CTA Form No. 8

22-000524-0005

**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

**FIRST DIVISION**

**CTA CRIM. CASE NO. O-952**

**PEOPLE OF THE PHILIPPINES,**
Plaintiff,

- versus -

**ZIEGFRIED LOO TIAN,**
(No. 1013, Juan Luna Street, Brgy. 1,
Tondo, Manila,
Accused.

**NOTICE OF RESOLUTION**

**To:**

**PROSECUTOR GENERAL BENEDICTO A. MALCONTENTO**
**PROSECUTION ATTORNEY. JAYVEE LAURENCE B. BANDONG**
Department of Justice
Padre Faura Street Ermita, Manila 1000

**COMMISSIONER OF INTERNAL REVENUE**
Thru: Prosecution Division
Bureau of Internal Revenue
BIR National Office Building
BIR Road, Diliman, Quezon City

**ATTY. CATHERINE ROSE R. TORTOLES**
**ATTY. GRACE E. UNTALAN**
Bureau of Internal Revenue
Room 704, 7th Floor, Prosecution Division
BIR National Office Building
BIR Road, Diliman, Quezon City

***GREETINGS:***

You are hereby notified by these presents that on **February 9, 2023,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 13, 2023.**

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

**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***FIRST DIVISION***

**PEOPLE OF THE PHILIPPINES,**
*Plaintiff,*

**CTA Crim. Case No. O-952**
(NPS Docket No. XVI-INV-12G-00346)
Violation of Section 254 of the National Internal Revenue Code of 1997, as amended

Members:

-*versus*-

**DEL ROSARIO**, *P.J., Chairperson,*
**MANAHAN**, *and*
**REYES-FAJARDO**, *JJ.*

**ZIEGFRIED LOO TIAN,**
(No. 1013, Juan Luna Street, Brgy. 7, Zone 1, Tondo Manila),
*Accused.*

Promulgated:
FEB 09 2023 ; 11:16 AM

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# RESOLUTION

On December 15, 2022, the instant case was dismissed due to prescription of the Information.

On January 10, 2023, the deputized special prosecutors for the Bureau of Internal Revenue (BIR) filed their *Formal Entry of Appearance with Motion for Reconsideration.*

Acting on the *Formal Entry of Appearance*, the same is hereby **NOTED**. Henceforth, let all copies of all orders and notices in the instant case be furnished to the Deputized Special Prosecutors Catherine Rose R. Tortoles, Jamaica Kay Dela Cruz and Grace E. Untalan of the BIR Prosecution Division at:

BUREAU OF INTERNAL REVENUE
7TH floor, Room 704 Prosecution Division
BIR National Office Building
BIR Road, Diliman, Quezon City

As to plaintiff's *Motion for Reconsideration*, plaintiff argues that prescription has not set in on the ground that the period of discovery and the institution of judicial proceedings for the violation of Section 254 of the 1997 National Internal Revenue Code (NIRC), as amended, not only triggers the commencement of the prescriptive period, but at the same time triggers the interruption of the same prescriptive period.

The *Motion* lacks merit.

Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA) clearly provides that it is the institution of the criminal action which interrupts the prescriptive period, and, that criminal actions before the CTA are instituted by the filing of an information:

> SEC. 2. *Institution of criminal actions.* – All criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information in the name of the People of the Philippines. In criminal actions involving violations of the National Internal Revenue Code and other laws enforced by the Bureau of Internal Revenue, the Commissioner of Internal Revenue must approve their filing. In criminal actions involving violations of the Tariff and Customs Code and other laws enforced by the Bureau of Customs, the Commissioner of Customs must approve their filing.
>
> The institution of the criminal action shall interrupt the running of the period of prescription. (*Underscoring ours*)

In the instant case, prescription began to run from the discovery and institution of proceedings for its investigation on July 5, 2012. Counting five (5) years from July 5, 2012, the prescriptive period to institute the criminal action lapsed on July 5, 2017. Thus, the right of the government to institute the case against accused had already prescribed when the Information was filed before this Court only on October 26, 2022.

**WHEREFORE**, the plaintiff's *Motion for Reconsideration* is **DENIED** for lack of merit.

**SO ORDERED.**

**ROMAN G. DEL ROSARIO**
Presiding Justice

Catherine T. Manahan

**CATHERINE T. MANAHAN**
Associate Justice

Marian Ivy F. Reyes-Fajardo

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice