REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

ALDWIN JASON QUIMSON BOLANTE,
(Unit 2006, The Traded and Financial Tower, 7th Ave., cor. 32nd St., Fort Bonifacio, Global City, Taguig City 1635),
Accused.

CTA Crim. Case No. O-1029
(NPS No. XV-05-INV-22L-3360)
For: Violation of Sec. 255 of National Internal Revenue Code of 1997, as amended

Members:

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

Promulgated:

OCT 04 2023 2:20PM

x- -x

RESOLUTION

On May 23, 2023, the Court issued a Resolution, dismissing the case in the following fashion:

> **WHEREFORE**, the Court finds no probable cause to issue a warrant of arrest, on the ground of prescription of the offense charged. Likewise, on the same ground, the instant Information docketed as CTA Crim. Case No. O-1029, is **DISMISSED.**
>
> **SO ORDERED**.

On July 5, 2023, the prosecution filed a Motion for Reconsideration. In its motion, the prosecution finds erroneous the ruling that the criminal action filed against the accused is already barred by the statute of limitations.

Section 281 of the National Internal Revenue Code (NIRC), as amended, provides among others that the five (5)-year prescriptive period for tax offenses commences 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 institution of judicial proceedings for its investigation and punishment, and shall be suspended when proceedings are instituted against the persons guilty of the transgression.

According to the prosecution, the offense under the Tax Code is considered discovered only after the manner of commission and the nature and extent of fraud has been definitely ascertained. The prosecution alleged that the nature and extent of fraud was only ascertained when the Assessment Notice/Final Assessment Notice (AN/FAN) was issued and received by the accused on December 7, 2018. Further, it alleged that the prescription has not set in as the prescriptive period, in this case, was tolled upon the issuance of a Warrant of Distraint and/or Levy against the accused on August 1, 2021.

The instant Motion must be denied.

Item III (2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases provides:

> III. Procedure
>
> xxx xxx xxx
>
> 2. Motions
>
> xxx xxx xxx
>
> (c) Meritorious Motions. - Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, xxx:
>
> xxx xxx xxx
>
> The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, xxx.

> Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright.

From the foregoing, the party aggrieved by the Resolution of the Court is conferred a non-extendible period of five (5) calendar days, reckoned from receipt thereof, within which to file a motion for reconsideration, lest the same shall be denied.

As admitted,[1] the prosecution received the Resolution dated May 23, 2023, dismissing the present case on the ground of prescription, on June 21, 2023. Consistent with the above rule, the prosecution had a non-extendible period of five (5) calendar days from June 21, 2023 or until June 26, 2023 to seek reconsideration of the adverse ruling. The prosecution's Motion for Reconsideration having been belatedly posted only on July 5, 2023, the Court is left with no other recourse but to deny the same.

Further, even assuming that the motion is timely filed, said motion shall likewise be denied for lack of merit.

As extensively discussed in the Resolution dated May 23, 2023, the Revised Rules of the Court of Tax Appeals explicitly provides that the institution of the criminal action shall interrupt the running of the period of prescription.

Contrary to the prosecution's claim, the AN/FAN was received by accused on December 7, 2017 as stamped in the upper portion of the FAN[2]. Therefore, *sans* payment thereof by accused, the tax offense, in this case, was *committed* on January 7, 2018. Thus, the right of the government to institute the case against accused had already prescribed when the Information was filed before this Court on March 28, 2023.

WHEREFORE, the prosecution's Motion for Reconsideration is **DENIED.**

---

[1] Page 1, Paragraph No. 2, Prosecution's Motion for Reconsideration.
[2] Annex "F" of the Joint Complaint-Affidavit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice