

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE
PHILIPPINES,

Petitioner,

CTA Case No. SCA-0010

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, and
FERRER-FLORES, II.

- *versus* -

HON. CARLO D. VILLARAMA, in
his capacity as the Presiding Judge of
Branch 217, Regional Trial Court
(RTC) of Quezon City, GB BEM
CIGARETTE CO., INC., GREGORY
G. LIM (President) BENSON G.
CHUA (Treasurer), ELSIE A.
OAFALLAS (Director), GENDY A.
BAMBAO (Director) and MARIA
CRISTINA G. DAYOS (Corporate
Secretary),

Respondents.

Promulgated:

MAY 27 2024

X-----x

DECISION

RINGPIS-LIBAN, I:

Before this Court is a Petition for *Certiorari*¹ filed by the Bureau of Internal Revenue (BIR) on August 22, 2023 under Rule 65 of the Revised Rules of Court which seeks to annul and set aside the public respondent's Resolution dated February 28, 2023,² as well as the Resolution dated June 5, 2023³ (collectively referred to as "Assailed Resolutions") for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

¹ Docket, pp. 5-43.

² *Id.*, pp. 49-55.

³ *Id.*, pp. 56-60.

The respective dispositive portions of the Assailed Resolutions are quoted hereunder:

Resolution dated February 28, 2023:

“**ACCORDINGLY**, for the reasons stated, the instant Motion to Quash Information is **GRANTED**. The Information dated June 25, 2021 is hereby **QUASHED**.”

The previously scheduled arraignment of all of the accused on April 12, 2023 at 8:30 AM at the courtroom of this court is hereby **CANCELLED**.

SO ORDERED.”

Resolution dated June 5, 2023:

“**ACCORDINGLY**, the instant Motion for Reconsideration is **DENIED** for lack of merit. The Resolution dated February 28, 2023 **STANDS**.”

SO ORDERED.”

THE PARTIES⁴

Petitioner is the Bureau of Internal Revenue (BIR) with office address located at BIR National Office Building, BIR Road, Diliman, Quezon City.

Private Respondent GB BEM Cigarette Co., Inc. is a corporation duly registered with the Securities and Exchange Commission (“SEC”) with SEC Registration No. CS201600908. It is registered with BIR, Revenue District Office (RDO) No. 21A-Angeles City, North Pampanga and was issued Tax Identification No. 009-206-491- 000. It has a registered business address at Bldg. 09-01, Pampanga Economic Zone Pulung, Cacutud, Angeles City, Pampanga.

Private Respondent Gregory G. Lim is the President of GB BEM Cigarette Co., Inc. He has a registered address located at 2303 Andrea North Tower, Balete Drive Corner Domingo St., New Manila, Quezon City and/or 174 Tanauan Street, Ayala Alabang, Muntinlupa City.

⁴ *Id.*, pp. 6-7.

Private Respondent Benson G. Chua is the Treasurer of GB BEM Cigarette Co., Inc. He has a registered address located at 66 4th Street, Brgy. 112 Grace Park East, Caloocan City.

Private Respondent Elsie A. Oafallas is the Director of GB BEM Cigarette Co., Inc. She has a registered address located at No. 5 Bonifacio St., Zone 6, South Signal Village, Taguig City.

Private Respondent Gendy A. Bambao is the Director of GB BEM Cigarette Co., Inc. He has a registered address located at P1 BLK 17 Lot B, Sunrise Hills Subd., Alabang, Dasmariñas, Cavite.

Private Respondent Maria Cristina G. Dayos is the Corporate Secretary of GB BEM Cigarette Co., Inc. She has a registered address located at B5 L12 Ruby St., Celina Homes, Camarin, Caloocan City.

Public Respondent Hon. Carlo D. Villarama is being impleaded in his official capacity as the Presiding Judge of the Regional Trial Court (RTC) of Quezon City, Branch 217 for having issued the Assailed Resolutions.

THE FACTS

On February 19, 2021, the BIR filed before the Department of Justice (DOJ) a Joint Complaint-Affidavit against GB BEM Cigarette Co., Inc., Gregory G. Lim, Benson G. Chua, Elsie A. Oafallas, Gendy A. Bambao, and Maria Cristina G. Dayos for violation of Sections 260 and 263 in relation to Sections 253 and 256 of the National Internal Revenue Code of 1997, as amended (1997 NIRC).⁵

Subsequently, an Information dated June 25, 2021 was filed by the DOJ before the RTC of Angeles City charging GB BEM Cigarette Co., Inc., Gregory G. Lim, Benson G. Chua, Elsie A. Oafallas, Gendy A. Bambao, and Maria Cristina G. Dayos of violation of Sections 260 in relation to Sections 253(d) and 256 of the 1997 NIRC.⁶

On May 20, 2022, RTC of Angeles City, Branch 56 issued an Order setting the arraignment and pre-trial conference on June 13, 2022.⁷ However, the same was cancelled and reset to another date.⁸

⁵ Par. 36, Petition, Docket, p. 14; Par. 6, Comment and/or Opposition, Docket, p. 213.

⁶ Par. 38, Petition, Docket, pp. 14-15; Par. 7, Comment and/or Opposition, Docket, pp. 213-214.

⁷ Par. 43, Petition, Docket, p. 16.

⁸ *Id.*

On June 8, 2022, the private respondents filed a Motion to Quash Information.⁹ On July 8, 2022, petitioner filed its comment thereto.¹⁰

Meanwhile, private respondents filed a Petition for Transfer of Venue before the Supreme Court requesting that the case be transferred from RTC of Angeles City, Branch 56 to RTC of Quezon City.¹¹

On August 16, 2022, the petitioner received an Order dated August 12, 2022 issued by RTC of Angeles City, Branch 56 transmitting the whole records of the criminal case to RTC of Quezon City, in compliance with the Resolution dated June 20, 2022 issued by the Supreme Court in A.M. No. 22-05-60-RTC (Re: Petition for Transfer of Venue of Crim. Case No. R-ANG-21-03105-CR).¹²

On November 7, 2022, the petitioner received the Order dated October 18, 2022 issued by RTC of Quezon City, Branch 217 noting the pending Motion to Quash Information filed by the private respondents as well as the petitioner's Comment to Accused's Motion to Quash Information dated June 8, 2022.¹³ On November 17, 2022, the private respondents filed a Reply to the Comment to the Motion to Quash Information.¹⁴

On February 28, 2023, the RTC of Quezon City, Branch 217 issued the first Assailed Resolution granting the private respondents' Motion to Quash Information.¹⁵

Aggrieved, petitioner filed a Motion for Reconsideration (of the Resolution dated February 28, 2023) which the RTC of Quezon City, Branch 217 denied in the second Assailed Resolution dated June 5, 2023.¹⁶

On August 22, 2023, the present Petition for *Certiorari* was filed.

In a Resolution dated October 13, 2023, this Court ordered the private respondents to file their Comment on the Petition for *Certiorari* within ten (10) days from receipt thereof.¹⁷ On November 9, 2023, this Court received the private respondents' Comment and/or Opposition.¹⁸

⁹ Assailed Resolution dated February 28, 2023, Docket, p. 49.

¹⁰ Par. 48, Petition, Docket, p. 16.

¹¹ Par. 46, Petition, Docket, p. 16.

¹² Par. 49, Petition, Docket, p. 16; Par. 8, Comment and/or Opposition, Docket, p. 215.

¹³ Par. 51, Petition, Docket, p. 17.

¹⁴ Par. 52, Petition, Docket, p. 17.

¹⁵ Par. 53, Petition, Docket, p. 17; Par. 8, Comment and/or Opposition, Docket, p. 215.

¹⁶ Pars. 54 & 55, Petition, Docket, p. 17.

¹⁷ Docket, pp. 205-206.

¹⁸ *Id.*, pp. 212-237.

In a Resolution dated January 23, 2024, this Court directed both parties to submit their memoranda within thirty (30) days from notice.¹⁹

Private respondents filed their Memorandum²⁰ on March 12, 2024 while the petitioner filed its Memorandum²¹ on March 20, 2024.

In a Minute Resolution dated April 5, 2024, the present case was submitted for decision.

THE ISSUES

Petitioner filed the present Petition for *Certiorari* on the basis of the following grounds:²²

“GROUNDS FOR THE ALLOWANCE OF THE PETITION

- I. PUBLIC RESPONDENT, BY MAKING PRONOUNCEMENTS CONTRARY TO THE RULES OF COURT, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHICH DEPRIVED PETITIONER OF DUE PROCESS;
- II. PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT STATED THAT GB BEM CIGARETTE CO., INC. HAS LEGAL BASIS, PURSUANT TO THEIR REGISTRATION AGREEMENT WITH PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), TO POSSESS CIGARETTE MATERIALS.”

THE COURT’S RULING

Jurisdiction

In the landmark case of *The City of Manila v. Hon. Caridad H. Grecia-Cuerdo, et. al.*,²³ the Supreme Court categorically declared that the Court of Tax

¹⁹ *Id.*, pp. 263-264.

²⁰ *Id.*, pp. 265-290.

²¹ *Id.*, pp. 291-328.

²² *Id.*, pp. 17-18.

²³ G.R. No. 175723, February 4, 2014.

Appeals (CTA), by constitutional fiat, has the power to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC and, in this regard, the authority to issue writs of *certiorari* in cases falling within its exclusive appellate jurisdiction. The relevant part of the said decision states:

“x x x Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and *mandamus*. With respect to the Court of Appeals, Section 9(1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and **to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.**

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.

Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.* that ‘if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction. This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court

stated that ‘a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court.’ The rulings in *J.M. Tuason and De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.

Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer.”
(*Underscoring supplied and citations omitted*)

Section 7 of Republic Act No. 1125, as amended, enumerates the cases over which the CTA exercises exclusive appellate jurisdiction. With respect to criminal cases, Section 7(b)(2) of RA 1125, as amended, provides:

“Sec. 7. *Jurisdiction.* — The CTA shall exercise:

xxx xxx xxx

(b) Jurisdiction over cases involving criminal offenses as herein provided:

xxx xxx xxx

(2) Exclusive appellate jurisdiction in criminal offenses:

(a) Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respective territorial jurisdiction.”

The above provision was echoed by Section 3(b)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) as follows:

“RULE 4
Jurisdiction of the Court

SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.*
— The Court in Divisions shall exercise:

(b) Exclusive jurisdiction over cases involving criminal offenses,
to wit:

xxx xxx xxx

(2) Appellate jurisdiction over appeals from the judgments, resolutions or orders of the Regional Trial Courts in their original jurisdiction in criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws

administered by the Bureau of Internal Revenue or Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than one million pesos or where there is no specified amount claimed;”

Considering that the present Petition for *Certiorari* directly challenges the resolutions issued by an RTC in connection with a criminal offense arising from violation of the NIRC in the exercise of the latter’s original jurisdiction (there is no specified amount claimed), the present petition thus squarely falls within the *certiorari* jurisdiction of the CTA as discussed above.

Timeliness of the Petition

Section 4, Rule 65 of the Revised Rules of Court, in relevant part, states:

“SEC. 4. *When and where to file the petition.* — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. **In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.**” (*Emphasis supplied*)

Petitioner received a copy of the second Assailed Resolution dated June 5, 2023 denying its motion for reconsideration on **June 21, 2023**. Counting sixty (60) days from said date, petitioner had until **August 20, 2023** within which to file the present petition. August 20, 2023 fell on a Sunday while August 21, 2023 is a declared national non-working holiday. Accordingly, the filing of the present Petition for *Certiorari* on **August 22, 2023** was seasonably made.

Propriety of the Petition

Section 1, Rule 65 of the Revised Rules of Court reads:

“SEC. 1. *Petition for certiorari.* — **When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.**

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and

documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.” (*Emphasis supplied*)

For *certiorari* to prosper, the petitioner must establish the concurrence of the following requisites, namely:²⁴

1. The writ is directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions;
2. Such tribunal, board, or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and
3. There is no appeal or any plain speedy, and adequate remedy in the ordinary course of law.

There is no question that the **first requisite** stated above is present in this case given that the writ of *certiorari* prayed for by the petitioner is directed against the two (2) resolutions of a trial court issued by the latter in the exercise of its judicial function.

In *Ley Construction & Development Corporation v. Hyatt Industrial Manufacturing Corporation, et. al.*,²⁵ the Supreme Court held that:

“[A] petition for *certiorari* is available only when ‘there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law.’ A petition for *certiorari* cannot co-exist with an appeal or any other adequate remedy. The existence and the availability of the right to appeal are antithetical to the availment of the special civil action for *certiorari*. As the Court has held, these two remedies are ‘mutually exclusive.’”

In construing the true import of the above-cited rule, it is important to bear in mind the Supreme Court’s pronouncement in *Municipality of Cordova, Province of Cebu et. al. v. Pathfinder Development Corporation et. al.*,²⁶ where it clarified that:

“It is mere inadequacy, not the absence of all other legal remedies, and the danger of failure of justice without the writ, that must determine the propriety of *certiorari*. A remedy is said to be plain, speedy and adequate if it will promptly relieve the petitioner from the injurious effects of the judgment, order, or resolution of the lower court or agency. It is understood, then, that a litigant need not

²⁴ *Aquino v. Municipality of Malay, Aklan*, G.R. No. 211356, September 29, 2014.

²⁵ G.R. No. 133145, August 29, 2000.

²⁶ G.R. No. 205544, June 29, 2016.

resort to the less speedy remedy of appeal in order to have an order annulled and set aside for being patently void.” (*Emphasis and underscoring supplied*)

In light of the above rulings, this Court finds that the **third requisite** is likewise present in this case. This Court is sufficiently convinced that there is neither an appeal nor any plain, speedy, and adequate remedy in the ordinary course of law that is available to the petitioner to promptly relieve itself of the injurious effects of the patently erroneous resolutions issued by the public respondent. It must be noted that in granting the private respondents’ Motion to Quash Information and in quashing the Information, the public respondent effectively dismissed the criminal action filed by the petitioner, albeit without prejudice.²⁷ Such dismissal of criminal action cannot be subject of an appeal but, nonetheless, may be reviewed through an appropriate special civil action under Rule 65, as explicitly provided under Section 1, Rule 41 of the Revised Rules of Court, viz:

“RULE 41

Appeal From The Regional Trial Courts

SEC. 1. *Subject of appeal.* — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

xxx

xxx

xxx

(g) An order dismissing an action without prejudice.

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65.” (*Emphasis supplied*)

While it may be true that the prosecution can re-file the Information against the private respondents, this Court is of the view that such re-filing is also not a plain, speedy and adequate remedy in the ordinary course of law, as measured by the standards stated above.

Having established the first and third requisites, this Court shall now deal with the crux of the controversy, *i.e.*, the determination of the existence of the **second requisite** which is whether or not the public respondent has acted without or in excess of jurisdiction, or with grave abuse of discretion

²⁷ Sections 5 & 6, Rule 117 of the Revised Rules of Court. See *People v. Consulta*, G.R. No. L-41251, March 31, 1976.

amounting to lack or excess of jurisdiction in granting the Motion to Quash Information and the corresponding quashal of the subject Information.

In *G.V. Florida Transport, Inc. v. Tiara Commercial Corporation*,²⁸ the Supreme Court succinctly elucidated the concept of “grave abuse of discretion” as basis of a *certiorari* petition as follows:

“Grave abuse of discretion has a precise meaning in remedial law. It is not mere abuse of discretion but must be grave ‘as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.’ In more concrete terms, not every error committed by a tribunal amounts to grave abuse of discretion. A misappreciation of the facts or a misapplication of the law does not, by itself, warrant the filing of a special civil action for *certiorari*. **There must be a clear abuse of the authority vested in a tribunal. This abuse must be so serious and so grave that it warrants the interference of the court to nullify or modify the challenged action and to undo the damage done.** (*Emphasis and underscoring supplied; Citations omitted*)

There is grave abuse of discretion when an act is (1) done contrary to the Constitution, the law or jurisprudence or (2) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias.²⁹

In *Doromal v. Biron*,³⁰ the Supreme Court ruled that the COMELEC acted with grave abuse of discretion in ordering the exclusion of the subject election returns **contrary to the clear provision of the law and the long-standing jurisprudence** on the admissibility of the certificate of votes and the appreciation of election returns.

In *Pahila-Garrido v. Tortogo*,³¹ the issuance by a trial court judge of a temporary restraining order to prevent the implementation of a writ of execution for an indefinite period was declared to be a **blatant violation of the Rules of Court and deemed as grave abuse of discretion.**

In *Tirol v. Tayengco-Lopingco, et. al.*,³² the Supreme Court categorically ruled that **an act done contrary to jurisprudence constitutes grave abuse of discretion that warrants the grant of the extraordinary writ of *certiorari*.** In the said case, the RTC was held guilty of grave abuse of discretion in issuing

²⁸ G.R. No. 201378, October 18, 2017.

²⁹ *Almario, et. al. v. The Executive Secretary*, G.R. No. 189028, July 16, 2013.

³⁰ G.R. No. 181809, February 17, 2010.

³¹ G.R. No. 156358, August 17, 2011.

³² G.R. No. 211017, March 15, 2022.

an Order directing the payment of docket fees before it could take cognizance of a motion to fix attorney's fees, contrary to well-settled jurisprudential rule allowing a claim for attorney's fees directed against the estate of a decedent in a probate proceeding without the need for the payment of separate docket fees.

In the first Assailed Resolution dated February 28, 2023, the public respondent granted the Motion to Quash Information based on the *sole* ground that the facts charged do not constitute an offense. For proper frame of reference, the relevant discussion thereon is fully reproduced below:

"In essence, the instant Information charges the accused of possession of cigarette raw materials without obtaining the required certification or authority from the CIR. **On the other hand, the accused states that it was authorized by law, by reason of R.A. No. 7916 and its Registration Agreement with Registration No. 16-120 dated July 20, 2016 issued by PEZA, to engage in the manufacture of cigarettes and the importation of raw materials for manufacturing cigarettes.**

It thus appears that the central issue to be resolved in the present motion is whether or not the act of possessing cigarette raw materials without the required certification and authority from the CIR sufficiently constitutes an offense for violation of Section 260 of the NIRC considering that the accused appears to have authority from the PEZA and R.A. No. 7916 to import cigarette raw materials, and consequently to possess the same, for manufacturing within the Pampanga Ecozone.

Guided by the abovestated *People v. Sandiganbayan*, it thus appears that hypothetically admitting possession of the cigarette raw materials without the registration and authority from the CIR, **the accused nevertheless appears to have been authorized by law to possess such articles in pursuit of its lawful manufacturing activities within the PEZ.**

Having been registered with the PEZA and having been given authority to manufacture cigarettes, including the importation of capital equipment and raw materials, it appears that the accused was justified in its possession of such cigarette raw materials subject of this case. The accused thus had a reasonable and legal belief that he or she had the authority to possess such items and a charge for illegal possession thereof under Section 260 of the NIRC does not constitute any offense.

Plainly, the prosecution argues that mere possession of the cigarette raw materials without the registration and authority of the CIR already constitutes an offense regardless of any other authority or law contrary to the same. The prosecution likewise argues that showing authority to possess such items is a mere matter of defense for the

✓

accused in this criminal case and such cannot result to the quashal of the instant Information.

The court agrees with the prosecution in stating that the Information dated June 25, 2021 clearly charges the accused of possession of cigarette raw materials without registration and authority of the CIR which is an offense under Section 260 of the NIRC. **However, the Information fails to consider the special circumstance of the accused as a registered Ecozone Export Enterprise who is authorized to import raw materials, and consequently to possess the same, for the manufacture of cigarettes.**

It thus appears that there is an apparent conflict between two laws: the National Internal Revenue Code enacted in 1997 (R.A. 8424) and the Special Economic Zone Act enacted in 1995 (R.A. 7916). In interpreting such conflict, it is elementary in statutory construction that a special law prevails over a general law. Thus, in *Lopez vs. CSC*, the Honorable Supreme Court stated:

'xxx As the Solicitor General points out, and we agree with him, it is a canon of statutory construction that a special law prevails over a general law - regardless of their dates of passage - and the special is to be considered as remaining an exception to the general.'

In this view, the court finds that the special law R.A. 7916 apparently granting authority to the accused to import raw materials for cigarettes and to manufacture the same prevails as an exception to the general law (R.A. 8424) under which the accused is presently charged with.

Thus, if the theory of the prosecution is that an accused is *still liable* and should be prosecuted for violation of Section 260 of the NIRC **despite being a registered Ecozone Export Enterprise which derives authority from R.A. No. 7916 to import, and consequently possess, raw materials for the manufacture of cigarettes, the court submits that the Information dated June 25, 2021 should have stated so**. Presently, as worded, the Information dated June 25, 2021 merely states:

xxx

(the accused) knowingly possess the following cigarette raw materials without obtaining the required certification or authority from the CIR, to the damage and prejudice of the Government:

xxx.

Further, the court notes that the Resolution dated June 25, 2021 of the Honorable Department of Justice finding probable cause against the accused did not consider the Joint Counter-Affidavit of the accused that was filed via email because no hard copy was filed with their

✓

Honorable Office. Such non-filing of a hard copy of the Joint Counter-Affidavit could have been the reason for the plain allegations in the Information for violation of Section 260 of the NIRC against the accused without taking into consideration its apparent authority under R.A. 7916 as an Ecozone Export Enterprise.

It thus appears that the prosecution is blanketly charging the accused of violation of Section 260 of the NIRC while disregarding the apparent authority granted to it by another law, i.e. R.A. No 7916 and the Registration Agreement issued by PEZA to the accused on June 20, 2016, to import cigarette raw materials for manufacturing, and consequently, to possess the same.

Again in *People v. Sandiganbayan*, the Honorable Supreme Court explained the importance of apprising the accused of the particularity of the crime for which he or she is being charged, to wit:

‘Thus, this Court held that the true test in ascertaining the validity and sufficiency of an Information is ‘whether the crime is described in intelligible terms with such particularity as to apprise the accused, with reasonable certainty, of the offense charged.’

In view of this, the court finds that the allegations in the Information dated June 25, 2021 do not sufficiently constitute an offense and should result in the quashal of the Information for failure to sufficiently apprise the accused of the charges against them. The said Information fails to qualify with sufficient particularity that the accused is being charged with illegal possession of cigarette raw materials *despite having lawful authority to do so under R.A. No 7916.”* (Emphasis supplied and citations omitted)

Petitioner now argues that:

1. A motion to quash an information on the ground that the facts charged do not constitute an offense should be resolved on the basis of the allegations in the Information whose truth and veracity are hypothetically admitted. The question that must be answered is whether such allegations are sufficient to establish the elements of the crime charged without considering matters aliunde.³³
2. The true test in ascertaining the validity and sufficiency of an information is whether the crime is described in intelligible terms with such particularity as to apprise the accused, with reasonable certainty, of the offense charged.³⁴
3. The Information filed against the private respondents sufficiently alleges the essential elements of a violation of Section 260 of the 1997 NIRC in relation to Sections 253(d) and 256 of the same law. The said Information

³³ Pars. 56-71, Petition, Docket, pp. 18-24.

³⁴ *Id.*

clearly described the acts constituting the crime charged, to wit: (1) that the private respondents willfully, unlawfully, and knowingly possess cigarette raw materials; and (2) such possession of cigarette raw materials is without the required certification or authority from the Commissioner of Internal Revenue.³⁵

4. It is illogical, if not procedurally infirm, to require the allegations of the accused's alleged authority [to possess cigarette raw materials] under Republic Act No. 7916 in the Information considering such interpretation would effectively require the prosecution to include all the relevant evidence in the Information and to present such evidence even prior to arraignment. In such case, the accused would be required to face (or even rebut) the evidence as soon as the Information is filed and even before he pleads. This interpretation runs counter to the function of a motion to quash as a remedy for the accused before proceeding to trial.³⁶

In their Comment and/or Opposition, the private respondents maintain that:

1. The public respondent correctly ruled that the [facts charged in the] Information filed by the prosecution does not constitute an offense.³⁷
2. The Assailed Resolutions have already attained finality.³⁸
3. The prosecution's evidence was obtained from (sic) unreasonable searches and seizures, hence, inadmissible in any judicial proceeding.³⁹

After an assiduous evaluation of the ratiocination by the public respondent in the Assailed Resolutions vis-à-vis the arguments presented by both parties as well as the relevant laws, rules and jurisprudence on the matter, this Court finds that the grant of the Motion to Quash Information and the corresponding quashal of the subject Information are tainted with grave abuse of discretion amounting to lack or excess of jurisdiction. The issuance of the writ of *certiorari* in this case is, therefore, in order.

A motion to quash is the mode by which the accused assails, before entering his plea, the validity of the criminal complaint or the criminal information filed against him for insufficiency *on its face* in point of law, or for defect *apparent on the face* of the Information.⁴⁰ It is well-settled that a motion to quash is a *hypothetical admission of the facts alleged in the Information*. **As a rule, courts will not consider allegations contrary to those appearing on the face of the Information.**⁴¹ Matters of defense cannot be proved during the

³⁵ *Id.*

³⁶ *Id.*

³⁷ Pars. 12-36, Comment and/or Opposition, Docket, pp. 217-236.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Los Baños v. Pedro*, G.R. No. 173588, April 22, 2009.

⁴¹ *Lorenzo v. Sandiganbayan*, G.R. No. 242506 & 242510, September 14, 2022 citing *Antone v. Beronilla*, G.R. No. 183824, December 8, 2010; *Los Baños v. Pedro*, G.R. No. 173588, April 22, 2009.

hearing of such motion except when the Rules of Court expressly so permits such as proof of extinction of criminal liability, prescription or former jeopardy.⁴² As regards the proper resolution of a motion to quash on the ground that the facts charged do not constitute an offense, the case of *Cruz, Jr. v. Court of Appeals*,⁴³ is illuminating:

“It is axiomatic that a complaint or information must state every single fact necessary to constitute the offense charged; otherwise, a motion to dismiss/quash on the ground that it charges no offense may be properly sustained. The fundamental test in considering a motion to quash on this ground is whether the facts alleged, if hypothetically admitted, will establish the essential elements of the offense as defined in the law.

Contrary to the petitioner’s contention, a reading of the informations will disclose that the essential elements of the offense charged are sufficiently alleged. It is not proper therefore to resolve the charges at the very outset, in a preliminary hearing only and without the benefit of a full-blown trial. The issues require a fuller examination. Given the circumstances of this case, we feel it would be unfair to shut off the prosecution at this stage of the proceedings and to dismiss the informations on the basis only of the petitioner’s evidence, such as it is.” (*Emphasis supplied and citations omitted*)

By way of exception, however, courts may consider matters other than those alleged in the Information in resolving a motion to quash when: (1) the new allegations are admitted by the prosecution;⁴⁴ (2) when the Rules of Court so permits such as proof of extinction of criminal or double jeopardy;⁴⁵ and (3) when facts have been established by evidence presented by both parties which destroyed the *prima facie* truth of the allegations in the information *during the hearing* on a motion to quash based on the ground that the facts charged do not constitute an offense, and it would be pure technicality for the court to close its eyes to said facts and still give due course to the prosecution of the case already shown to be weak even to support possible conviction.⁴⁶

In *Antone v. Beronilla*,⁴⁷ the Supreme Court found that the trial court committed grave abuse of discretion when, in quashing an Information, it considered evidence introduced to prove a fact not alleged thereat. Notably, the Supreme Court stated that the facts not alleged in the Information may be appreciated only under exceptional circumstances.

⁴² *Milo v. Salanga*, G.R. No. L-37007, July 20, 1987.

⁴³ G.R. No. 83754, February 18, 1991.

⁴⁴ *People v. Navarro*, G.R. Nos. L-1 & L-2, December 4, 1945; *Lorenzo v. Sandiganbayan*, G.R. No. 242506 & 242510, September 14, 2022.

⁴⁵ *Garcia v. Court of Appeals*, G.R. No. 119063, January 27, 1997.

⁴⁶ *People v. Dela Rosa*, G.R. No. L-34112, June 25, 1980.

⁴⁷ G.R. No. 183824, December 8, 2010.

In the present case, the public respondent gravely abused its discretion by considering additional facts not alleged in the subject Information when it quashed the subject Information on the ground that the facts charged do not constitute an offense, *i.e.*, the allegation supplied by the private respondents that private respondent GB BEM Cigarette Co., Inc. has the specific authority granted under RA 7916 and its alleged Registration Statement with the Philippine Economic Zone Authority (PEZA) to possess cigarette raw materials. **The public respondent unabashedly transgressed the firmly-entrenched jurisprudential precept that a motion to quash is a hypothetical admission of the facts alleged in the Information.** Nowhere in the Assailed Resolutions was it ever mentioned by the public respondent that the appreciation of extraneous matters in resolving the Motion to Quash Information is fully justified due to the existence in this case of any of the abovementioned exceptions. Consequently, the general rule applies. To be sure, whether or not private respondent GB BEM Cigarette Co., Inc. has the proper authority to possess cigarette raw materials other than that coming from the Commissioner of Internal Revenue is a **matter of defense** that must be fully threshed out during a full-blown trial where all the parties are afforded reasonable opportunity to present their respective pieces of evidence. What is now clear is that the public respondent should have confined itself to allegations appearing on the face of the subject Information in resolving the Motion to Quash Information. A reading of the subject Information readily reveals that the essential elements of the offense charged are sufficiently alleged with enough details on how the offense charged was committed. As to whether or not the prosecution could successfully establish these elements shall be determined during the trial but certainly not *via* a mere motion to quash, especially like in this case where the records are bereft of any indication that a hearing was ever conducted relative to such motion.

Aside from the foregoing, there is another equally compelling reason why a writ of *certiorari* must be issued in this case, as will be discussed below.

Even on the assumption that the facts charged in the subject Information do not constitute an offense, the public respondent has committed a serious and palpable error bordering on gross ignorance of the law in outrightly quashing the subject Information without giving the prosecution any chance to amend it, in blatant violation of the basic procedural rule set forth in Section 4, Rule 117 of the Revised Rules of Court and related jurisprudence. The said rule plainly states:

SEC. 4. *Amendment of complaint or information.* - If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.

If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court ✓

an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment. (*Emphasis supplied*)

In a number of cases,⁴⁸ the Supreme Court held that the failure to provide the prosecution with the opportunity to amend is an arbitrary exercise of power that may be corrected through a *certiorari* petition. As aptly held in *People v. Sandiganbayan (Fourth Division), et. al.*,⁴⁹ the failure of the trial court to order an amendment of an Information when it granted the motion to quash based on grounds curable by amendment not only is a flagrant disregard of procedural rules but also an effective curtailment of the State's right to due process, to wit:

“When a motion to quash is filed challenging the validity and sufficiency of an Information, and the defect may be cured by amendment, courts must deny the motion to quash and order the prosecution to file an amended Information. **Generally, a defect pertaining to the failure of an Information to charge facts constituting an offense is one that may be corrected by an amendment.** In such instances, courts are mandated not to automatically quash the Information; rather, it should grant the prosecution the opportunity to cure the defect through an amendment. This rule allows a case to proceed without undue delay. By allowing the defect to be cured by simple amendment, unnecessary appeals based on technical grounds, which only result to prolonging the proceedings, are avoided.

More than this practical consideration, however, is the due process underpinnings of this rule. As explained by this Court in *People v. Andrade*, the State, just like any other litigant, is entitled to its day in court. Thus, a court's refusal to grant the prosecution the opportunity to amend an Information, where such right is expressly granted under the Rules of Court and affirmed time and again in a string of Supreme Court decisions, effectively curtails the State's right to due process.” (*Emphasis supplied and citations omitted*)

WHEREFORE, premises considered, the Petition for *Certiorari* is **GRANTED**. Accordingly, the Resolution dated February 28, 2023 as well as the Resolution dated June 5, 2023 both issued by the RTC of Quezon City, Branch 217 in Criminal Case No. R-QZN-22-10881-CR are **ANNULLED** and **SET ASIDE**.

⁴⁸ *Go v. Bangko Sentral ng Pilipinas*, G.R. No. 178429, October 23, 2009; *Dio v. People*, G.R. No. 208146, June 08, 2016; *De Lima v. Guerrero*, G.R. No. 229781, October 10, 2017.

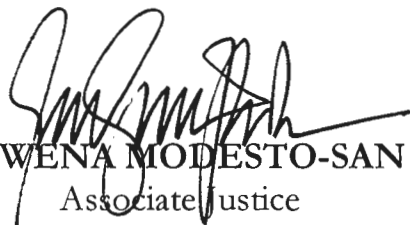
⁴⁹ G.R. No. 160619, September 9, 2015.

Criminal Case No. R-QZN-22-10881-CR is **REMANDED** to the RTC of Quezon City, Branch 217 for further proceedings.

SO ORDERED.


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


CORAZON G. FERRER-FLORES
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.


MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in 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