REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MERRYSUN CORPORATION and ARLENE YU BENITEZ, *Petitioners,*	**CTA EB CRIM. No. 187** (M-MNL-21-08129-CR-R00-00)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES, and ANGELES,** *JJ.*
PEOPLE OF THE PHILIPPINES, *Respondent.*	Promulgated: APR 30 2026 3:47

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DECISION

REYES-FAJARDO, ***J.*:**

We resolve the Petition for Review[1] filed on March 11, 2025, challenging the Regional Trial Court, Branch 47, Manila (RTC) Decision[2] dated November 19, 2024, and Resolution[3] dated February 11, 2025, in Criminal Case No. M-MNL-21-08129-CR-R00-00. The assailed Decision and Resolution affirmed *in toto,* the Metropolitan Trial Court, Branch 3, Manila (MTC) Decision,[4] which convicted petitioners for violation of Section 263 in relation to Section 256 of the National Internal Revenue Code of 1997 (NIRC), as amended.

1 *Rollo,* pp. 1 - 17.
2 *Id.,* pp. 22 - 35.
3 *Id.,* pp. 36 - 39.
4 *Id.,* pp. 41 - 50.

FACTS

Petitioners Merrysun Corporation (Merrysun) and Arlene Yu Benitez (Benitez), and other co-accused who remained at-large, namely: Sam Ramos Villa, Sharly Cai Tan, Albert Lopez (driver), Arjay Lopez, and Reynaldo Samedra (helpers), were charged with violation of Section 263[5] in relation to Section 256[6] of the NIRC, as amended.[7] The accusatory portion of the Information[8] reads:

> That on or before April 2, 2018, in Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, as responsible officers/employees of Merrysun Corporation, a registered taxpayer, and who are in charge of the articles subject to excise tax, did then and there willfully, knowingly and unlawfully possess, without any satisfactory explanation, sixty-five (65) boxes of cigarettes (with 500 packs per box), which articles are subject to excise tax, and the tax on which has not been paid at the time and in the manner required, the payment of which is directed under the pertinent provisions of the National Internal Revenue Code of 1997, thereby depriving the government of the needed revenues to sustain public service.
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> CONTRARY TO LAW.

On October 17, 2023, petitioner Benitez was arraigned and pleaded *not guilty* to the offense charged.[9]

Trial in the MTC ensued.

The prosecution presented PO1 Ralph Malabed, Nelson Gonzales, and Ma. Victoria B. Alferez, as witnesses:[10]

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5 **SEC. 263.** *Unlawful Possession or Removal of Articles Subject to Excise Tax Without Payment of the Tax.* - Any person who owns and/or is found in possession of imported articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who owns and/or is found in possession of imported tax-exempt articles other than those to whom they are legally issued shall be punished[.]

6 **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).

7 *Rollo,* p. 20.

8 *Id.*, p. 41.

9 *Id.*, p. 42.

10 *Id.*, p. 22.

Police Officer Ralph V. Malabed (PO Malabed)[11] recounted that on April 2, 2018, while he and PO Jaysie Pataguan were conducting a motorized patrol along Asuncion Street corner C.M. Recto Avenue, Binondo, Manila, they saw an Isuzu Elf aluminum van bearing the body sign "Merrysun" and a conduction sticker number CR9845 parked on the sidewalk, causing heavy traffic. They approached the vehicle and saw several boxes marked as "*Gas Stove*" being unloaded. One of the boxes accidentally fell, causing it to partially open and reveal packs of cigarettes inside.

They asked the driver, Albert Lopez, to present receipts for the cigarettes, as well as the certificate of registration and official receipt of the vehicle, but the driver failed to produce them. Thereafter, they brought the accused together with the van to the San Nicolas Police Community Precinct for verification.

After the seizure of the vehicle, Police Senior Inspector Inocencio Richard A. Villanueva (P/Insp. Villanueva) instructed the conduct of an investigation. Thereafter, the matter was brought to the Bureau of Internal Revenue (BIR).

Nelson V. Gonzales (Gonzales)[12] was a Revenue Officer assigned to the Regional Investigation Division, Revenue Region No. 6 – Manila, under Group Supervisor Erddie S. Esber.

He stated that on April 3, 2018, their office received an Incident Report and Letter from Police Superintendent Julius Caesar M. Domingo of Meisic Police Station (PS-11) requesting the designation of an authorized examiner to determine the authenticity of the BIR stamp seal attached to the seized cigarettes.

On April 4, 2018, they conducted a sample taggant reading of the cigarettes inside the van, which confirmed that the BIR cigarette seals were counterfeit. Thereafter, a Mission Order was issued, pursuant to which an inventory of the seized items was conducted.

On April 13, 2018, the BIR executed a Complaint-Affidavit and filed the same before the Department of Justice. A Negative Certification was issued stating that the petitioners had no records

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11 *Id.*, pp. 24 – 25.
12 *Rollo*, pp.23 - 24.

of excise tax returns filed and no excise tax payments made for taxable years 2017 and 2018.

On October 1, 2018, a Certification was issued confirming that the confiscated cigarettes found inside the van bearing the mark "Merrysun" were counterfeit.

Ma. Victoria B. Alferez (Alferez)[13] is a Revenue Officer of the Bureau of Internal Revenue. She stated that pursuant to Regional Revenue Special Order No. 64-218 dated April 6, 2018, Mission Order No. 00011659 of even date was issued authorizing the BIR to conduct an investigation and inventory of the seized items.

She further testified that pursuant to the Mission Order, the BIR conducted an inventory of the contents of the vehicle, which revealed sixty-five (65) boxes of cigarettes bearing counterfeit BIR stamps. A Certification dated April 6, 2018, issued by P/Insp. Villanueva stated that the Isuzu Elf closed van carrying the cigarettes was seized, accounted for, verified, and properly turned over to the BIR.

Alferez also testified that sales invoices were found inside the van, some of which Merrysun had duplicate copies. Based on the documents found in the van, the registered owner of the vehicle was Shanshan Xu, who was not among the corporate officers or directors of Merrysun.

She stated that, based on the documents she gathered, Merrysun is engaged in the business of selling beauty products, and the invoices found pertain to it.

On February 19, 2024, petitioners filed their Formal Offer of Evidence, which was ruled upon by the MTC.

On March 13, 2024, petitioners jointly filed their Motion for Leave to File Demurrer to Evidence, which was granted by the MTC in an Order dated March 21, 2024.[14]

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13 *Rollo*, pp. 22 - 23.
14 *Id.*, p. 25.

On March 25, 2024, petitioners jointly filed their Demurrer to Evidence, which was denied by the MTC in an Order dated April 17, 2024.[15]

On April 30, 2024, the defense waived the presentation of both testimonial and documentary evidence.[16]

On July 5, 2024, the MTC promulgated its Decision.[17]

Specifically, the MTC decreed that the prosecution sufficiently proved the guilt of petitioners. It ruled that although the cigarettes were not initially visible, the van was accosted for illegal parking, during which a box marked "gas stove" was found to contain cigarettes. This led to its seizure and transfer to the San Nicolas PCP along with its driver and helper. The MTC noted that Merrysun, a registered domestic corporation engaged in selling beauty products, did not indicate payment of excise taxes and that the possession of cigarettes, bearing fake stamps and found in a vehicle carrying its company name, was inconsistent with its declared business. This incongruity warranted the presumption of intent to evade excise taxes. The MTC further held that Merrysun, as a juridical entity, is liable to the appropriate fine, without prejudice to the separate criminal liability of its corporate officers, consistent with the doctrine of separate corporate personality.

Anchored on these findings, the MTC held petitioners liable for the crime charged in the Information. The *fallo* of its Decision reads:[18]

> **WHEREFORE,** in the light of the foregoing, this Court renders judgment in Criminal Case No. M-MNI-21-081289-CR for violation of Section 263 in relation to Section 256 of the National Internal Revenue Code of 1997, as follows:
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> 1. Accused **ARLENE YU BENITEZ,** being the Treasurer of Merrysun Corporation is hereby found "Guilty" under Section 263 of the National Internal Revenue Code of 1997, and hereby sentences her to pay a fine Four Million Pesos (₱ 4,000,000.00) and suffer the straight penalty of six years imprisonment.

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15 *Rollo,* p. 25.
16 *Id.*, p. 26.
17 *Supra* note 4.
18 *Id.*, p. 49.

2. **Merrysun Corporation** is hereby found liable under Article 256 of the NIRC of 1997, and hereby sentences to pay a fine of One Hundred Thousand Pesos (Php100,000.00). Likewise, accused Arlene Yu Benitez, being the Treasurer of Merrysun Corporation, hereby sentences her to pay a fine of One Hundred Thousand Pesos (Php100,000.00).

3. As regards the other accused, namely, Sam Ramos Villa (President), Sharly Cai Tan (Corporate Secretary), being the responsible officers of Merrysun corporation, Albert Lopez (driver), Arjay Lopez, and Reynaldo Samedra (both helpers), there being Warrants of Arrest issued against them, send the records of this case to the file of archive, without prejudice of reviving the same as soon as the accused are arrested.

SO ORDERED[.]

Aggrieved, petitioners appealed to the RTC.

On November 19, 2024, the RTC promulgated its Decision.[19]

The RTC affirmed the factual findings of the MTC. It found that given these circumstances, the arrest of the driver and helpers was made *in flagrante delicto*, and the ensuing search was a valid search incidental to a lawful arrest. Accordingly, the RTC ruled that the seized cigarettes were not fruits of the poisonous tree and were admissible in evidence.

As to liability, the RTC found that the prosecution sufficiently established the elements of unlawful possession of articles subject to excise tax without payment thereof under Section 263 of the NIRC, as amended. However, it imposed no civil liability for unpaid excise taxes as the prosecution failed to establish the exact amount of excise taxes due.

On these factual bases, the RTC in its Decision denied the appeal and affirmed *in toto* the MTC Decision. The *fallo* of which reads:

WHEREFORE, in view of all foregoing, the appeal is hereby DENIED. The Decision dated July 5, 2024 of the

19 *Supra* note 2.

> Metropolitan Trial Court of Manila, Branch 3, is hereby **AFFIRMED** *in toto.*
>
> **SO ORDERED.**

On December 16, 2024, petitioners moved for reconsideration of the RTC Decision.[20]

On February 11, 2025, the RTC in its Resolution[21] partially granted petitioner's Motion for Reconsideration. It affirmed its Decision with modification, deleting the imposition of fine on petitioner Benitez and reducing her imprisonment. The dispositive portion of which reads:[22]

> **FOR THESE REASONS**, the Motion for Reconsideration filed by accused-appellants Merrysun Corporation and Arlene Yu Benitez is **PARTIALLY GRANTED** and the assailed *Decision* is **affirmed** with **modification**, in the imposition of fine on accused-appellant Arlene Yu Benitez which is **deleted** and the penalty of her imprisonment is hereby **reduced**.
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> ACCORDINGLY, accused-appellant Arlene Yu Benitez is hereby sentenced to suffer the straight penalty of imprisonment of three (3) years, with no imposition of fine.
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> **SO ORDERED.**

Hence, this Petition for Review.

ARGUMENTS

Petitioners ascribe flaws in the RTC's utilization of the doctrine of search incidental to lawful arrest to justify the warrantless search of the seized evidence. For them, the warrantless search and seizure were illegal because a mere traffic violation does not justify an *in flagrante delicto* arrest or a search incidental thereto, rendering the seized cigarettes inadmissible as fruits of the

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20 *Rollo*, p. 2.
21 *Supra* note 3.
22 *Id.*, p. 39.

poisonous tree, citing *Luz v. People,*[23] *People v. Mendoza,*[24] *People v. Cristobal,*[25] *Polangcos v. People,*[26] and *Veridiano y Sapi v. People.*[27]

In any case, petitioners maintain that the prosecution failed to establish the elements of the alleged tax violation, as well as petitioners' participation therein.

Respondent counters[28] that the pieces of evidence gathered as a result of the warrantless arrest are admissible, and the prosecution proved the elements of tax violation and the involvement of petitioners in the offense.

ISSUE

Did the RTC err in finding the petitioners guilty of violation of Section 263 in relation to Section 256 of the NIRC, as amended?

RULING

We grant the Petition.

The right to be secured against unreasonable searches and seizures is sacrosanct.[29] Evidence acquired in breach of this right would be deemed inadmissible.[30] Section 2, in relation to Section 3(2), Article III of the 1987 Constitution is fundamental:

> **ARTICLE III**
> **BILL OF RIGHTS**
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> ...
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> **Section 2.** The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the

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23 G.R. No. 197788, February 29, 2012.
24 G.R. No. 234196, November 21, 2018.
25 G.R. No. 234207, June 10, 2019.
26 G.R. No. 239866, September 11, 2019.
27 G.R. No. 120915, April 13, 2015.
28 Respondent's Comment/Opposition to Petition for Review with Notice of Change of Office Address. *Rollo*, pp. 55 – 66.
29 *People v. Dalisay,* G.R. No. 258060, August 16, 2023.
30 *People v. Manago,* G.R. No. 212340, August 17, 2016.

> judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.
>
> **Section 3.**
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> ...
>
> (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

Saluday v. People (Saluday)[31] traced the constitutional roots of Section 2, Article III of the 1987 Constitution to the Fourth Amendment of the United States (US) Constitution, from which it was patterned. Particularly, the right against search and seizure was never understood as a blanket prohibition, but as a safeguard against *unreasonable* governmental intrusions. In reverse, this right affords no shelter where: (1) the search is reasonable; or (2) when the search falls within recognized exceptions to the warrant requirement. *Saluday* explained the nature and *ratio* of these exceptions, thus:

> To emphasize, a reasonable search, on the one hand, and a warrantless search, on the other, are mutually exclusive. While both State intrusions are valid even without a warrant, the underlying reasons for the absence of a warrant are different. A reasonable search arises from a reduced expectation of privacy, for which reason Section 2, Article III of the Constitution finds no application. Examples include searches done at airports, seaports, bus terminals, malls, and similar public places. **In contrast, a warrantless search is presumably an "unreasonable search," but for reasons of practicality, a search warrant can be dispensed with. Examples include search incidental to a lawful arrest, search of evidence in plain view, consented search, and extensive search of a private moving vehicle.**[32]

The RTC and petitioners stand on opposite ends of the constitutional spectrum for the warrantless search of the seized cigarettes. For the RTC, police officers validly made an *in flagrante delicto* arrest on the driver and helpers; hence, the search and seizure of the cigarettes is, as well, a valid warrantless search. Petitioners say otherwise, explaining that there is no valid arrest to speak of, making the search unconstitutional; thus, the seized cigarettes are inadmissible for being the "fruit of the poisonous tree."

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31 G.R. No. 215305, April 3, 2018.
32 Emphasis ours.

We find for petitioners. Our justifications follow.

First. The RTC erred in invoking the principle of search incidental to lawful arrest, to justify the warrantless search and seizure of cigarettes.

Section 13, Rule 126 of the Rules of Court, as amended[33] provides that "a person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant." *Ridon v. People (Ridon)*[34] condensed the requirements thereof as follows: "a warrantless search and seizure incidental to a lawful arrest is valid when: (a) the accused was lawfully arrested; (b) the arresting officers subsequently made a warrantless search; (c) the search is limited to the person of the accused and the area within the accused's immediate control; and (d) the search was performed at the place of the arrest."

In relation to requirement (a) in *Ridon, People v. Mulingbayan (Mulingbayan)*[35] clarified that the law requires that there must first be a lawful arrest before a search can be made; the process cannot be reversed.

In supporting the validity of the arrest, the RTC invoked *in flagrante delicto* arrest under Rule 113, Section 5(a)[36] of the Rules of Court,[37] as amended. Specifically, when the van was accosted for traffic violation, the police officers apprehended the driver and helpers, during which, a box labelled as gas stove unladen by such helpers fell, showing packs of cigarettes. These police officers asked the driver for receipts for boxes of cigarettes; yet, none of these receipts were produced by the driver.

This can hardly be considered as an *in flagrante delicto* arrest.

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33 *A.M. No. 00-5-03-SC.* December 1, 2000.

34 G.R. No. 252396, December 6, 2023.

35 *People v. Mulingbayan*, G.R. No. 250306. August 10, 2022.

36 **Section 5.** *Arrest without warrant; when lawful.* — A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;...

37 *Supra* note 33.

People v. Cogaed[38] required two (2) elements for a valid *in flagrante delicto* arrest: (1) the persons to be arrested are executing an overt act indicating that they have just committed, are committing, or are attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.

The absence of the first element was underscored in *People v. Dominguez* (*Dominguez*).[39] There, the police officer saw the accused standing on a street holding a small plastic sachet. The officer arrested him and searched his person, later claiming that the sachet contained *"pinaghihinalaang shabu." Dominguez* held that the *in flagrante delicto* arrest was unlawful as no crime was being committed in the officer's presence, to wit:

> As already discussed, standing on the street and holding a plastic sachet in one's hands cannot in any way be considered as criminal acts. **Verily, it is not enough that the arresting officer had reasonable ground to believe that the accused had just committed a crime; a crime must, in fact, have been committed first, which does not obtain in this case.**[40]

Echoing *Dominguez,* in *People v. Cabanilla,* (*Cabanilla*)[41] the Supreme Court held that mere presence in a vehicle where contraband is later found does not amount to an overt act of criminal behavior, *viz.*:

> Although the opened sachet might have led PO3 Rennel to suspect a recent drug session, the facts do not show that the accused were using dangerous drugs, or tested positive for drug use. This aligns with PO3 Rennel's admission that the accused were not engaged in any specific activity apart from sitting inside a vehicle when approached by the police. As held in *Dominguez,* "It is not enough that the arresting officer had reasonable ground to believe that the accused had just committed a crime; a crime must, in fact, have been committed first, which was not obtained in this case." **Therefore, we conclude that the mere act of sitting inside a vehicle where drugs and paraphernalia were discovered, without any involvement in their possession or use, does not constitute overt acts of criminal behavior.**[42]

Parsed from *Dominguez* and *Cabanilla,* an arresting officer must personally witness an overt act of criminal activity for *an in*

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38 G.R. No. 200334, July 30, 2014.
39 G.R. No. 256233, August 9, 2023.
40 Emphasis Ours.
41 G.R. No. 256233, August 9, 2023.
42 Emphasis Ours.

flagrante delicto arrest to be valid, not a *post hoc* inference drawn from circumstances discovered only after police intrusion. These cases, *too*, stressed that mere reasonable ground on the part of the arresting officer to believe that the accused had just committed a crime is deficient to sustain an *in flagrante* delicto arrest.

Here, at the time the police officers approached the van, no overt act constituting a crime was being committed in their presence. The helpers were merely unloading boxes marked as "gas stove." The supposed incriminating circumstance, the presence of cigarettes inside the boxes, surfaced only after a box accidentally fell open. *Even then*, the police officers themselves had *to further inquire and investigate* by asking for receipts thereof, underscoring the absence of any immediately apparent criminal act.

Additionally, the Traffic Violation Receipt (TVR)[43] issued against the driver and helpers by a police officer reveals that the initial police intrusion was for *traffic enforcement*. As held in *Mendoza v. People*,[44] a commission of a traffic violation does not justify the arrest of a person. Under Section 29[45] of R.A. 4136[46] or the Land Transportation Code, such violation merely warrants the confiscation of the offender's driver's license and issuance of a traffic violation receipt from the apprehending officer.

Indeed, the overt acts of criminal activity enjoined by *Dominguez* and *Cabanilla* to be witnessed by police officers are absent here. Otherwise stated, there was no valid *in flagrante delicto* arrest made by the police officers. Therefore, a lawful arrest required by *Ridon* for a search incidental thereto to be valid, is likewise wanting.

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43 *Rollo*, p. 47.

44 G.R. No. 234196, November 21, 2018.

45 **SEC. 29.** *Confiscation of Driver's License.* - Law enforcement and peace officers of other agencies duly deputized by the Director shall, in apprehending a driver for any violation of this Act or any regulations issued pursuant thereto, or of local traffic rules and regulations not contrary to any provisions of this Act, confiscate the license of the driver concerned and issue a receipt prescribed and issued by the Bureau therefor which shall authorize the driver to operate a motor vehicle for a period not exceeding seventy-two hours from the time and date of issue of said receipt. The period so fixed in the receipt shall not be extended, and shall become invalid thereafter. Failure of the driver to settle his case within fifteen days from the date of apprehension will be a ground for the suspension and/or revocation of his license.

46 AN ACT TO COMPILE THE LAWS RELATIVE TO LAND TRANSPORTATION AND TRAFFIC RULES TO CREATE A LAND TRANSPORTATION COMMISSION AND FOR OTHER PURPOSES.

Besides, even setting aside the existence or propriety of the arrest of Merrysun's driver and helpers, the ensuing search hardly qualifies as incidental.

Vaporoso v. People (Vaporoso)[47] laid down the underpinning for a warrantless search incidental to a lawful arrest, to wit:

> **The purpose of allowing a warrantless search and seizure incident to a lawful arrest is to protect the arresting officer from being harmed by the person arrested, who might be armed with a concealed weapon, and to prevent the latter from destroying evidence within reach.** It is therefore a reasonable exercise of the State's police power to protect: (a) law enforcers from the injury that may be inflicted on them by a person they have lawfully arrested; and (b) evidence from being destroyed by the arrestee. It seeks to ensure the safety of the arresting officers and the integrity of the evidence under the control and within the reach of the arrestee.[48]

Akin to *Vaporoso*, *People v. Calantiao (Calantiao)*,[49] held that "a valid arrest allows the seizure of evidence or dangerous weapons either on the person of the one arrested or within the area of his immediate control. The phrase within the area of his immediate control means the area from within which he might gain possession of a weapon or destructible evidence."

Records bore that a cursory body search was not conducted on Merrysun's driver and helpers, nor was any item recovered from their person. Equally absent is any showing that they were positioned in such proximity to the van as to render its contents within their immediate control. Consistent with *Vaporoso* and *Calantiao*, the warrantless intrusion into the van cannot be justified under the guise of a search incidental to arrest.

Moreover, the van, together with the boxes it carried, was brought and impounded to San Nicolas Police Community Precinct. Subsequently, a Mission Order was issued to facilitate the inventory, examination, and opening of the boxes found inside the van, not at the place of the alleged arrest, but at the police station. These actions militate against the dictum in *Nolasco et. al. v. Paño*[50] –

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47 G.R. No. 238659, June 3, 2019.

48 Emphasis Ours.

49 G.R. No. 203984, June 18, 2014, citing *People v. Valeroso*, G.R. No. 164815, September 3, 2009.

50 G.R. No. L-69803, October 8, 1985.

such warrantless search obviously cannot be made in a place other than the place of arrest.

In fine, of the four (4) requirements in *Ridon* to rationalize a search incidental to lawful arrest, the following were not met: (a) lawful arrest; (b) the search is limited to the person of the accused and the area within the accused's immediate control; and (c) the search was performed at the place of the arrest. For these reasons, the RTC erred in using search incidental to lawful arrest to rationalize the seizure of the cigarettes in question.

Second. We are cognizant of respondent's position that the warrantless search may nonetheless be justified under other recognized exceptions to the warrant requirement. Indeed, the "plain view" doctrine may be posited as a form of warrantless search based on the attendant facts. However, upon careful examination, We find the "plain view" doctrine inapplicable.

The parameters of the "plain view" doctrine and its application were underscored in *Carbonel v. People (Carbonel),*[51] *viz.*:

> Objects falling in plain view of an officer who has a right to be in a position to have that view are subject to seizure even without a search warrant and may be introduced in evidence. **The "plain view" doctrine applies when the following requisites concur: (a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is inadvertent; (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure.** The law enforcement officer must lawfully make an initial intrusion or properly be in a position from which he can particularly view the area. In the course of such lawful intrusion, he came inadvertently across a piece of evidence incriminating the accused. The object must be open to eye and hand and its discovery inadvertent.[52]

In essence, *Carbonel* ordained that plain view doctrine requires concurrence of three elements: (1) prior justification for an intrusion, (2) inadvertence, and (3) probable cause.

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51 G.R. No. 253090, March 1, 2023, citing *People v. Lagman*, G.R. No. 168695, December 8, 2008.

52 Emphasis Ours.

The element of probable cause is absent in the present case.

United Laboratories Inc. v. Isip (Unilab)[53] laid down the test for when the incriminating character of an item is "immediately apparent" for satisfying the probable cause requirement under the plain view doctrine:

> The immediately apparent test does not require an unduly high degree of certainty as to the incriminating character of evidence. It requires merely that the seizure be presumptively reasonable assuming that there is probable cause to associate the property with criminal activity; that a **nexus exists between a viewed object and criminal activity.**
>
> Incriminating means the furnishing of evidence as proof of circumstances tending to prove the guilt of a person.
>
> Indeed, probable cause is a flexible, common sense standard. It merely requires that the facts available to the officer would warrant a man of reasonable caution and belief that certain items may be contrabanded or stolen property or useful as evidence of a crime. It does not require proof that such belief be correct or more likely than true. A practical, non-traditional probability that incriminating evidence is involved is all that is required. The evidence thus collected must be seen and verified as understood by those experienced in the field of law enforcement[54]

Pilapil Jr. v. Cu (Cu)[55] added that "in order to satisfy the third requisite of the plain view doctrine, it must be established that the seized item - *on the basis of the attending facts and surrounding circumstances* - reasonably appeared, to the officer who made the seizure, as a contraband or an evidence of a crime."

Measured against the standard from *Cu*, We are convinced that the incriminating character of the subject seized cigarettes was not immediately apparent, *viz.*:

1. The mere presence of cigarette packs inside a box labeled "gas stove" does not, by itself, render the items illegal *per se*. Cigarettes are not inherently unlawful articles, and their mere possession, without more, does not instantly denote criminality.

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53 G.R. No. 163858. June 28, 2005.
54 Emphasis Ours.
55 G.R. No. 228608, August 27, 2020.

2. The police officers themselves were *constrained to ask* the driver for receipts covering the cigarettes, an act that betrays the absence of immediate probable cause. Had the incriminating nature of the items been readily apparent, such further inquiry would have been unnecessary.

3. At the time of discovery, there was no factual basis from which the officers could infer that the excise taxes on the cigarettes were unpaid or that the excise stamps were counterfeit. These conclusions were reached only *after* subsequent verification by the BIR, well after the initial seizure.

In fine, the incriminating character of the cigarettes was not immediately apparent and was established only after post-seizure verification, rendering the "plain view" doctrine inapplicable.

Having been seized through a warrantless search that fails to meet constitutional requirements, the seized cigarettes must be treated as fruits of the poisonous tree and are inadmissible under Section 3(2), Article III of the Constitution. They cannot be considered for any purpose, including as basis for establishing probable cause or criminal liability.

Lastly. The RTC erred in sustaining the MTC's judgment of conviction against petitioners.

To support a criminal conviction for Section 263 of the NIRC,[56] as amended, the following elements must be present: (a) the offender is found in possession of articles subject to excise tax; and (b) the excise tax on which has not been paid in accordance with law.

In this case, the seized cigarettes constitute the *corpus delicti* of the offense charged. Thus, having been declared inadmissible in evidence, the charge for violation of Section 263 of the NIRC, as amended, cannot stand.

WHEREFORE, the Petition for Review, filed on March 11, 2025, is **GRANTED**. The Regional Trial Court, Branch 47, Manila

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56 *Supra* note 5.

(RTC) Decision dated November 19, 2024, and Resolution dated February 11, 2025, in Criminal Case No. M-MNL-21-08129-CR-R00-00, are hereby **REVERSED**.

Merrysun Corporation and Arlene Yu Benitez are hereby **ACQUITTED** of the charge for violation of Section 263 in relation to Section 256 of the National Internal Revenue Code of 1997, for want of evidence and for reasonable ground. Further, no civil liability may be imposed on them, there being no evidence upon which the same may be based. Accordingly, the cash bail bond, if any, posted for and in behalf of them is ordered **RELEASED** upon presentation of proper documents, in accordance with usual accounting rules and regulations.

The seized items shall be disposed of in accordance with applicable laws, rules, and regulations.

SO ORDERED.

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

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice