REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

BUREAU OF INTERNAL REVENUE – REVENUE REGION I represented by Regional Director Josephine S. Virtucio,
Petitioner,

-versus-

HON. WENDELL M. RAMITERRE, Presiding Judge of the Regional Trial Court Branch 26 of San Fernando City, La Union,
Respondent.

CTA SCA NO. 0011
For: Certiorari under Rule 65 of the Rules of Court

Members:

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

Promulgated:

JUN 04 2025 4:20 p.m.

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DECISION

MANAHAN, J.:

Before the Court is a *Petition for Certiorari (On the Order of the Honorable Trial Court dated August 14, 2023)*[1] posted on October 11, 2023, assailing respondent's *Order* dated July 5, 2023 and *Order* dated August 14, 2023 ("**assailed *Orders***"). Respondent filed his *Comment* on January 4, 2024.[2]

THE FACTS

On February 2, 2023, petitioner Bureau of Internal Revenue ("**BIR**") – Revenue Region I instituted a complaint against Datu Amerhassan Lucman y Geronimo as president of Royal AGL Quality Foods, Inc. ("**accused**") for two (2) counts of violation of Section 255 of the Tax Code.[3] Finding probable cause, the Office of the City Prosecutor of San Fernando City,

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[1] Docket, pp. 5-27.
[2] Docket, pp. 123-150.
[3] *Petition for Review*, par. 5.9, Docket, p. 9; Annex "K" to "K-13," Docket, pp. 62-75; Annex "L" to "L-3," Docket, pp. 76-79.

La Union, filed two (2) criminal Information against accused.[4] Accused was charged with the following:

1.) Failure to supply correct and accurate information in its Annual Income Tax Return and to pay the correct income tax for taxable year 2018, as assessed by the Commissioner of Internal Revenue ("**CIR**"); and

2.) Failure to supply correct and accurate information in its Value-Added Tax Returns and to pay the correct value-added tax for taxable year 2018, as assessed by the CIR.

On July 5, 2023, upon being arraigned, accused pleaded guilty to both charges. Thus, respondent rendered judgment in open court as follows:[5]

> **ORDER**
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> In court were as follows: Assistant City Prosecutor Robert Fangayen, Jr. and the accused.
>
> As counsel *de parte* for the accused, Atty. Gamaliel Taqued formally entered his appearance.
>
> For the Bureau of Internal Revenue, Atty. Leonel Dominic Edulan and Atty. Benjamin Navarro III also formally entered their respective appearances.
>
> Upon motion, without objection, these cases are ordered consolidated.
>
> Upon motion of the prosecution, the Informations were amended to reflect the complete name of the accused from: "Datu Amerhassan G. Lucman" to "Datu Amerhassan Lucman y Geronimo."
>
> When arraigned in English, a language known and understood by him, the accused, with the due assistance of his counsel, pleaded guilty to both offenses. When asked by the court, the accused fully understood the nature and consequence of his plea.
>
> The plea of guilt shall then be considered as a mitigating circumstance.
>
> WHEREFORE, judgment is rendered as follows:

[4] Annexes "M" to "M-1," Docket, pp. 80-81; Annexes "N" to "N-1," Docket, pp. 82-83.
[5] Docket, p. 114.

CRIM. CASE No. 14799

The accused is found guilty beyond reasonable doubt of the offense charged. Accordingly, he is sentenced to pay a fine of Ten Thousand Pesos (₱10,000.00) and suffer a straight prison term of one (1) year.

With costs against the accused.

CRIM. CASE No. 14800

The accused is found guilty beyond reasonable doubt of the offense charged. Accordingly, he is sentenced to pay a fine of Ten Thousand Pesos (₱10,000.00) and suffer a straight prison term of one (1) year.

With costs against the accused.

SO ORDERED.

In open court, 5 July 2023, San Fernando City La Union.

On July 21, 2023, petitioner received a copy of the above *Order* dated July 5, 2023.[6]

On August 4, 2023, within fifteen (15) days from its alleged receipt of a copy of the above *Order*, petitioner filed a *Motion for Partial Reconsideration* assailing respondent's non-imposition of civil liability despite the conviction of accused.[7] Petitioner prayed that accused be ordered to pay the following delinquent accounts and penalties:

1. **[Value-added tax]** for the taxable period 2018 amounting to **FOUR HUNDRED FORTY THOUSAND TWO HUNDRED FIFTY PESOS AND NINETY-FIVE CENTAVOS** (₱440,250.95), inclusive of surcharge and interests imposed under Sec. 248(A)(3) and Sec. 249(C)(3) of the Tax Code, subject of Crim. Case No. 14799;

2. **Income Tax** for the taxable period 2018 amounting to **EIGHT HUNDRED SIXTY-EIGHT THOUSAND SIX HUNDRED THIRTY-NINE PESOS AND SEVEN CENTAVOS** (₱868,639.07), inclusive of surcharge and interests imposed under Sec. 248(A)(3) and Sec. 249(C)(3) of the Tax Code, subject of Crim. Case No. 14800, and;

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[6] *Petition for Review*, par. 5.26, Docket, p. 13; Annexes "I" and "AA," Docket, pp. 113-114.

[7] *Id*, par. 5.27; Annexes "B", "B-1" to "B-4," pp. 31-35.

3. Imposition of the additional penalty of **ONE HUNDRED THOUSAND PESOS** (₱100,000.00) fine provided in Sec. 256 for each violation of Sec. 255 (two counts), under Crim. Case No. 14799 and Crim Case No. 14800.

All other remedies, just and equitable under the premises, are likewise prayed for.

In an *Order* dated August 14, 2023, respondent denied petitioner's *Motion for Partial Reconsideration* for being filed out of time. The relevant portion of said *Order* states:[8]

> The judgment of conviction was dictated by the court in the presence of the accused and counsel. It was then promulgated on 5 July 2023, not when the movant received a copy thereof. As the motion was filed beyond the reglementary period to appeal, the said judgment became final and executory by operation of law. As such, it can no longer be modified much less partially reconsidered.

Petitioner now comes before the Court by way of a petition for *certiorari* on the following grounds:

I. Respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction when he issued the *Order* dated July 5, 2023 and denied petitioner's *Motion for Partial Reconsideration* without resolving the imposition of civil liability on the accused who pleaded guilty to the offenses charged;

II. Petitioner is allowed to appeal the civil aspect of a criminal case; and

III. Petitioner has no other plain, speedy, and adequate remedy in the ordinary course of law to question respondent's denial of its *Motion for Partial Reconsideration*.

Petitioner's arguments

Petitioner contends that respondent's act of repeatedly brushing off the issue of civil liability constituted grave abuse of discretion. According to petitioner, respondent should have at least provided a legal explanation why civil liability did not

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[8] *Id*, par. 5.28; Annexes "A-1" to "A-2," pp. 28-30.

attach to the offenses, despite the fact that accused pleaded guilty thereto. Under Sections 205 and 256 of the Tax Code, a judgment in a criminal tax case shall include the payment of the subject taxes in addition to the penal liabilities. Moreover, the civil penalties under Sections 248(A)(3) and 249(C)(3) should be imposed.

Petitioner therefore maintains that the denial of its *Motion for Partial Reconsideration* on the ground that it was filed out of time, without considering the substantial issue of civil liability, also constitutes grave abuse of discretion on the part of respondent. In failing to address the issue of civil liability despite being raised during arraignment and in petitioner's *Motion for Partial Reconsideration*, respondent deprived the government of its right to collect taxes due from a taxpayer who already pleaded guilty to the charges.

Petitioner notes that an appeal of the civil aspect of a criminal case may be taken within fifteen (15) days after notice pursuant to Rule 40, Section 2 of the Rules of Court. However, while it was notified in open court of the conviction of accused, it was not properly notified of the legal basis of the non-imposition of civil liability.

Finally, petitioner manifests that given the circumstances of the issuance of the assailed *Order* dated August 14, 2023 which is interlocutory in nature, it is left without the remedy of appeal, or other plain, speedy, and adequate remedy in the ordinary course of law.

Respondent's arguments

In his *Comment* filed on January 4, 2024, respondent concedes that at the time the issue of civil liability was raised in open court, he was uncertain as to whether the criminal cases filed carried with them the resolution of civil liability. However, to prevent delay and with the perception that there are administrative remedies available to petitioner, he made a ruling in open court that no civil liability attaches. Respondent then instructed petitioner to "just file the necessary motion" in order to allow him to judiciously revisit the ruling. Upon further study, respondent now finds that there are plausible grounds for its reconsideration.

Despite this, respondent maintains that the denial of petitioner's *Motion for Partial Reconsideration* is proper since it should have been filed within fifteen (15) days from the promulgation of judgment, not from the receipt of the open court order thereof. That petitioner can no longer avail of the remedy of appeal, or other plain, speedy, and adequate remedy, is its own doing since it failed to avail of the same within the period prescribed by law. With the assailed *Order* dated August 14, 2023 lapsing into finality and thereby attaining an immutable character, it is no longer within the power of respondent to revisit the same.

THE COURT'S RULING

We shall first discuss the basis of the Court's jurisdiction over the present *Petition for Certiorari* ("***Petition***").

Section 7 of RA No. 1125,[9] as amended by RA No. 9282[10] ("**CTA Charter**"), provides that the Court shall exercise exclusive appellate jurisdiction over orders of the Regional Trial Court in criminal tax cases originally decided by it:

> SEC. 7. *Jurisdiction.* - The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> ...
>
> (b) Jurisdiction over cases involving criminal offenses as herein provided:
>
> (1) Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code... *Provided, however,* That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) or where there is no specific amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate...

[9] AN ACT CREATING THE COURT OF TAX APPEALS.

[10] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

(2) **Exclusive appellate jurisdiction in criminal offenses:**

(a) Over appeals from the judgments, resolutions or **orders of the Regional Trial Courts in tax cases originally decided by them**, in their respective territorial juris-diction.[11]

Although not expressly granted in the above provision, *The City of Manila v. Grecia-Cuerdo* recognized the Court's power to exercise *certiorari* jurisdiction over cases falling within its appellate jurisdiction:[12]

> **Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*.** In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction...
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> ...
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> ...It is more in consonance with logic and legal soundness to conclude that the grant of appellate jurisdiction to the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of *certiorari* when necessary in aid of such appellate jurisdiction. **The supervisory power or jurisdiction of the CTA to issue a writ of *certiorari* in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.**

Based on the foregoing, the Court may entertain petitions for *certiorari* challenging orders of the Regional Trial Court in criminal tax cases originally decided by it, such as the present *Petition*.

But before the Court can properly take cognizance of the present *Petition*, compliance with the period for filing a petition for *certiorari* under Rule 65, Section 4 must be shown. Said provision directs:

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[11] *Emphasis supplied.*
[12] G.R. No. 175723, February 04, 2014 [Per J. Peralta, *En Banc*]. *Emphasis supplied.*

> **Section 4.** *When and where petition filed.* — The petition shall be filed not later than **sixty (60) days** from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be **counted from notice of the denial of said motion**.
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> ...
>
> No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.

To determine the timeliness of a petition for *certiorari*, three material dates must be stated therein: 1.) the date when the notice of judgment or final order was received; 2.) the date when a motion for reconsideration or new trial was filed; and 3.) the date when the denial of such motion was received.[13] Here, petitioner states that: it received notice of the judgment on July 21, 2023;[14] it filed its motion for reconsideration thereof within 15 days or on August 4, 2023;[15] and it received the order denying such motion (*Order* dated August 14, 2023) on August 16, 2023.[16]

Considering that the present *Petition* assails only the civil aspect of the case, the reckoning point of the sixty (60)-day period under Rule 65, Section 4 should be from the date of receipt of the *Order* dated August 14, 2023 by petitioner. However, a perusal of the record shows that there is no proof of such receipt. In the certified true duplicate of said *Order* attached to its *Petition* as Annex "A" to "A-2," the receiving stamp on the last page only indicates receipt by the public prosecutor on August 14, 2023. In any case, even assuming that petitioner received the *Order* on the earliest possible date, *i.e.* on the same day it was promulgated on August 14, 2023, the sixty (60)-day period to file a petition for *certiorari* will still be until October 13, 2023. Thus, the instant *Petition* filed on October 11, 2023 is well within the reglementary period.

Having established the Court's jurisdiction over the present *Petition* and the timeliness of its filing, we shall now proceed to determine its propriety.

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[13] RULES OF COURT, Rule 46, Sec. 3.
[14] *Petition for Review*, par. 5.26, Docket, p. 13; Annex "T," Docket, pp. 113.
[15] *Id.*, par. 5.27, p.13; Annex "B," Docket, p. 31.
[16] *Id.*, par. 5.28, p.13; Annex "BB," Docket, p. 117.

Requisites of a petition for certiorari

For a traditional special civil action for *certiorari* under Rule 65 to prosper, the following requisites must concur:[17]

1. It must be directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions;

2. The tribunal, board, or officer must have acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and,

3. There is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.

First requisite

There is no question that the first requisite obtains in this case, since the assailed *Orders* were issued by respondent in his capacity as a judicial officer.

Second requisite

The only issue that may be raised in a special civil action for *certiorari* is whether the act assailed was made without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.[18] It is settled that mere errors of judgment are not proper subjects of a special civil action for certiorari. If a lower court simply misapplied the facts and evidence, or made an erroneous conclusion based thereon, then there is no grave abuse of discretion correctable by a writ of *certiorari.*[19]

There is grave abuse of discretion when an act is: 1.) done contrary to the Constitution, law, or jurisprudence; or 2.) executed whimsically, capriciously, or arbitrarily.[20]

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[17] *Clark Investors and Locators Association, Inc. v. Secretary of Finance*, G.R. No. 200670, July 06, 2015 [Per J. Villarama, Jr., Third Division].
[18] *Tirol v. Tayengco-Lopingco*, G.R. No. 211017, March 15, 2022 [Per J. Inting, First Division].
[19] *People of the Philippines v. Domingo Arcega Y Siguenza*, G.R. No. 237489, August 27, 2020 [Per J. Peralta, First Division].
[20] *Ocampo v. Enriquez*, G.R. No. 225973, November 08, 2016 [Per J. Peralta, En Banc].

In the first issue raised by petitioner, the Court is tasked to determine whether respondent's issuance of the assailed *Orders* is tainted with grave abuse of discretion. As argued by petitioner, the *Order* dated July 5, 2023 contravenes Sections 205 and 256 of the Tax Code, while the *Order* dated August 14, 2023 constitutes a clear deprivation of the government's right to collect taxes that are already due it.

Section 205 of the Tax Code provides:

> **SEC. 205.** ***Remedies for the Collection of Delinquent Taxes.*** - The civil remedies for the collection of internal revenue taxes, fees or charges, and any increment thereto resulting from delinquency shall be:
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> (a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts and interest in and rights to personal property, and by levy upon real property and interest in or rights to real property; and
>
> (b) By civil or criminal action.
>
> Either of these remedies or both simultaneously may be pursued in the discretion of the authorities charged with the collection of such taxes: *Provided, however,* That the remedies of distraint and levy shall not be availed of where the amount of tax involved is not more than One hundred pesos (P100).
>
> **The judgment in the criminal case shall not only impose the penalty but shall also order payment of the taxes subject of the criminal case** as finally decided by the Commissioner.[21]

Meanwhile, Section 256 of the Tax Code provides:

> **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 (₱50,000.00) but not more than One hundred thousand pesos (₱100,000.00).

A quick glance at *Order* dated July 5, 2023 readily shows that it does not conform to Section 205 of the Tax Code. Said *Order* glaringly omitted the payment of taxes subject of the

[21] *Emphasis supplied.*

consolidated criminal cases, despite the fact that accused pleaded guilty to their non-payment and essentially admitted liability therefor. It also failed to impose the penal liability prescribed under Section 256 of the Tax Code.

In *People v. Mendez,*[22] the Supreme Court established the rule that a criminal action for violation of tax laws is deemed a collection case. Hence, even in the absence of a prior tax assessment, the government must prove not only the guilt of the accused but also his or her civil liability for the unpaid tax. In the case before the court *a quo*, the BIR alleged that a formal letter of demand with attached assessment notices was served on accused[23] and it is upon which the criminal action is based. In view thereof, the Court finds respondent to have acted in contravention of law, jurisprudence, and the basic tenets of due process, when he summarily deprived the BIR of the opportunity to present evidence on the alleged tax liabilities and merely imposed a fine of ten thousand pesos (₱10,000.00) without statutory basis.

It is imperative for courts to prescribe the proper penalties when convicting the accused and to impose the appropriate civil liabilities, unless there has been a waiver or reservation of the action for its recovery. As strictly declared by the Supreme Court in *De Guzman, Jr. v. People,*[24] a disregard of this judicial duty constitutes grave abuse of discretion amounting to lack or excess of jurisdiction, *viz*:

> **We also pointedly remind all trial and appellate courts to avoid omitting reliefs that the parties are properly entitled to by law or in equity under the established facts.** Their judgments will not be worthy of the name unless they thereby fully determine the rights and obligations of the litigants. It cannot be otherwise, for only by a full determination of such rights and obligations would they be true to the judicial office of administering justice and equity for all. Courts should then be alert and cautious in their rendition of judgments of conviction in criminal cases. **They should prescribe the legal penalties, which is what the Constitution and the law require and expect them to do. Their prescription of the wrong penalties will be invalid and ineffectual for being done without jurisdiction or in manifest grave abuse of discretion amounting to lack of jurisdiction.** They should also determine and set the civil liability *ex delicto* of the accused, in order to do justice to the complaining victims who are

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[22] G.R. Nos. 208310-11 & 208662 dated March 28, 2023 [Per J. Lopez, *En Banc*].
[23] *Petition for Review*, pars. 5.6 to 5.9, Docket, pp. 9-10.
[24] G.R. No. 178512, November 26, 2014 [Per J. Bersamin, First Division].

> always entitled to them. The Rules of Court mandates them to do so unless the enforcement of the civil liability by separate actions has been reserved or waived.

Consequently, the *Order* dated July 5, 2023 is invalid insofar as it failed to impose the statutory penal and civil liabilities on the accused.

Additionally, upon review of the records, the Court finds that the *Order* dated July 5, 2023 is constitutionally infirm for failing to state the facts and the law on which it is based. Article VIII, Section 14 of the Constitution mandates:

> **Section 14.** No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

While the above constitutional provision expressly refers to a court "decision," it also covers judgments or final orders determining the merits of a case.[25] Rule 120, Sections 1 and 2 of the Rules of Court relevantly provide:

> **Section 1.** *Judgment definition and form.* — Judgment is the **adjudication by the court that the accused is guilty or not guilty** of the offense charged and the **imposition on him of the proper penalty and civil liability, if any**. It must be **written** in the official language, personally and directly prepared by the judge and signed by him and shall **contain clearly and distinctly a statement of the facts and the law upon which it is based.**[26]
>
> **Section 2.** *Contents of the judgment.* — If the judgment is of conviction, it shall state (1) the **legal qualification of the offense** constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) the penalty imposed upon the accused; and (4) the **civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any**, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.[27]

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[25] *See Soiland Development Corporation v. Fair Distribution Center Corporation*, G.R. No. 199539, August 09, 2023 [Per C.J. Gesmundo, First Division]; *Nicos Industrial Corporation v. The Court of Appeals*, G.R. No. 88709, February 11, 1992 [Per J. Cruz, First Division].

[26] *Emphasis supplied.*

[27] *Emphasis supplied.*

As could easily be gleaned from the *Order* dated July 5, 2023, accused was adjudged "guilty beyond reasonable doubt of the offense charged," both in Crim. Case No. 14799 and Crim. Case No. 14800, based on his plea of guilt—but said *Order* failed to distinctly state each of the offense charged. Said *Order* likewise failed to state the legal reasons for the conclusion of the court that no civil liability attaches, despite a categorical ruling made in open court to that effect:

> PROS. FANGAYEN:
> Just for clarification of the court and everybody because in the Information as I mentioned awhile ago there is a statement to the damage and prejudice of the government of the Philippines, so this pertains to the civil liability in every criminal liability, your honor.
>
> COURT:
> That's why. The court already made a ruling awhile ago.
>
> PROS. FANGAYEN:
> I'm sorry. What's the ruling of the court?
>
> COURT:
> **There is no civil liability that attaches to the institution of these criminal cases.**
>
> PROS FANGAYEN:
> There is no?
>
> COURT:
> Yes. **The court already made a ruling awhile ago. If you want to move for its reconsideration, file the necessary motion.** Okay?
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> PROS. FANGAYEN:
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> Thank you, your honor.
>
> COURT:
> Order - - - (in the record).
> As to the probation, just file the necessary motion within the fifteen (15) day reglementary period from today.
>
> ATTY. TAQUED:
> Yes, your honor.
>
> PROS. FANGAYEN:
> Your honor, in the order of the court it is not included the issue on civil liability. **We cannot make any motion for reconsideration if there's no order with that respect. May we have an Order on that?**
>
> COURT:
> There was already a ruling during the proceedings. **There is no need to mention there because it is the position of the court that there is no civil liability.**

PROS. FANGAYEN:
We submit, your honor.[28]

Courts cannot make judgments without reason, much less judgments that are not written. Parties to a litigation are entitled to know how the case is decided. This not only enables them to properly appeal, if permitted by law; it also makes it possible for the appellate court to review any error in the decision. As explained in *Philippine National Bank v. Heirs of the Late Ireneo and Caridad Entapa*:[29]

> Faithful adherence to the requirements of Section 14, Article VIII of the Constitution is indisputably a paramount component of due process and fair play. It is likewise demanded by the due process clause of the Constitution. The parties to a litigation should be informed of how it was decided, with an explanation of the factual and legal reasons that led to the conclusions of the court. **The court cannot simply say that judgment is rendered in favor of X and against Y and just leave it at that without any justification whatsoever for its action.** The losing party is entitled to know why he lost, so he may appeal to the higher court, if permitted, should he believe that the decision should be reversed. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is precisely prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal. More than that, **the requirement is an assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning.** It is, thus, a safeguard against the impetuosity of the judge, preventing him from deciding *ipse dixit*...
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> ...It is likewise crucial to assure the public that the judiciary arrives at its conclusions on the basis of reasonable inference from credible and admissible evidence and the text of law and our jurisprudence. Decisions of all courts should not be based on any other considerations. Not only will fully coherent and cogent reasons have greater chances to convince the litigants of their chances on appeal; **they also make appeals possible**. After all, **appellate courts cannot be assumed to have so much omniscience that they can read what the trial judge has not written**.

In a criminal case, the private complainant has the legal personality to appeal the civil liability of the accused or to file a petition for *certiorari* to preserve his or her interest in the civil

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[28] Transcript of Stenographic Notes (TSN) date July 5, 2023, Docket, pp. 111-112.
[29] G.R. No. 215072, September 07, 2016 [Per J. Leonen, Second Division].

aspect of the case.[30] Unfortunately, the defects of the *Order* dated July 5, 2023 not only deprived herein petitioner of the right to appeal the civil aspect of the respondent's judgment, it also prevented the appellate court from properly reviewing the same.

Considering that respondent did not at all conduct any proceeding to determine the civil aspect of the case, and that there is no written order or judgment regarding the same, petitioner therefore cannot be declared to have belatedly filed its *Motion for Partial Reconsideration* precisely because there is nothing that it can seek reconsideration of. A valid motion for reconsideration requires the movant to specify the findings or conclusions in the judgment which are not supported by evidence or contrary to law, making express reference to the pertinent evidence or law;[31] otherwise, the motion is fatally defective and is "equivalent to a useless scrap of paper."[32] Rule 37, Section 2 of the Rules of Court states:

> **Section 2.** *Contents of motion for new trial or reconsideration and notice thereof.* — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.
>
> ...
>
> A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.
>
> A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal.

Here, petitioner could not have possibly pointed out the findings or conclusions on the civil liability of accused which are not supported by evidence or are contrary to law because there is none. Consequently, the *Order* dated August 14, 2024 which denied petitioner's *Motion for Partial Reconsideration* for being filed beyond the 15-day reglementary period—counted from the date of the open court order adjudging accused guilty—is likewise invalid.

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[30] *Austria v. AAA and BBB*, G.R. No. 205275, June 28, 2022 [Per J. Lopez, En Banc].
[31] *Philippine National Bank v. Paneda, G.R. No. 149236*, February 14, 2007 [Per J. Austria-Martinez, Third Division].
[32] *Ti v. Diño*, G.R. No. 219260, November 06, 2017 [Per J. Peralta, Second Division].

Third requisite

Jurisprudence consistently holds that where an appeal is available, *certiorari* will not prosper, even if the ground raised is grave abuse of discretion.[33] *Certiorari* is not a substitute for lost appeal.[34] Hence, when a party adopts an improper remedy, the petition for *certiorari* may be dismissed outright.[35]

In the second and third issues raised in the present *Petition*, petitioner submits that it is allowed to appeal the civil aspect of the subject criminal case, but given the procedural lapses which attended the case, it is left without plain, speedy, and adequate remedy in the ordinary course of law.

Indeed, as already discussed, the circumstances of the present case left petitioner in the dark as to its available remedies. In the ordinary course of proceedings, the trial court must reset the case for the reception of evidence to determine the civil liability and the imposable penalty.[36] However, since the court *a quo* did not do so, the judgment of conviction made in open court still leaves something to be done with respect to the civil aspect of the case, and petitioner cannot be faulted for expecting a final order thereon—written and signed by respondent—which could be the subject of its appeal. There being no such final order, petitioner could not have availed of the ordinary remedy of appeal, and its only recourse against respondent's inaction would be a petition for *certiorari*. The Supreme Court's ruling in *Integrated Credit and Corporate Services, Co. v. Novelita Labrador*[37] is instructive:

> The RTC Order does not dispose of the case on the merits, seeing as the trial court clearly requires the need to determine the better right of the parties in an adversarial proceeding... To reiterate, an order is "interlocutory when it does not dispose of the case completely but leaves something to still be decided by the trial court." In this case, the order dismissing the writ of possession merely determines that petitioner is not entitled to the writ of possession *ex parte*. It is not a judgment on the merits, contrary to petitioner's claim. There is still a need for further

[33] *Pfleider v. Hon. Court of Appeals - Cebu City*, G.R. No. 196058, November 12, 2018 [Per J. Caguioa, Second Division].
[34] *Republic of the Philippines v. Court of Appeals and Traders Royal Bank*, G.R. No. 129846, January 18, 2000 [Per J. Mendoza, Second Division].
[35] *Supra*, Note 31.
[36] *See* Benchbook for Trial Court Judges.
[37] G.R. No. 233127, July 10, 2023 [Per C.J. Gesmundo, First Division].

> proceedings to determine the respective rights of the parties involved...
>
> Anent thereto, Sec. 1, Rule 41 of the Rules of Court, provides:
>
>> Section 1. *Subject of appeal.* — An appeal may be taken from a judgment or final order that **completely disposes** of the case, or of a particular matter therein when declared by these Rules to be appealable.
>>
>> No appeal may be taken from:
>>
>> ...
>>
>> (c) An interlocutory order;
>>
>> ...
>>
>> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.
>
> Based on the foregoing, it is clear that no appeal may be taken from an interlocutory order issued by the RTC. The remedy against an interlocutory order is a special civil action for *certiorari* under Rule 65 of the Rules of Court, but only when there is grave abuse of discretion. A petition for *certiorari* is an extraordinary remedy availed of when a tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his or her jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. Likewise, the Court has previously declared that an appeal and a petition for *certiorari* are two different remedies, which are not interchangeable. Remedies of appeal and *certiorari* are mutually exclusive, not alternative or successive.[38]

In any case, even assuming for the sake of argument that petitioner should have treated the *Order* dated July 5, 2023 as the appealable final order with respect to the civil aspect of the case, the rule that *certiorari* will not prosper where appeal is available admits of well-defined exceptions. These are: 1.) when public policy and public welfare dictates; 2.) when the broader interest of justice so requires; 3.) when the writs issued are null and void; and 4.) when the questioned order amounts to an oppressive exercise of judicial authority.[39] In view of the constitutional and legal defects established to have attended

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[38] *Emphasis supplied, citations omitted.*

[39] *Republic of the Philippines v. Eugenio, Jr.*, G.R. No. 214071, February 15, 2022 [Per J. Caguioa, First Division].

the present case, this would clearly fall within the recognized exceptions.

ACCORDINGLY, the instant *Petition for Certiorari (On the Order of the Honorable Trial Court dated August 14, 2023)* posted on October 11, 2023 is hereby **GRANTED**. Respondent is **DIRECTED** to conduct proceedings for the determination of the civil and penal liabilities of accused in accordance with this decision, and to resolve the same with reasonable dispatch.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo
(With Dissent)
MARIAN IVY F. REYES-FAJARDO
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

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

BUREAU OF INTERNAL REVENUE – REVENUE REGION I represented by Regional Director Josephine S. Virtucio, *Petitioner,*	**CTA SCA No. 0011**
	Members:
	MANAHAN, *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
- versus -	
HON. WENDELL M. RAMITERRE, Presiding Judge of the Regional Trial Court Branch 26 of San Fernando City, La Union, *Respondent.*	Promulgated:
	4:20 p.m.

x - x

DISSENT

REYES-FAJARDO, *J.*:

I submit that petitioner *erroneously* challenged the Orders dated July 5, 2023 and August 14, 2023, handed down by Hon. Wendell M. Ramiterre, Presiding Judge of Branch 26, Regional Trial Court of San Fernando La Union (RTC La Union) by way of a special civil action for *certiorari*, filed under Rule 65 of the Rules of Court, as amended.

Allow me to explain.

Asilo v. Gonzales-Betic (Betic),[1] citing *Madrigal Transport Inc. v. Lapanday Holdings Corporation (LHC)*[2] held that a special civil action for *certiorari*, is solely intended to correct errors of jurisdiction. Errors of judgment are excluded therefrom:

> In *Madrigal Transport Inc. v. Lapanday Holdings Corporation*, the Court elucidated that *certiorari*, as a remedy, is solely intended to correct errors of jurisdiction:
>
> > *As to the Purpose. Certiorari is a remedy designed for the correction of errors of jurisdiction, not errors of judgment. In Pure Foods Corporation v. NLRC*, [W]e explained the simple reason for the rule in this light:
> >
> > > "When a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. This cannot be allowed. The administration of justice would not survive such a rule. **Consequently, an error of judgment that the court may commit in the exercise of its jurisdiction is not correctable through the original civil action of *certiorari*.**"
> >
> > The supervisory jurisdiction of a court over the issuance of a writ of *certiorari* cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court — on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision. **Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of *certiorari*. *Where the error is not one of jurisdiction, but of an error of law or fact — a mistake of judgment — appeal is the remedy.*** (Emphasis supplied; citations omitted)

Pertinently, *Tan Po Chu v. Court of Appeals, et al. (Tan)*[3] distinguished errors of jurisdiction from errors of judgment in this wise:

> *Certiorari* is an extraordinary remedy of last resort for when another remedy is present, *certiorari* is not available. It is a limited

[1] G.R. No. 232269 (Formerly UDK 15799), July 10, 2024. Boldfacing mine. Italics in the original.

[2] G.R. No. 156067, August 11, 2004.

[3] G.R. No. 184348, April 4, 2016. Boldfacing mine.

form of review confined to errors of jurisdiction. An error of jurisdiction is one where the officer or tribunal acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. On the other hand, an **error of judgment is one which the court may commit in the exercise of its jurisdiction. They only involve errors in the court or tribunal's appreciation of the facts and of the law.** Errors of jurisdiction are reviewable on *certiorari*; errors of judgment, only by appeal.

Prescinding from *Tan*, the suppose errors ascribed by petitioner on RTC La Union are errors of judgment; hence, it is ***not*** rectifiable by way of a special civil action for *certiorari.*

To recount, the Information in Criminal Case Nos. 14799[4] and 14800,[5] indicted therein accused as president of Royal AGL Quality Foods, Inc. (RAQFI), for willful failure to: (1) supply correct and accurate information in RAQFI's 2018 Annual Income Tax Return[6] and 2018 VAT Returns;[7] and (2) pay its correct Income Tax and Value-Added Tax for Taxable Year 2018, *sans* the respective and precise amount thereof, punishable under Section 255 of the 1997 National Internal Revenue Code (NIRC), as amended.

Section 7(b)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282,[8] provides that when the tax offense charged do *not* contain the amount being claimed, regular courts have jurisdiction, among others. Considering that the offenses charged in Criminal Case Nos. 14799 and 14800, *i.e.*, Section 255[9] of the NIRC, as amended, carry

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4 Annex "N" and "N-1," Petition for Certiorari (On the Order of the Honorable Trial Court dated August 14, 2023). Docket (CTA SCA No. 0011), pp. 82-83.

5 Annex "M" and "M-1," Petition for Certiorari (On the Order of the Honorable Trial Court dated August 14, 2023). *Id.* at pp. 80-81.

6 *Supra* note 5.

7 *Supra* note 4.

8 Sec. 7. Jurisdiction. - The CTA shall exercise:

...

b. Jurisdiction over cases involving criminal offenses as herein provided:

...

1. Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) or **where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate.** ... (Boldfacing mine).

9 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 the accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply correct

a maximum imposable penalty of ten (10) years of imprisonment for each count, it is the Regional Trial Court which has jurisdiction under Section 20 of Batas Pambansa Blg. 129, as amended.[10] *Ergo,* RTC La Union acquired jurisdiction over Criminal Case Nos. 14799 and 14800.

Given that RTC La Union possesses jurisdiction over Criminal Case Nos. 14799 and 14800, whatever *alleged* mistake *i.e.*, accused is *not* civilly liable for payment of tax, deemed instituted in said criminal cases, that RTC La Union could possibly commit in the issuance of the impugned Orders dated July 5, 2023[11] and August 14, 2023[12] is an alleged error of judgment, which may *not* be cured by a special civil action for *certiorari*. More, *Betic, LHC,* and *Tan* made it clear that the proper and correct remedy thereon is an appeal.

In fine, petitioner blundered in opting for a special civil action for *certiorari,* instead of an appeal, to challenge RTC La Union's Orders dated July 5, 2023 and August 14, 2023. Accordingly, I **VOTE** to **DISMISS** CTA SCA No. 0011 on the strength of the foregoing discussion.

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

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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. (Underscoring mine).

10 See *Asistio v. People,* G.R. No. 200465, April 20, 2015.

11 Annex "AA" to "AA-2," Petition for Certiorari (On the Order of the Honorable Trial Court dated August 14, 2023). Docket (CTA SCA No. 0011), pp. 114-116.

12 Annex "A" to "A-2," Petition for Certiorari (On the Order of the Honorable Trial Court dated August 14, 2023). *Id.* at pp. 28-30.