REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-994 (NPS Docket No. XVI-INV-21F-00222)** For: Violation of Section 255, in relation to Sections 253(d) and 256 of the NIRC of 1997, as amended
- versus -	
STAR ASSET MANAGEMENT NPL INC., MARK S. FRONDOSO, and JOSEPH RYAN R. SYCIP,	Members:
	MANAHAN, *Chairperson,* **REYES-FAJARDO**, *and* **ANGELES**, *JJ.*
Unit 3A, One Orion Building, 11th Avenue corner 38th Street, Bonifacio Global City, Taguig, Metro Manila,	
(All-at-Large) *Accused.*	Promulgated: FEB 12 2024 10:00 a.m.

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RESOLUTION

This resolves the prosecution's Motion for Reconsideration (of the Resolution dated 26 September 2023), posted on October 27, 2023, [1] with accused's Comment/Opposition [Re: Motion for Reconsideration dated 27 October 2023].[2]

To recall, the Court issued a Resolution dated September 26, 2023 (assailed Resolution), the dispositive portion of which reads:

> **WHEREFORE**, the Court **RESOLVES** to:
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> 1. **GRANT** accused's Motion to Dismiss/ Motion to Quash Information -with- Motion to Hold Issuance or Quash Warrants of

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1 Docket, unpaged.
2 *Id.*, unpaged.

Arrest and Supplemental Motion to Dismiss/Motion to Quash Information;

2. **DENY** accused's Motion for Partial Reconsideration [Re: Resolution dated 6 June 2023];

3. **QUASH** the original and amended Information in CTA Crim. Case No. O-994;

4. **DISMISS** CTA Crim. Case No. O-994 solely because: (1) the facts charged therein do not constitute an offense; and (2) prescription of criminal action; and,

5. **MOOT** accused's Manifestation with Urgent Motion.

SO ORDERED.

In its Motion for Reconsideration, the prosecution seeks to set aside the assailed Resolution, explaining as follows: *one,* the Amended Information dated June 22, 2023, is not defective as the facts charged therein constitute an offense. In particular, the prosecution's Amended Information states that Mark S. Frondoso and Joseph Ryan R. Sycip, knowingly, willfully, and unlawfully fail to pay their deficiency tax despite receipt of BIR notices; and, *two,* the filing of the Complaint-Affidavit for preliminary investigation on June 25, 2021 before the Department of Justice tolled the running of the five (5) year prescriptive period provided under Section 281 of the of the NIRC, as amended.

The prosecution's Motion for Reconsideration is denied.

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

III. Procedure

...

2. Motions

...

(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, ...:
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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, ...**
>
> **Motions that do not conform to the above requirements shall be considered unmeritorious and shall be denied outright.**[3]

As admitted, [4] the prosecution received the assailed Resolution on October 12, 2023. Counting five days therefrom, the prosecution had until October 17, 2023 to file its Motion for Reconsideration. Therefore, the prosecution belatedly posted its Motion for Reconsideration on October 27, 2023, warranting outright dismissal.

Even if the prosecution's Motion for Reconsideration was timely filed, said motion shall be denied for lack of merit.

In the assailed Resolution, the Court explained at length that: *one,* the dismissal of CTA Crim. Case No. O-994, is warranted, pursuant to Section 4, Rule 117 of the Rules of Court, as amended, because the prosecution's Amended Information is still defective and insufficient; and, *two,* the original Information in CTA Crim. Case No. O-994, belatedly filed on December 6, 2022, is barred by prescription under Section 281 of the 1997 National Internal Revenue Code (NIRC), as amended. Specifically, the Bureau of Internal Revenue's Joint Complaint Affidavit divulged that the Formal Assessment Notice and Details of Discrepancies dated January 11, 2017 covering TY 2013 were served to and received by Star Asset Management NPL Inc. (SAMI) on January 13, 2017. There being no administrative protest filed by SAMI within thirty (30) days from receipt thereof, said final assessment attained immutability on February 12, 2017. Counting five (5) years therefrom, the prosecution has until February 12, 2022, to file the requisite Information with the Court, pursuant to *Lim, Sr., et al. v. Court of Appeals* [5] and Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals.

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[3] Boldfacing supplied.
[4] Page 1, Paragraph No. 1, Prosecution's Motion for Reconsideration.
[5] *G.R.* Nos. L-48134-37, October 18, 1990.

There is nothing in the Motion for Reconsideration filed by the prosecution that was not thoroughly discussed and passed upon by the Court in the assailed Resolution. To discuss anew the explanations of the Court that the criminal action is extinguished, and that the prosecution's Amended Information is still defective and insufficient are superfluity.

WHEREFORE, the prosecution's Motion for Reconsideration (Of the Resolution dated 26 September 2023) posted on October 27, 2023 is **DENIED**.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY A. ANGELES
Associate Justice