REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

L.M. CAMUS ENGINEERING CORP. represented by LUIS M. CAMUS AND LINO D. MENDOZA, c/o L.M CAMUS ENGINEERING CORP., 475 E. RODRIGUEZ SR. AVE., CUBAO, QUEZON CITY,
Accused.

CTA Crim. Case Nos. O-395 to O-406

Members:

MANAHAN, *Chairperson*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

MAY 08 2024 10:40 a.m.

x---x

RESOLUTION

This resolves the *Reiterative Motion to Release Cash Bonds* filed by accused on January 23, 2024.

On January 09, 2024, the Court issued a *Resolution* granting the *Motion to Release Cash Bond* filed by the accused on August 23, 2023.

On January 23, 2024, accused filed a *Reiterative Motion to Release Cash Ponds*. The said *Reiterative Motion* states that since the prosecution failed to establish sufficiency of evidence to prove the guilt of the accused beyond reasonable doubt which resulted to the dismissal of the cases and there being no evidence on the record to establish the civil liability of the accused, the cash bonds should not be withheld.

On January 25, 2024, the Court received the *Records Verification Report* stating that no manifestation was filed by both parties pursuant to the *Resolution*[1] on October 06, 2023.

[1] Parties were directed to manifest before the Court of any developments which may impact the determination of the accused's civil liability.

As pointed out by the Court, despite the failure of the prosecution to convince the accused's guilt beyond reasonable doubt, the civil liability of the accused is not automatically extinguished. Before this Court can rule on the accused's civil liability, accused should first be afforded the opportunity to present their evidence on the civil aspect of the case, while the plaintiff would be given a chance to adduce evidence, by way of rebuttal[2]. Based on the records of the case, the presentation of evidence was scheduled, however, it was cancelled due to the pending *Petition for Review*[3] filed with the Supreme Court. Hence, the Court held in abeyance further proceedings for the determination of the civil liability of the accused. Subsequently, the Supreme Court affirmed the CTA-Third Division's *Resolutions* dated 07 August 2019 and 29 November 2019.

Based on the records of the case, accused has no objection on the existence and authenticity of the assessments issued by the plaintiff but he objected as to the figures and amounts reflected because they are not substantiated due to the absence of supporting financial computation on the alleged deficiency. In fact, the revenue officer who conducted the audit investigation was not presented during trial to further substantiate his findings on the alleged tax deficiency income tax and unpaid value-added tax. Thus, as regards to the civil aspect of these consolidated cases, the Court has yet to determine the validity of the assessments issued by the Bureau of Internal Revenue. As shown in the records, the presentation of evidence was held in abeyance for the determination of the civil liability of the accused.

Nevertheless, in granting the Demurrer to Evidence, the Court in Division stated in its *Resolution* dated August 07, 2019, that:

x x x

> In addition, the prosecution did not present the accused corporation's VAT Returns for TYs 1997 and 1998, and Income Tax Return for TY1999[4].

x x x

> The Court could not scrutinize and evaluate the ITRs and VAT Returns for TYs 1997 to 1999 to determine whether the accused corporation had indeed sales of services other than what it declared in the ITR as well as the source of income from such sales. In the absence of such ITRs and VAT Returns, the Court also could not clearly verify the specific information which the accused failed to supply correctly and accurately[5].

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[2] *Resolution* dated August 07, 2019, page 38.
[3] GR Nos. 25170 & 251291-301.
[4] Page 30, *Resolutior* dated August 07, 2019.
[5] *Id.*

Apparently, the admitted supporting documents i.e, Statement of Accounts[6], Progress Payments Invoice[7], BIR Forms 2307[8], merely show payments made to the accused corporation. The prosecution merely presented those supporting documents without clearly stating the circumstances how the accused fraudulently concealed or omitted the same in the ITRs and VAT Returns. The prosecution assumed that by merely presenting the same, a presumption that accused corporation and Mendoza undeclared the corporation's income and sales/gross receipts would exist[9].

However, the prosecution did not present the revenue officer who examined the books of accounts and other accounting records of accused corporation to prove the corresponding tax on the aforesaid payments were not paid, and that there was underdeclaration of the income tax and VAT for TYs 1997 to 1999[10].

Thus, the Court cannot ascertain whether or not the amount indicated in the said supporting documents already formed part of the accused corporation's taxable income reported in the ITRs and VAT Returns for TY 1997 to 1999[11].

As to whether the accused corporation and Mendoza declared those payments incorrectly in the returns to show their intention to evade or defeat tax, the Court could not validate the same as the prosecution failed to present the accused corporation's 1999 Annual Income Tax Return and VAT Returns for TYs 1997 and 1998, while the admission of the VAT Returns for TY 1999 and Annual Income Tax Return for TYs 1997 and 1998 was denied. As mentioned earlier, the Court did not admit the same as secondary evidence because the prosecution failed to lay down the predicates for the admission of secondary evidence[12].

It is also worthy to note that some statements of accounts[13] were dated for the year 2000; while the subject taxable years in these cases are from 1997 to 1999[14].

Further, the Court cannot give weight to the Statement of Accounts, Progress Payment Invoice, and BIR Forms 2307 since both parties' counsels stipulated that Atty. Dy, who identified the same was not present when said documents were signed and had no personal knowledge as to the payments indicated in the said documents[15]. Neither did Atty. Dy testify say how the accused corporation and Mendoza evaded the payment of subject income tax and VAT, through underdeclaration or failure to declare the correct

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[6] Exhibits "P-11" to "I -19" and "P-21" to "P-23", CTA Crim Case No. O-395, Docket (Vol.III) pp. 1151 to 1159 and 1161 to 1163, respectively.
[7] Exhibit "P-20", CTA Crim Case No. O-395, Docket (Vol.III), p. 1160.
[8] Exhibits "P-72" to "P-74", CTA Crim Case No. O-395, Docket (Vol.III), pp1439 to 1444.
[9] *Id.*
[10] Page 31, *Resolution* dated August 07, 2019.
[11] *Id.*
[12] *Id.*
[13] Exhibits "P-11" to "P-18", CTA Crim Case No. O-395, Docket (Vol.III), pp.1151 to 1158.
[14] *Id.*
[15] Order dated May 09, 2018, CTA Crim Case No. O-395, Docket (Vol.IV), p 2098.

> amount of tax. He also did not testify how the said accused supplied incorrect and inaccurate information in the returns[16].
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> x x x

The foregoing observations with respect to the pieces of evidence also impedes the Court's determination of the civil liability. The parties were given another chance to manifest or submit to court other evidence on the civil liability but they failed to do so. Considering that the parties did not file any manifestation pursuant to the October 06, 2023 *Resolution,* there is no basis for the proper determination of the civil liabilities of the accused in the instant case. The Court could not evaluate or determine the proper tax deficiency of the accused based only on the existing records.

Further, under Section 3, Rule 17 of the Rules of Court[17], failure to comply with the order of the court is a ground to dismiss the complaint. Based on *Records Verification Report* on January 25, 2024, the Court did not receive any manifestation from the parties.

WHEREFORE, premises considered, the *Reiterative Motion to Release Cash Bonds* filed by the accused is hereby declared **MOOT AND ACADEMIC** considering that the Court has already ordered the release of the cash bonds in its *Resolution* dated January 09, 2024. The Court reiterates its directives pursuant to the *Resolution* dated January 09, 2024.

As to the accused's civil liability, as discussed above and there being no manifestation filed by either parties, the Court has no basis to rule upon the civil liability of the accused.

SO ORDERED.

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[16] Pages 31 to 32, *Resolution* dated August 07, 2019.

[17] Section 3. **Dismissal due to fault of plaintiff.** – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, **or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion,** without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice