REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

AJ CORINTHIAN HAULING CORPORATION, ARCELI S. SAJONAS, and JOHN FITZ JERALD CLAUDIO,
Respondents.

CTA EB CRIM. No. 164
(CTA Crim. Case No. O-1151)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, ***JJ.***

Promulgated:

FEB 0 5 2026 1:53 p.m.

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DECISION

REYES-FAJARDO, *J.*:

We resolve the Verified Petition for Review[1] posted on September 6, 2024, challenging the Resolutions dated June 25, 2024[2] and August 20, 2024[3] in CTA Crim. Case No. O-1151, whereby the Court of Tax Appeals Second Division (Court in Division) dismissed CTA Crim. Case No. O-1151 instituted against AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio, for lack of jurisdiction and/or prescription of tax offense under Section 281 of the 1997 National Internal Revenue Code (NIRC), as amended.

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1 *Rollo*, pp. 1 to 16.
2 *Rollo* (CTA Crim. Case No. O-1151), pp. 78 to 83.
3 *Id.*, pp. 93 to 95.

FACTS

On May 27, 2024, an Information[4] was filed against respondents AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio, docketed as CTA Crim. Case No. O-1151. The Information indicted them for violation of Section 255, in relation to Sections 253(d) and 256 of the 1997 National Internal Revenue Code, as amended, quoted as follows:

> That on or before April 15, 2013, in Taguig City, and within the jurisdiction of this Honorable Court, accused AJ Corinthian Hauling Corporation, a domestic corporation, doing business in Taguig City and Arceli S. Sajonas (Manager) and John Fitz Jerald Claudio (Treasurer), did then and there, knowingly, willfully and unlawfully fail to make and file the income tax return for taxable year 2012, thus, resulting to their failure to pay an income tax liability amounting to One Million, Ten Thousand, Eight Hundred Fifty-Six Pesos and Fifty-Eight Centavos (P1,010,856.58), excluding interest and penalties thereon, which payment is required under the pertinent provisions of the National Internal Revenue Code of 1997, thereby depriving the government of the needed revenues to sustain public service.
>
> CONTRARY TO LAW.

On June 25, 2024, after a review of the Information and the attached supporting documents, the Court in Division rendered the assailed Resolution, the *fallo* of which states:

> **WHEREFORE,** Criminal Case No. O-1151 is **DISMISSED** for lack of jurisdiction and/or on the ground of prescription.
>
> **SO ORDERED.**

On July 12, 2024, petitioner filed a Motion for Reconsideration (To the Resolution dated June 25, 2024).[5]

On August 20, 2024, the Court in Division denied[6] the said motion for lack of merit, thus:

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[4] Docket (CTA Crim. Case No. O-1151) pp. 5 to 7.
[5] *Id.*, pp. 67 to 74.
[6] *Id.*, pp. 93 to 95.

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WHEREFORE, the plaintiff's *Motion for Reconsideration (To the Resolution dated June 25, 2024)* is **DENIED** for lack of merit.

SO ORDERED.

Hence, this Petition for Review.

ARGUMENTS

Petitioner ascribes flaw in the Court in Division's utilization of *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines (Lim)*[7] as basis of dismissal of the criminal charges against respondents. Specifically, petitioner asserts that the dictum in *Lim* that the running of the five (5)-year prescriptive period is tolled only upon the filing of Information in court is archaic.

According to petitioner, it is the filing of the criminal complaint for preliminary investigation with the Department of Justice (DOJ) which interrupts the running of the prescriptive period for tax offenses in Section 281 of the NIRC, as amended, following the pronouncements in *Tupaz v. Ulep (Tupaz)*,[8] *Perez v. Sandiganbayan (Perez)*,[9] *Panaguiton, Jr. v. Department of Justice, et al. (Panaquiton, Jr.)*,[10] *Ingco v. Sandiganbayan (Ingco)*,[11] *Sanrio Company Limited v. Lim (Sanrio)*,[12] and *People v. Pangilinan (Pangilinan)*,[13] among others.

Respondents counter[14] that it is the filing of the Information before the Court that interrupts the running of the period of prescription. Hence, the criminal action instituted on May 27, 2024 before the Court in Division is time-barred.

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7 G.R. Nos. L-48134-37, October 18, 1990.
8 G.R. No. 127777, October 1, 1999.
9 G.R. No. 245862, November 3, 2020.
10 G.R. No. 167571, November 25, 2008.
11 G.R. No. 112584, May 23, 1997.
12 G.R. No. 168662, February 19, 2008.
13 G.R. No. 152662, June 13, 2012.
14 Respondents' Comment/Opposition to Plaintiff's Verified Petition for Review, *Rollo*, pp. 97 to 102.

ISSUE

Did the Court in Division err in dismissing CTA Crim. Case No. O-1151 on the ground of prescription?

RULING

We deny the Petition.

Section 281 of the NIRC, as amended, provides that criminal infractions under the Code shall prescribe after five (5) years, reckoned from the commission of tax offense, if known, and if not known, from discovery thereof *and* institution of judicial proceedings for investigation and punishment. Prescription thereof shall halt, upon institution of proceedings against the persons guilty thereof:

> SECTION 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.
>
> 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...

Notably, Section 281 of the NIRC, as amended, is a replica of Section 354 of the 1939 NIRC. *Lim* interpreted Section 354 of the 1939 NIRC, as follows:

> The Solicitor General stresses that Section 354 speaks not only of discovery of the fraud but also institution of judicial proceedings. **Note the conjunctive word "and" between the phrases "the discovery thereof" and "the institution of judicial proceedings for its investigation and proceedings." In other words, in addition to the fact of discovery, there must be a**

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> **judicial proceeding for the investigation and punishment of the tax offense before the five-year limiting period begins to run.** It was on September 1, 1969 that the offenses subject of Criminal Cases Nos. 1790 and 1791 were indorsed to the Fiscal's Office for preliminary investigation. Inasmuch as a preliminary investigation is a proceeding for investigation and punishment of a crime, It was only on September 1, 1969 that the prescriptive period commenced...
>
> As Section 354 stands in the statute book (and to this day it has remained unchanged) it would indeed seem that tax cases, such as the present ones, are practically imprescriptible for as long as the period from the discovery *and* institution of judicial proceedings for its investigation and punishment, *up to* the filing of the information in court does not exceed five (5) years...
>
> Unless amended by the legislature, Section 354 stays in the Tax Code as it was written during the days of the Commonwealth. And as it is, must be applied regardless of its apparent one-sidedness in favor of the Government. In criminal cases, statutes of limitations are acts of grace, a surrendering by the sovereign of its right to prosecute. They receive a strict construction in favor of the Government and limitations in such cases will not be presumed in the absence of clear legislation.[15]

Indeed, *Lim* ordained that tax offenses are imprescriptible so long as the period from its discovery and institution of judicial proceedings for investigation and punishment, up to the filing of information in court *do not exceed five (5) years*. Conversely, if the period from the institution of judicial proceedings for its investigation up to the filing of the information in court exceeds five (5) years, then the government's right to file criminal actions against errant persons would be barred by prescription.

On the strength of the above pronouncements, the Court in Division correctly dismissed CTA Crim. Case No. O-1151 on the ground of prescription. To be precise, the BIR referred the Joint Complaint-Affidavit of Revenue Officers Jonas P. Punzal, Nelson V. Gonzales, Amelita M. Tugade and Maxima DC. Mones with the DOJ for preliminary investigation on June 29, 2016. Given that such proceeding necessarily entails the investigation and consequent punishment of the subject offense, the five (5)-year prescriptive period began to run on said date. Counting five (5) years from June 29, 2016, the prosecution had until June 29, 2021, to file the requisite

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15 Emphasis supplied.

Information with the Court. *Ergo,* the belated filing of the Information before the Court in Division on May 27, 2024, justifies the dismissal of CTA Crim. Case No. O-1151 on the ground of prescription.

We are mindful of the Supreme Court's ruling in *People v. Consebido*[16], which was promulgated on April 2, 2025, where the Supreme Court adopted a unified rule: the running of the prescriptive period shall be tolled by the filing of the criminal complaint before the prosecution office. However, this new doctrine shall be applied prospectively, hence inapplicable to this case, *viz.*:

> **With this dilemma, the Court takes this opportunity to pronounce that the filing of the complaint before the prosecution office and the conduct of the summary investigation should toll the running of the prescriptive period.** While it is ideal that all cases are resolved promptly, the reality is that this is not done at all times, whether for valid reasons or not. The offended party, which is primarily the State, should not be prejudiced by any delay in the conduct of the preliminary investigation even for cases covered by summary procedure. The Court reiterates its reasoning in *People v. Olarte* that *"it is unjust to deprive the injured party of the right to obtain vindication on account of delays that are not under his control. All that the victim of the offense may do on his part to initiate the prosecution is to file the requisite complaint."*
>
> In addition, Chief Justice Gesmundo extensively discussed the history of the pertinent laws and rules on the filing of complaint or information for criminal cases and the conduct of preliminary investigation in his Reflections. Based on an examination of these laws and rules, he aptly surmised:
>
>> [T]he use of the phrase "complaint or information" in Article 9166 of the Revised Penal Code, Section 11 of the 1991 Revised Rules on Summary Procedure, and Rule II, Subsection B, Section 1 of [the] 2022 Rules on Expedited Procedures in the First Level Courts, for purposes of the tolling of the prescriptive period of offenses, must henceforth, be construed to refer to the filing of the complaint or Information before the prosecution office."
>
> **But in line with the time-honored principle that the interpretation that is most favorable to the accused should be**

16 G.R. No. 258563, April 2, 2025.

adopted with respect to laws on prescription of crimes, this new rule shall apply prospectively.[17]

In *precis*, the Court in Division did not err in finding that petitioner's right to file the Information with the Court had prescribed, thereby warranting dismissal of the case.

WHEREFORE, the Petition for Review, posted on September 12, 2024, is **DENIED**, for lack of merit. The Resolutions dated June 25, 2024 and August 20, 2024 in CTA Crim. Case No. O-1151, are hereby **AFFIRMED**.

SO ORDERED.

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

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

(With due respect, please see Dissenting Opinion.)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

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17 Emphasis supplied. Citations omitted.

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

AJ CORINTHIAN HAULING CORPORATION, ARCELI S. SAJONAS AND JOHN FITZ JERALD CLAUDIO,
Respondents.

CTA EB Crim. No. 164
(CTA Crim. Case No. O-1151)

Present:

RINGPIS-LIBAN, *P.J.,*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
FEB 05 2026 1:53p.m.

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DISSENTING OPINION

BACORRO-VILLENA, J.:

With all due respect to my esteemed colleague, Associate Justice Marian Ivy F. Reyes-Fajardo, I am constrained to register my dissent to the *ponencia*, as it denies petitioner People of the Philippines' (**petitioner**'s) "Petition for Review" for lack of merit.

In the recent case of *People of the Philippines v. Ulysses Palconit Consebido*[1] (**Consebido**), the Supreme Court *En Banc* ruled that the filing of complaint before the prosecution office tolls the running of the five (5)-year prescriptive period for violations of the National Internal Revenue Code (**NIRC**) of 1997, as amended. Consequently, the Supreme Court abandoned its long-standing ruling in *Emilio E. Lim, Sr., et al. v. Court of Appeals, et al.*[2] (**Lim, Sr.**), wherein the prescriptive period is tolled by the filing of Information with the court.

[1] G.R. No. 258563, 02 April 2025.
[2] G.R. Nos. 48134-37, 18 October 1990.

Although the *ponencia* recognized *Consebido*, it still applied the old doctrine in *Lim, Sr.* and declared the crime as prescribed. The *ponencia* ruled that *Consebido* must be applied prospectively (*i.e.*, from its promulgation on 02 April 2025), in keeping with the principle that the interpretation most favorable to the accused must govern in matters of prescription.

I respectfully advance a different view. I reiterate my stance in my Separate Opinion in *People of the Philippines v. Ziegfried Loo Tian*[3] that the pronouncement in *Consebido* should be applied retroactively, dating back to the effectivity of the NIRC of 1997.

First, in finding that the Court in *Consebido* explicitly declared that the new rule shall be applied prospectively, the *ponencia* refers to this portion of the decision:

> ...
>
> But in line with the time-honored principle that the interpretation that is the most favorable to the accused should be adopted with respect to laws on prescription of crimes, this new rule shall apply prospectively.
>
> ...

However, it is my view that the above portion in *Consebido* refers only to offenses covered by the 1991 Revised Rules on Summary Procedure (RRSP) and the 2022 Rules on Expedited Procedures in the First Level Courts (REPFLC). The Supreme Court found it necessary to revisit prior pronouncements on the tolling of prescription for offenses covered by these summary procedures, especially in light of its rulings in *Republic of the Philippines v. The Honorable Aniano A. Desierto as Ombudsman, et al*[4] (Desierto), which held that prescription is interrupted by the institution of preliminary investigation only for special laws not covered by the RRSP, and *Pastor Corpus, Jr. y. Belmoro v. People of the Philippines*[5] (Corpus), which held that for light offenses, the timely filing of the information in court is necessary to toll prescription. The Supreme Court has now abandoned the said rulings in *Desierto* and *Corpus*, as they are inconsistent with its definitive pronouncement in *Consebido*. Accordingly, for offenses not covered by the RRSP or the REPFLC, this definitive rule must apply retroactively.

This Court would also err in invoking the time-honored principle on the prescription of crimes, which holds that the interpretation most favorable to the accused should be adopted,[6] to justify declaring that the better rule is

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[3] CTA EB Crim. Case No. 112. 04 August 2025.
[4] G.R. No. 136506. 16 January 2023.
[5] G.R. No. 255740, 16 August 2023.
[6] *People of the Philippines v. Arturo F. Pacificador*, G.R. No. 139405. 13 March 2001.

to apply *Consebido* prospectively on the ground that such application would favor the accused. Such reasoning misconstrues the essence of this basic principle of criminal law.

In the 1949 case of *Dominador B. Bustos v. Antonio G. Lucero, Judge of First Instance of Pampanga,*[7] the Supreme Court drew a clear distinction between substantive and procedural law, thus:

> ...
>
> As applied to criminal law, **substantive law is that which declares what acts are crimes and prescribes the punishment for committing them**, as distinguished from the **procedural law which provides or regulates the steps by which one who commits a crime is to be punished**. (22 C. J. S., 49.) Preliminary investigation is eminently and essentially remedial; it is the first step taken in a criminal prosecution.
>
> ...

In a Separate Opinion penned by the late Chief Justice Renato C. Corona,[8] it is evident that **the *pro reo* doctrine applies *only* to <u>ambiguities</u> in the <u>*substantive*</u> provisions of penal laws, particularly those defining the elements of a crime or the punishment. It does <u>*not*</u> extend to procedural matters, such as the computation or application of prescriptive periods**, *viz*:

> ...
>
> The fundamental principle in applying and interpreting criminal laws, including the Indeterminate Sentence Law, is to resolve all doubts in favor of the accused. ***In dubio pro reo*. When in doubt, rule for the accused.** This is in consonance with the constitutional guarantee that the accused ought to be presumed innocent until and unless his guilt is established beyond reasonable doubt.
>
> Intimately intertwined with the *in dubio pro reo* principle is the **rule of lenity**. It is the doctrine that "**a court, in construing an ambiguous criminal statute that sets out multiple or inconsistent punishments, should resolve the ambiguity in favor of the more lenient punishment.**"
>
> ...

Similarly, in *Salvador Estipona, Jr. y Asuela v. Hon. Frank E. Lobrigo, Presiding Judge of the Regional Trial Court, Branch 3, Legazpi City, Albay, and People of the Philippines,*[9] although the case focused on plea bargaining, the Supreme Court reiterated the distinction between substantive and procedural

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[7] G.R. No. L-2068 (Resolution), 08 March 1949; Emphasis supplied.

[8] See *People of the Philippines v. Beth Temporada*, G.R. No. 173473, 17 December 2008; Citations omitted, italics in the original text and emphasis supplied.

[9] G.R. No. 226679, 15 August 2017; Citations omitted, italics in the original text and emphasis supplied.

law, emphasizing that **procedural rules fall within its exclusive domain** and that **their interpretation does <u>not</u> call for the application of *pro reo***, unless they directly affect substantive rights, to wit:

> ...
>
> **The Supreme Court's sole prerogative to issue, amend, or repeal procedural rules is limited to the preservation of substantive rights, *i.e.*, the former should not diminish, increase or modify the latter.** "Substantive law is that part of the law which creates, defines and regulates rights, or which regulates the right and duties which give rise to a cause of action; that part of the law which courts are established to administer; as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtain redress for their invasions." *Fabian v. Hon. Desierto* laid down **the test for determining whether a rule is substantive or procedural in nature**.
>
>> It will be noted that no definitive line can be drawn between those rules or statutes which are procedural, hence within the scope of this Court's rule-making power, and those which are substantive. In fact, **a particular rule may be procedural in one context and substantive in another.** It is admitted that what is procedural and what is substantive is frequently a question of great difficulty. It is not, however, an insurmountable problem if a rational and pragmatic approach is taken within the context of our own procedural and jurisdictional system.
>>
>> **In determining whether a rule prescribed by the Supreme Court, for the practice and procedure of the lower courts, abridges, enlarges, or modifies any substantive right, the test is whether the rule really regulates procedure, that is, the *judicial process for enforcing rights and duties recognized by substantive law* and for justly administering remedy and redress for a disregard or infraction of them.** If the rule takes away a vested right, it is not procedural. If the rule creates a right such as the right to appeal, it may be classified as a substantive matter; but ***if it operates as a means of implementing an existing right then the rule deals merely with procedure.***
>
> ...

Relevantly, in *Fil-Estate Properties, Inc. and Fairways and Blue-Waters Resort and Country Club, Inc. v. Hon. Marietta J. Homena-Valencia, in her capacity as Presiding Judge of Branch 1, Regional Trial Court, Kalibo, Aklan, and Sullian Sy Naval*[10] (**Fil-Estate**), the Supreme Court explained the retroactivity of the "fresh period" rule in this wise:

[10] G.R. No. 173942 (Resolution), 25 June 2008; Italics in the original text and emphasis supplied.

> ...
>
> The determinative issue is whether the "fresh period" rule announced in *Neypes* could retroactively apply in cases where the period for appeal had lapsed prior to 14 September 2005 when *Neypes* was promulgated. That question may be answered with the guidance of **the general rule that procedural laws may be given retroactive effect to actions pending and undetermined at the time of their passage, there being no vested rights in the rules of procedure.** Amendments to procedural rules are procedural or remedial in character as they do not create new or remove vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing.
>
> *Sps. De los Santos* reaffirms these principles and categorically warrants that *Neypes* bears the quested retroactive effect[.]
>
> ...

Applying the foregoing, considering that the *Consebido* doctrine on the interruption of the prescriptive period for criminal tax actions is in the nature of a procedural rule, it may be given retroactive effect to actions pending and undetermined upon its promulgation, there being no vested rights in the rules of procedure.[11]

Indubitably, with the principle explained categorically and in simple terms, the *pro reo* doctrine, also known as the rule of lenity, could only apply when there is doubt in construing the substantive provisions of a penal law — particularly those defining the elements of the crime or prescribing its penalty. Again, it does not apply to the interpretation of procedural rules, such as those governing the computation or interruption of prescription (unless such interpretation would directly affect or impair substantive rights).

The *Consebido* doctrine deals with the interpretation of a procedural rule — specifically, when the prescriptive period for criminal tax offenses under the NIRC of 1997, as amended, is interrupted. Jurisprudence consistently holds that procedural rules may be applied retroactively to cases pending and undetermined at the time of their promulgation, there being no vested rights in matters of procedure, as underscored in *Fil-Estate*. As such, the interpretation in *Consebido* does not involve a change in the definition of the crime or its penalties, but rather clarifies the judicial process for enforcing existing substantive rights. Accordingly, the *pro reo* principle finds no application unless the procedural rule's interpretation would directly impair a substantive right — a circumstance not present in this case.

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[11] See *Pfizer Inc., et al. v. Edwin V. Galan*, G.R. No. 143389, 25 May 2001.

Second, it is my humble view that since the Supreme Court's ruling in *Consebido* constitutes the correct interpretation of Section 281[12] of the NIRC of 1997, it is only proper that this interpretation be applied retroactively, from the time the NIRC of 1997 took effect, as may be inferred from the Supreme Court's discussion quoted below:

> ...
>
> **Notably, *Lim, Sr.* applied Section 354 of the 1939 NIRC. Associate Justice Japar B. Dimaampao (Associate Justice Dimaampao) astutely noted that the 1939 NIRC was passed when justices of the peace conducted preliminary investigations. This is no longer the case now, as observed in *Panaguiton*. Thus, in consideration of the foregoing, the Court clarifies that under Section 281 of the 1997 NIRC, prescription for criminal offenses where the commission of the violation is not known shall begin to run from its discovery.** The adoption of the interpretation in *Duque* is apt in order to harmonize the second and third paragraphs of Section 281 of the 1997 NIRC. **The institution of proceedings, specifically the commencement of preliminary investigation, shall interrupt the prescriptive period for the offense.** This clarification is necessary as a literal interpretation of the law should be rejected if it would lead to absurd results. Prescription would not run under a literal reading of Section 281 of the 1997 NIRC, as it would both begin and be interrupted by the institution of proceedings. The Court must give effect to the clear intent of the Legislature to set a prescriptive period for violations of the 1997 NIRC. Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) judiciously expressed that the prevailing interpretation renders nugatory or lifeless the prescriptive period set by the Legislature itself.[13]
>
> ...

From the foregoing, it is clear that the ruling in *Lim, Sr.*—which the CTA had long relied on to hold that preliminary investigation does not toll the running of the prescriptive period—was based on Section 354[14] of the NIRC of 1939. That provision was enacted at a time when preliminary investigations were conducted by justices of the peace, a procedural context that no longer applies. Having said that, the Supreme Court clarified that under Section 281[15] of the NIRC of 1997, the commencement of preliminary investigation interrupts the prescriptive period for the offense.

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[12] 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.

[13] *People of the Philippines v. Ulysses Palconit Consebido*, supra at note 1; Citation omitted, italics in the original text and emphasis supplied.

[14] SEC. 354. *Prescription for Violations of Any Provisions of This Code.* — All violations of any provisions of this Code shall prescribe after five 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.

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.

[15] Supra at note 12.

Third, that *Consebido* must be applied retroactively is further strengthened by the fact that the doctrine on prescription adopted therein is *not a new* doctrine on prescription.[16]

Lastly, as stated in *Consebido*, the Supreme Court recognized that while criminal cases should ideally be resolved promptly, delays are sometimes unavoidable. Therefore, the State, as the offended party, should not be disadvantaged by delays in the Department of Justice's (DOJ's) preliminary investigations.

Based on the foregoing, I respectfully submit that this Court, sitting *En Banc*, is now bound to abandon its previous position of applying *Lim, Sr.* to hold that, in criminal tax cases, the prescriptive period is tolled only upon the filing of the Information in Court. The five (5)-year prescriptive period is, instead, interrupted by the filing of a complaint with the DOJ for purposes of preliminary investigation, not by the filing of the Information with the Court.

In the present case, the five (5)-year prescriptive period started to run from the discovery of the crime, that is, when the Joint Complaint-Affidavit was filed with the DOJ on 29 June 2016. Likewise, the five (5)-year prescriptive period was interrupted when the Joint Complaint-Affidavit was filed with the DOJ on 29 June 2016. Thus, contrary to the *ponencia*'s ruling, the right of the government to institute the case against respondent had not yet prescribed.

All told, I vote to (1) **GRANT** petitioner's Petition for Review filed on 06 September 2024; (2) **REVERSE** and **SET ASIDE** the Second Division's Resolutions dated 25 June 2024 and 20 August 2024 in CTA Crim. Case No. O-1151, and (3) **REMAND** the case to the Second Division for the conduct of the pre-trial conference and the arraignment of respondent Arceli S. Sajonas and John Fitz Jerald Claudio.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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16 See *People of the Philippines, et al. v. Ascencion P. Olarte*, G.R. No. L-22465, 28 February 1967; *Roberto Brillante v. Court of Appeals and the People of the Philippines*, G.R. Nos. 118757 & 121571, 19 October 2004; *Securities and Exchange Commission v. Interport Resources Corporation, et al.*, G.R. No. 135808, 06 October 2008; *Luis Panaguiton, Jr. v. Department of Justice, et al.*, G.R. No. 167571, 25 November 2008; *People of the Philippines v. Ma. Theresa Pangilinan*, G.R. No. 152662, 13 June 2012; *People of the Philippines v. Mateo A. Lee, Jr.* G.R. No. 234618, 16 September 2019.