REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES, *Petitioner,*	**CTA *EB* CRIM. NO. 125** *(CTA Crim. Case No. O-982)*
	Present:
-versus-	**RINGPIS-LIBAN**, *P.J.*, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
COURT OF TAX APPEALS FIRST DIVISION, MATTEN TECHNOLOGIES INC., JOSEPHINE TIONGCO and WIVINA ILAGAN, *Respondents.*	Promulgated: APR 28 2026 11:45

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DECISION

***CUI-DAVID, J.*:**

In the present *Petition for Review,*[1] filed through registered mail on June 2, 2023, petitioner seeks to reverse and set aside the Resolutions dated February 21, 2023 and May 9, 2023, both rendered by this Court's First Division (Court in Division) in CTA Crim. Case No. O-982, entitled *"People of the Philippines, Plaintiff, versus Matten Technologies Inc., (Purok 1, San Isidro, Cabuyao, Laguna), Josephine Tiongco (Ridgeview Estate, Canlubang, Laguna), and Wivina Ilgan (1004 Rizal Blvd., Pooc, Sta. Rosa, Laguna), Accused."*

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[1] *En Banc (EB)* Docket, pp. 1-17.

THE PARTIES[2]

Petitioner, the People of the Philippines, is the embodiment of the State and the nominal offended party in the case on account of the private respondent's violation of the Tax Code. It may be served with court processes through the Bureau of Internal Revenue (BIR), the government agency mandated to collect internal revenue taxes for nation building, whose Revenue Officers were the initial complainants in the case, at c/o Prosecution Division, Room 704, 7th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City.

Public respondent, the Court of Tax Appeals (CTA) First Division, is the judicial body with jurisdiction over cases mentioned in Section 7 of Republic Act (RA) No. 9282, which issued the contested rulings in CTA Crim. Case No. O-982. It may be served with court processes at its address at the National Government Center, Agham Road, North Triangle, Diliman, 1104 Quezon City.

Private respondent, Matten Technologies Inc., is a corporation duly registered with the Securities and Exchange Commission (SEC) and engaged in the construction, installation and design of water treatment systems and to trade goods such as control panels/circuits, cartridges, filter/Ultrafiltration (UF) Membranes on wholesale basis. It is registered with the BIR under Tax Identification Number (TIN) 203-483-571-000, with address at Purok 1, San Isidro, Cabuyao, Laguna.

Private respondents Josephine Tiongco and Wivina Ilagan are corporate officers, President and Treasurer, respectively, of Matten Technologies Inc. during the relevant taxable year (TY) 2010.

THE FACTS AND THE PROCEEDINGS

The relevant facts, as borne by the records, are as follows:

On June 6, 2019, BIR Revenue Officers filed a *Joint Complaint-Affidavit*[3] before the Department of Justice (DOJ) against private respondents for violation of Section 255, in relation to Sections 253(d) and 256, of the National Internal

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[2] *Id. at* 2-3, Petition for Review, The Parties.
[3] Division Docket, pp. 22-28.

Revenue Code (NIRC) of 1997, as amended. They alleged that private respondents willfully failed to pay deficiency Income Tax (among other taxes) for TY 2010, despite repeated demands by the BIR.

On March 4, 2020, the DOJ issued a *Resolution*[4] finding probable cause to indict private respondents for willful failure to pay tax for taxable year 2010, in violation of Section 255 of the NIRC of 1997, as amended.

Thus, on December 5, 2022, an *Information*[5] was filed before the Court in Division, docketed as CTA Crim. Case No. O-982, charging private respondents with violation of Section 255 of the NIRC of 1997, as amended, allegedly committed as follows:

> That on or about August 10, 2015 and thereafter, in San Pablo City and within the jurisdiction of this Honorable Court, the accused MATTEN TECHNOLOGIES, INC., a domestic business entity, and accused JOSEPHINE TIONGCO and WIVINA ILAGAN, its president and treasurer, respectively, required by law to pay the income tax, did then and there willfully, unlawfully and feloniously fail to pay the deficiency income tax for the taxable year 2010 in the amount of Eighteen Million Five Hundred Fifteen Thousand Seven Hundred Twenty Eight and Sixty Six Centavos (P18,515,728.66), exclusive of surcharge and interest, despite due notices and demands to pay, the latest being in the nature of Final Notice Before Seizure dated August 10, 2015 issued by the Bureau of Internal Revenue, to the damage and prejudice of the government.
>
> CONTRARY TO LAW.

On February 21, 2023, after reviewing the *Information* and supporting documents, the Court in Division issued the assailed *Resolution* dated February 21, 2023,[6] the dispositive portion of which reads:

> **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**.

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4 *Id.* at 8-17.
5 *Id.* at 5-7.
6 *Id.* at 60-66.

> **SO ORDERED.**

Unable to agree, petitioner filed a *Motion for Reconsideration*[7] on March 14, 2023, which was denied in the equally assailed *Resolution* dated May 9, 2023,[8] the dispositive portion of which reads:

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

Still unable to agree, petitioner elevated the matter to the Court *En Banc via* the present *Petition for Review* filed through registered mail on June 2, 2023.

On June 29, 2023, the Court *En Banc* issued a *Resolution*[9] directing private respondents to file their Comment within ten (10) days from notice.

On November 14, 2023, the Judicial Records Division reported[10] that the *Resolution,* addressed to private respondents, was returned to the Court with the following notations on the following dates:

a. **August 30, 2023**, addressed to Josephine Tiongco, with a notation "Unknown";

b. **September 11, 2023**, addressed to Matten Technologies Inc., with a notation "Moved-Out"; and

c. **September 18, 2023**, addressed to Wivina Ilagan, with a notation "Add. Unknown".

Consequently, on December 19, 2023, the Court *En Banc* issued a *Resolution*[11] reiterating its directive to private respondents to file their Comment, and directing petitioner to provide the Court with private respondents' last known addresses within five (5) days from notice.

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[7] *Id.* at 67-83.
[8] *Id.* at 105-108.
[9] *EB* Docket, p. 75.
[10] *Id.* at 76.
[11] *Id.* at 77

Petitioner complied, posting its *Compliance*[12] on February 6, 2024, but provided the Court with the same addresses already on record, while stating that it would immediately inform the Court once it becomes aware of any changes in private respondents' addresses.

On February 28, 2024, the Court *En Banc,* through its Clerk of Court, Atty. Danilo B. Fernando, sent a Letter-Tracer[13] to the Postmaster, Quezon City Post Office, inquiring about the delivery and disposition of the following:

1. Registered Letter No. RE 664 667 748 ZZ addressed to Matten Technologies Inc.;

2. Registered Letter No. RE 664 667 734 ZZ addressed to Josephine Tiongco; and

3. Registered Letter No. RE 664 667 725 ZZ addressed to Wivina Ilagan.

Certifications later received showed that all were returned due to "Incorrect Address," "Moved-Out," or "Unknown Addressee," *viz.*:

March 25, 2024	*Certification*[14] dated March 14, 2024, issued by Camp Vicente Lim Post Office, certifying that Registered Letter with Tracking No. RE 664 667 734 ZZ addressed to Josephine Tiongco was returned to sender on March 7, 2024, with the reason "Incorrect Address."
March 25, 2024	*Certification*[15] dated March 15, 2024, issued by the Cabuyao City Post Office, certifying that Registered Letter No. RE 664 667 748 ZZ addressed to Matten Technologies Inc. was returned to the sender on January 25, 2024, with the reason "Addressee Moved-Out."
April 1, 2024	*Certification*[16] issued by the Postmaster, certifying that Registered Letter No. RE 664 667 725 ZZ addressed to Wivina Ilagan was returned to sender on February 12, 2024, with the reason "Unknown Addressee."

[12] *Id.* at 80-82.
[13] *Id.* at 87.
[14] *Id.* at 95.
[15] *Id.* at 97.
[16] *Id.* at 93.

On July 22, 2024, the Court *En Banc* issued a *Resolution*[17] directing petitioner to provide the Court with the updated addresses of private respondents, within a non-extendible period of ten (10) days from notice.

In its *Compliance*[18] posted on August 2, 2024, and received by the Court *En Banc* on August 7, 2024, petitioner provided the Court with the updated addresses of Josephine Tiongco and Wivina Ilagan, while Matten Technologies Inc.'s address remained unchanged, to wit:

MATTEN TECHNOLOGIES INC.
Private Respondent
Purok 1, San Isidro
Cabuyao, Laguna
[No update in address made]

JOSEPHINE TIONGCO
Private Respondent
21 Cypress, Don Jose, Santa Rosa, Laguna
[Updated address]

WIVINA ILAGAN
Private Respondent
1006 Rizal Blvd., Brgy. Labas, Santa Rosa, Laguna
[Updated address]

On September 10, 2024, the Court *En Banc* noted petitioner's *Compliance* and again directed private respondents to file on the *Petition for Review* within 10 days from notice.[19]

On October 22, 2024, acting on the *Report*[20] of the Judicial Records Division that no Return Card and/or Returned Registered Mail had been received on the *Minute Resolution* dated September 10, 2024, the Court *En Banc* sent another Letter-Tracer[21] to the Postmaster, Quezon City Post Office, to verify the delivery disposition of the following:

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[17] *Id.* at 102-106.
[18] *Id.* at 107-109.
[19] *En Banc* Docket, p. 113, Minute Resolution.
[20] *Id.* at 114, Records Verification dated October 22, 2024.
[21] *Id.* at 115.

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Registered Letter No.	Addressee	Address
RE 724-855-706 ZZ	Matten Technologies Inc.	Purok 1, San Isidro Cabuyao, Laguna
RE 724-855-697 ZZ	Josephine Tiongco	21 Cypress, Don Jose, Santa Rosa, Laguna
RE 724-855-683 ZZ	Wivina Ilagan	1006 Rizal Blvd., Brgy. Labas, Santa Rosa, Laguna

On November 28, 2024, the Court *En Banc* received a *Reply-Letter*[22] stating that the Registered Letter No. RE 724-855-697 ZZ, addressed to Josephine Tiongco, was received by one Marilyn Lopez on September 26, 2024.

On February 18, 2025, the Judicial Records Division reported that Josephine Tiongco failed to file a *Comment.*[23] The Judicial Records Division also reported that the copies of *Minute Resolution* dated September 10, 2024, sent to respondents Matten Technologies Inc. and Wivina Ilagan by registered mail on September 16, 2024, were returned to the Court with notations "*Moved Out*" and "*Insufficient*", respectively.[24]

On July 9, 2025, considering all circumstances, the Court *En Banc* deemed the *Resolutions* dated June 29, 2023, December 19, 2023, and September 10, 2024, as served upon respondents Matten Technologies Inc. and Wivina Ilagan. As they failed to file their Comment within the given period, the Court *En Banc* resolved to submit the case for decision.[25]

Hence, this Decision.

THE ISSUES

Petitioner submits the following issues for the resolution of the Court *En Banc*:

I. WHETHER THE PETITIONER BELATEDLY FILED THE MOTION FOR RECONSIDERATION IN ACCORDANCE WITH ITEM III(2)(C) OF THE REVISED GUIDELINES FOR CONTINUOUS TRIAL OF CRIMINAL CASES.

[22] *Id.* at 119.
[23] *Id.* at 120.
[24] *Id.* at 121.
[25] *Id.* at 123-127, Resolution.

II. WHETHER CRIMINAL ACTIONS ARE INSTITUTED THROUGH THE FILING OF AN INFORMATION WITH THE COURT AND THIS INTERRUPTS THE PERIOD OF PRESCRIPTION IN ACCORDANCE WITH THE CASE OF LIM SR. V. COURT OF APPEALS AND SECTION 2, RULE 9 OF THE REVISED RULES OF THE COURT OF TAX APPEALS.

III. WHETHER THE 5-YEAR PRECRIPTIVE PERIOD HAD ALREADY LAPSED WHEN THE DOJ PUBLIC PROSECUTOR FILED THE INFORMATION BEFORE THE CTA SECOND [sic] DIVISION INDICTING THE PRIVATE RESPONDENTS.

Petitioner's arguments:

At the outset, petitioner avers that in the assailed *Resolution* dated May 9, 2023, the Court in Division found that petitioner belatedly filed its *Motion for Reconsideration* in accordance with Item III(2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases. According to the Court in Division, it no longer had jurisdiction to entertain petitioner's *Motion for Reconsideration* because such motion must be filed within a non-extendible period of five days from receipt of the resolution disposing of a *meritorious motion.*

However, petitioner submits that private respondents never filed a meritorious motion; hence, the five-day rule under the said Guidelines does not apply. Petitioner adds that even if it did not commit any infraction of the *Rules*, it asks for liberality to give due course to the instant *Petition for Review* in the interest of justice.

On the main issue, petitioner contends that, contrary to the finding of the Court in Division, it is the filing of the criminal complaint for preliminary investigation with the DOJ that interrupts the running of the prescriptive period for tax offenses under Section 281 of the NIRC of 1997, as amended, in accordance with the Supreme Court's pronouncements in *People v. Pangilinan*[26] and *Panaguiton, Jr. v. Department of Justice*,[27] among others.

[26] G.R. No. 152662, June 13, 2012 [Per J. Perez, Second Division].
[27] G.R. No. 167571, November 25, 2008 [Per J. Tinga, Second Division].

Lastly, petitioner submits that since the *Joint Complaint-Affidavit* was filed with the DOJ before the expiration of the five-year prescriptive period set forth under Section 281 of the NIRC of 1997, as amended, its cause of action for violation of Section 255 of the NIRC of 1997, as amended, is not yet barred by prescription.

RULING OF THE COURT *EN BANC*

The instant *Petition for Review* must fail.

Petitioner timely filed both the Motion for Reconsideration (of the Resolution dated February 21, 2023) and the present Petition for Review.

Petitioner's *Motion for Reconsideration* of the Resolution dated February 21, 2023, was timely filed; hence, the present *Petition for Review* before the Court *En Banc* was likewise timely filed within the reglementary period.

Petitioner asserts that, contrary to the finding of the Court in Division, its *Motion for Reconsideration* was timely filed, as Item III(2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases does not apply in the absence of any meritorious motion filed by the private respondents.

The Court agrees.

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

> III. Procedure
>
> . . . .
>
> 2. Motions
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> . . . .
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> (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, such as:

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> . . . .
>
> 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**, and the adverse party shall be given an equal period of five (5) calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of five (5) calendar days from the expiration of the five (5)-day period to submit the comment.
>
> Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright. (Emphasis supplied)

It is clear from the foregoing that the shortened five-day period applies only to a motion for reconsideration of a **resolution resolving a meritorious motion**.

In this case, petitioner's *Motion for Reconsideration* seeks to reconsider the *Resolution* dated February 21, 2023, wherein the Court in Division dismissed the case *motu proprio.* It was not filed against a resolution resolving a meritorious motion filed by private respondents. Thus, the five-day period under the Guidelines does not apply.

The governing provision is Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), which grants an aggrieved party fifteen (15) days from receipt of the assailed decision, resolution, or order within which to file a motion for reconsideration.

Section 1, Rule 15 of the RRCTA provides:

> Section. 1. *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court by filing a motion for reconsideration or new trial within **fifteen days** from the date of receipt of notice of the decision, resolution or order of the Court in question.

The records show that petitioner received the *Resolution* dated February 21, 2023 on March 2, 2023.[28] Counting 15 days therefrom, petitioner had until March 17, 2023, to file its *Motion*

[28] Division Docket, p. 59, Notice of Resolution.

for Reconsideration. Petitioner filed its *Motion for Reconsideration* on March 14, 2023, well within the allowed period.

Now, on the timeliness of the present *Petition for Review.*

Section 9(b), Rule 9 of the RRCTA provides that an appeal to the Court *En Banc* in criminal cases decided by a Division shall be taken by filing a petition for review within 15 days from receipt of the decision or resolution appealed from:

> Sec. 9. Appeal; period to appeal. –
>
> . . . .
>
> (b) An appeal to the Court *en banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or resolution appealed from. The Court may, for good cause, extend the time for filing of the petition for review for an additional period not exceeding fifteen days.

The records indicate that petitioner received the *Resolution* dated May 9, 2023 on May 18, 2023. Thus, petitioner had until June 2, 2023, to file a *Petition for Review.*

Petitioner filed the instant *Petition for Review via* registered mail on June 2, 2023. Accordingly, the *Petition* was timely filed, and the Court *En Banc* validly acquired jurisdiction over the appeal.

BIR Legal Officers lack the authority to institute the instant Petition for Review.

Notwithstanding the timeliness of the *Petition*, it must nevertheless be dismissed.

Section 10, Rule 9 of the RRCTA unequivocally provides that the Office of the Solicitor General (OSG) shall represent the People in all criminal cases brought to this Court in the exercise of its appellate jurisdiction, *viz.*:

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**. He 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. (Emphasis supplied)

While the OSG may deputize BIR legal officers in cases involving the NIRC, such deputized officers act only under the OSG's direct control and supervision. Moreover, deputation is not presumed and must be affirmatively shown.

Revenue Memorandum Circular (RMC) No. 25-2010 embodies the Memorandum of Agreement (MOA) between the OSG and the BIR. Under the MOA, the BIR expressly acknowledges the OSG's primary authority to represent the government in all appellate proceedings. Notably, Section B(2)(b) of the MOA requires the BIR to periodically submit to the OSG a list of its handling lawyers for purposes of deputation in cases elevated to the Court *En Banc*.

In *People v. Tuyay*,[29] the Supreme Court upheld the ruling of the CTA *En Banc* which dismissed the petition for review filed before the latter because petitioner was represented by BIR Special Prosecutors, and not by the OSG, without any proof of proper deputization in favor of the BIR. The Supreme Court also referred to **copies of RMC No. 25-2010**, which contains the provisions of the aforementioned MOA, **and deputization orders** of the OSG as **required documents** that must be attached to the appeal to prove that the BIR Special Prosecutors were duly deputized by the OSG to file the petition for review.

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[29] G.R. No. 206579, December 1, 2021 [Per J. Hernando, Second Division].

Here, records reveal that the BIR Legal Officers filed the instant *Petition for Review* without appending any written authorization/deputization from the OSG. In the absence of proof of valid deputation, the BIR Legal Officers who filed the *Petition* lack the legal personality to institute this appeal.

This ruling finds support in *People v. Piccio*,[30] where the Supreme Court aptly ruled that it is only the OSG that may bring an appeal on the criminal aspect, representing the People:

> To expound, it is well-settled that the authority to represent the State in appeals of criminal cases before the Court and the CA is vested solely in the OSG which is the law office of the Government whose specific powers and functions include that of representing the Republic and/or the people before any court in any action which affects the welfare of the people as the ends of justice may require.
>
> . . . .
>
> Accordingly, jurisprudence holds that if there is a dismissal of a criminal case by the trial court or if there is an acquittal of the accused, **it is only the OSG that may bring an appeal on the criminal aspect representing the People**. The rationale therefor is rooted in the principle that the party affected by the dismissal of the criminal action is the People and not the petitioners who are mere complaining witnesses. For this reason, the People are therefore deemed as the real parties in interest in the criminal case and, therefore, only the OSG can represent them in criminal proceedings pending in the CA or in this Court. In view of the corollary principle that every action must be prosecuted or defended in the name of the real party-in-interest who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails of the suit, **an appeal of the criminal case not filed by the People as represented by the OSG is perforce dismissible**. (Emphasis supplied)

Similarly, in *Cu v. Ventura*,[31] the Supreme Court reiterated that it is only the OSG that may bring an appeal on the criminal aspect, and that an appeal not filed by the People as represented by the OSG is **dismissible:**

> Again, jurisprudence holds that **if there is a dismissal of a criminal case by the trial court**, or if there is an acquittal of the accused, **it is only the OSG that may bring an appeal on the criminal aspect representing the People.**

[30] G.R. No. 193681, August 6, 2014 [Per J. Perlas-Bernabe, Second Division].
[31] G.R. No. 224567, September 26, 2018 [Per J. Peralta, Third Division].

> The rationale therefor is rooted in the principle that the party affected by the dismissal of the criminal action is the People and not the petitioners who are mere complaining witnesses. For this reason, the People are deemed as the real parties-in-interest in the criminal case and, **therefore, only the OSG can represent them in criminal proceedings pending in the CA or in this Court**. In view of the corollary principle that every action must be prosecuted or defended in the name of the real party-in-interest who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails of the suit, **an appeal of the criminal case not filed by the People as represented by the OSG is perforce dismissible**. (Emphasis applied)

Accordingly, the instant *Petition for Review* must be dismissed on this procedural ground alone.

At any rate, even assuming *arguendo* that the BIR legal officers possessed authority to file the instant *Petition for Review*, it would still fail because the offense charged had already prescribed.

The Information was filed beyond the five-year prescriptive period.

Section 281 of the NIRC of 1997, as amended, governs the prescriptive period for instituting criminal actions arising from violations of its provisions. It 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 supplied)

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In ruling that the criminal action had prescribed, the Court in Division relied on *Lim, Sr. v. Court of Appeals*[32] (*Lim, Sr.*) and Section 2, Rule 9 of the RRCTA. The Court in Division explained:

> 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* 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.[33] (Citations omitted)

After a careful review of the records and applicable jurisprudence, the Court *En Banc* finds no reason to disturb the ruling of the Court in Division that the present criminal action is already barred by prescription. The Court *En Banc* quotes with approval the following disquisition:

> The RRCTA being the special provision that governs the proceedings before this Court provides that the period of prescription for a tax case shall be tolled by the filing of an Information with this Court.
>
> As claimed by the BIR in its Joint Complaint Affidavit, 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.
>
> Counting from February 10, 2014, the five (5) year prescriptive period to indict accused for failure to pay tax lapsed on February 10, 2019. Thus, the right of the government to institute the case against accused had already prescribed when the Information was filed before this Court on December 5, 2022.[34]

Accordingly, prescription had already set in before the Information was filed.

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[32] G.R. Nos. L-48134-37, October 18, 1990 [Per C.J. Fernan, Third Division].
[33] *EB* Docket, p. 35, Resolution dated May 9, 2023.
[34] *EB* Docket, pp. 30-31, Resolution dated February 21, 2023.

People v. Consebido does not apply to the present case.

The Court *En Banc* notes the Supreme Court's ruling in *People v. Consebido*[35] (*Consebido*), where the Court adopted a unified rule that **the filing of the criminal complaint before the prosecution office** tolls the running of the prescriptive period:

> **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 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 9166 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 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 <u>prospectively</u>.** (Emphasis supplied, citations omitted)

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[35] G.R. No. 258563, April 2, 2025 [Per J. Inting, *En Banc*].

Chief Justice Gesmundo's Reflections further trace the historical development of the relevant laws and procedural rules on prescription and preliminary investigation, concluding that the phrase "complaint or information" in the pertinent rules must be construed to mean filing before the prosecution office for purposes of tolling prescription.

However, the Supreme Court expressly declared that this interpretation shall apply only **prospectively**, in keeping with the well-settled principle that laws on prescription of crimes must be construed liberally in favor of the accused.

Thus, *Consebido* does not apply to the present case. The criminal action herein must be resolved in accordance with the prevailing jurisprudence before *Consebido*, under which prescription in tax cases is interrupted **only** by the filing of the Information in court.

Hence, the Court in Division correctly ruled that the offense charged had already prescribed when the Information was filed on December 5, 2022.

WHEREFORE, premises considered, the instant *Petition for Review* is **DISMISSED**, for lack of legal authority of the BIR Legal Officers to institute the appeal.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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

(With Separate Concurring Opinion)
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. 125** (CTA Crim. Case No. O-982)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.*, **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COURT OF TAX APPEALS FIRST DIVISION, MATTEN TECHNOLOGIES INC., JOSEPHINE TIONGCO, and WIVINA ILAGAN, Respondents.	Promulgated: APR 28 2026 11:46

x - x

SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Lanee S. Cui-David, insofar as it holds that the Bureau of Internal Revenue (**BIR**), through the Commissioner of Internal Revenue (**CIR**), lacks legal personality to institute the present Petition for Review.

In appellate proceedings involving the criminal aspect of a case, representation of the People of the Philippines belongs to the Office of the Solicitor General (**OSG**). This flows from the OSG's statutory mandate to represent the Government in the Supreme Court and the Court of Appeals in criminal proceedings. Section 35(1), Chapter 12, Title III, Book III of the 1987 Administrative Code provides:

> ...
>
> Section 35. *Powers and Functions.* -
>
> ...
>
> (1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.
>
> ...

Consistent with this, the Supreme Court ruled in the landmark case of *Mamerto Austria v. AAA and BBB*[1] (**Austria**), to wit:

> ...
>
> In any criminal case or proceeding, only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State before the *Supreme Court (SC) and the CA*. This is explicitly provided under Section 35(1), Chapter 12, Title III, Book III of the 1987 Administrative Code of the Philippines, thus:
>
>> Section 35. *Power and Functions.* — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the service of a lawyer. It shall have the following specific power and functions:
>>
>> (1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings**; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.
>
> The rationale behind this rule is that in a criminal case, the state is the party affected by the dismissal of the criminal action and not the private complainant. The interest of the private offended party is restricted only to the civil liability of the accused. In the prosecution

[1] G.R. No. 205275, 28 June 2022; Citations omitted, emphasis in the original text, italics and underscoring supplied.

> of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal on the criminal aspect may be undertaken only by the State through the OSG. The private offended party may not take such appeal, but may only do so as to the civil aspect of the case. Differently stated, the private offended party may file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. Also, the *private complainant* may file a special civil action for *certiorari* even without the intervention of the OSG, but only to the end of preserving his or her interest in the *civil aspect of the case*. Hence, the Court dismissed for lack of legal standing or personality the appeals or petitions for *certiorari* filed by the private offended parties *before the SC and CA, without the consent or conformity of the OSG*, questioning the dismissal of the criminal case or acquittal of the accused.
>
> ...

Here, petitioner CIR challenges the dismissal of the criminal case on the ground of prescription. That challenge indisputably concerns the criminal aspect (*i.e.*, the State's power to prosecute and maintain the penal action). Without the OSG's conformity, the petition is dismissible for lack of standing. Hence, I vote to dismiss the petition on this ground.

As regards the *ponencia*'s conclusion that the offense had prescribed under Section 281 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, I likewise concur in the result, *albeit* on grounds that reflect a reconsideration of my earlier position.

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.
>
> ...

I previously espoused the view that because it constitutes the proper and authoritative interpretation of Section 281[2] of the NIRC of 1997, as amended, the pronouncement in *People of the Philippines v. Ulysses Palconit Consebido*[3] (**Consebido**) should be applied retroactively, dating back to the effectivity of the NIRC of 1997, as amended.[4] Upon further reflection, I now find that such application must be tempered by considerations of fairness, doctrinal stability and the substantive nature of prescription.

First. *Consebido* is controlling, but it also recognizes a doctrinal clarification with procedural ramifications.

In *Consebido*, the Supreme Court clarified that, under Section 281 of the NIRC of 1997, as amended, the prescriptive period, especially where commission was "not known," is harmonized such that the commencement of preliminary investigation interrupts prescription. The Court was explicit:

> ...
> 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.**[5]
> ...

It likewise declared that the filing of the criminal complaint before the Department of Justice (**DOJ**) tolls the running of the prescriptive period for NIRC offenses:

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[2] **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.

[3] G.R. No. 258563, 02 April 2025.

[4] In, among others: *People of the Philippines v. Lemuel Sibuma Consolacion*, CTA EB Crim. Case No. 150 (CTA Crim. Case No. O-983), 29 May 2025; *People of the Philippines v. Ziegfried Loo Tian*, CTA EB Crim. Case No. 116 (CTA Crim. Case No. O-944) (Resolution), 16 July 2025; *People of the Philippines v. Ziegfried Loo Tian*, CTA EB Crim. Case No. 112 (CTA Crim. Case No. O-957) (Resolution), 04 August 2025; *People of the Philippines v. Shelmark Builders Phils., Inc., et al.*, CTA EB Crim. Case No. 138 (CTA Crim. Case No. O-1054), 22 October 2025; *People of the Philippines v. PGU General Merchandise, Inc., Fook Seong Yong and Rocelle Francisco*, CTA EB Crim. Case No. 144 (CTA Crim. Case No. O-1081), 18 November 2025; and *People of the Philippines v. Logistics.com Corporation, Jovan G. Trias, Arman R. Ong and Erma O. Aunario*, CTA EB Crim. Case No. 114 (CTA Crim. Case No. O-973) (Resolution), 24 February 2026.

[5] Supra at note 3; Emphasis supplied and italics in the original text.

> ...
>
> As discussed above, the filing of the criminal complaint before the DOJ shall toll the running of the prescriptive period for offenses under the 1997 NIRC, as amended, whether its commission was immediately known or unknown at the time of the violation.[6]
>
> ...

This clarification, while now controlling, necessarily interfaces with longstanding procedural formulations on when a criminal action is "instituted" for purposes of interrupting prescription. Section 1 of Rule 110 of the Revised Rules of Criminal Procedure (**RRCP**) recognizes that:

> ...
>
> RULE 110
> PROSECUTION OF OFFENSES
>
> SECTION 1. *Institution of criminal actions.*—**<u>Criminal actions</u>** shall be instituted as follows:
>
> (a) For offenses where a preliminary investigation is required pursuant to section 1 of Rule 112, by **<u>filing the complaint</u>** with the proper officer for the purpose of conducting the requisite preliminary investigation.
>
> (b) For all other offenses, by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor. In Manila and other chartered cities, the complaint shall be filed with the office of the prosecutor unless otherwise provided in their charters.
>
> The institution of the criminal action shall interrupt the running of the period of prescription of the offense charged unless otherwise provided in special laws.[7]
>
> ...

Second. The Revised Rules of the Court of Tax Appeals'[8] (**RRCTA**'s) "institution-by-Information" formulation creates a genuine interpretive tension as applied to criminal cases before the Court of Tax Appeals (**CTA**).

Notwithstanding the foregoing, criminal prosecutions in the CTA are specifically governed by the RRCTA, duly approved by the Supreme Court

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[6] Id.
[7] Italics in the original text. emphasis and underscoring supplied.
[8] A.M. No. 05-11-07-CTA dated 22 November 2005.

En Banc (initially in 2005 and later revised in 2008). Section 2, of Rule 9 of the RRCTA, states:

> ...
>
> 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. In criminal actions involving violations of the National Internal Revenue Code and other laws enforced by the Bureau of Internal Revenue, the Commissioner of Internal Revenue must approve their filing. In criminal actions involving violations of the Tariff and Customs Code and other laws enforced by the Bureau of Customs, the Commissioner of Customs must approve their filing.
>
> The **institution of the criminal action** shall interrupt the running of the period of prescription.[9]
>
> ...

The foregoing may reasonably have led accused, litigants and even the prosecution to understand that the filing of an Information before this Court is **the operative act that both institutes the criminal action and tolls prescription**, at least within this Court's original criminal jurisdiction. That is materially different from *Consebido*, where "institution" occurs upon filing of the complaint with the prosecutor/DOJ.

In fact, *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines*[10] (**Lim, Sr.**) and the RRCTA are consistently applied in a plethora of criminal cases decided by this Court, whether acting *En Banc* and in Division, to wit:

<u>*En Banc*</u>

1. *People of the Philippines v. Juanchito D. Bernardo, et al.*;[11]
2. *People of the Philippines v. Juanchito D. Bernardo, et al.*;[12]
3. *People of the Philippines v. Ulysses Palconet Consebido*;[13]
4. *People of the Philippines v. Ulysses Palconet Consebido*;[14] and,
5. *People of the Philippines v. Virgilio B. Castillo*;[15]

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9 Italics in the original text, emphasis and underscoring supplied.
10 G.R. Nos. L-48134-37, 18 October 1990.
11 CTA EB Crim. No. 078 (CTA Crim. Case No. O-731), 29 September 2021.
12 CTA EB Crim. No. 079 (CTA Crim. Case No. O-733), 07 July 2021.
13 CTA EB Crim. No. 076 (CTA Crim. Case Nos. O-700, O-702 & O-703), 27 January 2021.
14 CTA EB Crim. No. 069 (CTA Crim. Case No. O-701), 06 January 2021.
15 CTA EB Crim. No. 053 (CTA Case No. O-663), 08 July 2020.

Division

1. *People of the Philippines v. R-Jell Marketing & Construction Company, et al.*;[16]
2. *People of the Philippines v. Wintelecom, Inc./Hua C. Uychiyong (Treasurer)*;[17]
3. *People of the Philippines v. GH Resources and Training Services, Inc., et al.*;[18]
4. *People of the Philippines v. The Property Forum Phils., Inc., et al.*;[19] and
5. *People of the Philippines v. Chiatsing Cardboard Corp., et al.*[20]

Thus, for criminal cases before the CTA predating *Consebido*, there exists a genuine interpretive tension between:

1. *Consebido*'s clarified reading of Section 281 of the NIRC of 1997, as amended, and
2. the RRCTA's express "institution-by-Information" formulation in the CTA.

Third. Because doubt exists, the matter must be resolved in favor of the accused.

Prescription emanates from the liberality of the State. Any bar to or cause of interruption in the operation of prescriptive periods cannot simply be implied nor derived by mere implication. Any diminution of this endowment must be directly and expressly sanctioned by the source itself, the State. **Any doubt on this matter must be resolved in favor of the grantee thereof, the accused.**[21]

This principle traces its roots as early as *The People of the Philippine Islands v. Juan Moran, et al.*[22] (**Moran**), where the Supreme Court cited Fiore, an eminent professor of international law and author of "Irretroactivity and Interpretation of Statutes", and leaned towards his interpretation that regardless of the nature of the law on prescription, any new construction of prescription law must be applied if it is more favorable to the accused, but

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[16] CTA Crim. Case Nos. O-850, O-851. O-852 & O-853, 15 March 2022 (Resolution).
[17] CTA Crim. Case Nos. O-800 & O-801. 22 February 2022 (Resolution).
[18] CTA Crim. Case No. O-818, 17 February 2022 (Resolution).
[19] CTA Crim. Case No. O-875, 23 June 2021 (Resolution).
[20] CTA Crim. Case Nos. O-385, O-386. O-387, O-388. O-389. O-390. O-391 & O-392, 08 July 2015 (Resolution).
[21] *Benjamin ("Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo, in his official capacity as the Ombudsman*. G.R. Nos. 165510-33. 28 July 2006.
[22] G.R. No. 17905. 27 January 1923; Emphasis supplied.

not if it is more prejudicial, considering that prescription affects the very substance of criminal prosecutions:

> ...
>
> After examining the different opinions of the writers on the matter, Fiore has come, as seen from the above quotation, to the conclusion that, whether the statute relative to prescription be considered as of a procedural or formal, or substantive, nature, **the new statute must be applied if it is less severe or more favorable to the accused, but not if it is more prejudicial, notwithstanding the general rule that all procedural laws are retroactive in regard to prescription.** In view of the special motion filed by the accused on May 2, 1922, it does not matter and it is of no importance, so far as the question herein raised is concerned, whether the provision contained in section 71 of Act No. 3030 be considered as of a substantive, procedural, or adjective character, because applying the principles above enunciated, the result is the same, and **the more severe law in the matter of prescription** extends, as Fiore says, the field of the criminal action and **affects the very substance thereof, because it determines the basis and the sphere of the rights to punish.**
>
> ...

Thus, the Supreme Court concluded by saying that:

> ...
>
> [N]o period of prescription having been fixed in the former law, those offense were imprescriptible, and the offender could be prosecuted and punished at any time and indefinitely, even ten, twenty, or more years after the commission thereof, whereas the new law, that is, Act No. 3030 in providing the period of one year for the prescription, has, in effect, shortened the time of prescription fixed in the old law by virtue of the silence thereof, reducing it to one year and has established less difficult conditions for the application of the same as regards those offenses, which is evidently more favorable and lenient to the violators of the said former law, and, as Fiore says in one of the paragraph above quoted from his book, **the reduction made by the new law implies a recognition on the part of the sovereign power that the greater severity of the former law, as regards the substance of the criminal action, is unjust, and it would contradict itself if it would attempt to enforce its right under the conditions of the former law which has already been regarded by the conscientious public opinion as juridically burdensome, and, therefore, unjust,** and the sovereign power cannot exercise the right to punish except within the limits regarded by it as just at the time of exercising it.[23]
>
> ...

This portion of *Moran* went on to be cited by the Supreme Court in a later and even more recent cases interpreting the laws on prescription in criminal offenses.

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[23] Id.; Emphasis supplied.

Promulgated at the same time as *Moran* was the case of *The People of the Philippine Islands v. Norberto Parel*[24] (**Parel**), where the Court, likewise citing Fiore, declared that changes in the law on prescription must not be applied retroactively if the same would prejudice the accused:

> ...
> [W]**hen the new prescriptive law is more rigid than the former, whether as to the admissibility of the prescription itself or as to the conditions and time required for its effectiveness, care must be taken that law is not applied to crimes committed before its enactment,** not because the accused has acquired any right so to prevent its application, but for the reasons that we have already stated. What right can the accused have to endeavor to prevent that which the sovereign power has the right to do in order to preserve public order? Let us not talk therefore of vested rights of the accused, but let us say it, and with emphasis, that **the reason for the irretroactivity of the more severe law is found in the principle that the sovereign power cannot, without committing an injustice, apply the more severe prescriptive provisions**; and those provisions cannot be justly applied if they have not been previously promulgated. And the right itself to punish does not arise except by virtue of a law promulgated and in force at the time of the commission of the crime. The more rigid the prescriptive law the more enlarged the field of criminal prosecution and this affects the substance thereof, because it fixes the basis and the sphere of the right to punish. And can all of these be done by the sovereign power without any law? Can that power, without doing an injustice, extend the effects of the new law to said acts committed before its enactment? For the same reasons which prevent the sovereign power from punishing those acts that have not expressly been made punishable as crimes by the former law or from imposing the more severe penalties provided in the new law when such acts have been committed before those penalties were established by legislative enactment, so also it cannot enlarge the criminal action (that is to say, its right to punish) by a subsequent law and apply to acts executed before its enactment the less favorable provisions of prescription therein established . . .
>
> For the reasons stated, we come to the conclusion that, as a matter of justice which must regulate all the elements of a criminal action, that **the accused must be given the benefit of the provisions of the new law when more favorable to him** and that, unless there should be a final and conclusive judgment at the time, we must also admit in matters of prescription that the new law, when less severe, should be applied. The same principle applies when the modifications introduced by the law refer to the prescription of the penalty, because in its substance the prescription of the penalty is equivalent to the prescription of the criminal action. (Fiore, *Irretroactividad e Interpretacion de las Leyes*, pp. 426-428.)
> ...

[24] G.R. No. 18260. 27 January 1923; Emphasis supplied.

Parel remains to be good law and was recently cited in the 2024 case of *Dexter Bargado y Morgado v. People of the Philippines.*[25]

Additionally, subsequent cases have reaffirmed that prescription is a matter of substantive law.

In the 1954 case of *The People of the Philippines v. Pascual Castro,*[26] the Supreme Court declared that prescription is a substantive provision of law:

> ...
> Hence, the rule provides that the plea of prescription should be set up before arraignment, or before the accused pleads to the charge, as otherwise the defense would be deemed waived; but, as was well said in the Moran case, this rule is not of absolute application, especially when it conflicts with a **substantive provision of the law, such as that which refers to prescription of crimes.** Since, under the Constitution, the Supreme Court has only the power to promulgate rules concerning pleadings, practice and procedure, and the admission to the practice of law, and cannot cover substantive rights (section 13, article VII, of the Constitution), **the rule we are considering cannot be interpreted or given such scope or extent that would come into conflict or defeat an express provision of our substantive law. One of such provisions is article 89 of the Revised Penal Code which provides that the prescription of crime has the effect of totally extinguishing the criminal liability.**
> ...

The conclusion that prescription is a matter of substantive law was reiterated in the 1992 case of *Luz M. Zaldivia v. Hon. Andres B. Reyes, Jr., et al.,*[27] as well as in the 2013 case of *Jadewell Parking Systems Corporation v. Hon. Judge Nelson F. Lidua, Sr., et al.,*[28] both were cases discussed in *Consebido*:

> ...
> [I]f there be a conflict between the Rule on Summary Procedure and Section 1 of Rule 110 of the Rules on Criminal Procedure, the former should prevail as the special law. And if there be a conflict between Act No. 3326 and Rule 110 of the Rules on Criminal Procedure, the latter must again yield because **this Court, in the exercise of its rule-making power, is not allowed to "diminish, increase or modify substantive rights"** under Article VIII, Section 5(5) of the Constitution. **Prescription in criminal cases is a substantive right.**[29]
> ...

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[25] G.R. No. 271081, 29 July 2024.
[26] G.R. No. L-6407, 29 July 1954; Emphasis supplied.
[27] G.R. No. 102342, 03 July 1992.
[28] G.R. No. 169588, 07 October 2013.
[29] Emphasis supplied.

Accordingly, any change in its interpretation that adversely affects accused must be applied prospectively.

Furthermore, the Supreme Court has repeatedly emphasized that laws on prescription must be liberally construed in favor of accused.

In the 1989 case of *People of the Philippines v. Mizpah R. Reyes,*[30] which was cited in the 1992 case of *People of the Philippines v. Napoleon Duque,*[31] the Supreme Court ruled that in the interpretation of the law on prescription of crimes, that which is most favorable to the accused is to be adopted:

> ...
> However, the law on prescription of crimes rests on a more fundamental principle. Being more than a statute of repose, **it is an act of grace whereby the state, after the lapse of a certain period of time, surrenders its sovereign power to prosecute the criminal act.** While the law on prescription of civil suits is interposed by the legislature as an impartial arbiter between two contending parties, the law on prescription of crimes is an **act of amnesty and liberality on the part of the state** in favor of the offender [People v. Moran, *supra*, at p. 405]. **Hence, in the interpretation of the law on prescription of crimes, that which is most favorable to the accused is to be adopted.** [People v. Moran, supra; People v. Parel, 44 Phil. 437 (1923); People v. Yu Hai, 99 Phil. 725 (1956)].[32]
> ...

This doctrine was reiterated in the 2001 case of *People of the Philippines v. Arturo F. Pacificador*[33] (**Pacificador**):

> ...
> It bears emphasis, as held in a number of cases, that **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.** In the case of *People v. Moran,* this Court amply discussed the nature of the statute of limitations in criminal cases, as follows:
>
>> The statute is not a statute of process, to be scantily and grudgingly applied, but an amnesty, declaring that after a certain time oblivion shall be cast over the offense; that the offender shall be at liberty to return to his country, and resume his immunities as a citizen; and that from henceforth he may cease to preserve the proofs of his innocence, for the

30 G.R. Nos. 74226-27, 27 July 1989.
31 G.R. No. 100285, 13 August 1992.
32 Emphasis supplied.
33 G.R. No. 139405, 13 March 2001: Emphasis supplied and italics in the original text.

> proofs of his guilt are blotted out. Hence, it is that **statutes of limitation are to be liberally construed in favor of the defendant,** not only because such liberality of construction belongs to all acts of amnesty and grace, but because the very existence of the statute is a **recognition and notification by the legislature of the fact that time, while it gradually wears out proofs of innocence, has assigned to it fixed and positive periods in which it destroys proofs of guilt.**
>
> ...

Citing *Pacificador,* the Supreme Court, in the 2006 case of *Benjamin ("Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo, et al.,*[34] declared that any doubt on the bar or cause of interruption of prescriptive periods must be resolved in favor of the accused:

> ...
>
> Indeed, there is no reason why we should deny petitioner the benefits accruing from the liberal construction of prescriptive laws on criminal statutes. **Prescription emanates from the liberality of the State. Any bar to or cause of interruption in the operation of prescriptive periods cannot simply be implied nor derived by mere implication.** Any diminution of this endowment must be directly and expressly sanctioned by the source itself, the State. **Any doubt on this matter must be resolved in favor of the grantee thereof, the accused.**
>
> The foregoing conclusion is logical considering the nature of the laws on prescription. The exceptions to the running of or the causes for the interruption of the prescriptive periods may and should not be easily implied. The prescriptive period may only be prevented from operating or may only be tolled for reasons explicitly provided by the law.
>
> ...

In light of these principles, while *Consebido* supplies the authoritative construction of Section 281[35] of the NIRC of 1997, as amended — holding that the filing of a complaint for preliminary investigation tolls prescription — this Court's own rules (*i.e.*, the RRCTA) create reasonable interpretive doubt when applied to pre-*Consebido* prosecutions such as this case. In faithful adherence to the principle that doubts in criminal prosecutions, especially those affecting prescription, must be resolved in favor of the accused, I have reconsidered and am now of the view that *Consebido* must be applied prospectively.

Applying this perspective, the doctrine in *Lim, Sr.* remains controlling for cases predating *Consebido*. Under this doctrine, prescription is interrupted only upon the filing of the Information before the CTA.

34 Supra at note 21; Emphasis supplied.
35 Supra at note 2.

In the present case, the offense was deemed committed on 10 February 2014. The five (5)-year prescriptive period thus lapsed on 10 February 2019. The Information, however, was filed only on 05 December 2022, well beyond the prescriptive period.

En totale, I **CONCUR** in the dismissal of the petition and in ruling that the criminal action is already barred by prescription.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

PEOPLE OF THE PHILIPPINES, *Petitioner,*	**CTA *EB* CRIM. NO. 125** *(CTA Crim. Case No. O-982)*
	Present:
- versus -	**RINGPIS-LIBAN, *PJ*, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES, ANGELES, *JJ.***
COURT OF TAX APPEALS FIRST DIVISION, MATTEN TECHNOLOGIES INC., JOESPHINE TIONGCO and WIVINA ILAGAN, *Respondents.*	Promulgated: APR 28 2026 11:47

x - x

SEPARATE CONCURRING OPINION

MODESTO-SAN PEDRO, J.:

I concur with the *poncencia* that the instant Petition for Review cannot be granted, as the legal officers of the Bureau of Internal Revenue ("BIR") lack the requisite authority to institute the present appeal, and that the government's right to prosecute the alleged violation in this case had prescribed by the time petitioner filed its Information before the Court in Division.

With due respect, however, I dissent with the majority opinion's holding that the case of *People v. Consebido*[1] ("*Consebido*") applies prospectively but not retroactively.

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[1] G.R. No. 258563, April 2, 2025.

Section 281 of the 1997 National Internal Revenue Code ("*NIRC*") provides for the prescription of offenses charged therein:

> 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.
> (Italics and boldfacing, Ours.)

Under the doctrine laid down in *Emilio E. Lim, Sr. and Antonia Sun Lim vs. Court of Appeals and People of the Philippines*[2] ("*Lim*"), the prescriptive period is interrupted by the filing of Information in Court. Specifically, it was declared therein that tax cases are practically imprescriptible for as long as the period from the discovery and institution of judicial proceedings for its investigation and punishment, up to the filing of the Information in Court does not exceed 5 years.

It must be noted that the foregoing ruling in *Lim* interprets *Section 354 of the 1939 NIRC.* But this was nevertheless made applicable until the present criminal cases since its wordings were retained and the provision was renumbered to what is now *Section 281 of the 1997 NIRC.*

However, in light of the ruling in *Consebido* in April 2025, the ruling in *Lim* was re-examined by the High Court, which then held that the filing of the criminal complaint before the Department of Justice ("DOJ") tolls the running of the prescriptive period for offenses under the *1997 NIRC, as amended*, whether its commission was immediately known or unknown at the time of the violation.

Now, my point of contention is in the application of *Consebido* on pending cases at the time of its promulgation in April 2025. While the majority subscribed to the clarification in *Consebido* that it should be applied prospectively, I, on the other hand, am of the contrary view.

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[2] G.R. Nos. L-48134-37, October 18, 1990.

In ruling as such in *Consebido*, the High Court took cue from *Panaguiton, Jr. vs. Department of Justice*[3] *("Panaguiton")*, citing the Concurring Opinion of Former Supreme Court Associate Justice Dante O. Tinga in *Securities and Exchange Commission vs. Interport Resources Corporation, et. al.*,[4] both promulgated in 2008, where it was established that any kind of investigative proceeding instituted against the guilty person which may ultimately lead to his prosecution should be sufficient to toll prescription, hence:

> While it may be observed that the term "judicial proceedings" in Sec. 2 of Act No. 3326 appears before "investigation and punishment" in the old law, with the subsequent change in set-up whereby the investigation of the charge for purposes of prosecution has become the exclusive function of the executive branch, *the term "proceedings" should* ***now*** *be understood either executive or judicial in character: executive when it involves the investigation phase and judicial when it refers to the trial and judgment stage. With this clarification, any kind of investigative proceeding instituted against the guilty person which may ultimately lead to his prosecution should be sufficient to toll prescription.*
> (Italics and boldfacing, Ours.)

Notably, what *Panaguiton* clarified was the interpretation of *Section 2 of Act No. 3326*.[5] However, *Consebido* explained that the same interpretation applies to *Section 281 of the 1997 NIRC*, thus:

> 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.
> (Italics, Ours.)

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[3] G.R. No. 167571, November 25, 2008.
[4] G.R. No. 135808, October 6, 2008.
[5] An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run.

It is in this respect that I humbly opine that *Consebido* should be applied retroactively since it merely fortifies the correct construction of *Section 281 of the 1997 NIRC* from the time of its enactment. It does not establish a new rule, it only clarifies what the rule has always been since the law was enacted.

As held in *Columbia Pictures, Inc. vs. Court of Appeals,*[6] "judicial interpretation of a statute constitutes part of the law as of the date it was originally passed, since the Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect . . . Such judicial doctrine does not amount to the passage of a new law but consists merely of a construction or interpretation of a pre-existing one. . ."

The foregoing rule is subject only to the qualification that when a doctrine of [the High Court] is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith.[7] However, I find that this qualification is not applicable in *Consebido.*

Lim did not effectively abandon by *Consebido.* To my mind, *Lim* is still good case law, but only in such time when preliminary investigations were still conducted by the justices of the peace, before the task became under the sole jurisdiction of the DOJ. As such, there was no reversal of a different view of the High Court. *Lim* shall still be the prevailing view during the effectivity of *Section 354 of the 1939 NIRC.*

In fact, what *Consebido* did was to harmonize *Section 281 of the 1997 NIRC, as amended,* with existing laws (i.e. *Presidential Decree No. 1275*[8] and *Republic Act No. 10071*[9]) and jurisprudence (i.e. *Panaguiton*), as the High Court is duty-bound to do so. Instructive here is *Grand Development Corp. v. Franklin Baker, Inc.,*[10] citing Ruben E. Agpalo:

> The rule is that a statute should be so construed not only to be consistent with itself but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, *interpretare et concordare leges legibus est optimus interpretandi modus,* or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. Consistency in statutes as in executive issuances is of prime importance, and, in the absence of a showing to the contrary, all laws are

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[6] G.R. No. 110318, August 28, 1996, citing *Senarillos v. Hermosisima,* G.R. No. L-10662, December 14, 1956. Also cited in *Philippine International Trading Corporation v. Commission on Audit,* G.R. No. 205837, November 21, 2017 and *Ramos, et. al. v. National Commission on Indigenous People, et. al.,* G.R. No. 192112, August 19, 2020.

[7] *Id.*

[8] An Act Creating the National Prosecution Service.

[9] Prosecution Service Act of 2010.

[10] G.R. No. 251463, August 2, 2023, citing the eminent commentator Ruben E. Agpalo.

> presumed to be consistent with each other. Where it is possible to do so, it is the duty of courts, in the construction of statutes, to harmonize and reconcile them, and to adopt a construction of a statutory provision which harmonizes and reconciles it with other statutory provisions.
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> . . . .
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> Statutes *in pari materia* should be construed together to attain the purpose of an express national policy. *For the assumption is that whenever the legislature enacts a law, it has in mind the previous statutes relating to the same subject matter, and in the absence of any express repeal or amendment, the new statute is deemed enacted in accord with the legislative policy embodied in those prior statutes.* Provisions in an act which are omitted in another act relative to the same subject matter will be applied in a proceeding under the other act, when not inconsistent with its purpose. *Prior statutes relating to the same subject matter are to be compared with the new provisions, and if possible by reasonable construction, both to be construed that effect is given to every provision of each.* Statutes *in pari materia*, although in apparent conflict, are as far as reasonably possible construed to be in harmony with each other. Similarly, every new statute should be construed in connection those already existing in relation to the same subject matter and all should be made to harmonize and stand together, if they can be done by any fair and reasonable interpretation. *Interpretare et concordare leges legibus, est optimus interpretandi modus*, which means that the best method of interpretation is that which makes laws consistent with other laws. Accordingly, courts of justice, when confronted with apparently conflicting statutes, should endeavor to reconcile them instead of declaring outright the invalidity of one against the other. Courts should harmonize them, if this is possible, because they are equally the handiwork of the same legislature.
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> (Italics, Ours.)

Further, with the foregoing considered, it logically follows that the interpretation in *Consebido* necessarily extends to *Section 2, Rule 9 of the Revised Rules of the CTA* as rules should be consistent with the law.

While, indeed, *Consebido* made a pronouncement that the new rule therein shall apply prospectively, I find that such pertains only to offenses covered by the *1991 Revised Rules on Summary Procedure* as well as the *2022 Rules on Expedited Procedures in the First Level Courts*:

> *The rule on the tolling of the prescriptive period for offenses*
>
> As discussed above, the filing of the criminal complaint before the DOJ shall toll the running of the prescriptive period for offenses under the 1997 NIRC, as amended, whether its commission was immediately known or unknown at the time of the violation.

> Still, the Court deems it necessary to revisit the prevailing jurisprudence on the tolling of offenses covered by the 1991 Revised Rules on Summary Procedure as well as the 2022 Rules on Expedited Procedures in the First Level Courts.
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> . . . .
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> The 1991 Revised Rules on Summary Procedure was supplanted by the 2022 Rules on Expedited Procedures in the First Level Courts. [59] Rule II, Subsection B, Section 1 thereof states that "[t]he filing of criminal cases governed by the Rule on Summary Procedure shall either be by complaint or by information."
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> . . . .
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> 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. . . .
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> . . . .
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> But in line with the time-honored principle that 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.

In narrating the foregoing part of the *Consebido* Decision, the High Court *first* reiterated that the filing of the criminal complaint before the DOJ shall toll the running of the prescriptive period for offenses under the *1997 NIRC, as amended.* This establishes that it is already a settled rule. Then it was *followed* with a discussion on the effect of such rule on 1991 Revised Rules on Summary Procedure as well as the 2022 Rules on Expedited Procedures in the First Level Courts as the High Court found it necessary to revisit the prevailing jurisprudence thereon, as well. It is in this respect that the High Court pronounced the prospective application of the new rule and not on the already settled rule.

Lastly, I find that the retroactive application of *Consebido* does not violate the rule that laws on prescription of crimes must be interpreted in a way which is more favorable to the accused. The matter of interruption of the running of prescriptive periods, as a procedural law, may be given retroactive application.

Procedural laws are adjective laws which prescribe rules and forms of procedure of enforcing rights or obtaining redress for their invasion; they refer to rules of procedure by which courts applying laws of all kinds can properly administer justice. They include rules of pleadings, practice and evidence. *As applied to criminal cases,* ***they provide or regulate the steps*** *by which one* *who commits a crime is to be punished.*[11] The fact that procedural statutes may somehow affect the litigants' rights may not preclude their retroactive application to pending actions. The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected. Nor is the retroactive application of procedural statutes constitutionally objectionable. The reason is that as a general rule no vested right may attach to, nor arise from, procedural laws.[12]

That said, I ultimately agree with the rulings of both the majority opinion and the Court in Division. The instant Petition for Review should, indeed, be dismissed, considering the BIR legal officers' lack of authority to file it.

Meanwhile, though I disagree with the reasons given, I concur with the Court in Division's dismissal of the Information here. As found by the Court in Division and affirmed by the Court *En Banc*, the alleged violation here was committed, if it was committed at all, on February 10, 2014. This gave petitioner until February 10, 2019 within which to file a complaint with the DOJ. The receiving stamp on the Investigation Data Form,[13] however, shows that it was only filed on June 6, 2019, 116 days after the February 10, 2019 deadline. The government's right to prosecute the alleged violation had thus prescribed even before the complaint was filed with the DOJ.

All told, and disagreement on certain points notwithstanding, I concur with the *ponencia* and vote to **DISMISS** the instant Petition for Review.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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11 *People v. Lastimosa*, G.R. No. 265758, February 3, 2025, citing Ruben E. Agpalo in *Tan, Jr. v. Court of Appeals*, G.R. No. 136368, January 16, 2002.
12 *Id.*
13 *Rollo*, p. 37.