REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case Nos. O-1108, O-1109, and O-1110** (NPS Docket No. XVI-INV-11D-00176) For: Violation of Section 254 of the National Internal Revenue Code of 1997, as amended (Attempt to Evade or Defeat Tax)
-versus-	Members:
RONALD G. CASTRO, (164 Abacan St., Calvario, Meycauyan, Bulacan) At Large, *Accused.*	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
	Promulgated: APR 18 2024 8:34 a.m.

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RESOLUTION

Accused Ronald G. Castro is charged for violation of Section 254 of the 1997 National Internal Revenue Code, as amended (NIRC), in the three Informations quoted below:

CTA Crim. Case No. O-1108

> "The undersigned prosecutor of the Department of Justice, hereby accuses **RONALD G. CASTRO** of his attempt to evade or defeat tax, in violation of Section 254 of the National Internal Revenue Code of 1997, as amended, committed as follows:
>
> > "That on or about April 2008, in Bulacan, and within the jurisdiction of this Honorable Court, the above-named accused, as a Filipino

citizen residing in the Philippines, and required by law, rules and regulations to file his annual income tax return did, then and there, willfully, unlawfully and feloniously attempt to evade or defeat tax, by deliberate non-filing of his income tax return for taxable year 2007 despite having source of income in the amount of Eight Hundred Three Million Two Hundred Thirty Nine Thousand Four Hundred Seventy Two Pesos and Ninety Five Centavos (803,239,472.95) arising from gold sale transaction with Bangko Sentral ng Pilipinas, which resulted in a basic deficiency income tax of Two Hundred Fifty Seven Million One Thousand Six Hundred Thirty One Pesos and Thirty Four Centavos (P257,001,631.34), exclusive of surcharge and interest, to the damage and prejudice of the Government of the Republic of the Philippines."

CONTRARY TO LAW."

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CTA Crim. Case No. O-1109

"The undersigned prosecutor of the Department of Justice, hereby accuses **RONALD G. CASTRO** of his attempt to evade or defeat tax, in violation of Section 254 of the National Internal Revenue Code of 1997, as amended, committed as follows:

"That on or about April 2009, in Bulacan, and within the jurisdiction of this Honorable Court, the above-named accused, as a Filipino citizen residing in the Philippines, and required by law, rules and regulations to file his annual income tax return did, then and there, willfully, unlawfully and feloniously attempt to evade or defeat tax, by deliberate non-filing of his income tax return for taxable year 2008 despite having source of income in the amount of Nine Hundred Seventy One Million Three Hundred Forty One Thousand Three Hundred Sixteen Pesos and Seventeen Centavos (P971,341,316.17) arising from gold sale transaction with Bangko Sentral ng Pilipinas, which resulted in a basic deficiency income tax

> of Three Hundred Ten Million Seven Hundred Ninety Four Thousand Two Hundred Twenty One Pesos and Seventeen Centavos (P310,794,221.17), exclusive of surcharge and interest, to the damage and prejudice of the Government of the Republic of the Philippines."

CONTRARY TO LAW."

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CTA Crim. Case No. O-1110

"The undersigned prosecutor of the Department of Justice, hereby accuses **RONALD G. CASTRO** of his attempt to evade or defeat tax, in violation of Section 254 of the National Internal Revenue Code of 1997, as amended, committed as follows:

> "That on or about April 2010, in Bulacan, and within the jurisdiction of this Honorable Court, the above-named accused, as a Filipino citizen residing in the Philippines, and required by law, rules and regulations to file his annual income tax return did, then and there, willfully, unlawfully and feloniously attempt to evade or defeat tax, by deliberate non-filing of his income tax return for taxable year 2009 despite having source of income in the amount of Twenty Two Million Four Hundred Eighty Thousand Nine Hundred Eighty Two Pesos and Ninety Centavos (P22,480,982.17) arising from gold sale transaction with Bangko Sentral ng Pilipinas, which resulted in a basic deficiency income tax of Seven Million One Hundred Fifty Eight Thousand Nine Hundred Fourteen Pesos and Fifty Five Centavos (P7,158,914.55), exclusive of surcharge and interest, to the damage and prejudice of the Government of the Republic of the Philippines."

CONTRARY TO LAW."

In a *Resolution* dated November 24, 2023, the Court *moto propio* consolidated these cases. Likewise, the Court directed herein petitioner to submit within fifteen (15) days from receipt thereof the original/certified true copies of the following documents: (1) DOJ Resolution dated January 7, 2015; (2) National Prosecution Service Investigation Data Form; (3) Referral Letter of the Commissioner of the Internal Revenue; and (4) Complaint and all affidavits/documents filed by the BIR and the accused with the DOJ.

On November 30, 2023, the prosecution received the *Resolution* issued by the Court.

On January 23, 2024, prosecution filed a *Letter of Compliance with attached USB.*

A perusal of the submitted USB shows that the prosecution failed to submit the documents required pursuant to the *Resolution* issued on November 24, 2023. The said USB contained electronic copies of the proceedings conducted during the preliminary investigation, but without the documents required by the Court.

Hence, the Court finds the *Letter Compliance* filed by the prosecution as non-compliant with the *Resolution* issued on November 24, 2023. Further, the Court observed that the *Letter Compliance* was filed beyond the period given to the plaintiff to submit the required documents.

Under Section 3, Rule 17 of the Rules of Court[1], failure to comply with the order of the court is a ground to dismiss plaintiff's complaint. In plaintiff's *Letter Compliance,* the documents required by the Court were not in the USB submitted. The Court reiterates that, what was required were original or certified true copies of the aforementioned documents.

Even assuming that the prosecution is able to furnish the Court with the lacking documents, the records clearly show that the instant *Informations* should be dismissed on the ground of prescription.

Section 281 of the 1997 NIRC, as amended, states the prescription for violations of any provision of the NIRC, *viz.*:

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[1] Section 3. **Dismissal due to fault of plaintiff**. – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, **or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion,** without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

> 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.
>
> Prescription **shall begin to run from the date 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.

Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> 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 Republic 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.
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> **The institution of criminal actions shall interrupt the running of the period of prescription**. (Emphasis supplied)

The Court would like to emphasize that the five (5) year prescriptive period commenced upon the signing of the Prosecutor's Resolution which is on January 07, 2015 and the prescriptive period to institute the criminal action lapsed on January 07, 2020. Thus, the subject *Informations* simultaneously filed on October 04, 2023 were clearly beyond the five (5) year prescriptive period. Hence, there is no probable cause to issue a warrant of arrest against the accused Ronald G. Castro.

WHEREFORE, premises considered, the CTA Crim. Case Nos. O-1108, O-1109 and O-1110 are hereby **DISMISSED** due to prescription and for failure to comply with the order of the court.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice