REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case. O-1157** (I.S. No. 2006-813) For: Violation of Section 255, in relation to Sections 253 (d) and 256 of the NIRC of 1997, as amended
-versus-	**Members:**
SHELMARK BUILDERS PHILS., INC. and SANTIAGO C. BARANGAN, No. 51 Pisces St., Carmel 5 Subdivision, Tandang Sora, Quezon City, *Accused.*	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.* Promulgated: JAN 17 2025 11:42 a.m.

x- -x

RESOLUTION

On July 30, 2024, 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-1157, is **DISMISSED.**
>
> **SO ORDERED.**

On August 21, 2024, the prosecution filed a Formal Entry of Appearance with 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.

For the prosecution, prescription has not yet set in. The prosecution alleged that the questioned taxable year in this case is 2003 hence, the accused should have filed its Income Tax Return until April 15, 2024. However, accused failed to do so. Thus, the commission of the offense in this case is known, to be on April 15, 2024, or when it failed to file the required return. According to the prosecution, the prescriptive period in this case was tolled upon the filing of the Joint Complaint-Affidavit against accused before the Department of Justice (DOJ) on August 18, 2006.

The instant 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 July 30, 2024, dismissing the present case on the ground of prescription, on August 7, 2024. Consistent with the above rule, the prosecution had a non-extendible period of five (5) calendar days from August 7, 2024 or until August 12, 2024 to seek reconsideration of the adverse ruling. The prosecution's Motion for Reconsideration having been belatedly filed only on August 21, 2024, 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.

As extensively discussed in the Resolution dated July 30, 2024, the Revised Rules of the Court of Tax Appeals explicitly provides that the institution of the criminal action shall interrupt the running of the period of prescription. The prescription of the tax offense, in this case, begins to run from the discovery and institution of proceedings for its investigation on August 18, 2006. Thus, the right of the government to institute the case against accused had already prescribed when the Information was filed before this Court on June 19, 2024.

WHEREFORE, the prosecution's Motion for Reconsideration is **DENIED** for being filed out of time.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

---

[1] Page 2, Paragraph No. 5, Prosecution's Motion for Reconsideration.