19-000124-0015

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM CASE NO. O-712

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

CONDI WILLIAM INDUSTRIAL CORP. / DANIEL Y. CHUA,
Accused.

NOTICE OF RESOLUTION

To:

PROSECUTOR GENERAL BENEDICTO A. MALCONTENTO
SR. STATE DEPUTY PROS. RICHARD ANTHONY D. FADULLON
ASST. STATE PROS. ZENAMAR J.L. MACHACON-CAPARROS
Department of Justice
Padre Faura Street, Ermita, Manila

COMMISSIONER OF INTERNAL REVENUE
Thru: Prosecution Division
Room 704, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

GREETINGS:

You are hereby notified by these presents that on **May 20, 2024,** Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 21, 2024.**

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-712**
-versus-	*Members:* **DEL ROSARIO**, *P.J.*, **BACORRO-VILLENA**, *and* **CUI-DAVID,** *JJ.*
CONDI WILLIAM INDUSTRIAL CORP. / DANIEL Y. CHUA, *Accused.*	Promulgated: MAY 20 2024; 10:05 AM

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RESOLUTION

For resolution of this Court is the plaintiff's ***Motion for Reconsideration (of the Resolution dated February 2, 2024)*** filed on February 23, 2024.

The plaintiff's *Motion for Reconsideration* assails the Court's *Resolution* (assailed *Resolution*), dated February 6, 2024, dismissing the case on the ground of prescription. It argues that prescription has not set in and that 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, consistent with Section 1, Rule 110 of the Rules on Criminal Procedure. The plaintiff cites *Tupaz v. Ulep*[1] and *People v. Pangilinan.*[2]

The plaintiff's arguments do not convince.

We quote Section 281 of the NIRC of 1997, as amended:

> *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**.

[1] G.R. No. 127777, October 1, 1999.
[2] G.R. No. 152662, June 13, 2012.

> 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.
>
> The term of prescription shall not run when the offender is absent from the Philippines. [*Emphasis supplied*]

As We have stated in the assailed *Resolution*, the interpretation of this provision has been settled in the landmark case of *Lim*[3] to wit:

> 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*]

We cannot depart from this interpretation of the Supreme Court of Section 354 of the 1939 Tax Code as recodified in Section 281 of the NIRC of 1997, for the principle of *stare decisis* requires that once a case has been decided one way, the rule is settled that any other case involving exactly the same point at issue should be decided in the same manner.[4]

We quote the assailed *Resolution*:

> In the *Joint Complaint-Affidavit*, it was alleged that the Final Assessment Notice (**FAN**) was issued to respondent CONDI WILLIAM INDUSTRIAL CORP. (CONDI WILLIAM) on January 14, 2013; that it was personally received by the taxpayer's authorized representative and that on July 12, 2013, a Preliminary Collection Letter was issued to respondent CONDI WILLIAM for the settlement of deficiency taxes. The FAN would have attained finality *upon the lapse* of thirty (30) days from receipt of said notice in accordance with

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[3] G.R. Nos. 48134-37, 18 October 1990, 268 SCRA 680-692.
[4] *University of the East v. Masangkay*, G.R. No. 226727, 25 April 2018.

Section 228 of the NIRC of 1997, as amended. Thus, following the allegations of plaintiff, the assessment would have become final on **February 14, 2013**.

In counting the prescriptive period provided under Section 281 of the NIRC of 1997, as amended, *Lim*, as quoted above, is instructive that it is the filing of the criminal information that must fall within the five (5)-year prescriptive period.

The Supreme Court enunciated in *Lim* that tax criminal cases are basically imprescriptible. However, violations shall nevertheless prescribe if more than five (5) years have lapsed from the time of the commission of the offense if known, and as applicable in this case, *i.e.*, the date of finality of the FAN/FLD, up to the date of filing of the *Information* before the Court.

...

Thus, pursuant to *Lim*, plaintiff had five (5) years counted from February 14, 2013, or until **February 14, 2018**, to file the *Information* before the Court. The *Information* dated December 18, 2018 was filed with this Court only on **March 18, 2019**.

Clearly, when the present *Information* was filed on **March 18, 2019**, the government's right to institute a criminal action against accused had already prescribed for *more than one (1) year.*

Even if the period is counted from the issuance of the Preliminary Collection Notice, plaintiff would have five (5) years from July 12, 2013, or until **July 12, 2018**, to file the *Information* in Court. Hence, the filing of the *Information* on **March 18, 2019,** is beyond the prescriptive period.

As such, We find no merit in reversing the assailed Resolution.

WHEREFORE, premises considered, the plaintiff's *Motion for Reconsideration (of the Resolution dated February 2, 2024)* is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice