REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

LEMUEL SIBUMA CONSOLACION
- at large -
Accused.

CTA CRIM CASE NO. O-983
(NPS I.S. NO: XVI-INV-18D-00077)

For: Violation of Section 255 of the National Internal Revenue Code of 1997, as amended.

Members:

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

Promulgated:

FEB 22 2024
11:20 a.m.

x--x

RESOLUTION

For resolution is plaintiff's *Manifestation* with *Motion for Extension of Time* filed on January 22, 2024 and *Compliance with Submission of Second (2nd) Amended Information (Re: Resolution dated January 15, 2024)* filed on January 29, 2024.

To recall the previous proceedings, on December 5, 2022, an *Information* dated February 17, 2020, was *filed* against the accused for violation of Section 255 of the National Internal Revenue Code of 1997 (1997 NIRC), as amended. Attached to the *Information* were several documents in support of its allegations.

In the *Resolution* dated February 2, 2023, the Court noted that the *Information* accused a person named **Lemuel Sibula Consolacion**, but the supporting documents attached to it refer to **Lemuel Sibuma Consolacion**. The Court also remarked that the February 10, 2021 and February 17, 2020 Department of Justice (DOJ) *Resolutions*, which were attached to the *Information* were *mere photocopies*. Accordingly, plaintiff was ordered to file (a) an *amended* information to reflect the *correct* name of the accused; *and*, (b) the *original* or *certified true copies* of the DOJ Resolutions, within five (5) days from notice.

In its *Compliance* filed on February 17, 2023, plaintiff submitted (a) an *Amended Information* dated February 16, 2023 charging **Lemuel Sibuma**

Consolacion with violation of Section 255 of the 1997 NIRC; *and*, (b) the *original* or *certified true copies* of the DOJ Resolutions.

The Court noted the *Compliance* in the *Resolution* dated March 16, 2023. However, in the same *Resolution*, the Court also observed that the accused's stated address in the *Amended Information* was "Centro Building, Lingsat, San Fernando City, La Union" whereas the address indicated in the prosecution's *Compliance* was "No. 1013, Juan Luna Street, Brgy. 27, Zone 1, Tondo, Manila". Accordingly, plaintiff was ordered to provide the Court with the correct address of the accused.

Per *Records Verification* dated July 13, 2023, it was reported that plaintiff failed to comply with the *Resolution* dated March 16, 2023.

Thus, in the *Resolution* dated September 5, 2023, plaintiff was given one *last opportunity* to comply with the *Resolution* dated March 16, 2023, within five (5) days from notice, with a warning that another failure to heed the same will merit the *dismissal* of the case.

On September 18, 2023, the counsels from the Bureau of Internal Revenue (BIR) filed a *Formal Entry of Appearance with Compliance (Re: Resolution promulgated on March 16, 2023)* by registered mail, which manifested that they were Deputized Special Prosecutors from the BIR, under the supervision and control of DOJ, and attached a *Compliance (Re: Resolution promulgated on March 16, 2023)*. The *Compliance (Re: Resolution promulgated on March 16, 2023)* informed the Court of the addresses of the accused based on the BIR Integrated Tax System (ITS).

On October 31, 2023, the Court issued a *Resolution*, which *dismissed* the case without prejudice for *lack of probable cause*.

Aggrieved, plaintiff filed an *Omnibus Motions (1. For Reconsideration of the Resolution dated October 31, 2023; and 2. To Allow Amendment of Information)* on December 6, 2023.

On January 15, 2024, the Court issued a *Resolution*, which *granted* the motions, *reversed* its October 31, 2023 Resolution, *reinstated* the case and gave plaintiff five (5) days from notice to file an *Amended Information*.

Hence, the *Manifestation* with *Motion for Extension of Time* filed by the plaintiff on January 22, 2024 and its *Compliance with Submission of Second (2nd) Amended Information (Re: Resolution dated January 15, 2024)* filed on January 29, 2024.

First, the Court notes that plaintiff received a copy of the January 15, 2024 *Resolution* on January 19, 2024 and, therefore, had five (5) days or until January 24, 2024 to comply. However, it *failed* to file an *Amended Information* within the period provided, instead, it asked for another five (5) days or until January 29, 2024 to comply.

Secondly, although plaintiff was able to file a *Second (2nd) Amended Information* within its requested extension on January 29, 2024, *the same was filed without the necessary supporting documents.*

More than a year has lapsed since the original *Information* was filed on December 5, 2022. Due to certain deficiencies, the Court has already allowed plaintiff to amend the *Information* without prejudice to the continued prosecution of the case. In fact, it has just reconsidered the *dismissal* of the case to allow the filing of a *second* amendment. Without doubt, the Court has shown *leniency* by conceding several opportunities for the plaintiff to correct the deficiencies and has expended considerable amount of time and resources in the process. In spite of these, plaintiff has again failed to comply.

WHEREFORE, premises considered, the case is **DISMISSED** for failure to prosecute.[1]

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[1] RULE 17 DISMISSAL OF ACTIONS. **Section 3.** *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.