REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NO. O-785** For: Violation of Section 265, paragraph (c), of the NIRC of 1997, as amended.
- versus -	Members:
JERIC MANINANG *y* **URSUA,** No. 31, Purok I, Alasas San Fernando, Pampanga, Accused.	**CASTAÑEDA, JR.,** *Chairperson,* and **BACORRO-VILLENA,** *JJ.* Promulgated: NOV 12 2021 12:25 p.m.

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RESOLUTION

For resolution are the following:

1. accused's **Motion to Dismiss**, filed on January 28, 2020, with prosecution's **Comment**, filed on January 27, 2020;

2. accused's **Compliance with Motion**, filed through registered mail on November 17, 2020 and received by this Court on December 3, 2020; and

3. failure of the defense counsel to comply with the Court's Resolution dated June 1, 2021.

To recall, accused alleges in the motion to dismiss that he was charged with violation of Section 265(c) of the National Internal Revenue Code (NIRC) of 1997 as amended. He states that in view of the said case, as well as that of the other pending cases before the

Third Division of the Court and the Municipal Trial Court in Cities, Branch IV, City of San Fernando, Pampanga, the accused availed of the benefits of Tax Amnesty as provided under Title IV of Republic Act No. 11213.

In compliance thereto, accused also asserts that he paid his amnesty tax on December 16, 2019. In support thereof, he submitted copies of the Acceptance Payment Form (BIR Form No. 0621-DA), the Tax Amnesty Return and the Acceptance Return on Delinquencies (BIR Form No. 2118-DA) and the BTR-BIR Deposit/Payment Slip. He further claims that the Tax Amnesty Return and the Acceptance Payment Form were submitted to the Revenue District Office (RDO) as evidenced by the Certification from the Office of the RDO of the RDO No. 21B, South Pampanga of the Bureau of Internal Revenue (BIR) which was also attached to the present motion.

Thus, accused prays for the dismissal of his case considering that the payment of the amnesty tax shall in effect terminate the criminal case and its corresponding civil or administrative case, if any.

In its Comment, plaintiff claims that the accused appears to have availed of the Tax Amnesty based on the documents submitted. However, to verify the truthfulness of accused's statement, the Prosecution Division of the BIR issued a Memorandum for RDO Emilia C. Combes of RDO 21B - San Fernando, Pampanga, requesting for confirmation as to whether the entire 60% of the basic taxes have already been fully paid by accused, pursuant to Revenue Regulations (RR) No. 4-2019 in relation to Revenue Memorandum Order (RMO) No. 23-2019. In this regard, plaintiff undertakes to submit the confirmation of availment of Tax Amnesty as well as payment made by the accused within ten (10) days from receipt thereof from RDO Emilia C. Combes.

In the Resolution dated February 12, 2020, the Court directed the accused, within ten (10) days from receipt of the same, to submit the originals or certified true copies of the documents attached to the Motion to Dismiss filed by accused on January 8, 2020; and gave plaintiff ten (10) days from receipt of the same, within which to submit the confirmation of availment of tax amnesty as well as payment made by the accused.

On October 1, 2020, the Records Division of this Court reported that both parties failed to comply with the Resolution dated February 12, 2020. Thereafter, the Court issued the Resolution dated October 14, 2020, which ordered both parties' respective counsels (1) to show cause why they should not be held in contempt for failure to comply with the Resolution dated February 12, 2020; and (2) to comply with the Resolution dated February 12, 2020.

Subsequently, plaintiff filed on October 27, 2020 its Compliance with Apology (To the Resolution dated October 14, 2020), stating that it had no intention to defy the Court's Order and that it requested for the certified true copies of the confirmation of availment of Tax Amnesty from the RDO No. 21-B, San Fernando, Pampanga, as evidenced by its Letter-Request sent to the RDO dated January 10, 2020, as well as submitting the certified true copies of the (1) Acceptance Payment Form; (2) Tax Amnesty Return on Delinquencies; (3) BTR-BIR Deposit/Payment Slip dated December 16, 2019; and (4) Certification dated July 14, 2020 signed by RDO Emilia C. Combes, stating that the accused has filed the Tax Amnesty Return and the Acceptance Payment Form and paid the corresponding tax due in the amount of ₱746,820.00 for taxable year 2019.

In the Resolution dated November 19, 2020, the Court further noted that the Certification dated July 14, 2020 signed by RDO Emilia C. Combes, submitted by plaintiff, states that accused filed Tax Amnesty Return and the Acceptance Payment Form and paid the corresponding tax due in the amount of ₱746,820.00 for **taxable year 2019,** while the pertinent Tax Amnesty Return and the instant case refer to the taxable year 2017. The Court gave plaintiff a period of ten (10) days from notice within which to clarify the discrepancy noted in the Certification dated July 14, 2020, and accused the same period of ten (10) days from notice within which to comply with the Resolution dated October 14, 2020, and to submit the relevant Certificate of Tax Delinquencies/Tax Liabilities issued by the BIR office concerned to the Court. In the meantime, the resolution of accused's Motion to Dismiss was held in abeyance.

On December 3, 2020, the Court received accused's Compliance with Motion, which was filed by registered mail on November 17, 2020.

Thereafter, plaintiff filed on December 4, 2020 its Compliance, submitting the original copy of the Memorandum dated November

27, 2020 issued by Ms. Emilia C. Combes, Revenue District Officer of the Bureau of Internal Revenue (BIR) of Revenue District Office (RDO) No. 21B - City of San Fernando, Pampanga, clarifying that the Certification dated July 14, 2020 refers to the tax paid for taxable year 2017 and not 2019 and that there was discrepancy because the payment form used is not programmed with the BIR system and the return period per system cannot be corrected from 2019 to 2017.

In the Resolution dated January 7, 2021, the Court noted plaintiff's Compliance and directed counsel for accused to submit two (2) additional copies of the Compliance with Motion, filed by registered mail on November 17, 2020 and received by the Court on December 3, 2020, within a period of five (5) days from notice pursuant to A.M. No. 11-9-4-SC in relation to CTA *En Banc* Resolution No. 5-2013 dated May 28, 2013. In the same resolution, the Court, in the interest of substantial justice, gave accused an additional period of fifteen days from receipt of the same within which to submit the originals or certified true copies of the (1) the Certificate of Tax Delinquencies/Tax Liabilities issued by the concerned BIR office; and (2) the documents attached to its Motion to Dismiss, as previously required in the Resolutions dated October 14, 2020 and November 19, 2020.

On May 17, 2021, the Records Division of this Court reported that counsel for accused failed to comply with the Resolution dated January 7, 2021.

Thus, in the Resolution dated June 1, 2021, the Court ordered counsel for accused to show cause with warning, within ten (10) days from notice why she should not be held in contempt for failure to comply with the lawful orders of the Court; and comply with the Resolution dated with the Resolution dated January 7, 2021 within ten (10) days from notice. In the same resolution, the Court stated that failure of accused's counsel to act on the above Order will be dealt with accordingly, and held in abeyance accused's Motion to Dismiss and Compliance with Motion.

On October 4, 2021, Records Division of this Court reported that counsel for accused failed to comply with the Resolution dated June 1, 2021 and the Resolution dated January 7, 2021.

Considering the failure of the defense counsel to comply with the abovementioned resolutions, the Court shall now resolve accused's Motion to Dismiss based on the documents already submitted by both parties.

As previously mentioned, accused filed the instant Motion to Dismiss in view of his availment of tax amnesty as provided under RA No. 11213 or "An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2017 and Prior Years with Respect to Estate Tax, Other Internal Revenue Taxes, and Tax on Delinquencies". Relevantly, a perusal of the Information filed against accused shows that the accused is charged with violation of Section 265, paragraph (c) of the National Internal Revenue Code (NIRC) of 1997, as amended, committed as follows:

> "That on or about the 17^{th} day of May, 2017, in San Fernando City, Province of Pampanga, and within the jurisdiction of this Honorable Court, accused **JERIC MANINANG** y **URSUA,** did then and there willfully, unlawfully and feloniously have in his possession **Forty-One Thousand Four Hundred Ninety (41,490) packs** of assorted cigarette products (costing of Fortune, Jackpot, Marlboro, Mighty Red, and Marvel's cigarettes) with a revenue value of Thirty Pesos (Php30.00) per cigarette pack thus, depriving the Philippine Government of its revenue in the total amount of **One Million Two Hundred Forty-Four Thousand and Seven Hundred Pesos (Php1,244,700.00)** representing the basic excise tax due on the said tobacco products, to its damage and prejudice."
>
> **CONTRARY TO LAW.**

To determine whether the tax involved in this case is covered by the said amnesty law, the Court finds instructive Section 17 of RA No. 11213, to wit:

> "Section 17. Coverage. - There is hereby authorized and granted a tax amnesty herein called the Tax Amnesty on Delinquencies, which shall cover all national internal revenue taxes such as, but not limited to, income tax, withholding tax, capital gains tax, donor's tax, value-added tax, other percentage taxes, **excise tax** and documentary stamp tax collected by the Bureau of Internal Revenue, including value-added tax and excise

taxes collected by the Bureau of Customs for taxable year 2017 and prior years.

For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:

(a) Delinquencies and assessments, which have become final and executory, including delinquent tax account, where the application for compromise has been requested on the basis of: (1) doubtful validity of the assessment; or (2) financial incapacity of the taxpayer, but the same was denied by the Regional Evaluation Board or the National Evaluation Board, as the case may be, on or before the Implementing Rules and Regulations take effect;

(b) **Pending criminal cases with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with or without assessments duly issued**;

(c) Tax cases subject of final and executory judgment by the courts on or before the Implementing Rules and Regulations take effect; and

(d) Withholding tax agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue."

From the foregoing, it is clear that the instant criminal case involves excise tax which is covered by Tax Amnesty on Delinquencies pursuant to Section 17 of RA No. 11213.

As to the entitlement and availment of Tax Amnesty on Delinquencies, Sections 18, 19 and 20 of RA No. 11213, provide:

Section 18. Entitlement of Tax Amnesty on Delinquencies. - Any person may enjoy the immunities and privileges of the Tax Amnesty on Delinquencies and pay the following tax amnesty rates:

(a) Delinquencies and assessments which have become final and executory......... 40% of the basic tax assessed;

(b) Tax cases subject of final and executory judgment by the courts......... 50% of the basic tax assessed;

(c) Pending criminal cases with criminal information filed with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with assessments duly issued and otherwise excluded in Titles II and III hereof......... 60% of the basic tax assessed; and

(d) Withholding agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue......... 100% of the basic tax assessed.

Section 19. *Availment of the Tax Amnesty on Delinquencies; When and Where to File and Pay.* - Any person, natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall, within one (1) year from the effectivity of the Implementing Rules and Regulations of this Act, file with the appropriate office of the Bureau of Internal Revenue, which has jurisdiction over the residence or principal place of business of the taxpayer, a sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency. The payment of the amnesty tax shall be made at the time the Return is filed:

Provided, That the Revenue District Officer shall issue and endorse an Acceptance Payment Form, in such form as may be prescribed in the Implementing Rules and Regulations of this Act authorizing the authorized agent bank, or in the absence thereof, the revenue collection agent or municipal treasurer concerned, to accept the amnesty tax payment:

Provided, further, That the availment of the Tax Amnesty on Delinquencies and the issuance of the corresponding Acceptance Payment Form do not imply any admission of criminal, civil or administrative liability on the part of the availing taxpayer.

Section 20. *Immunities and Privileges.* - The tax delinquency of those who avail of the Tax Amnesty on Delinquencies and have fully complied with all the conditions set forth in this Act and upon payment of the amnesty tax shall be considered settled and the criminal case under Section 18(c) and its corresponding civil or administrative case, if applicable, be terminated, and the taxpayer shall be immune from all suits or actions, including the payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil, criminal, and administrative cases, and penalties under the National Internal Revenue Code of 1997, as amended, as such relate to the taxpayer's assets, liabilities, networth, and internal revenue taxes that are subject of the tax amnesty, and from such other investigations or suits insofar as they relate to the assets, liabilities, networth and internal revenue taxes that are subject of the tax amnesty: *Provided,* That any notices of levy, attachments and/or warrants of garnishment issued against the taxpayer shall be set aside pursuant to a lifting of notice of levy/garnishment duly issued by the Bureau of Internal Revenue or its authorized representative: *Provided, further,* That the Authority to Cancel Assessment shall be issued by the Bureau of Internal Revenue in favor of the taxpayer availing of the Tax Amnesty on Delinquencies within fifteen (15) calendar days from submission to the Bureau of Internal Revenue of the Acceptance Payment Form and the Tax Amnesty on Delinquencies Return. Otherwise, the **duplicate copies, stamped as received, of the Acceptance Payment Form, and the Tax Amnesty on Delinquencies Return shall be deemed as sufficient proof of availment**: *Provided,* furthermore, **That the Tax Amnesty on Delinquencies Return and the Acceptance Payment Form shall be submitted to the Revenue District Office after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of this Act.**

Upon full compliance with all the conditions set forth in this Title and payment of the corresponding tax on delinquency, the tax amnesty granted under this Title shall become final and irrevocable. (*Emphasis supplied*)

Relative thereto, Sections 5 and 8 of Revenue Regulations (RR) No. 4-2019 provide:

SECTION 5. MANNER. OF AVAILMENT OF TAX AMNESTY ON TAX DELINQUENCIES. Any person, whether natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall file, within one (1) year from the effectivity of these Regulations, an application therefor in accordance with the procedures set forth below.

A. **DOCUMENTARY REQUIREMENTS**: The taxpayer shall submit the following:

1. Tax Amnesty Return (TAR) (BIR Form No. 2118-DA, Annex "A"), completely and accurately accomplished and made under oath;

2. Acceptance Payment Form (APF) (BIR Form No. 0621-DA, Annex "B") duly validated by the Authorized Agent Banks (AABs) or APF duly stamped "received" with accompanying bank deposit slip duly validated by the concerned AABs or Revenue Official Receipt (ROR) issued by the Revenue Collection Officers (RCOs);

3. Certificate of Tax Delinquencies/Tax Liabilities issued by concerned BIR offices (Annex "c"); and

4. In case of applications under Section 3(A)(2) of these Regulations, a copy of the assessment found in the FAN/FDDA: *Provided that*, in cases of applications under Section 3(D), either delinquent account or not, with or without FAN/FDDA, the Preliminary Assessment Notice (PAN)/Notice for Informal Conference or equivalent document is sufficient.

B. **PLACE OF FILING** - The Tax Amnesty Return and other documentary requirements shall be filed with the following BIR offices:

Classification	Place of Filing
Non-Large Taxpayer	Revenue District Office (RDO) where applicant-taxpayer is registered
Large Taxpayers - Cebu or Davao	Large Taxpayers Division (LTD)

	Office where applicant-taxpayer is registered
Large Taxpayers - Excise and Regular	Large Taxpayers Collection Enforcement Division (LTCED)

C. **PROCEDURES** - The taxpayer-applicant shall:

Step 1. Secure the Certificate of Delinquencies/Tax Liabilities from the concerned BIR Office as specified below:

Nature of Tax Liabilities	Large Taxpayer	Non-Large Taxpayer
xxx Tax liabilities covered by a pending criminal cases filed with the DOJ/Prosecutor's Office/Courts	xxx Prosecution Division of the National Office	xxx a. Legal Division - For taxpayer-applicants under the jurisdiction of Revenue Regions (RR) Nos. 5, 6,7 and 8 (Caloocan, Manila, Quezon City and Makati, respectively); b. Legal Division of the Regional Office or Prosecution Division in the National Office which handled the case - For taxpayer-applicants under tire jurisdiction of Revenue Regions oiher than the RRs mentioned under (a) hereof

Step 2. Present the duly accomplished TAR made under oath and APF, together with the other required documents, to the concerned RDO/LTD/LTCED for endorsement of the APF and pay the tax amnesty amount with the AABs or RCOs, whichever is applicable, by presenting the

RDO/LTD/LTCED-endorsed or approved APF: *Provided*, that if no payment is required as in the case when assessment consists only of unpaid penalties due to either late filing or payment, the phrase "no payment required" shall be indicated in the APF.

Step 3. Submit/file immediately to the RDO/LTD/LTCED where the taxpayer is registered, in triplicate copies, the duly accomplished TAR, made under oath, together with the complete documentary requirements and proof of payment, which in no case shall be beyond the one (1) year availment period. The taxpayer/applicant shall be furnished with a copy, stamped as received, of said TAR and APF.

Availment of Tax Amnesty on Delinquencies shall be considered fully complied with upon completion of the above enumerated steps within the one (1) year availment period.

SECTION 8. IMMUNITIES AND PRIVILEGES OF AVAILING TAX AMNESTY ON TAX DELINQUENCIES. The tax delinquency of those who avail of the Tax Amnesty on Delinquencies under these Regulations, upon full compliance with all the conditions set forth hereof, shall be considered settled, and the criminal case in connection therewith and its corresponding civil or administrative case, if applicable, shall be terminated. The taxpayer shall be immune from all suits or actions, including the payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil, criminal and administrative cases, and penalties under the 1997 Tax Code, as amended, as such relate to the internal revenue taxes for taxable years that are subject of the tax amnesty availed of.

The availment of the Tax Amnesty on Delinquencies herein provided and the issuance of the corresponding APF do not imply any admission of criminal, civil or administrative liability on the part of the availing taxpayer.

From the foregoing, once an accused has fully complied with all the conditions set forth in the above provision of law, and upon payment of the amnesty tax, the tax delinquency shall be considered settled and the criminal case under Section 18(c)[1] and its corresponding civil or administrative case, shall be terminated.

A perusal of the records reveals that prosecution itself confirmed accused's availment of tax amnesty under RA No. 11213 and the payment of the amount equivalent to sixty percent (60%) of his basic tax liability.

It must be noted that the prosecution itself submitted a copy of a Memorandum dated January 10, 2020 issued by Mr. Zeus Gamaliel L. Mendoza, the OIC Chief, Prosecution Division of the Bureau of Internal Revenue, and addressed to RDO Emilia C. Combes, stating the details of the tax liabilities of the accused relevant to the instant case. With this Memorandum, the prosecution was able to obtain certified true copies of the documents from the Revenue District Office No. 21B-San Fernando Pampanga.

Thus, while counsel for the accused failed to submit the originals or certified true copies of the required documents, the prosecution confirmed the accused's availment of tax amnesty and payment of amnesty tax with its submission of certified true copies of the (1) Acceptance Payment Form Tax Amnesty on Delinquencies (BIR Form No. 0621-DA) with stamp received by the Bank of the Philippine Island with bank code 002-109 RDO Code 21B, (2) Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA); (3) BTR-BIR Deposit/Payment Slip dated December 16, 2019, with stamp received by the Bank of the Philippine Island with bank code 002-109 RDO Code 21B, showing the amount of ₱746,820.00, which is 60% of the basic tax due amounting to ₱1,244,700.00; and (4) Certification dated July 14, 2020, signed by Chief, Collection Section, Marites P. David and noted by RDO Emilia C. Combes of RDO No. 21-B, South Pampanga of the BIR, stating that the accused filed Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) and the Acceptance Payment Form Tax Amnesty on Delinquencies (BIR Form No. 0621-DA) and paid the corresponding tax due in the amount of ₱746,820.00.

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[1] Section 18. *Entitlement of Tax Amnesty on Delinquencies.* – xxx

xxx xxx xxx

(c) Pending criminal cases with criminal information filed with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with assessments duly issued and otherwise excluded in Titles II and III hereof......... 60% of the basic tax assessed; xxx

It is clear from the foregoing that the accused paid the amnesty tax on December 16, 2019, amounting to ₱746,820.00, representing sixty percent (60%) of his alleged basic tax liability amounting to ₱1,244,700.00 and submitted the Tax Amnesty Return on Delinquencies, Acceptance Payment Form and proof payment with the BIR on December 16, 2019, which is within the one (1) year availment period.

The prosecution's confirmation of the accused's availment of tax amnesty and payment of the amnesty tax together with the above documents submitted by the prosecution sufficiently proved accused's compliance with RA No. 11213 in relation to RR No. 4-2019. Thus, the accused can immediately enjoy the immunities and privileges enumerated in Section 20 of the same law.

A tax amnesty operates as a general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law. It is an absolute forgiveness or waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate.[2]

WHEREFORE, premises considered, accused's **Motion to Dismiss** is **GRANTED**. Accordingly, CTA Crim. Case No. O-785 entitled *People of the Philippines vs. Jeric Maninang y Ursua* is **DISMISSED**. Thus, accused's **Compliance with Motion** is now considered **MOOT**. Consequently, the show cause order incorporated in the Resolution dated June 1, 2021 is **SET ASIDE**.

Moreover, the cash bail bond posted by the accused is **CANCELLED** and ordered **RELEASED** to the accused upon presentation of proper documents, in accordance with usual accounting rules and regulations.

SO ORDERED.

[2] *Commissioner of Internal Revenue vs. Transfield Philippines, Inc.*, G.R. No. 211449, January 16, 2019.

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice