REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-903** (NPS Docket No. XVI-INV-20J-00239)
	For: Violation of Sec. 255 of the NIRC of 1997, as amended (Willful Failure to Pay Deficiency Income Tax)
-versus-	Members: **RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
LILIBETH RAMOS ARAGON, On-Line Janitorial Services No. 134 Kamias Road, East Kamias, Quezon City (AT LARGE), *Accused*	Promulgated: AUG 09 2024 8:05 AM

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RESOLUTION

The instant Information was filed on May 5, 2022.

Since then, the Court has issued a Warrant of Arrest[1] against accused.

After a review of the records, however, the Court finds that We never properly gained jurisdiction over this Information, as the same was filed beyond the period prescribed by law to do so.

Under *Section 281 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"), the government has five years from either the commission of the crime or the date of its discovery within which to prosecute any violation of the *NIRC*. The period is interrupted when "proceedings are instituted against the guilty persons." In the case of criminal actions heard before the CTA in Division, such as in this case, proceedings are deemed instituted upon the filing of an Information with the CTA, following *Rule 9, Section 2 of the Revised Rules of the Court of Tax Appeals, as amended.*

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[1] *Rollo*, pp. 57-58.

Finally, following *Lim v. Court of Appeals*[2] and *Tupaz v. Ulep*,[3] the prescriptive period then started upon the commission of the suspected crime, which the Supreme Court identified with the finality of the assessment, attained after the lapse of 30 days from the taxpayer's receipt of the assessment, coupled with the taxpayer's willful refusal to pay the assessed taxes within the period for doing so.

The Information claims that the crime was committed "on or about 27 April 2017." However, the relevant assessment notice here is the Formal Letter of Demand with Final Assessment Notices[4] ("FLD/FANs"), which was issued on March 28, 2017 and mailed to accused on the same date.[5] While the mailing of an assessment notice is not equivalent to a taxpayer's receipt of the same, plaintiff failed to even allege any such date of receipt; We are consequently constrained to treat March 28, 2017 as relevant date and treat April 28, 2017 as the start of the prescriptive period. This gave the prosecution until April 28, 2022 within which to institute a criminal action against accused before this Court.

The Information was filed on May 5, 2022, however. The government's right to prosecute this case had thus prescribed before the instant Information was filed, and the CTA never truly gained jurisdiction over this case.

There is consequently nothing left for this Court to do but to dismiss this case.

ACCORDINGLY, CTA Crim. Case No. O-903 is hereby **REVIVED** from the archives but **DISMISSED** on the ground of prescription.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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2 G.R. Nos. L-48134-37, October 18, 1990.
3 G.R. No. 127777, October 1, 1999.
4 *Rollo*, pp. 34-39.
5 *See* Affidavit of Service of Final Assessment Notice, *id.* at 40.