CTA Form No. 8 (For DCC)

18-000146-0035

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM CASE NO. O-672

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

DIEGO G. MARTINEZ,
Twinpeaks Shell Service Center, No. 184
Katipunan Road, Blueridge, Quezon City

OR

Twinpeak Shell Service Center I & II,
Marcos Highway, Santolan, Pasig City

Accused.

NOTICE OF RESOLUTION

To:

PROSECUTOR GENERAL BENEDICTO A. MALCONTENTO
ASSISTANT STATE PROSECUTOR MARY ANN S. PARONG
Department of Justice
Padre Faura Street, Malate, Manila

ATTY. PAULYN ANN A. UMIPIG-LABUCAY
Bureau of Internal Revenue - Revenue Region No. 7
Room 516, 5th Floor, Legal Division, Fishermall (Roofdeck)
Quezon Avenue corner Fernando Poe Jr., Avenue
Quezon City

GREETINGS:

You are hereby notified by these presents that on **March 26, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 27, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

DIEGO G. MARTINEZ,
Twinpeaks Shell Service Center, No. 184 Katipunan Road, Blueridge, Quezon City,

OR

Twinpeak Shell Service Center I & II, Marcos Highway, Santolan, Pasig City
Accused.

CTA CRIM. CASE NO. O-672
For: Violation of Section 255 of the National Internal Revenue Code, as amended

Members:
DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, and
CUI-DAVID, *JJ.*

Promulgated:
MAR 2 6 2024 9:15AM

x - x

RESOLUTION

This resolves plaintiff's **Motion for Reconsideration (of the Resolution dated January 25, 2024)** filed on March 4, 2024 praying for the Court to reverse and set aside the Resolution promulgated on January 25, 2024 and to issue an Alias Warrant of Arrest against accused.

In the assailed Resolution dated January 25, 2024, the Court withdrew the case from the archives, dismissed the same by reason of prescription of the offense charged, and recalled and set aside the Alias Warrant of Arrest against accused.

In the present Motion, plaintiff submits that the prescriptive period for violations of the National Internal Revenue Code of 1997, as amended (NIRC), being a special law, is interrupted by the filing of the complaint before the Department of Justice (DOJ) for purposes of conducting preliminary investigation, citing the case of *People of the*

Philippines vs. Mateo A. Lee, Jr.[1] Plaintiff argues that since the Formal Letter of Demand/Final Assessment Notice became final and executory on January 26, 2010 and that plaintiff had five years counted from such date within which to file a case against accused, the filing of the Joint Complaint-Affidavit before the DOJ on January 30, 2014 effectively tolled the running of the period of prescription.

The plaintiff's Motion for Reconsideration lacks merit.

Contrary to plaintiff's argument, the ruling in *Lee, Jr.* does not apply in the present case. The doctrine laid down by *Lee, Jr.*, *i.e.*, the filing of the complaint before the DOJ suspends the running of the prescriptive period, applies only when the special law does not provide for a prescriptive period for the offense.[2]

The present case charges the accused with Willful Failure to Pay Tax under Section 255 of the NIRC. Section 281 of the NIRC sets a prescriptive period of five (5) years for all violations of the provisions of the NIRC, hence, *Lee, Jr.* does not apply.

As discussed in the assailed Resolution dated January 25, 2024, the prescriptive period to file a criminal case for violations of the NIRC is tolled only when the Information is filed before the Court pursuant to *Emilio E. Lim, Sr. and Antonia Sun Lim vs. Court of Appeals and People of the Philippines*,[3] and Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals.

Clearly, plaintiff failed to present cogent reason to justify the reconsideration sought.

WHEREFORE, premises considered, plaintiff's **Motion for Reconsideration (of the Resolution dated January 25, 2024)** is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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[1] G.R. No. 234618, September 16, 2019.
[2] Section 1, Act No. 3326. "Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: xxx."
[3] G.R. No. 48134-37, October 18, 1990.

ON LEAVE
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice