REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case Nos. O-725 and O-727**
	Members:
-versus-	**DEL ROSARIO**, *P.J., Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.*
ARMEL PLASTIC CO., INC./ DENIS LAWRENCE V. LIPIO, and ELIZAH ANNE M. LIPIO, *Accused.*	Promulgated: MAR 2 9 2023, 3:12 PM

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RESOLUTION

MANAHAN, *J.:*

On December 7, 2022, the Court rendered its Decision, as follows:

> **WHEREFORE**, accused Armel Plastic Co., Inc. and Elizah Anne M. Lipio are **ACQUITTED** of the violation of Section 255, in relation to Sections 253 and 256 of the 1997 NIRC, as amended.
>
> However, accused Armel Plastic Co., Inc. is **ORDERED** to pay the civil liability as computed in the Assessment Notice No. IT-ELA53187-10-14-1150 dated December 16, 2014 for deficiency income tax and Assessment Notice No. VT-ELA53187-10-14-1150 dated December 16, 2014 for deficiency VAT, plus any additional interest that have accrued thereon, less any amounts already collected by garnishment and distraint/levy.
>
> **SO ORDERED**.[1]

On December 22, 2022, accused Armel Plastic Co., Inc. filed its *Motion for Partial Reconsideration of the Decision Promulgated on December 7, 2022,*[2] stating that the civil liability is not proven. Accused states that Exhibits "P-9-1" and "P-10-

[1] Docket, Vol. II, p. 1037.
[2] Docket, Vol. II, pp. 1039-1044.

1", which refer to Assessment Notice Nos. IT-ELA53187-10-14-1150 and VT-ELA53187-10-14-1150, respectively, were denied admission by the Court, hence the civil liability was not proven. Accused also reiterates that judicial affidavit of plaintiff's sole witness, Revenue Officer (RO) Zenaida F. Reyes, was not properly executed.

Despite notice,[3] plaintiff failed to file comment to accused's *Motion*.[4]

The *Motion* lacks merit.

The Court finds no merit in accused's argument that the judicial affidavit of plaintiff's witness, RO Zenaida F. Reyes, was improperly executed. RO Reyes' judicial affidavit complied with the requirements under the Judicial Affidavit Rule, in relation to CTA Circular No. 01-2013 dated July 1, 2013.

With respect to the alleged disallowed Exhibits pertaining to the Assessment Notices, the Court finds that while the sub-markings were disallowed, the documents, i.e., Exhibits "P-9" and "P-10" were admitted and may be considered by the Court.

As found in the assailed Decision, the following documents show the existence of the assessment and the collection efforts by the Bureau of Internal Revenue (BIR):

> In relation thereto, plaintiff presented the following evidence with respect to the assessments for deficiency income tax and VAT for taxable year 2010 against accused Armel Plastic Co., Inc.: Preliminary Assessment Notice (PAN) dated November 24, 2014, received by a Michelle Robis on November 26, 2014, with details of discrepancies; Formal Assessment Notice dated December 16, 2014 with details of discrepancies; Assessment Notice No. IT-ELA53187-10-14-1150 dated December 16, 2014 for basic deficiency income tax of Php18,206,711.10, received by Zaldy Lavapie on December 17, 2014; and, and Assessment Notice No. VT-ELA53187-10-14-1150 dated December 16, 2014 for basic deficiency VAT of Php6,034,988.25, with stamp received.
>
> Plaintiff also presented the Letter dated March 6, 2015 from Armel Plastic Co., Inc., signed by accused Elizah Anne M. Lipio, asking for a conference meeting to clarify the findings and asking for more time to sort their files and supporting documents, as well as the BIR Letter dated April 27, 2015

[3] Docket, Vol. II, Resolution dated January 6, 2023, p. 1063.
[4] Docket, Vol. II, Records Verification dated March 1, 2023.

> stating that the assessments against Armel Plastic Co., Inc. have become final, executory and demandable for failure of the accused to file a protest within thirty (30) days from receipt of the assessment.
>
> As to the collection efforts, plaintiff presented the following: Preliminary Collection Letter (PCL) dated May 19, 2015; Final Notice Before Seizure (FNBS) dated June 22, 2015; Warrant of Distraint and/or Levy (WDL) No. WDL-RR8-2016-02-0116; Letter dated July 22, 2016 from Armel Plastic Co., Inc. signed by accused Elizah Anne M. Lipio, proposing a compromise settlement in the amount of Php2,584,036.67; BIR Letter to Armel Plastic Co., Inc. dated September 15, 2016, requesting that Armel Plastic pay the offered amount within ten (10) days from receipt of the letter; and, Letter dated October 28, 2016 from Armel Plastic Co., Inc. signed by accused Elizah Anne M. Lipio, asking that it be allowed to pay the compromise settlement in installment, with the first installment to be paid on or before December 21, 2016.[5] (*citations omitted*)

However, accused did not present any evidence to refute the said assessments. Accused also did not object to or refute the Letter dated March 6, 2015, acknowledging the assessment notices and requesting for more time to sort their files and supporting documents. There is also nothing in the records which show that accused protested the assessments.

Based on the foregoing, the assessments have already become final, executory, and demandable.

Thus, we reiterate that despite the acquittal, accused Armel Plastic Co., Inc. is civilly liable for the deficiency taxes as stated in the assessment notices, plus any additional interest that have accrued thereon, less any amounts already collected by garnishment and distraint/levy.

WHEREFORE, accused's *Motion for Partial Reconsideration of the Decision Promulgated on December 7, 2022* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

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[5] Docket, pp. 1026-1027.

WE CONCUR:

Roman G. Del Rosario
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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