REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-*versus*-

ANNE GIL RACHEL LABAO y KUAN, (Don Pedro Celdran Avenue, Corpus Christi Village Tubod, Iligan City),
Accused.

CTA Crim. Case No. O-834
For: Violation of Section 255 of the NIRC of 1997, as amended

Members:

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

Promulgated:

APR 29 2024 11:30 a.m.

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RESOLUTION

MANAHAN, *J.:*

To be resolved is plaintiff's ***Motion for Reconsideration (of the Decision dated February 7, 2024)*** filed through registered mail on February 22, 2024 and received by this Court on February 28, 2024, seeking for the setting aside of this Court's *Decision* dated February 7, 2024 (Assailed Decision) which acquitted and absolved the accused from any civil liability. The dispositive portion of the Assailed Decision reads as follows:

> "**WHEREFORE**, accused is hereby **ACQUITTED** in CTA Crim. Case No. O-834 for failure of the prosecution to establish the accused's guilt beyond reasonable doubt and is **DECLARED** without any civil liability.
>
> The cash bail bond posted by accused is hereby **CANCELLED** and **ORDERED RELEASED** to the accused upon presentation of the proper documents, in accordance with usual accounting rules and regulations.
>
> **SO ORDERED.**"

Plaintiff argues that the prosecution was able to establish that the criminal offense was committed willfully and that the accused should be held civilly liable for the offense charged.

Accused, on the other hand in her *Comment/Opposition (Re: Motion for Reconsideration dated 21 February 2024)* filed on March 11, 2024, argues that the judgment of acquittal, whether ordered by the trial or appellate court, is final, unappealable and immediately executory upon its promulgation and that this Court correctly ruled when it acquitted the accused for prosecution's failure to properly serve notices to the accused casts doubt as to the willful commission of the crime charged.

Accused also counter-argues that the Court correctly ruled that she is not civilly liable as prosecution failed to prove that she earned income in the absence of the contract of service and its failure to validate the supposed income from third persons.

We resolve.

On the timeliness of the filing of the motion at hand, plaintiff avers that it received the Assailed Decision on February 7, 2024, thus, it had fifteen (15) days from receipt of notice on February 7, 2024 or until February 22, 2024 within which to file its motion for reconsideration in accordance with Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals.[1] plaintiff's *Motion for Reconsideration* on February 22, 2024 was timely filed.

Going now to the substance of the motion, we deny it for lack of merit.

An acquittal from criminal charges cannot be appealed through a motion for reconsideration

Plaintiff asserted that, based on the evidence it presented proving that the accused was negligent in her affairs, this Court

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[1] "SECTION 1. *Who may and when to file motion.*- **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

failed to recognize that there was willfulness in not performing her obligation of paying the alleged deficiency taxes.

Plaintiff must be aware that when an accused was acquitted by the Court of the crime charged, such acquittal is final and the judgment of acquittal cannot be raised on an ordinary appeal following the doctrine of double jeopardy as held in the case of *People of the Philippines v. Danilo F Serrano, Sr., et al.*,[2] to wit:

> "It is elementary that the rule against double jeopardy proscribes an appeal from a judgment of acquittal on the merits. A verdict of acquittal is immediately final and a re-examination of the merits of such acquittal, even in an appellate court, will put him a second time in jeopardy for the same offense.
>
> The Constitution itself provides that no person shall be twice put in jeopardy of punishment for the same offense. Such a constitutional guarantee prohibits an appeal from a judgment of acquittal, and the law does not provide for exceptions other than deprivation of due process or grave abuse of discretion under exceptional circumstances."

The judgment of acquittal may only be questioned through a petition for certiorari under Rule 65 which must show that said decision was attended by grave abuse of discretion as held in the recent case of *People of the Philippines v. Court of Tax Appeals – Third Division, et al., viz.*:

> "It is well-established that when a criminal case is dismissed based on demurrer to evidence, the grant amounts to an acquittal and any further prosecution of the accused violates the constitutional proscription against double jeopardy. Hence, the only recourse left is to assail the acquittal through a petition for certiorari under Rule 65 of the Rules of Court. However, "[i]n such a case, **the factual findings of the trial court are conclusive upon the reviewing court**, and the only legal basis to reverse and set aside the order of dismissal upon demurrer to evidence is by a clear showing that the trial court, in acquitting the accused, committed grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process, thus, rendering the assailed judgment void."
>
> Grave abuse of discretion has been defined as "that capricious or whimsical exercise of judgment which is tantamount to lack of jurisdiction. 'The abuse of discretion must be patent and gross as to amount to an evasion of a

[2] SC Resolution, G.R. No. 135451, September 30, 1999.

> positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.' The party questioning the acquittal of an accused should be able to clearly establish that the trial court blatantly abused its discretion such that it was deprived of its authority to dispense justice." (*Underscoring ours*)

In the instant motion where plaintiff is seeking for the reconsideration of such acquittal, it failed to proffer any empirical evidence or cite specific instances when the Court, in acquitting the accused, committed any act that may constitute as grave abuse of discretion.

Further, the appeal for reconsideration of such acquittal was made in the instant motion. The abovementioned ruling of the Supreme Court is very clear that the only recourse to question or assail the acquittal of the accused is through a Petition for Certiorari under Rule 65 of the Rules of Court. Thus, asking for the reconsideration of such acquittal in a motion for reconsideration was not proper and un-meritorious.

Plaintiff failed to raise any issue as to the exoneration of the accused from civil liability.

Plaintiff argues that the accused should be held civilly liable for the offense charged. However, it failed to cite any particular part of the Assailed Decision where the Court erred in ruling that the accused has no civil liability.

We would like to reiterate the Court's factual findings that the information on the accused's alleged tax liability sourced from a Letter Notice was not properly verified, hence, merely presumed. Furthermore, the prosecution failed to present any contract of services that could corroborate the alleged undeclared income of the accused, to wit:

> "As to the civil liability, however, even if the assessment is void, such may be proven by other evidence other than the assessment itself as ruled in the recent case of *People of the Philippines v. Joel Mendez,* to wit:
>
> > "For the guidance of the bench and bar, the following rules shall govern the prosecution of criminal tax law violations and the corresponding civil liability for unpaid taxes:

> (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). ..."

In the instant case, the plaintiff presented the LN to prove the assessment that resulted from tax investigation.

However, during the interpellation conducted by this Court, particularly by the Presiding Justice Roman G. Del Rosario, the information gathered from the third-party sources, as stated in the LN by the BIR, was not verified or validated. The BIR merely relied or presumed that such information was indeed income of accused Labao, to wit:

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In the said LN, there was an attached schedule. It indicates that Accused Labao is the supposed seller while the entities specified therein are the supposed purchasers and the entries as to the amount indicated are the supposed purchases by the same. Purchases are more applicable for those business entities engaged in selling or transacting goods.

It should be recalled that accused Labao admitted that it is the registered proprietor of San Miguel Security Agency, which is allegedly engaged in security, janitorial, messengerial and allied services business. It provides services and it is not into selling of goods.

When an entity secures the services of a service provider, there must be a contract of service. However, such contracts between accused Labao and the supposed clients were not presented by the prosecution during trial which would corroborate that the supposed "purchases" of said entities are indeed income from rendition of said services.

It was admitted by the head of the investigation team that they did not conduct validation to the said entities to prove that said entries were indeed income earned by accused Labao. They merely relied on unverified information or they merely presumed that all those entries were indeed income of accused Labao. Hence, it casts doubts as to the accuracy of said information.

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Further, the absence of the contract of services that would corroborate the income allegedly derived from those supposed clients of accused Labao renders the same in kaput. The possibility that those payments were not income related cannot be discounted in the absence of such vital supporting documentary evidence."

There being no new and substantial arguments propounded by plaintiff in its motion, the Court finds no compelling reason to reverse the Assailed Decision.

WHEREFORE, premises considered, plaintiff's *Motion for Reconsideration (of the Decision dated February 7, 2024)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(I reiterate my Separate Concurring Opinion in Decision dated February 7, 2024)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice