REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-*versus*-

SHUI WAI PAC (President/Director) and **KIM FAI TUNG** (General Manager) [Lot 8, Block 9, Phase 1, PEZA, Rosario, Cavite]
-Both AT-LARGE-,
Accused.

CTA Crim. Case No. O-181
(IS No. 2006-312)

For: Failure to File Return (Violation of Sec. 255 of the 1997 NIRC)

x--x

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-*versus*-

SHUI WAI PAC (President/Director) and **KIM FAI TUNG** (General Manager) [Lot 8, Block 9, Phase 1, PEZA, Rosario, Cavite]
-Both AT-LARGE-,
Accused

CTA Crim. Case No. O-182
(IS No. 2006-312)

For: Failure to Pay Tax (Violation of Sec. 255 of the 1997 NIRC)

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

OCT 08 2024

4:05 p.m.

x -- x

RESOLUTION

For the Court's resolution is plaintiff's *Motion for Reconsideration (of the Resolution dated August 09, 2024)*, filed on August 27, 2024, assailing this Court's dismissal of the case at bar on the ground of prescription.

The Motion raises a single good point but ultimately lacks merit.

First, the Court acknowledges that We were, indeed, mistaken in identifying the start of the prescriptive period. The five-year period should not be counted from March 24, 2005, the date on which the assessment notices were issued, as We did in the Resolution. It must instead be counted from April 24, 2005, the lapse of the period within which accused should have acted on said assessment notices.

This still only gave plaintiff until April 24, 2010 within which to file the instant Informations. As these were filed on June 18, 2010, the government's right to prosecute the alleged crime still prescribed.

Plaintiff's use of jurisprudence here, meanwhile, is misplaced. *Tupaz v. Ulep*[1] was decided in 1999, before the promulgation of the *Revised Rules of the Court of Tax Appeals* ("*RRCTA*") in 2005, on which plaintiff is tellingly silent. Said Decision consequently cannot be used to negate the clear provision of *Rule 9, Section 2 of the RRCTA*, which establishes that the prescriptive period is suspended by the filing of an Information with the Court, not with the filing of a complaint with the Department of Justice.

People v. Lee[2] and *Panaguiton v. Department of Justice*[3] are similarly inapplicable here. These involve crimes whose prescriptive periods are governed by *Act 3326, as amended by Act 3763*. Said Act provides prescriptive periods for special laws that do not provide their own prescriptive period.[4] However, the *National Internal Revenue Code of 1997, as amended* ("*NIRC*"), already provides a prescriptive period for violations of its provisions through its *Section 281*. The crimes involved in the two Decisions also do not seem to have equivalents to *Rule 9, Section 2 of the RRCTA* separately specifying when their prescriptive periods are interrupted. Consequently, the jurisprudence cited by plaintiff cannot be applied to the case at bar.

Indeed, a review of the assailed Resolution shows that the Court used the *RRCTA* as the primary basis for declaring the filing of an Information with the Court as the act which interrupts the prescriptive period. Given plaintiff's complete silence on said Rules, paired with the inapplicability of its cited jurisprudence, the Court cannot accept its position. The dismissal of this case must be affirmed.

ACCORDINGLY, plaintiff's *Motion for Reconsideration (of the Resolution dated August 09, 2024)*, filed on August 27, 2024, is hereby **DENIED** for lack of merit. The Resolution, dated August 9, 2024, is hereby **AFFIRMED**.

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1 G.R. No. 127777, October 10, 1999.
2 G.R. No. 234618, September 16, 2019.
3 G.R. No. 167571, November 25, 2008.
4 *Id.*

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice