REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

MATTEN TECHNOLOGIES INC., (Purok 1, San Isidro, Cabuyao, Laguna), **JOSEPHINE TIONGCO** (Ridgeview Estate, Canlubang, Laguna), **and WIVINA ILAGAN** (1004 Rizal Blvd., Pooc, Sta. Rosa, Laguna),
Accused.

CTA Crim. Case No. O-982
(NPS Docket No. XVI-INV-19F-00212)
For: Violation of Section 255 of the NIRC of 1997, as amended

Members:

DEL ROSARIO, ***PJ, Chairperson,***
MANAHAN, and
REYES-FAJARDO ***JJ.***

Promulgated:

MAY 0 9 2023 ; 10:52 AM

x - x

RESOLUTION

On February 21, 2023, the Court issued a Resolution, dismissing the case in the following fashion:

> **WHEREFORE**, the Court finds no probable cause to issue a warrant of arrest, on the ground of prescription of the offense charged. Likewise, on the same ground, the instant Information docketed as CTA Crim. Case No. O-982, is **DISMISSED.**
>
> **SO ORDERED.**

On March 14, 2023, the prosecution filed a Motion for Reconsideration. In its motion, the prosecution finds erroneous the ruling that the criminal action filed against the accused is already barred by the statute of limitations.

Section 281 of the National Internal Revenue Code (NIRC) of 1997, as amended, provides, among others, that the five (5)-year prescriptive period for tax offenses commences from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and institution of judicial proceedings for its investigation and punishment, and shall be suspended when proceedings are instituted against the persons guilty of the transgression.

According to the prosecution, for special laws such as the NIRC of 1997, it is Act No. 3326, otherwise known as "An Act to Establish Period of Prescription for Violations Penalized by Special Laws and Municipal Ordinances, and to Provide when Prescription shall Begin to Run", enacted on December 4, 1926, which shall govern prescription. Thus, the Supreme Court's interpretations of Act No. 3326 on prescription naturally extend to the applicable Tax Code, the NIRCs of 1939, 1977, and of 1997, as these are certainly special laws also. Plaintiff likewise listed several Supreme Court Decisions ruling that discovery of the offense, if its commission was not known at the time, starts the period of prescription, while filing of the Complaint Affidavit with the investigating prosecutor tolls it. Therefore, in this case, prescription has not yet set in as the prescriptive period was tolled upon the filing of the Joint Complaint-Affidavit against accused before the Department of Justice (DOJ) on June 6, 2019.

The present Motion must be denied.

Item III (2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases provides:

> III. Procedure
>
> xxx xxx xxx
>
> 2. Motions
>
> xxx xxx xxx
>
> (c) Meritorious Motions. - Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, xxx:
>
> xxx xxx xxx

> The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, xxx.
>
> Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright.

From the foregoing, the party aggrieved by the Resolution of the Court is conferred a non-extendible period of five (5) calendar days, reckoned from receipt thereof, within which to file a motion for reconsideration, lest the same shall be denied.

As admitted,[1] the prosecution received the Resolution dated February 21, 2023, dismissing the present case on the ground of prescription, on February 28, 2023. Consistent with the above rule, the prosecution had a non-extendible period of five (5) calendar days from February 28, 2023 or until March 5, 2023 to seek reconsideration of the adverse ruling. The prosecution's Motion for Reconsideration having been belatedly filed only on March 14, 2023, the Court is left with no other recourse but to deny the same.

Further, even assuming that the motion is timely filed, said motion shall likewise be denied for lack of merit.

It bears to emphasize that the case of *Emilio E. Lim, Sr. and Antonia Sun Lim V. Court of Appeals and People of the Philippines*[2] specifically deals with the prosecution for violation of a tax law while the cases cited by plaintiff deal with the prosecution of special penal laws not involving tax. The ruling in *Lim* that the filing of information in Court interrupts the running of the prescriptive period is consistent with Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals.[3]

Thus, in view of *Lim* and the RRCTA, the Court reiterates that the period of prescription for a tax case begins to run from

---

[1] Page 1, Paragraph No. 1, Prosecution's Motion for Reconsideration.
[2] *G.R.* No. L-48134-37, October 18, 1990.
[3] xxx

The institution of the criminal action shall interrupt the running of the period of prescription. (Rules of Court, Rule 110, sec. 1, par. 2a) (Boldfacing supplied).

commission of the violation of the law, and if the same be not known at the time, from the discovery and institution of proceedings for its investigation and shall only be tolled by the filing of an information with this Court.

As applied herein, the Formal Letter of Demand (FLD) dated December 17, 2013 covering the taxable year 2010 was received by accused on January 10, 2014. *Sans* payment thereof by accused, the tax offense, in this case, was *committed* on February 10, 2014. Thus, the right of the government to institute the case against accused had already prescribed when the Information was filed before this Court on May 16, 2022.

WHEREFORE, the prosecution's Motion for Reconsideration is **DENIED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice