REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
Quezon City

*Second Division*

**PEOPLE OF THE PHILIPPINES,**
Plaintiff,

- versus -

**JCLN GLOBAL PROPERTIES DEVELOPMENT CORP.,**
(Address: G6 Dakota Residences, Gen. Malvar St. corner Adriatico St., Malate, Manila)

**JAMES CHRISTOPHER L. NAPOLES,**
(At-Large/Adress: D. Lafayette Condo Libis, Quezon City) and,

**JO CHRISTINE L. NAPOLES,**
(At-Large/Address: No. 635 San Isidro St., Ayala Alabang, Muntinlupa City)
Accused.

**CTA CRIM. CASE NO. O-1195**

Members:
**RINGPIS-LIBAN,** *Chairperson*
**MODESTO-SAN PEDRO,** *and*
**FERRER-FLORES,** *JJ.*

Promulgated:
NOV 1 8 2024
9:30 a.m.

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# RESOLUTION

On September 26, 2024, the Court received plaintiff's "Formal Entry of Appearance with Motion for Reconsideration" filed by registered mail on September 23, 2024.

Records show that plaintiff received the Court's Resolution dated August 20, 2024 on September 6, 2024. Plaintiff has fifteen (15) days or until September 21, 2024 to file the Motion for Reconsideration. Since September 21, 2024 falls on a Saturday, plaintiff has until September 23, 2024, the next working day within which to file the Motion for Reconsideration.

Acting on the "Formal Entry of Appearance with Motion for Reconsideration" filed by the Deputized Special Prosecutors of the Bureau of Internal Revenue (BIR), the Entry of Appearance of Special Prosecutors Catherine Rose R. Tortoles, Jamaica Kay S. Dela Cruz, Roberto G. Damian, Jr., Merrissa Cagampan-Talatala and Greghvon A. Matol is **NOTED**. Hence, copies of all orders and notices of this Court shall be sent to the BIR Prosecution Division at the:

**BUREAU OF INTERNAL REVENUE**
7th Floor, Room 704 Prosecution Division
BIR National Office Building
Senator Mirriam Defensor-Santiago Avenue
Diliman, Quezon City

Meanwhile, in the "Motion for Reconsideration *(To the Resolution dated August 20, 2024),*" plaintiff moves for the reconsideration of the Court's Resolution dated August 20, 2024 for being contrary to law and evidence. Plaintiff claims that the period of discovery and the institution of judicial proceedings for the violations of Section 255 in relation to 253(d) and 256 of the Tax Code against accused JCLN Global Properties Development Corporation and its responsible corporate officers James Christopher Napoles and Jo Christine L. Napoles on September 17, 2015 or the date of filing of complaint with the DOJ not only triggers the commencement of the prescriptive period, but at the same time triggers the interruption of the same prescriptive period. Plaintiff is firm in its stand that the BIR's filing of Joint Complaint-Affidavit before the DOJ for preliminary investigation interrupted the running of the period of prescription, and remains tolled and/or interrupted when the information was instituted before this Court. Hence, plaintiff prays that the Court (a) set aside the Resolution dated August 20, 2024, dismissing the case, on the ground of prescription; (b) order the issuance of Warrant of Arrest against accused responsible officers, namely: James Christopher Napoles and Jo Christine L. Napoles; and (c) set the arraignment and Pre-Trial of the instant case.

After consideration, the Court resolves to deny plaintiff's "Motion for Reconsideration *(To the Resolution dated August 20, 2024).*"

The Court disagrees to the plaintiff's interpretation of Section 281 of the National Internal Revenue Code (NIRC) of 1997, as amended.

Section 281 of the NIRC of 1997, as amended, provides:

> "SECTION 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 day the commission of the violation of the law, and if the same be now 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."

As extensively discussed in the assailed Resolution, the interpretation given by the Supreme Court in the case of *Emilio E. Lim, Sr. and Antonia Sun Lim vs. Court of Appeals and People of the Philippines*[1] *(Lim Case)* still holds true to the instant case. The preliminary investigation is considered a proceeding for investigation and punishment of a crime which commences the period for prescription. Further, tax cases are practically imprescriptible as long as the period for 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. **Thus, in order for the violations under the NIRC of 1997, as amended to be imprescriptible, the Information must be filed in Court within five (5) years from the preliminary investigation.**

Plaintiff instituted the criminal complaint against accused by filing the Joint Complaint-Affidavit and the Referral Letter with the DOJ on **September 17, 2015.** On **December 1, 2016**, Senior Assistant State Prosecutor Ma. Cristina A. Montera-Barot issued a Resolution finding probable cause to indict accused James Christopher Napoles, Jo Christine Napoles and JCLN for alleged violation of Sections 254 and 255 of the NIRC of 1997, as amended. Counting five (5) years from September 17, 2015, the prescriptive period lapsed on **September 17, 2020.** Clearly, prescription had already set in when the plaintiff filed the Information before this Court on **July 19, 2024**.

**WHEREFORE**, the "Motion for Reconsideration *(To the Resolution dated August 20, 2024)*" filed on September 23, 2024 is **DENIED** for lack of merit.

**SO ORDERED.**

Ma. Belen

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

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

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**CORAZON G. FERRER-FLORES**
Associate Justice