REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-833** (NPS Docket No. XVI-INV-17I-00269) For: Violation of Section 255 of the National Internal Revenue Code of 1997, as amended, in relation to Sections 253(d) and 256 thereof
-versus-	Members:
MTO INTERNATIONAL PRODUCT MOBILIZER, INC., and EDMUNDO T. ONGSIAKO JR., No. 88 New York Street corner Cambridge Street, Cubao, Quezon City (At Large) *Accused.*	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.* Promulgated: JAN 20 2025 9:42 a.m.

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RESOLUTION

This resolves the plaintiff's *Motion for Reconsideration* filed on September 16, 2024, praying for the reversal of the *Resolution* dated August 2, 2024 which dismissed the present case due to prescription of the offense charged.

The plaintiff mainly argues that the Court erred in ruling that the right to institute the criminal action has prescribed. Citing the case of *Disini v. Sandiganbayan*[1], and CTA Crim. Case Nos. O-728, O-730, O-732 and O-734, the plaintiff maintains that it is the filing of the complaint with the Department of Justice (DOJ) that effectively tolls the running of the prescriptive period to institute a criminal action against the accused.

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[1] G.R. Nos. 169823-24 & 174764-65, September 11, 2013.

In the present case, as the complaint was filed with the DOJ on September 28, 2017, or before February 8, 2019 which is the last day of the five-year prescriptive period of the offense charged, the plaintiff insists that the prescriptive period to institute the criminal action against the accused was tolled.

The plaintiff's *Motion for Reconsideration* is **denied** for lack of merit.

First, the plaintiff failed to comply with *En Banc* Resolution No. 8-2024[2] which provides the guidelines to be followed when the primary manner of filing of pleadings or other court submissions is through personal filing, by registered mail, or by accredited courier. The pertinent portion of the said Resolution reads:

> **2. Manner of transmittal.-** The PDF copies must be transmitted by litigants and court users to the official e-mail addresses:
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> xxx xxx xxx
>
> When the primary manner of filing is through personal filing, by registered mail, or by accredited courier, in accordance with Rule 13, Section 3(a), 3(b), or 3(c) of the 2019 Amendments to the 1997 Rules of Civil Procedure, ten (10) paper copies for En Bane cases, and six (6) paper copies for initiatory pleadings or four (4) paper copies for subsequent pleadings for Division cases, shall be filed. **The PDF copies must be transmitted within twenty-four (24) hours from such filing of paper copies; otherwise, the pleading or court submission shall be deemed as not filed.** *(Emphasis supplied)*

In this case, based on the *Records Verification Report* dated September 19, 2024, the plaintiff failed to transmit the instant *Motion for Reconsideration* through e-mail within twenty-four (24) hours from the filing of its paper copies in this Court. Applying the foregoing provision, the said *Motion* is deemed as not filed.

Second, the plaintiff failed to show that the BIR legal officers who prepared and signed the said *Motion* were duly deputized by the DOJ for purposes of prosecuting the instant case.

Under Section 3, Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA), all criminal actions shall be conducted and prosecuted under the direction and control of the public prosecutor. For cases involving violations of any provision of the National Internal

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[2] Guidelines on Submission of Electronic Copies of Pleadings and Other Court Submissions Before the Court of Tax Appeals Pursuant to A.M. No. 10-3-7-SC and A.M. No. 11-9-4-SC.

Revenue Code of 1997 (Tax Code), such as this case, the prosecution may be conducted by duly deputized legal officers.

A perusal of the plaintiff's *Motion for Reconsideration* shows that the same was prepared, signed, verified and certified by BIR legal officers. However, no document was attached to prove that the said BIR legal officers were duly deputized by the public prosecutor or DOJ. Hence, the said BIR legal officers had no authority to prepare, sign, verify and certify the instant *Motion*, in accordance with Section 3, Rule 9 of the RRCTA.

Lastly, even if this Court looks past the foregoing defects in the filing of the instant *Motion*, the plaintiff's arguments are untenable.

Under Section 281 of the Tax Code, as amended, the five-year prescriptive period for violations of any provision of the Tax Code, including Section 255 thereof, is interrupted when proceedings are instituted against the guilty persons.

In relation thereto, Section 2, Rule 9 of the RRCTA provides that all criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information, and that **the institution of criminal actions shall interrupt the running of the period of prescription.**

Based on the foregoing, it is clear that all criminal actions brought before the CTA in Division are instituted by the filing of an information before the Court. It is the institution of the criminal action before the Court that interrupts the running of the prescriptive period of the offense charged, and not the filing of the compliant with the DOJ as argued by the plaintiff.

This is consistent with the ruling of the Supreme Court in the case of *Lim, Sr. v. Court of Appeals*[3] where the Cour held that the prescriptive period of tax cases is reckoned from the discovery *and* institution of judicial proceedings for its investigation and punishment, *up to* the filing of the information in court.

Considering the foregoing, there being no cogent reason for the Court to reverse or modify the *Resolution* dated August 2, 2024, the same shall be upheld.

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

WHEREFORE, premises considered, the plaintiff's *Motion for Reconsideration* filed on September 16, 2024 is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice