REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff, - versus - **CARLO J. CAPARAS,** Accused. x - x	**CTA CRIM. CASE NO. O-321** For: Failure to File Value-Added (VAT) Return, in Violation of Section 108, in relation to Section 255 of the NIRC of 1997
PEOPLE OF THE PHILIPPINES, Plaintiff, - versus - **CARLO J. CAPARAS,** Accused. x - x	**CTA CRIM. CASE NO. O-322** For: Failure to File Value-Added (VAT) Return, in Violation of Section 108, in relation to Section 255 of the NIRC of 1997
PEOPLE OF THE PHILIPPINES, Plaintiff, - versus - **CARLO J. CAPARAS,** Accused. x - x	**CTA CRIM. CASE NO. O-323** For: Failure to File Value-Added (VAT) Return, in Violation of Section 108, in relation to Section 255 of the NIRC of 1997

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-324

For: Failure to File Value-Added (VAT) Return, in Violation of Section 108, in relation to Section 255 of the NIRC of 1997

\- versus -

Members:

DEL ROSARIO, *P.J., Chairperson,* and
MANAHAN, *J.*

CARLO J. CAPARAS,
Accused.

Promulgated:

OCT 02 2020 9:47 am

x - x

RESOLUTION

DEL ROSARIO, P.J.:

Before the Court is plaintiff's **Amended Motion for Reconsideration (of the Decision dated March 4, 2020)**[1] filed on July 3, 2020, with accused's **Comment (on the Amended Motion for Reconsideration dated July 1, 2020)**[2] filed on September 9, 2020.

Plaintiff seeks the setting aside of the Decision dated March 4, 2020,[3] dismissing the present case for lack of jurisdiction and for failure of the prosecution to establish accused's guilt beyond reasonable doubt, without civil liability, thereby acquitting him of the offenses charged under CTA Crim. Case Nos. O-321, O-322, O-323 and O-324, to wit:

> "**WHEREFORE**, premises considered, the present case is **DISMISSED** for lack of jurisdiction.
>
> Moreover, even assuming that the Court has jurisdiction over the consolidated cases, accused **CARLO J. CAPARAS** is **ACQUITTED** of the offenses charged in CTA Crim. Case Nos. O-

[1] Docket Vol. V, pp. 2221 to 2230.
[2] Docket Vol. V, pp. 2253 to 2256.
[3] Docket Vol. V, pp. 2157 to 2195.

> 321, O-322, O-323 and O-324 for failure of the prosecution to establish his guilt beyond reasonable doubt, without any civil liability.
>
> The cash bail bonds of the accused are hereby **CANCELLED** and ordered **RELEASED** to the accused upon presentation of proper documents, in accordance with usual accounting rules and regulations.
>
> The accused's Manifestation and Motion dated February 24, 2020, filed on February 27, 2020 is **NOTED**.
>
> **SO ORDERED**."[4]

Plaintiff argues that, contrary to the Court's findings, the four (4) Informations dated October 5, 2011 charging accused with violations of Section 255 of the National Internal Revenue Code (NIRC) of 1997, as amended, indicate the basic unpaid amounts of VAT involved and that it was able to establish that accused's failure to file VAT returns and pay the VAT due was willful.

On the issue of jurisdiction, plaintiff notes that in the October 23, 2013 Resolution,[5] the Court already ruled that it has jurisdiction to hear and determine the instant case when it resolved to deny accused's motion to quash the Informations included in its Consolidated Omnibus Motion[6] filed on July 19, 2013.

Plaintiff contends that the inadvertent omission of the term "basic" or "principal amount of taxes and fees" in the amounts of VAT due in the Informations is not so much a fatal defect as to rob the Court of its jurisdiction. The millions of pesos of deficiency VAT in taxable years (TYs) 2006 to 2009, all of which are more than ₱20 million, lend no ambiguity or disbelief that the amounts are obviously under the Court's jurisdiction *sans* the term "basic" or "principal" as confirmed in Court's Resolution dated October 23, 2013. On their face, the sheer eight (8)-figure amount of deficiency VAT indicated in the Informations cannot be surmised to be under the jurisdiction of the regular courts as opposed to patent defects of an Information where the place of the commission of the crime is essential to vest jurisdiction upon the court as in libel cases of *Allen A. Macasaet, et al. vs. The People of the Philippines*[7] and *Victor C. Agustin vs. Hon. Fernando Vil Pamintuan*[8] which the Court relied upon.

---

[4] Docket Vol. V, p. 2194.
[5] Docket Vol. 1, pp. 279-290.
[6] Docket Vol. 1, pp. 199 to 229.
[7] G.R. No. 156747, February 23, 2005.
[8] G.R. No. 164938, August 22, 2005.

Plaintiff insists that there is no substantial defect in the Informations because even if the missing term "basic" or "principal" in the amounts stated in the Informations were inserted, there would be no need of another preliminary investigation and pieces of evidence to be adduced before new Informations could be filed again. In other words, the Informations could be cured by a formal amendment that is not determinative of the jurisdiction of the Court. Besides, if there was really ambiguity or confusion, the Court should have granted accused's motion to quash the Informations.

At this point, plaintiff submits that it would be unduly prejudicial if the Court dismisses the case for lack of jurisdiction after it was satisfied that it had jurisdiction over the case years ago.

Plaintiff also asserts that it has presented sufficient evidence, both testimonial and documentary, to prove beyond reasonable doubt that accused has violated Section 255 of the NIRC of 1997, as amended by failing to file Quarterly VAT Return (QVATR) for TYs 2006, 2007, 2008 and 2009, in relation to Section 108 of the NIRC of 1997, as amended.

Contrary to the findings of the Court, that the Commissioner of Internal Revenue (CIR) immediately referred the case to the DOJ on October 21, 2010 without informing or confronting the accused of his alleged failure to file QVATR and pay his tax due, the CIR has personally served a First Request for Presentation of Records at accused's address on October 9, 2010 in order for the accused to present his books of accounts and accounting records. However, due to accused's failure to file the same within the period given to him, then CIR assessed the taxes of accused based on the evidence available at the time. Even if the CIR failed to apprise accused of his tax liabilities, it has no bearing to the wilfullness of the accused in failing to file his QVATR. It is well-settled that an assessment is not necessary before a criminal charge for tax evasion may be instituted against accused.

Plaintiff further claims that accused is deemed to have received the Preliminary Assessment Notice and Formal Letter of Demand because they were sent to his registered address. Should he no longer reside thereat, he should have updated his profile records with the Bureau of Internal Revenue (BIR). His failure to do so only shows his intent to evade receipt of notices from the BIR.

For his part, accused opines that the Amended Motion for Reconsideration deserves scant consideration and should be denied outright for lack of factual and legal bases. Accused notes that plaintiff harps on the notion that because the Court declared in its Resolution dated October 23, 2013 that the facts alleged in the Informations are sufficient to constitute an indictable offense under Section 108, in relation to Section 255 of the NIRC of 1997, as amended, this Court can no longer determine and rule after trial on the merits whether it has jurisdiction really over the cases. Accused submits that the Court has the authority to do so and has in fact correctly found out after all, that it has no jurisdiction over the cases for failure of the Informations to allege how much the principal amount of taxes and fees, exclusive of charges and penalties.

Accused points out that plaintiff admits that the Informations did not indicate at all that the unpaid amounts of VAT involved and being claimed, are exclusive of charges and penalties, a vital allegation which is jurisdictional.

Moreover, accused asserts that it is error to assume that just because the alleged deficiency VAT involved is placed at an eight (8)-figure amount, there is no chance that the cases will be under the jurisdiction of the regular courts. Plaintiff would want the Court to rule based on sheer assumptions and not on facts and law on the matter.

At any rate, accused posits that even assuming for the sake of argument that the Court has jurisdiction over the cases, what is controlling nonetheless is the fact that the Court has ruled that plaintiff failed to establish the guilt of the accused beyond reasonable doubt so that accused was acquitted. As there was already a finding of acquittal, to insist on rendering another decision convicting him is tantamount to asking for a retrial in violation of his right against double jeopardy. The prayer to set aside the decision may be appropriate only as to the issue of jurisdiction. Accused claims that the finding of acquittal cannot be set aside having been reached by assuming *ex gratia argumenti* that the Court has jurisdiction over the cases.

RULING OF THE COURT

The Amended Motion for Reconsideration is without merit.

Amount of tax involved in criminal tax cases is jurisdictional

Plaintiff is mistaken in thinking that the Court may not re-examine its own ruling, and modify or reverse it whenever warranted, as in this instance. More importantly, plaintiff failed to present basis for the Court to reverse its findings and conclusions anent its jurisdiction to hear and decide the subject cases. To reiterate, "[t]o vest jurisdiction upon this Court, a vital allegation in the Informations, that is -- that the 'principal amount of taxes and fees' is at least P1,000,000.00, exclusive of charges and penalties -- must be unequivocal and unmistakable. Otherwise stated, while the four (4) Informations stated the VAT due from the accused as amounting to **P23,332,222.20, P24,166,666.67, P21,946,666.66** and **P32,374,166.66**, respectively, there is nothing therein that the VAT due refer to the basic or principal amount of tax liability of the accused for TYs 2006, 2008, 2008 and 2009, exclusive of charges and penalties."[9]

Allen A. Macasaet, et al. vs. The People of the Philippines[10] and *Victor C. Agustin vs. Hon. Fernando Vil Pamintuan* cited in the assailed Decision demonstrate precisely the importance of jurisdictional allegations, such as venue in libel cases and amount of tax involved in criminal tax cases particularly for violations of Section 255, of the NIRC of 1997, as amended, in Informations filed before the courts. Failure to allege the principal amount of taxes and fees, exclusive of charges and penalties, involved for violations of Section 255 of the NIRC of 1997, as amended, in the Informations results to dismissal as they would fail to qualify as among those cases falling within the exclusive jurisdiction of the Court.

Willfulness was not established

The Court maintains that the prosecution failed to establish that accused's failure to file QVATR and pay the VAT due was willful.

It must be emphasized that it is not enough that the prosecution establish accused's failure to file QVATRs and pay the VAT due. It is essential that such failure be proven to be willful or intentional. Further, the prosecution must prove not only that the assessment notices were sent to accused but also that they were actually received by him.

Anent the First Request for Presentation of Records,[11] records reveal that indeed such request was furnished accused on October 9, 2010, giving him on or before October 22, 2010 to present/submit his book of accounts and accounting records to the BIR. On October 21, 2010, however, a day before the deadline set by the BIR, then CIR referred for preliminary investigation and filing of appropriate

---

[9] Docket Vol. V, p. 2180.
[10] G.R. No. 156747, February 23, 2005.
[11] Exhibit "P-14", Docket Vol. 4, p. 1398.

Information in court, the Joint-Complaint Affidavit recommending the prosecution of the accused, to the Department of Justice. Accused's failure to comply with the request can hardly be construed as willful or intentional. The immediate referral of the Joint-Complaint Affidavit prevented accused in presenting his case with the BIR regarding his alleged VAT deficiency prior to his criminal prosecution. Also, there is nothing in the said request which informs accused that he has failed to file QVATR.

Assuming the Court has jurisdiction over the case, double jeopardy prevents the reversal of accused's acquittal

An accused is placed in double jeopardy if he or she is again tried for an offense for which he or she has been convicted, acquitted or in another manner in which the indictment against him or her was dismissed without his or her consent.[12]

Basic is the rule that no person shall be twice put in jeopardy of punishment for the same offense.[13] Further, in this jurisdiction, the finality-of-acquittal doctrine is adhered to, that is a judgment of acquittal is final and unappealable.[14] *People of the Philippines vs. Hon. Tirso D.C. Velasco, in his capacity as the Presiding Judge, RTC-Br. 88, Quezon City, and Honorato Galvez*[15] explains the rationale of the rule:

> "The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into 'the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State, xxx.' Thus, Green expressed the concern that '(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repealed attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty.'
>
> It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy

---

[12] *Petronila C. Tupaz vs. Honorable Benedicto B. Ulep, Presiding Judge of RTC Quezon City, Branch 105 and the People of the Philippines*, G.R. No. 127777, October 1, 1999.
[13] Section 21, Article III of the Constitution; *People of the Philippines vs. Sandiganbayan (Fourth Division) and Bienvenido A. Tan, Jr.*, G.R. No. 152532, August 16, 2005.
[14] *People of the Philippines vs. Hon. Sandiganbayan (Second Division) and Felicidad B. Zurbano*, G.R. No. 233290-92, September 18, 2019.
[15] G.R. No. 127444, September 13, 2000.

underlying this rule establishing the absolute nature of acquittals is 'part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction.' The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for 'repose,' a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection lo insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.

Related to his right of repose is the defendant's interest in his right to have his trial completed by a particular tribunal. This interest encompasses his right to have his guilt or innocence determined in a single proceeding by the initial jury empanelled to try him, for society's awareness of the heavy personal strain which the criminal trial represents for the individual defendant is manifested in the willingness to limit Government to a single criminal proceeding to vindicate its very vital interest in enforcement of criminal laws. The ultimate goal is prevention of government oppression; the goal finds its voice in the finality of the initial proceeding. As observed in *Lockhart v. Nelson*, '(t)he fundamental tenet animating the Double Jeopardy Clause is that the State should not be able to oppress individuals through the abuse of the criminal process.' Because the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair." (*Citations omitted)*

In fine, plaintiff failed to present sufficient basis to modify much more, reverse the assailed Decision.

WHEREFORE, in light of the foregoing discussion, the Amended Motion for Reconsideration (of the Decision dated March 4, 2020) filed on July 3, 2020 is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

CATHERINE T. MANAHAN
Associate Justice