REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-839** (NPS Docket No. XVI-INV-19F-00224)
-versus-	For: Violation of Section 255, in relation to Sections 253 and 256 of the NIRC of 1997, as amended
	Members:
MARIE PAZ G. KAKIHARA, (ATTIC TOURS PHILIPPINES, INC.) Units 201-203 Coko Building, Patio Madrigal Compound, 2550 Roxas Boulevard, Pasay City (At-Large), *Accused*	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.* Promulgated: AUG 0 9 2024 8:02 am

x --- x

RESOLUTION

The instant Information was filed on September 15, 2020.

Since then, the Court has issued a Warrant of Arrest[1] and an Alias Warrant of Arrest[2] 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 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.*

---

[1] *Rollo*, pp. 55-56.
[2] *Id.* at 65-66.

Finally, following *Emilio E. Lim Sr. v. Court of Appeals*[3] ("*Lim*"), the prescriptive period then started upon the commission of the suspected crime, which the Supreme Court identified with the taxpayer's receipt of the relevant assessment notice.

The Information claims that the crime was committed "on or about July 20, 2015." However, the relevant assessment notice here is the Formal Assessment Notice[4] ("FAN"), issued on December 23, 2014, and allegedly received by accused corporation's Accounting Officer on even date.[5] The prescriptive period thus began on January 23, 2015, and the prosecution had until January 23, 2020 within which to institute the criminal action against accused before this Court.

The Information was filed on September 15, 2020, however, almost a year after the expiration of the prescriptive period. Indeed, the filing would have been late even if this Court took July 20, 2015, as identified in the Information, as the date of the alleged crime's commission. The government's right to prosecute this case had thus prescribed long before the instant Information was 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.

ACCORDINGLY, CTA Crim. Case No. O-839 is 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

---

[3] G.R. Nos. L-48134-37, October 18, 1990.
[4] *Rollo*, pp. 33-37.
[5] *See* Joint Complaint-Affidavit, dated June 27, 2019, p. 5, *id.* at 18.