

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE CTA EB CRIM CASE NO. 163
PHILIPPINES, (CTA Crim. Case No. O-1149)

Petitioner,

Present:

- versus -

RINGPIS-LIBAN, P.J.;
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES,
ANGELES,
TESTON, and
CENTENO-DIJAMCO, JJ.

AJ CORINTHIAN HAULING
CORPORATION, ARCELI S.
SAJONAS, AND JOHN FITZ
JERALD CLAUDIO,

Respondents.

Promulgated:

AUG 11 2026

X ----- X

DECISION

ANGELES, J.:

Before the Court *En Banc* is a *Verified Petition for Review*¹ seeking the reversal and setting aside of the Resolution dated June 25, 2024² (the First Assailed Resolution) and the Resolution dated August 20, 2024³ (the Second Assailed Resolution) (collectively, the “Assailed Resolutions”), promulgated by the Court’s Second Division in CTA Crim. Case No. O-1149, entitled “*People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio*”. The dispositive portions of the Assailed Resolutions respectively read:

First Assailed Resolution:

¹ *Verified Petition for Review* dated September 06, 2024, Docket, pp. 1 to 16.

² Docket, pp. 28 to 33.

³ Docket, pp. 53 to 55.

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 2 of 15

“WHEREFORE, Criminal Case No. O-1149 is **DISMISSED** for lack of jurisdiction and/or on the ground of prescription.

SO ORDERED.”⁴

Second Assailed Resolution:

“WHEREFORE, the plaintiff’s *Motion for Reconsideration (To the Resolution dated June 25, 2024)* is **DENIED** for lack of merit.

SO ORDERED.”⁵

THE PARTIES

Petitioner is represented by the duly deputized special prosecutors⁶ from the Bureau of Internal Revenue (BIR), a government agency mandated to collect national revenue taxes, and is further represented by Commissioner of Internal Revenue through Revenue Officers Jonas P. Punzal, Amelita M. Tugade, Nelson V. Gonzales, and Maxima DC. Mones.⁷

Respondent is a domestic corporation registered with the Securities and Exchange Commission under Registration No. CS200505088. It operates cargo trucks for the hauling of garbage, gravel, sand, lumber, general merchandise, and other cargoes within Metro Manila and to any point in Luzon, Visayas, and Mindanao accessible by motor vehicle, for a fee. Respondent Corporation is registered with BIR RDO No. 044 and its registered address is at 7th St, GHQ Signal Village, Taguig City.⁸

The Respondent Corporation’s responsible officers are respondent Arceli S. Sajonas, its President, and respondent John Fitz Jerald Claudio, its Treasurer (collectively, the responsible corporate officers).⁹

THE FACTS

On June 29, 2016, petitioner filed a *Joint Complaint-Affidavit* with the Department of Justice (DOJ) against respondents for alleged

⁴ Docket, p. 33.

⁵ Docket, p. 55.

⁶ Docket pp. 19 to 21.

⁷ *Verified Petition for Review* dated September 06, 2024, Docket, p. 3.

⁸ *Ibid.*

⁹ *Id.*

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 3 of 15

violations of Sections 254 and 255 of the National Internal Revenue Code of 1997 (1997 NIRC), as amended.¹⁰ Petitioner alleged that Respondent Corporation, through its responsible corporate officers, willfully attempted to evade payment of income tax and willfully failed to file its income tax returns for three consecutive taxable years, 2012, 2013, and 2014, despite receipt of income payments from various customers.¹¹

Subsequently, on May 27, 2024, an *Information*¹² was filed against respondents for violation of Section 255, in relation to Sections 253(d) and 256, of the 1997 NIRC, as amended, allegedly committed as follows:

“That on or before April 15, 2014, in Taguig City, and within the jurisdiction of this Honorable Court, accused AJ Corinthian Hauling Corporation, a domestic corporation, doing business in Taguig City and Arceli S. Sajonas (Manager) and John Fitz Jerald Claudio (Treasurer), did then and there, knowingly, willfully and unlawfully fail to make and file the income tax return for taxable year 2013, thus, resulting to their failure to pay an income tax liability amounting to Two Million, Six-Hundred Seven Thousand, Three Hundred Twenty-Three Pesos and Nineteen Centavos (P2,607,323.19), excluding interest and penalties thereon, which payment is required under the pertinent provisions of the National Internal Revenue Code of 1997, thereby depriving the government of the needed revenues to sustain public service.’

CONTRARY TO LAW.”

PROCEEDINGS BEFORE THE COURT

On June 25, 2024, after a review of the *Information* and the attached supporting documents, the Court in Division promulgated the First Assailed Resolution dismissing the criminal case for lack of jurisdiction and/or on the ground of prescription.¹³

On July 12, 2024, petitioner filed a *Formal Entry of Appearance with Motion for Reconsideration (to the Resolution dated June 25, 2024)*.¹⁴ Thereafter, on July 29, 2024, respondents filed their *Comment/Opposition to Plaintiff's Motion for Reconsideration*.¹⁵

¹⁰ Division Docket, pp. 16 to 25.

¹¹ *Ibid.*

¹² Division Docket, pp. 5 to 7.

¹³ Division Docket, pp. 56 to 61.

¹⁴ Division Docket, pp. 69 to 71.

¹⁵ Division Docket, pp. 84 to 87.

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 4 of 15

On August 20, 2024, the Court in Division promulgated the Second Assailed Resolution denying petitioner's *Motion for Reconsideration (to the Resolution dated June 25, 2024)* for lack of merit.¹⁶

Aggrieved, on September 06, 2024, petitioner filed the present *Verified Petition for Review* before the Court *En Banc*.¹⁷ Thereafter, on February 20, 2025, respondents filed their *Comment/Opposition to Plaintiff's Verified Petition for Review*.¹⁸

In a Resolution dated June 13, 2025, the instant case was submitted for decision.¹⁹

ASSIGNMENT OF ERROR

The sole issue submitted by petitioner for the Court's resolution is as follows:

THE CTA-SECOND DIVISION ERRED WHEN IT DISMISSED THE CASE AGAINST RESPONDENT AJ CORINTHIAN HAULING CORPORATION AND ITS RESPONSIBLE OFFICERS FOR VIOLATION OF SECTION 255 OR WILFULL FAILURE TO FILE INCOME TAX RETURN FOR THE TAXABLE YEAR 2013 ON THE GROUND OF PRESCRIPTION.²⁰

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner principally argues that the criminal action against respondents was instituted within the five (5)-year prescriptive period. Specifically, it asserts that, under Section 281 of the 1997 NIRC, prescription commenced upon respondents' failure to file the required income tax return on or before April 15, 2014 and was interrupted by the filing of the *Joint Complaint-Affidavit* for preliminary investigation before the DOJ on June 29, 2016. Consequently, petitioner submits that the Court in Division erred in dismissing the case on the ground of prescription.

¹⁶ Division Docket, pp. 92 to 94.

¹⁷ Docket, pp. 1 to 16.

¹⁸ Docket, pp. 117 to 122.

¹⁹ *Verified Petition for Review* dated September 06, 2024, Docket, p. 132.

²⁰ *Id.* at p. 6.

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 5 of 15

Petitioner likewise invokes *Tupaz v. Ulep*²¹ (*Tupaz*), arguing that it should prevail over *Lim, Sr. v. Court of Appeals*²² (*Lim, Sr.*) because *Tupaz* directly construed Section 281 of the 1997 NIRC, whereas *Lim, Sr.* interpreted Section 354 of Commonwealth Act No. 466 (Old NIRC). Thus, petitioner asserts that the construction adopted in *Lim, Sr.*, under which prescription is interrupted only upon the filing of the *Information* in court, produces the absurd consequence of indefinitely postponing the commencement of the prescriptive period.

Respondent's counter-arguments

Respondents, on the other hand, maintain that the Court in Division correctly held that the offense was discovered on June 29, 2016, from which the five (5)-year prescriptive period commenced to run and expired on June 29, 2021. Relying on *Lim, Sr.* and Section 2, Rule 9 of the RRCTA, they assert that prescription is interrupted only upon the filing of the *Information* before the CTA, and not by the filing of the complaint for preliminary investigation before the DOJ.

Respondents further submit that, even if prescription were to be reckoned from April 15, 2014, it would still have expired on April 15, 2019, since no *Information* had yet been filed before the CTA. Accordingly, the respondents concluded that the *Information* filed only on May 27, 2024 was already time-barred.

THE COURT'S RULING

The BIR Special Prosecutors lack legal authority to file the instant Petition for Review.

The Court finds that the instant *Petition* was not validly filed. The records fail to establish that the BIR Special Prosecutors who filed the *Petition* were duly authorized by the Office of the Solicitor General (OSG) to represent the People of the Philippines before the Court *En Banc*.

Section 10, Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA) expressly vests in the OSG the authority to represent

²¹ *Tupaz v. Ulep*, G.R. No. 127777, October 1, 1999 [Per J. Pardo, First Division].

²² *Lim, Sr. v. Court of Appeals*, G.R. Nos. 48134-37, October 18, 1990 [Per C.J. Fernan, Third Division].

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DECISION

CTA EB Crim. Case No. 163

(CTA Crim Case No. O-1149)

Page 6 of 15

the People of the Philippines in cases before the Court *En Banc*. The pertinent portion reads:

SEC. 10. Solicitor General as counsel for the People and government officials sued in their official capacity. — The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: Provided, however, such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General. (a) (*Emphasis and underscoring supplied*)²³

This is consistent with Title III, Chapter 12, Section 35 of the Administrative Code of 1987,²⁴ which designates the OSG as the Government's principal law office and authorizes it to deputize legal officers of Government departments, bureaus, agencies, and offices to assist in representing the Government, subject at all times to the OSG's supervision and control.

While BIR legal officers may be deputized to appear on behalf of the Government, **such deputization neither displaces the OSG as the Government's principal counsel nor authorizes deputized counsel to act independently of the OSG.**

This statutory framework is further reinforced by settled jurisprudence recognizing the OSG's exclusive authority to represent the Government in appellate proceedings.²⁵ Consistent with this rule, the Supreme Court, in *People v. Tuyay*,²⁶ identified only three exceptions:

1. Where the Government is adversely affected by the contrary position taken by the OSG;
2. Where the OSG has expressly authorized or deputized legal officers to assist the Solicitor General and to appear or represent the Government in cases involving their respective offices; and

²³ Section 10, Rule 9 of the Revised Rules of the Court of Tax Appeals, A.M. No. 05-11-07-CTA, November 22, 2005, as amended.

²⁴ Executive Order No. 292, July 25, 1987.

²⁵ *People v. Tuyay*, G.R. No. 206579, December 1, 2021 [Per J. Hernando, Second Division]

²⁶ *Ibid.*

112

DECISION

CTA EB Crim. Case No. 163

(CTA Crim Case No. O-1149)

Page 7 of 15

3. Where the dismissal of the petition could have a lasting effect on government tax revenues, as in *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*.²⁷

None of these exceptions obtains in the present case.

In support of their claimed authority to institute the present *Petition*, the BIR Special Prosecutors relied only on two documents:

1. ***Revenue Delegation Authority Order (RDAO) No. 2-2007 dated March 1, 2007***,²⁸ issued by the Commissioner of Internal Revenue, delegating to the Deputy Commissioner for Legal and Inspection Group the authority to authorize the institution of civil and criminal actions, and to approve, sign, verify, and certify the corresponding pleadings and other related documents;
2. ***Memorandum of Agreement (MOA) dated March 17, 2010***²⁹ between the BIR and the OSG, under which Section 2(a) generally deputizes BIR handling lawyers to appear and continue the prosecution of appealed tax cases before the Regional Trial Courts, the Court of Appeals, and the Court *En Banc*, while Section 2(b) requires the BIR to periodically submit to the OSG the list of handling lawyers for purposes of deputation.

Neither document, however, suffices to establish the authority of the BIR Special Prosecutors to institute the present *Petition*.

RDAO No. 2-2007 merely delegates authority within the Bureau of Internal Revenue. It neither emanates from the OSG nor constitutes the deputation contemplated under Section 10, Rule 9 of the RRCTA³⁰ and the governing jurisprudence.

The *MOA* fares no better. Although Section 2(a) generally authorizes BIR handling lawyers to appear in appealed tax cases, such authority cannot be read independently of Section 2(b), which requires the BIR to periodically submit to the OSG the list of handling lawyers for purposes of deputation. Otherwise, the requirement under Section 2(b), which serves to ensure that only duly deputized BIR handling lawyers appear on behalf of the OSG, would be rendered nugatory.

²⁷ *La Suerte Cigar and Cigarette Factory v. Court of Appeals*, G.R. Nos. 125346, 136328-29, 144942, 148605, 158197 & 165499, November 11, 2014 [Per J. Leonen, En Banc]

²⁸ Docket, pp. 19 to 21.

²⁹ Docket, pp. 22 to 27.

³⁰ Section 10, Rule 9, RRCTA, supra note 23.

He

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 8 of 15

Read as a whole, the *MOA* contemplates a general authorization under Section 2(a), coupled with the periodic submission to the OSG of the list of handling lawyers under Section 2(b) for purposes of deputation. Accordingly, the authority granted under Section 2(a) necessarily presupposes compliance with Section 2(b).

Properly construed, the *MOA* presupposes deputation under Section 2(b) and preserves the OSG's exclusive control over appealed tax cases. Petitioner cannot rely on Section 2(a) while ignoring the indispensable requirement of deputation under Section 2(b). Absent proof of such deputation, the *MOA* confers no authority upon the handling BIR legal officer to prosecute the appeal. Even when duly deputized, the handling BIR legal officer merely acts on behalf of the OSG and remains subject to its direction and control. Accordingly, the authority to determine whether appellate review should be pursued belongs exclusively to the OSG. Indeed, the Supreme Court has long settled this point, holding that a "deputized special attorney has no legal authority to decide whether or not an appeal should be made."³¹

Section 220 of Republic Act No. 8424, otherwise known as the Tax Reform Act of 1997, does not alter this conclusion either. The authority conferred upon BIR legal officers is limited to the institution and conduct of civil and criminal actions under the 1997 NIRC. It does not extend to the Government's representation in appellate proceedings. This distinction was recognized by the Supreme Court in *Civil Service Commission v. Asensi (Asensi)*.³² In that case the Court explained:

Moreover, the Court has already ruled on a similar argument before in *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*, which was previously cited in the assailed Resolution. In that case, the Commissioner of Internal Revenue invoked Section 220 of the Tax Reform Act of 1997 in asserting that its legal officers were allowed to institute civil and criminal actions and proceedings in behalf of the government before the Supreme Court. The Court disagreed, stating that **"Section 220 of the Tax Reform Act must not be understood as overturning the long established procedure before this Court in requiring the Solicitor General to represent the interest of the Republic."** The Court again cited *Gonzales v. Chavez* in holding that "from the historical and statutory

³¹ *National Power Corp. v. National Labor Relations Commission*, G.R. Nos. 90933-61, May 29, 1997 [Per J. Romero, Second Division].

³² *Civil Service Commission v. Asensi*, G.R. No. 160657 (Resolution), December 17, 2004 [Per J. Tinga, En Banc]

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 9 of 15

perspectives, the Solicitor General is the principal law officer and legal defender of the government.” Strikingly, the Tax Reform Act was a law enacted subsequent to the Administrative Code of 1987 and is more specific in application to tax cases. **Yet these considerations were not sufficient for the Court to consider the powers granted to BIR legal officers under Section 220 of the Tax Reform Act as superseding those vested to the Solicitor General under the Administrative Code.** All the more reason for this Court to assert the primacy of the OSG’s mandate over the claimed prerogative of the Office of Legal Affairs.³³ (*Emphasis and underscoring supplied*)

Thus, it is settled that the OSG bears the primary responsibility for representing the Government in appellate proceedings, being its principal law officer and legal defender.³⁴

Accordingly, absent competent proof that the handling BIR Special Prosecutors were duly deputized by the OSG in accordance with the foregoing requirements, the Court cannot recognize their authority to institute the present Petition. To hold otherwise would effectively permit BIR legal officers to pursue appeals independently of the OSG, contrary to the clear mandate of the RRCTA, the Administrative Code of 1987, and settled jurisprudence.

The Supreme Court’s pronouncement in *Commissioner of Internal Revenue v. Nippon Express Philippines Corp.*,³⁵ leaves no room for doubt. There, the Court held that the absence of the OSG’s requisite *imprimatur* is sufficient to warrant the dismissal of the petition, reiterating that the CIR or the BIR cannot directly elevate an adverse ruling before the Court without first obtaining the OSG’s approval.

In light of the foregoing, this procedural infirmity alone warrants the dismissal of the *Petition*. Even assuming, however, that this fatal defect were disregarded, the *Petition* would nevertheless fail because the criminal action had already prescribed.

The Court in Division correctly ruled that the criminal action has already prescribed.

³³ *Ibid.*

³⁴ *Id.*

³⁵ *Commissioner of Internal Revenue v. Nippon Express Philippines Corp.*, G.R. No. 280580, April 16, 2026 [Per J. Inting, Third Division].

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 10 of 15

In *Domingo v. Sandiganbayan*,³⁶ the Supreme Court identified three considerations in resolving the issue of prescription of the offense charged: (1) the period of prescription for the offense charged; (2) the time the period of prescription starts to run; and (3) the time the prescriptive period was interrupted.

Here, these matters are governed by Section 281 of the 1997 NIRC, 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 date 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. (*Emphasis and underscoring supplied*)

Corollary thereto, Section 2, Rule 9 of the RRCTA states:

Section 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 Republic 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 criminal actions shall interrupt the running of the period of prescription. (*Emphasis and underscoring supplied*)

For purposes of resolving the present controversy, the foregoing provisions are contextualized and simplified as follows:

³⁶ *Domingo v. Sandiganbayan*, G.R. No. 109376, January 20, 2000 [Per J. Davide, Jr., C.J, First Division].

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 11 of 15

1. Violations of any provision of the Tax Code prescribe after five (5) years;
2. The five (5)-year prescriptive period is reckoned from the date the violation was committed or, if the violation was unknown at the time of its commission, from the date of its discovery; and
3. The running of the five (5)-year prescriptive period is interrupted only by the institution of the criminal action.

In the instant case, there is no dispute that the offense charged, being a violation of Section 255, in relation to Sections 253(d) and 256 of the 1997 NIRC, as amended, is subject to the five (5)-year prescriptive period under Section 281 of the same Code.

Verily, the controversy centers on two related questions: (1) when the five (5)-year prescriptive period began to run and (2) whether it was interrupted before it had expired.

The Court finds no error in the Court in Division's reliance on *Lim, Sr.*³⁷ in resolving these questions. Although *Lim, Sr.* construed Section 354 of the Old NIRC, the pertinent provisions thereof were substantially reproduced in Section 281 of the 1997 NIRC, as shown below:

Section 354 of the Old NIRC	Section 281 of the 1997 NIRC
SEC. 354. Prescription for Violations of Any Provisions of this Code. — All violations of any provisions of this Code shall prescribe after five years.	SEC. 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.	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	The prescription shall be interrupted when proceedings are instituted against the guilty

³⁷ *Lim, Sr.*, supra note 22.

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 12 of 15

persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.	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.	The term of prescription shall not run when the offender is absent from the Philippines.

Given the substantial identity between Section 354 of the Old NIRC and Section 281 of the 1997 NIRC, the Court likewise finds no reason to depart from the interpretation adopted in *Lim, Sr.*,³⁸ where the Supreme Court held:

“Not only that. The Solicitor General stresses that **Section 354 speaks not only of discovery of the fraud but also institution of judicial proceedings.** Note the conjunctive word “and” between the phrases “the discovery thereof” and “the institution of judicial proceedings for its investigation and proceedings.” In other words, **in addition to the fact of discovery, there must be a judicial proceeding for the investigation and punishment of the tax offense before the five-year limiting period begins to run.** It was on September 1, 1969 that the offenses subject of Criminal Cases Nos. 1790 and 1791 were indorsed to the Fiscal’s Office for preliminary investigation. Inasmuch as a preliminary investigation is a proceeding for investigation and punishment of a crime, it was only on September 1, 1969 that the prescriptive period commenced.

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The Court is inclined to adopt the view of the Solicitor General. For while that particular point might have been raised in the Ching Lak case, the Court, at that time, did not give a definitive ruling which would have settled the question once and for all. As Section 354 stands in the statute book (and to this day it has remained unchanged) it would indeed seem that tax cases, such as the present ones, are practically imprescriptible for as long as the period from the discovery and institution of judicial proceedings for its investigation and punishment, up to the filing of the information in court does not exceed five (5) years. (*Emphasis and underscoring supplied*)

Applying the foregoing doctrine, as correctly done by the Court in Division, the filing of the *Joint Complaint-Affidavit* before the DOJ merely marked the commencement of the five (5)-year prescriptive

³⁸ *Ibid.*

112

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 13 of 15

period from the discovery of the offense. It did not interrupt the running of prescription, which continued until the filing of the *Information* before the Court. Thus, reckoned from June 29, 2016, the five (5)-year prescriptive period expired on June 29, 2021. Since the *Information* was filed only on May 27, 2024, the criminal action had already prescribed.

The foregoing conclusion is not altered by the Supreme Court's subsequent pronouncement in *People v. Consebido*,³⁹ which held that the filing of a complaint for preliminary investigation interrupts the running of the prescriptive period. The pertinent portion states:

“xxx [T]he Court takes this opportunity to pronounce that the filing of the complaint before the prosecution office and the conduct of the summary investigation should toll the running of the prescriptive period. While it is ideal that all cases are resolved promptly, the reality is that this is not done at all times, whether for valid reasons or not. The offended party, which is primarily the State, should not be prejudiced by any delay in the conduct of the preliminary investigation even for cases covered by summary procedure.

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But in line with the time-honored principle that the interpretation that is most favorable to the accused should be adopted with respect to laws on prescription of crimes, this new rule shall apply prospectively.” (*Emphasis and underscoring supplied*)

Significantly, the Supreme Court itself expressly characterized the foregoing pronouncement as a **new rule** and unequivocally declared that it shall only apply **prospectively**. Since the events material to the present case transpired before the promulgation of *Consebido*, the rule therein cannot govern the resolution of the present controversy.

At any rate, even under petitioner's own theory that prescription commenced on April 15, 2014,⁴⁰ the criminal action would still be barred. Reckoned from that date, the five (5)-year prescriptive period expired on April 15, 2019. Thus, whether prescription is reckoned from April 15, 2014, as petitioner contends, or from June 29, 2016, as correctly held by the Court in Division, the *Information* filed on May 27, 2024 was already time-barred.

³⁹ *People v. Consebido*, G.R. No. 258563, April 2, 2025 [Per J. Inting, En Banc].

⁴⁰ Docket, p. 13.

112

In fine, the Court finds no reversible error in the Court in Division's conclusion that the criminal action had already prescribed. Accordingly, the dismissal of the *Information* was proper.

WHEREFORE, the *Petition for Review*, posted on September 06, 2024 and electronically filed on September 09, 2024, is **DENIED** for lack of merit and requisite authority. The Resolutions dated June 25, 2024 and August 20, 2024, in CTA Crim. Case No. O-1149, are hereby **AFFIRMED**.

SO ORDERED.



HENRY S. ANGELES
Associate Justice

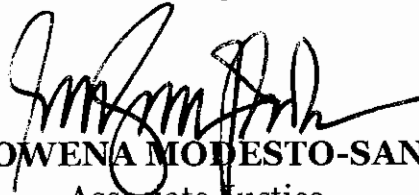
WE CONCUR:



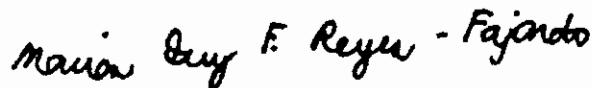
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice



(With Separate Concurring Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



MARIAN IVY F. REYES-FAJARDO
Associate Justice

DECISION

CTA EB Crim. Case No. 163
(CTA Crim Case No. O-1149)
Page 15 of 15



LANEE S. CUI-DAVID
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice

Took no part

PAOLO SIERRA TESTON
Associate Justice

Took no part

DEBBIE JEAN CENTENO-DIJAMCO
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.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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PEOPLE OF THE PHILIPPINES, CTA EB CRIM. No. 163
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CORPORATION, ARCELI S.
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JERALD CLAUDIO,
Respondents.

Promulgated:

AUG 11 2026

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SEPARATE CONCURRING OPINION

BACORRO-VILLENA, *J.*:

At the outset, petitioner People of the Philippines' (**petitioner's**) Verified Petition for Review suffers from a defect as it failed to attach a clearly legible duplicate originals or certified true copies of the Second Division's¹ Resolution of 25 June 2024 and 20 August 2024 (**assailed Resolutions**) being -

¹ Composed of Presiding Justice Ma. Belen M. Ringpis-Liban (then Associate Justice) as Chairperson, and Associate Justice Maria Rowena Modesto-San Pedro and Associate Justice Corazon G. Ferrer-Flores, as Members.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page 2 of 12

X ----- X

appealed from pursuant to Section 2,² Rule 6 of the Revised Rules of the Court of Tax Appeals³ (RRCTA).

Nonetheless, I concur with the *ponencia*'s discussion that the instant petition should be dismissed for want of authority on the part of petitioner to file the instant appeal before the Court *En Banc*. It is noted that the Office of the Solicitor General (OSG) had no participation in the filing of the case.

Further, I also concur with the *ponencia* that even if We are to disregard the lack of OSG's conformity, the Petition for Review could still not prosper for lack of merit, thus affirming the assailed Resolutions which dismissed the earlier criminal case on the determination that petitioner's right to file the Information had already prescribed. In so concurring, I have reconsidered my earlier position on the matter of prescription and the interpretation of Section 281⁴ of the National Internal Revenue Code (NIRC) of 1997, as amended.

In *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines*⁵ (*Lim*), the Supreme Court interpreted Section 281 of the NIRC of 1997, as amended, *vis-à-vis* Section 2,⁶ Rule 9, of the RRCTA, in that, in case the date of commission of the offense is unknown, the five (5)-year prescriptive period for the filing of criminal actions would begin to run from the discovery *and* institution of judicial proceedings for its investigation and punishment. Critically, in addition to the fact of discovery, there must be a judicial proceeding for the investigation and punishment of the tax offense (*i.e.*, indorsement to the fiscal's office for preliminary investigation) before the prescriptive period begins to run. As such, it would seem that criminal tax offenses are practically imprescriptible for as long as the period from the discovery and institution of judicial proceedings for its investigation and

² SEC. 2. *Petition for Review; contents.* — The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy' of the decision appealed from shall be attached to the petition.

³ A.M. No. 05-11-07-CTA.

⁴ SEC. 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.

⁵ G.R. Nos. 48134-37, 18 October 1990.

⁶ 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.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page 3 of 12

x-----x

punishment, up to the filing of the information in court, does not exceed five (5) years.

On the other hand, in *People of the Philippines v. Ulysses Palconit Consebido*⁷ (**Consebido**), the Supreme Court re-examined its ruling in *Lim* –

...

Notably, *Lim, Sr.* applied Section 354 of the 1939 NIRC. Associate Justice Japar B. Dimaampao (Associate Justice Dimaampao) astutely noted that the 1939 NIRC was passed when justices of the peace conducted preliminary investigations. This is no longer the case now, as observed in *Panaguiton*. Thus, in consideration of the foregoing, **the Court clarifies that under Section 281 of the 1997 NIRC, prescription for criminal offenses where the commission of the violation is not known shall begin to run from its discovery.** The adoption of the interpretation in *Duque* is apt in order to harmonize the second and third paragraphs of Section 281 of the 1997 NIRC. **The institution of proceedings, specifically the commencement of preliminary investigation, shall interrupt the prescriptive period for the offense.** This clarification is necessary as a literal interpretation of the law should be rejected if it would lead to absurd results. Prescription would not run under a literal reading of Section 281 of the 1997 NIRC, as it would both begin and be interrupted by the institution of proceedings. The Court must give effect to the clear intent of the Legislature to set a prescriptive period for violations of the 1997 NIRC. Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) judiciously expressed that the prevailing interpretation renders nugatory or lifeless the prescriptive period set by the Legislature itself.

...

Thereafter, the Supreme Court instituted a uniform rule that criminal cases shall be deemed instituted upon the commencement of preliminary investigation. Accordingly, it is also the **filing of the complaint before the prosecution office of the Department of Justice (DOJ) and the conduct of the summary investigation which toll the running of the prescriptive period.**⁸

The Supreme Court also introduced a doctrinal clarification in *Consebido*, when it provided for the qualification that: “in line with the time-honored principle that the interpretation that is most favorable to the accused should be adopted with respect to laws on prescription of crimes, this **new rule shall apply prospectively.**”

I previously espoused the view that because it constitutes the proper and authoritative interpretation of Section 281 of the NIRC of 1997, as 

⁷ G.R. No. 258563, 02 April 2025; Citation omitted, emphasis supplied and italics in the original text.
⁸ See *People of the Philippines v. Ulysses Palconit Consebido*, supra.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page 4 of 12

X ----- X

amended, the pronouncement in *Consebido* should be applied retroactively, dating back to the effectivity of the NIRC.⁹ Upon further reflection, however, I find sufficient doctrinal basis to revisit that position.

Accordingly, I take this opportunity to supply the necessary discussion in order to clarify the prospective application of *Consebido* in light of its significant procedural ramifications, especially when applied in criminal tax cases which are governed by rules specific to the Court of Tax Appeals (CTA).

It is readily apparent that the new rule in *Consebido*, i.e., that criminal tax cases are deemed instituted upon the filing of a complaint before the prosecution office, while now controlling, necessarily contradicts Section 2,¹⁰ Rule 9, of the RRCTA which clearly provides that criminal tax actions are instituted, and the prescriptive period interrupted, by the filing of an information in court. While *Consebido* espoused the “institution-by-complaint” rule, the RRCTA expressly provides for “institution-by-information”, thereby creating a genuine interpretative tension between the two.

Stated differently, *Consebido* introduced an uncertainty as to the precise point at which prescription is interrupted, at least for cases falling within this Court’s original criminal jurisdiction. Litigants, particularly the accused who, for as long as the RRCTA has been in existence, reasonably believed that the filing of an Information before this Court is the operative act that both institutes the criminal action and tolls prescription, are now faced with a starkly different jurisprudential interpretation in *Consebido* that shifted the reckoning point of interruption of the prescriptive period to an earlier stage in the proceedings, i.e., upon filing of a complaint with the DOJ, instead of upon the filing of an information before this Court.

In resolving the interpretative tension between the differing rules under the RRCTA and *Consebido*, it is crucial to examine the nature of prescription laws, as this would dictate how subsequent changes in interpreting such laws are to be applied.

⁹ In, among others: *People of the Philippines v. Lemuel Sibuma Consolacion*, CTA EB Crim. No. 150 (CTA Crim. Case No. O-983), 29 May 2025; *People of the Philippines v. Ziegfried Loo Tian*, CTA EB Crim. No. 116 (CTA Crim. Case No. O-944) (Resolution), 16 July 2025; *People of the Philippines v. Ziegfried Loo Tian*, CTA EB Crim. No. 112 (CTA Crim. Case No. O-957) (Resolution), 04 August 2025; *People of the Philippines v. Shelmark Builders Phils., Inc., et al.*, CTA EB Crim. No. 138 (CTA Crim. Case No. O-1054), 22 October 2025; *People of the Philippines v. PGU General Merchandise, Inc., Fook Seong Yong and Rocelle Francisco*, CTA EB Crim. No. 144 (CTA Crim. Case No. O-1081), 18 November 2025; and *People of the Philippines v. Logistics.com Corporation, Jovan G. Trias, Armand R. Ong and Erma O. Aunario*, CTA EB Crim. No. 114 (CTA Crim. Case No. O-973) (Resolution), 24 February 2026.

¹⁰ *Supra* at note 6.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page 5 of 12

X-----X

The 1923 cases of Moran and Parel

The discussion on the effect and interpretation of the law on prescription dates to 1923 in the case of *The People of the Philippine Islands v. Juan Moran, et al.*¹¹ (***Moran***), where the Supreme Court cited Fiore, an eminent professor of international law and author of "Irretroactivity and Interpretation of Statutes", and **leaned towards his interpretation that regardless of the nature of the law on prescription, any new construction of prescription law must be applied if it is more favorable to the accused, but not if it is more prejudicial, considering that prescription affects the very substance of criminal prosecutions:**

...

After examining the different opinions of the writers on the matter, Fiore has come, as seen from the above quotation, to the conclusion that, whether the statute relative to prescription be considered as of a procedural or formal, or substantive, nature, **the new statute must be applied if it is less severe or more favorable to the accused, but not if it is more prejudicial, notwithstanding the general rule that all procedural laws are retroactive in regard to prescription.** In view of the special motion filed by the accused on May 2, 1922, it does not matter and it is of no importance, so far as the question herein raised is concerned, whether the provision contained in section 71 of Act No. 3030 be considered as of a substantive, procedural, or adjective character, because applying the principles above enunciated, the result is the same, and **the more severe law in the matter of prescription** extends, as Fiore says, the field of the criminal action and **affects the very substance thereof, because it determines the basis and the sphere of the rights to punish.**

...

Thus, the Supreme Court concluded by saying that:

...

[N]o period of prescription having been fixed in the former law, those offense were imprescriptible, and the offender could be prosecuted and punished at any time and indefinitely, even ten, twenty, or more years after the commission thereof, whereas the new law, that is, Act No. 3030 in providing the period of one year for the prescription, has, in effect, shortened the time of prescription fixed in the old law by virtue of the silence thereof, reducing it to one year and has established less difficult conditions for the application of the same as regards those offenses, which is evidently more favorable and lenient to the violators of the said former law, and, as Fiore says in one of the paragraph above quoted from his book, **the reduction made by the new law implies a recognition on the part of the sovereign power that the greater severity of the former law, as regards the substance of the**

¹¹

G.R. No. 17905, 27 January 1923; Emphasis supplied.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page 6 of 12

X ----- X

criminal action, is unjust, and it would contradict itself if it would attempt to enforce its right under the conditions of the former law which has already been regarded by the conscientious public opinion as **juridically burdensome, and, therefore, unjust**, and the sovereign power cannot exercise the right to punish except within the limits regarded by it as just at the time of exercising it.¹²

...

This portion of the *Moran* case went on to be cited by the Supreme Court in later and even more recent cases interpreting the laws on prescription in criminal offenses.

Promulgated at the same time as *Moran* was the case of *The People of the Philippine Islands v. Norberto Parel*¹³ (***Parel***), where the Court, citing Fiore anew, declared that **changes in the law on prescription must not be applied retroactively if the same would prejudice the accused:**

...

[W]hen the new prescriptive law is more rigid than the former, whether as to the admissibility of the prescription itself or as to the conditions and time required for its effectiveness, care must be taken that law is not applied to crimes committed before its enactment, not because the accused has acquired any right so to prevent its application, but for the reasons that we have already stated. What right can the accused have to endeavor to prevent that which the sovereign power has the right to do in order to preserve public order? Let us not talk therefore of vested rights of the accused, but let us say it, and with emphasis, that the reason for the irretroactivity of the more severe law is found in the principle that the sovereign power cannot, without committing an injustice, apply the more severe prescriptive provisions; and those provisions cannot be justly applied if they have not been previously promulgated. And the right itself to punish does not arise except by virtue of a law promulgated and in force at the time of the commission of the crime. The more rigid the prescriptive law the more enlarged the field of criminal prosecution and this affects the substance thereof, because it fixes the basis and the sphere of the right to punish. And can all of these be done by the sovereign power without any law? Can that power, without doing an injustice, extend the effects of the new law to said acts committed before its enactment? For the same reasons which prevent the sovereign power from punishing those acts that have not expressly been made punishable as crimes by the former law or from imposing the more severe penalties provided in the new law when such acts have been committed before those penalties were established by legislative enactment, so also it cannot enlarge the criminal action (that is to say, its right to punish) by a subsequent law and apply to acts executed before its enactment the less favorable provisions of prescription therein established . . .



¹² Id.; Emphasis supplied.

¹³ G.R. No. 18260, 27 January 1923; Emphasis supplied.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page 7 of 12

X ----- X

For the reasons stated, we come to the conclusion that, as a matter of justice which must regulate all the elements of a criminal action, that **the accused must be given the benefit of the provisions of the new law when more favorable to him** and that, unless there should be a final and conclusive judgment at the time, **we must also admit in matters of prescription that the new law, when less severe, should be applied.** The same principle applies when the modifications introduced by the law refer to the prescription of the penalty, because in its substance the prescription of the penalty is equivalent to the prescription of the criminal action. (Fiore, *Irretroactividad e Interpretacion de las Leyes*, pp. 426-428.)

...

The *Parel* case remains to be good law and was recently cited in the 2024 case of *Dexter Bargado y Morgado v. People of the Philippines*.¹⁴

***Jurisprudence on prescription
being a matter of substantive law***

After 1923, the Supreme Court was more definitive in stating that **prescription is indeed a matter of substantive law.** To be sure, in the 1954 case of *The People of the Philippines v. Pascual Castro*,¹⁵ the Supreme Court declared that:

...

Hence, the rule provides that the plea of prescription should be set up before arraignment, or before the accused pleads to the charge, as otherwise the defense would be deemed waived; but, as was well said in the *Moran* case, this rule is not of absolute application, especially when it conflicts with a **substantive provision of the law, such as that which refers to prescription of crimes.** Since, under the Constitution, the Supreme Court has only the power to promulgate rules concerning pleadings, practice and procedure, and the admission to the practice of law, and cannot cover substantive rights (section 13, article VII, of the Constitution), the rule we are considering cannot be interpreted or given such scope or extent that would come into conflict or defeat an **express provision of our substantive law.** One of such provisions is [A]rticle 89 of the Revised Penal Code which provides that the prescription of crime has the effect of totally extinguishing the criminal liability.

...

The conclusion that prescription is a matter of substantive law was reiterated in the 1992 case of *Luz M. Zaldivia v. Hon. Andres B. Reyes, Jr., et al.*,¹⁶ as well as in the 2013 case of *Jadewell Parking Systems Corporation v.* 

¹⁴ G.R. No. 271081, 29 July 2024.

¹⁵ G.R. No. L-6407, 29 July 1954; Emphasis supplied.

¹⁶ G.R. No. 102342, 03 July 1992.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. A) Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page **8** of 12

X ----- X

*Hon. Judge Nelson F. Lidua, Sr., et al,*¹⁷ both of which were discussed in *Consebido*:

...
[I]f there be a conflict between the Rule on Summary Procedure and Section 1 of Rule 110 of the Rules on Criminal Procedure, the former should prevail as the special law. And if there be a conflict between Act No. 3326 and Rule 110 of the Rules on Criminal Procedure, the latter must again yield because **this Court, in the exercise of its rule-making power, is not allowed to “diminish, increase or modify substantive rights”** under Article VIII, Section 5(5) of the Constitution. **Prescription in criminal cases is a substantive right.**¹⁸
...

Jurisprudence on the liberal interpretation of prescription laws

Having defined prescription to be a matter of substantive right of the accused in criminal cases, the Supreme Court went further to declare that laws on prescription must be accorded a liberal interpretation.

In the 1989 case of *People of the Philippines v. Mizpah R. Reyes*,¹⁹ which was cited in the 1992 case of *People of the Philippines v. Napoleon Duque*,²⁰ the Supreme Court ruled that in the interpretation of the law on prescription of crimes, that which is most favorable to the accused is to be adopted:

...
However, the law on prescription of crimes rests on a more fundamental principle. Being more than a statute of repose, **it is an act of grace whereby the state, after the lapse of a certain period of time, surrenders its sovereign power to prosecute the criminal act.** While the law on prescription of civil suits is interposed by the legislature as an impartial arbiter between two contending parties, the law on prescription of crimes is an **act of amnesty and liberality on the part of the state** in favor of the offender [*People v. Moran*, supra, at p. 405]. **Hence, in the interpretation of the law on prescription of crimes, that which is most favorable to the accused is to be adopted.** [*People v. Moran*, supra; *People v. Parel*, 44 Phil. 437 (1923); *People v. Yu Hai*, 99 Phil. 725 (1956)].²¹
...

¹⁷ G.R. No. 169588, 07 October 2013.

¹⁸ Citation omitted, emphasis and underscoring supplied.

¹⁹ G.R. Nos. 74226-27, 27 July 1989.

²⁰ G.R. No. 100285, 13 August 1992.

²¹ Emphasis supplied.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page 9 of 12

x ----- x

This doctrine was reiterated in the 2001 case of *People of the Philippines v. Arturo F. Pacificador*²² (*Pacificador*):

...

It bears emphasis, as held in a number of cases, that **in the interpretation of the law on prescription of crimes, that which is more favorable to the accused is to be adopted**. The said legal principle takes into account the nature of the law on prescription of crimes which is an **act of amnesty and liberality on the part of the state in favor of the offender**. In the case of *People v. Moran*, this Court amply discussed the nature of the statute of limitations in criminal cases, as follows:

The statute is not a statute of process, to be scantily and grudgingly applied, but an amnesty, declaring that after a certain time oblivion shall be cast over the offense; that the offender shall be at liberty to return to his country, and resume his immunities as a citizen; and that from henceforth he may cease to preserve the proofs of his innocence, for the proofs of his guilt are blotted out. Hence, it is that **statutes of limitation are to be liberally construed in favor of the defendant**, not only because such liberality of construction belongs to all acts of amnesty and grace, but because the very existence of the statute is a **recognition and notification by the legislature of the fact that time, while it gradually wears out proofs of innocence, has assigned to it fixed and positive periods in which it destroys proofs of guilt**.

...

Citing *Pacificador*, the Supreme Court, in the 2006 case of *Benjamin ("Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo, et al.*,²³ declared that any doubt on the bar or cause of interruption of prescriptive periods must be resolved in favor of the accused:

...

Indeed, there is no reason why we should deny petitioner the benefits accruing from the liberal construction of prescriptive laws on criminal statutes. **Prescription emanates from the liberality of the State. Any bar to or cause of interruption in the operation of prescriptive periods cannot simply be implied nor derived by mere implication**. Any diminution of this endowment must be directly and expressly sanctioned by the source itself, the State. **Any doubt on this matter must be resolved in favor of the grantee thereof, the accused**.

The foregoing conclusion is logical considering the nature of the laws on prescription. The exceptions to the running of or the causes for the interruption of the prescriptive periods may and should not be easily implied. The prescriptive period may only be prevented from operating or may only be tolled for reasons explicitly provided by the law.



...

²² G.R. No. 139405, 13 March 2001; Citations omitted, emphasis supplied and italics in the original text.
²³ G.R. Nos. 165510-33, 28 July 2006; Emphasis supplied.

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page **10** of 12

X ----- X

In sum, the Supreme Court has been consistent in holding that prescription laws, and interpretation of the same by the Supreme Court, which form part of the law of the land, are more than just procedural rules. Instead, **prescription is a matter of substantive law affecting the substantive rights of the accused**, as prescription laws reach the very right of the State to prosecute a criminal offense and thus, spell the difference between an accused being punished or absolved on the ground of lapse of time.

Given this characterization, there is sufficient jurisprudential basis to conclude that, based on the spirit of the law and the intent of legislature, **any changes in the interpretation of prescription laws must be applied liberally in favor of the accused**. Applying this in order to resolve the present genuine interpretative tension between the RRCTA and *Consebido* would lead this Court to decide the matter based on the interpretation that favors the protection of herein accused respondents' substantive rights.

We now arrive at the resolution of the primordial issue in the case at bar.

In deciding the sole issue on whether the Court in division erred in dismissing the instant case on the ground of prescription, the following factors should be considered: (1) the period of prescription for the offense charged; (2) the time when the prescriptive period starts to run; and (3) the time when the prescriptive period is interrupted.²⁴

As to the period of prescription – Section 281 of the NIRC of 1997, as amended, is explicit that the prescriptive period for all violations of the NIRC is five (5) years.²⁵

As to the commencement of the prescriptive period – Section 281 of the NIRC of 1997, as amended, also provides that: (a) if the date of commission of the violation of the law is known, prescription shall run from such date, and (b) if the date of commission is unknown, prescription shall begin to run from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.²⁶

The Information in the case at bar charges the accused respondents with violation of Section 255, in relation to Section 253(d) and 256, of the 

²⁴ See Benjamin ("Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo, *supra*.

²⁵ *Supra* at note 4.

²⁶ *Id.*

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

Page **11** of 12

X ----- X

NIRC of 1997, as amended, for willful failure to supply correct and accurate information in its income tax return for taxable year 2013. Since this is a violation of the provisions of the NIRC, the prescriptive period for the filing of the criminal information is five (5) years. Considering that the date of commission is unknown, the same shall be deemed to run from the discovery and institution of judicial proceedings for investigation and punishment. Given that the preliminary investigation before the DOJ is a proceeding for investigation and punishment, the prescriptive period shall commence to run from such date, which, in this case, is 29 June 2016.

As to the interruption of the prescriptive period – this is where differing interpretations arise. Notably, the Information in this case was filed in Court on 27 May 2024.

If We are to apply the “institution-by-information” rule in the RRCTA, the five (5)-year prescriptive period commenced to run from 29 June 2016 and ended on 29 June 2021. It was only upon the filing of the instant Information on 27 May 2024 that the prescriptive period was supposedly interrupted. However, such filing of the Information was already beyond the allowed prescriptive period. Under the RRCTA provision, therefore, the prosecution’s filing of the instant Information on 27 May 2024 was already time-barred.

If, on the other hand, We apply the “institution-by-complaint” rule in *Consebido*, the five (5)-year prescriptive period commenced to run from 29 June 2016 and was likewise interrupted on the same date. Under *Consebido*, therefore, the prosecution seasonably filed the instant Information on 29 June 2016, as the offense had become practically imprescriptible.

Between the two interpretations, **the application of the “institution-by-information” rule in the RRCTA, and coincidentally, the prospective application of the ruling in *Consebido*, favors the accused in the instant case.** As correctly ruled by the Second Division, since the Information was filed only on 27 May 2024, or after the lapse of the five (5)-year prescriptive period, which ended on 29 June 2021, the State’s right to prosecute or to institute a criminal action against respondents in this case had already prescribed.

Considering that the present criminal action was instituted prior to *Consebido*, this Court cannot sustain petitioner’s position that the filing of the criminal complaint with the DOJ on 29 June 2016 interrupted the prescriptive period. To do so would operate to the prejudice of accused respondents by rendering the offense practically imprescriptible and perpetually exposing

SEPARATE CONCURRING OPINION

CTA EB CRIM. No. **163** (CTA Crim. Case No. O-1149)

People of the Philippines v. AJ Corinthian Hauling Corporation, Arceli S. Sajonas, and John Fitz Jerald Claudio

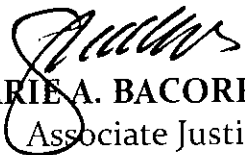
Page **12** of 12

X ----- X

them to the threat of criminal prosecution regardless of the lapse of time, in contravention of the plethora of Supreme Court cases declaring that changes in the interpretation of prescription laws must be construed liberally in favor of the accused.

In fine, as held in the *ponencia*, the Court in Division is correct in finding that the case shall be dismissed on the ground of prescription of petitioner's right to file the instant Information.

All told, I vote to **DENY** the present *Petition for Review* for lack of merit.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice