22-000421-0007

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM. CASE NO. O-925

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

FAIVO PASCUAL BARTOLOME,
(22 M.J Guerrero St., Brgy. 21,
Laoag City, Ilocos Norte)
At Large,
Accused.

NOTICE OF RESOLUTION

To:

PROSECUTOR GENERAL BENEDICTO A. MALCONTENTO
ASST. STATE PROSECUTOR JOVYANNE E. SANTAMARIA
Department of Justice
Padre Faura Street
Ermita, Manila 1000

ATTY. CATHERINE ROSE R. TORTOLES
ATTY. JAMAICA KAY S. DELA CRUZ
Bureau of Internal Revenue
Room 704, 7th Floor, Prosecution Division
BIR National Office Building
BIR Road, Diliman, Quezon City

GREETINGS:

You are hereby notified by these presents that on **February 21, 2023,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 23, 2023.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

FAIVO PASCUAL BARTOLOME,
(22 M.J. Guerrero St., Brgy. 21, Laoag City, Ilocos Norte)
At Large,
Accused.

CTA Crim. Case No. O-925
(NPS Docket No. XVI-INV-18J-00367)
For: Violation of Section 255 of the National Internal Revenue Code of 1997, as amended
(Value-Added Tax)

Members:

DEL ROSARIO, ***PJ, Chairperson,***
MANAHAN, and
REYES-FAJARDO ***JJ.***

Promulgated:

FEB 21 2023 ; 9:47 A.M.

x- -x

RESOLUTION

On December 28, 2022, the Court issued a Resolution, dismissing the case in the following fashion:

> **WHEREFORE**, the Court finds no probable cause to issue a warrant of arrest, on the ground of prescription of the offense charged. Likewise, on the same ground, the instant Information docketed as CTA Crim. Case No. O-925, is **DISMISSED.**
>
> **SO ORDERED**.

On January 23, 2023, the prosecution posted a Formal Entry of Appearance with Motion for Reconsideration. In its motion, the prosecution finds erroneous the ruling that the criminal action filed against the accused is already barred by the statute of limitations. Section 281 of the National Internal Revenue Code (NIRC), as amended, provides among others that the five (5)-year prescriptive period for tax offenses commences from discovery thereof and institution of judicial proceedings for its investigation and punishment, and shall be suspended when proceedings are instituted against the persons guilty of the transgression.

For the prosecution, prescription has not set in as the prescriptive period, in this case, was tolled upon the filing of the Joint Complaint-Affidavit against accused before the Department of Justice (DOJ) on October 12, 2018.

The instant Motion must be denied.

Item III (2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases provides:

> III. Procedure
>
> xxx xxx xxx
>
> 2. Motions
>
> xxx xxx xxx
>
> (c) Meritorious Motions. - Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, xxx:
>
> xxx xxx xxx
>
> The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, xxx.
>
> Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright.

From the foregoing, the party aggrieved by the Resolution of the Court is conferred a non-extendible period of five (5) calendar days, reckoned from receipt thereof, within which to file a motion for reconsideration, lest the same shall be denied.

As admitted,[1] the prosecution received the Resolution dated December 28, 2022, dismissing the present case on the ground of prescription, on January 6, 2023. Consistent with the above rule, the prosecution had a non-extendible period of five (5) calendar days from January 6, 2023 or until January 11, 2023 to seek reconsideration of the adverse ruling. The prosecution's Motion for Reconsideration having been belatedly posted only on January 23, 2023, the Court is left with no other recourse but to deny the same.

Further, even assuming that the motion is timely filed, said motion shall likewise be denied for lack of merit.

As extensively discussed in the Resolution dated December 28, 2022, the Revised Rules of the Court of Tax Appeals explicitly provides that the institution of the criminal action shall interrupt the running of the period of prescription. The tax offense, in this case was, *committed* on December 20, 2014. Thus, the right of the government to institute the case against accused had already prescribed when the Information was filed before this Court on September 6, 2022.

WHEREFORE, the prosecution's Motion for Reconsideration (of the Resolution dated December 28, 2022) is **DENIED**.

The Formal Entry of Appearance of the Deputized Special Prosecutors for the Bureau of Internal Revenue as counsel for plaintiff is hereby **NOTED.**

Henceforth, let all notices, processes and orders of this Court, motions, pleadings and other papers relative to the above-entitled case be directly served to plaintiff's counsels, Deputized Special Prosecutors Catherine Rose Tortoles and Jamaica Kay S. Dela Cruz, at:

BUREAU OF INTERNAL REVENUE
7th Floor, Room 704 Prosecution Division
BIR National Office Building
BIR Road, Diliman, Quezon City

---

[1] Page 2, Paragraph No. 4, Prosecution's Motion for Reconsideration.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice