Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

CROSS COUNTRY OIL & PETROLEUM CORP., ARTURO M. ZAPATA AND JACOB VALERIANO.
Accused.

CTA Crim. Case No. 0-619
For: Violation of Section 255, in relation to Sections 253 (d) and 256 of the National Internal Revenue Code of 1997, as amended

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, and
MANAHAN, *J.J.*

Promulgated:

DEC 05 2017
9:15 a.m.

x- -x

RESOLUTION

For resolution is accused's Demurrer to Evidence (Filed with Leave of the Honorable Court) filed on October 9, 2017, with plaintiff's Opposition (To Accused Demurrer to Evidence) filed on October 19, 2017.

The abovementioned Demurrer to Evidence is anchored on the followings grounds:

1. Plaintiff failed to present evidence of a final and executory assessment of the VAT[1]; and

2. Plaintiff failed to present evidence that accused Cross Country, Mr. Zapata and Mr. Valeriano, Jr. willfully, intentionally, deliberately, and voluntarily refused to pay VAT[2].

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[1] See page 2 of Accused's Demurrer to Evidence (Filed with Leave of the Honorable Court).
[2] See page 5 of Accused's Demurrer to Evidence (Filed with Leave of the Honorable Court).

On the other hand, plaintiff argues that the pieces of evidence presented before this Court show a *prima facie* case against accused Arturo M. Zapata and Jacob Valeriano, Jr (hereby collectively referred as "accused"). Accordingly, it was able to prove that both accused, as responsible officers of Cross Country Oil and Petroleum Corporation ("respondent Corporation" for brevity), are required to pay the deficiency tax of the latter; that the said accused failed to pay such tax at the time required by law; and, that failure to pay such tax was willful.

On August 4, 2017, plaintiff filed its 1st Amended Information[3] charging respondent Corporation's President and Treasurer, Arturo M. Zapata and Jacob Valeriano, Jr., respectively, for violation of Section 255, in relation to Sections 253 (d) and 256 of the 1997 National Internal Revenue Code (1997 NIRC), as amended, allegedly committed as follows:

> "That on August 2013 and thereafter, in Metro Manila, and within the jurisdiction of this Honorable Court, accused <u>CROSS COUNTRY OIL AND PETROLEUM CORPORATION, ARTURO M. ZAPATA AND JACOB VALERIANO JR.,</u> respectively conspiring and confederating with one another, did then and there, willfully, unlawfully and feloniously fail to pay the corporation's basic deficiency value added tax for the taxable year 2009 in the amount of <u>Two Hundred Ninety Three Million One Hundred Thirty Thousand Nine Hundred Fifty Four and Ninety Six Hundred Forty One Million Eight Hundred Nineteen Thousand Four Hundred Sixty Two Pesos and Eighty Seven Centavos (sic) (Php 293,130,954.96)</u> exclusive of penalties, surcharges, and interest, despite final assessment, including prior and post notices and demands to pay, the latest of which was issued by the BIR on 23 August 2013, to the damage and prejudice of the government.'
>
> CONTRARY TO LAW.
>
> Manila for Quezon City, Philippines, 31 July 2017."

On November 29, 2016, the Court issued Warrants of Arrest[4] having found the existence of probable cause for the issuance thereof against both accused. On January 5, 2017, both accused voluntarily

[3] Docket, pp. 280-282.
[4] Ibid., pp. 129-130.

surrendered[5] and posted the required cash bail bond for their provisional liberty.

On January 31, 2017, accused filed an Urgent Motion to Defer Arraignment[6] praying for the Court to defer their arraignment and to allow them to seek a reinvestigation of their case before the Department of Justice. Without objection from the Special Prosecutor, and as agreed upon by both parties, the arraignment of both accused was set on April 5, 2017, per Minutes of the Hearing dated February 1, 2017.[7]

Upon arraignment[8], both accused, duly assisted by their counsel, Atty. Kristine Jane R. Liu, pleaded "Not Guilty" to the said charge.

On April 26, 2017, the Court held the Preliminary Conference,[9] after which, the Plaintiff's Pre-Trial Brief[10] and accused's Pre-Trial Brief[11] were, respectively, filed on May 5, 2017 and May 8, 2017.

In a Pre-Trial Order[12] dated June 9, 2017, both parties agreed to adopt the following stipulated facts, to wit:

1. The identity of the accused as the same person charged in the Information;

2. The jurisdiction of the Honorable Court over the case.

3. Accused Arturo M. Zapata and Jacob Valeriano are the President and Treasurer, respectively, of Cross Country Oil & Petroleum Corp.

4. The registered business address of Cross Country Oil & Petroleum Corp. is at Rm. 3105 World Trade Exchange Bldg., 215 Juan Luna St., Binondo, Manila.

5. Complainant Bureau of Internal Revenue ("BIR") issued a Preliminary Assessment Notice ("PAN") dated 7 May 2012, assessing accused Cross Country Oil and Petroleum Corporation ("Respondent Corporation Cross Country") the following deficiency taxes:

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[5] Id., p. 110.
[6] Id., pp. 134-138.
[7] Id., p. 140.
[8] Minutes of the Hearing dated April 5, 2017, Id., p. 159.
[9] Minutes of Preliminary Conference, Id., pp. 162-168.
[10] Id., pp. 171-174.
[11] Id., pp. 175-181.
[12] Id., pp. 186-192.

	Income Tax (IT)	Value Added Tax (VAT)	Expanded Withholding Tax (EWT)	Documentary Stamp Tax (DST)
Tax Due	₱184,852,206.94	₱293,130,954.96	₱5,663,222.76	₱15,625.00
Surcharge (50%)	₱ 92,426,103.47	₱146,565,477.48	₱2,831,611.38	₱ 7,812.50
Interest	₱ 81,638,837.70	₱142,309,055.39	₱2,749,378.28	₱ 7,756.85
Total Amount Due	**₱358,917,148.11**	**₱582,005,487.84**	**₱11,244,212.43**	**₱31,194.35**

6. Cross Country filed its Comment to the PAN to refute the IT and VAT assessments.

7. The Complainant BIR issued two (2) Final Assessment Notices ("FANs") accompanied by a Formal Letter of Demand ("FLD"), requiring respondent corporation Cross Country to pay deficiency IT and VAT for taxable year 2009, in the following amounts:

	IT	VAT
Tax Due	₱184,852,206.94	₱293,130,954.96
Surcharge (50%)	92,426,103.47	146,565,477.48
Interest	90,269,340.34	156,334,945.95
Total Amount Due	**₱367,547,650.75**	**₱596,031,378.39**

8. Respondent corporation, Cross Country protested the FANs/FLD with the BIR and submitted documents in support of its protest on 29 October 2012.

During trial, the plaintiff presented the following witnesses from the Revenue Region No. 6, Bureau of Internal Revenue (BIR)-Manila: (i) Ms. Vilma V. Caronan[13], Group Supervisor of Revenue District Office; (ii) Ms. Ma. Paz Arcilla[14], Revenue Officer IV-Chief, Billing Section of the Assessment Division; (iii) Ms. Maricol O. Domingo[15], then Revenue Officer-Seizure Agent, Collection Division; and, (iv) Mr. Marlon Josue B. Garong[16], OIC-Section Chief of the Administrative Division.

On September 4, 2017, Plaintiff's Formal Offer of Evidence[17] was filed offering therein Exhibits "P-1" to "P-51-A". Save for Exhibits "P-5", "P-24", "P-25", "P-28", "P-31", "P-46" and "P-47", the Court admitted the said exhibits in a Resolution dated September 29, 2017.

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[13] Minutes of the Hearing dated August 9, 2017, Id., p. 283; Exhibit "P-48".
[14] Minutes of the Hearing dated August 23, 2017, Id., p. 326; Exhibit "P-50".
[15] Ibid; Exhibit "P-49".
[16] Minutes of the Hearing dated August 30, 2017, Docket., p. 338; Exhibit "P-51".
[17] Ibid, pp. 341-356.

Thereafter, both accused filed the instant Demurrer to Evidence (Filed with Leave of the Honorable Court) on October 9, 2017, with plaintiff's Opposition (To Accused Demurrer to Evidence) filed on October 19, 2017.

Hence, this resolution.

Section 23, Rule 119 of the Revised Rules of Criminal Procedure provides the procedure and guidelines in filing demurrer to evidence, *viz:*

> "Sec. 23. *Demurrer to evidence.* – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.
>
> If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.
>
> The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.
>
> If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.
>
> The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment."

In *Rene S. Ong, et al., vs. People of the Philippines, et al.,*[18] the Supreme Court described a demurrer to evidence as an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. In passing upon the sufficiency of the evidence raised in a demurrer, the Court is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or to support a verdict of guilt.

As pointed out earlier, both accused are being charged for alleged violation of Section 255 of the 1997 NIRC, as amended, for their failure as responsible officers of respondent Corporation to pay basic VAT deficiency for taxable year 2009 in the amount of ₱293,130,954.96, exclusive of penalties, surcharges and interest. Section 255 reads:

> "SEC. 255. Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation. — Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (₱10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years."

Under Section 52 (A) of the same Code, the obligation to file a true and accurate tax return shall be upon the responsible officers of the company such as its president and treasurer, thus:

> "SEC. 52. Corporation Returns. — (A) Requirements. — Every corporation subject to the tax imposed, except foreign corporations not engaged in trade or business in the Philippines, shall render, in duplicate, a true and accurate quarterly income tax return and final or adjustment return in accordance with the provisions of

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[18] G.R. No. 140904, October 9, 2000.

> Chapter XII of this Title. The return shall be filed by the president, vice-president or other principal officer, and shall be sworn to by such officer and by the treasurer or assistant treasurer."

In case of any violation by associations, partnerships or corporations, the penalty is imposed upon its responsible officers or employees as provided in Sections 253 (d) and 256 of the 1997 NIRC, as amended, viz.:

> "SEC. 253. General Provisions. —
>
> xxx xxx xxx
>
> (d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and employees responsible for the violation."
>
> "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 (₱50,000) but not more than One hundred thousand pesos (₱100,000)."

Based therefrom, in order for the prosecution to secure the conviction of both accused, the following requisites must be duly established:

1. That a corporate taxpayer is required under the 1997 NIRC, as amended, to pay any tax;

2. That the corporate taxpayer failed to pay the required tax at the time or times required by law or rules and regulations;

3. Such failure was willful; and

4. The accused are the responsible officers of the corporate taxpayer.

All the above-mentioned elements must concur to seal a conviction under Section 255 of the 1997 NIRC, as amended. The prosecution bears the *onus probandi* of showing beyond moral certainty that each and every essential element of the crime charged exists to sustain a conviction. Otherwise, the scale of justice must necessarily tilt in favor of accused who must be acquitted.[19]

There is no dispute insofar as the first and fourth elements of the crime charged are concerned. Records reveal that the respondent Corporation is a domestic corporation engaged in the importation/distribution of oil and other petroleum products. It is duly registered with the Bureau of Internal Revenue, Revenue District Office No. 30, with assigned Tax Identification No. 007-120-826.[20]

Also, both parties admitted[21] that accused Zapata and Valeriano, Jr. are the President and Treasurer of respondent Corporation, thus, undoubtedly considered as responsible officers in charge of directing the affairs of the latter. And, it is for this reason that they are criminally charged under Section 255, in relation to Sections 253 (d) and 256 of the 1997 NIRC, as amended.

Thus, to make them criminally liable for non-payment of VAT (2nd requisite), the plaintiff must prove that both accused were aware that there was a demand on respondent corporation to pay the subject deficiency tax and that they willfully failed to pay the required tax at the time required by law (3rd requisite).

In the case at bench, both accused, however, argue that there is no proof that the February 21, 2013 FDDA was received by respondent Corporation on account of the following: (i) the portion referring to Registered Mail Matter in the said Card does not bear the Registry Receipt No. 904559 (Exhibit P-21); (ii) that the said card was undated; and, (iii) the person who signed the Registry Return Card was not identified and has not been established as being related in any way to the taxpayer, its officers or any of its authorized representative.

On the other hand, the plaintiff argues that it cannot be faulted for the alleged non-receipt by the accused of the letter dated January 18, 2013, FDDA dated February 21, 2013, PCL dated August 2, 2013, and Final Notice Before Seizure dated August 23, 2013 on the ground that the respondent Corporation had already transferred its principal place of business, sans notification with the BIR.

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[19] Rollie Calimutan vs. People of the Philippines, et al., G.R. No. 152133, February 9, 2006.
[20] Par. 4 of Complaint-Affidavit, Docket, p. 19.
[21] Per Pre-Trial Order dated June 9, 2017, Id., p. 186.

We find the Demurrer to Evidence meritorious.

In *Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) vs. Commissioner of Internal Revenue*[22], citing the case of *Protector's Services, Inc. vs. Court of Appeals*[23], this Court ruled that when a mail matter is sent via registered mail, there exists a presumption, set forth under Section 3(v), Rule 131 of the Rules of Court[24], that it was received in the regular course of mail. The facts to be proved in order to raise this presumption are: (a) that the letter was properly addressed with postage prepaid; and (b) that it was mailed. While a mailed letter is deemed received by the addressee in the ordinary course of mail, this is still merely a disputable presumption subject to controversion, and a direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the mailed letter was indeed received by the addressee.

In relation thereto, the Supreme Court, in the cases of *Jaime Alferez vs. People of the Philippines and Pingping Co.*[25] and *In the Matter of the Petition for Habeas Corpus of Benjamin Vergara, et al., vs. Hon. Francisco C. Gedorio, Jr., et al.*[26] further stated that the receipts for registered letters and return receipts do not prove themselves; they must be properly authenticated in order to serve as proof of receipt of the letters.

It further stressed in the case of *Republic of the Philippines vs. Resins, Incorporated*[27]*, citing the cases of Government of the Philippines v. Aballe*[28] *and Cruz v. Court of Appeals*[29], that "**it is the registry receipt issued by the mailing office <u>and</u> the affidavit of the person mailing, which proves service made through registered mail. Absent one or the other, or worse both, there is no proof of service.**

Here, both accused denied the receipt of the subject FDDA. Such denial, therefore, shifts the burden upon the plaintiff to prove that the FDDA was duly delivered and actually received by respondent Corporation.

[22] G.R. No. 157064, August 7, 2006.

[23] G.R. No. 118176, April 12, 2000.

[24] Section 3(v), Rule 131, of the 1997 Rules of Court provides:

Sec. 3. Disputable presumptions. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

xxx xxx xxx

(v) That a letter duly directed and mailed was received in the regular course of the mail;

[25] G.R. No. 182301, January 31, 2011.

[26] G.R. No. 154037, April 30, 2003.

[27] G.R. No. 175891, January 12, 2010.

[28] G.R. No. 147212, March 24, 2006.

[29] 436 Phil. 641, 652 (2002).

To prove that the FDDA dated February 21, 2013 was sent, via registered mail, to the registered business address of respondent Corporation, it offered in evidence Registry Receipt No. 904559 dated February 21, 2013 and Registry Return Receipt, respectively.

While the foregoing evidence were positively identified by Mr. Marlon Josue B. Garong[30], OIC-Section Chief of the Administrative Division, Revenue Region No. 6 of BIR-Manila, the Court agrees with the observation of the accused that the Registry Return Receipt, marked as Exhibit "P-22", is inconclusive to prove that the FDDA was in fact mailed to respondent Corporation on the ground that the same does not bear the Registry Receipt No. 904559, marked as "Exhibit P-21".

This is clear from the following testimony of Mr. Garong on cross-examination, to wit:

"ATTY. LIU:
Q. Mr. Witness, except for the existing records in your case, you have no personal knowledge in the preparation of these documents, am I correct?

MR. GARONG:
A. Yes.

ATTY. LIU:
Q. Mr. Witness, you mentioned and you identified earlier Exhibit P-21 wherein you states that there are ten (10) letters sent to various taxpayers for mailing, am I correct?

MR. GARONG:
A. Yes, ma'am.

ATTY. LIU:
Q. You also mentioned that your only proof that it was in fact.... That the FDDA was in fact transmitted to the taxpayer, am I correct?

MR. GARONG:
A. Yes.

ATTY. LIU:
Q. **Mr. Witness, kindly go over Exhibit P-21, especially Registry Receipt No. 904559 and**

[30] Exhibit "P-51".

Exhibit P-22 where you stated in your Affidavit that this is your Registry Return Receipt?

MR. GARONG:
A. As per our record?

x x x x

MR. GARONG:
A. Yes.

x x x x

ATTY. LIU:
Q. Exhibit P-22, Registry Return Receipt, *blangko po ba ang nakalagay na* registered letter or parcel number?

x x x x

MR. GARONG:
A. *Wala pong nakasulat.*"[31] (Emphases ours)

The Court, likewise, observed that the plaintiff made no effort to either present the testimony/affidavit of the postman/postmaster or even a certification issued by the latter showing that the notice was duly issued and delivered to respondent Corporation. The plaintiff also failed to authenticate or identify the signature on the registry return card. Thus, the Court cannot ascertain if the name of the person appearing on the said return was the duly authorized representative of the respondent Corporation. The presentation of the said registered letter and the registry receipt, with an unauthenticated signature, therefore, do not meet the required proof beyond reasonable doubt that the respondent Corporation or the accused herein received such notice.

In the same vein, the Court cannot ascertain the date of receipt of the subject FDDA since the portion of the date of delivery on the said Registry Return Receipt was not filled up. Plaintiff must prove the actual receipt of said FDDA because the fact of service provided for in the law is reckoned from receipt of such notice.

We stress that, ordinarily, preponderance of evidence is sufficient to prove notice. But in criminal cases, the quantum of proof required is proof beyond reasonable doubt.[32] But based thereon, the prosecution

[31] Pages 8-10, Transcript of Stenographic Notes Taken During the Hearing on August 30, 2017.
[32] Victor Ting, et al., vs. Court of Appeals, et al., G.R. No. 140665, November 13, 2000.

failed to establish that the FDAA had been actually served and received by respondent Corporation or by its duly authorized representative. Thus, the accused's right to due process in the issuance of the subject assessment was deemed violated. This leads to the conclusion that no valid assessment was issued. Consequently, there is no basis for the issuance of PCL, Warrant of Distraint and/or Levy and Warrants of Garnishment against the respondent Corporation.

As regards plaintiff's claim that the respondent Corporation had already transferred its principal place of business (without informing the BIR), thus, it was not able to receive the letter dated January 18, 2013, FDDA dated February 21, 2013, PCL dated August 2, 2013 and Final Notice Before Seizure dated August 23, 2013, the same, likewise, deserves scant consideration by the Court.

In raising the foregoing argument, plaintiff merely relied on the bare testimony of its witness, Maricol O. Domingo[33], Revenue Officer-Seizure Agent, Collection Division, Revenue Region No. 6, BIR-Manila, who stated the following in her Judicial Affidavit, to wit:

> "**Q9. After you prepared the Preliminary Collection Letter dated August 02, 2013, what happened next, if any.**
>
> A. I personally served the Preliminary Collection Letter to the registered business address of the accused at Rm. 3105 WTE Bldg., 215 Juan Luna St., Binondo, Manila. Unfortunately, the accused was no longer occupying and operating at the said address."[34]

However, her testimony cannot be relied upon as the same is not supported by any corroborative evidence or independent proof. Thus, we find the same as insufficient proof following the ruling in *Lina Calilap-Asmeron vs. Development Bank of the Philippines, et al.*, [35] to wit:

> "The petitioner apparently relied solely on her bare testimony to establish her allegation of having been misled, and did not present other evidence for the purpose. She seemingly forgot that, firstly, her bare allegation of having been misled was not tantamount to proof, and that, secondly, she, as the party alleging a disputed fact, carried the burden of proving her allegation. In other words, her main duty was

[33] Exhibit "P-49".
[34] Docket, p. 302.
[35] G.R. No. 157330, November 23, 2011.

to establish her allegation by preponderance of evidence, because her failure to do so would result in her defeat. Alas, she did not discharge her burden."

To make the matter worse, there was no constructive service of the PCL in this case, as mandatorily required under Section 3[36], Revenue Regulations No. 12-99, which shall be considered effected by (1) leaving the same in the premises of the taxpayer; (2) the fact of constructive service should be attested to, witnessed and signed by at least two revenue officers other than the revenue officer who constructively served the same; and (3) the revenue officer who constructively served the same shall make a written report of this matter which shall form part of the docket of the case. This is evident from the following testimony of Ms. Domingo, to wit:

"ATTY. LIU:
Madam witness, Question 9 on page 5 of your Judicial Affidavit, that you personally served the preliminary collection letter (PCL) to the registered business address of the accused. Am I correct?

WITNESS:
Yes, ma'am.

ATTY. LIU:
And what is your proof that your (sic) personally served the PCL to the accused?

WITNESS:
Actually, when I served, I personally served the PCL, I found out that the .... (interrupted)

ATTY. LIU:
Ms. witness, the question is, what is your proof that you actually served or personally went to the office of the accused?

WITNESS:
Ah, ahmm there's none... (interrupted)

x x x x

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[36] **3.1.7 Constructive Service.** — If the notice to the taxpayer herein required is served by registered mail, and no response is received from the taxpayer within the prescribed period from date of the posting thereof in the mail, the same shall be considered actually or constructively received by the taxpayer. If the same is personally served on the taxpayer or his duly authorized representative who, however, refused to acknowledge receipt thereof, the same shall be constructively served on the taxpayer.

WITNESS:
Because they refused to receive."[37]

In the case of *Ma. Imelda M. Manotoc vs. The Honorable Court of Appeals*[38], the Supreme Court emphasized the strict compliance with the requirements of statutes authorizing substituted or constructive service. But in this case, it is evident that even the service of the PCL points to the fact that the same was tainted with irregularities and, henceforth, cannot be held valid in accordance with law and pertinent jurisprudence.

We emphasize that the prosecution has the burden of proving beyond reasonable doubt each element of the crime as its case will rise or fall on the strength of its own evidence.[39] Any doubt shall be resolved in favor of the accused.[40]

In light of these observations and conclusions, *We* need not discuss the other issues raised.

WHEREFORE, premises considered, the Demurrer to Evidence is hereby **GRANTED**. Accordingly, the instant CTA Criminal Case No. 0-619 is hereby **DISMISSED.**

SO ORDERED.

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

CAESAR A. CASANOVA
Associate Justice

(On-Leave)
CATHERINE T. MANAHAN
Associate Justice

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[37] Pages 12-13, Transcript of the Stenographic Notes Taken During the Hearing on August 23, 2017.
[38] G.R. No. 130974, August 16, 2006.
[39] Betty King vs. People of the Philippines, G.R. No. 131540, December 2, 1999
[40] Oriel Magno vs. Honorable Court of Appeals and People of the Philippines, G.R. No. 96132, June 26, 1992.