REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-181** (IS No. 2006-312)
	For: Failure to File Return (Violation of Sec. 255 of the 1997 NIRC)
-versus-	
SHUI WAI PAC (President/Director) and **KIM FAI TUNG** (General Manager) [Lot 8, Block 9, Phase 1, PEZA, Rosario, Cavite] -Both AT-LARGE-, *Accused.*	

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PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-182** (IS No. 2006-312)
	For: Failure to Pay Tax (Violation of Sec. 255 of the 1997 NIRC)
-versus-	Members:
SHUI WAI PAC (President/Director) and **KIM FAI TUNG** (General Manager) [Lot 8, Block 9, Phase 1, PEZA, Rosario, Cavite] -Both AT-LARGE-, *Accused*	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
	Promulgated:
	AUG 09 2024 8:19 AM

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RESOLUTION

The instant Informations were filed with the Court of Tax Appeals ("CTA") on June 18, 2010 and were consolidated on September 14, 2010.[1]

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[1] *See* Resolution, September 14, 2010, *Rollo* in CTA Crim. Case No. O-181, pp. 126-127.

Since then, the Court has issued Warrants of Arrest,[2] Alias Warrants of Arrest,[3] and a Resolution[4] ordering the Philippine National Police to enforce the outstanding warrants against accused.

After a review of the records, however, the Court finds that We never properly gained jurisdiction over this Information, as the same was filed beyond the period prescribed by law to do so.

Under *Section 281 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"), the government has five (5)years from either the commission of the crime or the date of its discovery within which to prosecute any violation of the *NIRC*. The period is interrupted when "proceedings are instituted against the guilty persons." In the case of criminal actions heard before the CTA in Division, such as in this case, proceedings are deemed instituted upon the filing of an Information with the CTA, following *Rule 9, Section 2 of the Revised Rules of the Court of Tax Appeals, as amended.*[5] Finally, following *Lim v. Court of Appeals*[6] and *Tupaz v. Ulep*,[7] the prescriptive period then started upon the commission of the suspected crime, which the Supreme Court identified with the finality of the assessment, attained after the lapse of 30 days from the taxpayer's receipt of the assessment, coupled with the taxpayer's willful refusal to pay the assessed taxes within the period for doing so.

While the Informations claim that the crimes charges were committed sometime in "taxable year 2000," the relevant Formal Letter of Demand with Final Assessment Notices ("FLD/FANs") was issued only on February 21, 2005.[8] The Court unfortunately was not provided with the exact date of accused's receipt of the FLD/FANs, so We are consequently constrained to use said issuance date as the relevant date and treat March 24, 2005 as the start of the prescriptive period. This gave the prosecution until March 24, 2010 within which to institute the criminal action against accused before this Court.

The Informations were filed on June 18, 2010, however. The government's right to prosecute this case had thus prescribed before the instant Informations were filed, and the CTA never truly gained jurisdiction over this case.

There is consequently nothing left for this Court to do but to dismiss this case.

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[2] *Id.* at 143-144.

[3] *Id.* at 155-156 & 169-170.

[4] *Id.* at 178-179.

[5] The *Revised Rules of the Court of Tax Appeals* came into effect on 2005; as Our construction of it is not prejudicial to accused, it can be retroactively applied here.

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

[7] G.R. No. 127777, October 1, 1999.

[8] *See* Joint Affidavit, *Rollo* in CTA Crim. Case No. O-181, p. 16; *see also* Formal Letter of Demand, *id.* at 39-42.

ACCORDINGLY, CTA Crim. Case Nos. O-181 & O-182 are hereby **REVIVED** from the archives but **DISMISSED** on the ground of prescription.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice