REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

ULYSSES PALCONET CONSEBIDO,
Respondent.

CTA EB CRIM NO. 069
(CTA Crim Case No. O-701)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JAN 05 2022 3:20 p.m.

x- x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Petitioner's "Motion for Reconsideration (of the Decision dated January 6, 2021)"[1] ("Motion for Reconsideration") filed on January 27, 2021, with Respondent's "Comment (On the Motion for Reconsideration dated January 26, 2021)" ("Comment"), filed on June 22, 2021.

The Motion for Reconsideration prays for the following:

1) Reversal of the Decision[2] promulgated on January 06, 2021 ("Assailed Decision");

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[1] Rollo, pp. 70-84.
[2] *Id.*, pp. 57-66.

2) Reversal of the Resolutions dated April 02, 2019 and May 07, 2019, both issued by the Court of Tax Appeals Second Division ("Second Division") in Criminal Case No. 0-701;

3) Reinstatement of the Information in the instant case; and

4) Continuation of the hearing by the Second Division, up to its logical conclusion.

The dispositive portion of the Assailed Decision reads:

"**WHEREFORE**, the Petition for Review filed with the Court *En Banc* on June 04, 2019 is **DENIED** for lack of merit. Accordingly, the twin Resolutions dated April 02, 2019 and May 07, 2019, both issued by the Second Division in CTA Criminal Case No. O-701 are **AFFIRMED**.

SO ORDERED."[3]

In the Motion for Reconsideration, Petitioner declares that the pronouncement in *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines*[4] ("*Lim v. CA*") computing the running of the five-year prescriptive period without interruption, is contrary to established laws, rules and various jurisprudence regarding the running and suspension of prescription period, and as categorically provided in Section 281 of the National Internal Revenue Code ("NIRC") of 1997, as amended.

Petitioner also claims that tax cases are practically imprescriptible as Section 281 expressly provides for the running of the prescriptive period and its interruption at the same time.

Given the foregoing, Petitioner submits that the Information in the instant case was filed well within the prescribed five-year prescriptive period and therefore, the same should be reinstated and the proceedings thereon should continue up to its logical conclusion.

On the other hand, Respondent, in his Comment, avers that Section 281 is clear that prescription begins to run from the institution of judicial proceedings for its investigation (*i.e,* proceeding for preliminary investigation), is interrupted when an Information is filed in court, and runs again when the proceedings are dismissed by the courts for reasons not constituting double jeopardy. Contrary

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3 *Id.,* p. 65.
4 G.R. Nos. L-48134-37, October 18, 1990.

to Petitioner's assertion, a prescriptive period cannot, by any sense, commence and end at the same time.

Likewise, Respondent maintains that the criminal complaint should be dismissed not only on the ground of prescription but also on the ground of inordinate delay amounting to a transgression of the right to a speedy disposition of cases. It must be emphasized that the Department of Justice (DOJ) took more than five (5) years to resolve the case.

Petitioner's arguments must perforce fail.

Petitioner's contentions are mere reiterations of the arguments it has raised in the "Petition for Review". Moreover, these issues have been amply considered, weighed and resolved in the Assailed Decision. More so, the argument that prescription has not yet set in, is merely a rehash of the earlier disquisition on the issue that was exhaustively addressed already by the Second Division in its assailed Resolutions dated April 02, 2019 and May 07, 2019. Thus, it will be a useless ritual for the Court to reiterate itself. To discuss anew the explanation of the Court on these matters is superfluity.

In sum, the Court *En Banc* finds no cogent reason to warrant a reconsideration of the Assailed Decision.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration (of the Decision dated January 6, 2021)" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice