REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PEOPLE OF THE PHILIPPINES, *Plaintiff*

CTA CRIM CASE NO. O-974

-versus-

Members:
RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

LOGISTICS.COM CORPORATION, JOVAN G. TRIAS, ARMAN R. ONG, and ERMA O. AUNARIO
Accused.

Promulgated:
OCT 0 2 2023 ... 11:10 a.m.

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RESOLUTION

For the Court's resolution is the prosecution's "Motion for Reconsideration (of the Resolution promulgated June 22, 2023)" ("Motion"), filed via registered mail on 10 July 2023, without any comment from accused.[1]

In its Motion, plaintiff seeks the reconsideration of this Court's 22 June 2023 Resolution ("Assailed Resolution"), which dismissed the instant Information due to prescription, on the following grounds:

(a) Contrary to the Court's finding, in its 1 February 2023 Resolution, accused received the Bureau of Internal Revenue's ("BIR") Final Decision on Disputed Assessment ("FDDA") on 5 August 2015 and not on 5 August 2013;

(b) Following ***Petronila C. Tupaz v. Honorable Benedicto B. Ulep***[2] ("***Tupaz Case***"), the prescriptive period for violations of the ***National Internal Revenue Code of 1997, as amended*** ("***NIRC***"), begins upon the commission of said violation; and

(c) Following ***Sec. 281 of the NIRC*** and ***People of the Philippines v. Ma. Theresa Pangilinan***[3] ("***Pangilinan Case***"), the prescriptive period is interrupted by the filing of a complaint with the Department of Justice ("DOJ").

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[1] *See* Records Verification Report, dated 30 August 2023, Records.
[2] G.R. 127777, 1 October 1999.
[3] G.R. 152662, 13 June 2012.

The Motion lacks merit.

The Court first notes that We did not promulgate any Resolution in this case on 1 February 2023. As such, neither did we claim in said non-existent Resolution that accused received the FDDA on 2013. Rather, in the Assailed Resolution, we cited 5 August 2015 as the date of accused's receipt of the FDDA.[4] We are thus in agreement with the prosecution on that point.

The Court also agrees that the prescriptive period began when the violation was allegedly committed, *i.e.* when accused received the FDDA on 5 August 2015.

Where We find fault in plaintiff's reasoning, however, is in its assertion that the prescriptive period was interrupted when the BIR filed a complaint against accused with the DOJ. This position ignores ***Sec. 2, Rule 9 of the Revised Rules of the Court of Tax Appeals*** ("***RRCTA***"), which We already cited in the Assailed Resolution. We cite it here again as a reminder:

> "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.**"
> (Emphasis supplied.)

The above rule is clear: the "proceedings" that interrupt the running of the prescriptive period when "instituted", as required by ***Sec. 281 of the NIRC***, is specifically the filing of an information before this Court. It is not, contra plaintiff's argument, the filing of a complaint before the DOJ.

Neither is the ***Pangilinan Case*** applicable here. That case involved an alleged violation of ***Batas Pambansa*** ("***BP***") ***Blg. 22*** and not an alleged violation of the ***NIRC***. Because alleged violations of the ***NIRC*** are heard before this Court, the procedure for such cases must unavoidably be governed in part by the ***RRCTA***. In other words, while the prescriptive period for a violation of ***BP Blg. 22*** may be interrupted by the filing of a complaint for the purpose of preliminary investigation, the same is not true for a violation of the ***NIRC***, especially due to the mandate of ***Sec. 2, Rule 9 of the RRCTA***, above.

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[4] *See* Resolution, dated 22 June 2023, p. 8, Records, p. 185.

Plaintiff has thus failed to convincingly argue that this case has not yet prescribed. Considering this, We see no reason to reverse our previous findings.

WHEREFORE, respondent's Motion for Reconsideration is hereby **DENIED**. The Resolution, dated 22 June 2023, is hereby **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice