REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff, **-versus-** **BENEDICTO P. CAGUIMBAL,** Accused.	**CTA CRIM. CASE NOs. O-546 & O-547** **Members:** **FABON-VICTORINO, &** **RINGPIS-LIBAN, *JJ.*** **Promulgated:** SEP 26 2018 1:56 p.m.

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DECISION

RINGPIS-LIBAN, J.

The Case

Accused Benedicto P. Caguimbal, owner of Caguimbal Electrical Works, is charged with violations of Section 255 of the National Internal Revenue Code (NIRC) of 1997, as amended, for failure to pay its deficiency income tax and value-added tax for taxable year 2010.

Accused has his business address at 2240-B Severino Reyes Street, Sta. Cruz, Manila.

The plaintiff, on the other hand, is represented by the Bureau of Internal Revenue (BIR), the government agency primarily tasked to collect internal revenue taxes for the support of the government, with office address at the BIR National Office Building, Diliman, Quezon City.

The Informations against the accused read as follows:

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CTA CRIM. CASE NO. O-546:

"That on January 9, 2013 and thereafter, in Sta. Cruz, Manila, and within the jurisdiction of this Honorable Court, the above-named accused, a registered taxpayer and proprietor/owner of Caguimbal Electrical Works, did then and there willfully, unlawfully and feloniously fail to pay deficiency value added tax (VAT) with the Bureau of Internal Revenue for taxable year 2010, despite final assessment notice, including prior and post-notices and final demands to pay, the last being in the nature of demand before suit sent on January 9, 2013, to the damage and prejudice of the Government in the amount of **ONE MILLION SIX THOUSAND SEVEN HUNDRED EIGHTY SEVEN PESOS AND 40/100 (P1,006,787.40)** tax deficiency, exclusive of surcharges and interests.

CONTRARY TO LAW."

CTA CRIM. CASE NO. O-547:

"That on January 9, 2013 and thereafter, in Sta. Cruz, Manila, and within the jurisdiction of this Honorable Court, the above-named accused, a registered taxpayer and proprietor/owner of Caguimbal Electrical Works, did then and there wilfully, unlawfully and feloniously fail to pay deficiency income tax with the Bureau of Internal Revenue for the taxable year 2010, despite final assessment notice, including prior and post-notices and final demands to pay, the last being in the nature of demand before suit sent on January 9, 2013, to the damage and prejudice of the Government in the amount of **TWO MILLION FOUR HUNDRED EIGHTY ONE THOUSAND NINE HUNDRED SIXTY EIGHT PESOS AND 50/100 (P2,481,968.50)** tax deficiency, exclusive of surcharges and interests.

CONTRARY TO LAW."

On March 15, 2016, accused voluntarily appeared before the Court and submitted himself to the jurisdiction of the Court by posting a cash bond in the amount of P20,000.00 for each case, for his provisional liberty.[1]

During the arraignment on June 29, 2016, accused, with the assistance of his counsel de parte, entered a plea of "Not Guilty" to the crimes charged.[2]

[1] Resolution approving the cash bond, Docket, p. 85 for CTA CRIM CASE No. O-546 and p. 86 for CTA CRIM CASE No. O-547.

On July 27, 2016, the plaintiff filed a "Motion to Consolidate." During the Pre-Trial Conference set on the same date, the Court granted the "Motion to Consolidate" considering that all the conditions for consolidation were met.[3] After the termination of the pre-trial conference, the parties presented their respective evidence.

Trial ensued and to prove its case, the prosecution presented six witnesses, namely: Wenchie Grace C. Regis, Shervin Vasquez, Armando Macatangay, Ma. Paz Arcilla, Jefferson T. Ocampo, and Renato P. Gutierrez

The plaintiff's first witness, ***Wenchie Grace C. Regis***,[4] Revenue Officer I-Assessment, assigned at Revenue District Office No. 32, BIR Manila, testified that her duty is to conduct an audit or investigation of taxpayers within the jurisdiction of the district office pursuant to a Letter of Authority, Tax Verification Notice, Letter Notice and other forms of notice of audit. She was assigned to conduct audit on accused by virtue of a Memorandum of Assignment.[5] On November 29, 2011, she personally served upon accused through his registered address the Letter Notice with attached Details of Withholding Agent/Payors and Payees Income Recipients Records and the same were received by Louisa Anne Villaruel. On January 9, 2012, she served upon accused, through registered mail, a Follow-up Letter[6] giving him the last chance to reconcile the discrepancy and to refute the findings against him. Then on March 22, 2012, she personally served on accused a Notice of Informal Conference[7] duly signed by RDO Teodora A. Huelva, which was received again by Louisa Anne Villaruel.

After the audit, she and her team prepared the Revenue Officer's Audit Report on Value-Added Tax (BIR-Form No. 0507),[8] Revenue Officer's Audit Report on Income Tax (BIR Form No. 0500)[9] and Memorandum[10] regarding their findings. Thereafter, her team endorsed[11] the entire tax docket of accused to the Assessment Division for the issuance of assessment notices.

She identified her Judicial Affidavit marked as Exhibit "P-26."

On cross examination, she testified that the Follow-up Letter was sent to accused through registered mail. However, the registry return receipt was not returned to her office. She was certain that the said letter was received by accused because a person claiming to be the uncle of accused went to the BIR

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[2] Order, Docket p. 113 for CTA CRIM Case No. O-546 and Docket p. 113 for CTA CRIM CASE No. O-547.
[3] Order, Docket, pp. 113-114, CTA CASE CRIM CASE NO. O-546.
[4] Testified on August 31, 2016.
[5] Exhibit "P-2."
[6] Exhibit "P-3."
[7] Exhibit "P-4."
[8] Exhibit "P-5."
[9] Exhibit "P-6."
[10] Exhibit "P-7."
[11] Exhibit "P-8."

Office and secured a copy of the Follow-up Letter. She did not verify the identity of the alleged uncle who also gave her a cellphone number which she did not bother to call.

She further testified that when she personally served the notices to the registered address of accused, the later could not be found there. But a certain Louisa Anne Villaruel received the notices and assured her that she knows accused. She did not inquire if Louisa Anne Laurel is related to the accused.

The plaintiff's second witness, ***Shervin Vasquez***,[12] Revenue Officer I, Assessment Division-VAT Audit Section of the BIR, testified that he was previously assigned as Revenue Officer 1-Reviewer at the Assessment Division, BIR Manila. His duty is to review the reports of investigation or revenue examiners of various districts of BIR-Manila where taxpayers were audited by virtue of a Letter of Authority, Tax Verification Notice and other forms of Notice of Audit. He reviewed the 2010 internal revenue tax case of accused after Revenue Officer Wenchie Grace Regis and Group Supervisor Nora Halamani submitted their report of investigation. After the review, he prepared a Preliminary Assessment Notice (PAN)[13] dated November 23, 2012 finding accused liable for deficiency income tax in the amount of P4,447,823.55 and deficiency value-added tax in the amount of P1,848,351.33 for taxable year 2010. The assessment was based on the report on investigation conducted by Revenue Officer Wenchie Grace Regis and Group Supervisor Nora Halamani that accused had gross sales for taxable year 2010 in the amount of P8,389,895.00 for which no corresponding taxes were paid. The PAN was approved by OIC-Regional Director Simplicio A. Madulara. The PAN was transmitted to the Administrative Division, BIR Manila for mailing to accused at his registered address at 2240-B Severino Reyes Street, Sta. Cruz, Manila. After the lapse of fifteen (15) days from the issuance of PAN, he forwarded the 2010 tax docket of accused to the Billing Section for issuance of Final Assessment Notices (FAN) and Formal Letter of Demand (FLD).

He identified his Judicial Affidavit marked as Exhibit "P-27."

The plaintiff's third witness, ***Armando Macatangay***[14] Administrative Assistant III, Administrative Division, Revenue Region No. 6, BIR, Manila, testified that among his duties is to personally send by registered mail the PAN, FAN and FLD issued by the Assessment Division to the taxpayers concerned. On November 23, 2012, his office received a copy of the PAN with Details of Discrepancies addressed to accused with address at 2240-B Severino Reyes Street, Sta. Cruz, Manila and seven (7) other PAN of different taxpayers as listed in the transmittal letter.[15] He placed the PAN inside an envelope, sealed it, affixed postage stamps, and mailed it to accused at his registered address at

[12] Testified on October 26, 2016.
[13] Exhibit "P-10."
[14] Testified on October 26, 2016.
[15] Exhibit "P-11."

the Post Office Manila through registered mail with Registry Receipt No. 915036.[16] The PAN was received by accused since the Registry Return Card[17] returned to their office, showing that the mailed matter was received by the addressee through a certain "Aiza M. Caiba."

On January 9, 2013, his office received from the Assessment Division, a transmittal letter[18] with attached copies of FAN and FLD addressed to accused. On the same date, he sent through registered mail Assessment Notice No. 31-10-IT-4018 for deficiency Income Tax,[19] Assessment Notice No. 31-10-VT-4019 for deficiency VAT[20] and FLD,[21] all dated January 9, 2013 under Registry Receipt No. 917261,[22] to accused at his registered business address. The notices were received on January 21, 2013 by a certain "Nap C. Villaruel," as evidenced by the Registry Return Receipt[23] that returned to their office.

He identified his Judicial Affidavit marked as Exhibit "P-28."

On cross examination, he testified that the PAN was received by accused through a certain "Aiza M. Caiba" and the FAN and FLD were received by accused through a certain "Villaruel." The return cards are his proof that accused received the notices.

The plaintiff's fourth witness, ***Ma. Paz Arcilla***[24] Revenue Officer IV-Chief, Billing Section at the Assessment Division, BIR, Manila, testified that among her duties is to personally supervise in the preparation, issuance and monitoring of demand letters, final assessment notices and transcripts of assessments of tax cases. On January 9, 2013, her office issued Final Assessment Notice No. 31-10-1T-4018 and No. 31-10-VT-4019 in the amounts of P4,555,658.15 and P1,892,758.30, respectively and the FLD with Details of Discrepancy to accused for deficiency IT and VAT. The said notices were duly signed by their Regional Director. Thereafter, the originals of the assessment notices and FLD were transmitted to the Administrative Division for mailing to accused at his registered address at 2240-B Severino Reyes Street, Sta. Cruz, Manila.

She identified her Judicial Affidavit marked as Exhibit "P-29."

The plaintiff's fifth witness, ***Jefferson T. Ocampo***,[25] Revenue Officer II-Collection of the BIR, testified that among his duties is the enforcement of

[16] Exhibit "P-11-1."
[17] Exhibit "P-11-2."
[18] Exhibit "P-15."
[19] Exhibit "P-12."
[20] Exhibit "P-13."
[21] Exhibit "P-14."
[22] Exhibit "P-15-1."
[23] Exhibit "P-15-2."
[24] Testified on November 23, 2016.
[25] Testified on January 18, 2017.

collection of delinquent accounts of taxpayers through administrative remedies by sending collection notices, demand letters, and issuances of warrants of distraint or levy and warrants of garnishment. The 2010 tax case of accused was assigned to him pursuant to Memorandum of Assignment AMT-MOA-U2-2013-0797 dated August 30, 2013.[26] His evaluation of the records of accused reveals that a Preliminary Collection Letter (PCL)[27] was issued to accused on April 18, 2013 by registered mail with Registry Receipt No. 003403,[28] and Final Notice Before Seizure[29] on May 10, 2013 also by registered mail with Registry Receipt No. 004170.[30] The PCL was received by Loraine Abansat on April 23, 2013 as shown in the Registry Return Receipt.[31]

On September 9, 2013, he served upon accused a copy of Warrant of Distraint and/or Levy.[32] The warrant was received by Napoleon C. Villaruel. He also served to different banks[33] the Warrant of Garnishment.

Considering that accused still failed to pay his tax liabilities despite the notices issued by the BIR, he prepared a Memorandum[34] dated January 21, 2014 addressed to Ceferina M. Ong, Chief of Collection Division, recommending that the records of accused be forwarded to the Office of the Chief of Legal Division, Revenue Region No. 6 for possible filing of criminal cases against accused.

He secured from the Department of Trade and Industry, a Certification[35] showing that the business name of "Caguimbal Electrical works" was registered under the name of accused "Benedicto Pasco Caguimbal." He also secured from Revenue District Office No. 34 certified true copies of BIR Form No. 1604-E[36] with attached Alphalist of Payees filed by Long Ridge Construction, Inc. for taxable year 2010,[37] showing that accused received income payment from the said corporation in the amount of P8,067,760.00.

He identified his Judicial Affidavit marked as Exhibit "P-30."

On cross-examination, he testified that he has no participation in the preparation and service of both PCL and FNBS.

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[26] Exhibit "P-18."
[27] Exhibit "P-16."
[28] Exhibit "P-16-1."
[29] Exhibit "P-17."
[30] Exhibit "p-17-1."
[31] Exhibit "P-16-2."
[32] Exhibit "P-20."
[33] Exhibits "P-21," "P-21-1," "P-21-2," "P-21-3," "P-21-4," "P-21-5."
[34] Exhibit "P-22."
[35] Exhibit "P-19."
[36] Exhibit "P-25."
[37] Exhibits "P-25-1" and "P-25-2."

The plaintiff last witness, ***Renato P. Gutierrez***[38] Revenue Officer I-Collection Division, Revenue Region No. 6, Manila, testified that among his duties is to enforce the collection of delinquent accounts of taxpayers thru administrative remedy by sending collection notices or demand letters, and serving warrant of distraint and/or levy and warrant of garnishment before banks and/or tax lien notice before the Registry of Deeds in order to attach real properties of delinquent taxpayers. When the tax case of accused was assigned to him for collection, he sent to accused the PCL on April 18, 2013 by registered mail with Registry Receipt No. 003403. On May 10, 2013, he also sent by registered mail the FNBS dated May 7, 2013 to accused at his registered business address. The said notice likewise demanded from accused payment of his tax liabilities for the year 2010. However, accused did not pay his tax liabilities. Hence, the entire tax docket of accused was forwarded to the Arrears Management Team-Group II of the Collection Division for further action.

He identified his Judicial Affidavit marked as Exhibit "P-31."

On April 11, 2017,[39] the plaintiff filed its Formal Offer of Evidence then rested its case with the admission of all the documentary evidence on May 29, 2017.[40]

On April 21, 2017, accused through his counsel, filed a "Motion for Leave of Court to File Demurrer to Evidence."[41] During the hearing on May 31, 2017, the Court granted the "Motion for Leave of Court to File Demurrer to Evidence." Hence, accused was granted ten (10) days or until June 10, 2017 within which to file Demurrer to Evidence. The same period of time was given for the plaintiff to file Comment or Opposition to the Demurrer to Evidence.

On June 9, 2017, accused, through his counsel filed a "Demurrer to Evidence."[42] On June 23, 2017, plaintiff filed a Motion to Admit Attached Comment/Opposition to Demurrer to Evidence."[43] On July 31, 2017, accused filed a "Comment (to Complainant's BIR Comment/Opposition to Accused Demurrer to Evidence."[44]

On October 19, 2017, the Court issued a Resolution[45] denying the Demurrer to Evidence.

For the defense, accused presented himself.

[38] Testified on February 22, 2017.
[39] Docket, pp. 346-355.
[40] Ibid., pp.429-430.
[41] Ibid., pp.396-400.
[42] Ibid. pp. 439-455.
[43] Ibid. 457-462.
[44] Ibid., pp. 465-468.
[45] Ibid., pp. 472-486.

Accused ***Benedicto Pasco Caguimbal,***[46] testified that these cases were filed against him because he owns a small business that contracts electrical works. The business name is Caguimbal Electrical Works. It is a sole proprietorship. It was established in 2008. His clients are homeowners who construct residential houses. His biggest client is Long Ridge Construction. At the time he had a contract with Long Ridge Construction, he had around forty (40) to forty-five (45) workers. The accusations of the BIR are unreasonable because the BIR based the amount on the whole contract price he had with Long Ridge Construction. The contract price is not his whole income because it includes the salaries of the workers and other expenses for electrical works. Only 20% of the contract price was his income. He was not informed by the BIR of his tax liabilities. He did not personally receive the PAN. He does not know a certain "Anna M. Caiba," who received the PAN. He did not receive the Notice of Informal Conference dated February 8, 2012 sent by the BIR. He does not know a certain "Louisa Anne Villaruel," who received the Notice of Informal Conference. He did not receive the Assessment Notices dated January 9, 2013, FLD dated January 9, 2013, PCL dated April 18, 2013. Likewise, no one informed him of the notices issued by the BIR. He came to know of the case against him when he saw in the new program 24-Oras of Channel 7 that the BIR filed cases with the Department of Justice (DOJ) against a number of businessmen and his name was included there. Thereafter, he engaged the services of a lawyer who assisted him in his Sinumpaang Ganting Salaysay and Sinumpaang Salaysay Bilang Tugon sa Reply which he submitted to the DOJ. He asks that he be exonerated from the crimes charged against him because he was not properly informed and he did not receive any of the notices from the BIR.

On cross examination, he testified that the registered address of Caguimbal Electrical Works is a Severino Reyes Street. He cannot recall the number of the street. The said address is not his residence address. He did not own the place and did not occupy that place. He only asked his friend to use the said address for purposes of using it as the address of Caguimbal Electrical Works. He has no definite place of work. He is a sub-contractor. He did not inform the BIR of any address other than that of his address located at 2240 Severino Street, Sta. Cruz, Manila. He did not expect that the PAN, FAN, FLD and other BIR communications will be received by him since he never occupied his registered business address. He admitted that Long Ridge Construction is his biggest client. He earned 20% income from his contract with Long Ridge Contract. He cannot recall how much he received from his contract with Long Ridge Construction. He did not file any income tax return or other taxes due in 2008.

On re-direct examination, he testified that he went to his registered business address only once.

[46] Testified on February 7, 2018.

Accused further testified that he merely used the address 2240 Severino Street just to have a business address. He gave his address to Long Ridge Construction because he issued a receipt to the latter. He had clients other than Long Ridge Construction. He only earned minimal income. He did not report to the BIR the income that he earned because he did not know that he has to report it. His highest educational attainment is up to high school level.

The defense filed its Formal Offer of Evidence on February 14, 2018[47] and rested its case with the admission of its documentary evidence in the Resolution dated March 23, 2018.[48]

The defense submitted its Memorandum on March 7, 2018[49] while the plaintiff filed its Memorandum[50] on May 15, 2018. The case was submitted for decision in the Resolution dated May 30, 2018.[51]

The Issue

The Court is confronted with this main issue, that is, whether or not accused is guilty of the crimes charged.

The Arguments

The prosecution claims that since there is absence of any formal request for change of address of accused, the BIR is bound to send all communications to the registered address of accused appearing in the BIR record; that the notices pertaining to the tax liabilities of accused were sent to the correct address of accused and were deemed received by accused; that it was only on June 13, 2013 when the case was already under preliminary investigation with the DOJ that accused indicated in his Sinumpaang Ganting Salaysay his residence address at Unit C 218 2F, Bldg. C, El Pueblo Manila, Sta. Mesa, Manila; that in the Judicial Affidavit of accused, he admitted he owns a business that contracts electrical works and his biggest client is Long Ridge Construction; that the said statements are deemed admissions of accused, and the same gave credence to the evidence presented by the plaintiff that accused received income during taxable year 2010 from Long Ridge Construction and despite such income accused failed to file income tax return and pay the corresponding taxes.

On the other hand, accused argues that he has no intention of violating the provisions of the NIRC. Accused did not receive any of the notices sent by the BIR, hence, the constitutional and substantive rights of accused were

[47] Docket, pp. 491-494, with Annexes.
[48] Docket, pp. 541-542. In the said Resolution, only Exhibit "A-3" was admitted.
[49] Docket, pp. 521-539.
[50] Docket, pp. 547-554.
[51] Docket, p. 556.

violated by the BIR in filing the cases against the accused. Accused did not wilfully and deliberately violated the provisions of the NIRC.

The Ruling of the Court

Accused was charged in the present cases with violation of Section 255 of the NIRC of 1997 as amended.

Section 255 states:

> **"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 and accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by laws 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 (P10,000.00) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.
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> Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of an internal revenue office wherein the same was actually filed shall, upon conviction therefor, be punished by a fine of not less than Ten thousand pesos (P10,000.00) but not more than Twenty thousand pesos (P20,000.00) and suffer imprisonment of not less than one (1) year but not more than three (3) years."

The following are the elements of the crime of violation of Section 255 that must be proven by the plaintiff:

1. The accused is the person required under the tax code or by rules and regulations to file a return, to pay the tax and supply correct and accurate information;

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2. The accused failed to file a return, to pay the tax and supply correct and accurate information at the time required by law; and

3. Such failure was willful.

It is thus necessary for the plaintiff to prove that accused was a registered taxpayer in 2010 and the BIR issued the subject assessment notices pursuant of Section 228 of the NIRC, and that the accused received the same.

Accused was a registered taxpayer with Tax Identification Number 264375605 as shown in the notices[52] issued by the BIR. He was charged of violating Section 255 of the NIRC for non-payment of income tax and value-added tax. He had gross sales in taxable year 2010 amounting to P8,389,895.00 but he did not declare the same nor paid the taxes due. A computerized matching of data provided by withholding agent Long Ridge Construction[53] show that accused did not declare his income for taxable year 2010. Hence, he was notified by the BIR through a Letter Notice giving him the opportunity to reconcile the discrepancies. The Letter Notice, Follow-up Letter and Notice of Informal Conference were sent to the registered address of accused appearing in the records of the BIR.

To prove that accused was properly assessed for deficiency taxes and that notices were issued and sent to him, the plaintiff thru its witnesses, presented the following documents: Letter Notice No. 031-TRS-10-00-00007 dated November 21, 2011, Details of Withholding Agents/Payors and Payeees/Income Recipients Records, Follow-Up Letter, Notice of Informal Conference, Revenue Officer's Audit Report on VAT (BIR Form 0507), Revenue Officer's Audit Report on Income Tax (BIR Form 0500), PAN, Letter to Central Post Office dated November 23, 2010 (Proof of Mailing), Registry receipt No 915036 dated November 23, 2012, Registry Return Card, Assessment Notice No. 31-10-IT-4018 dated January 9, 2013 for deficiency income tax, Assessment Notice No. 31-10-VT-4019 for deficiency VAT, FLD dated January 9, 2013, Details of Discrepancy, Transmittal of Final Assessment Notice/Demand Letter's for mailing, Registry Receipt No. 917261, Registry Return Card, PCL dated April 18, 2013, Registry Receipt No. 003403, Registry Return Card, FNBS dated May 7, 2013, Registry Receipt No. 004170 and Warrant of Distraint and/or Levy.

Section 228 of the NIRC, as amended, in relation to Section 3 of Revenue Regulations No. 12-99, provides the due process requirements in an assessment. Thus:

> ***Protesting of Assessment*** – When the Commissioner or his duly authorized representative finds that proper taxes should

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[52] Exhibits "P-1," "P-4," "P-10," "P-14," "P-"P-16," & "P-17."
[53] Exhibit "P-25" and "P-25-1."

be assessed, he shall notify first the taxpayer of his findings: *Provided, however,* That a pre-assessment notice shall not be required in the following cases:

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The taxpayer shall be informed in writing of the law and facts on which the assessment is made; otherwise, the assessment shall be void.

Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

Such assessment may be protested administratively by a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Sections 3.1.4 and 3.1.5 of Revenue Regulations No. 12-99 states:

"3.1.4 *Formal Letter of Demand and Assessment Notice.* – The formal letter of demand and assessment notice shall be issued by the Commissioner or his duly authorized representative. The letter of demand calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, *otherwise, the formal letter of demand and assessment notice shall be void* xxx. The same shall be sent to the taxpayer only by registered mail or by personal delivery. If sent by personal delivery, the taxpayer or his duly authorized representative shall acknowledge receipt thereof in the duplicate copy of the letter of demand, showing the following: (a)

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His name; (b) signature; (c) designation and authority to act for and in behalf of the taxpayer, if acknowledged received by a person other than the taxpayer himself; and (d) date of receipt thereof.

3.1.5 *Disputed Assessment.* – The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. xxx

In ***Barcelon Roxas Securities, Inc. (now known as UBP Securities, Inc.) vs. Commissioner of Internal Revenue,***[54] the Supreme Court held:

> In its Decision, the CTA resolved the issues raised by the parties thus:
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> Jurisprudence is replete with cases holding that if the taxpayer denies ever having received an assessment from the BIR, it is incumbent upon the latter to prove by competent evidence that such notice was indeed received by the addressee. The onus probandi was shifted to respondent to prove by contrary evidence that the Petitioner received the assessment in the due course of mail. The Supreme Court has consistently held that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion and a direct denial thereof shifts the burden to the party favored by the presumption to prove that the mailed letter was indeed received by the addressee (*Republic vs. Court of Appeals, 149 SCRA 351*). Thus as held by the Supreme Court in *Gonzalo P. Nava vs. Commissioner of Internal Revenue, 13 SCRA 104, January 30, 1965:*
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>> **"The facts to be proved to raise this presumption are (a) that the letter was properly addressed with postage prepaid, and (b) that it was mailed. Once these facts are proved, the presumption is that the letter was received by the addressee as soon as it could have been transmitted to him in the ordinary course of the mail.** But if one of the said facts fails to appear, the presumption does not lie. (VI, Moran, Comments on the Rules of Court, 1963 ed, 56-57 citing *Enriquez vs. Sunlife Assurance of Canada, 41 Phil 269*)."
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[54] G.R. No. 157064, August 7, 2006.

> xxx. **What is essential to prove the fact of mailing is the registry receipt issued by the Bureau of Posts or the Registry return card which would have been signed by the Petitioner or its authorized representative.** And if said documents cannot be located, Respondent at the very least, should have submitted to the Court a certification issued by the Bureau of Posts and any other pertinent document which is executed with the intervention of the Bureau of Posts. xxx *(Emphasis supplied)*

From the totality of the evidence presented by the plaintiff, it was shown that the two presumptions *i.e.* that the letter was properly addressed with postage prepaid and was sent, were properly proven in these cases. Plaintiff was able to establish: 1) that the BIR issued the assessment notices on accused according to the testimonies of Revenue Officers Shervin Vasquez and Ma. Paz Arcilla, 2) that the notices (PAN and FAN) were sent to the registered address of accused and the same were received by accused based on the testimony of Armando Macatangay who mailed the PAN, FAN and FLD to the registered address of accused at 2240-B Severino Reyes Street, Sta. Cruz, Manila, and 3) the return cards[55] returned to the office of the BIR.

The burden to prove otherwise is now shifted to the accused.

Accused argues that he has no intention of violating the provisions of the NIRC because he did not receive the notices sent by the BIR.

In the Judicial Affidavit[56] of accused dated May 8, 2017, he testified as follows:

Q4 By the way, before we proceed, please tell us the reason why this case was filed against you by the BIR?

A I owned a small business, sir.

Q5 What is the business of yours, Mr. Witness?

A I owned a small business that contracts electrical works, sir.

Q6 What is the name of your business?

A It's **CAGUIMBAL ELECTRICAL WORKS**, sir.

Q7 What is the nature of your company, Mr. Witness?

[55] Exhibits "P-25" and "P-25-1."
[56] Exhibit "P-3."

A Sole proprietorship, sir.

Q8 When was it established, Mr. Witness?

A It was established around 2008, sir.

Q9 Who are your clients?

A My clients are usually homeowners who construct their residential houses, sir.

Q10 Who else Mr. Witness?

A My biggest client is **LONG RIDGE CONSTRUCTION**, sir.

Q11 At the time you had a contract with **LONG RIDGE CONSTRUCTION**, how many workers do you have?

A Around forty (40) to forty-five (45) workers, sir.

Q12 What can you say on the accusations of the BIR that you failed to pay your Deficiency Income Tax worth P2,481,968.50 and deficiency Value-Added Tax worth P1,006,787.40 for Taxable Year 2010?

A Its unreasonable, sir.

Q13 Why do you say its unreasonable?

A Because, the BIR base *(sic)* that amount on the whole amount of the contract price that I had with **LONG RIDGE CONSTURCTION**,sir.

Q14 What is wrong with that Mr. Witness?

A Because, the contract price I had with **LONG RIDGE CONSTRUCTION** includes the salaries and wages of workers and other expenses for electrical works, sir.

Q15 So, what do you mean, Mr. Witness?

A The contract price is not my income or business profit from the electrical works that is contracted by me, sir.

Q16 Why do you say so, Mr. Witness?

A Because, as I have already stated, still have to deduct from it the labor cost and other expenses, sir.

Q17 So, how many percent of the contract price is your income or profit?

A Only about **twenty percent (20%)** of the contract price sir.

Q18 In this case, how many prevent was used by the BIR is (sic) assessing your deficiency Income and VAT Tax Liabilities?

A The BIR used **one hundred percent (100%)** of the contract price with **LONG RIDGE CONSTRUCTION**, sir.

The accused made the following declarations during his cross examination by special prosecutor Atty. Ramon B. Lorenzo:[57]

ATTY. LORENZO

Q I refer you to your judicial affidavit you identified earlier in your answer to question no. 4, you stated that you own a small business, do you confirm that?

MR. CAGUIMBAL

A Yes, I own a small business.

ATTY. LORENZO

Q In your answer to question no. 5, you said that you own a small business that contracts electrical work, do you confirm that?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q I refer your answer to question no. 6, you stated that your business is Caguimbal Electrical Works, do you confirm that?

[57] TSN dated February 7, 2018.

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q In Answer to question no. 8, you stated that your business was established sometime around in 2008, do you confirm that?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q And your biggest client in your answer to question no. 10, you stated that your biggest client is Long Ridge Construction?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q In question no. 19, you denied having received Preliminary Assessment Notice from the BIR, do you confirm that?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q In fact, you said that it is a big lie?

MR. CAGUIMBAL

A I did not personally received *(sic)* any Preliminary Assessment Notice dated November 23, 2012 from the BIR.

ATTY. LORENZO

Q In fact, you denied the Notice of Informal Conference dated February 8, 2012 because it was received by one

Luisa Ann Villaruel, that is in answer no. 24, do you confirm that?

JUSTICE LIBAN

Tama ba na hindi mo natanggap ang Notice of Informal Conference at ito ay sinabi mo na ito ay ni receive ni Luisa Ann Villaruel?

MR. CAGUIMBAL

A No, sir based on the documents of the BIR, *wala ako natanggap.*

ATTY. LORENZO

Q In your answer to question no. 26, you said that you have not received any communications from the BIR particularly the assessment notices and Formal Letter of Demand and Preliminary Collection Letter, do you confirm that?

MR. CAGUIMBAL

A Yes, sir, *wala po ako natanggap.*

ATTY. LORENZO

Q Earlier, you said you own Caguimbal Electrical Works?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q What is the registered address of Caguimbal Electrical Works, if you know?

MR. CAGUIMBAL

A Severino Reyes Street.

ATTY. LORENZO

Q What number?

MR. CAGUIMBAL

A I cannot remember the number.

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ATTY. LORENZO

Q I am showing you a document which was pre-marked as Exhibit P-19 for the prosecution, this is the Certification issued by the DTI, it says that Caguimbal Electrical Works was registered under the name Benedicto P. Caguimbal of 2240 Severino Reyes Street Sta. Cruz Manila, is this the correct address?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q Is this 2240 Severino Reyes Street, Sta. Cruz, Manila, is this your residence address?

MR. CAGUIMBAL

A No.

ATTY. LORENZO

Q In other words, this address is your registered business address, is that correct?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q So, you do not own the place?

JUSTICE LIBAN

Sino yung may ari nung 2240 Severino Reyes St.?

MR. CAGUIMBAL

A *Hindi ko po alam, yun po yung parang nakiusap lang ako sa kaibigan ko na gamitin naming registered address.*

ATTY. LORENZO

Q In other words, Mr. Witness, you never used that address as your place of business or place of work, *hindi mo ginamit?*

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JUSTICE LIBAN

Ibig mong sabihin, hindi mo ginamit yung 2240 na business address?

MR. CAGUIMBAL

A *Ginamit po.*

ATTY. LORENZO

Q But you never occupied that place?

MR. CAGUIMBAL

A *Hindi po.*

JUSTICE LIBAN

Parang for purposes lang ng mga mails, para lang maka register ka?

MR. CAGUIMBAL

A Yes, *po.*

JUSTICE LIBAN

Pero ang tutoo saan yung place ng trabaho mo?

MR. CAGUIMBAL

A *Kung saan saan po Ma'am, kasi depende po kung saan po kami nakakakuha ng kontrata, sub-cotractor lang po ako.*

ATTY. LORENZO

Q Do you inform the BIR of you other business address other than this address located at No. 2240 Severino Reyes St. Sta. Cruz Manila, did you inform the BIR?

MR. CAGUIMBAL

A No, sir.

ATTY. LORENZO

Q So, do you expect that the Preliminary Assessment Notice and Final Assessment Notice and Formal Letter of

Demand other BIR communications will be received by you considering that you never occupied the place?

MR. CAGUIMBAL

A No, sir.

ATTY. LORENZO

Q Mr. witness, you admitted that you have contracts with Long Ridge Construction in your answer to question no. 11, earlier, Mr. Witness, you admitted that you have a contract with Long Ridge Construction, you said that it is your biggest client?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q So, it is correct to say that you earned income from that contracts?

MR. CAGUIMBAL

A Only 20% of the contract.

ATTY. LORENZO

Q In other words, this address is your registered business address, is that correct?

MR. CAGUIMBAL

A Yes, sir.

ATTY. LORENZO

Q What do you mean 20% of the contract?

MR. CAGUIMBAL

A *Ang kinikita ko po.*

ATTY. LORENZO

Q How much income payment in 2008 did you receive from Long Ridge Constuction?

MR. CAGUIMBAL

A *Wala po ako matandaan.*

ATTY. LORENZO

Q Did you file any income tax return or other taxes due the government in 2008?

MR. CAGUIMBAL

A None, sir.

On re-direct examination,[58] accused testified as follows:

ATTY. DIOQUINO

Q You mentioned that your business address is at No. 2240 Severino Reyes St., am I correct?

MR. CAGUIMBAL

A Yes, sir.

ATTY. DIOQUINO

Q Did you ever go to that place while having a business undertaking by Caguimbal Electrical Works?

MR. CAGUIMBAL

A Yes, sir.

ATTY. DIOQUINO

Q About how many times, just give me an estimate?

MR. CAGUIMBAL

A It was established . . . .

JUSTICE LIBAN

Mula ng inestablish ilang beses kang nakapunta na, yan ang tanong nya?

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[58] TSN dated February 7, 2018, pp. 19-20.

MR. CAGUIMBAL

A *Isa lang po.*

The assertions of accused that he did not receive the notices issued by the BIR and he does not know the persons who received the notices, i.e. Louisa Anne Villaruel, Aiza M. Caiba, Napoleon C. Villaruel, and Lorraine Abansat, are self-serving statements. The bare allegation of accused that he did not receive all the notices issued by the BIR is not sufficient to overcome the presumption that the notices were sent and received in the ordinary course of mail. He never controverted the evidence presented by the plaintiff that the PAN, FAN and FLD were mailed and indeed received by persons on behalf of accused. It is basic in the rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof. In short, mere allegations are not evidence.[59]

Since accused denied receipt of the notices, the burden is shifted to the BIR to prove by contrary evidence that accused received the assessment notices in the due course of mail. The evidence of the plaintiff show that the notices were sent to the registered business address of accused In the absence of any formal request for change or transfer of registered address of the taxpayer, the BIR is bound to send the notices to the registered business address of accused. Accused cannot validly invoke violation of due process when in fact he is to be blamed for his failure to receive the notices duly sent by the BIR. Accused used the address 2240-B Severino Street, Sta. Cruz, Manila just to have a registered address for his business. A businessman or taxpayer has the duty to inform the BIR of his true address for purposes of mailing and in compliance with the provisions of Section 248 (A)(2) of the NIRC[60] with regard to the imposition of civil penalties in case of filing with the wrong Revenue District Office. As stated earlier, the plaintiff was able to prove through the testimony of Armando Macatangay that the notices were sent and the Registry Return Cards returned to the BIR.

In fine, the presumption of regularity in the service of assessment notices was undisputed.

Now, in order to attribute to accused a "willful failure to pay" the tax, it must be shown that such failure or omission by accused was done knowingly, intentionally and with the specific intent not pay the tax. In other words, it must be shown that accused was aware of his obligation to pay the tax, but he

[59] Virginia Real vs. Sisenando H. Belo, G.R. No. 146224, January 26, 2007.

[60] Section 248. Civil Penalties. -

(A) There shall be imposed, in addition to the tax required to be paid, a penalty, equivalent to twenty-five (25%) of the amount due, in the following cses:

xxx xxx xxx

(2) Unless otherwise authorized by the Commissioner, filing a return with an internal revenue officer, other than those with whom the return is required to be filed;

xxx xxx xxx

nevertheless voluntarily, knowingly and intentionally failed to pay it. And although "willfullness" is a state of mind that may be inferred from the circumstances of the case[61], and proof of willfulness may be, and usually is, shown by circumstantial evidence alone[62], in this case, we have direct admissions by the accused that he really did not declare his income and pay the corresponding taxes.

The testimonies[63] of accused during the clarificatory questions of Justice Esperanza Fabon-Victorino are most revealing:

JUSTICE VICTORINO

Question, Mr. Witness, are you saying that you merely used the address 2240 Severino Street just to have a registered address?

MR. CAGUIMBAL

Yes, Your Honor.

JUSTICE VICTORINO

To which office did you give that address? Saang opisina nyo ibinigay yung address na yon ninyo?

MR. CAGUIMBAL

Duon lang po, Your Honor.

JUSTICE VICTORINO

Saan duon?

MR. CAGUIMBAL

Dun po sa Severino St.

JUSTICE VICTORINO

Hindi, saan mo sinabi anong opisina mo sinabi na ito yung address mo sa 224 Severino St.?

MR. CAGUIMBAL

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[61] *Ibid.*
[62] *United States vs. Grumka*, 728 F.2d 794,796-97 (6th Cir. 1984); *United States v. Gleason*, 726 F.2d 385, 388 (8th Cir. 1984); *United States v. Marabelles*, 724 F.2d 1374, 1379 (9th Cir. 1984).
[63] TSN dated February 7, 2018, pp. 20-24.

Sa Long Ridge Construciton po.

JUSTICE VICTORINO

May pinagbigyan ka bang ibang government agency ng address na ito?

MR. CAGUIMBAL

Wala po, Your Honor.

JUSTICE VICTORINO

Eh bakit kailangan mong bigyan ng address ng hindi mo naman totoong address ang iyong kliyente na Long Rdige Construction, bakit kailangan kang magbigay ng pekeng address, hindi mo naman pala yun business address, bakit kailangan mogn ibigay sa iyong kliyente yung address na iyon samantalang hindi ka nman dun nag oopisino or hindi ka naman duon tumatanggap ng kahit anong transaksyon?

MR. CAGUIMBAL

Dahil po duon sa resibo, Your Honor.

JUSTICE VICTORINO

So ibig mong sabihin mayroon kang resibo na ii-issue ganun bas a iyong kliente?

MR. CAGUIMBAL

Opo ganun po.

JUSTICE VICTORINO

Na ang sabi mo anf pinakamalaki ay yung Long Ridge?

MR. CAGUIMBAL

Yes, Your Honor.

JUSTICE VICTORINO

So ibig sabhin mayroon ka pang ibang kliente maliban sa Long Ridge?

MR. CAGUIMBAL

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Meron pa din po yung mga residential houses.

JUSTICE VICTORINO

Kumikita ka naman sa lahat ng iyon?

MR. CAGUIMBAL

Kumikita naman po ng hindi masyado malaki

JUSTICE VICTORINO

Ito bang kita mo na ito ay nireport mo sa BIR?

MR. CAGUIMBAL

Hindi po, Your Honor.

JUSTICE VICTORINO

Bakit hindi mo nireport, samantalang kumikita ka pala ng pera mula sa transaksyon mo bilang isang contractor?

MR. CAGUIMBAL

Sub-contractor lang po ako, Your Honor.

JUSTICE VICTORINO

Bakit hindi ka nagsasabi sa BIR na BIR eto yung kinita ko bakit, kung masasagot mo ang katanungan na yan eh baka masalba ka dito, bakit hindi mo nasabi sa BIR na ito ang kinikita mo, kasi kailangan malaman naming bakit meron kang pagkukulang, bakit hindi mo nasabi sa BIR na bagama't ikaw ay contractor na kumikita hindi mo nasabi sa kanila na ikaw ay kumikita, bakit?

MR. CAGUIMBAL

Hindi ko po alam, You Honor, kung ano gagawin ko po dun sa bagay na yon.

JUSTICE VICTORINO

So wala kang alam, hindi mo kailangang sabihin, kasi sa palagay mo hindi dapat ito ireport?

MR. CAGUIMBAL

Opo, Your Honor, kasi wala naman po ako alam sa mga bagay na iyon.

JUSTICE VICTORINO

Ano ba ang iyong mataas na inabot sa eskwela?

MR. CAGUIMBAL

High School graduate lang po.

His admission that he earned income and his biggest client is Long Ridge Construction is in concurrence with the evidence of the prosecution *i.e.* BIR Form 1604-E with attached Alphalist of Payees filed by Long Ridge Construction, Inc.[64] for taxable year 2010, that Long Ridge Construction paid to accused in the amount of P8,389,895.00 for taxable year 2010.

Admissions made during the hearing of the case or are reduced into writing and signed by the person making admission are judicial admissions pursuant to Section 4, Rule 129 of the Rules of Court.[65]

Section 32 of the NIRC defines gross income as "all income derived from whatever source, including but not limited to xxx (2) gross income derived from the conduct of trade or business or the exercise of a profession, xxx." Accused admitted that he is engaged in the business that contracts electrical works, consequently, he is required to declare his income with the BIR pursuant to Sections 24,[66] 51[67] and 74[68] of the NIRC. Accused is a Filipino

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[64] Exhibits "P-25," "P-25-1, " and "P-25-2."

[65] *Judicial Admissions.*- An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

[66] **Sec. 24. *Income Tax Rates. –***

(A) Rates of Income Tax on Individual Citizen and Individual Resident Alien of the Philippines.-

(1) An income tax is hereby imposed:

(a) On the taxable income defined in Section 31 of this Code, other than income subject to tax under Subsections (B), (C) and (D) of this Section, derived for each taxable year from all sources within and without the Philippines by every individual citizen of the Philippines residing therein.

[67] **Sec. 51. *Individual Return. –***

(A) *Requirements.-*

(1) Except as provided in paragraph (2) of this Subsection, the following individuals are required to file an income tax return:

(a) Every Filipino citizen residing in the Philippines;

(b) Every Filipino citizen residing outside the Philippines, on his income from sources within the Philippines;

(c) Every alien residing in the Philippines, on income derived from sources within the Philippines; and

(d) Every nonresident alien engaged in trade or business or in the exercise of profession in the Philippines.

[68] **Sec. 74. *Declaration of Income Tax for Individuals.-***

(A) In General. – Except as otherwise provided in this Section, every individual subject to income tax under Sections 24 and 25 (A) of this Title, who is receiving selfcitizen and a resident of Unit C, 2nd Floor, El Pueblo Manila, No. 218 Magsaysay Blvd., Sta. Mesa, City of Manila. He is therefore obliged to declare his income and to pay the corresponding taxes for taxable year 2010.

Accused cannot be permitted to invoke an excuse that he did not know that he has to declare his income with the BIR and that he did not know what to do. The transactions in this case involve millions of pesos. It is unbelievable that accused does not know that he has an obligation to declare his income and pay the corresponding taxes. Ignorance of the law excuses no one from compliance therewith. The omission on the part of accused to declare his income and pay the corresponding taxes, knowing that he makes money out of his electrical works business is tantamount to a willful violation of the provisions of the NIRC.

CONCLUSION

In all criminal prosecutions, the burden of proof is on the prosecution to establish the guilt of the accused beyond reasonable doubt. It has the duty to prove each and every element of the crime charged in the Information to warrant a finding of guilt for the said crime or for any other crime necessarily included therein.[69]

After careful consideration of the testimonial and documentary evidence presented by both parties, the Court finds that the prosecution was able to establish the guilt of the accused beyond reasonable doubt.

As regards the penalties, accused was charged for violation of Section 255 of the NIRC. The imposition of a fine of Php10,000.00 is proper. Also, the imposition of the penalty of imprisonment of one (1) year is also proper under the circumstances. This is without prejudice to Section 280 of the NIRC, which provides for the imposition of subsidiary penalty in case the accused has no property to pay such fine.

The civil liability of the accused in this case is deemed instituted herewith pursuant to R.A. No. 1125, as amended by Section 7(b) 1 of R.A. No. 9282, which provides that "the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry

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employment income, whether it constitutes the sole source of his income or in combination with salaries, wages and other fixed or determinable income, shall make and file a declaration of his estimated income for the current taxable year on or before April 15 of the same taxable year. In general, self-employment income consists of the earnings derived by the individual from the practice of profession or conduct of trade or business carried on by him as a sole proprietor or by a partnership of which he is a member. *xxx*

[69] Leonila Batulanon vs. People of the Philippines, G.R. No. 139857, September 16, 2006

with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action will be recognized."

Section 253(a) of the NIRC provides that "any person convicted of a crime penalized by this Code shall, in addition to being liable for the payment of the tax, be subject to the penalties imposed herein: *Provided*, That payment of the tax due after apprehension shall not constitute a valid defense in any prosecution for violation of any provision of this Code or in any action for the forfeiture of untaxed articles."

WHEREFORE, premises considered, judgment is hereby rendered finding accused **BENEDICTO P. CAGUIMBAL, guilty beyond reasonable doubt**, of violating Section 255 of the NIRC of 1997, as amended, and he is hereby sentenced to suffer a penalty of one (1) year imprisonment for each case and is ordered to pay a fine in the amount of Php10,000.00, with subsidiary imprisonment in case accused has no property with which to meet the said fine, or is unable to pay such fine, pursuant to Section 280 of the NIRC of 1997, as amended.

As regards the civil liability, accused is ordered to pay the amount of Two Million Four Hundred Eighty-One Thousand Nine Hundred Sixty-Eight Pesos and Fifty Centavos (Php 2,481,968.50) as basic income tax due and One Million Six Thousand Seven Hundred Eighty-Seven Pesos and Forty Centavos (Php 1,006,787.40) as basic value-added tax due, and 50% surcharge, computed as follows:

Type of Tax	Amount Due	50% Penalty	TOTAL	Date Prescribed for Payment
INCOME TAX	P2,481,968.50	P1,240,984.25	P3,722,952.75	April 15, 2011
VAT	P1,006,787.40	P503,393.70	P1,510,181.10	January 25, 2011

In addition, accused is ORDERED TO PAY:

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

(b) Delinquency interest at the rate of 20% per annum as follows: (a) on the total amount of Five Million Two Hundred Thirty-Three Thousand One Hundred Thirty-Three Pesos and Eighty-Five Centavos (P5,233,133.85); and (b) on the 20% deficiency interest which have accrued as stated in (a) hereof, computed from February 11, 2013 until December 31, 2017; and

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

ESPERANZA R. FABON-VICTORINO
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.

ESPERANZA R. FABON-VICTORINO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Acting 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.

ROMAN G. DEL ROSARIO
Presiding Justice