REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Second Division

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM CASE NO. O-1269** For: Violation of Section 255 in relation to Sections 253(d) and 256 of the NIRC of 1997, as amended
- versus -	Members: **RINGPIS-LIBAN,** *Chairperson* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
ANTONIO MORALES LORNA TAN c/o PHIL. SHOE EXPO MKTG. CORP. Both of 510 Juan Luna St., Binondo Manila 1003, Accused.	Promulgated: MAY 2 0 2025

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9:00 a.m.

RESOLUTION

Filed before the Court on April 04, 2025 is an Information accusing Antonio Morales and Lorna Tan, President and Chief Financial Officer of Phil. Shoe Expo Mktg. Corp. for violation of Section 255, in relation to Sections 253(d) and 256 of the National Internal Revenue Code ("NIRC") of 1997, as amended, for deficiency income tax liability for taxable year 2016.

A perusal of the record shows that the following documents were attached:

1) original Resolution dated December 23, 2024, signed by Assistant City Prosecutor Gabriel A. De Andres Jr.;

2) Referral Letter dated November 21, 2024 issued by Regional Director Mahinardo G. Mailig of Revenue Region No. 6 Manila for the filing of the criminal complaint against all the accused; and

3) Complaint-Affidavit of Romualdo R. Cabubas and Sarah Dolina subscribed on November 21, 2024.

For reasons to be explained below, the Court finds sufficient basis to dismiss the case.

First, no PDF copy was submitted thru email in violation of CTA *En Banc* Resolution No. 8-2024, which provides that "When the primary manner of filing is through personal filing...[t]he PDF copies must be transmitted within twenty-four (24) hours from such filing of paper copies; *otherwise, the pleading or court submission shall be deemed as not filed.*"

Second, the information did not include Phil. Shoe Expo Mktg. Corp. as accused.

The crimes charged in the Information pertains to the following:

> "**SEC. 255.** *Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* - Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax make a return, keep any record, or supply correct the accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.
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> Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of internal revenue office wherein the same was actually filed shall, upon conviction therefore, be punished by a fine of not less than Ten thousand pesos (P10,000) but not more than Twenty thousand pesos (P20,000) and suffer imprisonment of not less than one (1) year but not more than three (3) years."
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> "**SEC. 253.** *General Provisions.* –

xxx xxx xxx

(d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation."

"**SEC. 256.** *Penal Liability of Corporations.* - Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000)."

Particularly, Section 255 may be committed by any person which can mean a natural person or a juridical person. In the case at bar, the taxes that have allegedly been not paid refers to income taxes of Phil. Shoe Expo Mktg. Corp. for taxable year 2016. The corporation is the person committing the alleged crime, not Antonio Morales and Lorna Tan.

It must be stressed that there is no penal law that directly charges the corporate officers for willful failure to pay taxes.[1] Hence, without charging Phil. Shoe Expo Mktg. Corp. as the taxpayer, the facts charged against Antonio Morales and Lorna Tan do not constitute an offense.

Therefore, having found that the Information filed was improper, for failure by plaintiff to properly charge Antonio Morales and Lorna Tan of their crime under the National Internal Revenue Code ("NIRC") of 1997, as amended, the case should be dismissed.

Lastly, under Section 281 of the NIRC of 1997, as amended, the government has five (5) years from either the commission of the crime or the date of its discovery within which to prosecute any violation of the Tax Code. The period is interrupted when "proceedings are instituted against the guilty persons."

Following *Emilio E. Lim Sr. v. Court of Appeals*,[2] the start of the prescriptive period depends upon the crime committed. If the charge is based on willful refusal to pay taxes such as in the case at bar, then the prescriptive period started upon the

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1 *See* Enviroaire, Inc., represented by Tyrone N. Ong and Arlene Chua v. People of the Philippines, CTA EB Crim. Case No. 073 (CTA Crim Case No. O-408), November 25, 2021.

2 G.R. Nos. L-48134-37, October 18, 1990.

commission of the suspected crime, which the Supreme Court equated to the taxpayer's receipt of the relevant assessment notice. On the other hand, proceedings are deemed instituted upon the filing of an Information in court, in the case of criminal actions heard before the Court of Tax Appeals ("CTA") in Division, following Rule 9, Section 2 of the Revised Rules of the Court of Tax Appeals (RRCTA).

The relevant assessment notice here are the Assessment Notices and Formal Letter of Demand (FLD) issued on October 10, 2019.[3] Records show that the accused corporation received the assessment on October 14, 2019, and the date due for the payment of the liability is on November 11, 2019. Thus, the Court shall treat the said date as the start of the prescriptive period, giving plaintiff until November 11, 2024 within which to institute the criminal action against all the accused before this Court.

The Information was filed on April 04, 2025 or four (4) months after the expiration of the prescriptive period. Therefore, the government's right to prosecute this case had prescribed long before the present Information was filed, and the CTA never truly gained jurisdiction over this case. There is consequently nothing left for this Court to do but to dismiss this case on the ground of prescription.

ACCORDINGLY, CTA Crim. Case No. O-1269 is **DISMISSED**.

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

3 Docket, pp. 17-22.