REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

LOGISTICS.COM CORPORATION, JOVAN G. TRIAS, ARMAN R. ONG and ERMA O. AUNARIO,
Diezmo Road, Pulo, Cabuyao City, Laguna,
Accused.

CTA Crim. Case No. O-973
(NPS Docket No. XVI-INV-19B-00066)
For: Violation of Section 255, in relation to Sections 253 and 256 of the NIRC of 1997, as amended

Members:

DEL ROSARIO, ***PJ, Chairperson***
MANAHAN, and
REYES-FAJARDO ***JJ.***

Promulgated:

MAR 06 2023 11:58 am

x- -x

RESOLUTION

On January 30, 2023, the Court issued a Resolution, dismissing the case in the following fashion:

> **WHEREFORE**, the Court finds no probable cause to issue a warrant of arrest, on the ground of prescription of the offense charged. Likewise, on the same ground, the instant Information docketed as CTA Crim. Case No. O-973, is **DISMISSED.**
>
> **SO ORDERED.**

On February 13, 2023, the prosecution filed a Formal Entry of Appearance with Motion for Reconsideration. In its motion, the prosecution finds erroneous the ruling that the criminal action filed against the accused is already barred by the statute of limitations. Section 281 of the National Internal Revenue Code (NIRC) of 1997, as amended, provides among others that the five (5)-year prescriptive period for tax offenses commences from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and institution of judicial proceedings for its investigation and punishment, and shall be suspended when proceedings are instituted against the persons guilty of the transgression.

For the prosecution, prescription has not yet set in as the prescriptive period, in this case, was tolled upon the filing of the Joint Complaint-Affidavit against accused before the Department of Justice (DOJ) on February 28, 2019.

The instant Motion must be denied.

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

> III. Procedure
>
> xxx xxx xxx
>
> 2. Motions
>
> xxx xxx xxx
>
> (c) Meritorious Motions. - Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, xxx:
>
> xxx xxx xxx
>
> The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, xxx.
>
> Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright.

From the foregoing, the party aggrieved by the Resolution of the Court is conferred a non-extendible period of five (5) calendar days, reckoned from receipt thereof, within which to file a motion for reconsideration, lest the same shall be denied.

As admitted,[1] the prosecution received the Resolution dated January 30, 2023, dismissing the present case on the ground of prescription, on February 1, 2023. Consistent with the above rule, the prosecution had a non-extendible period of five (5) calendar days from February 1, 2023 or until February 6, 2023 to seek reconsideration of the adverse ruling. The prosecution's Motion for Reconsideration having been belatedly filed only on February 13, 2023, the Court is left with no other recourse but to deny the same.

Further, even assuming that the motion is timely filed, said motion shall likewise be denied for lack of merit.

As extensively discussed in the Resolution dated January 30, 2023, the Revised Rules of the Court of Tax Appeals explicitly provides that the institution of the criminal action shall interrupt the running of the period of prescription. In this case, while the Court cannot determine the date of receipt of the accused of the Formal Letter of Demand (FLD), the Bureau of Internal Revenue (BIR) alleged that the Final Decision on Disputed Assessment (FDDA) was received by the accused on August 5, 2015. Clearly, 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.

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

The Formal Entry of Appearance of the Deputized Special Prosecutors for the Bureau of Internal Revenue as counsel for plaintiff is hereby **NOTED.**

Henceforth, let all notices, processes and orders of this Court, motions, pleadings and other papers relative to the above-entitled case be directly served to plaintiff's counsels, Deputized Special Prosecutors Catherine Rose R. Tortoles, Jamaica Kay S. Dela Cruz and Jimlan S. Ismael, at:

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

BUREAU OF INTERNAL REVENUE
7th Floor, Room 704 Prosecution Division
BIR National Office Building
BIR Road, Diliman, Quezon City

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

(on leave)
CATHERINE T. MANAHAN
Associate Justice

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