REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Petitioner,	**CTA Crim. Case No. A-6** (Crim. Case Nos. 796-M-2013 to 810-M-2013) For: Violations of Paragraph 1, Section 255 of the Tax Reform Act of 1997, as amended
-versus-	Members: DEL ROSARIO, *P.J.*, Chairperson, and, MANAHAN, *J.*
REGIONAL TRIAL COURT, BRANCH 78, MALOLOS, BULACAN and FELONILA Z. CALUAG, Respondents.	Promulgated: OCT 26 2020 1:39 pm

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DECISION

DEL ROSARIO, P.J.:

This **Petition for *Certiorari***[1] under Rule 65 of the Rules of Court filed by the People of the Philippines (petitioner) on December 20, 2019 stemmed from the Decision promulgated on October 24, 2019[2] by the Regional Trial Court, Branch 78, in Malolos City, Bulacan (public respondent) in Crim. Case Nos. 796-M-2013 to 810-M-2013 finding private respondent not guilty of violation of Paragraph 1, Section 255 of the Tax Reform Act of 1997, as amended.

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[1] Docket, pp. 5-250.

[2] Penned by Judge Gregorio S. Sampaga; Annex "A" of the Petition for *Certiorari* (PFC), Docket, pp. 39-58.

Private respondent filed her **Comment on the Petition for Certiorari**[3] through registered mail on March 2, 2020.

THE PARTIES

Petitioner represents the State in instituting the instant petition through the Office of the Solicitor General.[4]

Public respondent is a duly constituted court of justice under Batas Pambansa Bilang 129[5] that rendered the assailed Decision

Private respondent is the accused in Criminal Case Nos. 796-M-2013 to 810-M-2013 entitled *"People of the Philippines vs. Felonila Z. Caluag"*, for violations of Paragraph 1, Section 255 of the Tax Reform Act of 1997, as amended, or for failure to file the Quarterly Income Tax Returns (QITR) for taxable years (TYs) 2005, 2006, 2007, 2008 and 2009. She is a Filipino citizen and a registered taxpayer with Tax Identification Number (TIN) 173-100-004-000.[6]

THE FACTS

Records disclose that private respondent was charged in fifteen (15) separate Informations, docketed as Criminal Case Nos. 796-M-2013 to 810-M-2013, for violation of Paragraph 1, Section 255 of the Tax Reform Act of 1997, as amended, arising from private respondent's alleged willful failure to file her QITRs for TYs 2005 to 2009, thereby resulting to her failure to pay correct income tax for the said TYs, *viz.*:

Criminal Case No.	**Taxable Quarter**	**Due Date for Filing of QITR**
796-M-2013	first quarter of taxable year 2005	on or before April 15, 2005
797-M-2013	second [7] quarter of taxable year 2005	on or before August 15, 2005
798-M-2013	third[8] quarter of taxable year 2005	on or before November 15, 2005

[3] Docket, pp. 259-288.
[4] Paragraph 17, PFC, Docket, p. 10.
[5] Paragraph 18, PFC, Docket, p. 10.
[6] Paragraph 19, PFC, Docket, pp. 10-11.
[7] Annex "C" of the PFC, Docket, p. 61.
[8] Annex "D" of the PFC, Docket, p. 63.

799-M-2013	first quarter of taxable year 2006	on or before April 15, 2006
800-M-2013	second [9] quarter of taxable year 2006	on or before August 15, 2006
801-M-2013	third[10] quarter of taxable year 2006	on or before November 15, 2006
802-M-2013	first quarter of taxable year 2007	on or before April 15, 2007
803-M-2013	second [11] quarter of taxable year 2007	on or before August 15, 2007
804-M-2013	third[12] quarter of taxable year 2007	on or before November 15, 2007
805-M-2013	first quarter of taxable year 2008	on or before April 15, 2008
806-M-2013	second [13] quarter of taxable year 2008 on or before August 15, 2008	on or before August 15, 2008
807-M-2013	third[14] quarter of taxable year 2008	on or before November 15, 2008
808-M-2013	first quarter of taxable year 2009	on or before April 15, 2009
809-M-2013	second [15] quarter of taxable year 2009	on or before August 15, 2009
810-M-2013	third[16] quarter of taxable year 2009	on or before November 15, 2009

When arraigned on June 13, 2013, private respondent pleaded "not guilty" to the crimes charged.[17] On May 7, 2015, the Pre-Trial Conference was completed. Thereafter, trial on the merits proceeded[18] during which the parties presented their respective testimonial and documentary evidence.

After the submission of the parties' respective memoranda,[19] public respondent rendered the subject Decision on October 24, 2019 acquitting private respondent of the crimes charged under the fifteen (15) Informations.

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[9] Annex "F" of the PFC, Docket, p. 67.
[10] Annex "G" of the PFC. Docket, p. 69.
[11] Annex "I" of the PFC, Docket, p. 71.
[12] Annex "J" of the PFC, Docket, p. 75.
[13] Annex "L" of the PFC, Docket, p. 79.
[14] Annex "M" of the PFC, Docket, p. 81.
[15] Annex "O" of the PFC, Docket, p. 85.
[16] Annex "P" of the PFC, Docket, p. 87.
[17] Decision, Docket, p. 44.
[18] Id.
[19] Decision, Docket, pp. 52-53.

Convinced that public respondent committed grave abuse of discretion in rendering the assailed Decision, petitioner filed the present Petition for *Certiorari* under Rule 65 of the Rules of Court on December 20, 2019.

In the Resolution dated January 20, 2020,[20] the Court ordered private respondent to file her comment on the Petition for *Certiorari*. On March 2, 2020, private respondent filed her Comment[21] albeit in insufficient number of copies. Consequently, in the Minute Resolution dated March 13, 2020,[22] private respondent was directed to submit additional two (2) copies of her Comment which she timely complied with on June 30, 2020.[23]

On July 21, 2020, the case was submitted for decision.[24]

THE ISSUES

Petitioner raises the following issues for resolution of the Court:

"GROUNDS RELIED UPON FOR THE ALLOWANCE OF THE PETITION

I.

THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THE FACTS AND CIRCUMSTANCES CONSTITUTING THE ALLEGATIONS CHARGED HAVE NOT BEEN PROVEN.

II.

THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT RULED TO ACQUIT RESPONDENT CALUAG IN THE CRIMINAL CASES."[25]

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[20] Docket, pp. 256-257.
[21] Docket, pp. 259-288.
[22] Docket, pp. 290-293.
[23] Compliance, Docket, pp. 294-354.
[24] Resolution dated July 21, 2020, Docket, p. 357.
[25] PFC, Docket, pp. 15-16.

THE PARTIES' ARGUMENTS

Petitioner's arguments

Petitioner claims that it has no appeal or any other plain, speedy and adequate remedy in the ordinary course of law. The acquittal of private respondent in the criminal cases can neither be reconsidered nor appealed considering the proscription against double jeopardy as provided in Section 21, Article III of the 1987 Constitution. In cases, however, where the judgment of acquittal is attended by grave abuse of discretion, the State may file a petition for *certiorari* under the Rules of Court.

For a petition for *certiorari* to prosper, the following essential requisites must concur: *i)* the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; *ii)* such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion; and, *iii)* there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.

Petitioner argues that its Petition for *Certiorari* satisfies all three requisites. **First**, the writ is directed against public respondent, a tribunal established by law exercising judicial functions.

Second, public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction in acquitting private respondent as the evidence presented by the prosecution is sufficient to convict private respondent under the Informations. All the elements of willful failure to file tax returns and pay the corresponding taxes due were proven.

Petitioner submits that the BSP Certification is a public document and should be given probative value contrary to the findings of public respondent. Moreover, private respondent never categorically denied the amounts in the BSP Certification and even admitted that she started to transact with BSP in 2004. She merely stressed that there were substantial incidental expenses which the BIR did not consider in the computation of deficiency income tax and deemed it was grave error for the BIR to use alleged gross payment of BSP as base for the taxes imposed on her. Further, the Letters of Delivery and Sale from the BSP are not absolutely required to prove that private respondent indeed sold to the BSP, as the Certification itself came from BSP.

In the extreme unlikelihood that there was no income to report in the QITR, private respondent was still required to file a quarterly return, although with zero income, pursuant to Section 74(A) of the National Internal Revenue Code (NIRC) of 1997, as amended. Since private respondent did not file any quarterly return for TYs 2005, 2006, 2007, 2008 and 2009, there is clearly a violation of Section 255 of the NIRC of 1997, as amended. Whether taxpayers earn a profit or not, they are still required by law to file a return.

To bolster its position, petitioner cites that in related criminal cases before the CTA, for failure to file Annual Income Tax Returns for TYs 2005, 2006 and 2009, private respondent was convicted and ordered to pay civil liabilities as assessed by the BIR.

Petitioner adds that good faith cannot be used as a valid defense in offenses classified as *malum prohibitum*. Offenses punished by special laws are *malum prohibitum*. Private respondent is charged with offenses punished by the NIRC, as amended, a special law.

Petitioner contends that public respondent's blatant disregard of prevailing law and jurisprudence evince outright grievous abuse of discretion which is understood as capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.

Third, there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law as far as appealing private respondent's acquittal is concerned.

Petitioner invokes Section 7 of Republic Act No. 1125, as amended, which vests the Court of Tax Appeals (CTA) with appellate jurisdiction on any judgments, resolutions or orders of public respondent in criminal tax offenses originally decided by it and *The City of Manila, et al. vs. Hon. Caridad H. Grecia-Cuerdo, in her capacity as Presiding Judge of the Regional Trial Court, Branch 112, Pasay City, et al.,*[26] wherein the Supreme Court ruled that when a court is clothed with jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court, it may issue a writ of certiorari in aid of its appellate jurisdiction.

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[26] G.R. No. 175723, February 4, 2014.

Essentially, petitioner assails the acquittal of private respondent based on public respondent's purported erroneous appreciation of the evidence it presented supporting her conviction.

Private respondent's arguments

Expectedly, private respondent refutes petitioner's allegations. She counter-argues that petitioner, in the guise of grave abuse of discretion on the part of public respondent, commenced the suit in obvious breach of the constitutional proscription against double jeopardy. In a sweeping and general manner, petitioner accuses public respondent of grave abuse of discretion because of its alleged "blatant disregard of prevailing law and jurisprudence" without specifying the said law and jurisprudence.

Private respondent claims that the rule is that "while *certiorari* may be availed of to correct an erroneous acquittal, the petitioner in such an extraordinary proceeding must clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice". It is also the rule that any further prosecution of the accused after an acquittal would violate the constitutional proscription on double jeopardy. A judgment of acquittal cannot be recalled or withdrawn by another order reconsidering the dismissal of the case nor can it be modified except to eliminate something which is civil or administrative in nature.

Private respondent submits that in seeking reversal of her acquittal, petitioner must establish that: *i)* there was mistrial amounting to denial of due process on the part of the prosecution; or, *ii)* the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice; or, *iii)* the trial court committed grave abuse of discretion in dismissing a criminal case by granting the accused's demurrer to evidence; or, *iv)* such act was performed in a capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction and the abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility; and/or, *v)* it is not questioning perceived errors of judgment as they cannot be resolved without violating her constitutionally-granted right against double jeopardy. Private respondent contends that petitioner has not established that her criminal cases fall under any of the exceptions laid down by law and jurisprudence. Hence, the Petition for *Certiorari* must be denied.

Private respondent emphasizes that petitioner omits mistrial and denial of due process in this case as laid down in *Saturnina Galman, et al. vs. Sandiganbayan (First Division) et al.*,[27] and alleges only grave abuse of discretion. Instead of proving such grave abuse of discretion, petitioner attributes alleged misappreciation of evidence to public respondent, which is expressly forbidden as it will violate private respondent's right against double jeopardy.

On the BSP Certification, private respondent maintains that it is not a public document.

Further, petitioner failed to prove: (i) any sale transaction; (ii) any income on the part of private respondent; and, (iii) that there was willful or deliberate intention to declare and pay taxes on the part of private respondent.

For her part, private respondent insists that she has sufficiently established her good faith and lack of malice in all these criminal cases. There being no evidence of sales, income and/or deliberate intent on her part, her acquittal should be confirmed by the Court.

Private respondent prays that the Petition for *Certiorari* be dismissed as no grave abuse of discretion was committed, and it breaches her right against double jeopardy.

THE COURT'S RULING

Jurisdiction of the CTA

Section 7(b)(2) of Republic Act No. 1125, as amended, vests the CTA with exclusive appellate jurisdiction on any judgments, resolutions or orders of the Regional Trial Court in criminal tax offenses originally decided by them, *viz.*:

> Sec. 7. Jurisdiction. – The CTA shall exercise:
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> (a) xxx

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[27] G.R. No. 72670, September 12, 1986.

> xxx
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> (b) Jurisdiction over cases involving criminal offenses as herein provided:
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> 1. xxx
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> 2. Exclusive appellate jurisdiction in criminal offenses:
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> (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. xxx

In *The City of Manila, et al. vs. Hon. Caridad H. Grecia-Cuerdo, in her capacity as Presiding Judge of the Regional Trial Court, Branch 112, Pasay City, et al.,*[28] the Supreme Court has confirmed that the CTA has *certiorari* jurisdiction over matters which it has jurisdiction to review, by appeal or writ of error, *viz.* :

> 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.**
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> 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. (Citations omitted; boldfacing supplied)*

The foregoing declaration was affirmed in *Bureau of Customs vs. The Honorable Agnes VST Devanadera, Acting Secretary of Justice, et al.*[29]

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[28] G.R. No. 175723, February 4, 2014.
[29] G.R. No. 193253, September 8, 2015.

It is unmistakable, on the basis of the foregoing doctrine, that the CTA has jurisdiction over the present Petition for *Certiorari*.

Timeliness of the Petition

The Court shall now proceed to determine the timeliness of the filing of the present Petition for *Certiorari*.

Section 4, Rule 65 of the Rules of Court, pertinently state in part:

> "SEC. 4. When and where to file 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. xxx" *(Boldfacing supplied)*

Petitioner allegedly received the assailed Decision dated October 24, 2019 on even date. Pursuant to the afore-quoted Rule, it had until December 23, 2019[30] within which to file its Petition for *Certiorari*.

With the filing of the present Petition for *Certiorari* on December 20, 2019, the Court finds that it was filed within the period prescribed under Section 4, Rule 65 of the Rules of Court.

Dismissal of the Petition for Certiorari

It is trite that the government cannot appeal from a judgment acquitting the accused after trial on the merits without violating the constitutional precept against double jeopardy, **unless there is a finding of mistrial that denied petitioner of its right to due process**. On this score, the pronouncement in *People of the Philippines vs. Hon. Tirso D. C. Velasco in his capacity as the Presiding Judge, RTC-Br. 88, Quezon City and Honorato Galvez*[31] is very instructive, *viz.*:

> "Xxx, as mandated by our Constitution, statutes and cognate jurisprudence, an acquittal is final and unappealable on the ground

[30] June 29, 2019 was a Saturday.
[31] G.R. No. 127444, September 13, 2000; also cited in *People vs. Tria-Tirona*, G.R. No. 130106, July 15, 2005.

> of double jeopardy, whether it happens at the trial court level or before the Court of Appeals.
>
> In general, the rule is that a remand to a trial court of a judgment of acquittal brought before the Supreme Court on *certiorari* cannot be had **unless there is a finding of mistrial**, as in *Galman v. Sandiganbayan* condemning the trial before the Sandiganbayan of the murder of former Senator Benigno *'Ninoy'* Aquino, which resulted in the acquittal of all the accused, as a sham, this Court minced no words in declaring that **'[i]t is settled doctrine that double jeopardy cannot be invoked against this Court's setting aside of the trial court's judgment of acquittal where the prosecution which represents the sovereign people in criminal cases is denied due process** x x x x.'
>
> xxx
>
> Thus, the doctrine that 'double jeopardy may not be invoked after trial' may apply only when the Court **finds that the 'criminal trial was a sham' because the prosecution representing the sovereign people in the criminal case was denied due process.** The Court in *People v. Bocar* rationalized that the 'remand of the criminal case for further hearing and/or trial before the lower courts amounts merely to a continuation of the first jeopardy, and does not expose the accused to a second jeopardy.'" *(Boldfacing supplied)*

Verily, it is only when there is a finding of a sham trial, resulting to a denial of petitioner's right to due process, that the doctrine of double jeopardy may not be invoked.

As there was no mistrial in the subject criminal cases and consequently, no violation of petitioner's right to due process, the Court finds no justification to review and evaluate the evidence presented therein as to do so would amount to an appeal on a judgment of acquittal being sanctioned by the Court, in blatant violation of private respondent's right against double jeopardy.

Truth to tell, the instant Petition for *Certiorari* which seeks to nullify the challenged Decision, in essence, assails public respondent's appreciation and evaluation of the evidence adduced by the parties. A plain reading of the assailed Decision shows that public respondent considered the evidence received during trial. Based on public respondent's personal appreciation of the evidence, it was found that petitioner failed to prove the guilt of private respondent beyond reasonable doubt.

The Court cannot delve into the propriety of public respondent's appreciation of the parties' evidence that led to its findings and conclusion. But on the assumption that there was mistake on the part of public respondent in assessing the evidence presented by the parties, public respondent's action is still exempt from the writ's limiting requirement of excess or lack of jurisdiction as any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by *certiorari*. This point has been elucidated in *People of the Philippines vs. Hon. Perlita J. Tria-Tirona, in her capacity as Presiding Judge, Branch 102, Regional Trial Court, Quezon City and Chief Inspector Renato A. Muyot,*[32] *viz.:*

> "Petitioner, *via* a petition for review on *certiorari*, prays for the nullification and the setting aside of the decision of public respondent acquitting private respondent claiming that the former abused her discretion in disregarding the testimonies of the NBI agents on the discovery of the illegal drugs. **The petition smacks in the heart of the lower court's appreciation of the evidence of the parties**. It is apparent from the decision of public respondent that she considered all the evidence adduced by the parties. Even assuming *arguendo* that public respondent may have improperly assessed the evidence on hand, **what is certain is that the decision was arrived at only after all the evidence was considered, weighed and passed upon. In such a case, any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by *certiorari*.** An error of judgment is one in which the court may commit in the exercise of its jurisdiction. An error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of *certiorari*. ***Certiorari* will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings and its conclusions of law.** Since no error of jurisdiction can be attributed to public respondent in her assessment of the evidence, *certiorari* will not lie." *(Boldfacing supplied)*

It cannot be said that public respondent committed grave abuse of discretion in acquitting private respondent as the same is based on its personal finding that the evidence presented to it for consideration was insufficient to sustain private respondent's conviction under the Informations. Thus, her acquittal was proper and inevitable.

In fine, absent any showing that there was mistrial that amounts to a denial of petitioner's right to due process or that public respondent

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[32] G.R. No. 130106, July 15, 2005.

committed an error of jurisdiction in the appreciation of the evidence presented by the parties, *certiorari* will certainly not lie.

WHEREFORE, in view of the foregoing disquisitions, the Petition for *Certiorari* filed on December 20, 2019 is hereby **DISMISSED.**

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ROMAN G. DEL ROSARIO
Presiding Justice