

SECOND DIVISION

- versus -

9 1:05 p.m.

¹ Resolution dated May 9, 2023, Docket pp. 47 to 49.

On August 23, 2023, the Court issued a Resolution stating that, as per *Records Verification* dated June 22, 2023, the prosecution has not yet complied with the Court's directive despite the lapse of the given period.

Accordingly, the Court dismissed without prejudice the instant Information for insufficiency of supporting documents to establish probable cause.²

Hence, the filing of the instant motion.

In the *Omnibus Motion (for Reconsideration with Compliance and Admission of Amended Information)*, the prosecution moves for the Court to reconsider the dismissal without prejudice of this Information; to admit the submission of the original/certified true copies of the (1) Resolution dated September 7, 2021, (2) *Referral Letter* dated March 19, 2021, (3) *Investigative Data Form* with NPS Docket No. XVI-INV-21D-00105, and (4) *Complaint-Affidavit* of Bureau of Customs Officer Jover U. Umpar with attached annexes; and to admit the Amended Information correcting the above-mentioned discrepancy.

The question hinges on whether a dismissal without prejudice may be a subject of a motion for reconsideration.

The pronouncement in the case of *Bañares II vs. Balising*³ is highly instructive, to wit:

A "final order" issued by a court has been defined as one which disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing else to be done but to enforce by execution what has been determined by the court. As distinguished therefrom, an 'interlocutory order' is one which does not dispose of a case completely, but leaves something more to be adjudicated upon.

This Court has previously held that an **order dismissing a case without prejudice is a final order if no motion for reconsideration or appeal therefrom is timely filed.** (*Emphasis supplied*)

Corollary thereto, Section 1, Rule 15 of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA), as amended, provides:

SECTION 1. *Who may and when to file motion.* - Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or

² Resolution dated August 23, 2023, Docket.

³ G.R. No. 132624, March 13, 2000.

order of the Court by **filing a motion for reconsideration or new trial within fifteen days from the date of receipt of notice of the decision, resolution or order of the Court in question.** (*Emphasis supplied*)

Plainly stated, a party may file a motion for reconsideration against a dismissal without prejudice before the lapse of the fifteen-day reglementary period. After the order of dismissal of a case without prejudice has become final, a party who wishes to reinstate the case has no other remedy but to file a new Complaint or Information.

Records show that the Court's Resolution dated August 29, 2023 was received by the DOJ on August 30, 2023.⁴ Counting fifteen (15) days therefrom, the prosecution had until **September 14, 2023** to file a motion for reconsideration.

Since the instant motion was filed only on **September 22, 2023**, it is clear that the same was filed beyond the fifteen (15)-day reglementary period.

WHEREFORE, premises considered, the prosecution's **Omnibus Motion (for Reconsideration with Compliance and Admission of Amended Information)** is **DENIED** for being filed out of time.

SO ORDERED.


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice

⁴ Notice of Resolution dated August 29, 2023.