

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, CTA CRIM. CASE NOS.

Plaintiff, **O-1079 & O-1080**

For: Violation of Section 255, in
relation to Sections 253(d) and 256 of
the NIRC of 1997, as amended

- versus -

Members:

MODESTO-SAN PEDRO, *Chairperson*
FERRER-FLORES, *and*
CENTENO-DIJAMCO, *JJ.*

**LINCOLN PORT PARKWAYS
WAREHOUSING AND
LOGISTICS, CORP. and
MEDARDO P. PINEDA,**

Promulgated:

Accused.

SEP 03 2026

9:05 a.m. ✓

X ----- X

DECISION

The Case

Before the Court are the *Informations* filed on August 10, 2023, indicting Lincoln Port Parkways Warehousing and Logistics Corp. ("Lincoln"; "accused Corporation") and Medardo P. Pineda ("accused Pineda") for violation of *Section 255*, in relation to *Sections 253(d) and 256 of the National Internal Revenue Code of 1997, as amended*, ("the Tax Code") to wit:

*Docketed as CTA Crim. Case No. O-1079:*¹

That on or about June 19, 2019, in Caloocan City, and within the jurisdiction of this Honorable Court, accused Lincoln Port Parkways Warehousing and Logistics Corp., a registered taxpayer, with obligation under the law to pay correct value-added tax, through its president and co-accused Medardo P. Pineda, did then and there, willfully, unlawfully and feloniously fail to pay its correct value-added tax with the Bureau of Internal Revenue for the taxable year 2017 in the amount of One Hundred Fifty Four

¹ Docket (CTA Crim. Case No. O-1079), pp. 5 to 7.

Million One Hundred Twenty Seven Thousand Nine Hundred Fifty Two and 63/100 Pesos only (Php154,127,952.63), exclusive of surcharge and interest, when the assessment became final and executory, despite service of notices and demand letters for them to pay the said tax, including the demand letter dated July 19, 2019, to the damage and prejudice of the Government.

CONTRARY TO LAW.

*Docketed as CTA Crim. Case No. O-1080:*²

That on or about June 19, 2019, in Caloocan City, and within the jurisdiction of this Honorable Court, accused Lincoln Port Parkways Warehousing and Logistics Corp., a registered taxpayer, with obligation under the law to pay correct income tax, through its president and co-accused Medardo P. Pineda, did then and there, willfully, unlawfully and feloniously fail to pay its correct income tax with the Bureau of Internal Revenue for the taxable year 2017 in the amount of Thirty Two Million Ninety Six Thousand Four Hundred Twenty One and 45/100 Pesos only (Php32,096,421.45), exclusive of surcharge and interest, when the assessment became final and executory, despite service of notices and demand letters for them to pay the said tax, including the demand letter dated July 19, 2019, to the damage and prejudice of the Government.

CONTRARY TO LAW.

The Facts

Accused Lincoln Port Parkways Warehousing and Logistics Corp. is a corporation registered with the Philippine Securities and Exchange Commission ("SEC") with Registration No. CS201515349,³ while accused Pineda is its President based on Lincoln's General Information Sheet ("GIS") for the year 2019.⁴

On August 30, 2018, the Bureau of Internal Revenue ("BIR") issued to Lincoln a Letter of Authority ("LOA") No. LOA-027-2018-00000799 (eLA201600025777)⁵ authorizing the examination of its books of accounts and other accounting records for all internal revenue taxes, including documentary stamp tax and other miscellaneous tax, for the period from January 1, 2017 to December 31, 2017. The same was signed received by a Johlery Pineda on September 14, 2018. 

² Docket (CTA Crim. Case No. O-1080), pp. 5 to 7.

³ Exhibit "P-1", Docket (CTA Crim. Case No. O-1079), pp. 236 to 243.

⁴ *Id.* at 239 to 240.

⁵ Exhibit "P-2", *id.* at 213.

On May 15, 2019, the BIR then issued a Preliminary Assessment Notice (“PAN”)⁶ assessing Lincoln for deficiency income tax, value-added tax (“VAT”), and compromise penalty for the taxable year (“TY”) 2017, which was signed received by a Mely Joun M. Patriarca (“Patriarca”) on May 22, 2019.

On June 19, 2019, the BIR issued a Formal Letter of Demand and Final Assessment Notice (“FLD/FAN”),⁷ reiterating the assessments in the PAN and was signed received by a Ramon Doringo (“Doringo”) on July 3, 2019.

On September 7, 2020, the BIR issued a Warrant of Dstraint and/or Levy (“WDL”)⁸ against Lincoln, while on November 24, 2020, the Warrants of Garnishment (“WGs”) were issued to the depositary banks where Lincoln holds bank accounts.

The BIR sent a Letter dated January 8, 2021⁹ to accused Pineda informing him, as the President of Lincoln, that the deficiency tax assessments of Lincoln for TY 2017 remain unpaid despite notices. It was received and signed by accused Pineda on January 20, 2021.

On February 2, 2023, the Commissioner of Internal Revenue (“CIR”), on the basis of the Joint Complaint-Affidavit filed by Revenue Officer (“RO”) Honeylette Claire P. Bobadilla (“RO Bobadilla”) and Seizure Agent (“SA”) Kelly Joyce B. Aniceto (“SA Aniceto”) on even date, then recommended and approved the criminal prosecution of Lincoln and its responsible corporate officer, accused Pineda, for violation of *Section 255 of the Tax Code*.¹⁰

Thus, on August 10, 2023, the prosecution filed the *Informations* before the Court.

Proceedings in CTA Crim. Case No. O-1079

On September 6, 2023, finding existence of probable cause, the Court resolved to issue a warrant of arrest against the accused Pineda.¹¹

⁶ Exhibit “P-9”, *id.* at 223 to 225.

⁷ Exhibit “P-11”, including sub-series, *id.* at 227 to 232.

⁸ Exhibit “P-14”, *id.* at 191.

⁹ Exhibit “P-21”, *id.* at 191.

¹⁰ *Id.* at 15 to 22.

¹¹ *Id.* at 57 to 59.

On May 14, 2024, accused Pineda voluntarily surrendered before the Court and posted a surety bail bond in the amount of ₱60,000.00,¹² which was approved by the Court and thereby lifted the warrant of arrest issued against him, declaring the same without further force and effect.¹³

Accused Pineda's arraignment was held on July 30, 2024, where he pleaded **NOT GUILTY** to the offense charged against him.¹⁴

Proceedings in CTA Crim. Case No. O-1080

On April 12, 2024, finding existence of probable cause, the Court resolved to issue a warrant of arrest against the accused Pineda.¹⁵

On May 14, 2024, accused Pineda voluntarily surrendered before the Court and posted a surety bail bond in the amount of ₱60,000.00,¹⁶ which was approved by the Court and thereby lifted the warrant of arrest issued against him, declaring the same without further force and effect.¹⁷

Accused Pineda's arraignment was held on July 30, 2024, where he pleaded **NOT GUILTY** to the offense charged against him and the case was thereby consolidated with CTA Crim. Case No. O-1079.¹⁸

Proceedings on the Consolidated Cases

The Pre-Trial Conference was simultaneously held on July 30, 2024.¹⁹ Prior thereto, the Pre-Trial Brief for the Plaintiff and Pre-Trial Brief for accused Pineda were filed on July 18, 2024 and July 22, 2024, respectively.²⁰ The Pre-Trial Order was then issued on September 19, 2024.²¹

Trial ensued with the prosecution presenting its witnesses: 1) RO Bobadilla,²² the BIR revenue officer assigned to conduct the investigation/examination of the books of accounts and other accounting records of Lincoln for TY 2017, and 2) SA Aniceto,²³ the BIR seizure agent.

¹² *Id.* at 82 to 128.

¹³ Resolution dated May 14, 2024, *id.* at 74 to 81 and 131.

¹⁴ *Id.* at 161 to 162.

¹⁵ Docket (CTA Crim. Case No. O-1080), pp. 93 to 98.

¹⁶ *Id.* at 114 to 159.

¹⁷ Resolution dated May 14, 2024, *id.* at 104 to 112.

¹⁸ *Id.* at 162 to 163.

¹⁹ Docket (CTA Crim. Case No. O-1079), pp. 161 to 162.

²⁰ *Id.* at 133 to 158.

²¹ *Id.* at 313 to 320.

²² Exhibit "P-24", Minutes of hearing held on, and Order dated, September 19, 2024, *id.* at 201 to 212 and 311 to 311-A.

²³ Exhibit "P-25", Minutes of hearing held on, and Order dated, October 8, 2024, *id.* at 173 to 180 and 326 to 328.

assigned to conduct the administrative summary remedies for the collection of the tax due from Lincoln.

The prosecution filed its Formal Offer of Evidence on October 14, 2024,²⁴ with accused Pineda's Comment/Opposition filed on October 22, 2024.²⁵ On November 28, 2024, the Court resolved to admit all of the prosecution's exhibits.²⁶

Accused Pineda presented himself as witness by way of his Judicial Affidavit.²⁷ In addition, accused presented: 1) Veronica C. Pineda, accused Pineda's daughter,²⁸ and 2) Paulo C. Pineda, accused Pineda's son.²⁹

Accused Pineda filed his Formal Offer of Evidence on March 19, 2025,³⁰ with the prosecution's Comments/Objections filed on April 3, 2025.³¹ The Court resolved to admit all of accused Pineda's exhibits, except Exhibits "A-13" and "A-18".³²

On September 29, 2025, accused Pineda filed his Memorandum³³ while the prosecution filed its Memorandum on October 7, 2025.³⁴ Thereafter, the case was submitted for decision on June 8, 2026.

The Issues

The issues for the consolidated cases³⁵ can be summarized as follows:

1. Whether or not accused are guilty of the crime charged in the Informations.
2. Whether or not accused are liable for the non-payment of deficiency income tax, VAT and compromise penalty in the amount of ₱37,071,366.77, ₱128,169,296.27, and ₱25,000.00, respectively, inclusive of increments, for TY 2017.

²⁴ *Id.* at 352 to 360.

²⁵ *Id.* at 332 to 350.

²⁶ *Id.* at 364 to 365.

²⁷ Exhibit "A-19", Minutes of hearing held on, and Order dated, February 13, 2025, *id.* at 246 to 251 and 366 to 367.

²⁸ Exhibit "A-20", Minutes of hearing held on, and Order dated, February 13, 2025, *id.* at 264 to 269 and 366 to 367.

²⁹ Exhibit "A-21", Minutes of hearing held on, and Order dated, February 27, 2025, *id.* at 281 to 285 and 368.

³⁰ *Id.* at 369 to 378.

³¹ *Id.* at 380 to 385.

³² Resolutions dated July 30, 2025 and April 20, 2026, *id.* at 390 to 391 and 559 to 560.

³³ *Id.* at 510 to 542.

³⁴ *Id.* at 544 to 551.

³⁵ Statement of Issues, Pre-Trial Order dated September 19, 2024, *id.* at 313 to 314.

The Ruling of the Court

Based on the *Informations*, accused are being prosecuted for willful failure to pay deficiency income tax and VAT under *Section 255 of the Tax Code*, to wit:

SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* - Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax make a return, keep any record, or supply correct the accurate information, who *willfully fails to pay such tax*, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

(Italics, Ours.)

....

The government's right to prosecute the alleged violation was made within the prescriptive period.

Before delving into the determination of whether the prosecution established all the elements of the accused's alleged violation of *Section 255 of the Tax Code*, the Court shall first determine whether the violation is already barred by prescription.

In resolving the issue of prescription of the offense charged, the following should be considered: (1) the period of prescription for the offense charged; (2) the time the period of prescription starts to run; and (3) the time the prescriptive period was interrupted.³⁶

Section 281 of the Tax Code serves as Our guide in determining the prescription of the offense charged herein, thus:

SEC. 281. Prescription for Violations of any Provision of this Code.
- *All violations of any provision of this Code shall prescribe after five (5) years.* **L**

³⁶ *Jadewell Parking Systems Corp. v. Lidua, Sr.*, G.R. No. 169588, 07 October 2013, citing *Romualdez v. Hon. Marcelo*, G.R. Nos. 165510-33 (Resolution), April 13, 2011.

Prescription shall *begin to run 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 the institution of judicial proceedings for its investigation and punishment.*

The prescription shall be *interrupted when proceedings are instituted against the guilty persons* and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

The term of prescription shall not run when the offender is absent from the Philippines.
(Italics, Ours.)

As for the first consideration, it is thus clear that all violations under the *Tax Code*, including the alleged violation in this case, shall prescribe after five years.

As for the second consideration, the foregoing provides that prescription runs from the day of the commission of the violation, and if the same be not known at the time, from the discovery thereof *and* the institution of judicial proceedings for its investigation and punishment. Based on this, it appears that prescription of a violation of the provisions in the *Tax Code*, would only start to run from the day of the: (1) violation's commission; or (2) discovery *and* the *institution of judicial proceedings* for its investigation and punishment.

In *Lim, Sr. v. Court of Appeals*³⁷ ("*Lim, Sr.*"), it was ruled that as *Section 354 [of Commonwealth Act No. 466 ("old Tax Code")]* stands in the statute book (and to this day it has remained unchanged), *it would indeed seem that tax cases, such as the present ones, are practically imprescriptible for as long as the period from the discovery and institution of judicial proceedings for its investigation and punishment, up to the filing of the information in court does not exceed five (5) years.* Note the conjunctive word "and" between the phrases "the discovery thereof" and "the institution of judicial proceedings for its investigation and proceedings." In other words, in addition to the fact of discovery, there must be a judicial proceeding for the investigation and punishment of the tax offense before the five-year limiting period begins to run.

While *Lim, Sr.* interprets *Section 354 of the old Tax Code*, the High Court's ruling therein is still applicable in this case as its provisions were re-codified in the now *Section 281 of the Tax Code.* 

³⁷ G.R. Nos. 48134-37, October 18, 1990.

Lim, Sr. likewise clarified that in cases of failure to pay deficiency taxes, the cause of action on the part of the BIR accrues only when the final notice and demand for payment of the deficiency taxes was served on the taxpayers. This is so because prior to the receipt of the letter-assessment, no violation has yet been committed by the taxpayers. The offense is committed only after receipt was coupled with the willful refusal to pay the taxes due within the allotted period.

In this case, the FLD/FAN was served to Lincoln on July 3, 2019.³⁸ Lincoln then had 30 days to protest the assessment, otherwise, it becomes final, executory and demandable.³⁹ Lincoln's 30-day period to protest ended on August 2, 2019 without it filing a valid protest. Consequently, the FLD/FAN issued against it became final, executory and demandable. Verily, the BIR's cause of action against Lincoln for failure to pay the deficiency income tax and VAT as assessed in the FLD/FAN accrued only on August 3, 2019.

However, as clarified in *Lim, Sr.*, prescription begins to run not only when the alleged violation was discovered. It must be coupled with the institution of the judicial proceedings for its investigation and punishment. In this case, the institution of the proceedings for Lincoln's alleged violation of *Section 255 of the Tax Code* was made when the Joint Complaint Affidavit of RO Bobadilla and SA Aniceto was filed with the Department of Justice ("DOJ"), with the CIR's recommendation for its prosecution, on February 2, 2023.⁴⁰ Thus, the prescription for the prosecution of Lincoln's alleged violation of *Section 255 of Tax Code* began to run only on February 2, 2023, and shall end on February 2, 2028.

Lastly, as with the third consideration, Our immediate reference is *Rule 9, Section 2 of the Revised Rules of Court of Tax Appeals ("RRCTA")*, which provides that the prescriptive period of criminal offenses shall be interrupted upon the filing of the information before the Court of Tax Appeals ("CTA"), which is the judicial proceedings contemplated under *Section 281 of the Tax Code*. Thus:

SECTION 2. *Institution of Criminal Actions.* — All criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information in the name of the People of the Philippines. In criminal actions involving violations of the National Internal Revenue Code and other laws enforced by the Bureau of Internal Revenue, the Commissioner of Internal Revenue must approve their filing. In criminal actions involving violations of the Tariff and Customs Code and other laws enforced by the Bureau of Customs, the Commissioner of Customs must approve their filing.

³⁸ Exhibit "P-11", including sub-series, *id.* at 227 to 232.

³⁹ Pursuant to *Revenue Regulations No. 12-99, as amended by RR Nos. 08-13 and 07-18.*

⁴⁰ *Id.* at 15 to 22.

The institution of the criminal action shall interrupt the running of the period of prescription. (Italics supplied.)

Accordingly, the five-year prescriptive period provided under *Section 281 of the Tax Code* was effectively interrupted upon the institution of the criminal action, that is upon filing of the *Informations* before the CTA, which in this case was on August 10, 2023 and well-within the five-year prescriptive period.

The prosecution failed to prove that accused violated Section 255 of the Tax Code.

To recall, accused is being charged with violation under *Section 255*, in relation to *Sections 253(d) and 256, of the Tax Code*, which provides:

SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* - Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax make a return, keep any record, or supply correct the accurate information, who *willfully fails to pay such tax*, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

....

SEC. 253. *General Provisions.* - . . .

(d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, *president*, general manager, branch manager, *treasurer*, officer-in-charge, and the employees *responsible for the violation*.

....

SEC. 256. *Penal Liability of Corporations.* - Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the *responsible corporate officers*, partners, or employees shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000).
(Italics, Ours.) 

To successfully prosecute a violation of *Section 255*, it must be shown that: (1) the taxpayer is required to pay any tax, make or file a return, keep any record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations; (2) the taxpayer failed to do so; and (3) the act is willful.⁴¹

1.) Accused Corporation is not required to pay the deficiency tax assessment.

In this case, accused Corporation is allegedly required to pay deficiency income tax and VAT as stated in the FLD/FAN.

Section 228 of the Tax Code states that when the Commissioner or his duly authorized representative finds that proper taxes should be assessed, *he shall first notify the taxpayer of his findings.*

A crucial aspect of a tax assessment is that the taxpayer is given due notice of the BIR's findings as it is by giving due notice that a taxpayer is made aware that it is being assessed and required to pay the proper taxes as determined by the BIR.

In this regard, *Revenue Regulations ("RR") No. 07-18*,⁴² further *RR No. 12-99, as amended by RR No. 18-13*, was issued to serve as guidelines on the due process requirements in notifying a taxpayer of any deficiency tax assessment. Accordingly, an Informal Conference must first be conducted prior to the issuance of a deficiency tax assessment, thus:

SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —

3.1 Mode of procedure in the issuance of a deficiency tax assessment:

3.1.1 *Notice for Informal Conference.* — The Revenue Officer who audited the taxpayer's records shall, among others, state in his report whether or not the taxpayer agrees with his findings that the taxpayer is liable for deficiency tax or taxes. If the taxpayer is not amenable, based on the said officer's submitted report of investigation, the taxpayer shall be informed, in writing, by the Revenue District Office or by the Special Investigation Division, as the case may be (in the case of Revenue Regional Offices) or by the Chief of Division concerned (in the case of the BIR National Office) of the discrepancy or discrepancies in the taxpayer's

⁴¹ *People v. Mendez*, G.R. Nos. 208310-11 & 208662, 28 March 2023.

⁴² Dated January 31, 2018 and took effect on May 16, 2018, which is 15 days after its publication in Manila Bulletin on February 1, 2018.

payment of his internal revenue taxes, for the purpose of "Informal Conference," in order to afford the taxpayer with an opportunity to present his side of the case.

The Informal Conference shall in no case extend beyond thirty (30) days from receipt of the notice for informal conference. If it is found that the taxpayer is still liable for deficiency tax or taxes after presenting his side, and the taxpayer is not amenable, the Revenue District Officer or the Chief of the Special Investigation Division of the Revenue Regional Office, or the Chief of Division in the National Office, as the case may be, shall endorse the case within seven (7) days from the conclusion of the Informal Conference to the Assessment Division of the Revenue Regional Office or to the Commissioner or his duly authorized representative for issuance of a deficiency tax assessment.

Failure on the part of Revenue Officers to comply with the periods indicated herein shall be meted with penalty as provided by existing laws, rules and regulations.

Based on the foregoing, in conducting an Informal Conference, the following steps must be done:

- 1.) The RO who audited the taxpayer shall state in his/her report that the taxpayer agrees with the findings of deficiency tax/es;
- 2.) If the taxpayer is not amenable with the findings, the Revenue District Office ("RDO"), Special Investigation Division ("SID") or Chief of Division ("CD") concerned, as the case may be, shall inform in writing the taxpayer of the discrepancy or discrepancies in the latter's payment of internal revenue taxes, for the purpose of "Informal Conference," in order to afford it with an opportunity to present his side of the case;
- 3.) The Informal Conference shall in no case extend beyond 30 days from receipt of the notice for informal conference;
- 4.) If the taxpayer is found to still be liable for deficiency tax/es and he/she is not amenable with the findings, the RDO, SID or CD concerned, as the case may be, shall endorse the case within 7 days from the conclusion of the Informal Conference to the Assessment Division of the Revenue Regional Office or to the Commissioner or his duly authorized representative for issuance of a deficiency tax assessment

However, the evidence on record shows lack of compliance with the foregoing due process requirements. 

First, there was no report of RO Bobadilla stating that Lincoln is not amenable to the finding of deficiency income tax and VAT for TY 2017.

Second, there is no showing that the Notice of Informal Conference dated April 3, 2019⁴³ was received by Lincoln; hence, there can be no reckoning point when the 30-day period to conduct the Informal Conference began. This gives rise to a doubt as to whether an Informal Conference was conducted at all.

Lastly, there is no concrete proof that Lincoln responded to or participated in the Informal Conference, if any was conducted.

A Response to Findings Pursuant to Section 228, as Amended by R.A. 8424,⁴⁴ ("Response") was attached as Annex "A" to the Notice of Informal Conference. However, this Response appears to be a pro-forma reply which states the taxpayer's name, a summary of the proposed deficiency tax/es and four options as to which action the concerned taxpayer may take on the deficiency tax/es stated in the Response.

The four options are, in gist,: (A) the taxpayer fully subscribes to the findings and agree to pay it; (B) the taxpayer does not subscribe and either files a protest as soon as the assessment notices have been received or enclose in the Response a position paper, without prejudice to submission of additional papers on the matter; (C) the taxpayer takes proper cognizance of action as soon as the notice of assessment is received; and (D) the taxpayer avails of other administrative and legal remedies provided for by existing law.

While the Response appears to be signed by Patriarca for Lincoln, it does not show any date when it was signed, and no marking was made on any of the four options. These circumstances are highly indicative that she neither effectively made a response for Lincoln against the deficiency tax/es stated in the Response nor indeed participated in any Informal Conference.

The Notice of Informal Conference and Preliminary Assessment Notice are parts of due process. They give both the taxpayer and the Commissioner the opportunity to settle the case at the earliest possible time without the need for the issuance of a Final Assessment Notice.⁴⁵

⁴³ Exhibit "P-8", *id.* at 219.

⁴⁴ Exhibit "P-8-1", *id.* at 220.

⁴⁵ *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

In several cases, the Supreme Court has declared void any assessment that failed to strictly comply with the due process requirements set forth in *Section 228 of the Tax Code* and *Revenue Regulations No. 12-99*.⁴⁶ Particularly, in *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*,⁴⁷ it was ruled, among others, that the taxpayer was deprived of due process when the Commissioner failed to issue a notice of informal conference and a Preliminary Assessment Notice as required by *Revenue Regulations No. 12-99*, in relation to *Section 228 of the Tax Code*. Hence, the assessment was void.

Considering that there was failure to comply with the requisite conduct of an Informal Conference in this case, the resulting PAN and FLD/FAN are void. Verily, without a valid deficiency tax assessment, there is no requirement to pay it. Lincoln was not consequently required to pay any tax.

Without any requirement to pay any tax in the first place, Lincoln, the accused Corporation, and its responsible officers (*i.e.* accused Pineda), cannot commit any violation of *Section 255 of the Tax Code*. Consequently, the determination of the presence of the second and third elements is no longer relevant and necessary.

Even assuming that a violation of Section 255 of the Tax Code was committed, prosecution failed to prove that accused Pineda was a responsible officer in committing the violation.

While *Section 253(d) of the Tax Code*, specifically mentions the president as one of the criminally liable officers, such liability was qualified by the phrase “responsible for the offense”.

People vs. E & D Parts Supply, Inc., et. al.,⁴⁸ citing *Suarez vs. People*,⁴⁹ explained that *to be criminally liable* for the acts of a corporation, there must be a showing that its officers, directors, and shareholders *actively participated* in or *had the power to prevent the wrongful act* and that mere membership of the Board or being President *per se* does not mean knowledge, approval, and participation in the act alleged as criminal. There must be a showing of active participation, not simply a constructive one. 

⁴⁶ *Id.*

⁴⁷ G.R. No. 172598, December 21, 2007.

⁴⁸ G.R. No. 259284, January 24, 2024.

⁴⁹ G.R. No. 253429, October 6, 2021.

In this case, the prosecution failed to prove that accused Pineda was an officer responsible for the commission of the offense, or that he was an officer at all during the alleged period of commission. Other than obtaining his name from the SEC GIS for the year 2019⁵⁰ as the President of the accused Corporation, the prosecution did not show any other proof that his tasks as President of accused Corporation includes an active involvement in the preparation and payment of its tax returns or correspondences with the BIR with respect to the deficiency tax assessments for TY 2017.

In fact, evidence on record shows inconsistencies as to the real involvement of accused Pineda with the accused Corporation or the crime charged. Accused Pineda and his witnesses consistently deny his knowledge of accused Corporation’s existence, or that he had investments in or was an officer of the latter.

Accused Pineda presented accused Corporation’s GIS, bearing SEC Registration No. CS201515349 and registered on August 3, 2015, with Tax Identification No. 009-099-418, for the years 2016 to 2021, showing details summarized as follows:

GIS Exhibit Reference ⁵¹	For the Year	Date Filed	Directors/Officers	Incorporator	Stockholder	Officer
A-1	2016	08/18/2016	Dante Y. Uy	Y	Y	President
			Melchor T. Ang	Y	Y	Director
			Henry Chong Tan	Y	Y	Director
			Samuel C. Suplicio	Y	Y	Director
			Antonio A. Ablaza	Y	Y	Director
A-2	2016	07/31/2017	Dante Y. Uy	Y	Y	President
			Samuel C. Suplicio	Y	Y	Chief Finance Officer
			Antonio A. Ablaza	Y	Y	Chief Executive Officer
			Melchor T. Ang	Y	Y	Director
			Henry Chong Tan	Y	Y	Director
			Josephine Flores	N	N	Corporate Secretary
A-3	2016	08/01/2017	Dante Y. Uy	Y	Y	President
			Samuel C. Suplicio	Y	Y	Chief Finance Officer
			Antonio A. Ablaza	Y	Y	Chief Executive Officer
			Melchor T. Ang	Y	Y	Treasurer
			Henry Chong Tan	Y	Y	Director

⁵⁰ Exhibit “P-1”, Docket, pp. 236 to 243.

⁵¹ *Id.* at 396 to 508.

			Josephine Flores	N	N	Corporate Secretary
A-4	2017	08/16/2017	Dante Y. Uy	Y	Y	President
			Samuel C. Suplicio	Y	Y	Chief Finance Officer
			Antonio A. Ablaza	Y	Y	Chief Executive Officer
			Melchor T. Ang	Y	Y	Treasurer
			Henry Chong Tan	Y	Y	Director
			Josephine Flores	N	N	Corporate Secretary
A-5	2017	10/02/2017	Dante Y. Uy	Y	Y	President
			Samuel C. Suplicio	Y	Y	Chief Finance Officer
			Antonio A. Ablaza	Y	Y	Chief Executive Officer
			Melchor T. Ang	Y	Y	Treasurer
			Henry Chong Tan	Y	Y	Director
			Josephine Flores	N	N	Corporate Secretary
A-6	2018	08/17/2018	Dante Y. Uy	Y	Y	President
			Samuel C. Suplicio	Y	Y	Chief Finance Officer
			Antonio A. Ablaza	Y	Y	Chief Executive Officer
			Melchor T. Ang	Y	Y	Treasurer
			Henry Chong Tan	Y	Y	Director
			Josephine Flores	N	N	Corporate Secretary
A-7	2019	01/25/2019	Dante Y. Uy	Y	Y	President
			Samuel C. Suplicio	Y	Y	Chief Finance Officer
			Antonio A. Ablaza	Y	Y	Chief Executive Officer
			Melchor T. Ang	Y	Y	Treasurer
			Henry Chong Tan	Y	Y	Director
			Josephine Flores	N	N	Corporate Secretary
A-8	2019	02/15/2019	Dante Y. Uy	Y	Y	President
			Samuel C. Suplicio	Y	Y	Chief Finance Officer
			Antonio A. Ablaza	Y	Y	Chief Executive Officer
			Melchor T. Ang	Y	Y	Treasurer
			Oliver S. Nolasco	Y	Y	Director
			Josephine Flores	N	N	Corporate Secretary

2

A-10	2019	02/27/2019	Medardo P. Pineda	Y	Y	President
			Maricel P. Evasco	Y	Y	Vice President
			Johlery C. Pineda	Y	Y	Corporate Secretary
			Fitz Geraldine P. Castro	Y	Y	Director
			Genelyn L. Palima	Y	Y	Treasurer
A-9; P-1	2019	08/29/2019	Medardo P. Pineda	Y	Y	President
			Maricel P. Evasco	Y	Y	Vice President
			Johlery C. Pineda	Y	Y	Corporate Secretary
			Fitz Geraldine P. Castro	Y	Y	Director
			Genelyn L. Palima	Y	Y	Treasurer
A-11	2021	01/18/2021	Sandro T. Panelo	N	Y	President
			Nathalie M. Burgos	N	Y	Vice President
			Waylon S. Galvez	N	Y	Corporate Secretary
			Marlon N. Wilson	N	Y	Director
			Liza C. Uy	N	Y	Treasurer
A-12	2022	08/19/2022	Sandro T. Panelo	N	Y	President
			Nathalie M. Burgos	N	Y	Vice President
			Waylon S. Galvez	N	Y	Corporate Secretary
			Marlon N. Wilson	N	Y	Director
			Liza C. Uy	N	Y	Treasurer

As can be observed, the GIS for the years 2016 to 2019 (as filed on February 15, 2019), as shown in page 4 of the GIS, the stockholders elected as officers of accused Corporation, who are also incorporators, were the following:

- 1.) Dante Y. Uy
- 2.) Samuel C. Suplicio
- 3.) Antonio A. Ablaza
- 4.) Melchor T. Ang
- 5.) Oliver S. Nolasco
- 6.) Josephine Flores

The foregoing persons, except for Josephine Flores, were noted to be the only individuals declared in the list of stockholders in page 5 of the same GIS for said years.

It was only in the GIS for the year 2019 (as filed on February 27, 2019) when the stockholders elected as officers, as shown in page 4, were changed to as indicated. This now included accused Pineda, who is designated as President: 

- 1.) Medardo P. Pineda
- 2.) Maricel P. Evasco
- 3.) Johlery C. Pineda
- 4.) Fitz Geraldine P. Castro
- 5.) Genelyn L. Palima

The foregoing individuals were also declared in the GIS as an “incorporator” of accused Corporation. Curiously, however, their names were never disclosed in the list of stockholders (in page 5 of the GIS) for the years 2016 to 2019 (prior to the changes made on February 27, 2019), even if they were not elected officers on those years.

Incorporators are those stockholders or members mentioned in the articles of incorporation as *originally forming and composing the corporation* and who are signatories thereof.⁵² Thus, if accused Pineda was indeed an incorporator of the accused Corporation, his name should have already been disclosed in the list of stockholders in page 5 of all the GIS from the time it was incorporated or registered with the SEC on August 3, 2015.

The GIS form has separate pages for the list of directors/officers and the list of stockholders of a corporation. Thus, all outstanding stockholders must be declared in the GIS, even if they were not elected as director/officer of the corporation. As observed in this case, there was even no line item for “Others” in the list of stockholders, where accused Pineda might have been presumably included, despite the instruction in page 5 of all the GIS to “Specify the Top 20 stockholders and indicate the rest as others.”

The lack of an explanation on this account casts doubt as to the actual involvement of accused Pineda with the accused Corporation.

It is true that the prosecution presented a Letter dated January 8, 2021⁵³ informing accused Pineda, as the President of the accused Corporation, of the latter’s unpaid deficiency tax assessment for TY 2017. The letter shows that it was signed received by accused Pineda himself. However, accused Pineda’s signature in said Letter is visibly different from his signatures appearing in the Accused Personal Information Sheet,⁵⁴ Undertaking,⁵⁵ Addendum to the Personal Bail Bond with Undertaking,⁵⁶ Waiver of Appearance,⁵⁷ and his Judicial Affidavit.⁵⁸

⁵² Section 5 of the *Batas Pambansa Blg. 68*, otherwise known as *The Corporation Code of the Philippines*, which was retained in *Republic Act No. 11232*, otherwise known as *the Revised Corporation Code of the Philippines*.

⁵³ Exhibit “P-21”, *id.* at 194.

⁵⁴ *Id.* at 74.

⁵⁵ *Id.* at 77.

⁵⁶ *Id.* at 84 to 85.

⁵⁷ *Id.* at 86.

⁵⁸ Exhibit “A-19-1”, *id.* at 250.

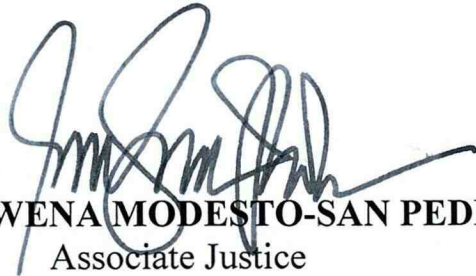
Again, this casts doubt as to whether accused Pineda had an active participation in the correspondences with the BIR with respect to the alleged unpaid deficiency tax assessment, and thereby casts doubt as to his actual participation and involvement with the accused Corporation.

Without any proof directly linking accused Pineda to the commission of the accused Corporation's violation under *Section 255 of the Tax Code*, he cannot be made criminally liable therefor.

ACCORDINGLY, accused **Lincoln Port Parkways Warehousing and Logistics Corp.** and **Medardo P. Pineda** are **ACQUITTED**.

Further, let the two surety bail bonds posted by accused **Medardo P. Pineda** for his provisional liberty in the aggregate amount of ₱120,000.00 be **CANCELLED** upon presentation of proper documents, in accordance with the usual accounting rules and regulations.

SO ORDERED.



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:



CORAZON G. FERRER-FLORES
Associate Justice



With Concurring Opinion
DEBBIE JEAN I. CENTENO-DIJAMCO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff,

CTA CRIM. CASE NOS. O-
1079 & O-1080

For: violation of Section 255, in
relation to Sections 253(d) and
256 of the NIRC of 1997, as
amended

- versus -

Members:

LINCOLN PORT PARKWAYS
WAREHOUSING AND
LOGISTICS, CORP. and
MEDARDO P. PINEDA,

Accused.

MODESTO-SAN PEDRO,
Chairperson,
FERRER-FLORES, and
CENTENO-DIJAMCO, JJ.

Promulgated:

SEP 03 2026

9:05 a.m. ✓

X- - - - - X

CONCURRING OPINION

CENTENO-DIJAMCO, J.:

I CONCUR in the acquittal of the accused.

I, however, respectfully submit that the period of prescription of the offenses charged in the *Informations* commences upon the lapse of the 30-day period to protest the subject assessments.

Section 281 of the National Internal Revenue Code (NIRC) of 1997, as amended, provides two reckoning points as to when the prescriptive period begins to run:

1. If the day of the commission is **known**, prescription begins to run from the day of the commission of the violation of the law; or

pm.

2. If the day of the commission is **unknown**, from its discovery and the institution of judicial proceedings for its investigation and punishment.

In *People v. Consebido*¹ (**Consebido**), the Supreme Court clarified that where the information, data, or records, from which the crime is based could be plainly discovered or were readily available to the public, or when there are reasonable means to be aware of the commission of the offense, the prescriptive period should be reckoned from the date of commission of the offense, *viz.*:

It must be stressed, however, that the Discovery Rule does not apply to all offenses punishable under the 1997 NIRC. **In cases where the information, data, or records, from which the crime is based could be plainly discovered or were readily available to the public, or when there are reasonable means to be aware of the commission of the offense, the prescriptive period should be reckoned from the date of commission of the offense.**

Here, the Court finds that the Discovery Rule is not applicable to the present case considering that the BIR had reasonable means to ascertain that Consebido failed to file his quarterly VAT return for the 3rd quarter of the taxable year 2008 given the circumstances, . . .

....

Section 114 of the 1997 NIRC, as amended by Republic Act No. 9337, the applicable law at that time, partly provides that "[e]very person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer: Provided, however, That VAT-registered persons shall pay the value-added tax on a monthly basis."

....

Evidently, the BIR expected Consebido to regularly file his monthly and quarterly VAT returns. Coupled with the fact that it is mandatory for government contractors, such as Consebido, to file their income and business tax returns and other required information electronically using the BIR's Electronic Filing and Payment System since April 1, 2005, the BIR could readily generate from its system the list of tax returns which Consebido is required to file but failed to do so. Simply put, Consebido's failure to file his Quarterly VAT return for the 3rd quarter of the taxable year 2008 on the deadline fixed by law, i.e., October 25, 2008, could have easily been discovered by the BIR.

Verily, the Discovery Rule is not applicable in the case. The prescriptive period should not be counted from the date of discovery of the alleged violation, which the parties all agreed to be January 30, 2014, but on October 25, 2008, the date when Consebido purportedly failed to file his return.

¹ G.R. No. 258563, April 2, 2025 [Per J. Inting, *En Banc*].



The crime imputed on accused is their willful failure to pay correct income tax and value-added tax for taxable year 2017 despite alleged service of notices and demand letters for them to pay.

The date of the commission of such offense is plainly discoverable or is readily ascertainable from the date of service of the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) dated June 19, 2019, which fact is plainly and necessarily within the government's knowledge through the Bureau of Internal Revenue which issued and served the FLD/FAN.

As found by the *ponencia*, the FLD/FAN dated June 19, 2019 was served upon accused Lincoln Port Parkways Warehousing and Logistics, Corp. (accused Corporation) on July 3, 2019. Accused Corporation had 30 days or until August 2, 2019 to protest the FLD/FAN. However, it failed to file a valid protest rendering the FLD/FAN final, executory, and demandable. Thus, the cause of action against accused accrued on August 3, 2019.

In this light, the five-year prescriptive period for the prosecution of accused Corporation's alleged violation of Section 255 of the NIRC of 1997, started to run from the lapse of the 30-day period to protest the FLD/FAN or on **August 3, 2019**, when the FLD/FAN has already become final, executory and demandable. As such, criminal actions may be instituted against accused until August 3, 2024.

The prescriptive period is interrupted with the filing of the *Informations* in Court on August 10, 2023.²

Clearly, the *Informations* were timely filed.

All told, I CONCUR in the acquittal of accused Lincoln Port Parkways Warehousing and Logistics, Corp. and Medardo P. Pineda; and, the cancellation of the bail bonds posted by the accused Medardo P. Pineda for his provisional liberty in the amount of Php120,000.00 upon presentation of proper documents, in accordance with usual accounting rules and regulations.


DEBBIE JEAN I. CENTENO-DIJAMCO
Associate Justice

² See *Lim, Sr. v. Court of Appeals*, G.R. Nos. 48134-37, October 18, 1990 [Per C.J. Fernan, Third Division].