REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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FELONILA Z. CALUAG,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

CTA EB CRIM. No. O47
(CTA Crim. Case No. O-330)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, JJ.

Promulgated:

MAR 21 2019
3:47 p.m.

x - x

AMENDED DECISION

UY, J.:

For resolution is petitioner's **"URGENT MOTION FOR RECONSIDERATION"** filed on October 19, 2018,[1] without respondent's comment despite due notice,[2] praying for the setting aside of the Court *En Banc*'s Decision dated September 17, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **DENIED**. The Decision dated September 6, 2017 and Resolution dated January 19, 2018 are hereby **AFFIRMED with MODIFICATION**.

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[1] Docket, pp. 346 to 395.

[2] Resolution dated November 13, 2018 vis-à-vis Records Verification dated January 17, 2019 issued by the Judicial Records Division of this Court, Docket, pp. 401 to 403

Petitioner Felonila Z. Caluag is hereby found **GUILTY BEYOND REASONABLE DOUBT** of violating Section 255 of the NIRC of 1997, as amended. She is hereby sentenced to an indeterminate penalty of one (1) year, as minimum, to two (2) years as maximum term of imprisonment, and to pay a fine in the amount of ₱10,000.00, with subsidiary imprisonment pursuant to Section 280 of the NIRC of 1997, as amended, in the event that petitioner Caluag has no property with which to meet the fine imposed upon her, or is unable to pay such fine.

In addition, petitioner Felonila Z. Caluag is **ORDERED TO PAY** the total amount of One Hundred Sixteen Million Six Hundred Nineteen Thousand Seven Hundred Twenty Two Pesos and Seventy Three Centavos (₱116,619,722.73) for taxable year 2005, inclusive of the 50% penalty imposed under Section 248(B) of the NIRC of 1997, as amended, computed as follows:

Taxable Year	BASIC INCOME TAX DUE	50% Penalty	TOTAL	Date Prescribed for Payment
2005	₱77,746,481.82	₱38,873,240.91	₱116,619,722.73	April 15, 2006

In addition, petitioner Felonila Z. Caluag is ORDERED TO PAY:

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax from the date prescribed for payment until December 31, 2017;

(b) Delinquency interest at the rate of 20% per annum as follows: (a) on the total amount of One Hundred Sixteen Million Six Hundred Nineteen Thousand Seven Hundred Twenty Two Pesos and Seventy Three Centavos (₱116,619,722.73); and (b) on the 20% deficiency interest which have accrued as stated in (a) hereof, computed from the date prescribed for payment until December 31, 2017; and

(c) Delinquency interest at the rate of 12% on the total unpaid amount [basic taxes, surcharges, and interests computed on (a) and (b) above] from January 1, 2018, until the same is fully paid.

SO ORDERED."

In support of her *Urgent Motion*, petitioner raises the following arguments, to wit:

1. The prosecution failed to establish that there was income that would require Caluag to file her income tax return for the year 2005.

2. The BSP Certification of alleged payments to the petitioner cannot establish income as it is defective.

3. While petitioner readily admitted income, which barely covered her family's basic daily needs, the prosecution failed to prove the amount of said income to justify the conviction.

4. The original or certified true copies of the Letters of Delivery and Sale were never presented.

5. Petitioner did not willfully fail to file her annual ITR for taxable year 2005.

THE COURT *EN BANC'S* RULING

Petitioner's *Urgent Motion* lacks merit.

After a careful examination and consideration of the petitioner's *Urgent Motion for Reconsideration*, it is noted that the arguments raised in the said *Motion* are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Amended Decision, to repeat the disquisitions made therein.

However, this Court finds the necessity to modify the imposition of deficiency and delinquency interests in accordance with Section 249 of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 10963 and implemented by Revenue Regulations (RR) No. 21-2018.

WHEREFORE, in light of the foregoing considerations, the instant *Urgent Motion for Reconsideration* is hereby **DENIED** for lack of merit.

Nevertheless, in view of Section 249 of the NIRC of 1997, as

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amended by RA No. 10963, and as implemented by RR No. 21-2018, the dispositive portion of the Court *En Banc*'s Decision dated September 17, 2018 is hereby **MODIFIED** to read as follows:

> "**WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **DENIED**. The Decision dated September 6, 2017 and Resolution dated January 19, 2018 are hereby **AFFIRMED with MODIFICATION**.
>
> Petitioner Felonila Z. Caluag is hereby found **GUILTY BEYOND REASONABLE DOUBT** of violating Section 255 of the NIRC of 1997, as amended. She is hereby sentenced to an indeterminate penalty of one (1) year, as minimum, to two (2) years as maximum term of imprisonment, and to pay a fine in the amount of ₱10,000.00, with subsidiary imprisonment pursuant to Section 280 of the NIRC of 1997, as amended, in the event that petitioner Caluag has no property with which to meet the fine imposed upon her, or is unable to pay such fine.
>
> In addition, petitioner Felonila Z. Caluag is **ORDERED TO PAY** the total amount of ₱449,294,236.92 for taxable year 2005, inclusive of the 50% surcharge imposed under Section 248(B) of the NIRC of 1997, as amended, and twenty percent (20%) deficiency interest and delinquency interest imposed under Sections 248(A) and 249(B) and (C), of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, as follows:

Basic Tax Due – Income Tax		₱ 77,746,481.82
Add: 50% Surcharge	₱ 38,873,240.91	
20% Deficiency Interest from April 16, 2006 to January 9, 2015 (₱77,746,481.82 x 20% x 3,191 days/365)	135,939,190.95	174,812,431.86
Total Amount Due, January 9, 2015		**₱252,558,913.68**
Add: 20% Deficiency Interest from January 10, 2015 to December 31, 2017 (₱77,746,481.82 x 20% x 1,087 days/365)	₱ 46,307,082.60	
20% Delinquency Interest from January 10, 2015 to December 31, 2017 (₱252,558,913.68 x 20% x 1,087 days/365)	150,428,240.64	196,735,323.24
Total Amount Due, December 31, 2017		**₱449,294,236.92**

Moreover, petitioner Felonila Z. Caluag is **ORDERED TO PAY** the delinquency interest at the rate of twelve percent (12%), on the total unpaid amount as of January 9, 2015, in the amount of ₱252,558,913.68, as determined above, computed from January 1, 2018 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963 and as implemented by RR No. 21-2018.

SO ORDERED."

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice