

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-282
(I.S. No. XVI-INV-11L-00459)
*For: Violation of Sections 3601 &
3602 in relation to Sections 2503
& 2530 of the TCCP, as amended.*

- versus -

Members:
Bautista, Chairperson,
Fabon-Victorino, and
Ringpis-Liban, II.

MOISES BAGAN RODRIGUEZ,
Accused.

Promulgated:

SEP 08 2017 3:32 p.m.

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RESOLUTION

BAUTISTA, J:

For resolution are the following incidents:

1. Motion for Reconsideration (of the Decision Dated June 28, 2017) (the "Motion for Reconsideration")¹ filed by the accused on July 13, 2017 without comment from the prosecution despite due notice; and

2. Supplemental Motion for Reconsideration and Application for Bail (the "Supplemental Motion for Reconsideration")² filed by the accused on July 21, 2017 likewise without comment from the prosecution despite due notice.

¹ Records, CTA Crim. Case No. O-282, Vol. 3, Motion for Reconsideration (of the Decision Dated June 28, 2017), pp. 1124-1137.

² Id., Supplemental Motion for Reconsideration and Application for Bail, pp. 1142-1146.

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On June 28, 2017, the Court promulgated a Decision (the "Assailed Decision")³ finding accused guilty beyond reasonable doubt for violating the *Tariff and Customs Code of the Philippines, as amended* ("TCCP")⁴ and sentencing him to imprisonment and payment of a fine. The dispositive portion of the Assailed Decision reads:

WHEREFORE, premises considered, the Court finds accused Moises Bagan Rodriguez **GUILTY BEYOND REASONABLE DOUBT** for violating *Sections 3601 and 3602* in relation to *Sections 2503 and 2530 of the TCCP*. For violating *Section 3601 of the TCCP*, accused is hereby **SENTENCED** to suffer an indeterminate penalty of eight (8) years and one (1) day, as a minimum, to twelve (12) years, as a maximum, and to pay a fine in the amount of Php10,000.00. Similarly, for violating *Section 3602 of the TCCP*, accused is hereby **SENTENCED** to suffer an indeterminate penalty of eight (8) years and one (1) day, as a minimum, to twelve (12) years, as a maximum, and to pay a fine in the amount of Php10,000.00.

SO ORDERED.

The accused, in the Motion for Reconsideration, prays that the Assailed Decision be reconsidered for the following reasons: (1) the Court failed to identify accused as the malefactor responsible for the crime charged, and (2) the Court overlooked testimonial and documentary evidence which, if considered, might lead to the acquittal of accused.

On the other hand, the accused, in the Supplemental Motion for Reconsideration, prays that his application for bail be granted and that he should be allowed to continue on provisional liberty during the pendency of the motion for reconsideration and/or appeal under the same cash bond. The defense argues that in view of the filing of the Motion for Reconsideration, the Assailed Decision is not yet final and executory. Nevertheless, the defense is applying for bail. According to the defense, the cancellation of the bail bond of accused is not automatic after judgment or conviction as the prosecution still has to prove the existence of the requirements under *Section 5, Rule 114 of the Revised Rules of Court* ("RROC"). With the pendency of the motion for reconsideration, accused can still be allowed to post bail with the

³ Records, Vol. 3, Decision, pp. 1091-1122.

⁴ Approved on June 22, 1957.

approval of the Court.

After a careful review of the grounds raised in the Motion for Reconsideration, the Court finds the Motion for Reconsideration filed by accused devoid of merit. The defense failed to raise a new or substantial matter, or a compelling reason to justify the reversal or modification of the Court's findings in the Assailed Decision. Nevertheless, the Court will expound on the arguments raised by the defense to reinforce the discussion in the Assailed Decision.

The defense argues that accused was not identified by any person to be the malefactor. According to the defense, the importation documents do not indicate the name of the accused, just the name of Yanzhen Enterprises but with a different address and authorized brokers. The defense also argues that the Client Profile Registration System ("CPRS") Profile of Yanzhen Enterprises⁵ indicates that it was accredited as an importer since October 22, 2011; however, the shipments in question were made in September 2011. Finally, the defense concluded that accused has no personal knowledge of the importation and that a third person might have used his registration to facilitate the shipments in question.

The Court is not persuaded. The arguments of the defense consist of mere denials, bare allegations, and unsupported conclusions.

The records bear that accused admitted that he is the sole proprietor of Yanzhen Enterprises.⁶ As a judicial admission, no proof is necessary to substantiate the same.⁷ Nevertheless, the evidence presented by both parties support the claim of accused that he is the sole proprietor of Yanzhen Enterprises. In this regard, when the shipments in question were made under the name of Yanzhen Enterprises, the Court appreciated the same as shipments made by accused especially considering the defense did not present any

⁵ Records, Vol. 2, Exhibits "V" and "V-1," Client Profile Registration System ("CPRS") Profile, pp. 789-790.

⁶ Id., Vol. 1, Pre-Trial Order, p. 394.

⁷ See Section 4, Rule 129 of the Revised Rules of Court. Section 4, Rule 129 of the Revised Rules of Court provides:

Sec. 4. *Judicial admissions.* – An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

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convincing evidence to the contrary. Thus, the fact remains that violations of *Sections 3601 and 3602 in relation to Sections 2503 and 2530 of the Tariff and Customs Code of the Philippines, as amended ("TCCP")*⁸ were committed and such violations were committed by Yanzhen Enterprises, the sole proprietorship owned by accused.

Meanwhile, the argument of the defense that accused could not have facilitated the shipments in question because the CPRS Profile of Yanzhen Enterprises indicates that it was accredited as an importer since October 22, 2011 is of no moment. The document relied upon by the defense is a Memorandum⁹ issued by the Interim Customs Accreditation Registration Unit ("iCARE") and serves as a cover page to the attached certified true copy of the CPRS Profile of Yanzhen Enterprises/Moises Bagan Rodriguez. The Memorandum states:

Relative to the on-going case building and profiling being conducted by your office, please see attached certified true copy of [the] CPRS Profile of YANZHEN ENTERPRISES/MOISES BAGAN RODRIGUEZ, with the information that the said importer has been accredited since October 22, 2011. Please note that said company has no folder for accreditation as importer at ICARE.

For your guidance and information.¹⁰

Other than the statement made by the iCARE that accused had been accredited since October 22, 2011, the attached CPRS Profile did not specifically provide this information. On the other hand, the Bureau of Customs ("BOC") Certificate of Accreditation and Registration¹¹, which the defense itself presented, clearly indicated that the accreditation application and registration of Yanzhen Enterprises was valid from October 15, 2010 (the date of the Certificate of Accreditation and Registration) until October 15, 2011. Hence, it is evident that Yanzhen Enterprises had a valid and subsisting BOC accreditation at the time of the shipments in question, *i.e.*, September 23, 2011. Between the Memorandum to which the CPRS Profile of accused was attached and the BOC Certificate of Accreditation and Registration, the Court finds the latter to have probative value as it is the best evidence to prove the accreditation and registration of accused with the BOC.

⁸ Approved on June 22, 1957.

⁹ Records, Vol. 2, Exhibit "V," Memorandum, p. 789.

¹⁰ *Id.*

¹¹ *Id.*, Vol. 3, Exhibit "11," Bureau of Customs Certificate of Registration, p. 1019.



Finally, the conclusion of the defense that accused had no personal knowledge of the importation and that a third person might have used his registration to facilitate the shipments in question deserves scant consideration especially in light of the fact that the defense failed to present any evidence to support the same. As the Court ruled in the Assailed Decision, the evidence presented by the accused are self-serving and hearsay. No direct evidence was presented by the defense to show that accused did not perpetrate the violations of the *TCCP* or could not have perpetrated the same. Meanwhile, the circumstantial evidence attendant in this case leads to no other conclusion that conviction is proper as the accused committed the alleged violations of the *TCCP*.

Mere denials and suppositions, if unsupported by evidence, should not be countenanced for as held by the Supreme Court in *People v. Remullo*¹²,

. . . The defense of denial is intrinsically weak, a self-serving negative evidence that cannot prevail over the testimony of credible witnesses who testified on affirmative matters.

Further, the Supreme Court held in *People v. Martinez*¹³ that a denial "is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability in order to merit credibility."

In the present case, no such strong evidence was presented by the defense. Hence, the denial of the accused that he had no personal knowledge of the importation, without additional proof, does not convince the Court that he did not commit the violations of the *TCCP*.

In view of the foregoing, the Court finds the arguments raised by the defense in the Motion for Reconsideration unmeritorious.

Meanwhile, in its June 28, 2017 Order, the Court granted the continuation of the cash bail bond of accused effective during the pendency of his Motion for Reconsideration, and released accused under the same bond. Accordingly, the Supplemental Motion for

¹² G.R. Nos. 124443-46, June 6, 2002, 383 SCRA 93.

¹³ G.R. No. 130606, February 15, 2000, 325 SCRA 601.

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Reconsideration filed by accused is considered moot.

WHEREFORE, premises considered, the Motion for Reconsideration filed by accused is hereby **DENIED** for lack of merit. On the other hand, the Supplemental Motion for Reconsideration filed by accused is considered **MOOT**.

SO ORDERED.


LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:


ESPERANZA R. FABON-VICTORINO
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice