23-000373-0046

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM. CASE NOS. O-1071 & O-1072

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

TECHTRENDS CORPORATION
Unit 1B Ground Floor, L & F Bldg.
107 Aguirre St., Legaspi Village,
Makati City

RAYMOND PATRICK ALBERT
2483 Fernandez Street, Singalong,
Manila

DARIUS DELAS ALAS
150 Monvrovia St., Laguna Bel-air 1
Brgy. Don Bosco, Sta. Rosa, Laguna;
and U-206 Cityland Condominium 10
Tower, 156 HV Dela Costa St., Bel-air,
Makati City,

Accused.

NOTICE OF RESOLUTION

To:

PROS. GEN. BENEDICTO A. MALCONTENTO
ASST. STATE PROSECUTOR LUDMILIA L. CALO
Department of Justice
Padre Faura Street, Ermita, Manila

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI A. HUSSIN
ATTY. RAUL SJ. DE GUZMAN
ATTY. JOCELYN P. LUMBRES
Bureau of Internal Revenue
Revenue Region No. 8A - Makati City
36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Avenue corner Don Chino Roces Avenue
Makati City

RAYMOND PATRICK ALBERT
2483 Fernandez Street, Singalong
Manila

MUSICO LAW OFFICE
2nd Floor, PAX Building
India corner France Streets
Better Living Subdivision
Parañaque City

TECHTRENDS CORPORATION
Unit 1B Ground Floor, L & F Bldg.
107 Aguirre St., Legaspi Village
Makati City

GREETINGS:

You are hereby notified by these presents that on **August 22, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 29, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

First Division

PEOPLE OF THE PHILIPPINES
Plaintiff,

- versus -

TECHTRENDS CORPORATION
Unit 1B Ground Floor, L & F Bldg.
107 Aguirre St., Legaspi Village
Makati City

RAYMOND PATRICK ALBERT
2483 Fernandez Street
Singalong, Manila

DARIUS DELAS ALAS
150 Monvrovia St.,
Laguna Bel-air 1
Brgy. Don Bosco, Sta. Rosa, Laguna; ar U-206 Cityland Condominium 10 Tower
156 HV Dela Costa St., Bel-air
Makati City,
Accused.

CTA Crim. Case Nos. O-1071 & O-1072
(NPS Docket No. XVI-INV-23B-00088)
For: Violation of Section 255 in relation to Sections 253(d) and 256, of the NIRC of 1997, as amended

Members:

DEL ROSARIO, P.J. & Chairperson
BACORRO-VILLENA, and
CUI-DAVID, JJ.

Promulgated:

AUG 2 2 2024; 3:40PM

x- -x

RESOLUTION

For the Court's resolution is plaintiff's **Motion for Partial Reconsideration** (Motion) posted on June 21, 2024 anent the Court's Resolution promulgated on May 30, 2024, with accused's **Comment (on the Motion for Partial Reconsideration)** [Comment] posted on July 15, 2024.

In the May 30, 2024 Resolution, the Court granted the Demurrer to Evidence and dismissed the corresponding civil actions based on the finding that the facts upon which the criminal liability might arise did not exist. The dispositive portion of which reads:

> "**WHEREFORE**, accused's **Motion to Admit (Supplemental Demurrer to Evidence)** and plaintiff's **Motion to Admit Comment (To Demurrer to Evidence)** are both **DENIED** for lack of merit, while the **Demurrer to Evidence** filed on March 11, 2024 is **GRANTED**, not on the ground raised by the accused but on the finding that the facts upon which the criminal liability might arise did not exist. The corresponding civil actions which are deemed jointly instituted in these consolidated proceedings, pursuant to Section 11, Rule 9 of the Revised Rules of the Court of Tax Appeals, are **DISMISSED**.
>
> Consequently, accused Techtrends Corporation, and accused Raymond Patrick Albert are hereby **ACQUITTED** in CTA Crim. Case Nos. O-1071 and O-1072 for failure of the prosecution to prove their guilt beyond reasonable doubt, while the Informations against accused Darius Delas Alas in CTA Crim. Case Nos. O-1071 and O-1072 are **DISMISSED**.
>
> Perforce, the bail bond posted by accused Raymond Patrick Albert in the amount of ₱60,000.00 each for the two (2) criminal cases are **CANCELLED** and **RELEASED**, subject to accounting rules and regulations. The Alias Warrant of Arrest, dated March 25, 2024, issued against accused Delas Alas is **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED**."

In its Motion, plaintiff moves for partial reconsideration of the Court's Resolution dated May 30, 2024 insofar as it imposed no civil liability on the accused. It asserts that such conclusion is contrary to laws, jurisprudence, and rules and regulations on the matter.

Furthermore, plaintiff avers that the case of *Avon Products Manufacturing, Inc. vs The Commissioner of Internal Revenue*[1] (*Avon case*), as cited in the aforementioned Resolution, is not applicable in the present case. Plaintiff claims that (i) in the *Avon case*, Avon submitted the documents in support of its explanation against the findings of the Bureau of Internal Revenue (BIR) in its Reply to the Preliminary Assessment Notice (PAN), but in the present consolidated cases, accused's concerns on certain factual bases of the PAN were not supported with documents; (ii) most of the issues raised by accused Techtrends Corporation in its Reply to the PAN were questions of law which should have been raised in Court; and, (iii) accused Techtrends Corporation's Reply to PAN is "devoid of

---

[1] G.R. Nos. 201398-99, October 3, 2018.

contradicting evidence." Thus, there was nothing for the plaintiff to consider to change its decision or findings.

In their Comment, the accused pray for the denial of plaintiff's Motion on the ground that accused Techtrends Corporation cannot be deemed to have been sufficiently informed of the factual and legal bases of the assessments issued against it as the BIR failed to disclose the reasons for its rejection of the arguments in its Reply to PAN. Such failure of the BIR transgresses accused's right to due process.

Plaintiff's Motion for Partial Reconsideration is bereft of merit.

As stated in the Resolution dated May 30, 2024, Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, **mandates that the taxpayer be informed of the facts and the law upon which an assessment is made**. Moreover, Section 3.1.3 of Revenue Regulation (RR) 12-99,[2] as amended by RR No. 18-2013,[3] requires that **the FLD/FAN 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 assessment shall be void.**

As exhaustively discussed in pages 21 to 26 of the Resolution dated May 30, 2024, the accused's right to due process was violated when the Final Assessment Notice (FAN) issued by the BIR on July 29, 2019 did not consider the arguments raised by accused Techtrends Corporation in its Reply to PAN. Even worse, said FAN made no mention whatsoever of the Reply to PAN filed. The BIR's disregard of due process rendered the assessment issued against accused Techtrends Corporation void.

Plaintiff's theory that *Avon case* is not on all fours with the present case does not hold water. *Avon case* states:

> The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it. **The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as the Formal Letter of Demand with the Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon.** Thus, **Avon was left unaware on how the**

---

[2] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayers Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

[3] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

> **Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments**. There was clear inaction of the Commissioner at every stage of the proceedings.
>
> xxx xxx xxx
>
> **Upon receipt of the Preliminary Assessment Notice, Avon submitted its protest letter and supporting documents**, and even met with revenue examiners to explain. **Nonetheless, the Bureau of Internal Revenue issued the Final Letter of Demand and Final Assessment Notices, <u>merely reiterating the assessments in the Preliminary Assessment Notice</u>**. There was no comment whatsoever on the matters raised by Avon, or discussion of the Bureau of Internal Revenue's findings in a manner that Avon may know the various issues involved and the reasons for the assessments.
>
> xxx xxx xxx
>
> It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. However, **when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record.**
>
> Indeed, the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before her by Avon are deplorable transgressions of Avon's right to due process. **The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason**.

In other words, it is the BIR's duty to consider the **<u>explanations/defenses raised, and the documents submitted, by the taxpayer</u>** in connection with the assessment and to communicate to the taxpayer the reason for the rejection of such explanations or defenses, lest the assessment be deemed void.

As earlier stated, the BIR failed to consider and address the explanation of accused Techtrends Corporation in its Reply to PAN, in violation of its right to due process.

The doctrine of *stare decisis* enjoins adherence to judicial precedents. It requires courts to follow the rule established in a decision of the Supreme Court. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.[4]

Plaintiff's contention that the non-imposition of civil liability against the accused is contrary to law, jurisprudence, rules and regulations is baseless since accused Techtrends Corporation and its responsible officers may not be held liable for the alleged deficiency taxes in view of the invalidity of the assessment upon which the obligation to pay arose. Thus, the Court's dismissal of the corresponding civil actions, which are deemed jointly instituted in these consolidated proceedings, premised on the finding that the facts upon which the criminal liability might arise did not exist.

All told, the Court sees no cogent reason to disturb the Resolution dated May 30, 2024.

WHEREFORE, premises considered, plaintiff's Motion for Partial Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ON OFFICIAL BUSINESS

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

---

[4] *Lazatin, et al. vs. Desierto*, et al., G.R. No. 147097, June 5, 2009, citing *Fermin vs. People of the Philippines*, G.R. No. 157643, March 28, 2008.