

****Title:****

Republic of the Philippines v. First Gas Power Corporation, G.R. No. 211486, October 7, 2015

****Facts:****

1. ****Initial Examination Authorization:****

- On October 24, 2002, the Bureau of Internal Revenue (BIR) issued a Letter of Authority to First Gas Power Corporation (First Gas) authorizing the examination of its accounts for all revenue taxes for the taxable years 2000 and 2001.

2. ****Informal Conference Request:****

- On September 30, 2003, the BIR sent a Notice to Taxpayer to First Gas to attend an informal conference on October 15, 2003.

3. ****Preliminary Assessment Notices:****

- On March 11, 2004, First Gas received two Preliminary Assessment Notices (PAN), dated December 15, 2003, and January 28, 2004, for deficiency income taxes and penalties for the years 2000 and 2001.

- 2000: P84,571,959.65 (Income Tax)

- 2001: P97,999,363.41 (Income Tax), P4,670,630.18 (Late Payment Penalties)

4. ****Response by First Gas:****

- On April 6, 2004, First Gas filed its Preliminary Reply to the PAN.

5. ****Final Assessment Notices (FAN):****

- On September 6, 2004, First Gas received final assessments (FAN) and formal demand letters, each dated July 19, 2004, for assessed deficiency taxes and penalties for 2000 and 2001.

- 2000: P37,099,915.29 (Income Tax)

- 2001: P82,365,799.90 (Income Tax), P4,670,630.18 (Late Payment Penalties)

6. ****Waivers of Prescription:****

- First Gas and BIR executed three waivers to extend the prescriptive period to assess taxes:

- First: April 12, 2004 to June 15, 2004

- Second: June 14, 2004 to August 15, 2004

- Third: August 13, 2004 to October 15, 2004

7. **Protest and Legal Actions:**

- On October 5, 2004, First Gas filed an unacted protest against the assessments.
- On June 30, 2005, First Gas filed a Petition for Review with the Court of Tax Appeals (CTA).

8. **CTA Third Division Decision:**

- On September 24, 2012, the CTA Third Division ruled in favor of First Gas, canceling the FAN and formal letters of demand.

9. **CTA En Banc Decision:**

- On May 12, 2014, the CTA En Banc upheld the Third Division's decision.
- BIR's Motion for Reconsideration was denied on October 7, 2014.

10. **BIR's Petition to Supreme Court:**

- BIR consequently filed a Petition for Review on Certiorari before the Supreme Court.

Issues:

1. **Validity of the Waivers for Taxable Year 2000:**

- Whether the waivers extending the BIR's period to assess deficiency income tax for the year 2000 are valid given the lack of specified dates of acceptance.

2. **Validity of the Assessment for Taxable Year 2000:**

- Whether the assessment issued for the taxable year 2000 is void due to the expiration of the prescriptive period.

3. **Authority and Procedure in Tax Assessment:**

- Whether there was a procedural defect in the FAN for the taxable year 2001 due to omission of a specific due date for payment.

Court's Decision:

1. **Validity of Waivers for 2000:**

- The Supreme Court agreed with the findings of the CTA that the waivers were void as they did not indicate the date on which the BIR accepted them, as mandated by RMO 20-90 and RDAO 05-01. Without this date, it could not be confirmed whether the waivers were accepted before the expiration of the three-year prescriptive period.

2. **Assessments Beyond Prescriptive Period:**

- With the defective waivers, the period to assess for the year 2000 had already lapsed by the time the BIR issued the assessments. Thus, the notices for deficiency income tax for the year 2000 were deemed invalid.

3. **Assessments for 2001:**

- For the assessment year 2001, the FAN and formal letters of demand also failed due to the absence of a definitive due date for payment of the alleged tax liability. Such omission makes the demand indefinite and unenforceable.

Doctrine:

- **Strict Compliance with Waiver Requirements:** The proper execution of waivers extending the period for tax assessment requires strict adherence to the guidelines, including the necessity of clearly indicating the date of acceptance by the BIR.

- **Definiteness in Tax Demands:** A final assessment notice must contain an explicit due date to be considered a valid demand for payment. Failure to include such a definite period renders the assessment uncounselable.

Class Notes:

- **Elements of a Valid Tax Assessment:**

- Valid execution and proper form of waivers where applicable.
- Clear indication of the assessment period and specific due date for payment.
- Compliance with procedural requirements mandated by relevant Revenue Memorandum Orders (RMOs) and Revenue Delegation Administration Orders (RDAOs).

- **Statutory Provisions:**

- **Section 203, NIRC:** Sets the period of limitation for tax assessment to three years.
- **Section 222(b), NIRC:** Allows extensions of the assessment period through written agreements between the taxpayer and the BIR, with specific guidelines for execution.

Historical Background:

- This case underscores the rigorous adherence required by the BIR to procedural formalities in tax assessments. It emphasizes the protection provided to taxpayers against indefinite or prolonged tax investigations and the importance of clear and enforceable tax demands. It also solidifies precedents ensuring taxpayers' rights against arbitrary or procedurally flawed assessments.