REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

CTA EB CRIM. NO. 084
(CTA Crim. Case No. O-639)

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

- versus -

ROBIEGIE CORPORATION
and **GRACE G. SUCKSUPHAN,**
Respondents.

Promulgated:
DEC 01 2022 3:39 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner People of the Philippines' (**petitioner**'s) "Motion for Reconsideration"[1] (**MR**) filed on 20 July 2022, with Robiegie Corporation[2] (**respondent corporation/Robiegie**) and Grace G. Sucksuphan's (**respondent/**

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1 *Rollo*, pp. 198-204.

2 In the case caption of the prior Petition for Review, Information and Amended Information filed before the Court's First Division, respondent was referred to as **Robigie Corporation**. In the case caption of the present Petition for Review and the parties' respective documentary evidence, including the 13 June 2017 Resolution of the Office of the City Prosecutor of Manila (OCP-Manila), however, respondent's name was spelled as **Robiegie Corporation**. As explained in the assailed Decision, since the parties have admitted respondent's identity, the caption and the Amended Information are deemed amended to refer to respondent as **Robigie** Corporation.

Sucksuphan's) (collectively, **respondents**') "Comment/Opposition to the Motion for Reconsideration filed by the Petitioner (Dated July 15, 2022)"[3] (**Comment/Opposition**) filed on 29 July 2022.

Petitioner prays that the Court *En Banc*'s Decision promulgated on 30 June 2022[4] (**assailed Decision**) be set aside and another one be rendered ordering respondent corporation to pay the assessed deficiency internal revenue tax liabilities for the taxable year (**TY**) 2011 in the aggregate amount of ₱3,850,524.77. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, with the foregoing considerations, the present Petition for Review filed by petitioner People of the Philippines on 29 October 2020 is hereby **DENIED**. Accordingly, the First Division's Decision dated 17 June 2020 in CTA Crim. Case No. O-639, entitled *People of the Philippines v. Robiegie Corporation and Grace G. Sucksuphan,* is hereby **AFFIRMED** insofar as it acquitted Robiegie Corporation and Grace G. Sucksuphan of the offense charged for failure of the prosecution to prove their guilt beyond reasonable doubt, *and* with no declaration of any civil liability as the facts on which it should be based do not exist.
>
> **SO ORDERED.**
>
> ...

In the present MR[5], petitioner urges the Court *En Banc* to reverse its finding that it failed to prove beyond reasonable doubt the guilt of Sucksuphan in the offense charged [*i.e.*, violation of Section 255[6], in relation to Section 256[7], of the National Internal Revenue Code (**NIRC**) of 1997, as amended, for alleged refusal and failure to pay the assessed deficiency internal revenue tax liabilities]. In particular, the Court *En Banc* upheld the First Division's ruling that Sucksuphan's failure to pay Robiegie's deficiency tax liabilities for TY 2011 was not willful since petitioner failed to prove Robiegie's receipt of the Letter of Authority (**LOA**) and the assessment notices.

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3 *Rollo*, pp. 205-207.
4 Id., pp. 99-145, including the Separate Opinion of the Honorable Presiding Justice Roman G. Del Rosario.
5 Supra at note 1.
6 **SEC. 255.** *Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.*
7 **SEC. 256.** *Penal Liability of Corporations.*

Petitioner insists that respondents' convenient denial of the receipt of the LOA and the assessment notices should not be countenanced. According to petitioner, respondents' bare denial of receipt thereof without competent proof is self-serving and cannot overcome its positive pieces of evidence (*i.e.*, transmittal letters and registry receipts) that gave rise to a disputable presumption laid down in Section 3(v)[8], Rule 131 of the Rules of Court. Petitioner thus claims that the *onus probandi* has already shifted to respondents and it is entitled anew to the presumption that the LOA and the assessment notices were duly received in the ordinary course of mail.

On the other hand, respondents, in their Comment/ Opposition[9], submit that petitioner's arguments are mere reiterations of those raised in its MR before the First Division and in his Petition for Review before the Court *En Banc* that have already been considered, weighed and resolved by the Court *En Banc*. Respondents thus assert that there is no compelling reason to reverse and set aside the assailed Decision.

We resolve.

A careful perusal of petitioner's MR[10] readily reveals that the arguments relied upon are mere reiterations of those raised in its MR before the First Division and in its Petition for Review before the Court *En Banc*, and that these arguments have already been considered by the Court *En Banc* in arriving at the conclusions reached in the assailed Decision. Petitioner failed to raise any new or substantial matter or any compelling reason that will justify reversal or even modification of the Court *En Banc*'s findings.

In the case of *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[11], the Supreme Court denied an MR for failing to raise any substantial legitimate ground or reason to justify the consideration sought, *viz*:

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[8] Sec. 3. *Disputable presumptions*. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

...

(v) That a letter duly directed and mailed was received in the regular course of the mail[.]

...

[9] Supra at note 3.

[10] Supra at note 1.

[11] G.R. No. 159938, 22 January 2007.

> ...
>
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a **motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.**
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.[12]
>
> ...

Accordingly, the Court *En Banc* stands by its ruling that petitioner's evidence miserably failed to satisfactorily prove that Robiegie actually received the LOA and the assessment notices. As explained in the assailed Decision, considering that respondents denied receipt of the LOA and the assessment notices, the burden of proving that they actually received the same shifts to petitioner, who is the party favored by the presumption. Contrary to petitioner's contention, the *onus probandi* was shifted to petitioner to prove by contrary evidence that Robiegie received the same in the due course of mail.

We reiterate, for emphasis, the Supreme Court's ruling in *Republic of the Philippines v. Resins, Incorporated,*[13] citing the cases of *The Government of the Philippines v. Victoriano Aballe, et al.*[14] and *Lutgarda Cruz v. The Court of Appeals, et al.*[15] (as cited in the assailed Decision) that the presentation of registry receipts alone is insufficient to prove the fact of service, to wit:

> ...
> OSG's denial of receipt of the 17 March 1993 Judgment required Resins, Inc. to show proof that the Judgment was sent through registered mail and that it was received by the Republic. While the

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12 Citation omitted and emphasis supplied.
13 G.R. No. 175891, 12 January 2011; Citations omitted, italics in the original text and emphasis supplied.
14 G.R. No. 147212, 24 March 2006.
15 G.R. No. 123340, 29 August 2002.

> certification from the RTC Clerk of Court and photocopies of the return slips prove that the Republic was served the judgment, it does not follow that the Republic, via the OSG, actually received the judgment. **Receipts for registered letters and return receipts do not prove themselves, they must be properly authenticated in order to serve as proof of receipt of the letters. Resins, Inc. also did not show a certification from the postmaster that notice was duly issued and delivered to the OSG such that service by registered mail may be deemed completed. It cannot be stressed enough that "*it is the registry receipt issued by the mailing office and the affidavit of the person mailing, which proves service made through registered mail.*" Absent one or the other, or worse both, there is no proof of service.**
>
> ...

Applying the foregoing, the First Division was then correct in giving little credence to petitioner's registry receipts absent any certification or authentication from the postmaster. Indeed, while the registry receipts prove the fact of mailing, petitioner fell short in establishing Robiegie's actual receipt of the LOA and the assessment notices.

In sum, the Court *En Banc* finds no plausible reason to deviate from its ruling in the assailed Decision that petitioner has not proven beyond reasonable doubt that Sucksuphan, representing Robiegie, deliberately failed to pay Robiegie's deficiency tax liabilities for TY 2011 as petitioner failed to prove Robiegie's receipt of the LOA and the assessment notices.

WHEREFORE, the foregoing premises considered, petitioner People of the Philippines' "Motion for Reconsideration", filed on 20 July 2022, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

I reiterate my Separate Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice