REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

PEOPLE OF THE PHILIPPINES, *Petitioner*,	**CTA *EB* CRIM. NO. 112** (CTA Crim. Case No. O-957)
	For: Violation of Section 254, of the National Internal Revenue Code (NIRC) of 1997, as amended
-versus-	Present:
ZIEGFRIED LOO TIAN, (No. 1013. Juan Luna Street, Brgy. 27, Zone 1, Tondo, Manila), *Respondent.*	**DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
	Promulgated: JUL 16 2024 3:50 pm

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Verified Petition for Review (of the Resolution dated February 09, 2023) ("Petition"), filed via registered mail on March 6, 2023, with respondent's Comment/Opposition (Re: Verified Petition for Review of the Resolution dated 09 February 2023) ("Comment"), filed on August 1, 2023. Petitioner assails the Resolutions, dated December 15, 2022 ("1st assailed Resolution") and February 9, 2023 ("2nd assailed Resolution"), respectively promulgated by the First Division ("Court in Division") of the Court of Tax Appeals

("CTA"), which dismissed the Information,[1] filed before it on October 26, 2022, for prescription, then denied petitioner's Motion for Reconsideration,[2] filed on January 10, 2023, for lack of merit.

The Parties

Petitioner is represented by the Bureau of Internal Revenue ("BIR"), the government agency mandated to collect national revenue taxes.[3]

Respondent is allegedly the sole proprietor of Golden Taste Food Services & General Merchandising, a registered tax payer.[4]

The Facts

On July 5, 2012,[5] petitioner filed a Joint Complaint-Affidavit[6] ("JCA") with the Department of Justice ("DOJ"). The JCA was executed by Revenue Officers ("RO") Emerita D. Tan, Carine P. Balmeo, Arnel A. Boco, Dominador A. Callangan, and Adelina P. See.

The DOJ then issued a Resolution[7] on September 1, 2014, recommending the filing of Information against respondent before the CTA. Sometime after, respondent filed a Motion for Reconsideration with the DOJ, but this was denied in a Resolution,[8] dated May 11, 2017.

Acting on said denial, petitioner filed its Information before the Court in Division. However, this was dismissed for prescription by the 1st assailed Resolution. Aggrieved, petitioner filed a Motion for Reconsideration, but the Court in Division denied the same for lack of merit through the 2nd assailed Resolution.

Still aggrieved, petitioner filed its Petition before the Court *En Banc* via registered mail on March 6, 2023. It followed this up with a Manifestation with Motion,[9] filed via registered mail on March 15, 2023, asking that the Court amend the caption of its Petition.

Respondent's counsel then filed a Notice of Appearance[10] on July 12, 2023 and respondent's Comment on August 1, 2023.

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1 Division Records, pp. 5-6.
2 *Id.* at 222-231.
3 *See* Petition for Review, p. 2, *Rollo*, p. 2.
4 *Id.*
5 *See* Investigation Data Form, Division Records, p. 20.
6 *Id.* at 23-37.
7 *Id.* at 10-19.
8 *Id.* at 7-9.
9 *Rollo*, pp. 238-241.
10 *Id.* at 244-245.

After granting petitioner's motion to amend the Petition's caption and noting respondent's Comment, the Court submitted this case for Decision, all in a Minute Resolution,[11] dated March 6, 2024.

Hence, this Decision.

The Assigned Errors

Petitioner assigns the following errors to the assailed Resolutions of the Court in Division:[12]

(a) The Court in Division erred in denying the Motion for Reconsideration for lack of merit; and
(b) The Court in Division erred in finding no probable cause to charge respondent with the alleged violations of the *National Internal Revenue Code of 1997, as amended* ("*NIRC*").

The Arguments

Petitioner raises the following arguments:

(a) As the prescriptive period for prosecuting the alleged violations was interrupted by the filing of the JCA before the DOJ, prescription has not set in;[13] and
(b) Respondent should be held liable for willful attempt to evade or defeat tax.[14]

Respondent opposes the above with the following contentions:

(a) Contrary to petitioner's argument, the prescriptive period is interrupted only by the filing of an Information before the CTA, so the government's right to prosecute this case has prescribed;[15]
(b) Petitioner violated respondent's right to a speedy disposition of cases as the Information was filed 10 years after the filing of the JCA;[16] and
(c) Petition filed its Motion for Reconsideration late, so the 1st assailed Resolution already attained finality.[17]

[11] *Id.* at 269.
[12] *See* Petition for Review, p. 5, *id.* at 5.
[13] *See* Petition for Review, pp. 6-12, *id.* at 6-12.
[14] *See* Petition for Review, pp. 12-18, *id.* at 12-18.
[15] *See* Comment/Opposition, unpaginated, *id.* at 250-257.
[16] *See* Comment/Opposition, unpaginated, *id.* at 258-269.
[17] *See* Comment/Opposition, unpaginated, *id.* at 265-266.

The Ruling of the Court

The Petition for Review is bereft of merit.

The Court En Banc *has jurisdiction over the instant Petition for Review*

Under *Rule 4, Section (2)(f) of the Revised Rules of the Court of Tax Appeals, as amended* ("*RRCTA*"), the Court *En Banc* has jurisdiction over appeals from decisions or resolutions on motions for reconsideration promulgated by the Court in Division in its exclusive original jurisdiction over violations of the *NIRC*:

> SEC. 2. *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
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> . . . .
>
> (f) Decisions, resolutions, or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;

Meanwhile, under *Rule 8, Section 3(b) of the RRCTA*, parties seeking to protest such a decision or resolution of the Court in Division must file a petition for review before the Court *En Banc* within 15 days from receipt of said issuance.

Petitioner filed its Information before the Court in Division to charge respondent with violating *Section 254 of the NIRC*. The case thus falls under *Rule 4, Section (2)(f) of the RRCTA*.

Furthermore, petitioner received the 2nd assailed Resolution on February 17, 2023, giving it until March 4, 2023 within which to file a Petition before the Court *En Banc*. Said date fell on a Saturday, so petitioner actually had until March 6, 2023. As it filed the instant Petition via registered mail exactly on March 6, 2023, it filed said Petition on time.

Finally, We cannot agree with respondent that petitioner filed its Motion for Reconsideration late. Under *Rule 15, Section 1 of the RRCTA* a party can file a Motion for Reconsideration to assail an issuance of the CTA within 15 days from receipt of said issuance. The 5-day period provided by the *Revised Guidelines for Continuous Trial of Criminal Cases* is thus inapplicable here. General rules of procedure only see suppletory application when special rules are insufficient, *i.e.*, when the latter are silent on some relevant issue or procedure.[18] No such insufficiency or silence on motions for reconsideration can be found in the *RRCTA*, given that *Rule 15, Section 1* of the same exists. Consequently, the 5-day period provided by the *Revised Guidelines for Continuous Trial of Criminal Cases* cannot see suppletory application here, and the 15-day period prevails.

This Court *En Banc* thus has jurisdiction over the case at bar.

However, while petitioner may have filed both its Motion for Reconsideration and Petition for Review on time, the same cannot be said of its Information.

Petitioner filed its Information late; the government's right to prosecute this case has thus prescribed

The Court in Division cited, among other sources, *Rule 9, Section 2 of the RRCTA* in both its 1st and 2nd assailed Resolutions.[19] Said provision states:

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

The provision is clear. In cases heard before the CTA, it is the filing of an Information before said Court that institutes the criminal action and thus interrupts the relevant prescriptive period. As such, petitioner's main argument, that the prescriptive period both began and was interrupted by the filing of the JCA before the DOJ, fails.

Despite the above being quoted in both assailed Resolutions, petitioner has remained and still remains silent on said provision. As the Court in Division's use of the rule remains uncontroverted, the Court *En Banc* is unconvinced that the former's dismissal of the case was in error.

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[18] *See Government Service Insurance System v. Villaviza*, G.R. No. 180291, July 27, 2010; *see also Philippine Deposit Insurance Corporation v. Gidwani*, G.R. No. 234616, June 20, 2018.

[19] *See* Resolution, dated December 15, 2022, pp.3-4, Division Records, pp. 215-216; *see also* Resolution, dated February 9, 2023, p. 2, *id.* at 235.

Indeed, the instant Petition's arguments regarding the prescriptive period are almost completely a verbatim rehash of its arguments from the Motion for Reconsideration. It thus offers nothing already addressed and refuted by the Court in Division, in either of the latter's assailed Resolutions.

The only substantial difference here is petitioner's citation of *People v. Lee*[20] ("*Lee*"), which quoted *People v. Pangilinan*[21] ("*Pangilinan*") in saying that the prescriptive period is the same for cases under special laws and those under the *Revised Penal Code*. However, the reasoning for said pronouncement was the fact that said special laws are, in general, governed by *Act 3326, as amended by Act 3763*. Said Act was promulgated specifically to provide rules regarding the prescriptive period for violations of special laws that lacked any such rules.

Rule 9, Section 2 of the RRCTA exists, however. And as a rule that must be followed by the CTA, the Court before which the instant alleged violation of the *NIRC* must be prosecuted, it is the controlling rule regarding the prescriptive period here. As stated above, general rules only see suppletory application when the special rules are silent on the relevant issue or procedure. The *RRCTA* already includes a rule governing the interruption of the prescriptive period for prosecuting violations of the *NIRC*. As such, the equivalent rules in both the *Revised Rules of Criminal Procedure* and *Act 3326, as amended by Act 3763*, are inapplicable here.

To review, petitioner filed its JCA with the DOJ on July 5, 2012. It thus had until July 5, 2017 before its right to prosecute the case prescribed, following the five-year period provided by *Section 281 of the NIRC*. However, it filed its Information before the Court in Division on October 26, 2022, 10 years and 113 days after the filing of the JCA and 5 years and 113 days after the end of the five-year period.

The Court *En Banc* thus sees no reason to depart from the Court in Division's ruling that the Information was filed late. The government's right to prosecute the alleged violation in the case at bar is consequently barred by prescription.

Given the foregoing, there is no need to address petitioner's other arguments.

ACCORDINGLY, petitioner's Verified Petition for Review (of the Resolution dated February 09, 2023), filed via registered mail on March 6, 2023, is hereby **DENIED** for lack of merit. The Resolutions, dated December 15, 2022 and February 9, 2023, respectively, both rendered by the Court in Division in CTA Crim. Case No. O-957, are hereby **AFFIRMED.**

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[20] G.R. No. 234618, September 16, 2019.
[21] G.R. No. 152662, June 13, 2012.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution*, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice