

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

PEOPLE OF THE PHILIPPINES

Petitioner,

CTA *EB* CRIM. NO. 124

(CTA Crim. Case No. O-932)

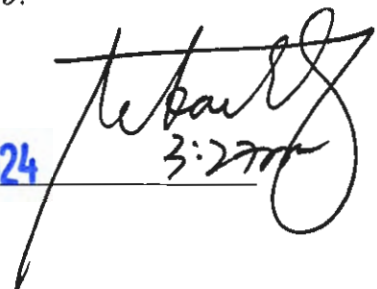
Present:

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

-versus-

Promulgated:

MAR 08 2024

A handwritten signature in black ink is written over a blue date stamp that reads "MAR 08 2024". The signature appears to be "Teodoro" followed by a large flourish. The date stamp is rectangular and has a white background with blue text.

**ANTONIO VALERIANO M.
BERNARDO (A.V.M. BERNARDO
ENGINEERING)
(AT LARGE: Address: No. 604 T.
Santiago St., Lingunan, Valenzuela
City, Metro Manila),**

Respondent.

X ----- X

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is “Petition for Review (of the Resolution dated April 27, 2023)”¹ (“Petition”), filed by the People of the Philippines via registered mail on 29 May 2023 and received by this Court *En Banc* on 2 June 2023, with respondent Antonio Valeriano M. Bernardo’s “Opposition (To Petitioner’s Petition for

¹ *EB* Records, pp. 1-20.

Review)” (“Comment”),² filed on 5 June 2023. The Petition seeks³ the reversal and setting aside of the Resolution,⁴ dated 28 February 2023 (“Assailed Dismissal”), which dismissed the Information,⁵ filed before the Court of Tax Appeals Second Division (“Court in Division”), on the ground of prescription, and the Resolution,⁶ dated 27 April 2023 (“Assailed Denial”), which denied petitioner’s Motion for Reconsideration to the Dismissal for lack of merit.

The Parties⁷

Petitioner People of the Philippines is represented by the Bureau of Internal Revenue (“BIR”), the government agency mandated to collect national internal revenue taxes, the Commissioner of Internal Revenue (“CIR”), and Revenue Officers (“RO”) Gina D. Floreza and Grace G. Marohomsalic.

Respondent Bernardo, meanwhile, is allegedly the sole proprietor of A.V.M. Bernardo Engineering, which is engaged in the design, fabrication, and installation of food processing and slaughterhouse equipment. He is registered with BIR RDO No. 24 – Valenzuela City.

The Facts

Sometime in April 2014, respondent allegedly filed a fraudulent income tax return (“ITR”) for taxable year 2013, in violation of *Sec. 254 of the National Internal Revenue Code of 1997, as amended* (“NIRC”).⁸ This prompted then-CIR Kim S. Jacinto Henares to refer the case for preliminary investigation with the Department of Justice (“DOJ”) on 18 February 2016.⁹ Acting on this referral, the DOJ issued a Resolution¹⁰ on 28 July 2017, recommending the filing of Informations against respondent.

The DOJ then filed an Information before the Court of Tax Appeals (“CTA”) in Division on 6 September 2022.¹¹

Acting on the Information, the Court in Division issued a Warrant of Arrest¹² against respondent on 21 September 2022 and, responding to its receipt of a return¹³ of said Warrant of Arrest, an Alias Warrant of Arrest¹⁴ on 25 October 2022.

² *Id.*, pp. 116-125.

³ *See* Petition for Review, p. 18, *id.*, p. 18.

⁴ Division Records, pp. 203-207.

⁵ *Id.*, pp. 5-7.

⁶ *Id.*, pp. 232-236.

⁷ *See* “Parties”, Petition for Review, p. 3, *EB* Records, p. 3.

⁸ *See* Information, pp. 1-2, Division Records, pp. 5-6.

⁹ *See* Letter, dated 16 February 2016, *id.*, pp. 18-20.

¹⁰ *Id.*, pp. 8-17.

¹¹ *Supra* note 5.

¹² Division Records, p. 132.

¹³ *Id.*, p. 134.

¹⁴ *Id.*, p. 147.

Later, respondent voluntarily surrendered himself and submitted to the jurisdiction of the Court in Division.¹⁵ The Court then ordered both parties to file their respective Pre-Trial Briefs,¹⁶ with petitioner submitting its Pre-Trial Brief¹⁷ on 10 January 2023.

Rather than filing his own Pre-Trial Brief, however, respondent filed a Consolidated Motion to Quash¹⁸ in CTA Crim. Case Nos. O-931, O-932, O-933, and O-934 on 18 January 2023. After petitioner filed its Comment/Opposition¹⁹ thereto via registered mail on 24 January 2023, the Court in Division granted the Motion to Quash, for CTA Crim. Case No. O-933, in the Assailed Dismissal, dated 28 February 2023.

Aggrieved, petitioner filed a Motion for Reconsideration²⁰ (“MR”) to the Assailed Dismissal via registered mail on 7 March 2023, to which respondent interposed his objections through his Opposition,²¹ filed on 24 March 2023. The Court in Division denied the MR in the Assailed Denial, dated 27 April 2023.

Further aggrieved, petitioner filed the instant Petition before this Court *En Banc* via registered mail on 29 May 2023. Respondent filed his Opposition to the same on 5 June 2023.

Acting on the Petition, this Court promulgated a Resolution²² on 29 June 2023, ordering petitioner to submit the authorization or deputation issued by the Solicitor General in favor of petitioner’s counsels. Respondent then filed its Compliance²³ to this directive via registered mail on 14 July 2023. The Court acknowledged petitioner’s compliance by submitting the case for decision on 9 August 2023.²⁴

Hence, this Decision.

The Issue

Petitioner claims that the Court in Division erred when it dismissed the case against respondent.²⁵

¹⁵ See Order, dated 5 December 2022, *id.*, p. 149.

¹⁶ *Ibid.*

¹⁷ *Id.*, pp. 169-173.

¹⁸ *Id.*, pp. 175-181.

¹⁹ *Id.*, pp. 184-192.

²⁰ *Id.*, pp. 208-217.

²¹ *Id.*, pp. 222-230.

²² *EB* Records., pp. 127-128.

²³ *Id.*, pp. 129-131.

²⁴ See Minute Resolution, dated 9 August 2023, *id.*, p. 139.

²⁵ See Petition for Review, p. 5, *id.*, p. 5.

The Arguments

Petitioner raises the following arguments:

- (a) The filing of a complaint with the DOJ both triggers *and* interrupts the prescriptive period for prosecuting a violation of the *NIRC*; thus, the government's right to prosecute this case has not yet prescribed;²⁶ and
- (b) Respondent should be held liable for his deliberate failure to supply correct and accurate information in his ITR for taxable year 2013, in violation of *Sec. 254 of the NIRC*.²⁷

Meanwhile, in his Opposition, respondent reiterates the findings of the Court in Division, agreeing with the same.

The Ruling of the Court

The Petition for Review lacks merit.

It does not escape the Court's notice that petitioner's present arguments on prescription, the central issue here, are a near-verbatim rehash of those it already raised in its MR before the Court in Division. The sole differences are merely formal, insubstantial, and do not even attempt to address the point raised in the Assailed Denial.

Crucially, petitioner is silent on *Sec. 2, Rule 9 of the RRCTA*:

"SEC. 2. Institution of criminal actions. — All criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information in the name of the People of the Philippines. In criminal actions involving violations of the National Internal Revenue Code and other laws enforced by the Bureau of Internal Revenue, the Commissioner of Internal Revenue must approve their filing. In criminal actions involving violations of the Tariff and Customs Code and other laws enforced by the Bureau of Customs, the Commissioner of Customs must approve their filing.

The institution of the criminal action shall interrupt the running of the period of prescription."

(Emphasis supplied.)

The above is clear and unequivocal. The institution of a criminal action interrupts the running of the prescriptive period, and all criminal actions before the Court in Division are instituted through the filing of an Information before said

²⁶ See Petition for Review, pp. 6-12, *id.*, pp. 6-12.

²⁷ See Amended Verified Petition for Review, pp. 12-18, *id.*, pp. 12-18.

Court. As such, for criminal cases heard before the CTA, it is the filing of an Information before said Court, *not the filing of a complaint before the DOJ*, that interrupts the prescriptive period. The Court in Division, through the Assailed Denial, already brought the above to the attention of petitioner. Despite this, the instant Petition lacks any mention of the relevant provision to refute the Court's position.

There is no need to belabor the issue any further. The reasoning set forth in the Assailed Denial, its discussion on the prescriptive period, still stands uncontroverted, given that the instant Petition raises no new points. Any disquisition by this Court *En Banc* would amount to mere parroting of what has already been lucidly and clearly asserted by the Court in Division.

Having failed to address the Court in Division's use of *Sec. 2, Rule 9 of the RRCTA*, or any of its major points in the Assailed Denial, petitioner fails to persuade the Court *En Banc* that the prescriptive period had not yet set in when it filed the Information in this case. Concomitantly, it fails to convince us that the Court in Division committed any reversible error in dismissing the case against respondent.

Given that the right of the state to prosecute respondent has already prescribed, it is now also unnecessary to address petitioner's second argument on the alleged violation of *Sec. 254 of the NIRC*.

The Court *En Banc*, in brief, sees no compelling reason to reverse the rulings of the Court in Division.

WHEREFORE, petitioner's Petition for Review (of the Resolution dated April 27, 2023), filed via registered mail on 29 May 2023, is hereby **DENIED** for lack of merit. The assailed Resolutions, promulgated by the Court's Honorable Second Division on 28 February 2023 and 27 April 2023, are hereby **AFFIRMED**.

SO ORDERED.



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:



ROMAN G. DEL ROSARIO
Presiding Justice



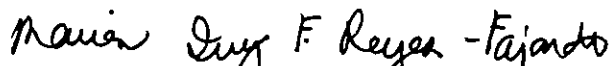
MA. BELEN M. RINGPIS-LIBAN
Associate Justice



CATHERINE T. MANAHAN
Associate Justice



JEAN MARIE A. BACORRO-VILLENA
Associate Justice



MARIAN IVY F. REYES-FAJARDO
Associate Justice



LANEE S. CUI-DAVID
Associate Justice



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.



ROMAN G. DEL ROSARIO
Presiding Justice