

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

CTA CRIMINAL CASE NO. O-439
For: Violation of Section 3601 in
relation to Sections 101 and
2530 of the Tariff and Customs
Code of the Philippines, as
amended

Members:

GEMMA AIDA BELARMA y
TORREDA,
(Room 201 G.K. Chua Bldg., M.J.
Cuenco Ave., Brgy. San Roque,
Cebu City/F. Pacana St., Tisa
Labangon, Cebu City),
- AT LARGE -

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

Promulgated:

APR 06 2015

Accused.

x-----x

RESOLUTION

For this Court's resolution is the prosecution's **Consolidated Motion for Reconsideration** filed on March 10, 2015.

In the Resolution dated February 20, 2015, the Court affirmed the dismissal of the instant case without prejudice since the plaintiff still failed to fully comply with the Resolution dated November 28, 2014.

The prosecution seeks the reversal or setting aside of the Resolution dated February 20, 2015 on the following grounds:

1. In determining the existence of probable cause for unlawful importation the Honorable Court must first

take into account the Import Entry Internal Revenue Declaration (IEIRD) filed before the BOC by the accused Belarma.

2. The failure of the Inventory and Memorandum dated May 22, 2013 and June 6, 2013 to mention the name of the accused or Melma Enterprise is not enough to merit the dismissal of the instant charges.
3. In violation of a special law like Tariff and Customs Code of the Philippines lack of criminal intent is not a valid defense.

The Court notes that this is the prosecution's second motion for reconsideration.

The filing of a second motion for reconsideration is prohibited under Section 7 of Rule 15 of the 2005 Revised Rules of the Court of Tax Appeals, which reads:

SEC. 7. *No second motion for reconsideration or for new trial.* – No party shall be allowed to file a second motion for reconsideration or for new trial of a decision, final resolution or order.

Likewise, the Supreme Court has firmly held that a second motion for reconsideration is a prohibited pleading, and only for extraordinarily persuasive reasons and only after an express leave has been first obtained may a second motion for reconsideration be entertained.¹

In the instant case, the prosecution did not ask the Court for leave to file a second motion for reconsideration. Nor did it present any extraordinarily persuasive reason for it to be allowed to file one.

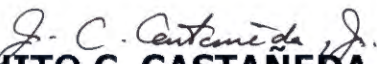
Furthermore, the arguments raised by the prosecution in its motion do not respond to the reason for the dismissal of the case without prejudice. To be clear, the Resolution which the instant motion seeks to reverse ordered the dismissal of the case without

¹ *League of Cities of the Philippines (LCP), vs. Commission on Elections*, G.R. Nos. 176951, 177499 and 178056, June 28, 2011, 652 SCRA 798, 808.

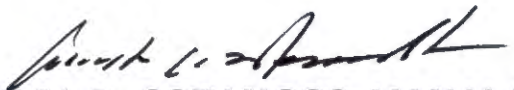
prejudice since the prosecution failed to fully comply with the Resolution dated November 28, 2014 requiring the submission of the originals or certified copies of the documents enumerated therein. An examination of the records shows that the prosecution still failed to fully comply with the said resolution.

WHEREFORE, in view of the foregoing, the prosecution's **Consolidated Motion for Reconsideration** is hereby **DENIED** for lack of merit.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CAESAR A. CASANOVA
Associate Justice


AMELIA R. COTANGCO-MANALASTAS
Associate Justice