REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-150** (I.S. NO. 04K-25630)
	For: VIOL. OF SEC. 255 OF THE 1997 TAX CODE
-versus-	Members:
SILVERIO J. DINEROS, c/o Dineros Commercial 2035 D Sampaguita St. Pandacan, Manila *Accused*	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
	Promulgated: AUG 0 9 2024 8:15 AM

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RESOLUTION

The instant Information was filed on August 27, 2009.

Since then, the Court has issued a Warrant of Arrest[1] and two Alias Warrants of Arrest[2] 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. 92.
2 *Id.* at 100; and *id.* at 118.

Finally, following *Lim v. Court of Appeals*[3] and *Tupaz v. Ulep*,[4] 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 February 23, 2004." However, the relevant assessment notice here is Assessment Notice No. 34-2000[5] ("AN"). While nothing in the records definitively shows when accused received it, said AN was issued on January 22, 2004, making February 22, 2004 the start of the prescriptive period. This gave the prosecution until February 22, 2009 within which to file its Information.

The Information was filed on August 27, 2009, however, over half a year after the expiration of the prescriptive. 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-150 is hereby **REVIVED** from the archives but also **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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[3] G.R. Nos. L-48134-37, October 18, 1990.
[4] G.R. No. 127777, October 1, 1999.
[5] *Rollo*, pp. 51-56.