REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NOS. O-520 & O-521** For: Violation of Section 255 of the National Internal Revenue Code of 1997, as amended
- versus -	Members: **RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
BERNADETTE L. PARDO, Sole Proprietor of Pardo Trading, Accused.	Promulgated: FEB 28 2025

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RESOLUTION

For resolution is plaintiff's **Motion for Reconsideration (of the Resolution dated November 11, 2024)** filed on January 17, 2025.

In its *Motion for Reconsideration*, plaintiff contends that the Court erred in ruling that the crime has prescribed resulting in the extinguishment of accused's criminal liability. For plaintiff, the running of the statute of limitations shall not be suspended when the taxpayer cannot be located pursuant to Section 223 of the National Internal Revenue Code (NIRC) of 1997, as amended. Plaintiff claims that, as early as October 9, 2006, accused Bernadette L. Pardo can no longer be located at her registered business address. It attached in the *Motion for Reconsideration* a *Certification* dated October 4, 2006 issued by the Business Permits & License Office of Quezon City stating that the Business Permit issued to accused Pardo was only valid until December 31, 2001. It also attached a *Certification* dated October 9, 2006 issued by the Chairman of Barangay Salvacion, Quezon City, stating that accused Pardo had already ceased business operations in said barangay and is no longer existing therein.

Petitioner's *Motion for Reconsideration* is bereft of merit. The Court finds no cogent reason to reverse or modify the assailed Resolution dated November 11, 2024.

The provision cited by plaintiff refers to the suspension of the running of the Statute of Limitations in making the assessment and collection.

Section 223 of the NIRC of 1997, as amended, provides:

> **SECTION 223**. *Suspension of Running of Statute of Limitations.* — The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter; when the taxpayer requests for a reinvestigation which is granted by the Commissioner; when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected: Provided, That, if the taxpayer informs the Commissioner of any change in address, the running of the Statute of Limitations will not be suspended; when the warrant of distraint or levy is duly served upon the taxpayer, his authorized representative, or a member of his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines.

The Court cannot subscribe to plaintiff's claim that the running of the prescriptive period was suspended in view of the fact that accused cannot be located. The foregoing provision refers to the suspension of the running of the prescriptive period as regards assessment and collection of taxes. The Bureau of Internal Revenue (BIR) issued the FLD on November 7, 2007.

The foregoing provision does not refer to prescription of crimes. The prescription of crimes for violation of then NIRC of 1997, as amended, is governed by Section 281 of the same code, which provides:

> **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.
>
> The term of prescription shall not run when the offender is absent from the Philippines.

To reiterate, the counting of the period of prescription for a tax case begins to run from the discovery and institution of proceedings for its investigation and shall only be tolled by the filing of an Information therefor with this Court.[1]

Thus, considering that the FLD was issued on November 7, 2007 and was sent to accused on November 9, 2007[2] and accused had 30 days therefrom to file a protest to the FAN but failed to do so, such failure to file protest rendered the assessment final, executory and demandable. Plaintiff should have filed the *Informations* before the Court within five years from December 9, 2007, or until December 9, 2012. Clearly, the *Informations* filed on August 5, 2015 were beyond the five-year prescriptive period.

WHEREFORE, premises considered, the instant **Motion for Reconsideration (of the Resolution dated November 11, 2024)** is **DENIED.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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

2 Par. 13 of the *Joint Complaint-Affidavit*, Docket (CTA Crim. Case No. O-520) p. 60; Annexes I to I-4 of the *Joint Complaint Affidavit*, Docket (CTA Crim. Case No. O-521), pp. 78 to 85; Par. 13 of the *Joint Complaint-Affidavit*, Docket (CTA Crim. Case No. O-521) p. 64; Annexes I to I-4 of the *Joint Complaint Affidavit*, Docket (CTA Crim. Case No. O-521), pp. 82 to 89.