Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

EMELINO T. MAESTRO,
Accused.

CTA Crim. Case Nos. 0-661

Members:
CASTAÑEDA, JR., *Chairperson,*
CASANOVA, and
MANAHAN, *J.J.*

Promulgated:
MAY 2 4 2018
1:00 p.m.

x---x

RESOLUTION

For resolution of this Court is accused's Motion to Quash[1] filed on March 23, 2018, sans plaintiff's Comment as per Records Verification dated April 24, 2018.

Citing the cases of *Francisco S. Tatad vs. The Sandiganbayan, et. al.,*[2] and *Casiano A. Angchangco, Jr. vs. The Honorable Ombudsman, et. al.,*[3] accused moves to quash the Information[4] filed against him on February 5, 2018, due to alleged inordinate delay of more than six (6) years from the filing of the initial complaint until the filing of the Information before the Court of Tax Appeals (CTA). Accordingly, he suffered prejudice and his reputation as professional Certified Public Accountant and public speaker, in relation to his crusade and advocacy for tax accounting, was besmirched.

To prove the same, accused narrates that the Bureau of Internal Revenue (BIR), through Chief Revenue Officer Neil U. Cordero and Revenue Officer Eulema DV Demadura, filed a Joint Complaint Affidavit before the Department of Justice (DOJ) Tax Force of BIR on October 13, 2011; that accused filed his Counter Affidavit on February 3, 2012; that

---

[1] Docket (Vol. II), pp. 598-602.
[2] G.R. No. 72335-39, March 21, 1988.
[3] G.R. No. 122728, February 13, 1997.
[4] Docket (Vol. I), pp. 6-7.

the aforesaid complainants filed their Joint Reply-Affidavit on February 3, 2012; that accused filed a Motion for Speedy Resolution on February 20, 2013; that DOJ issued a Resolution dated July 24, 2017 on August 4, 2017, finding probable cause against him; that after more than 6 years from the filing of the initiatory complaint, the DOJ filed an Information dated July 24, 2017 before the CTA on February 5, 2018.

We find the Motion meritorious.

Section 16, Article 3 of the 1987 Constitution explicitly provides that "(a)ll persons shall have a right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies." In this accord, any party to a case may demand expeditious action from all officials who are tasked with the administration of justice.

The need for a speedy disposition of cases is more pronounced in criminal cases since what is at stake is the honor, reputation and life of the accused. Thus, in determining whether the accused has been denied of his/her right to a speedy disposition of his/her case, the following factors may be considered and balanced: (1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.[5]

Below is the summary of the proceedings conducted and pleadings filed based on the records attached to the Information and the subject Motion:

April 14, 2008	Accused filed his Annual Income Tax Return for 2007 with no entries thereon other than the notation "THIS IS A TENTATIVE RETURN FINAL & ADJUSTED RETURN INCLUDING TAX BASED FINANCIAL STATEMENTS SHALL BE FILED AS SOON AS THEY BECAME AVAILABLE"[6].
July 29, 2010	A Letter of Authority (LOA) No. 2009 00044654 dated July 15, 2010 was issued authorizing Revenue Officers (RO) F. Madrid, S. Babia, R. Yanguas and A. Alaan to examine accused's records from taxable years 2007 to 2009.[7]

[5] Francisco Dela Peña, et al., vs. The Sandiganbayan, Fourth Division, the Special Prosecutor and Commission on Audit, Region XI, G.R. No. 144542, June 29, 2001.
[6] Par. 6, Joint Complaint-Affidavit, Docket (Vol. I), p. 80 and pp. 84-86.
[7] Ibid., p. 439.

September 14, 2010	LOA No. 032-2010-00000292 was issued authorizing (RO) Flaviano Madrid, Socrates Babia, Renato Yanguas, Aldwin Alaan and GS- Charlito Samson to examine accused's records from January 1, 2007 to December 31, 2009 (replacing LOA dated July 16, 2010.[8]
August 16, 2011	A Memorandum was issued by Regional Director Alfredo V. Misajon to Mr. Neil U. Cordero, OIC-Chief, Special Investigation Division, to ascertain if there is a factual and legal basis to warrant the inclusion of the accused's case to the RATE Program.[9]
August 17, 2011	OIC Chief Cordero instructed Revenue Officer E. Demadura and Group Supervisor J. Tabora to verify and make a report on the accused's tax case.[10]
October 13, 2011	Commissioner of Internal Revenue Kim S. Jacinto-Henares referred to Secretary of Justice Leila De Lima the Joint Complaint Affidavit of Chief Revenue Officer Cordero and Revenue officer Demadura for preliminary investigation and filing of Information against the accused.[11]
October 28, 2011	Accused requested the BIR, among others, to provide him with photocopies of his 2007, 2008, 2008, 2009 tax docket.[12]
November 14, 2011	Accused requested the BIR, among others, to provide him with photocopies of his 2007, 2008, 2008, 2009 tax docket. [13]
November 14, 2011	Accused filed a letter to the Office of Ombudsman invoking the writ of amparo or habeas data.[14]
November 16, 2011	OIC Regional Director Simplicio A. Madulara sent a letter to the accused, in reference to the accused's letter dated October 28, 2011 and November 14, 2011, informing the latter that there is a pending case against him at DOJ. [15]
November 22, 2011	Prosecutor Attorney Monica T. Liwag issued a subpoena requiring the accused to appear on December 1, 2011 for the preliminary investigation of his case.[16]
November 28,	Accused filed before the DOJ a Motion to Suspend

[8] Id., p. 454.
[9] Id., p. 93.
[10] Id., p. 94.
[11] Id., pp. 77-83.
[12] As per November 16, 2011 Letter of OIC Regional Director Simplicio A. Madulara to the accused, Id., p. 46.
[13] As per November 16, 2011 Letter of OIC Regional Director Simplicio A. Madulara to the accused, Id., p. 46.
[14] Id., pp. 56-67.
[15] Id., p. 46.
[16] Id., p. 55.

2011	the Preliminary Investigation and Subpoena the Official Documents from the BIR officials. He also prayed that the hearing on December 1, 2011 be reset to December 16, 2011.[17]
December 1, 2011	A Hearing was held but the accused was not present. Thus, the hearing was reset on December 15, 2011.
December 2, 2011	Prosecutor Attorney Liwanag issued a subpoena directing the accused to appear on December 15, 2011 for the preliminary investigation of his case.
December 15, 2011	A Hearing was held wherein accused submitted a Motion to Produce All Material Evidences and agreed to submit his Counter Affidavit on January 12, 2012.[18]
December 24, 2011	Accused requested for a copy of the 2007 Report Investigation.[19]
December 29, 2011	Accused claimed that he received a letter from the BIR denying him to have a copy of the 2007 Report Investigation.[20]
January 2, 2012	Accused filed an Urgent Motion praying that he be provided with a copy of the Report Investigation for taxable year 2007.[21]
January 4, 2012	The DOJ issued a Resolution denying accused's request to be furnished with a copy of the requested document and directed accused to file his Counter-Affidavit.[22]
January 25, 2012	A Subpoena was issued by Prosecutor Atty. Liwag requiring the accused to attend the hearing on February 3, 2012.[23]
February 3, 2012	• A hearing was held before the DOJ[24] • Accused filed his Counter Affidavit[25] • Date of Joint Reply Affidavit of Neil U. Cordero and Eulema DV Demadura[26]
February 15, 2012	Accused filed a Motion for Reinvestigation and Re-assignment Reiteration and for other Purposes requesting that a new prosecutor attorney shall handle his case.[27]

[17] Id., pp. 52-54.
[18] Id., p. 43.
[19] As per Letter dated December 27, 2011, Id., p. 498.
[20] Id., p. 39; Par. 9, as per Accused's Urgent Motion filed on January 2, 2012, Id., p. 37.
[21] Id., pp. 37-38; As per DOJ Resolution dated January 4, 2012, Id., pp. 35-36.
[22] Id., pp. 35-36.
[23] Ibid., p. 27.
[24] Id., p. 24.
[25] Par. 2, Motion to Quash, Docket (Vol. II), p. 598.
[26] Docket (Vol. I)., pp. 395-400.
[27] Ibid., pp. 122; Id., pp. 126-160.

February 20, 2013	Accused filed a Motion for Speedy Resolution dated February 17, 2013 with the DOJ.[28]
April 8, 2013	Accused filed a Motion for Reinvestigation and Re-Assignment (Amended April 8, 2013) with the DOJ, praying that a new Prosecutor Attorney shall conduct and conclude the preliminary investigation.[29]
October 10, 2013	Department Order No. 774 was issued reconstituting the task Force of BIR. Thus, the instant case was transferred from Prosecution Attorney Liwag to Assistant State Prosecutor Mark Roland S. Estepa.[30]
August 4, 2017	Assistant State Prosecutor Mark Roland S. Estepa issued a Resolution dated July 24, 2017 finding probable cause against the accused.[31]
February 5, 2018	The criminal case against the accused was filed before the Court of Tax Appeals.[32]

Length of Delay

It is clear from the foregoing that more than five (5) years had lapsed from the time the Joint Complaint Affidavit of Chief Revenue Officer Cordero and Revenue Officer Demadura was referred by Commissioner Henares to DOJ on October 13, 2011, before the latter found probable cause against the accused on July 24, 2017. To our mind, such delay amounts to a violation of the accused's constitutional right to a speedy disposition of his case following the ruling in *Luz S. Almeda vs. Office of the Ombudsman (Mindanao) and the People of the Philippines*[33], to wit:

> "In Coscolluela[34], the fact that it took the Ombudsman eight years to resolve a case under preliminary investigation was considered violative of the right to speedy disposition of cases. In Cervantes[35], it took the OSP six years from the filing of the initiatory complaint before deciding to file an information; this was struck down as well. In Tatad v. Sandiganbayan[36], a three-year delay in the termination of the preliminary investigation by the Tanodbayan was

---

[28] Par. 3, Motion to Quash, Docket (Vol. II), p. 598; Annex D.
[29] Docket (Vol. I)., pp. 95-121.
[30] As per DOJ Resolution dated July 24, 2017, Ibid, pp. 8-9.
[31] Id., pp. 8-21.
[32] Id., p. 6.
[33] G.R. No. 204267, July 25, 2016.
[34] Coscolluela v. Sandiganbayan, 714 Phil. 55, 61 (2013).
[35] Cervantes v. Sandiganbayan, 366 Phil. 602, 609 (1999).
[36] 242 Phil. 563 (1988).

considered violative of the right. In Lopez, Jr. v. Office of the Ombudsman[37], the preliminary investigation was resolved close to four years from the time all the counter- and reply-affidavits were submitted to the Ombudsman, and this was similarly struck down. In People v. Sandiganbayan[38], the fact-finding investigation and preliminary investigation by the Ombudsman lasted nearly five years and five months, which the Court considered an inordinate delay. The same is true in Angchangco, Jr.[39] and Roque v. Office of the Ombudsman[40], where the delay involved a period of six years, more or less. In Licaros[41], the failure of the Sandiganbayan to decide the case even after the lapse of more than 10 years after it was submitted for decision was declared to involve 'more than just a mere procrastination in the proceedings'."

Reason for the Delay

In the DOJ Resolution dated July 24, 2017, Assistant State Prosecutor Mark Roland S. Estepa points out that the instant case was previously assigned to Prosecution Attorney Monica T. Liwag. However, due to the issuance of Department Order No. 774 dated October 10, 2013, which reconstituted the Task Force of BIR, the subject case was re-assigned to him.

Now, even if We start counting from October 10, 2013, the date of the issuance of the aforesaid Department Order, the fact still remains that it still took Assistant Prosecutor Estapa more than three (3) years to resolve the preliminary investigation proceedings against the accused on August 4, 2017, and six (6) months to actually file the Information before the CTA on February 5, 2018, without any explanation whatsoever. Thus, We find the delay in the termination of preliminary investigation brought about by the issuance of the said Department Order unjustified.

---

[37] 417 Phil. 39 (2001).
[38] People v. Sandiganbayan, 723 Phil. 444, 489 (2013).
[39] Angchangco, Jr. v. Hon. Ombudsman, 335 Phil. 766, 770 (1997).
[40] 366 Phil. 568 (1999).
[41] Licaros v. Sandiganbayan, 421 Phil. 1075, 1092 (2001).

Assertion of the Right to Speedy Disposition of the Case

Records show that accused wasted no time to assert his right to have the case against him be resolved as shown in his Motion for Speedy Resolution filed before the DOJ on February 20, 2013.[42]

Accused was Prejudiced by the Delay

The protracted conduct of the investigation as well as the delay in the issuance of finding probable cause certainly caused distress, anxiety and embarrassment on the part of the accused considering his reputation as professional Certified Public Accountant. This is in accord with the ruling of the Supreme Court in the case of *Rafael L. Coscolluela vs. Sandiganbayan (First Division and People of the Philippines and Edwin N. Nacionales, et al., vs. Sandiganbayan (First Division), et al.*[43]*, viz:*

> "Lest it be misunderstood, the right to speedy disposition of cases is not merely hinged towards the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to speedy trial, its 'salutary objective' is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose. This looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual. x x x"

In view of the violation of accused's right to speedy disposition of his case as herein discussed, the Court has no recourse but to dismiss the instant case.

WHEREFORE, premises considered, accused's Motion to Quash is hereby **GRANTED**. Accordingly, CTA Crim. Case No. 0-661 is hereby **DISMISSED.**

---

[42] Par. 3, Motion to Quash, Docket (Vol. II), p. 598; Annex D.
[43] G.R. No. 191411, July 15, 2013.

SO ORDERED.

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice