REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- *versus* -

YEN CHAN LIAW
(2 Antonio St., Mandaluyong City)

KING LIN LEU
(Mayfair St., Montevista Park Subd. Cainta, Rizal),
Accused.

CTA Crim. Case No. O-185

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:
JAN 20 2025
9:30 a.m.

x- x

RESOLUTION

For resolution of the Court is plaintiff's *Motion for Reconsideration (To the Resolution dated June 24, 2024)* posted on July 16, 2024 and received by the Court on July 22, 2024.

For easy reference, the dispositive portion of the assailed Resolution[1] dated June 24, 2024 reads:

> "**ACCORDINGLY**, CTA Crim. Case No. O-185 is **DISMISSED** on the ground of prescription.
>
> **SO ORDERED**."[2]

Plaintiff asserts that the criminal action has not yet prescribed because the filing of the Joint Complaint-Affidavit on July 21, 2005 before the Department of Justice (DOJ) for Preliminary Investigation (PI) commenced the proceeding that effectively interrupted the period of prescription.

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[1] Docket, pp. 343-348.
[2] *Id.*, p. 348.

In support of its assertion, plaintiff argues that the date of the commission of the offense in this case is known, *i.e.*, when the accused failed to make or file a return on the date required by law, or on April 15, 2002. Meanwhile, the filing of the Joint Complaint-Affidavit on July 21, 2005 for PI before the DOJ commenced the proceeding and interrupted the running of the prescriptive period.

After careful consideration of the plaintiff's arguments, the Court finds the same untenable.

Again, Section 281 of the 1997 National Internal Revenue Code (NIRC), as amended, pertinently 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.
>
> xxx xxx xxx"*(Emphasis supplied)*

In relation thereto, Section 2, Rule 9 of the 2005 Revised Rules of the CTA (RRCTA), as amended, provides:

> "SEC. 2. *Institution of criminal actions.* – All criminal actions before the Court in Division in the exercise of its original jurisdiction **shall be instituted by the filing of an information** in the name of the People of the Philippines. x x x
>
> The institution of the criminal action shall interrupt the running of the period of prescription."*(Emphasis supplied)*

Under Section 281 of the 1997 NIRC, as amended, the prescriptive period of 5 years shall begin to run from the day of the commission of the violation of the law, and the same shall be interrupted upon the institution of the criminal proceedings. Meanwhile, Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals categorically states that criminal actions shall be instituted by filing an information before the Court.

If the Court follows the plaintiff's arguments, the five (5)-year prescriptive period commenced to run on April 15, 2002, which is the date of the commission of the offense. Counting five (5) years from said date, plaintiff had a shorter period until April 15, 2007 within which to institute the criminal action by filing an information with the Court. This is in contrast with the previous conclusion of the Court in the assailed Resolution where it was found that the last day for the filing of the Information is on July 21, 2010.

Here, considering that the Information was only filed on August 2, 2010, the same is considered time-barred whether the prescriptive period is counted from the date of the commission of the offense, as advanced by plaintiff in the instant motion, or from the negative certification which was previously considered by the Court as the date of discovery of the offense in the assailed Resolution. Thus, the denial of the instant motion is in order.

FOR THESE REASONS, the instant *Motion for Reconsideration (To the Resolution dated June 24, 2024)* is **DENIED**, for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice