REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-*versus*-

HI-BUILD CONSTRUCTION, INC., ROMEO P. AALA and (Don Jose, Sta. Rosa, Laguna) **RONALD P. SADSAD** (Pulo Cabuyao, Laguna) **(At-Large),**
Accused.

CTA Crim. Case No. O-980
(NPS Docket No. XVI-INV-19B-00068)
For: Violation of Section 255, in relation to Sections 253(d) and 256, of the National Internal Revenue Code of 1997, as amended.

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

JUL 18 2023 1:35PM

x- x

RESOLUTION

This resolves plaintiff's **Motion for Reconsideration (of the Resolution dated April 25, 2023)**[1] posted on May 17, 2023 and received by this Court on May 25, 2023, seeking to set aside this Court's Resolution dated April 25, 2023 (Assailed Resolution), and to issue, instead, a warrant of arrest and to order the arraignment of the accused.

Plaintiff insists that prescription has not set in as the period of discovery and the institution of the judicial proceedings for the violations of Section 255, in relation to Sections 253(d) and 256, of the 1997 National Internal Revenue Code (NIRC), as amended, against accused Romeo Aala and Ronald Sadsad not only trigger the commencement of the prescriptive period, but they also trigger the interruption of the same prescriptive period, on February 28, 2019 or the date of filing of complaint with the Department of Justice.

Although the issue raised in the instant motion was already passed upon and exhaustively discussed in the Assailed Resolution, this Court would like to reiterate the specific

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[1] Docket, CTA Crim Case No. O-980, pp. 147-155.

disquisition therein that was the basis for the dismissal of the instant case, to wit:

> "Indeed, the *Lim* case and the *Tupaz* case were in unison in holding that the offense of willful failure to pay tax is *committed* upon finality of the assessment, coupled with the taxpayer's deliberate refusal to pay taxes due. However, these cases differ as to when interruption of the five (5)-year prescriptive period under Section 281 of the 1997 NIRC, as amended, occurs. In the *Lim* case, the prescriptive period was interrupted by the filing of Information in court, whereas in the *Tupaz* case, said prescriptive period was interrupted by the filing of the Complaint before the Department of Justice (DOJ) for preliminary investigation.
>
> On November 22, 2005, the Supreme Court approved A.M. No. 05-11-07-CTA otherwise known as the Revised Rules of the Court of Tax Appeals (RRCTA). Section 2, Rule 9 of the RRCTA provides that the institution of the criminal action shall interrupt the running of the period of prescription, to wit:
>
>> "**SEC. 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. (Rules of Court, Rule 110, sec. 2a; n)
>>
>> **The institution of the criminal action shall interrupt the running of the period of prescription.** (Rules of Court, Rule 110, sec. 1, par. 2a)" (*Boldfacing supplied*)
>
> The RRCTA being the special provision that governs the proceedings before this Court provides that the period of prescription for a tax case shall be tolled by the filing of an Information with this Court.
>
> In the instant Information, accused are being charged for their failure to supply correct and accurate information in their Income Tax Return (ITR) and to pay their Income Tax Deficiency for taxable year 2012 in the amount of Php15,625,840.95.
>
> Likewise, it was also alleged by the complainants-BIR Revenue Officers in their Joint Complaint-Affidavit that the accused failed to file a motion for reconsideration with the Commissioner of Internal Revenue or an appeal before this

> Court within thirty (30) days from receipt of the Formal Letter of Demand (FLD). Hence, the assessment became final, executory, unappealable, and demandable.
>
> It appears from the records of the case that the FLD dated January 4, 2016 covering the taxable year 2012 was served to and received by accused on February 1, 2016.
>
> There being no administrative protest filed within thirty (30) days from receipt thereof, said assessment attained finality on March 2, 2016. *Sans* payment thereof by accused, the tax offense, in this case, was *committed* on March 2, 2016.
>
> Counting from March 2, 2016, the five (5) year prescriptive period to indict accused for failure to pay tax lapsed on March 2, 2021. Thus, the right of the government to institute the case against accused had already prescribed when the Information was filed before this Court on December 5, 2022."

There being no new and substantial arguments propounded by plaintiff in its motion, the Court finds no compelling reason to reverse the Assailed Decision.

WHEREFORE, premises considered, plaintiff's *Motion for Reconsideration (of the Resolution dated April 25, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice