REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case Nos. O-922 & O-923**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
DANILO DE QUINTOS CALUGAY, *Accused.*	Promulgated: AUG 29 2025 2:06 p.m.

x -- x

RESOLUTION

On July 26, 2024, a Resolution[1] was issued, disposing CTA Crim. Case Nos. O-922 and O-923, as follows:

> **WHEREFORE,** we **RESOLVE** to:
>
> a. **DISMISS** CTA Crim. Case No. O-923, for lack of jurisdiction;
>
> b. **GRANT** accused's Revised Motion for Leave to File Demurrer to Evidence, filed on May 13, 2024;
>
> c. **ADMIT** accused's [Revised] Demurrer to Evidence;
>
> d. **GRANT** accused's [Revised] Demurrer to Evidence in CTA Crim. Case No. O-922; and
>
> e. **DISMISS** CTA Crim. Case No. O-922, for insufficiency of evidence.
>
> **SO ORDERED.**

---

1 Docket (CTA Crim. Case Nos. O-922 and O-923 – Vol. II), pp. 922-947.

On August 14, 2024, the prosecution filed its Motion for Reconsideration *(of the Resolution dated July 26, 2024)*,[2] insisting that the seizure and detention by the Bureau of Internal Revenue (BIR) of the packs of cigarettes with fake stamps in the factory-warehouse, based on a Mission Order (MO), is legal. Specifically, said action is sanctioned by Sections 10(b), 15, and 171 of the 1997 National Internal Revenue Code (NIRC), as amended, as implemented by Revenue Regulations (RR) No. 7-2014. Besides, *Commissioner of Internal Revenue v. Formula Sports, Inc. (FSI)*[3] acknowledged the efficacy of such MO.

The prosecution further points out that then President Rodrigo Roa Duterte (PRRD) vetoed the following part in Republic Act (RA) No. 11467, in Section 152 of the NIRC: "In case of tobacco products, any internal revenue officer may, in the discharge of [his or her] official duties, upon order of the court, enter any warehouse, building or place, ... where articles subject to tax under this Title are produced or kept, in so far as may be necessary to examine, discover or seize the same." For the prosecution, it discloses the policy of dispensing with the requirement of court orders prior to the search and seizure of said tobacco products.

The prosecution, too, contends that the Court of Tax Appeals in Division (CTA in Division) acquired jurisdiction over CTA Crim. Case No. O-923, because the *Complaint-Affidavit* dated April 25, 2019 divulged that the excise tax deficiency therein shows that said amount is exclusive of penalties and charges.

On September 6, 2024, accused filed its Comment and/or Opposition,[4] retorting that: (a) the seizure by the BIR and other law enforcement agencies of the articles and things in the warehouse is illicit because of lack of search warrant from a judge; (b) then President Duterte's veto message invoked by the prosecution was not offered as evidence; hence, may not be considered by the Court; (c) the CTA in Division failed to acquire jurisdiction in CTA Crim. Case No. O-923, because the amount of excise tax deficiency, exclusive of penalties and charges was not written in the Information relative to said case; and (d) the grant of his demurrer to evidence is tantamount to an acquittal; hence, the prosecution is proscribed from seeking reconsideration thereof.

---

2 *Id.* at pp. 948-959.

3 CTA EB No. 2674, March 6, 2024.

4 Docket (CTA Crim. Case Nos. O-922 and O-923 - Vol. II), pp. 964-972.

The Motion fails to impress.

First. Section 2, Article III of the 1987 Constitution safeguards a person's right against unreasonable searches and seizures. A search and seizure are considered unreasonable when it was done, *sans* a search warrant issued by a judge.[5]

Since the BIR Strike Team, police officers, barangay officials, and National Bureau of Investigation operatives conducted a search and seizure based on Deputy Commissioner for Internal Operations Group Arnel SD Guballa (DC Guballa)'s MO, and *not* a judicial search warrant, the things they secured by virtue thereof are inadmissible in evidence for being offensive of the constitutional right against unreasonable searches and seizures.

As between Sections 10(b), 15, and 171 of the 1997 National Internal Revenue Code (NIRC), as amended, conferring the BIR the authority to enter, examine, discover, and seize taxable articles, vis-à-vis the right against unreasonable searches and seizures set forth in Section 2, Article III of the 1987 Constitution, our Fundamental Law prevails, under the Doctrine of Constitutional Supremacy.[6]

Second. DC Guballa's MO falls under the domain of an administrative warrant because it endows the BIR Strike Team with authority to seize articles, and secure documents or accounting records. However, the following mandatory conditions for the validity and efficacy thereof laid down in *The Board of Commissioners of the Bureau of Immigration v. Yuan Wenle*[7] were *not* satisfied: (1) there is no tangible proof of probable cause; (2) the things to be seized were not described with particularity; and (3) the articles and things to be seized were intended to be used in support of the institution of criminal charges against accused.

Third. On the assumption that then PRRD's veto of portions (quoted above) of Section 152 of the NIRC, as amended, was intended to do away with the requirement of judicial search warrant in seizing

---

5 See *People v. Lacson, et al.*, G.R. No. 248529, April 19, 2023, citing *Ambre v. People*, G.R. No. 191532, August 15, 2012.

6 See *Manila Prince Hotel v. Government Service Insurance System*, G.R. No. 122156, February 3, 1997.

7 G.R. No. 242957, February 28, 2023.

taxable articles, still, such act cannot override the constitutional right against unreasonable searches and seizures guaranteed in Section 2, Article III of the Constitution.

Fourth. *FSI* indeed acknowledged the function of an MO, such as the one issued by DC Guballa. The relevant portion of the ruling in *FSI*[8] is quoted below:

> Readily, We observe that the Mission Order lacked any express authorization to conduct an audit and issue an assessment. Nevertheless, We delve into the implications of the Mission Order. Notably, the Mission Order draws power from paragraph (c) of Section 6 of the NIRC of 1997, as amended, which sets forth the **CIR's authority in relation to inventory or stock-taking**, as opposed to paragraph (a), which governs his or her power to authorize examinations and assessments.
>
> The form utilized by the BIR for the Mission Order, BIR Form No. 0422, similarly originates from RMO No. 03-2003 (as Annex "A" thereto), which recognizes the CIR's power under Section 6 (c):
>
> xxx xxx xxx
>
> **I. BACKGROUND**
>
> Under Section 6 (C) of the National Internal Revenue Code, as amended, the Bureau is empowered **to conduct inventory-taking of goods of any taxpayer for purposes of determining his correct internal revenue tax liabilities, or it may place the business operations of any person under observation or surveillance, if there is reason to believe that such person is not declaring his correct income, sales or receipts for internal revenue tax purposes.** While this power is inherently provided in the Tax Code, it has been observed that this tool has not been fully utilized by the Bureau to enhance taxpayer's compliance.
>
> ...

FSI elucidated that the function of an MO is to authorize the: (1) conduct of inventory taking of goods for the purpose of determining a person's correct internal revenue tax liabilities; and (2) observation or surveillance of business operations of any person, if there is reason to believe that said person is not declaring his or her correct income, sales, or receipts for internal revenue tax purposes. Simply put, the issuance of an MO is aimed at enjoining the taxpayer's tax compliance, and used

---

8 *Supra* note 3. Footnotes omitted. Boldfacing ours.

as aid in the proper assessment and collection of internal revenue taxes.

What this means is that the MO was ***not*** designed as a *carte blanche* authority for the BIR to search and seize taxable articles *in support of a criminal charge or indictment*, punishable under the NIRC, as amended. Once more, to accord validity on the search and seizure of properties or things used in support of a criminal charge or indictment, a judicial search warrant is indispensable, lest such things or properties be excluded as evidence for being the proverbial fruit of the poisonous tree.[9] The alleged counterfeit cigarettes, fake internal revenue stamps affixed therein, cigarette making and packing machines obtained by the BIR Strike Team, police officers, barangay officials, and NBI operatives are *no* exception.

Fifth. The Information filed against accused in CTA Crim. Case No. O-923 reads:

> That on or about the 28th day of November 2018, in the Municipality of Bugallon, Province of Pangasinan, and within the jurisdiction of the Honorable Court, the above-named accused, being the owner of a cigarette manufacturing facility[,] and engaging in the manufacture [of] local cigarettes, without any license to do so, did then and there knowingly, willfully[,] and unlawfully have in his possession[,] Two Hundred Forty-Seven Thousand Five Hundred Seventy (247,570) packs of locally manufactured cigarettes bearing counterfeit internal revenue stamps, without paying the excise tax thereon in the amount of Eight Million Six Hundred Sixty-Four Thousand Nine Hundred and Fifty ([₱]8,664,950.00) Pesos, exclusive of penalties, to the damage and prejudice of the Government of the Republic of the Philippines in the aforesaid amount.[10]

Said Information *failed* to aver that the excise taxes thereon amounting to ₱8,664,950.00, is exclusive of *charges and penalties*. This is required by Section 7(b)(1)[11] of Republic Act (RA) No. 1125, as

---

9 See *People v. Jumarang*, G.R. No. 250306, August 10, 2022.

10 Docket (CTA Crim. Case No. O-923), pp. 7-10.

11 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

amended by RA No. 9282, as a precondition for the CTA in Division to acquire jurisdiction. Precisely, CTA Crim. Case No. O-923 was dismissed on jurisdictional ground.

We are aware that the Joint Complaint Affidavit (JCA) dated April 25, 2019[12] was invoked by the prosecution to overturn the dismissal of CTA Crim. Case No. O-923. Yet, nowhere in said JCA was it mentioned that the precise amount of excise taxes amounting to ₱8,664,950.00, was exclusive of charges or penalties. What we can gather therefrom is that therein complainants lumped together the total amount of ₱3,414,014,450.00, *inclusive of increments*, collectively corresponding to the civil liability deemed instituted in said complaint for violations of: (a) unlawful pursuit of business; (b) failure to file excise tax returns; (c) unlawful possession or removal of articles subject to excise tax without payment of tax; and (d) unlawful possession of spurious internal revenue stamps.

WHEREFORE, the prosecution's Motion for Reconsideration *(of the Resolution dated July 26, 2024)* is **DENIED,** for lack of merit. The Resolution dated July 26, 2024 is **AFFIRMED.**

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

(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 ours)

12 Exhibit "P-3." Docket (CTA Crim. Case No. O-922), pp. 379-392.