REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

- *versus* -

RONIE ROMANO EUSTAQUIO,
Respondent.

CTA EB CRIM. NO. 160
(CTA Crim. Case No. O-807)

Present:

Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, *JJ.*

Promulgated:

OCT 30 2025
11:47 a.m.

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DECISION

RINGPIS-LIBAN, *J.*:

This is an appeal, by way of Verified Petition for Review (of the Resolution dated July 30, 2024),[1] filed by petitioner People of the Philippines pursuant to Section 9(b), Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA), assailing the Resolutions dated April 30, 2024 and July 30, 2024 (collectively, the "Assailed Resolutions") rendered by the First Division of this Court (the "Court in Division") in CTA Crim. Case No. O-807. In the first Assailed Resolution, the Court in Division dismissed the Information on the ground of prescription. In the second Assailed Resolution, the Court denied petitioner's Motion for Reconsideration for having been filed out of time.

[1] Court *En Banc's* Docket, pp. 1-16.

THE FACTS

On January 28, 2020, an Information was filed before this Court against the respondent Ronic Romano Eustaquio for willful failure to pay the income tax for the taxable year 2006, in violation of Section 255 of the National Internal Revenue Code of 1997, as amended (1997 NIRC).

However, the case was dismissed by the Court in Division through its first Assailed Resolution, on the ground of prescription.

On May 24, 2024, petitioner filed a Motion for Reconsideration, which the Court in Division denied through the second Assailed Resolution for having been filed out of time.

On August 21, 2024, petitioner filed the present Verified Petition for Review via registered mail.

In a Minute Resolution[2] dated October 30, 2024, the Court *En Banc* directed petitioner to indicate the address of respondent and to submit proof of service of the Verified Petition for Review upon respondent.

On November 11, 2024, the petitioner filed its Manifestation with Compliance (Resolution dated October 30, 2024)[3] via registered mail.

In a Minute Resolution[4] dated November 25, 2024, the Court *En Banc* noted petitioner's Manifestation with Compliance (Resolution dated October 30, 2024). In a Minute Resolution[5] dated January 31, 2025, the Court *En Banc* directed respondent to file his comment to the Petition for Review within ten (10) days from notice.

Respondent, however, failed to file the required Comment, as evidenced by the Records Verification issued by the Judicial Records Division of this Court on March 24, 2025.[6]

In a Minute Resolution[7] dated May 7, 2025, the present Verified Petition for Review was submitted for decision.

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[2] *Id.*, p. 51.
[3] *Id.*, pp. 53-55.
[4] *Id.*, p. 61.
[5] *Id.*, p. 62.
[6] *Id.*, p. 63.
[7] *Id.*, p. 64.

THE ISSUE

Petitioner seeks the review of the Assailed Resolutions issued by the Court in Division, anchored on a sole assignment of error, as follows:

> "THE CTA - FIRST DIVISION ERRED WHEN IT DISMISSED THE CASE AGAINST RESPONDENT EUSTAQUIO FOR VIOLATION OF SECTION 255 OR DELIBERATE FAILURE TO PAY DEFICEINCY TAX FOR THE TAXABLE YEAR 2006 ON THE GROUND OF BELATED FILING OF THE MOTION FOR RECONSIDERATION DATED MAY 24, 2024."

THE COURT *EN BANC'S* RULING

The Verified Petition for Review (of the Resolution dated July 30, 2024) lacks merit.

Timeliness of the Petition

The Court *En Banc* shall first determine whether the present Verified Petition for Review (of the Resolution dated July 30, 2024) was timely filed. Section 3(b), Rule 8 of the RRCTA provides:

> "Rule 8 Procedure in Civil Cases
>
> xxx xxx xxx
>
> SEC. 3. *Who may appeal; period to file petition.* –
>
> xxx xxx xxx
>
> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution**. xxx" (Emphasis supplied)

The records show that petitioner received the Assailed Resolution through the Department of Justice (DOJ) on **August 2, 2024,** and a copy furnished to the Bureau of Internal Revenue BIR) on **August 6, 2024**. Counting fifteen (15) days therefrom, petitioner had until **August 17, 2024** within which to file its Petition for Review before the Court *En Banc*. August 17, 2024 fell on a Saturday, while August 19, 2024 is a non-working holiday in Quezon City. Accordingly, petitioner had until **August 20, 2024** within which to file its Petition for Review.

In view of the foregoing, the filing of the present Verified Petition for Review (of the Resolution dated July 30, 2024) via registered mail on August 21, 2024 was out of time.

Even assuming the Petition was timely filed, it is nevertheless dismissible for lack of merit for the reasons stated below.

Timeliness of Petitioner's Motion for Reconsideration

Petitioner contends that the period for filing its Motion for Reconsideration before the Court in Division should be counted from May 7, 2024 — the date when the BIR received a copy of the first Assailed Resolution — and not from May 6, 2024, when the DOJ received the same. In support of this position, petitioner argues that:

First, as the private complainant in the case, petitioner remains directly affected by its outcome. Invoking Section 1, Rule 15 of the RRCTA, petitioner underscores that it is the aggrieved party who is entitled to file a motion for reconsideration or new trial within fifteen (15) days from receipt of the assailed decision, resolution, or order.

Second, the lawyers of the BIR National Office – Prosecution Division are duly deputized as special prosecutors by the Office of the Prosecutor General through a Deputization Letter specifically issued for the prosecution of tax cases. Unless such authority is expressly revoked or withdrawn, they remain authorized to prosecute the case until its conclusion, even in the absence of a public prosecutor.

Third, the DOJ's failure to notify the BIR of its receipt of the Assailed Resolutions supports the conclusion that the BIR's deputized special prosecutors are expected to be directly furnished copies of all court issuances and rulings. It is the deputized lawyers who are tasked to take the necessary legal action pursuant to the authority granted under the deputization order.

Finally, petitioner likewise invokes the principles of substantial justice and fair play to justify the admission of its belatedly filed Motion for Reconsideration before the Court in Division.

Petitioner's arguments are unavailing.

The characterization of the BIR as the private complainant, and the deputization of its lawyers as special prosecutors, bears no relevance to the issue of timeliness of its Motion for Reconsideration.

When a party is represented by a counsel of record, service of court orders and notices must be made upon such counsel.[8] Notice served upon the client or any lawyer who is not the counsel of record does not constitute valid notice in law.[9] Furthermore, in cases where a party is represented by two (2) or more counsels of record, the Supreme Court, in *Philippine Asset Growth Two, Inc. et al. v. Fastech Synergy Philippines, Inc.*,[10] aptly held that:

> "It is a long-standing doctrine that **where a party is represented by several counsels, notice to one is sufficient, and binds the said party. Notice to any one of the several counsels on record is equivalent to notice to all, and such notice starts the running of the period to appeal notwithstanding that the other counsel on record has not received a copy of the decision or resolution.**" *(Emphasis supplied and underscoring supplied; citations omitted)*

The records show that the Information was filed by Assistant State Prosecutor Robert D.G. Ong, Jr. of the DOJ on behalf of petitioner. Consequently, the DOJ is a counsel of record in this case and is properly entitled to be furnished copies of court orders, notices, and decisions. This also neatly aligns with the rule that criminal actions are prosecuted under the direction and control of the public prosecutor.[11] Thus, the DOJ's receipt of the first Assailed Resolution on May 6, 2024 serves as the reckoning point for computing the reglementary period for the filing of a motion for reconsideration.

Even assuming the petitioner's Motion for Reconsideration was timely filed, the Court in Division's ruling in the first Assailed Resolution remains well-founded and must be upheld.

Prescription of the Offense Charged

Section 281 of the 1997 NIRC governs the prescriptive period for instituting actions arising from criminal violations thereof. It 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.**

[8] *Taningco, et al. v. Fernandez, et al.*, G.R. No. 215615, December 9, 2020.
[9] *Cervantes v. City Service Corporation*, G.R. No. 191616, April 18, 2016 citing *Spouses Soriano v. Soriano*, 558 Phil. 627, 641-642 (2007).
[10] G.R. No. 206528, June 28, 2016.
[11] Sec. 5, Rule 110 of the Revised Rules on Criminal Procedure; Sec. 3, Rule 9, RRCTA.

> **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)*

In ruling that the present criminal action has prescribed pursuant to the above provision, the Court in Division drew guidance from the Supreme Court's decisions in *Lim v. Court of Appeals*[12] and *Tupaz v. Ulep.*[13] It pertinently held:

> "In this case, the records show that accused received on 07 April 2010 the Formal Letter of Demand (**FLD**) with attached Details of Discrepancies, together with the Assessment Notices (**ANs**) all dated 25 March 2010. The ANs indicated that the deficiency taxes should be paid on or before 26 April 2010.
>
> Applying the ruling in *Emilio E. Lim, Sr.* and RMC No. 101-90, upon receipt of the FLD and ANs, the offense will be committed only after accused fails to pay the taxes due on 26 April 2010, or the due date for the payment. Hence, the prescriptive period commences to run on **27 April 2010**, or the day after accused willfully refused to pay the taxes despite due notice. Counting five (5) years therefrom, plaintiff had until **27 April 2015** within which to file the subject Information with the Court. Notably, the said Information was filed with this Court only on **28 January 2020**. As such, the plaintiff's right to file the subject criminal action has already prescribed.
>
> Even if We are to apply *Tupaz* and count the prescriptive period from the lapse of the 30-day period to protest or question the assessment, the subject criminal action would still have prescribed. To elaborate, accused received the FLD on 07 April 2010, thus counting 30 days from receipt thereof, he had until **07 May 2010** to file his protest or question the assessment. As accused failed to file the protest, the FLD became final and unappealable on **08 May 2010**. Counting five (5) years therefrom, plaintiff had until **08 May 2015** to file the subject Information. However, as already noted above, the said Information was filed with this Court only on **28 January 2020**, thus the criminal offense has clearly prescribed."[14] *(Citations omitted)*

Considering the pertinent facts and applicable jurisprudence, the Court *En Banc* fully concurs with the conclusion that the present criminal action is already barred by prescription.

[12] G.R. Nos. L-48134-37, October 18, 1990 ("*Emilio E. Lim, Sr.*").
[13] G.R. No. 127777, October 1, 1999 ("*Tupaz*").
[14] Court *En Banc*'s Docket, pp. 33-34.

Even so, it is important to note that on April 2, 2025, the Supreme Court *En Banc* promulgated its decision in *People v. Consebido*[15] where it clarified that the filing of a criminal complaint before the DOJ tolls the running of the prescriptive period for offenses under the 1997 NIRC, regardless of whether the commission of the offense was immediately known. The Supreme Court further explained that "[i]n cases where the information, data or records, from which the crime is based could be plainly discovered or were readily available to the public, or when there are reasonable means to be aware of the commission of the offense, the prescriptive period should be reckoned from the date of the commission of the offense."

However, *Consebido* is not applicable to the present case as the Supreme Court explicitly declared that the rules set forth therein shall be applied ***prospectively***. Accordingly, the present case was correctly resolved in accordance with the prevailing jurisprudence prior to *Consebido*.

Even assuming that *Consebido* applies, the conclusion remains the same. The offense charged against respondent is deemed to have been committed — and the prescriptive period to have commenced — upon respondent's willful refusal to pay the tax on its due date, *i.e.*, **April 26, 2010**. The running of the prescriptive period was interrupted only upon the filing of the Joint Complaint-Affidavit before the DOJ on **April 11, 2019**.

As more than five (5) years had elapsed between these dates, the criminal action is clearly time-barred.

ACCORDINGLY, the present Verified Petition for Review (of the Resolution dated July 30, 2024) is **DISMISSED** for being filed out of time.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

[15] G.R. No. 258563, April 2, 2025 ("*Consebido*").

I concur in the result.
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice