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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

-versus-

AJ CORINTHIAN HAULING CORPORATION, ARCELI S. SAJONAS, and JOHN FITZ JERALD CLAUDIO,
Respondents.

CTA *EB* Crim No. 165
(CTA Crim Case No. O-1150)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

MAR 19 2026 4:30

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Verified Petition for Review*[1] filed on September 6, 2024, by the People of the Philippines, assailing the *Resolution* dated June 25, 2024 (***first assailed Resolution***)[2] and *Resolution* dated August 20, 2024 (***second assailed Resolution***)[3] rendered by the Court's Second Division (**Court in Division**) in CTA Crim Case No. O-1150, entitled *People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, 98 Ermin Garcia St., Cubao, Quezon City and John Fitz Jerald Claudio, 7th St., GHQ Village, Signal, Taguig City (AT LARGE)*, for alleged violation of Section 254, in relation to Sections 253(d) and 256, of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

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[1] *En Banc (EB)* Docket, pp. 1-16.
[2] Docket (CTA Crim Case No. O-1150), pp. 64-69.
[3] *Id.* at 86-88.

Petitioner seeks the reversal of the assailed *Resolutions,* which dismissed the case on the ground of prescription of the offense charged.

The dispositive portions of the assailed *Resolutions* read:

First assailed Resolution dated June 25, 2024:

> **WHEREFORE,** Criminal Case No. O-1150 is **DISMISSED** for lack of jurisdiction and/ or on the ground of prescription.
>
> **SO ORDERED.**

Second assailed Resolution dated August 20, 2024:

> **WHEREFORE**, the plaintiff's Motion for Reconsideration (To the Resolution dated June 25, 2024) is **DENIED** for lack of merit.
>
> **SO ORDERED**.

THE PARTIES

The People of the Philippines (**People**) is represented by the Bureau of Internal Revenue (**BIR**), the government agency mandated to collect national revenue taxes, and is further represented by the Commissioner of Internal Revenue (**CIR**) through revenue officers (**RO**).[4]

Respondent AJ Corinthian Hauling Corporation is registered with the Securities and Exchange Commission (**SEC**) on September 30, 1991, under Registration No. CS200505088 to operate cargo trucks for hauling of garbage, gravel, sand, lumber, general merchandise, or any kind of cargo within Metro Manila to any point in the island of Luzon, Visayas, and Mindanao accessible by motor vehicle for a fee. The corporation is registered with BIR RDO No. 044, with Taxpayer Identification Number (**TIN**) 241-128-430-000, and has its registered address at 7th St., GHQ Signal Village, Taguig City, where it may be served with summons and other processes of this Honorable Office.[5]

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[4] *EB* Docket, p. 3, Petition for Review, par. 8.
[5] *Id.*, Petition for Review, par. 9.

Its responsible officers are: **Arceli S. Sajonas**, President, with residential address at 98 Ermin Garcia St., Cubao, Quezon City; and **John Fitz Jerald Claudio**, Treasurer, with residential address at 7th St., GHQ Village, Signal, Taguig.[6]

THE FACTS

On May 27, 2024, the prosecution filed before the Court an *Information*[7] against respondents for violation of Section 254, in relation to Sections 253(d) and 256, of the NIRC of 1997, as amended, allegedly committed as follows:

> That on or before April 15, 2013, in Taguig City, and within the jurisdiction of this Honorable Court, accused AJ Corinthian Hauling Corporation, a domestic corporation, doing business in Taguig City and Arceli S. Sajonas (Manager) and John Fitz Jerald Claudio (Treasurer), did then and there, knowingly, willfully and unlawfully attempt to evade or defeat a tax or the payment thereof, by failing to make and file the necessary income tax return for taxable year 2012, resulting to a basic income tax liability of One Million, Ten Thousand, Eight Hundred Fifty-Six Pesos and Fifty-Eight Centavos (P1,010,856.58), excluding interest and penalties thereon, which payment is required under the pertinent provisions of the National Internal Revenue Code of 1997, thereby depriving the government of the needed revenues to sustain public service.
>
> CONTRARY TO LAW.

On June 25, 2024, the Court in Division promulgated the *first assailed Resolution* dismissing the criminal case for lack of jurisdiction and/or on the ground of prescription.[8]

On July 12, 2024, petitioner filed its *Formal Entry of Appearance with Motion for Reconsideration.*[9] Respondents filed their *Comment/Opposition to Plaintiff's Motion for Reconsideration* on July 29, 2024.[10]

On August 20, 2024, the Court in Division promulgated the *second assailed Resolution* denying petitioner's *Motion for Reconsideration.*[11]

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[6] *Id.*, Petition for Review, par. 10.
[7] Docket (CTA Crim Case No. O-1150), pp. 5-7.
[8] *Id.* at 64-69.
[9] *Id.* at 70-72.
[10] *Id.* at 89-92.
[11] *Id.* at 86-88.

Aggrieved, petitioner filed its *Verified Petition for Review* on September 6, 2024.[12] On October 9, 2024, respondents filed their *Comment/Opposition to Plaintiff's Verified Petition for Review.*[13]

The Court *En Banc* submitted the instant case for decision on April 10, 2025.[14]

THE ISSUE

Petitioner raises a lone error allegedly committed by the Court in Division as follows:

> THE CTA - SECOND DIVISION ERRED WHEN IT DISMISSED THE CASE AGAINST RESPONDENT AJ CORINTHIAN HAULING CORPORATION AND ITS RESPONSIBLE OFFICERS FOR VIOLATION OF SECTION 254 OR WILFULL ATTEMPT TO EVADE OR DEFEAT TAX FOR THE TAXABLE YEAR 2012 ON THE GROUND OF PRESCRIPTION.

PETITIONER'S ARGUMENTS

Petitioner argues that the criminal action against respondents was timely filed within the five-year prescriptive period. It contends that prescription was interrupted when proceedings were instituted before the Department of Justice (**DOJ**) for preliminary investigation on June 29, 2016.

RESPONDENTS' ARGUMENTS

In their *Comment/Opposition*, respondents argue that the Court in Division did not err in dismissing the criminal case on the ground of prescription. They maintain that prescription is interrupted only upon the filing of the criminal action before the Court in Division.

THE COURT *EN BANC'S* RULING

The Court *En Banc* finds the instant *Verified Petition for Review* devoid of merit.

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[12] *EB* Docket, pp. 1-16.
[13] *Id.* at 105-110.
[14] *Id.* at 133.

The instant Petition for Review was timely filed.

On August 20, 2024, the Court in Division promulgated a *Resolution* denying petitioner's *Motion for Reconsideration.* Petitioner received the Resolution on August 22, 2024. Accordingly, petitioner had fifteen (15) days from receipt thereof, or until September 6, 2024, to file a *Petition for Review* before the Court *En Banc.*

On September 6, 2024, within the reglementary period, petitioner filed its *Verified Petition for Review* via registered mail.

Accordingly, the Court *En Banc* rules that the present *Petition* was timely filed.

Petitioner failed to attach certified true copies of the assailed Resolutions.

Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals (**RRCTA**) provides:

> RULE 6
> PLEADINGS FILED WITH THE COURT
>
> SECTION 2. Petition for review; contents. — The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts, and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition.

Similarly, Section 6, Rule 43 of the Rules of Court, which applies analogously to appeals from the Court in Division to the Court *En Banc*,[15] requires that the petition be accompanied by a clearly legible duplicate original or certified true copy of the judgment, final order, or resolution appealed from:

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[15] Section 4(b). Rule 8 of the RRCTA provides:
SECTION 4. Where to appeal; mode of appeal. — . . . .

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review **as provided in Rule 43 of the Rules of Court**. The Court *en banc* shall act on the appeal. (n)

> Sec. 6. Contents of the petition. — The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) **be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers**; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (Emphasis and underscoring supplied)

However, a perusal of the records reveals that petitioner merely attached photocopies of the assailed *Resolutions*.[16]

Failure to attach certified true copies of the assailed Resolutions constitutes non-compliance with a mandatory requirement for the perfection of an appeal. Accordingly, for failure to perfect the appeal in the manner prescribed by the Rules, the instant *Petition* must be dismissed.

Petitioner lacks authority to file the instant Petition.

Section 10, Rule 9 of the Revised Rules of the Court of Tax Appeals (**RRCTA**) provides that the Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction:

> RULE 9
> PROCEDURE IN CRIMINAL CASES
>
> . . . .
>
> Sec. 10. Solicitor General as counsel for the People and government officials sued in their official capacity. — The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the

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16 *EB* Docket, pp. 34-39; 55-57.

> National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: Provided, however, such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.

Accordingly, it is the Office of the Solicitor General (**OSG**) that is the proper party to file the present *Petition*.

While the Solicitor General may deputize legal officers of the Bureau of Internal Revenue (**BIR**) to appear before this Court in cases brought under the NIRC, such deputized officers remain under the direct control and supervision of the OSG.

In *People v. Tuyay (**Tuyay**)*, [17] the Supreme Court reiterated that the Solicitor General has primary responsibility to appear for the government in appellate proceedings, subject only to specific exceptions. One such exception requires an express authorization from the OSG deputizing identified legal officers:

> Jurisprudence likewise consistently holds that is it the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings. The only exceptions are: (1) when the government is adversely affected by the contrary position taken by the OSG; (2) **<u>when there is an express authorization by the OSG deputizing legal officers to assist the Solicitor General and appear or represent the government in cases involving their respective offices</u>**; and (3) when the dismissal of the petition could have lasting effect on government tax revenues as in the case of *Commissioner of Internal Revenue (CIR) v. La Suerte Cigar and Cigarette Factory*, where the issue raised was whether the revenue regulation issued by the CIR has exceeded, on constitutional grounds, the allowable limits of legislative delegation. (Emphasis and underscoring supplied, citations omitted)

Further, in *Republic v. Heirs of Cuizon* (***Cuizon***),[18] citing *Civil Service Commission v. Asensi*, [19] the Court further expounds on the second exception, *viz.*:

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[17] G.R. No. 206579, December 1, 2021 [Per J. Hernando, Second Division].
[18] G.R. No. 191531, March 6, 2013 [Per J. Perez, Second Division].
[19] G.R. No. 160657, December 17, 2004 [Per J. Tinga, *En Banc*].

> Considering that only the Solicitor General can bring or defend actions on behalf of the Republic of the Philippines, the rule is settled that actions filed in the name of the latter not initiated by the OSG are susceptible to summary dismissal. Extended to include actions filed in the name of agencies or instrumentalities of the government, the rule admits of an exception under Section 35 (8) Chapter 12, Title III, Book IV of the Administrative Code which empowers the OSG to "deputize legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts and exercise supervision and control over such legal officers with respect to such cases." In *Civil Service Commission v. Asensi*, the Court clarified, however, that this exception should be strictly construed and is subject to the following conditions precedent: "**First, there must be an express authorization by the Office of the Solicitor General, naming therein the legal officers who are being deputized. Second, the cases must involve the respective offices of the deputized legal officers. And finally, despite such deputization, the OSG should retain supervision and control over such legal officers with respect to the cases**." (Emphasis and underscoring supplied; citations omitted)

In the instant case, petitioner relies on Revenue Memorandum Circular (RMC) No. 25-2010, which circularizes a Memorandum of Agreement (MOA) between the BIR and OSG regarding the general deputization of BIR lawyers to appear before courts and prepare all pleadings, motions, and orders, among other court submissions.[20]

However, the mere attachment of the RMC or the MOA to the instant *Petition* does not satisfy the requirement of an express authorization naming the deputized legal officers for the specific case, as required in *Tuyay* and *Cuizon*.

Petitioner also attached a photocopy of Office Order No. 69 dated January 26, 2024,[21] naming specific lawyers deputized by the DOJ. However, the deputization covers only CTA Criminal Case Nos. O-1124, O-1125, and O-1126, and does not include the present case.

Accordingly, the instant *Petition* was filed without proper authority from the OSG and must be outrightly dismissed.

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[20] *EB* Docket, pp. 22-33.
[21] *Id.* at 44.

The Court in Division did not err in dismissing the case on the ground of prescription.

Even if the Court may already dismiss the instant *Petition* on the ground of petitioner's lack of authority to file the same, it nevertheless finds it appropriate to address the core issue, namely, whether the Court in Division correctly held that the criminal case had already prescribed.

Section 281 of the NIRC of 1997, as amended, provides:

> *SEC. 281. Prescription for Violations of any Provision of this Code.* - **All violations of any provision of this Code shall prescribe after five (5) years**.
>
> Prescription shall begin to run 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 the institution of judicial proceedings for its investigation and punishment.**
>
> The prescription shall be interrupted when proceedings are instituted against the guilty persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.
>
> The term of prescription shall not run when the offender is absent from the Philippines. (Emphasis and underscoring supplied)

The foregoing provision contemplates two (2) modes for determining the commencement of the prescriptive period:

1. *First Mode*: From the *day of the commission* of the violation of the law; or

2. *Second Mode*: When the day of the commission is unknown, from the *discovery* of the commission and the institution of judicial proceedings for its investigation and punishment.

In *Lim, Sr. v. Court of Appeals*[22] ***(Lim, Sr.)*** the Supreme Court held that while tax offenses are generally regarded as imprescriptible in certain contexts, violations of the NIRC

[22] G.R. Nos. 48134-37, October 18, 1990 [Per C.J. Fernan, Third Division].

nevertheless prescribe after five (5) years counted from the commission of the offense, if known, or from its discovery.

Here, the Joint Complaint-Affidavit[23] executed by Jonas P. Punzal, Nelson V. Gonzales, Amelita M. Tugade, and Maxima DC. Mones was filed before the DOJ on **June 29, 2016**. Following *Lim, Sr.,* petitioner had five (5) years therefrom, or until **June 29, 2021**, to file the corresponding *Information* in court. However, the *Information* was filed before the Court in Division only on **May 27, 2024**.

Clearly, when the *Information* was filed on May 27, 2024, the government's right to institute criminal action against respondents-accused had already prescribed for **more than two (2) years.**

It must be stressed that prescription in criminal cases is a matter of substantive law.[24] Although prescription has not been raised as an issue, it is well-settled that if the pleadings or the evidence on record show that the claim is barred by prescription, the Court may, *motu proprio,* order its dismissal on said ground.[25]

The Court is not unaware of *People v. Consebido* ***(Consebido)***,[26] where the Supreme Court held that the filing of a criminal complaint before the prosecution office tolls the running of the prescriptive period. However, the Supreme Court categorically declared that the new rule shall apply **prospectively**:

> With this dilemma, the Court takes this opportunity to pronounce that **the filing of the complaint before the prosecution office and the conduct of the summary investigation should toll the running of the prescriptive period**. While it is ideal that all cases are resolved promptly, the reality is that this is not done at all times, whether for valid reasons or not. The offended party, which is primarily the State, should not be prejudiced by any delay in the conduct of the preliminary investigation even for cases covered by summary procedure. The Court reiterates its reasoning in *People v. Olarte* that "it is unjust to deprive the injured party of the right to obtain vindication on account of delays that are not under his control. All that the victim of the

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23 Docket (CTA Crim. Case No. O-1150), pp. 19-25.
24 *Reodica v. Court of Appeals*, G.R. No. 125066, July 8, 1998 [Per J. Davide, Jr., First Division].
25 *Commissioner of Internal Revenue v. Nippon Express (Phils.) Corp.*, G.R. No. 212920, September 16, 2015 [Per J. Perlas-Bernabe, First Division].
26 G.R. No. 258563, April 2, 2025 [Per J. Inting, *En Banc*].

> offense may do on his part to initiate the prosecution is to file the requisite complaint."
>
> In addition, Chief Justice Gesmundo extensively discussed the history of the pertinent laws and rules on the filing of complaint or information for criminal cases and the conduct of preliminary investigation in his *Reflections*. Based on an examination of these laws and rules, he aptly surmised:
>
>> [T]he use of the phrase "complaint or information" in Article 91 of the Revised Penal Code, Section 11 of the 1991 Revised Rules on Summary Procedure, and Rule II, Subsection B, Section 1 of [the] 2022 Rules on Expedited Procedures in the First Level Courts, for purposes of the tolling of the prescriptive period of offenses, must henceforth, be construed to refer to the filing of the complaint or information before the prosecution office.
>
> But in line with the time-honored principle that **<u>the interpretation that is most favorable to the accused should be adopted with respect to laws on prescription of crimes, this new rule shall apply prospectively</u>**. (Emphasis and underscoring supplied, citations omitted)

Consistent with settled doctrine in criminal law, interpretations more favorable to the accused must prevail.

In *People v. Loo Tian*,[27] the CTA *En Banc* explained that when the Supreme Court declared in *Consebido* that its ruling shall apply prospectively, it necessarily intended that the doctrine be applied only to cases not yet filed in courts as of April 2, 2025. Such construction accords with the long-standing rule that, in matters of prescription, the interpretation more favorable to the accused must be adopted, *viz.*:

> In *People v. Pacificador*, where at the time the accused committed the crime the prescriptive period was **ten (10) years** and was subsequently amended to **fifteen (15) years** when the case was already filed in court, the Supreme Court held that:
>
>> It can be gleaned from the Information in this case that respondent Pacificador allegedly committed the crime charged "on or about and during the period from December 6, 1975 to January 6, 1976." Section 11 of R.A. No. 3019, as amended by B.P. Blg. 195, provides that the

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27 CTA *EB* Crim. Case No. 143 (CTA Crim. Case No. O-943), October 10, 2025.

> offenses committed under the said statute shall prescribe in fifteen (15) years. It appears however, that prior to the amendment of Section 11 of R.A. No. 3019 by B.P. Blg. 195 which was approved on March 16, 1982, the prescriptive period for offenses punishable under the said statute was only ten (10) years. **The longer prescriptive period of fifteen (15) years,** as provided in Section 11 of R.A. No. 3019 as amended by B.P. Blg. 195, **does not apply in this case for the reason that the amendment, not being favorable to the accused (herein private respondent), cannot be given retroactive effect**. Hence the crime prescribed on January 6, 1986 or ten (10) years from January 6, 1976.
>
> xxx xxx xxx
>
> It bears emphasis, as held in a number of cases, that **<u>in the interpretation of the law on prescription of crimes, that which is more favorable to the accused is to be adopted. The said legal principle takes into account the nature of the law on prescription of crimes which is an act of amnesty and liberality on the part of the state in favor of the offender</u>**.

Here, the Supreme Court applied the prescriptive period at the time the offense was committed, in accordance with the settled doctrine that in the interpretation of the law on prescription of crimes that which is more favorable to the accused is to be adopted.

Additionally, the Supreme Court has held time and again that:

> **<u>When a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively, and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.</u>** This is especially true in the construction and application of criminal laws, where it is necessary that the punishability of an act be reasonably foreseen for the guidance of society.

All of the foregoing supports the conclusion that when the Supreme Court declared that **<u>the ruling in *Consebido* shall apply prospectively</u>**, it intended that the doctrine would be applied to cases not yet filed with the courts as of April 2, 2025. **<u>This interpretation is more favorable to the</u>**

> **accused**. (Emphasis and underscoring supplied; citations omitted)

In the present case, the assailed *Resolutions* were promulgated on June 25, 2024 and August 20, 2024 — both prior to the promulgation of *Consebido.* More importantly, the *Information* itself was filed on May 27, 2024. Accordingly, the doctrine in *Lim* governs the instant case.

WHEREFORE, in light of the foregoing, the instant *Verified Petition for Review* is hereby **DISMISSED** for lack of legal standing of petitioner to file the petition and for failure to attach the clearly legible original or certified true copies of the assailed *Resolutions.*

Accordingly, the *Resolutions* dated June 25, 2024 and August 20, 2024, rendered by the Court's Second Division in CTA Crim. Case No. O-1150, dismissing the criminal case on the ground of prescription, are hereby **AFFIRMED**.

SO ORDERED.

LANEE CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

(With Concurring and Dissenting Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES, Petitioner,	**CTA EB Crim. No. 165** (CTA Crim. Case No. O-1150)
- versus -	Present: **RINGPIS-LIBAN,** ***P.J.*****, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** ***JJ.***
AJ CORINTHIAN HAULING CORPORATION, ARCELI S. SAJONAS, and JOHN FITZ JERALD CLAUDIO, Respondents.	Promulgated: MAR 19 2026 4:20

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CONCURRING AND DISSENTING OPINION

BACORRO-VILLENA, J.:

In the *ponencia*, it was ruled that petitioner failed to attach the certified true copies (**CTCs**) of the Resolutions dated 20 August 2024 and 25 June 2024 (**assailed Resolutions**) which are being appealed before the Court *En Banc*. Consequently, its failure to comply with Section 2,[1] Rule 6 of the Revised Rules of the Court of Tax Appeals[2] (**RRCTA**) and Section 6,[3] Rule 43 of the Rules of

[1] SEC. 2. *Petition for review; contents.* — The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition.

[2] A.M. No. 05-11-07-CTA.

[3] Sec. 6. *Contents of the petition.* – The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed

Court, as amended,[4] resulted in the non-perfection of its appeal, thus rendering the instant Petition for Review dismissible.

The *ponente* also pointed out that petitioner lacks the authority to file the instant petition considering that it did not submit the Office of Solicitor General's (**OSG**'s) express authorization naming the deputized legal officers of the Department of Justice (**DOJ**) to file an appeal for the instant case. Thus, for violation of Section 10,[5] Rule 9 of the RRCTA, the same also resulted to the dismissal of the petition.

Lastly, the *ponencia* also declared that the Third Division did not err in dismissing the prior criminal case due to prescription following Section 281[6] of the National Internal Revenue Code (**NIRC**) of 1997, as amended and the ruling in *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines*[7] (**Lim, Sr.**).

While I concur with the first two (2) findings in the *ponencia*, with all due respect to my esteemed colleague, Associate Justice Lanee S Cui-David, I am constrained to register my dissent to the third ruling therein, that is, affirming the dismissal of the criminal case on the ground of prescription.

In the recent case of *People of the Philippines v. Ulysses Palconit Consebido*[8] (**Consebido**), the Supreme Court *En Banc* ruled that the filing of complaint before the prosecution office tolls the running of the five (5)-year prescriptive period for violations of the NIRC of 1997, as amended. Consequently, the Supreme Court abandoned its long-standing ruling in *Lim,*

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from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

4 A.M. No. 19-10-20-SC.

5 SEC. 10. *Solicitor General as counsel for the People and government officials sued in their official capacity.* — The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: *Provided, however*, such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.

6 SEC. 281. *Prescription for Violations of any Provision of this Code.* - All violations of any provision of this Code shall prescribe after five (5) years.

Prescription shall begin to run 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 the institution of judicial proceedings for its investigation and punishment.

The prescription shall be interrupted when proceedings are instituted against the guilty persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

The term of prescription shall not run when the offender is absent from the Philippines.

7 G.R. Nos. 48134-37, 18 October 1990.

8 G.R. No. 258563, 02 April 2025.

Sr.,[9] wherein the prescriptive period is tolled by the filing of Information with the court.

Although the *ponencia* recognized *Consebido*, it still applied the old doctrine in *Lim, Sr.* and declared the crime as prescribed. The *ponencia* ruled that *Consebido* must be applied prospectively (*i.e.*, from its promulgation on 02 April 2025), in keeping with the principle that the interpretation most favorable to the accused must govern in matters of prescription.

I respectfully advance a different view. I reiterate my stance in my Separate Opinion in *People of the Philippines v. Ziegfried Loo Tian*[10] that the pronouncement in *Consebido* should be applied retroactively, dating back to the effectivity of the NIRC of 1997.

First, in finding that the Court in *Consebido* explicitly declared that the new rule shall be applied prospectively, the *ponencia* refers to this portion of the decision:

> ...
>
> But in line with the time-honored principle that the interpretation that is the most favorable to the accused should be adopted with respect to laws on prescription of crimes, this new rule shall apply prospectively.[11]
>
> ...

However, it is my view that the above portion in *Consebido* refers only to offenses covered by the 1991 Revised Rules on Summary Procedure (RRSP) and the 2022 Rules on Expedited Procedures in the First Level Courts (REPFLC). The Supreme Court found it necessary to revisit prior pronouncements on the tolling of prescription for offenses covered by these summary procedures, especially in light of its rulings in *Republic of the Philippines v. The Honorable Aniano A. Desierto as Ombudsman, et al.*[12] (Desierto), which held that prescription is interrupted by the institution of preliminary investigation only for special laws not covered by the RRSP, and *Pastor Corpus, Jr. y. Belmoro v. People of the Philippines*[13] (Corpus), which held that for light offenses, the timely filing of the information in court is necessary to toll prescription. The Supreme Court has now abandoned the said rulings in *Desierto* and *Corpus*, as they are inconsistent with

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9 Supra at note 7.
10 CTA EB Crim. No. 112, 04 August 2025.
11 Supra at note 8; Citation omitted.
12 G.R. No. 136506, 16 January 2023.
13 G.R. No. 255740, 16 August 2023.

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its definitive pronouncement in *Consebido*. Accordingly, for offenses not covered by the RRSP or the REPFLC, this definitive rule must apply retroactively.

This Court would also err in invoking the time-honored principle on the prescription of crimes, which holds that the interpretation most favorable to the accused should be adopted,[14] to justify declaring that the better rule is to apply *Consebido* prospectively on the ground that such application would favor the accused. Such reasoning misconstrues the essence of this basic principle of criminal law.

In the 1949 case of *Dominador B. Bustos v. Antonio G. Lucero, Judge of First Instance of Pampanga,*[15] the Supreme Court drew a clear distinction between substantive and procedural law, thus:

> ...
>
> As applied to criminal law, **substantive law is that which declares what acts are crimes and prescribes the punishment for committing them**, as distinguished from the **procedural law which provides or regulates the steps by which one who commits a crime is to be punished.** (22 C. J. S. 49.) Preliminary investigation is eminently and essentially remedial; it is the first step taken in a criminal prosecution.
>
> ...

In a Separate Opinion penned by the late Chief Justice Renato C. Corona,[16] it is evident that **the *pro reo* doctrine applies *only* to <u>ambiguities</u> in the <u>*substantive*</u> provisions of penal laws, particularly those defining the elements of a crime or the punishment. It does <u>not</u> extend to procedural matters, such as the computation or application of prescriptive periods**, *viz*:

> ...
>
> The fundamental principle in applying and interpreting criminal laws, including the Indeterminate Sentence Law, is to resolve all doubts in favor of the accused. ***In dubio pro reo*. When in doubt, rule for the accused**. This is in consonance with the constitutional guarantee that the accused ought to be presumed innocent until and unless his guilt is established beyond reasonable doubt.
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> Intimately intertwined with the *in dubio pro reo* principle is the **rule of lenity**. It is the doctrine that **"a court, in construing an ambiguous**

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14 *People of the Philippines v. Arturo F. Pacificador*, G.R. No. 139405, 13 March 2001.

15 G.R. No. L-2068 (Resolution), 08 March 1949; Emphasis supplied.

16 See *People of the Philippines v. Beth Temporada*, G.R. No. 173473, 17 December 2008; Citations omitted, italics in the original text and emphasis supplied.

> **criminal statute that sets out multiple or inconsistent punishments, should resolve the ambiguity in favor of the more lenient punishment."**
>
> ...

Similarly, in *Salvador Estipona, Jr. y Asuela v. Hon. Frank E. Lobrigo, Presiding Judge of the Regional Trial Court, Branch 3, Legazpi City, Albay, and People of the Philippines,*[17] although the case focused on plea bargaining, the Supreme Court reiterated the distinction between substantive and procedural law, emphasizing that **procedural rules fall within its exclusive domain** and that **their interpretation does <u>not</u> call for the application of *pro reo***, unless they directly affect substantive rights, to wit:

> ...
>
> **The Supreme Court's sole prerogative to issue, amend, or repeal procedural rules is limited to the preservation of substantive rights, *i.e.*, the former should not diminish, increase or modify the latter.** "Substantive law is that part of the law which creates, defines and regulates rights, or which regulates the right and duties which give rise to a cause of action; that part of the law which courts are established to administer; as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtain redress for their invasions." *Fabian v. Hon. Desierto* laid down **the test for determining whether a rule is substantive or procedural in nature.**
>
> > It will be noted that no definitive line can be drawn between those rules or statutes which are procedural, hence within the scope of this Court's rule-making power, and those which are substantive. In fact, **a particular rule may be procedural in one context and substantive in another.** It is admitted that what is procedural and what is substantive is frequently a question of great difficulty. It is not, however, an insurmountable problem if a rational and pragmatic approach is taken within the context of our own procedural and jurisdictional system.
> >
> > **In determining whether a rule prescribed by the Supreme Court, for the practice and procedure of the lower courts, abridges, enlarges, or modifies any substantive right, the test is whether the rule really regulates procedure, that is, the *judicial process for enforcing rights and duties recognized by substantive law* and for justly administering remedy and redress for a disregard or infraction of them.** If the rule takes away a vested right, it is not procedural. If the rule creates a right such as the right to appeal, it may be classified as a substantive matter; but ***if it operates as a means of***

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[17] G.R. No. 226679, 15 August 2017; Citations omitted, italics in the original text and emphasis supplied.

> ***implementing an existing right then the rule deals merely with procedure.***
>
> ...

Relevantly, in *Fil-Estate Properties, Inc. and Fairways and Blue-Waters Resort and Country Club, Inc. v. Hon. Marietta J. Homena-Valencia, in her capacity as Presiding Judge of Branch 1, Regional Trial Court, Kalibo, Aklan, and Sullian Sy Naval*[18] (**Fil-Estate**), the Supreme Court explained the retroactivity of the "fresh period" rule in this wise:

> ...
>
> The determinative issue is whether the "fresh period" rule announced in *Neypes* could retroactively apply in cases where the period for appeal had lapsed prior to 14 September 2005 when *Neypes* was promulgated. That question may be answered with the guidance of **the general rule that procedural laws may be given retroactive effect to actions pending and undetermined at the time of their passage, there being no vested rights in the rules of procedure**. Amendments to procedural rules are procedural or remedial in character as they do not create new or remove vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing.
>
> *Sps. De los Santos* reaffirms these principles and categorically warrants that *Neypes* bears the quested retroactive effect[.]
>
> ...

Applying the foregoing, considering that the *Consebido* doctrine on the interruption of the prescriptive period for criminal tax actions is in the nature of a procedural rule, it may be given retroactive effect to actions pending and undetermined upon its promulgation, there being no vested rights in the rules of procedure.[19]

Indubitably, with the principle explained categorically and in simple terms, the *pro reo* doctrine, also known as the rule of lenity, could only apply when there is doubt in construing the substantive provisions of a penal law — particularly those defining the elements of the crime or prescribing its penalty. Again, it does not apply to the interpretation of procedural rules, such as those governing the computation or interruption of prescription (unless such interpretation would directly affect or impair substantive rights).

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18 G.R. No. 173942 (Resolution), 25 June 2008; Citations omitted, italics in the original text and emphasis supplied.

19 See *Pfizer Inc., et al. v. Edwin V. Galan*, G.R. No. 143389, 25 May 2001.

The *Consebido* doctrine deals with the interpretation of a procedural rule — specifically, when the prescriptive period for criminal tax offenses under the NIRC of 1997, as amended, is interrupted. Jurisprudence consistently holds that procedural rules may be applied retroactively to cases pending and undetermined at the time of their promulgation, there being no vested rights in matters of procedure, as underscored in *Fil-Estate*. As such, the interpretation in *Consebido* does not involve a change in the definition of the crime or its penalties, but rather clarifies the judicial process for enforcing existing substantive rights. Accordingly, the *pro reo* principle finds no application unless the procedural rule's interpretation would directly impair a substantive right — a circumstance not present in this case.

<u>Second</u>, it is my humble view that since the Supreme Court's ruling in *Consebido* constitutes the correct interpretation of Section 281[20] of the NIRC of 1997, it is only proper that this interpretation be applied retroactively, from the time the NIRC of 1997 took effect, as may be inferred from the Supreme Court's discussion quoted below:

> ...
>
> Notably, ***Lim, Sr.* applied Section 354 of the 1939 NIRC. Associate Justice Japar B. Dimaampao (Associate Justice Dimaampao) astutely noted that the 1939 NIRC was passed when justices of the peace conducted preliminary investigations. This is no longer the case now, as observed in *Panaguiton*. Thus, in consideration of the foregoing, the Court clarifies that under Section 281 of the 1997 NIRC, prescription for criminal offenses where the commission of the violation is not known shall begin to run from its discovery.** The adoption of the interpretation in *Duque* is apt in order to harmonize the second and third paragraphs of Section 281 of the 1997 NIRC. **The institution of proceedings, specifically the commencement of preliminary investigation, shall interrupt the prescriptive period for the offense.** This clarification is necessary as a literal interpretation of the law should be rejected if it would lead to absurd results. Prescription would not run under a literal reading of Section 281 of the 1997 NIRC, as it would both begin and be interrupted by the institution of proceedings. The Court must give effect to the clear intent of the Legislature to set a prescriptive period for violations of the 1997 NIRC. Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) judiciously expressed that the prevailing interpretation renders nugatory or lifeless the prescriptive period set by the Legislature itself.[21]
>
> ...

From the foregoing, it is clear that the ruling in *Lim, Sr.*—which the CTA had long relied on to hold that preliminary investigation does not toll

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[20] Supra at note 6.
[21] Supra at note 8; Citation omitted, italics in the original text and emphasis supplied.

the running of the prescriptive period—was based on Section 354[22] of the NIRC of 1939. That provision was enacted at a time when preliminary investigations were conducted by justices of the peace, a procedural context that no longer applies. Having said that, the Supreme Court clarified that under Section 281[23] of the NIRC of 1997, the commencement of preliminary investigation interrupts the prescriptive period for the offense.

Third, that *Consebido* must be applied retroactively is further strengthened by the fact that the doctrine on prescription adopted therein is *not a new* doctrine on prescription.[24]

Lastly, as stated in *Consebido*, the Supreme Court recognized that while criminal cases should ideally be resolved promptly, delays are sometimes unavoidable. Therefore, the State, as the offended party, should not be disadvantaged by delays in the Department of Justice's (DOJ's) preliminary investigations.

Based on the foregoing, I respectfully submit that this Court, sitting *En Banc*, is now bound to abandon its previous position of applying *Lim, Sr.* to hold that, in criminal tax cases, the prescriptive period is tolled only upon the filing of the Information in Court. The five (5)-year prescriptive period is, instead, interrupted by the filing of a complaint with the DOJ for purposes of preliminary investigation, not by the filing of the Information with the Court.

In the present case, the five (5)-year prescriptive period started to run from the discovery of the crime, that is, when the Joint Complaint-Affidavit was filed with the DOJ on 29 June 2016. Likewise, the five (5)-year prescriptive period was interrupted when the Joint Complaint-Affidavit was filed with the DOJ on 29 June 2016. Thus, contrary to the *ponencia*'s ruling, the right of the government to institute the case against respondent had not yet prescribed.

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22 SEC. 354. *Prescription for Violations of Any Provisions of This Code.* — All violations of any provisions of this Code shall prescribe after five years.

Prescription shall begin to run 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 the institution of judicial proceedings for its investigation and punishment.

The prescription shall be interrupted when proceedings are instituted against the guilty persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

The term of prescription shall not run when the offender is absent from the Philippines.

23 Supra at note 6.

24 See *People of the Philippines, et al. v. Ascencion P. Olarte*, G.R. No. L-22465, 28 February 1967; *Roberto Brillante v. Court of Appeals and the People of the Philippines*, G.R. Nos. 118757 & 121571, 19 October 2004; *Securities and Exchange Commission v. Interport Resources Corporation, et al.*, G.R. No. 135808, 06 October 2008; *Luis Panaguiton, Jr. v. Department of Justice, et al.*, G.R. No. 167571, 25 November 2008; *People of the Philippines v. Ma. Theresa Pangilinan*, G.R. No. 152662, 13 June 2012; *People of the Philippines v. Mateo A. Lee, Jr.* G.R. No. 234618, 16 September 2019.

Nevertheless, considering that the appeal was not perfected for failure to attach the CTCs of the assailed Resolutions, and for petitioner's failure to show that it was duly authorized by the OSG to file an appeal before the Court *En Banc*, I vote to **DISMISS** the Petition for Review.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice