REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NO. O-706** For: Violation of Section 255 of the National Internal Revenue Code of 1997, as amended
- versus -	Members:
MANUEL NUGUID NIETO, Sole Proprietor of Perseus Commodity Trading, No. 997 A. Bonifacio Avenue, Quezon City -At-Large-, Accused.	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.* Promulgated:

x - 1:40 p.m. - - x

RESOLUTION

For resolution is plaintiff's **Motion for Reconsideration (of the Resolution dated November 11, 2024)** filed on December 2, 2024 through electronic mail.

In its *Motion for Reconsideration*, plaintiff contends that the Court erred in ruling that the crime has prescribed resulting in the extinguishment of accused's criminal liability. For plaintiff, the institution of a criminal action before the Department of Justice (DOJ) for purposes of preliminary investigation effectively tolls the running of the prescriptive period. Plaintiff insists that, in the case of *People of the Philippines vs. Mateo A. Lee, Jr.*,[1] the Supreme Court held that there is no more distinction between cases under the Revised Penal Code (RPC) and those covered by special laws with respect to the interruption of the period of prescription, and reiterated that the period of prescription is interrupted by the filing of the complaint before the prosecutor for purposes of preliminary investigation against the accused.

Plaintiff maintains that the prescriptive period for violation of the National Internal Revenue Code (NIRC) of 1997, as amended, being a special

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[1] G.R. No. 234618, September 16, 2019.

law, is interrupted by the filing of the complaint before the DOJ for purposes of conducting the preliminary investigation. Considering that the *Information* alleges that the crime was committed on December 13, 2011, plaintiff has five years therefrom within which to file the case against accused. As the complaint was filed on August 14, 2014 before the DOJ, the filing of the complaint tolled the period of prescription.

We resolve.

Petitioner's *Motion for Reconsideration* is bereft of merit. The Court finds no cogent reason to reverse or modify the assailed Resolution dated November 11, 2024.

As can be gleaned from the records, petitioner's arguments forwarded in its *Motion for Reconsideration* were already exhaustively discussed and passed upon in the assailed Resolution.

To reiterate, the counting of the period of prescription for a tax case begins to run from the discovery and institution of proceedings for its investigation and shall only be tolled by the filing of an Information therefor with this Court.[2]

Thus, considering that the *Final Assessment Notice* (FAN) and Assessment Notices were issued on December 30, 2010[3] and accused had 30 days therefrom, or until January 30, 2011, to file a protest to the FAN but failed to do so, such failure to file protest rendered the assessment final, executory and demandable. Plaintiff should have filed the Information before the Court within five years from January 30, 2011, or until January 30, 2016.

Nevertheless, as already discussed in the assailed Resolution, since the *Information* claims that the crime was committed on December 13, 2011, the counting of the five-year prescriptive period, when reckoned from December 13, 2011 shall end on **December 13, 2016**. Clearly, reckoning from either dates, the *Information* filed before this Court on **March 18, 2019**, is prescribed.

WHEREFORE, premises considered, the instant **Motion for Reconsideration (of the Resolution dated November 11, 2024)** is **DENIED**.

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2 G.R. Nos. L-48134-37, October 18, 1990.

3 Par. 10 of the *Joint Complaint-Affidavit*, Docket p. 19; Annexes F to F-3 of the *Complaint Affidavit*, Docket, pp. 33 to 36.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice