., Inc.)**

**\*\*Facts:\*\*** This case involves the Petition for Review filed by the Commissioner of Internal Revenue (CIR) to reverse and set aside the Decision of the Court of Tax Appeals (CTA) En Banc which affirmed its First Division's decision in CTA Case No. 7965. The CTA First Division cancelled and withdrew the petitioner's formal letter of demand and assessment notices to the respondent for being issued beyond the prescriptive period provided by law.

Next Mobile, Inc. (respondent) filed its Annual Income Tax Return and other related tax returns for the year ending December 31, 2001. On September 25, 2003, a Letter of Authority authorized examination of the respondent's books for the said period. Several waivers of the statute of limitations were executed to extend the period of tax assessment. However, on receiving a Preliminary Assessment Notice and subsequently a Formal Letter of Demand along with Assessment Notices on October 25, 2005, for deficiency taxes amounting to P313,339,610.42, the respondent protested these assessments.

Upon denial of its protest, the respondent filed a Petition for Review before the CTA on August 27, 2009. The CTA First Division ruled the assessments void for being issued beyond the prescriptive period, pointing out irregularities in the execution of waivers and rejecting the claim that the 10-year prescriptive period for tax assessment on false or fraudulent returns applied.

**\*\*Issues:\*\*** The Supreme Court examined whether the CIR's right to assess the respondent's deficiency taxes had already prescribed.

**\*\*Court's Decision:\*\*** The Supreme Court held that the CTA En Banc erred in invalidating the assessment notices. It found the waivers executed by the respondent valid despite procedural lapses, such as the absence of a notarized written authority and failure to follow the mandated procedure for waiver execution. This was due to both parties being in *pari delicto*—or equally at fault—but favored enforcing the waivers to uphold the public interest in the collection of taxes. The Court emphasized the principle that taxes are the lifeblood of the government, and as such, procedural lapses by the BIR, and acts of bad faith by the taxpayer should not prevent tax collection. The Supreme Court granted the petition, reversed the CTA En Banc's decision, and remanded the case to the CTA for further proceedings to review the merits of the respondent's petition against the formal letter of demand and assessment notices.

**\*\*Doctrine:\*\*** The waiver of the statute of limitations on tax assessment and collection must be in strict compliance with the prescribed format and procedure under Revenue Memorandum Order No. 20-90 and Revenue Delegation Authority Order No. 05-01 to be valid and binding. However, in cases where both parties are in *pari delicto*, the public interest in the collection of taxes may prevail, allowing a departure from strict procedural compliance.

**\*\*Class Notes:\*\***

1. **\*\*Prescriptive Periods for Tax Assessment and Collection:\*\*** According to Section 203 of the 1997 National Internal Revenue Code (NIRC), taxes should be assessed within three years from the filing of the tax return. Exceptions provided under Section 222 allow for an extended period under certain conditions, including a written agreement to extend.
2. **\*\*Waivers of the Statute of Limitations:\*\*** The validity of waivers is contingent upon strict adherence to procedural requirements, including proper execution, signature by duly authorized persons, and acknowledgment by the BIR before the expiration of the original prescriptive period.
3. **\*\*Doctrine of Estoppel and Pari Delicto:\*\*** This case illustrates the application of estoppel and the principle of *pari delicto* in situations where both the taxpayer and the BIR have contributed to procedural faults in extending the period for tax assessment and collection.

**\*\*Historical Background:\*\*** This decision underscores the evolving interpretative stance of the Philippine Supreme Court toward the procedural aspects of tax law enforcement and collection. It highlights the tension between ensuring procedural fairness to taxpayers and fulfilling the state's fiscal objectives. The decision reiterates the importance of the government's revenue collection powers while recognizing the reality of administrative and procedural lapses.