REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	CTA Crim. Case No. O-733
- versus -	Members:
JUANCHITO D. BERNARDO, PRAXEDES P. BERNARDO and JDBEC Incorporated, Room 511 DFS Building, Remedios Street, corner Taft Avenue, Malate, Manila and 8F PARC House II, No. 21 EDSA Guadalupe Nuevo, Makati City (At Large) Accused.	DEL ROSARIO, *PJ, Chairperson* FABON-VICTORINO, *and* MANAHAN, *JJ.* Promulgated: JAN 16 2020 11:15a

x- -x

RESOLUTION

On November 12, 2019, the Court issued a Resolution, disposing the case in the following fashion:

> **WHEREFORE**, CTA Criminal Case No. O-733 is **DISMISSED** *ex-mero motu* on the ground of prescription.
>
> **SO ORDERED**.

In its Motion for Reconsideration dated December 12, 2019, the prosecution finds erroneous the ruling that the criminal action filed against thc accused is already barred by the statute of limitations. Section 281 of the National Internal Revenue Code (NIRC), as amended, provides among others that the five (5)-year prescriptive period for tax offenses commences from discovery thereof and institution of judicial proceedings for its investigation and punishment, and shall be suspended when proceedings are instituted against the persons guilty of the transgression.

For the prosecution, prescription of tax offenses is put on hold by the institution of proceedings against the accused at the preliminary investigation stage, invoking the twin cases of *People of the Philippines vs. Ma. Theresa Pangilinan,*[1] and *Panaguiton, Jr. vs. Secretary of Justice* as authorities. Thus, by the filing of the joint-complaint affidavit by the BIR before the DOJ on September 23, 2010 against respondents (now accused), such act effectively suspended the running of the five (5)-year prescriptive period for tax offenses. As such, it seasonably instituted the subject Information with the Court on June 18, 2019.

The instant Motion must be denied.

Item III (2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases[2] provides:

> III. Procedure
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> xxx xxx xxx
>
> 2. Motions
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> xxx xxx xxx
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> (c) *Meritorious Motions.* - Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, xxx:
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> xx xxx xxx
>
> The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, xxx.
>
> Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright.

Clear as day that the party aggrieved by the Resolution of the Court is conferred a non-extendible period of five (5) calendar days, reckoned from receipt thereof, within which

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1 G.R. No. 152662, June 13, 2012.
2 A.M. No. 15-06-10-SC.

to file a motion for reconsideration, lest the same shall be denied.

As admitted,[3] the prosecution received the Resolution dated November 12, 2019, dismissing the present case on the ground of prescription on November 27, 2019. Consistent with the above rule, the prosecution had a non-extendible period of until December 2, 2019 to seek reconsideration of the adverse ruling. Having belatedly filed its Motion for Reconsideration[4] only on December 12, 2019, the Court is left with no other recourse but to deny the same.

WHEREFORE, the prosecution's *Motion for Reconsideration (to Resolution dated November 12, 2019)* is **DENIED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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3 Paragraph 1, Prosecution's Motion for Reconsideration (to Resolution dated November 12, 2019).

4 to the Resolution dated November 12, 2019.