

Title: **China Banking Corporation v. Commissioner of Internal Revenue, G.R. No. 172509 (October 17, 2006)**

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### ### Facts

Petitioner, China Banking Corporation (CBC), a universal bank in the Philippines, engaged in sales of foreign exchange transactions known as SWAP transactions with the Central Bank (now Bangko Sentral ng Pilipinas) for the taxable years 1982 to 1986. CBC did not file tax returns or pay the required tax on these transactions for that period. On April 19, 1989, CBC received an assessment from the Bureau of Internal Revenue (BIR), holding CBC liable for P11,383,165.50 in deficiency documentary stamp tax (DST).

### **Chronology of Events:**

- April 19, 1989:** CBC receives a deficiency DST assessment from BIR for the taxable years 1982 to 1986.
- May 8, 1989:** CBC files a letter of protest with the BIR, arguing various defenses including double taxation, incorrect tax liability assignment, due process violation, exemption prior to the effectivity of certain Presidential Decrees, and requesting a reinvestigation.
- December 6, 2001:** More than 12 years later, the BIR reiterates the assessment and orders CBC to pay the amount plus increments within 30 days.
- January 18, 2002:** CBC files a Petition for Review with the Court of Tax Appeals (CTA).
- March 11, 2002:** The CIR submits an Answer to the CTA, including a demand for CBC to pay the assessed DST.
- February 23, 2005:** The CTA Second Division rejects CBC's petition. CBC's subsequent Motion for Reconsideration is denied on July 14, 2005.
- August 5, 2005:** CBC files an appeal with the CTA En Banc, which dismisses CBC's petition on December 1, 2005, and denies the Motion for Reconsideration on March 20, 2006.
- Supreme Court:** CBC files a Rule 45 Petition, arguing, among other points, that the government's right to collect the tax is barred by prescription.

### ### Issues

1. **Whether the right of the BIR to collect the assessed DST from CBC is barred by prescription.**
2. **Whether the running of the statute of limitations was suspended by CBC's request for a reinvestigation.**
3. **Whether the failure to raise prescription at the administrative level or lower court as a defense affects the case.**

### ### Court's Decision

#### 1. **Prescriptive Period:**

The Supreme Court ruled that the right of the BIR to collect the assessed DST is barred by the statute of limitations. According to Section 319(c) of the National Internal Revenue Code of 1977, the government had three years from the date the assessment notice was mailed, released, or sent to collect the tax through distraint, levy, or court proceedings. Assuming the date CBC received the notice (April 19, 1989) as the start, the BIR had until April 19, 1992, to initiate collection actions. Since there was no evidence that BIR issued a warrant of distraint, levied property, or filed a collection case within this period, the right to collect had prescribed.

#### 2. **Suspension Due to Reinvestigation Request:**

The court emphasized that merely filing a request for reinvestigation does not suspend the statute of limitations. The taxpayer's request must be granted by the CIR to effect suspension. In this case, there was no evidence that the BIR granted CBC's request for reinvestigation, so the prescriptive period continued to run.

#### 3. **Raising Prescription Issues on Appeal:**

While normally prescription must be raised at the trial level, exceptions exist when the pleadings or evidence clearly indicate that the claim is barred by prescription. CBC raised the issue for the first time before the Supreme Court; however, the evidence on record showed that the claim was indeed barred by prescription. Hence, the court could not ignore this fact, and thus, CBC's defence based on prescription was upheld.

### ### Doctrine

**Prescription in Tax Cases:** The government's right to collect taxes is subject to a statute of limitations. Under the NIRC of 1977, the period is three years from the date of mailing, release, or sending of the assessment notice. The request for a reinvestigation does not automatically suspend the statute of limitations without express or implied grant by the CIR.

If the period lapses without collection action, the government's right to collect is barred by prescription.

### ### Class Notes

- **Statute of Limitations:** Check Section 319(c) of the NIRC of 1977 - BIR must collect within three years via distraint, levy, or judicial action.
- **Suspension of Prescriptive Period:** Section 320 NIRC - Requires both taxpayer request and CIR's grant of reinvestigation for suspension.
- **Critical Exception:** Prescription can be raised on appeal if shown in records, despite not being raised at lower levels.

### ### Historical Background

The case reflects the legislative and administrative intricacies of the Philippine tax system, particularly regarding tax collection practices and taxpayer rights. Historically, the issue of prescription protects taxpayers from indefinite government actions. This ruling reaffirms taxpayers' protections against delayed governmental actions and ensures a definitive time frame for tax collection efforts, promoting tax administration efficiency and fairness.