REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-*versus*-

ALEXANDER S. DELMO,
#33 Kamuning Road, Kamuning,
Quezon City,
(At-large),
Accused

CTA Crim. Case No. O-579
(NPS Docket No. XVI-INV-14G-00231)

For: Violation of Section 255, in relation to Sections 253 (d) and 256, of the NIRC of 1997, as amended

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

AUG 0 9 2024 8:11 AM

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RESOLUTION

The instant Information was filed on June 15, 2016.

Since then, the Court has issued a Warrant of Arrest[1] and an Alias Warrant of Arrest[2] against accused.

After a review of the records, however, the Court finds that We never properly gained jurisdiction over this Information, as the same was filed beyond the period prescribed by law to do so.

Under *Section 281 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"), the government has five (5) years from either the commission of the crime or the date of its discovery within which to prosecute any violation of the *NIRC*. The period is interrupted when "proceedings are instituted against the guilty persons." In the case of criminal actions heard before the CTA in Division, such as in this case, proceedings are deemed instituted upon the filing of an Information with the CTA, following *Rule 9, Section 2 of the Revised Rules of the Court of Tax Appeals, as amended.*

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[1] *Rollo*, pp. 81-82.
[2] *Id.* at 88-89.

Finally, following *Lim v. Court of Appeals*[3] and *Tupaz v. Ulep*,[4] the prescriptive period then started upon the commission of the suspected crime, which the Supreme Court identified with the finality of the assessment, attained after the lapse of 30 days from the taxpayer's receipt of the assessment, coupled with the taxpayer's willful refusal to pay the assessed taxes within the period for doing so.

The Information claims that the crime was committed "on or before July 2014," and the Amended Information provides "on or before the year 2003" as the date instead. However, the relevant assessment notice here is the Formal Letter of Demand with Final Assessment Notices[5] ("FLD/FANs"), issued on December 20, 2006. It appears that said FLD/FANs was mailed on that same day: the Transmittal Letter showing that the FLD/FANs was mailed under Registry Receipt No. 1993 was also dated December 20, 2006.[6] Unfortunately, neither the FLD/FANs nor the Transmittal Letter show the date on which accused *received* said assessment notices. We are thus constrained to treat December 20, 2006 as the relevant date and January 20, 2007 as the start of the prescriptive period. This gave the prosecution until January 20, 2012 within which to institute the criminal action against accused before this Court.

The Information was filed on June 15, 2016, however. The government's right to prosecute this case had thus prescribed long before the instant Information was filed, and the CTA never truly gained jurisdiction over this case.

There is consequently nothing left for this Court to do but to dismiss this case.

ACCORDINGLY, CTA Crim. Case No. O-579 is hereby **REVIVED** from the archives but **DISMISSED** on the ground of prescription.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[3] G.R. Nos. L-48134-37, October 18, 1990.
[4] G.R. No. 127777, October 1, 1999.
[5] *Rollo*, pp. 38-46.
[6] *See* Transmittal Letter, dated December 20, 2006, *id.* at 47.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice