CTA Form No. 8 (For DCC)

25-000378-0006

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM CASE NO. O-1292

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

JOANNE GAMUETA GADIANA, as proprietor of GOLDBRICK SECURITY AND INVESTMENT AGENCY,
Accused.

NOTICE OF RESOLUTION

To:

CHIEF PROSECUTOR MA. AILEEN D. GUÑO
ASST. CITY PROSECUTOR LEANNIE A. DELA CRUZ
Department of Justice
Office of the City Prosecutor
3rd Floor, Judicial Complex
10th Avenue, Caloocan City

GREETINGS:

You are hereby notified by these presents that on **November 7, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **November 11, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-1292** For: Violation of 255, National Internal Revenue Code of 1997, as amended (Willful Failure to Pay Tax)
-versus-	*Members:*
JOANNE GAMUETA GADIANA, as proprietor of GOLDBRICK SECURITY AND INVESTMENT AGENCY, Room 309 Victoria Building, 11th Avenue, Rizal Avenue Extension, Barangay 90, Zone 8, District 2, Grace Park, Caloocan City (AT LARGE), *Accused.*	**BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.* Promulgated: NOV 07 2025; 11:10 AM

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RESOLUTION

In the *Information*[1] filed *via* personal service on May 13, 2025 and *via* e-mail on August 14, 2025, accused **Joanne Gamueta Gadiana** was charged with a violation of Section 255 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, allegedly committed as follows:

> That on or about the 15th day of November 2014 and thereafter, in Caloocan City, Metro Manila, a place within the jurisdiction of this Honorable Court, the above-named accused, JOANNE GAMUETA GADIANA, being the proprietor of GOLDBRICK SECURITY AND INVESTMENT AGENCY, a business registered with the Bureau of Internal Revenue (BIR) with Tax Identification No. 234-043-016, with deliberate intent, did then and there willfully and unlawfully refuse to

[1] Docket, p. 5–7.

pay DEFICIENCY INCOME TAX FOR TAXABLE YEAR 2011 in the amount of ONE MILLION ONE HUNDRED FORTY-EIGHT THOUSAND FOUR HUNDRED THREE AND 53/100 PESOS (PHP1,148,403.53), INCLUSIVE OF INTEREST BUT EXCLUSIVE OF COMPROMISE PENAL'IY, broken down as follows:

Tax Type	**Basic Tax**	**Interest**	**Compromise**	**Total**
VAT	743,688.34	404,715.19		1,148,403.53

despite final assessment notice, including prior and post notices and demands to pay, to the damage and prejudice of the government.

CONTRARY TO LAW.

Under Section 7(b)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282, the Court of Tax Appeals (**CTA**) has exclusive original jurisdiction over criminal offenses arising from violations of the NIRC, the Tariff and Customs Code, and other laws administered by the Bureau of Internal Revenue (**BIR**) or the Bureau of Customs (**BOC**). However, this jurisdiction applies only when the principal amount of taxes and fees involved, exclusive of charges and penalties, is at least ₱1,000,000.00.

Where the amount claimed is less than ₱1,000,000.00, jurisdiction over the criminal offense lies with the regular courts, and the CTA's role becomes appellate in nature.

Section 7(b)(1) provides:

SEC. 7. Jurisdiction. — The CTA shall exercise: ...

(b) Jurisdiction over cases involving criminal offenses as herein provided:

(1) Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph **where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate**. Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the

> recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action will be recognized. (Emphasis and underscoring supplied)

In this case, the basic amount of VAT is ₱743,688.34,[2] which is below the ₱1,000,000.00 jurisdictional threshold. Hence, this case should have been filed before the **regular courts**, not the CTA. Accordingly, the filing of the *Information* before this Court is improper.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. **Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**[3]

Even assuming that the Court had jurisdiction, the case would still have been dismissed on the ground of prescription.

Section 281 of the NIRC of 1997, as amended, provides:

> *SEC. 281. Prescription for Violations of any Provision of this Code.* - **All violations of any provision of this Code shall prescribe after five (5) years**.
>
> Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, **from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.**
>
> The prescription shall be interrupted when proceedings are instituted against the guilty persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

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[2] The Court notes that as per body of the *Information*, the tax type indicated is "DEFICIENCY INCOME TAX" but in the breakdown portion of ₱1,148,403.53, the tax type stated is "VAT".

[3] *La Filipina Uy Gongco Corporation, et al. v. Harbour Centre Port Terminal, Inc., et al.*, G.R. Nos. 229490, 230159 & 245515, March 1, 2023 [Per J. Leonen, Second Division], citing *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, June 17, 2015 [Per J. Perlas-Bernabe, First Division].

The term of prescription shall not run when the offender is absent from the Philippines. (*Emphases and underscoring supplied*)

The foregoing provision presents two modes for the commencement of the prescriptive period:

1. *First Mode*: From the *day of commission* of the violation of the law; or

2. *Second Mode*: When the day of commission is unknown, from the *discovery* of the commission and the institution of judicial proceedings for its investigation and punishment.

In *Lim, Sr. v. Court of Appeals* ("***Lim***"),[4] the Supreme Court held that the crime of failure to pay tax is committed only after receipt of the final notice and demand for payment, coupled with a willful refusal to pay the taxes due within the allotted period. The Supreme Court explained:

Inasmuch as the final notice and demand for payment of the deficiency taxes was served on petitioners on July 3, 1968, it was only then that the cause of action on the part of the BIR accrued. **This is so because prior to the receipt of the letter-assessment, no violation has yet been committed by the taxpayers. The offense was committed only after receipt was coupled with the willful refusal to pay the taxes due within the allotted period**. The two criminal informations, having been filed on June 23, 1970, are well-within the five-year prescriptive period and are not time-barred. (*Emphasis and underscoring supplied*)

The above ruling was later circularized by the BIR through Revenue Memorandum Circular (**RMC**) No. 101-90,[5] which states that:

For the information and guidance of all concerned, the following are the salient features of the decision promulgated by the Supreme Court on October 19, 1990, in the case entitled "*Emilio E. Lim, Sr. et al. v. Court of Appeals, et al.*," G.R. Nos. L-48134-37.

1. *When cause of action for willful failure to pay deficiency tax occurs.*

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[4] G.R. Nos. L-48134-37, October 18, 1990, 268 PHIL 680-692 [Per C.J. Fernan, Third Division].

[5] SUBJECT: *Determination of When Cause of Action for Willful Failure to Pay Deficiency Tax Occurs; and Prescription under Section 280 of the Tax Code.*

> The cause of action for willful failure to pay deficiency tax occurs when the final notice and demand for the payment thereof is served on the taxpayer. Prior thereto, no violation is committed. The offense is ***committed*** only after receipt is coupled with refusal to pay the tax within the allotted period.
>
> 2. *Prescription under Section 280 of the Tax Code.*
>
> (a) **The 5-year prescriptive period in** an offense or **willful failure to pay a deficiency tax assessment commences to *run* only after the receipt of the final notice and demand by the taxpayer, and he refuses to pay**. [*Emphasis supplied*]

This interpretation was further applied by the Supreme Court in *Tupaz v. Ulep*,[6] where it was ruled that the crime of willful failure to pay tax, "by its nature[,] can only be committed after service of notice and demand for payment of the deficiency taxes upon the taxpayer."

Likewise, in a *Resolution* dated March 3, 2023 in CTA Crim. Case No. O-966,[7] the Court, citing *Lim*, declared that absent proof of receipt of the final notice and demand by the taxpayer, the offense cannot be deemed to have been committed:

> ... absent any proof that the final notice and demand for payment was received by the taxpayer, it cannot be said that the offense has been committed because prior to the receipt of the letter-assessment, no violation has yet been committed.

Here, a perusal of the records shows that a certified true copy of the *Affidavit of Service of Final Assessment Notice (FAN) with Formal Letter of Demand* was appended to the *Joint Complaint-Affidavit,*[8] attesting that a Formal Letter of Demand with Final Assessment Notice (**FLD/FAN**), which indicated a due date of **November 15, 2014,** was personally served upon accused by leaving a copy at her registered address on October 16, 2014.

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[6] G.R. No. 127777. October 1, 1999 [Per J. Pardo. First Division].
[7] *People v. Cliref Enterprises, Inc., Alfredo V. Pagarigan and Luz N. Pagarigan (Km. 326 Willarey Avenue, Urbano Velasco Extension, Pinagbuhatan, Pasig City).*
[8] Docket, pp. 31–32, Annex "E" of the Joint Complaint-Affidavit.

In counting the prescriptive period provided under Section 281 of the NIRC of 1997, as amended, the case of *People v. Consebido*[9] ("***Consebido***") is instructive, *viz.*:

> The Court takes this opportunity to re-examine its ruling in Lim, Sr. and to clarify the prescriptive period under Section 281 of the 1997 NIRC, specifically with respect to violations that are unknown at the time of its commission.
>
> There are two components in determining when the prescriptive period shall begin to run under Section 281: first, the discovery of the commission of the violation; and second, the institution of judicial proceedings for its investigation and punishment. As observed in Lim, Sr., this makes the prosecution of offenses under the 1997 NIRC practically imprescriptible as the prescriptive period will only begin to run upon the institution of judicial proceedings. But the next paragraph of Section 281 states that "prescription shall be interrupted when proceedings are instituted against the guilty persons[.]" If *Lim, Sr.* is to be followed, prescription would both be started and interrupted by the institution of proceedings against the accused.
>
> This is not the first time that the Court encountered this conundrum.
>
> Petitioner duly pointed out that Section 2 of Act No. 3326 is similarly worded to the second and third paragraphs of Section 281 of the 1997 NIRC. Section 2 provides:
>
>> SECTION 2. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.
>>
>> The prescription shall be interrupted when proceedings are instituted against the guilty person and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.
>
> When Act No. 3326 was passed on December 4, 1926, it was the justice of the peace that conducted the preliminary investigation of criminal offenses. Accordingly, the filing of the complaint with the justice of the peace also signified the institution of criminal proceedings against the accused. The prevailing rule then was that the filing of the complaint with the justice of the peace tolled the prescription of the offense. The Court thus clarified in *Panaguiton, Jr. v. Department of*

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[9] G.R. No. 258563, April 2, 2025 [Per J. Inting, *En Banc*].

Justice that the term "proceedings" in Section 2 of Act No. 3326 should now be understood to include those before the executive branch of government. Hence, preliminary investigation tolls prescription, the reason being that "to rule otherwise would deprive the injured party the right to obtain vindication on account of delays that are not under his control."

In *People v. Duque*, the Court held that the phrase "'institution of judicial proceedings for its investigation and punishment' may be either disregarded as surplusage or should be deemed preceded by the word 'until.'" A literal reading of Section 2 of Act No. 3326 would be unfavorable to the accused and is unnecessary. The Court opined that "the prescription period would both begin and be interrupted by the same occurrences the net effect would be that the prescription period would not have effectively begun, having been rendered academic by the simultaneous interruption of that same period." The Court affirmed this interpretation in *Presidential Commission on Good Government v. The Ombudsman* and added that this interpretation is consistent with the second paragraph of Section 2 of Act No. 3326.

Notably, Lim, Sr. applied Section 354 of the 1939 NIRC. Associate Justice Japar B. Dimaampao (Associate Justice Dimaampao) astutely noted that the 1939 NIRC was passed when justices of the peace conducted preliminary investigations. This is no longer the case now, as observed in *Panaguiton*. Thus, in consideration of the foregoing, the Court clarifies that under Section 281 of the 1997 NIRC, prescription for criminal offenses where the commission of the violation is not known shall begin to run from its discovery. The adoption of the interpretation in Duque is apt in order to harmonize the second and third paragraphs of Section 281 of the 1997 NIRC. **The institution of proceedings, specifically the commencement of preliminary investigation, shall interrupt the prescriptive period for the offense**. This clarification is necessary as a literal interpretation of the law should be rejected if it would lead to absurd results. Prescription would not run under a literal reading of Section 281 of the 1997 NIRC, as it would both begin and be interrupted by the institution of proceedings. The Court must give effect to the clear intent of the Legislature to set a prescriptive period for violations of the 1997 NIRC. Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) judiciously expressed that the prevailing interpretation renders nugatory or lifeless the prescriptive period set by the Legislature itself.

As explained in *Panaguiton, Jr.* and reiterated in *Desierto*, the injured party, i.e., the government, should not be penalized for the delays in the investigation even if the complaint is timely filed. If there is undue delay in the

> preliminary investigation, what should be invoked by the accused is the violation of their right to speedy disposition of cases under Article III, Section 16 of the Constitution and not the prescription of the offense.
>
> ... ...
>
> *The rule on the tolling of the prescriptive period for offenses*
>
> As discussed above, **the filing of the criminal complaint before the DOJ shall toll the running of the prescriptive period for offenses under the 1997 NIRC, as amended**, whether its commission was immediately known or unknown at the time of the violation. (*Emphasis and underscoring supplied)*

Thus, under *Lim, Consebido,* and RMC No. 101-90, the five (5)-year prescriptive period began on **November 16, 2014**, the day following the due date for payment. The BIR, therefore, had until **November 16, 2019** to commence proceedings by filing a complaint-affidavit for preliminary investigation. However, the *Joint Complaint-Affidavit* was filed with the Department of Justice, Office of the City Prosecutor of Caloocan City only on **June 27, 2024,** or more than **four (4) years beyond the prescriptive period.** Consequently, the criminal action is barred by prescription.

It must be stressed that prescription in criminal cases is a matter of substantive law.[10] Although prescription has not been raised as an issue, it is well-settled that if the pleadings or the evidence on record show that the claim is barred by prescription, the Court may *motu proprio* order its dismissal on said ground.[11]

WHEREFORE, premises considered, CTA Crim. Case No. O-1292 is hereby **DISMISSED** for lack of jurisdiction and prescription of the offense charged.

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[10] *Reodica v. Court of Appeals*, G.R. No. 125066, July 8, 1998, 354 PHIL 90-111 [Per J. Davide, Jr., First Division].

[11] *Commissioner of Internal Revenue v. Nippon Express (Phils.) Corp.*, G.R. No. 212920, September 16, 2015, 769 PHIL 861-871 [Per J. Perlas-Bernabe, First Division].

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice