REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

FRANCISCO BILLONES,
ANGEL T. DERAY, JR.,
MARY LUCILLE BILLONES,
SUSANA DELA CRUZ GO,
ANACLETO SANCHEZ,
ROBERT C. AMPOSTA,
OSCAR TORRES,
MARIA CATAPANG JUMENTO,
ROSALIO TEVES,
LEONARD DELA PAS,
HANNAH AILEEN LIM FERNANDEZ,
ANTONIO M. TALAUE,
LEANDRO ANTONIO P. TALAUE,
ANALYN G. FERNANDEZ, and
MEYNARDO B. BANAYO,

Accused.

CTA CRIM CASE NO. O-128

For: Violation of Section 3601, in relation to Sec. 101(k) of the TCCP and Sugar Order no. 8, Series of 1994-1995 of the Sugar Regulatory Administration and Joint Memorandum Order No. 4-2002.

x- x

CTA CRIM CASE NO. O-129

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

FRANCISCO BILLONES,
ANGEL T. DERAY, JR.,
MARY LUCILLE BILLONES,
SUSANA DELA CRUZ GO,
ANACLETO SANCHEZ,
ROBERT C. AMPOSTA,
OSCAR TORRES,
MARIA CATAPANG JUMENTO,

For: Violation of Section 3602, in relation to Sections 2503 and 2530 of TCCP and Art. 172 of the Revised Penal Code

ROSALIO TEVES,
LEONARD DELA PAS,
HANNAH AILEEN LIM FERNANDEZ,
ANTONIO M. TALAUE,
LEANDRO ANTONIO P. TALAUE,
ANALYN G. FERNANDEZ, and
MEYNARDO B. BANAYO,
Accused.

Members:
CASTAÑEDA, JR., *Chairperson*
CASANOVA, and
COTANGCO-MANALASTAS, *JJ.*

Promulgated:
DEC 05 2014 3:20 pm

x- x

AMENDED DECISION

Submitted for the resolution of this Court are the following incidents challenging the *Decision*[1] of this Court promulgated on July 30, 2014:

I. *Partial Motion for Reconsideration*[2] filed by accused Francisco Billones ("accused Billones"), by counsel, on August 13, 2014; and

II. *Supplement to the Partial Motion for Reconsideration* filed on September 5, 2014.

In the subject pending incidents, accused Billones prays of this Court that: [1] the *Decision*[3] promulgated on July 30, 2014 be partially reconsidered and that another decision be issued in lieu thereof holding Francisco Billones not guilty of the offense/s charged; and [2] that Francisco Billones be allowed to introduce in evidence additional documents to prove his innocence, in the interest of justice and equity.

The dispositive portion of the challenged *Decision*[4] is quoted hereunder:

> "**WHEREFORE,** premises considered, judgment is hereby rendered:

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[1] *Rollo*, pp. 2236-2262.
[2] *Rollo*, pp. 2267-2282.
[3] *Supra*, Note 1.
[4] *Supra*.

1. In Criminal Case No. 0-128, finding accused Francisco Billones GUILTY beyond reasonable doubt for violation of Section 360 1 of the Tariff and Customs Code, in relation to Section 101 (k) of the same Code, Sugar Order No. 8, Series of 1994-1995, and Joint Memorandum Order No. 4-2002; and is hereby SENTENCED to suffer an indeterminate penalty of eight (8) years and one (1) day, as minimum, to nine (9) years, as maximum, and is ordered to pay a fine in the amount of P10,000.00.

   Accused Mary Lucille Billones is found NOT GUILTY for failure of prosecution to prove her guilt beyond reasonable doubt.

2. In Criminal Case No. 0-129, finding accused Francisco Billones GUILTY beyond reasonable doubt for violation of Section 3602 of the Tariff and Customs Code, in relation to Sections 2503 and 2530 of the same Code; and is hereby SENTENCED to suffer an indeterminate penalty of eight (8) years and one (1) day, as minimum, to nine (9) years, as maximum, and is ordered to pay a fine in the amount of P10,000.00.

   Accused Mary Lucille Billones is found NOT GUILTY for failure of prosecution to prove her guilt beyond reasonable doubt."

On August 20, 2014, the Court ordered the prosecution to file its comment on accused Billones' *Partial Motion for Reconsideration*[5]. Meanwhile, the Court received another motion from accused Billones on September 5, 2014, captioned as *Supplement to the Partial Motion for Reconsideration*. Accordingly, on September 15, 2014, the Court ordered the prosecution to likewise comment on said motion.

On October 8, 2014, a Records Verification Report was issued by the Judicial Records Division stating that the prosecution failed to file its comment on accused Billones' *Partial Motion for Reconsideration* and *Supplement to the Partial Motion for Reconsideration* of the *Decision*[6] of this Court dated July 30, 2014.

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[5] *Supra*, Note 2.
[6] *Supra*, Note 1.

Hence, the subject *Partial Motion for Reconsideration* and *Supplement to the Partial Motion for Reconsideration* are deemed submitted for resolution.

Arguments raised in the Partial Motion for Reconsideration

Accused Billones' *Partial Motion for Reconsideration* is anchored on two main grounds, *viz*: [I] that the Court committed a reversible error in finding Francisco Billones guilty beyond reasonable doubt of the acts complained of in the information/s absent any evidence showing his **participation in said acts complained of**; and [II] that the Court committed a reversible error **in holding that Francisco Billones is still an officer of Rubills** International, Inc. (*Rubills*), thus, disregarding the totality of the evidence to the contrary.

In support of the first ground, accused Billones contends that: the prosecution failed to present any evidence showing the participation of accused Billones in the acts complained of, thus, the prosecution failed to dispose of its burden of proof to establish the liability of accused Billones; granting without admitting that the evidence presented by accused Billones was not sufficient, still the prosecution was not relieved of its duty to establish beyond reasonable doubt the participation of Francisco Billones in the acts complained of; and that the Department of Justice itself held in its Resolution dated December 10, 2009 that "*while indubitably a crime has been found out and determined from the papers and documents, the identities of the authors thereof are not sufficiently established.*"

Moreover, accused Billones avers that the standards of conviction are not met in these cases since vital pieces of evidence submitted by the prosecution were not admitted in evidence (*Exhibits "A-2", "I", "K", "N", and "Z-2", for not being identified during trial; Exhibits "D", "D-1", "S", "T", "U", and "V-2", for failure of the prosecution to present the original copies for comparison; Exhibit "P", for failure to present the original copy for comparison and for not being identified during trial; and Exhibits "B", "B-1", and "V-1", for failure of the prosecution to submit the same in court*); and, if at all, the only evidence on record that have reference to accused Billones are the Articles of Incorporation and By-Laws, and the General Information Sheet of *Rubills*, which were filed several years before the alleged commission of the offenses charged.

Anent his second ground, accused Billones submits that he was no longer an officer of *Rubills* at the time material to the commission of the acts complained of; that the totality of the evidence submitted on record by the defense convincingly show that accused Billones already transferred ownership and operation of *Rubills* to the group of Leandro Antonio Talaue (Talaue); while under a strict application of the rules, the pieces of evidence submitted by Francisco Billones do not fully comply with the legal requirements for the transfer of ownership and operation of *Rubills*, the same pieces of evidence will show that actual operation of *Rubills* was already in the hands of Mr. Talaue, thus accused Billones no longer had any participation whatsoever in the acts complained of; and, even the evidence submitted by the prosecution (i.e., Exhibits "GG", "GG-1", and "GG-2") shows that indeed Mr. Talaue was the General Manager of *Rubills* and not accused Billones.

Arguments raised in the
Supplement to the Partial Motion for Reconsideration

In addition to the arguments presented by accused Billones in the aforementioned *Partial Motion for Reconsideration*, accused Billones invokes **good faith** in the execution of the Letter-Deed of Assignment (Exhibit "8") evidencing transfer of the ownership and operation of *Rubills* to the group of Mr. Talaue, and since accused Billones is not a lawyer, such distinction between "acknowledgment" and "jurat" could not have been duly appreciated by him when he and Mr. Talaue executed the same Letter-Deed of Assignment. Accused Billones submits that the Letter-Deed of Assignment (Exhibit "8") be considered by this Court to be a public document, nonetheless, under paragraph (c) of Rule 132, Section 19 of the Rules of Court inasmuch as the said Letter-Deed of Assignment was submitted by the notary public before the Office of the Executive Clerk of Court and Ex-Officio Notary Public, Atty. Vladimir Berla S. Daral-Saura, of the Regional Trial Court of Las Piñas City as shown by the Certification by the said office attached as **Annex "1"** to the instant *Supplement to the Partial Motion for Reconsideration.*

Further, accused Billones argues that even if the Letter-Deed of Assignment were to be considered as a private document, its due execution and authenticity was proven during the trial in accordance with Rule 132, Section 20 of the Rules of Court as it was testified to by accused Billones in his

Judicial Affidavit; thus, said Deed should be given evidentiary weight to establish the fact that the ownership and operation of *Rubills* were effectively transferred to the group of Mr. Talaue prior to the time material to the incident/s subject of the present cases.

Also, accused Billones emphasizes that the failure of the prosecution and the group of Mr. Talaue to controvert the fact that the ownership and operation of *Rubills* was transferred to the group of Mr. Talaue, and that the Bureau of Customs was informed of the said transfer -- proved and offered in evidence through the testimony by way of Judicial Affidavit of accused Billones and through documentary evidence (Exhibit "7"), -- should be considered as an admission; and that, while it appears in the Bill of Lading subject of these cases that the consignee is Rubills Int'l Inc., the same is qualified by the word "FAO" (for the account of) Fil Haus Enterprises.

In addition to the documentary exhibits already submitted during trial, accused Billones declares that he was able to secure from the Securities and Exchange Commission the following documents: [i] the Amended Articles of Incorporation of Rubills International Inc. (Attached as **Annex "2"**), showing that the corporate name of Rubills International Inc. has already been changed by Mr. Talaue's group to FIRST SINO WAREHOUSING, INC., as of May 20, 2009; [ii] the Statement of Management Responsibility for Financial Statements under the name of Rubills International Inc. for the years then ended December 31, 2008 and 2007 signed by Leandro Antonio Talaue as President and Hannah L. Fernandez as Treasurer (Attached as **Annex "3"**); and [iii] General Information Sheet (GIS) of Rubills International Inc. for the year 2009 showing that its President is Leandro Antonio Talaue and no longer accused Francisco Billones (Attached as **Annex "4"**).

RULING OF THE COURT

Request to present additional documentary evidence.

Before the Court proceeds in resolving issues raised in the subject pending incidents, the Court deems it prudent to first address accused Billones' request for permission to introduce in evidence additional documents (Annexes "1" to "4" of the *Supplement to the Partial Motion for Reconsideration*)

As mentioned, the subject *Partial Motion for Reconsideration* and *Supplement to the Partial Motion for Reconsideration* does not merely seek for the review/reconsideration of the dispositions in the assailed *Decision*[7] but also includes a prayer to present additional documentary evidence; thus, considering that a decision had already been promulgated in this case, the instant *Motion* is essentially also a **motion for new trial**.

Section 1, Rule 121 of the Revised Rules of Criminal Procedure provides that '[a]t any time before a judgment of conviction becomes final, the court may, on motion of the accused or at its own instance but with the consent of the accused, grant a new trial or reconsideration.'

Under Section 2 of the aforesaid rule defines the grounds for the grant of a new trial, *viz*:

> (a) The errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;
>
> (b) The new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment.

Invoking the interest of justice and equity, accused Billones prays that he be allowed to introduce in evidence additional documents in order to further substantiate his claim that he was no longer the owner and operator, president or responsible officer of Rubills at the time material to the incidents subject of these case, and thus, prove his innocence.

After due consideration of the points raised by accused documents sought to be presented, laws, and jurisprudence applicable herein, the Court is convinced that accused

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[7] *Supra*, Note 1.

Billones' prayer to introduce in evidence additional documents cannot be granted.

A motion for new trial in civil or criminal actions may be applied for and granted only upon specific, well-defined grounds, set forth respectively in Rules 37 (Section 1) and 121 (Section 2).[8]

The additional documents sought to be introduced in evidence fail to satisfy all the requisites for the aforementioned second ground for a new trial, *to wit*: (a) the evidence was discovered after the trial; (b) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; and (c) such evidence is material, not merely cumulative, corroborative, or impeaching, and is of such weight that, if admitted, would probably change the judgment.[9]

A perusal of the additional documents, *i.e.*, Certificate of Filing of Amended Articles of Incorporation (Annex "2"), the Statement of Management Responsibility for Financial Statements (Annex "3"), General Information Sheet (Annex "4"), shows that these were available as early as 2009 and could have been easily produced and presented in court during trial.

In the case at bar, accused Billones failed to establish that the proffered evidence were discovered after trial, "'Discovery" is defined as "the act, process, or an instance of gaining knowledge of or ascertaining the existence of something previously unknown or unrecognized."'[10] Not a single explanation was offered by accused as to why these documents were not presented and offered during trial and there was no allegation/explanation that these documents were not available during trial.

'It should be emphasized that the applicant for new trial has the burden of showing that the new evidence he seeks to present has complied with the requisites to justify the holding

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[8] *Ramon J. Alegre vs. Hon. Manuel T. Reyes, etc., and the People*, G.R. No. L-56923, May 9, 1988.
[9] *People vs. Mario Aliviado y Cordova*, G.R. No. 113782, August 14, 1995.
[10] *Baylosis, Sr., v. People*, G.R. No. 152119, August 14, 2007.

of a new trial. The threshold question in resolving a motion for new trial based on newly discovered evidence is whether the proffered evidence is in fact a newly discovered evidence which could not have been discovered by due diligence.'[11]

Merits of the Partial Motion for Reconsideration.

Having determined that accused Billones' prayer to introduce in evidence additional documents cannot be granted, the Court shall now proceed in resolving the merits of the subject *Partial Motion for Reconsideration* and *Supplement to the Partial Motion for Reconsideration.*

Accused is charged in the two information of "**conspiring** and confederating" with his co-accused, "**with intent to defraud** the government", in willfully, unlawfully, and feloniously committing the violations provided for under Sections 3601 and 3602, in relation to Sections 101(k), 2503 and 2530 of the TCCP, *viz:*

> "SECTION 3601. Unlawful Importation. — Any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such article after importation, knowing the same to have been imported contrary to law, shall be guilty of smuggling and shall be punished with: xxx
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> SECTION 3602. Various Fraudulent Practices Against Customs Revenue. — Any person who makes or attempts to make any entry of imported or exported article by means of any false or fraudulent invoice, declaration, affidavit, letter, paper or by any means of any false statement, written or verbal, or by any means of any false or fraudulent practice whatsoever, or knowingly effects any entry of goods, wares or merchandise, at less than the true weight or measures thereof or upon a classification as to quality or value, or by the payment of less than the amount legally due, or knowingly and wilfully files any false or fraudulent entry or claim for the payment of drawback or refund of duties upon the exportation of merchandise, or makes or files any affidavit, abstract, record, certificate or

[11] *Cabarlo vs. People,* G.R. No. 172274, November 16, 2006.

other document, with a view to securing the payment to himself or others of any drawback, allowance or refund of duties on the exportation of merchandise, greater than that legally due thereon, or who shall be guilty of any wilful act or omission, shall, for each offense, be punished in accordance with the penalties prescribed in the preceding section."

Under Section 3601 of the Tariff and Customs Code, smuggling is committed by any person who: (1) fraudulently imports or brings into the Philippines or assists in importing or bringing into the Philippines any article, contrary to law; or (2) receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment or sale of such article after importation, knowing the same to have been imported contrary to law. Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unload and is deemed terminated upon payment of the duties, taxes and other charges due upon the articles and the legal permit for withdrawal shall have been granted. If the articles are free of duties, taxes and other charges, importation is terminated until the articles shall have legally left the jurisdiction of the customs.[12]

Section 3602 of the Code enumerates the various fraudulent practices against customs revenue such as the entry of imported or exported articles by means of any false or fraudulent invoice, statement or practice; the entry of goods at less than the true weight or measure; or the filing of any false or fraudulent entry for the payment of drawback or refund of duties. The term "entry" in Customs law has a triple meaning. It means (1) the documents filed at the Customs house; (2) the submission and acceptance of the documents; and (3) the procedure of passing goods through the Customs house.[13]

The Court reiterates the undisputed findings in the challenged *Decision*, to wit:

[1] There is a clear and intentional misdeclaration of the imported products as contemplated under Section 3602, in relation to Section 2503, of the Tariff and Customs Code of the Philippines (TCCP), *viz:*

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[12] *Angel O. Rodriguez, et al., vs. CA, People,* G.R. No. 115218, September 18, 1995.
[13] *Supra.*

> "In the instant case, the Court finds uncontroverted plaintiffs allegation that three shipments declared to be containing 306,000 kgs. of Soya Beans (10,200 bags/ 25 kgs. per bag) valued at P4,515,634.64, were actually 510,000 kgs. (10,200 bags/ 50 kgs. per bag) of Refined Sugar with aggregate value of P11,822,400.00.47 However, only the shipments declared under Entry Nos. W-9130 and W-9128 and covered by Bills of Lading Nos. SHT2008030025 and SHT2008030026 were included in the Informations and Amended Informations filed, xxx.
>
> xxx
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> These shipments declared as soya beans were, upon examination, found to be Refined Sugar (Thailand). Thus, there is clear and intentional misdeclaration of the imported products as contemplated under Section 3602, in relation to Section 2503, of the TCCP."

[2] There has been an unlawful importation of Refined Sugar (Thailand) in this case, as the same were declared as soya beans and was clearly without the concomitant inspection and clearances from the Sugar Regulatory Authority since. These are disallowed importations of Refined Sugar (Thailand) under Section 3601 of the TCCP, in relation to Section 101(k) of the same law.

While accused Billones does not challenge the above findings of this Court as to the existence of intentional misdeclaration and unlawful importation of Refined Sugar (Thailand) in the subject *Partial Motion for Reconsideration and Supplemental Motion*; he claims, however, that the Court erred in convicting him absent any evidence showing his actual participation in the acts complained of, and since he is no longer officer of Rubills. Thus, accused Billones submits for reconsideration the issue of whether his culpability was sustained by the prosecution beyond reasonable doubt.

After a second hard look of the background facts, records of this case, the pieces of evidence presented and offered by both parties, and the laws and jurisprudence applicable in this circumstance, the Court finds accused Billones' *Partial Motion for Reconsideration and Supplemental Motion* to be impressed with merit.

*The allegation of **conspiracy** as a means of committing the violations under Sections 3601 and 3602 of the TCCP in the body of the Information, not proven beyond reasonable doubt.*

'There is conspiracy "when two or more persons come to an agreement concerning the commission of a felony and decide to commit it." Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.'[14]

'It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.'[15]

Since conspiracy must be proven beyond reasonable doubt, the next question would be whether the prosecution was able to adduce such proof against accused Billones. After

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[14] *Violeta Bahilidad vs. People of the Philippines*, G.R. No. 185195, March 17, 2010, citing *Magsuci vs. Sandiganbayan*, G.R. No. 101545, January 3, 1995, 240 SCRA 13, 18.
[15] *Violeta Bahilidad vs. People of the Philippines*, G.R. No. 185195, March 17, 2010, citing *Pecho v. People I*, G.R. No. 111399, September 27, 1996, 262 SCRA 518, 530-531., *Santos v. Sandiganbayan*, G.R. Nos. 71523-25, December 8, 2000, 347 SCRA 386, 420.

a painstaking reexamination of the case, the Court is persuaded that, in this respect, accused Billones' participation in the crime was not adequately proven with moral certainty by the prosecution.

To establish the culpability of accused Billones, the prosecution presented and offered Rubill's Articles of Incorporation[16] and General Information Sheet (GIS)[17] for the year 2002 which shows the name of accused Billones as incorporator and president of Rubills during said year.

Applying the above-quoted jurisprudential precepts, the Court is convinced that these documents are insufficient to prove beyond reasonable doubt that 'unlawful importation' (Section 3601) and 'fraudulent practices against customs revenue' (Section 3602) were done by accused Billones in **conspiracy** with the other accused.

First, to this Court's mind, insofar as accused Billones is concerned, all the prosecution was able to prove thru the above-mentioned documents is that he is the incorporator of Rubills and that he was the president during the year 2002. It bears to stress that the criminal acts complained of in this case were committed sometime in April 2008, while the GIS was prepared and filed for the year 2002; verily, this document does not establish beyond reasonable doubt that accused Billones was still the president at the time material to the incidents subject of this case, who could have participated/controlled the criminal acts, or could have exerted moral ascendancy over the other co-conspirators. The 2002 GIS does not dispel the probability that accused Billones may no longer be the president of Rubills in April 2008. To assume that accused Billones may still be the president of Rubills in 2008 absent any evidence to support the same is in checkered contrast with the unbending principle in this jurisdiction that conjectures, suspicions and accusations will never be sufficient to convict an accused.

Second, other than the Articles of Incorporation and GIS, the prosecution failed to present any evidence, testimonial or otherwise, that establishes the conduct of the accused, overt

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[16] Exhibit "E", docket, pp. 1759-1768.
[17] Exhibit "E-1", docket, pp. 1754-1757.

or otherwise, before, during and even after the commission of the crime charged which may signify that there was a conscious, common criminal design among the accused herein. Further, not a single document presented and offered in evidence by the prosecution bears the signature or even the name of accused Billones. As a matter of fact, the prosecution's Exhibits "L" and "Q" (Warehouse Entry Nos. 9130 and 9128, respectively) were both signed by Angel T. Deray, Jr. for Rubills Int'l, Inc.

Third, there is nothing from the evidence adduced by the prosecution to show that accused Billones committed the fraudulent acts prohibited by Sections 3601 and 3602 of the Tariff and Customs Code. As mentioned, the prosecution merely relied on the Articles of Incorporation and GIS to establish the culpability of accused Billones.

Fraud is not presumed, it must be proved by clear and convincing evidence. The rule is that he who alleges fraud or mistake affecting a transaction must substantiate his allegation.[18] The prosecution failed to prove the element of fraud before this Court. The records show that the prosecution did not offer in evidence any testimonial or documentary proof to bolster its allegation of fraud. Jurisprudence mandates that fraud must be proven before it can be accepted as a matter of fact.

The Constitution mandates that an accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. The prosecution has the burden to overcome such presumption of innocence by presenting the quantum of evidence required.[19] The requirement of proof beyond reasonable doubt calls for moral certainty of guilt. It has been defined as meaning such proof "to the satisfaction of the court, keeping in mind the presumption of innocence, as precludes every reasonable hypothesis except that which it is given to support. It is not sufficient for the proof to establish a probability, even though strong, that the fact charged is more likely to be true than the contrary. It must establish the truth of the fact to a reasonable and moral certainty — a certainty

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[18] *Sps. Ramos vs. Raul Obispo, FEBTC,* G.R. No. 193804, February 27, 2013.
[19] *People vs. Salvador, et al.,* G.R. No. 175593, October 17, 2007.

that convinces and satisfies the reason and the conscience of those who are to act upon it.[20]

Concededly, the evidence of the defense is weak and uncorroborated. This, however, cannot be used to advance the cause of the prosecution as the evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense. Moreover, when the circumstances are capable of two or more inferences, as in this case, such that one of which is consistent with the presumption of innocence and the other is compatible with guilt, the presumption of innocence must prevail and the court must acquit.[21]

In sum, the culpability of accused Billones was not sustained beyond reasonable doubt by the evidence presented by the prosecution. There is reasonable doubt as to accused Billones' guilt. Where there is reasonable doubt, an accused must be acquitted even though his innocence may not have been fully established. When guilt is not proven with moral certainty, exoneration must be granted as a matter of right.[22]

Hence, the Court cannot but acquit accused Billones on the ground of reasonable doubt. As often reiterated by the Supreme Court, it would be better to set free ten men who might probably be guilty of the crime charged than to convict one innocent man for a crime he did not commit.[23]

WHEREFORE, premises considered, the subject *Partial Motion for Reconsideration*[24] and *Supplement to the Partial Motion for Reconsideration* are hereby **GRANTED**.

Accordingly, the *Decision*[25] of this Court promulgated on July 30, 2014 finding the accused FRANCISCO BILLONES guilty beyond reasonable doubt of the crimes defined and penalized under Sections 3601 and 3602 of the Tariff and

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[20] People of the Philippines vs. Edgardo Ng y Doane, G.R. No. 71117, July 10, 1986, citing Moreno, Philippine Law Dictionary, 1972 Edition, p. 379, citing U.S. vs. Reyes, 3 Phil. 3.
[21] *People vs. Salvador Santos*, G.R. No. 175593, October 17, 2007.
[22] *Violeta Bahilidad vs. People,* G.R. No. 185195, March 17, 2010.
[23] *Valeroso vs. CA,* G.R. No. 164815, September 3, 2009.
[24] *Supra,* Note 2.
[25] *Supra,* Note 1.

Customs Code of the Philippines, as amended, is hereby **REVERSED** and **SET ASIDE**. Accused **FRANCISCO BILLONES** is hereby **ACQUITTED** on reasonable doubt.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

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