REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-appellee,	CTA CRIM. CASE NO. A-4
	Members:
-versus-	BAUTISTA, *Chairperson*; FABON-VICTORINO, and RINGPIS-LIBAN, JJ.
GENOVEVA S. SUAREZ, Accused-appellant.	Promulgated:
	JUL 05 2018 10:08 a.m.

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DECISION

Fabon-Victorino, J:

On appeal before the Court is the Decision[1] dated June 2, 2016 rendered by the Regional Trial Court (RTC), Branch 21, Manila, in Criminal Case No. 08-263206, finding appellant Genoveva S. Suarez guilty beyond reasonable doubt of violation of Section 255, in relation to Sections 253(d) and 256 of the National Internal Revenue Code (NIRC) of 1997, as amended. The decretal portion of the assailed Decision reads as follows:

> WHEREFORE, accused GENOVEVA S. SUAREZ is hereby declared GUILTY beyond reasonable doubt of the crime of Violation of Section 255 in relation to Sections 253 (d) and 256, 1997 Tax Code and accused is hereby sentenced to suffer the indeterminate imprisonment ranging from one (1) year and one (1) month, as minimum, to three (3) years and

[1] Decision penned by Presiding Judge Alma Crispina B. Collado-Lacorte, RTC Branch 21, Manila in Criminal Case No. 08-263206, docket, pp. 16-26.

two (2) months, as maximum and to pay the amount of SIXTY THOUSAND PESOS (₱60,000.00), Philippine currency, as FINE.

Accused is ordered to pay the Government of the Republic of the Philippines thru the Bureau of Internal Revenue the amount of SEVEN HUNDRED FORTY SEVEN THOUSAND NINE HUNDRED SIXTY FOUR PESOS AND FORTY NINE CENTAVOS (₱747,964.49), Philippine currency, as overdue tax obligations under BIR Assessment Notice No. 31-2000 plus 25% surcharge on ₱747,964.49 and 20% interest per annum on the total amount due from January 23, 2004 until full payment, pursuant to Sections 248 and 249 of the 1997 Tax Code.

SO ORDERED.

THE FACTS AND THE PROCEEDINGS

Appellant Genoveva S. Suarez was the Executive Vice-President (EVP) of 21st Century Entertainment, Inc. (21st Century) during the period relevant to this case.[2]

On January 23, 2004, the Commissioner of Internal Revenue (CIR) issued Final Assessment Notices[3] (FANs) and Final Letters of Demand[4] (FLDs) to 21st Century, demanding payment for deficiency Income Tax (IT), Improperly Accumulated Earnings Tax (IAET), Minimum Corporate Income Tax (MCIT), Expanded Withholding Tax (EWT), Value-Added Tax (VAT) and Compromise Penalty, in the aggregate amount of Seven Hundred Forty-Seven Thousand Nine Hundred Sixty-Four and 49/100 Pesos (Php747,964.49) for taxable year (TY) 2000.

On February 26, 2004, 21st Century, represented by its Vice-President, John S. Suarez, filed a Protest[5] against the FLDs and requested the Bureau of Internal Revenue (BIR) for reinvestigation of the assessment issued against it.

[2] Pre-Trial Order, RTC docket, p. 265.
[3] Exhibits "Z" to "DD", RTC docket, pp. 394-398.
[4] Exhibits "EE" to "NN", RTC docket, pp. 399-408.
[5] Exhibit "OO", RTC docket, pp. 409-410.

The said Protest Letter was forwarded by BIR Revenue Region No. 6, Manila, Assessment Division to Revenue District Office (RDO) No. 31 for appropriate action via the 1st Indorsement dated September 20, 2004[6].

On December 5, 2005, the case docket of 21st Century was forwarded to Revenue Region No. 6, Chief Collection Division[7], for enforcement of collection as 21st Century failed to submit within sixty (60) days from date of protest supporting documents to refute the assessment.

On December 19, 2005, Revenue District Officer, Petronilo C. Fernando, of RDO No. 31, Sta. Cruz, Manila issued the First Notice of Delinquent Account[8] to 21st Century, requiring it to settle its tax deficiencies, lest the case shall be referred to the BIR Legal Division for legal action. This was followed by a Second Notice of Delinquent Account[9] issued on January 3, 2006 addressed to appellant as the Treasurer of 21st Century, informing the latter that the case had been referred to the BIR Legal Division and reiterating advice to settle the tax deficiency the soonest to avoid the issuance of a Warrant of Distraint and/or Levy (WDL) or Garnishment.

On March 17, 2006, a Final Notice Before Seizure (FNBS)[10] addressed to Richard Suarez was issued to 21st Century through registered mail, copy furnished appellant, among others.

On August 24, 2006, appellant sent a Letter to RDO No. 31, Manila[11], requesting for additional time to secure the services of an external accountant to assist 21st Century in putting its accounting records in order so that it could provide the BIR evidence supporting its 2000 Financial Statements/Income Tax Returns. Appellant also obliged to settle through compromise 21st Century's tax liability, should there be any.

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[6] Exhibit "QQ", RTC docket, p. 411.
[7] Exhibit "VV", RTC docket, p. 41.
[8] Exhibit "WW", RTC docket, p. 413.
[9] Exhibit "XX", RTC docket, p. 414.
[10] Exhibit "AAA", RTC docket, p. 415.
[11] Exhibit "CCC".

On November 28, 2006, the CIR issued a WDL[12] and served it upon 21st Century on February 26, 2007, indicating Richard S. Suarez as the taxpayer's authorized representative.

On March 7, 2017, the BIR issued a Warrant of Garnishment to Equitable-PCI Bank Head Office[13] against the account of 21st Century sufficient to cover its tax liability in the amount of Php747,964.29.

In a Memorandum dated May 28, 2007[14], Revenue Officer (RO) II Dionisio P. Singson referred the case to the Chief of the Collection Enforcement Section of RDO No. 31, Sta. Cruz, Manila, for filing of appropriate action in court for failure of 21st Century to pay its delinquent tax liability.

On August 21, 2008, the Office of Manila City Prosecutor filed an Information against appellant for violation of Section 255, in relation to Sections 253(d) and 256 with the RTC, Manila[15], committed as follows:

> That on or about January 23, 2004, and continuously up to present, in the City of Manila, Philippines, the said accused being then the President of 21st CENTURY ENTERTAINMENT, INC. with business address at Room 207 Tiaoqui Bldg., Sta Cruz, Manila, and therefore the responsible officer of the said Corporation, to whom notices and demands were made by the Bureau of Internal Revenue, represented in this case by ATTY. HABARI LUCMAN BALT, to pay the Corporation's overdue tax obligations amounting to PhP747,964.49 under BIR Assessment Notice No. 31-2000, did then and there willfully, unlawfully and knowingly fail, refuse and neglect to pay the Bureau of Internal Revenue the said amount of PhP747,964.49 despite due notice and demand without formally protesting and appealing the same with the proper authority, to the damage and prejudice of the Government of the Republic of the Philippines sin (*sic)* the same sum of PhP747,964.49, Philippine currency.

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[12] Exhibit "EEE", RTC docket, p. 418.
[13] Exhibit "DDD", RTC docket, p. 417.
[14] Exhibit "FFF", RTC docket, p. 419.
[15] RTC Docket, pp. 1-2.

CONTRARY TO LAW."

The case was raffled to Manila RTC Branch 21 which issued a Warrant of Arrest against appellant on August 29, 2008[16].

On January 27, 2007, appellant posted a cash bond in the reduced amount of ₱10,000.00[17] for her provisional liberty.

When arraigned on February 4, 2009, appellant, duly assisted by counsel, pleaded "NOT GUILTY" of the crime charged.

During the trial, the prosecution presented Ma. Paz Arcilla, Armando Macatangay and Dionisio Singson as its witnesses. After offer of evidence[18], the prosecution rested.

On April 7, 2016, appellant filed a Motion for Leave of Court to File Demurrer to Evidence[19], which was denied on April 14, 2016, for having been filed out of time pursuant to Section 23, paragraph 3 of Rule 119 of the Rules of Court.

On the same date, appellant waived presentation of evidence for her defense[20].

On June 2, 2016, the RTC rendered the assailed Decision[21], convicting appellant of the crime charged.

On June 15, 2016, appellant filed a Notice of Appeal[22] with the RTC, which gave it due course on June 17, 2016. In the same order, the Court directed the RTC to transmit the entire record of the case to this Court for disposition[23].

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[16] RTC Docket, p. 50.
[17] RTC Docket, p. 54.
[18] RTC Docket, p. 428.
[19] RTC Docket, pp. 429-430.
[20] RTC Docket, pp.431-432.
[21] Docket, pp. 435-445.
[22] RTC Docket, pp. 456-457.
[23] RTC Docket, p. 462.

With appellant's filing of her Brief on October 21, 2017[24] and that of appellee on December 21, 2016[25], the case was submitted for decision on July 18,2017.

ASSIGNED ERRORS

Appellant raised the following issues, to wit:

1. Whether she is an accountable officer of 21st Century Entertainment, Inc.

2. Assuming that she is, whether she, as the accountable officer of 21st Century Entertainment, Inc., was proven guilty beyond reasonable doubt of the crime charged.

Appellant's arguments

Appellant claims that the RTC erred in ruling that she is an accountable officer of 21st Century and that she is guilty beyond reasonable doubt of violation of Section 255, in relation to Sections 253(d) and 256 of the NIRC of 1997, as amended.

Appellant posits that the prosecution did not have any evidence that she was the President of 21st Century during the relevant period as alleged in the Information. Prosecution witness, Ma. Paz Arcilla admitted that she had no evidence pointing to her as responsible officer of 21st Century or someone connected to it. The same is true with prosecution witness, Armando Macatangay, who declared that he did not know the president of 21st Century. The prosecution did not also present any evidence to establish her true position in 21st Century.

Appellant undermines her admission during the Pre-Trial Conference conducted by the RTC in which she stipulated that she was the EVP of 21st Century at the time

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[24] Docket, pp. 38-56.
[25] Docket, pp.83-94.

the assessment was issued. Such stipulation, says she, cannot be used as proof that she was the President, Secretary, Treasurer or such other officers of 21st Century as contemplated under Section 256 of the NIRC of 1997, as amended. Thus, it is erroneous for the RTC to declare her as an accountable officer of 21st Century under Section 253(d) of the NIRC of 1997, as amended, much more make her personally liable for its unpaid taxes for TY 2000. Even if she was connected with 21st Century, such fact could not automatically render her personally liable for its unpaid taxes or worse, be punished on the basis of such vague connection.

Even her Letter dated August 24, 2006, which she sent to the BIR requesting for reasonable time to pay the subject assessed tax liability of 21st Century, could not be deemed as proof of her criminal liability or an admission that she was its President at the time the assessment was issued. At most, the said Letter was but a mere proof of her good intention to pay the assessed tax liability of 21st Century.

On the second assigned error, appellant reiterates lack of proof that she is liable as charged in the Information filed against her as the prosecution failed to establish her personal responsibility to the alleged non-payment of deficiency tax liability by 21st Century. The prosecution first assumed that she was its Treasurer but was later charged in the Information as its President and finally convicted as its responsible officer. At the most, according to appellant, the prosecution was able to prove that 21st Century failed to pay the assessed deficiency taxes due from it.

Prosecution's counter-arguments

The prosecution asserts that the RTC did not err in convicting appellant as a responsible officer of 21st Century, hence, guilty beyond reasonable doubt of the crime of violation of Section 255, in relation to Section 253(d) and 256 of the NIRC of 1997, as amended.

The prosecution points out that under the Tax Code, the criminal liability of a corporate taxpayer is imposed on ✓

its president, general manager, treasurer, officer-in-charge and the employees responsible for the violation, if the corporate taxpayer was established to have failed to pay its tax liability. Corporate officers, according to the prosecution, have the bounden duty to ensure that the tax obligations of the company are properly discharged. To impute knowledge of the corporate obligation to pay tax upon an officer, there must be a clear showing that the corporate officer has been duly notified of the assessments properly issued by the BIR, as obtaining in the present case.

THE RULING OF THE COURT

Appellant is indicted for violation of Section 255 of the NIRC of 1997, as amended, in relation to Sections 253 (d) and 256 of the same Code. The provisions read as follows:

> 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 law 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) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.
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> SEC. 253. General Provisions. —
>
> xxx xxx xxx
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> (d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general

manager, branch manager, treasurer, officer-in-charge, and employees responsible for the violation.

SEC. 256. Penal Liability of Corporations. — Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees, shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000).

Thus, for the present charge to prosper, the prosecution must prove the following essential elements of violation of Section 255 of the NIRC of 1997, as amended, specifically the failure of 21st Century, the corporate taxpayer, to pay its tax liability, to wit:

1. that corporate taxpayer is required to pay tax and it failed to pay such tax at the time required by law;

2. that appellant is a responsible officer of 21st Century, being its president, general manager, branch manager, treasurer, officer-in-charge or employee responsible for such violation; and

3. that appellant willfully failed to pay the tax liability.

As in all criminal cases, all the foregoing elements of the crime charged must concur to seal a conviction. The lack or absence of any of the enumerated elements warrants the exoneration of appellant. It is indubitably incumbent upon the prosecution, on which the burden of evidence lies, to establish by proof beyond moral certainty each and every element enumerated above. Failure to discharge this burden warrants the acquittal of appellant.

It cannot be disputed that the corporate taxpayer required to pay the assessed deficiency taxes in the aggregate amount of Php747,964.49 for TY 2000 is no other than 21st Century, which despite demand, failed to pay the taxes due.

All the documents presented by the prosecution and admitted by the Court point to no other than 21st Century as the corporate taxpayer against which the BIR issued the FANs and FLDs demanding payment of deficiency IT, IAET, MCIT, EWT, VAT and Compromise Penalty, in the total amount of Php747,964.49 for TY 2000. By filing a protest to the FAN/FLDs on February 26, 2004 and requesting for a reinvestigation, 21st Century, through its Vice-President, John S. Suarez, effectively admitted that it is the corporate taxpayer against whom the assessment was issued. The protest however, remained unsubstantiated as 21st Century was unable to submit supporting documents to refute the subject assessment, rendering it final and demandable. To pursue collection of the subject deficiency taxes, the BIR sent two (2) Notices of Delinquent Account to 21st Century, one addressed to appellant as its Treasurer. On March 17, 2006, the BIR issued a Final Notice Before Seizure which was served upon 21st Century through registered mail. All the foregoing events remain unrefuted for appellant opted to waive presentation of evidence in her defense.

It is therefore beyond cavil that 21st Century Entertainment, Inc. is the corporate taxpayer in this case required by law to pay the taxes due but failed. Appellant, Genoveva S. Suarez practically pinned down 21st Century as she tried to extricate herself from the indictment declaring that the prosecution was able to prove that 21st Century failed to pay the assessed deficiency taxes due from it.

Appellant is however steadfast in her stance that she cannot be held criminally responsible for the infraction committed by 21st Century for want of evidence to prove her position as its President as alleged in the Information. She climes that the failure of the prosecution to ascertain her position or at least establish her connection with the 21st Century warrants her exoneration. Appellant likewise claims that the prosecution was unable to prove her involvement in the Company's alleged willful failure to pay the taxes due for the TY 2000.

But the Court cannot simply be oblivious to her admission during the Pre-Trial Conference conducted by the RTC during which she entered into a stipulation that she was the EVP of 21st Century at the time the assessment against it was issued. This stipulation of fact is deemed a judicial admission which requires no proof under Section 4, Rule 129 of the Rules of Court[26]. With such admission, no evidence is necessary to prove appellant's position as a responsible officer of 21st Century.

Anent the complained variance between the allegation in the Information and the evidence presented by the prosecution with respect to appellant's position in the Company, the same is certainly not sufficient to quell her admission regarding her position in the Company at the time the assessment was issued. Besides, there is nothing in the record that shows that appellant raised or questioned this infirmity in the Information opportunely. In the case of *United States v. Sataoa Bungaoil*,[27] the Supreme Court ruled that variance between the allegation in the Information and the evidence presented by the prosecution, is of no consequence unless the accused takes advantage thereof some time during the trial by appropriate objection and satisfies the trial court that he has been prejudiced by reason thereof, which is certainly not obtaining in the present case. As earlier stated, appellant waived her right to present evidence to prove her claimed innocence.

A similar pronouncement was made in the case of *People v. Lopez,*[28] where it was held that an information which lacks certain essential allegations may still sustain a conviction when the accused fails to object to its sufficiency during the trial, and the deficiency was cured by the competent evidence presented therein, as occurred in the

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[26] Section 4 of Rule 129 of the Rules of Court, states:

Section 4. Judicial admissions. — An admission, verbal or written, made by the 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.

[27] G.R. No. L-11505 August 25, 1916, citing *United States. v. Javier Dichao,* 27 Phil. Rep., 421.

[28] G.R. No. 135671-72, November 2000, 346 SCRA 469.

present case.

Evidently, the evidence presented by the prosecution pertaining to appellant's position coupled with her own admission that she was the EVP of 21st Century at the time the subject assessment was issued by the BIR clarified and cured the alleged defect in the Information pertaining to her position in the Company.

Other evidence on record as well depict appellant's position as responsible officer of 21st Century. In no uncertain terms she admitted that she communicated with the BIR and interceded for the Company for the purpose of settling its tax liability. She also declared herself as the author of the Letter she sent to RO Fernando of BIR RDO No. 31, Manila on August 24, 2006 in response to the BIR's Second Notice of Delinquent Account addressed to her as the Treasurer of 21st Century. In the same Letter, she even requested for time to put the Company's record in order with the express intention to settle its alleged tax liability by way of compromise. And contrary to her claim, her letter to the BIR cannot be considered as a mere proof of her good intention to pay the assessed tax deficiency of 21st Century, but a solid demonstration of her intention to save the Company from possible adverse legal consequences. With all her admission on her participation in the assessment case, and her failure to refute the established fact that 21st Century failed to substantiate its protest to the FAN allowing the subject assessment to become final and demandable, appellant cannot just turn 180 degrees and deny any responsibility in the Company's failure to settle its tax liability.

As earlier stated, for any infraction or violation of Section 255 of the NIRC, as amended, of the association, partnership or corporation, the penalty shall be imposed upon its responsible officers, namely, its president, general manager, branch manager, treasurer, officer-in-charge or responsible employee. And appellant, as the Company's EVP, necessarily belongs to the group of the cited responsible officers contemplated under the pertinent provisions of the Tax Code.

Finally, to have conviction, the prosecution must prove that the act or omission was committed by appellant knowingly, intentionally and with willful intent to disregard the obligation prescribed by law, i.e. pay the taxes due.

A willful act is described in the Eight Edition of Black's Law Dictionary as a voluntary and intentional act but not necessarily malicious, *viz.*:

> The word "willful" or "willfully" when used in the definition of a crime, it has been said time and again, means only intentionally or purposely as distinguished from accidentally or negligently and does not require any actual impropriety; while on the other hand it has been stated with equal repetition and insistence that the requirement added by such a word is not satisfied unless there is a bad purpose or evil intent. Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 875-76 (3D D. 1982).
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> Almost all of the cases under [Bankruptcy Code 53 (a)(6)] deal with the definition of the two words 'willful' and 'malicious' initially one might think that willful and malicious mean the same thing. If they did, Congress should have used one word and not both. Most courts feel compelled to find some different meaning for each of them. *David B. Epstin, et al. Bankruptcy* 730, at 531 (1993).

An earlier edition of the same Black's Law Dictionary indicates that an act or omission is "willfully" performed if done voluntarily and intentionally and with specific intent to do something the law forbids, or with specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to obey or to disregard the law. [29]

To attribute to appellant willful failure to pay the taxes due from 21st Century, it must be shown that such failure or omission by appellant, as responsible officer of the Company, was done or committed knowingly, intentionally and with the specific intent not pay the assessed tax liability.

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[29] Black's Law Dictionary, 6th Edition, p. 1599.

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In other words, it must be established that appellant was aware of the legal obligation of the Company of which she is a responsible officer, to pay the taxes due, but nevertheless voluntarily, knowingly and intentionally failed to do so.

It is undisputed that 21st Century, through its responsible officers, such as appellant, was aware of the subject assessment as early as the issuance of the assessment notices. Appellant never denied receipt from the BIR of the following documents pertinent to the subject assessment, to wit: Assessment Notices with accompanying Demand Letters for deficiency IAET, MCIT, EWT, VAT, IT, in the total amount of Php747,964.49 for taxable year 2000[30], including increments, and compromise penalty, all dated January 23, 2004; First Notice and Second Notice of Delinquent Account dated December 19, 2005 and January 2, 2006[31], respectively; Final Notice Before Seizure dated March 1, 2006[32], Warrant of Distraint and/or Levy[33] and Warrant of Garnishment[34] to Equitable-PCI Bank Head Office. Initially, it tried to assail the subject assessment by filing a protest, which for unexplained reason, was never substantiated and which rendered the subject assessment final and demandable. The BIR even tried to avail of administrative remedies to collect the deficiency taxes but failed, ushering the institution of the present criminal case against appellant.

Appellant cannot feign ignorance of the assessment, let alone knowledge of the Company's obligation to pay the assessed taxes. Aware of possible legal consequences, she even wrote the BIR on behalf of the Company requesting time to organize its record and if warranted, to pay the tax liability by way of compromise, but she failed to pursue this direction.

All said, the prosecution was able to establish the guilt of appellant beyond moral certainty of violation of Section 255, in relation to Sections 253(d) and 256 of the NIRC, as amended.

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[30] Exhibits "Z" to "NN"
[31] Exhibits "WW" and "XX".
[32] Exhibit "AAA".
[33] Exhibit "EEE"
[34] Exhibit "DDD".

Under Section 225 of the NIRC, as amended, the impossible penalty for the crime charged, in addition to other penalties provided by law, is payment of fine of not less than Ten Thousand Pesos (P10,000.00) **and** imprisonment of not less than one (1) year but not more than ten (10) years.

Significantly, under Act No. 4103, as amended, otherwise known as the Indeterminate Sentence Law, if the offense is punished by a special law that defines and penalizes crimes not included in the Revised Penal Code, the Court shall sentence accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by law and the minimum shall not be less than the minimum term prescribed by the same.[35]

With regard the civil aspect of the case, it appears that the corporate taxpayer, 21st Century, was deleted from the Information leaving appellant as responsible officer thereof as the lone accused.

It must be stressed that the civil aspect of a tax case is at all times deemed simultaneously instituted, heard and determined with the criminal case, and that no right to reserve the filing of such civil action separately from criminal action shall be recognized pursuant to Section 7 (b) (1) of Republic Act No. (RA) 1125, as amended by RA 9282.

Further Section 205 (b) of the NIRC, as amended provides, thus:

> Sec. 205. Remedies for the Collection of Delinquent Taxes. -
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> xxx xxx xxx
>
> (b) By civil or criminal action.
>
> Either of these remedies or both simultaneously may be pursued in the discretion of the authorities charged with the collection of

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[35] *Rene M. Francisco v. People*, G.R. No. 177430 and 178935, July 14, 2009.

> such taxes: *Provided, however,* that the remedies of distraint and levy shall not be availed of where the amount of tax involved is not more than One hundred pesos (P100).
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> The **judgment in the criminal case shall not only impose the penalty but shall also order payment of the taxes subject of the criminal case as finally decided by the Commissioner**.

As found by the Court, 21st Century failed to pay its tax liability as assessed by the BIR and must be held liable to pay the assessed deficiency taxes as follows:

Tax Type	**Amount of Basic Tax**
Income Tax	Php370,833.05
Value-Added Tax	66,181.66
Expanded Withholding Tax	4,191.00
Minimum Corporate Income Tax	15,456.48
Improperly Accumulated Earnings Tax	1,670.92
Total	**Php458,333.11**

WHEREFORE, the appealed Decision dated June 2, 2016 rendered by Branch 21 of the Regional Trial Court of Manila in Criminal Case No. 08-263206 is hereby **AFFIRMED with modifications** as to the penalties imposed.

Appellant Genoveva S. Suarez, is hereby sentenced to suffer an indeterminate imprisonment ranging from one (1) year and three (3) months, as minimum, to three (3) years and three (3) months, as maximum, and to pay a fine of Ten Thousand Pesos (Php10,000), pursuant to Section 255 of NIRC of 1997, as amended, with subsidiary imprisonment in case she has no property with which to meet the said fine, pursuant to Section 280 of the NIRC of 1997, as amended.

On the other hand, 21st Century Entertainment, Inc. is hereby ordered to pay Php458,333.11, representing the aggregate amount of basic deficiency Income Tax, Improperly Accumulated Earnings Tax, Minimum Corporate Income Tax, Expanded Withholding Tax and Value-Added

Tax for taxable year 2000.

In addition, 21st Century Entertainment, Inc., shall also pay the following:

a) twenty-five percent (25%) surcharge on the total basic deficiency tax, pursuant to Section 248(A)(3) of the NIRC of 1997, as amended;

b) deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency Income Tax, Value-added Tax, Expanded Withholding Tax, Minimum Corporate Income Tax, Improperly Accumulated Earnings Tax computed from the dates indicated below until December 31, 2017 pursuant to Section 249(B) of the NIRC of 1997, as amended;

Tax type	**Reckoning date for the computation of Deficiency Interest**
Income Tax	April 15, 2001
Value-Added Tax	January 25, 2001
Expanded Withholding Tax	January 15, 2001
Minimum Corporate Income Tax	April 15, 2001
Improperly Accumulated Earnings Tax	April 15, 2001

c) delinquency interest at the rate of twenty percent (20%) per annum on the unpaid amount (basic deficiency tax + 25% surcharge + 20% deficiency interest which have accrued as afore-stated in (b), computed from March 17, 2006 until December 31, 2017 pursuant to Section 249(C) of the NIRC of 1997, as amended); and

d) delinquency interest at the rate of twelve percent (12%) per annum on the unpaid amount (basic deficiency tax + 25% surcharge + 20% deficiency interest which have accrued as afore-stated in (b), computed from January 1, 2018 until the amount is fully paid pursuant to the relevant provisions of the Republic Act No. 10963[36], otherwise known as the TRAIN Law which took effect on January 1, 2018)[37].

e) Finally, 21st Century Entertainment, Inc. shall pay a fine of Php50,000.00, as mandated in Section 256 of the NIRC of 1997, as amended.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[36] Section 249, as amended by Republic Act No. 10963, reads as follows:

Section 249. Interest. - (A) In General. There shall be assessed and collected on any unpaid amount of legal interest at the rate of DOUBLE THE LEGAL INTEREST RATE FOR LOANS OR FORBEARANCE OF ANY MONEY IN THE ABSENCE OF ANY EXPRESS STIPULATION AS SET BY THE BANGKO SENTRAL NG PILIPINAS, from the date prescribed for payment until the amount is fully paid, PROVIDED THAT IN NO CASE SHALL THE DEFICIENCY AND DELINQUENCY INTEREST PRESCRIBED UNDER SUBSECTION (B) AND (C) HEREOF, BE IMPOSED SIMULTANEOUSLY.' (B) Deficiency Interest- Any deficiency in the tax due as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof, OR UPON ISSUANCE OF A NOTICE AND DEMAND BY THE COMMISSIONER OF INTERNAL REVENUE, WHICHEVER COMES EARLIER. (with emphasis supplied on the amended provisions)

[37] *Moog Controls Corporation-Philippine Branch v. Commissioner of Internal Revenue*, CTA Case No. 9077, February 22, 2018.

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.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice