

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

CTA CRIM. CASE NO. O-935

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

**GB BEM CIGARETTE CO., INC.,
GREGORY G. LIM (President),
BENSON G. CHUA (Treasurer),
ELSIE A. OAFALLAS (Director),
GENDY A. BAMBAO (Director)
and
MARIA CRISTINA G. DAYOS
(Corporate Secretary),**

NOTICE OF RESOLUTION

Accused.

To:

**PROSECUTOR GENERAL RICHARD ANTHONY D. FADULLON
PROSECUTION ATTORNEY ROXANNE F. CU**
Department of Justice
Padre Faura Street, Ermita, Manila 1000

**ATTY. CATHERINE ROSE R. TORTOLES
ATTY. JAMAICA KAY S. DELA CRUZ
ATTY. CAROLINE CLAIRE S. BARIC**
Bureau of Internal Revenue
Room 704, 7th Floor, Prosecution Division
BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

BENSON G. CHUA
66 4th Street, 6th Avenue
Brgy. 112, Caloocan City

ELSIE A. OAFALLAS
No. 5 Bonifacio Street, Zone 6
South Signal Village, Taguig City

GENDY A. BAMBAO
Sec 2, Blk. 2, Lots 2&4, Sunny Brooke I
Brgy. San Francisco, General Trias, Cavite

GREGORY G. LIM
Unit 601, Parc Royale Condominium
Jade Drive, Ortigas Center, Brgy. San Antonio
Pasig City

MARIA CRISTINA G. DAYOS
Blk 5, Lot 12, Ruby Street
Celina Homes, Brgy. 175, Zone 15
District 1, Camarin, Caloocan City

BORJA AND ARCILLA LAW OFFICE
123-K9th Street, East Kamias
Quezon City, Metro Manila

GREETINGS:

You are hereby notified by these presents that on **April 15, 2025**, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 21, 2025**.

Atty. Maria Johanna F. Chan-Te
Executive Clerk of Court II

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

CTA CRIM. CASE NO. O-935

*For: Violation of Section 263, in
relation to Section 253(d) and 256,
of the NIRC of 1997, as amended*

-versus-

Members:

**GB BEM CIGARETTE CO.,
INC., GREGORY G. LIM
(President), BENSON G.
CHUA (Treasurer), Elsie A.
OAFALLAS (Director),
GENDY A. BAMBAO
(Director), and MARIA
CRISTINA G. DAYOS
(Corporate Secretary),
Building 09-01, Pampanga
Economic Zone Pulung,
Cacutud, Angeles City,
Pampanga,**

**DEL ROSARIO, P.J., Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.**

Promulgated:

Accused.

APR 15 2025 9:25AM

X- - - - -X

RESOLUTION

CUI-DAVID, J.:

Before the Court is plaintiff's ***Motion for Reconsideration (of the Decision dated November 20, 2024)***, filed *via* personal service on December 5, 2024, and *via* e-mail on December 6, 2024, with accused's *Comment and/or Opposition (To the Motion for Reconsideration)*, filed *via* personal service on December 19, 2024, and *via* e-mail on December 20, 2024,

Plaintiff seeks the reversal of the Court's Decision dated November 20, 2024 (assailed *Decision*), which acquitted accused GB BEM Cigarette Co. Inc., Gregory G. Lim, Benson G.

RESOLUTION

CTA Crim. Case No. O-935

People of the Philippines v. GB Bem Cigarette Co. Inc., Gregory G. Lim (President), Benson G. Chua (Treasurer), Elsie A. Oafallas (Director), Gendy A. Bambao (Director), and Maria Cristina G. Dayos (Corporate Secretary)

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Chua, Elsie A. Oafallas, Gendy A. Bambao, and Maria Cristina G. Dayos. The dispositive portion of the assailed *Decision* reads:

WHEREFORE, in light of the foregoing, accused GB BEM Cigarette Co. Inc., Gregory G. Lim, Benson G. Chua, Elsie A. Oafallas, Gendy A. Bambao, and Maria Cristina G. Dayos are **ACQUITTED** for failure of plaintiff to prove their guilt beyond reasonable doubt. There being no competent evidence to prove any civil liability on their part, they are also exonerated from the same.

SO ORDERED.

In support of its *Motion for Reconsideration*, plaintiff argues that the requisites for the application of the plain view doctrine are present in the instant case. Plaintiff cites the issuance of the Mission Order as the basis for the Bureau of Internal Revenue (**BIR**)'s prior lawful intrusion and asserts that packs of cigarettes were already in plain view. Plaintiff further contends that the "intensive search" refers only to "the further search conducted at the enclosed warehouses."

Plaintiff also asserts that Revenue Memorandum Order (**RMO**) No. 3-2009 merely provides general guidelines for conducting surveillance and that implementing officers are not strictly limited to its provisions.

Additionally, plaintiff contends that internal revenue officers have the authority to make seizures for violations of penal laws, rules, and regulations administered by the BIR pursuant to Section 15 of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

Finally, plaintiff reiterates that accused GB BEM Cigarette Co. Inc. failed to comply with BIR registration requirements.

At the outset, the *Motion for Reconsideration* must be denied. It is elementary that a judgment of acquittal cannot be reconsidered, as doing so would place the accused in double jeopardy.

The Constitution explicitly prohibits double jeopardy under Section 21, Article III, which states:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. ...

RESOLUTION

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In relation thereto, Section 7, Rule 117 of the Revised Rules of Criminal Procedure provides the requisites or elements for double jeopardy to attach:

- (1) A valid information sufficient in form and substance to sustain a conviction of the crime charged;
- (2) A court of competent jurisdiction;
- (3) The accused has been arraigned and had pleaded; and
- (4) The accused was convicted or acquitted, or the case was dismissed without his express consent.

The Court finds that all elements of double jeopardy are present in this case. Accused were arraigned, and after a trial on the merits, the Court rendered a judgment of acquittal. It is well established that a judgment of acquittal, whether ordered by a trial or appellate court, is final, unappealable, and immediately executory upon its promulgation.

Even assuming *arguendo* that reconsideration was permissible, the Court finds that plaintiff's arguments have already been thoroughly discussed and addressed in the assailed *Decision*.

To succinctly reiterate, *first*, the BIR, like any other police or law enforcement agency, is not exempt from the constitutional requirement of obtaining a search warrant from the court before making searches and seizures; *second*, there was no prior justification for an intrusion which could make such warrantless seizure valid as the issuance of the Mission Order is based on an unverified allegation or "tip" contained in an unidentified letter dated January 24, 2020, and that BIR had ample time to secure a search warrant; *third*, the alleged lawfulness of the intrusion is negated by the BIR's numerous violations of its own RMO No. 3-2009, which the Court has repeatedly held as mandatory on the part of the BIR; and *fourth*, as a result, the seized cigarettes and the documents proving possession cannot be admitted as evidence before the Court.

WHEREFORE, in light of the foregoing, plaintiff's *Motion for Reconsideration (of the Decision dated November 20, 2024)* is hereby **DENIED** for lack of merit.

RESOLUTION

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SO ORDERED.



ROMAN G. DEL ROSARIO

Presiding Justice

ON OFFICIAL BUSINESS

JEAN MARIE A. BACORRO-VILLENA

Associate Justice



LANEE S. CUI-DAVID

Associate Justice