REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

RPV ELECTRO TECHNOLOGY PHILIPPINES CORPORATION/ ROLAND P. VASQUEZ (President), RCJ Building, Unit 206 Ortigas Extension cor. Courtside, Sta. Lucia, Pasig City,
Accused.

CTA Crim. Case No. O-714

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, and
ANGELES, *JJ.*

Promulgated:

NOV 28 2024
8:46 a.m.

x- -x

DECISION

REYES-FAJARDO, *J.*:

On January 25, 2019, an Information was filed against accused RPV Electro Technology Philippines Corporation (RPV), and Roland P. Vasquez (Vasquez), as its president, for violation of Section 255, in relation to Sections 253(d) and 256 of the National Internal Revenue Code of 1997, as amended (NIRC), the accusatory portion of which reads:

> That on or about January 2018, in Quezon City, and within the jurisdiction of this Honorable Court, accused, **RPV ELECTRO TECHNOLOGY PHILIPPINES CORPORATION**, a domestic corporation and **ROLAND P. VASQUEZ**, being the president thereof, required by law to file income tax return and to pay the corresponding tax, did then and there wil[l]fully, unlawfully and feloniously fail to pay **deficiency income tax** for taxable year 2011 in the amount of Six Million Two Hundred Seventy Six Thousand

Nine Hundred Eighty Eight Pesos and Fourteen Centavos (P6,276,988.14), exclusive of interests and penalties, despite receipt of final notice before seizure, including prior and post notices and formal demand to pay, the last being in the nature of demand before suit issued in January 24, 2018, to the damage and prejudice of the government.

CONTRARY TO LAW.[1]

By Resolution dated June 13, 2019, the Court: 1) found probable cause to hold accused Vasquez for trial; 2) directed the issuance of warrants of arrest against him; and 3) fixed the amount of bail at ₱60,000.00, for the accused.[2]

On June 18, 2019, warrant of arrest was issued against accused Vasquez.[3] However, by Order dated July 8, 2018, the warrant of arrest issued against accused Vasquez in CTA Crim Case No. O-714 was lifted, set aside, and declared without further force and effect in view of his voluntary appearance, along with his posting of the required bail bond in the amount of ₱60,000.00.[4]

In the Hearing held on August 14, 2019, accused Vasquez was arraigned, and pleaded not guilty to the offense charged.[5]

On February 6, 2020, the parties filed their Joint Stipulation of Facts and Issues.[6]

On June 9, 2020, the Court issued a Pre-Trial Order.[7]

During trial, the prosecution presented the following witnesses: 1) Revenue Officer (RO) Mia Portia Mempin-Bien (Mempin-Bien); and 2) RO Jennifer Enriquez (Enriquez).

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1 Docket- Volume I, pp. 8-9. Boldfacing in the original.
2 *Id.* at pp. 105-107.
3 *Id.* at pp. 108-109.
4 *Id.* at pp. 196-197.
5 Order dated August 14, 2019. *Id.* at pp. 208-209.
6 *Id.* at pp. 334-336.
7 *Id.* at pp. 393-403.

RO Mempin-Bien,[8] is a RO II (Assessment) in the Bureau of Internal Revenue (BIR), assigned at Revenue District Office (RDO) No. 41, Mandaluyong. She was previously assigned at RDO No. 43B, West Pasig. Among her duties and responsibilities is the audit and investigation of taxpayer's books of accounts and other accounting records. She recounted:

> On August 17, 2012, a Letter of Authority (LOA) was issued authorizing her, RO Mempin-Bien, to examine and audit accused RPV's books of accounts and other accounting records for taxable year (TY) 2011. This was followed by the BIR's First Notice dated September 4, 2012 and Second and Final Notice for Presentation of documents dated September 14, 2012 (Notices), which were sent to accused RPV.
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> In a Letter Notice (LN) dated October 19, 2012, the BIR informed accused RPV that it conducted a computerized matching on information/data provided by third party sources against accused's RPV declaration per VAT returns. It was found that accused RPV had sales and importations discrepancies for the TY ended 2011. Thereafter, the BIR sent a follow-up letter to the LN dated October 23, 2012 to accused RPV.
>
> On February 20, 2013, she recommended for the issuance of a Subpoena Duces Tecum (SDT) against accused RPV because it failed to produce the requested documents in said notices. Thus, the BIR Legal Division issued the SDT on March 5, 2013 which was received by the accounting staff of accused's RPV.
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> On August 27, 2013, a Notice of Informal Conference was issued to accused RPV. As accused RPV failed to present his side, she then prepared a Memorandum, recommending for the issuance of a Preliminary Assessment Notice (PAN) against accused RPV.

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8 Judicial Affidavit of Erica Joyce Canja dated November 12, 2019. Exhibit "P-21" and "P-21-A." Identified in the Hearing held on February 3, 2021. *Id.* at pp. 355-360.

On September 10, 2014, a PAN was issued against accused RPV which was received by the IT Officer of accused RPV, Erica Cansa on September 12, 2014. Accused RPV failed to file a reply to the PAN.

On September 29, 2014, a Formal Letter of Demand with Details of Discrepancies and Assessment Notices (FLD/FANs) were issued against accused RPV, and was received by the latter's liaison officer, Shiela Martizano. Accused RPV did not file any administrative protest to the FLD/FANs. In view of the finality of the FLD/FANs, accused RPV's case docket for TY 2011 was forwarded to the BIR collection division for the execution of summary and administrative remedies.

On cross-examination,[9] RO Mempin-Bien was asked whether she looked for the manager of accused RPV when she served the BIR documents to its known address to which she answered that she tried. According to her, there were no responsible officers present at the time of service, so she delivered BIR documents to whoever is connected to accused RPV or present at the time of service. Upon clarificatory question[10] of the Court on why she served the PAN and FLD/FAN in another address, she mentioned that accused RPV can no longer be located in their registered address but she cannot remember who gave the information on the new address.

RO Enriquez,[11] is a RO II in the BIR, assigned in the BIR Collection Division of Revenue Region 7A, Quezon City. She is a seizure agent tasked to prepare and serve collection notices, warrant of distraint and/or levy (WDL), and warrant of garnishment. She testified that after verification that the notices which included the preliminary collection letter and final notice before seizure were served to Accused Vasquez, a WDL dated June 19, 2015, followed by warrants of garnishment were issued against him. Since accused still failed to pay his tax liabilities, the BIR Collection Division forwarded

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9 Transcript of Stenographic Notes (TSN), Hearing held on February 3, 2021, pp. 8-17.

10 *Id.* at pp. 21-22.

11 Judicial Affidavit of Revenue Officer Jennifer Enriquez dated February 21, 2020. Exhibit "P-22" and "P-22-A." Identified in the Hearing held on October 21, 2020. Docket- Volume I, pp. 341-343.

the accused's BIR docket to the BIR Legal Division for appropriate action.

On November 23, 2021, the prosecution offered the following pieces of evidence for consideration of the Court:[12]

Exhibit	Description
P-1	Letter of Authority No. eLA 201100000617/LOA-043B- 2012-00000391 dated 17 August 2012
P-2	First Presentation of Books and other Accounting Records dated 4 September 2012
P-3	Second and Final Notice for Presentation of Books and other Accounting Records
P-4	Letter Notice No. 043B-RLF-11-00-00253 dated 19 October 2012
P-5	Follow Up Letter relative to Letter Notice No. Letter Notice No. 043B-RLF-11-00-00253 dated 19 October 2012
P-5-A	Registry Receipt of the Follow Up Letter dated 6 November 2012
P-6	Recommendation for the issuance of Subpoena Duces Tecum dated 20 September 2013
P-7	Subpoena Duces Tecum issued by the Legal Division, RR7 dated 5 March 2013
P-8	Notice of Informal Conference issued by RDO 43-B signed by RDO Luis A. Alberto, Jr.
P-9	Memorandum issued by RO Mia Portia Mempin recommending that the case be forwarded to the Assessment Division for the issuance of Assessment Notices
P-10	Preliminary Assessment Notice dated 10 September 2014 issued against RPV Electro Technology Philippines Corp.
P-11	Formal letter of Demand No.043B-B027-11 dated 29 September 2014 issued against RPV Electro Technology Philippines
P-11-A	Assessment Notice dated 29 September 2019 for the payment of Income Tax
P-11-B	Assessment Notice dated 29 September 2019 for the payment of Value Added Tax
P-11-C	Assessment Notice dated 29 September 2019 for the payment of Expanded Withholding Tax
P-11-D	Assessment Notice dated 29 September 2019 for the payment of Documentary Stamp Tax
P-11-E	Assessment Notice dated 29 September 2019 for the payment of Improperly Accumulated Earnings Tax

12 The prosecution's Formal Offer of Evidence. Docket- Volume II, pp. 435-441.

P-11-F	Assessment Notice dated 29 September 2019 for the payment of Compromise Penalty
P-12	Preliminary Collection Letter No. PCL-2015-04-17-0152 dated 17 April 2015
P-12-A	Registry Receipt No. 5372 pertaining to the Preliminary Collection Letter
P-13	Final Notice Before Seizure No. FCL-2015-04-28-0101 dated 28 April 2015
P-13-A	Registry Receipt No. 5901 pertaining to Final Notice Before Seizure
P-14	Warrant of Distraint/Levy No. RR7-2015-06-19-450 served on 23 June 2015
P-15	Warrant of Garnishment dated 28 December 2015 issued to Land Bank of The Philippines
P-16	Warrant of Garnishment dated 21 October 2015 issued to United Coconut Planters Bank
P-17	Warrant of Garnishment dated 21 October 2015 issued to Metropolitan Bank & Trust Company
P-18	Warrant of Garnishment dated 9 November 2015 issued to Bank of the Philippine Islands
P-19	Warrant of Garnishment dated 21 October 2015 issued to Banco De Oro
P-20	Demand Before Suit 24 January 2018 issued by the Legal Division BIR RR-7
P-21	Judicial Affidavit of RO Mia Portia R. Mempin-Blen
P-21-A	Signature of RO Mia Portia R. Mempin-Blen
P-22	Judicial Affidavit of RO Jennifer P. Enriquez
P-22-A	Signature of RO Jennifer P. Enriquez

By Resolution dated February 23, 2022, Exhibits **"P-21," "P-21-A," "P-22,"** and **"P-22-A"** were admitted as evidence for the prosecution.

Exhibits **"P-1," "P-2," "P-3," "P-4," "P-5," "P-5-A," "P-6," "P-7," "P-8," "P-9," "P-10," "P-11," "P-11-A," "P-11-B," "P-11-C," "P-11-D," "P-11-E," "P-11-F," "P-12," "P-12-A," "P-13," "P-13-A," "P-14," "P-15," "P-16," "P-17," "P-18," "P-19,"** and **"P-20,"** were denied admission as evidence for the prosecution for failure to submit the duly marked exhibits.[13] The prosecution then rested its case.

For the defense, it presented the following witnesses: 1) Erica Joyce Canja (Canja); and 2) Shienna Mae V. Martizano (Martizano).

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[13] , *Id.* at pp. 459-460.

Witness Canja,[14] worked for accused RPV as an IT officer from 2012 to 2014. She was tasked to troubleshoot office computers and internet and to digitize reports. She testified that she received BIR's PAN dated September 10, 2014 on September 12, 2014. She claimed that she informed the person who served the PAN that she is an IT officer who is not authorized to receive any formal documents for accused RPV. She recalled that she just placed the PAN on one of the tables in the office and she did not endorse the document to an accounting officer of accused RPV.

Witness Martizano,[15] worked for accused RPV as a liaison officer of its marketing department from 2013 to 2014. Among her duties and responsibilities is to assist the marketing specialist and to process accused RPV's licenses and permits. She stated that she received the BIR's FLD/FANs dated September 29, 2014 on September 30, 2014. She added that while she was also tasked to receive regular mails of RPV, she had no authority to receive the FLD/FANs.

On cross-examination, Witness Martizano was asked whether she explained to the person who served the FLD/FANs that she had no authority to receive them, to which she answered in the negative.

On October 13, 2023, the defense offered the following pieces of evidence for consideration of the Court:[16]

Exhibit	Description
A-8	Preliminary Assessment Notice dated 10 September 2014
A-8 to A-8-d	Signatures of Erica Joyce Canja
A-8-e to A-8-g	Registry Receipts dated 11 September 2014
A-10	Formal Letter of Demand dated 29 October 2014
A-10-a to A-10-e	Signatures of Sheinna Martizano
A-11	Assessment Notice dated (IT) 29 September 2014
A-11-a	Signature of Sheinna Martizano
A-12	Assessment Notice dated (VAT) 29 September 2014

14 Judicial Affidavit of Erica Joyce Canja dated November 12, 2019. Exhibit "A-20" and "A-20-A." Identified in the Hearing held on June 22, 2022. Docket- Volume I, pp. 277-280.

15 Judicial Affidavit of Sheinna Mae V. Martizano dated January 21, 2020. Exhibit "A-21" and "A-21-A." Identified in the Hearing held on September 28, 2023. *Id.* at pp. 312-317.

16 Accused's Formal Offer of Evidence. Docket- Volume II, pp. 585-590.

A-12-a	Signature of Sheinna Martizano
A-13	Assessment Notice dated (EWT) 29 September 2014
A-13-a	Signature of Sheinna Martizano
A-14	Assessment Notice dated (DST) 29 September 2014
A-14-a	Signature of Sheinna Martizano
A-15	Assessment Notice dated (LAET) 29 September 2014
A-15-a	Signature of Sheinna Martizano
A-16	Assessment Notice dated (Compromise) 29 September 2014
A-20	Judicial Affidavit of Erica Joyce Canja
A-20-a	Signature of Erica Joyce Canja
A-21	Judicial Affidavit of Sheinna Mae Martizano
A-21-a	Signature of Sheinna Mae Martizano

By Resolution dated January 22, 2024, Exhibits **"A-20,"** **"A-20-a,"** **"A-21,"** and **"P-21-a"** were admitted as evidence for the defense. However, Exhibits **"A-8,"** **"A-8 to A-8-d,"** **"A-10,"** **"A-10-a to A-10-e,"** **"A-11,"** **"A-11-a,"** **"A-12,"** **"A-12-a,"** **"A-13,"** **"A-13-a,"** **"A-14,"** **"A-14-a,"** **"A-15,"** **"A-15,"** **"A-15-a,"** and **"A-16,"** were denied admission as evidence for the defense for failure to submit the duly marked exhibits. Further, Exhibits **"A-80-e to A-8-g"** were denied admission as evidence for the defense for failure to submit the duly marked exhibits and failure to identify.[17]

In the Minute Resolution dated October 3, 2024, this case was submitted for decision.[18]

ISSUE

> Whether accused Vasquez is guilty of willful failure to pay RPV's deficiency income taxes for TY 2011 pursuant to Section 255, in relation to Sections 253(d) and 256 of the NIRC?

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17 *Id.* at pp. 598-599.
18 *Id.* at p. 616.

RULING

Accused must be acquitted.

Section 255 of the NIRC, as amended provides:

> SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* - **Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax,** make a return, keep any record, or supply correct and accurate information, **who willfully fails to pay such tax,** make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.[19]

Section 255 of the NIRC penalizes by fine and imprisonment, any person who willfully failed to pay taxes, despite being required by law to do so, among others.

Pertinently, a corporation is an artificial being created by fiction of law. By the corporation's nature as an abstract being, it cannot be arrested and imprisoned; hence, it cannot be penalized for a crime punishable by imprisonment. As early as 1930 in the case of *People v. Tan Boon Kong,* the Court already held that for crimes committed by a corporation, the responsible officers thereof would personally bear the criminal liability. This is because a corporation can act only through its officers and agents.[20] In relation to this, Section 253(d) of the NIRC, as amended imposes the penalty of imprisonment on tax offenses committed by a corporate taxpayer, on its president, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation thereof:

> **SEC. 253.** ***General Provisions.*** -

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19 Boldfacing supplied.

20 *Genoveva S. Suarez v. People of the Philippines and the Bureau of Internal Revenue,* G.R. No. 253429. October 06, 2021; Citations omitted.

> ...
>
> (d) **In the case of** associations, partnerships or **corporations**, the **penalty** shall be imposed on the partner, **president**, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation.
>
> ...[21]

Additionally, while a corporation cannot be imprisoned for criminal infractions under penal laws, a corporation may be prosecuted and, if found guilty, may be fined.[22] This much is clear from Section 256 of the NIRC, which reads:

> **SEC. 256.** *Penal Liability of Corporations.* - **Any corporation**, association or general co-partnership liable for any of the acts or omissions penalized under this Code, **in addition to the penalties imposed herein upon the responsible corporate officers**, partners, or employees **shall, upon conviction** for each act or omission, **be punished by a fine** of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000).
>
> ...[23]

The cornerstone of all criminal prosecutions is the constitutional right of the accused to be presumed innocent until the contrary is proved. This places the burden upon the prosecution to prove the guilt of the accused on the strength of its own evidence, without regard to the weakness of the defense. Should the prosecution fail to discharge this burden, the accused need not even offer evidence; as flowing from this presumption, acquittal must ensue as a matter of course.[24]

Thus, to sustain a conviction for willful failure to pay taxes punishable under Section 255, in relation to Section 253(d) and 256 of the NIRC, as amended, the following elements must be established

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21 Boldfacing supplied.

22 See *Ching v. The Secretary of Justice, et. al.*, G.R. No. 164317, February 6, 2006; Citations omitted.

23 Boldfacing supplied.

24 *Benjie Lagao Y Garcia v. People of the Philippines*, G.R. No. 217721, September 15, 2021.

by the prosecution: *first,* a corporate taxpayer is required by the NIRC, as amended, or by duly promulgated rules and regulations, to pay any tax; *second,* the corporate taxpayer failed to pay the required tax; and *third,* accused, as the corporate taxpayer's president willfully failed to pay said tax.[25]

Tupaz v. Ulep (Tupaz)[26] declared that the offense of willful failure to pay tax may be committed:

> ... after service of notice and demand for payment of the deficiency taxes upon the taxpayer.... This is so because prior to the finality of the assessment, the taxpayer has not committed any violation for nonpayment of the tax. The offense was committed only after the finality of the assessment coupled with taxpayer's willful refusal to pay the taxes within the allotted period....

In this case, all elements are absent.

Accused Vasquez, as president of RPV, was charged for alleged willful failure to pay the latter's Income Tax (IT)[27] due for TY 2011 based on a final and executory assessment. Yet, accused Vasquez cannot be held criminally liable for said charge. This is so because apart from the allegations in the Information and the testimonies of the prosecution's witnesses who testified in Court by way of their respective judicial affidavits, all the documentary evidence formally offered by the prosecution were denied admission for the prosecution's failure to submit the duly marked exhibits. Worst, the assessment notices required by *Tupaz* to be served upon accused RPV were likewise denied admission as evidence.

As a result, the *first* element is wanting since there is no proof showing that accused RPV is required to pay deficiency IT for TY 2011 within the time shown in the assessment notices. The absence of the *first* element, negates the presence of the *second* and *third* elements since accused RPV and accused Vasquez cannot be liable to pay any

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[25] See *Kingsam Express. Incorporation and Samuel Santos v. People of the Philippines,* G.R. No. 254086 (Notice), September 7, 2022; and *Suarez v. People of the Philippines, et al.,* G.R. No. 253429, October 6, 2021.

[26] G.R. No. 127777, October 1, 1999.

[27] *Supra* note 1.

deficiency IT for TY 2011. Therefore, accused RPV and Vasquez must be acquitted.

Moreover, even if the Court considers the Judicial Affidavit of the prosecution's witness, such testimony also falls short of proving accused Vasquez' willful failure to pay IT for TY 2011, punishable under Section 255 of the NIRC, as amended. Specifically, prosecution's witness, RO Mempin-Bien admitted that there was no explanation provided to justify the computation stated in the assessment:

> Justice Uy: What did you actually use?
>
> Witness: Assessment base[d] on
>
> Justice Uy: A computerized matching?
>
> Witness: The computerized matching Your Honor was issued separately.
>
> Justice Uy: So what was that best evidence that you are talking about?
>
> Witness: The best evidence obtainable rule was on assessment based on estimate.
>
> Justice Uy: Yes what is this evidence?
>
> Witness: Base[d] on
>
> Justice Uy: The actual evidence is what I'm asking for because you did not identify you did not present it to the Court, so we do not know how you derive[d] the assessment?
>
> Witness: Actually it's from their financial statement.
>
> Justice Uy: I thought no document was given to you? Those were the records on file?
>
> Witness: On file of our office.
>
> Justice Uy: Alright, so what did you used?
>
> Witness: The financial statements and the tax returns gathered which was filed with BIR.

> **Justice Uy: Yes, so you did not identify them in your affidavit for us to determine how you arrived at the amount stated in your assessments, right? Just want to clarify.**
>
> **Witness: Yes I did not your Honor.**
>
> **Justice Uy: So you only identif[ied] the PAN, the FAN, FLD but how you came up with a computation you did not explain to the Court?**
>
> **Witness: Yes Your Honor.**[28]

In fine, there is no evidence presented to show that accused Vasquez, as the president of RPV, committed a criminal violation. The accused, being presumed innocent, carries no burden of proof on his or her shoulders; it is for the prosecution to demonstrate guilt and not for the accused to establish innocence.[29]

For the civil aspect, *People of the Philippines v. Rebecca S. Tiotangco*[30] citing *People of the Philippines v. Mendez (Mendez)*[31] decreed that the CTA should make a determination on the civil liability for unpaid taxes of the taxpayer-accused since the civil action for collection is deemed instituted with the criminal action for the tax laws violation:

> . . .
>
> (1) when a criminal action for violation of the tax laws is filed, a prior assessment is not required. **Neither a final assessment is a precondition to collection of delinquent taxes in the criminal tax case. The criminal action is deemed a collection case. Therefore, the government must prove two things: one, the guilt of the accused by proof beyond reasonable doubt, and two, the accused's civil liability for taxes by competent evidence (other than an assessment).**

Consistent with *Tiotangco* and *Mendez*, the Court must determine the amount of unpaid taxes and the corresponding penalties of accused RPV and Vasquez by competent evidence, other than the

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28 TSN, Hearing held on February 3, 2021, pp. 24-25.
29 *Pedrito Garma Y Miguel Alias "Willy" v. People of The Philippines*, G.R. No. 248317. March 16, 2022.
30 G.R. No. 264192, November 13, 2023.
31 G.R. Nos. 208310-11, March 28, 2023. Boldfacing supplied.

formal assessment. However, no such competent evidence to prove any civil liability on the part of accused RPV and Vasquez was presented by the prosecution in the instant case.

WHEREFORE, accused **RPV ELECTRO TECHNOLOGY PHILIPPINES CORPORATION,** and **ROLAND P. VASQUEZ** are **ACQUITTED** of the crime charged in CTA Crim. Case No. O-714 due to lack of evidence proving the same.

Further, there being no competent evidence to prove any civil liability on their part, **RPV ELECTRO TECHNOLOGY PHILIPPINES CORPORATION,** and **ROLAND P. VASQUEZ** are **ABSOLVED** of the civil liability for collection of unpaid taxes deemed instituted in CTA Crim. Case No. O-714.

The Commonwealth Insurance Company Personal Bail Bond with No. JCR (2) 0078665 posted by accused **ROLAND P. VASQUEZ** before this Court is **CANCELLED** and **RELEASED** of its undertaking.

SO ORDERED.

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest 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's Division.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice