REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, ***Plaintiff,***	**C.T.A. CRIM. CASE NO. O-027** For: Violation of Section 255, in Relation to Sections 253 (d) and 256 of the Tax Code of 1997, as further amended by RA 8424
-versus-	Members: CASTAÑEDA, JR., Chairperson UY, and PALANCA-ENRIQUEZ, JJ.
ESTELITA DELOS ANGELES, ***Accused.***	**Promulgated:** NOV 2 5 2009 9:30 a.m.

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DECISION

PALANCA-ENRIQUEZ, J.:

Accused Estelita Delos Angeles is charged before this Court with Violation of *Section 255*, in relation to *Sections 253 (d) and 256 of the Tax Code of 1997, as amended by RA 8424*, under an Information, which reads, as follows:

> "That during the year 1999, and for sometime prior thereto, in the City of Manila, Philippines, the said accused, being then the owner of REPLETION INTERNATIONAL TRADING, with business address at 632 Jade Garden, H. Lopez Blvd., Tondo, in said City, did then and there

> willfully, unlawfully and feloniously fail and refuse and still fails and refuses to pay her internal revenue tax liabilities amounting to P3,614,971.24 under Assessment/Demand Notices No. 29-14-0003360-99, despite repeated demands made upon her by the Bureau of Internal Revenue, herein represented by Ma. Concepcion T. Malinao, in violation of the said Section 255, in relation to Section 253 (d) and 256, Tax Code of 1997.
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> CONTRARY TO LAW."

On June 6, 2007, the Court issued a warrant of arrest against the accused.

On July 16, 2007, accused voluntarily surrendered and filed a "Motion for Reduction of Bail", which the Court granted. Thereafter, accused posted cash bailbond in the amount of P10,000.00 for her provisional liberty, and the Court lifted and set aside the warrant of arrest issued against accused.

Upon arraignment, accused, assisted by her counsel, Atty. Lenito T. Serrano, pleaded "Not Guilty" to the charge.

Trial was conducted, wherein the prosecution presented both testimonial and documentary evidence. Evidence for the prosecution consists of the testimonies of Josephine Meron, Carmelita Lynne De Guzman, Ma. Concepcion Malinao, and Teresita Maglunog, and documentary evidence, marked as *Exhibits "A" to "Z", "AA"" to "CC-1"*, which were all admitted by the Court, except *Exhibit "T"* for failure to present the original for comparison and *Exhibits "U" to "X"* for failure to identify said documents during the trial; afterwhich, the prosecution rested its case. Forthwith, accused filed a "Demurrer to Evidence", which the Court denied in a Resolution dated July 18, 2008.

Consequently, the defense presented its evidence, which consists of the testimonies of accused and Analene Delos Angeles, and documentary evidence, marked as *Exhibits "1" to "22"*, which were all admitted, except *Exhibit "15"* for failure of the defense's counsel to submit the duly marked document; afterwhich, the defense rested its case.

Both parties were granted thirty (30) days to file their simultaneous memoranda, afterwich, the case shall be deemed submitted for decision.

On August 6, 2009, accused filed her "Memorandum", while on September 8, 2009, the prosecution filed its "Memorandum". Hence, on September 17, 2009, the case was deemed submitted for decision.

Prosecution's Evidence

Josephine Meron, the first witness for the prosecution, substantially testified that she is a revenue examiner authorized to examine the books of accounts and other accounting records of Repletion International Trading owned by accused; she executed an affidavit dated November 21, 2007 *(Exhibit "Y")* and positively identified the documents she mentioned in her affidavit, marked as *Exhibits "A" to "L"*; that on September 20, 2000, a Letter of Authority (LOA) No. 00049238 (*Exhibit "A"*) was issued by Regional Director Teodorica R. Arcega authorizing Revenue Officer Manuel Trias to examine the books of accounts and other accounting records of the business of accused for taxable year 1999, which was received by accused on September 27, 2000 (*Exhibit "A-1"*); she sent a letter request dated October 19, 2000 to accused for presentation of records reiterating her submission of the documents (*Exhibit "B"*); on November 21, 2000, a final notice was sent to accused by registered mail under registry receipt no. 38350 (*Exhibit "C-1"*), reiterating the BIR's request for presentation of her accounting records and documents; that her proposed assessments are summarized, as follows:

Nature of Tax	Basic Tax
Value-Added Tax	P1,432,277.68
Withholding Tax-Compensation	37,272.50
Withholding Tax-Expanded	17,907.67
Total	P1,507,457.85;

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that the legal basis for the issuance of said proposed assessments is as follows: For value added tax, the legal basis is *Section 105 of the NIRC*; the deficiency VAT represents unsettled value added tax due recognized as "other payable" per financial statements, as of August 31, 1999; that accused did not file any VAT return with the BIR and it took her ninety (90) days to present her books of accounts; that the annual ITR of accused resulted to a net loss of P1,431,976.61, as reflected in the Revenue Officer's Audit Report on Income Tax *(Exhibit "I")*; that after she examined the books of accounts of the business of accused, she discovered that accused failed to file her monthly and quarterly VAT returns with the BIR; that accused did not enter in her books of accounts any salary or wage expenses, which must be subjected to withholding tax, instead she entered said items on a different account; she recommended that accused be assessed of the aggregate amount of P1,507,457.85, which represents the following: Value Added Tax- P1,432,277.68, Withholding Tax-Compensation - P37,272.50, and Withholding Tax-Expanded- P17,907.67 *(Exhibit "E")*; and thereafter, she forwarded the case of accused to the Assessment Division, which notified accused of her tax deficiency amounting to P3,579,056.15, inclusive of the surcharges imposed by the BIR.

Carmelita Lynne De Guzman, the second witness for the prosecution, in substance testified that she is the Assistant Chief of the Assessment Division, and supervises the review of audit and/or investigation of revenue examiners; and she executed a judicial affidavit dated January 14, 2008 *(Exhibit "Z")* and identified the documents she mentioned in her Affidavit, marked as *Exhibits "L" to "Q"*.

Ma. Concepcion Malinao, the third witness for the prosecution, in substance testified that she is a legal officer of the Legal Division of the BIR and recommended the criminal prosecution of accused for non-payment of VAT, EWT and Compromise Penalty for the year 1999 in the amounts of P3,579,056.13, P33,015.11 and P2,000.00, respectively; that several demand letters, all dated April 4, 2003, were sent to accused under Demand No. 29-41-000360-99, together with the Assessment Notice No. 29-41-000360-99 (*Exhibits "N" to "S"*); despite several demands, accused failed and refused to pay said tax obligations, hence the assessment had already been overdue and delinquent, and had become uncontestable, under *Sections 205 and 228 of the 1997 Tax Code*.

Teresita Maglunog, the last witness for the prosecution, in substance testified that she is a Record Officer III of the Administrative Division, Revenue Region No. 6, Port Area, Manila, since 1979 up to the present, and is in charge of all incoming and outgoing communications of Revenue Region 6, as well as the mailing of letters, notices and *subpoena duces tecum* to other BIR offices and government agencies, including local government units and various taxpayers that fall within the jurisdiction of Revenue Region 6; she executed an affidavit dated January 24, 2008 to prove that Assessment Notices No. 29-41-000360-99, both dated April 4, 2003, were sent to accused at her business address at No. 2433 T. Earnshaw St., Tondo, Manila; she corroborated the statement of Malinao that the subject Assessment Notices No. 29-41-000360-99 were sent to accused, through registered mail, with registry receipt no. 813539, and further identified the transmittal sheet of the Assessment Division, indicating therein that the Assessment Notices for accused were mailed at the Central Post Office.

<u>Defense's Evidence</u>

Accused Delos Angeles, the first witness for the defense, on direct examination testified that she is a plain housewife, attending to her blind husband for the last 20 years; that Repletion International Trading, with business address at 632 Jade Garden, H. Lopez Blvd., Tondo, Manila, is the company of her daughter, Analene Delos Angeles, and her husband, Hoo Po In (hereafter "Steven Hoo"); that her daughter asked her to register Repletion International Trading under her name as a sole proprietorship; although the business is registered under her name, it was solely operated and ran by Analene and Steven Hoo; that she never ran the business and she has never been at the place of business; she executed a Deed of Sale in favor of Steven Hoo and Analene Delos Angeles pertaining to Repletion International Trading *(Exhibit "2")*; and she identified the documents she mentioned in her Affidavit, marked as *Exhibits "1", "3" to "16"*, showing that Repletion was solely operated and ran by Steven Hoo.

On further direct examination, accused admitted that the subject Income Tax Return (ITR) for 1999 of Repletion was under her name in order to conform with the existing registration documents of said business, particularly Repletion's Financial Statement that was prepared by an accountant, named Ronald V. Bustos, whom she does not know; she did not receive any letter or Notice of Assessment from the BIR; she has no knowledge of the discrepancies in the Assessment Notices and Assessment Demands, which refer to Assessment Nos. 29-41-000360-99 because she never ran any business in 1999 or prior thereto; that she never received the BIR Letter of Authority and Second Request For Presentation of Documents *(Exhibit "B")*, nor had she signed the same; that the BIR Assessment and demand letters were not registered mail matters, nor is there any indication that said documents were sent or mailed; that she came to realize that the BIR filed the instant case against her for tax deficiency/assessment only when she received a subpoena in I.S. No. OSA-02211 from the Office of the City Prosecutor of Manila sometime in March; and she responded to said subpoena and went to the OCP-Manila and submitted her Counter-Affidavit to the Investigating Prosecutor; that she asked Analene and Steven Hoo, the actual and beneficial owners of Repletion, to make representations with the BIR and to set the records straight; that they offered to pay compromise settlement, but the offer remained unacted upon by the BIR despite numerous follow-ups;and she has no intent or malice to violate the law or commit the charge against her and she did not willfully, intentionally or feloniously failed or refused to pay any tax liability in 1999 for she never ran any business at all.

Analene Delos Angeles, the second and last witness for the defense, in substance testified that accused is her mother; that Repletion International Trading is the counterpart of her ex-husband's business, "Hoo Po-Ta a.k.a Steven Hoo's Repletion Company Limited", located in Taiwan; that Repletion International Trading is registered under the name of accused as a sole prorietorship; that right after their marriage in March 1993, they stayed in Taiwan, where her ex-husband operated Repletion Company Limited and later on decided to engage in export business of Taiwan goods to the Philippines; thus, her ex-husband decided to have a counterpart company in the Philippines, which is the Repletion International Trading; that during that time, it was only accused who could help Steven Hoo register his business, and it was accused who went to the Department of Trade and Industry and registered Repletion International Trading, as a sole proprietorship, sometime in October 1998; that sometime in mid-1999, she and Steven Hoo came back to the Philippines and it was only then that Steven Hoo started to operate the business; that though Repletion was registered in 1998, it only started its operation in 1999 under the management of Steven Hoo, as shown in the Affidavit of No Sale of Repletion executed on January 19, 1999 by accused; that accused executed a Special Power of Attorney authorizing Steven Hoo to be the signatory of Repletion checks; that Steven Hoo solely managed said business, as he was the sole signatory of Repletion's checks, and other business documents, such as purchase orders and check vouchers issued between August 1999 to November 1999; that she is familiar with the signature of her husband, Steven Hoo, and identified his signatures affixed on said documents, including the Chinese characters written by Steven Hoo on *Exhibits "5-A" to "5-E";* that Steven Hoo is the actual owner of Repletion, as shown in the Deed of Sale dated September 23, 1999 *(Exhibit "2")* and in the Sworn Statement of Steven Hoo, dated September 28, 2002, specifically in paragraphs 3, 4 and 5 thereof; that she never participated in the operation or conduct of the business, as it was Steven Hoo who filed the business related documents, like the ITR of Repletion for 1999, and Financial Report; that said ITR and Financial Report were done and finalized solely by Steven Hoo and his accountant, Ronald V. Bustos, and accused does not know said documents; that the signature appearing on the ITR of Repletion for 1999 is not the signature of accused; that accused has nothing to do with the business or operation of Repletion, as she never went to either of the Repletion offices at Room 214 E.A. Fernandez Building, Taft Avenue, Malate, Manila, or at 632 Jade Garden H. Lopez Boulevard, Tondo, Manila; that her mother has been attending on a full time basis to her father, Julio Delos Angeles, who is blind and has been sickly since 1998; that it is not accused's signature which appears on the Letter of Authority No. 00049239 and on the Second Request for Presentation of Records dated October 19, 2000; upon learning the BIR charge against her mother, she felt responsible for the charge, thus, she represented accused with the BIR, Prosecutor's Office, this Court and other government offices, and to help accused, she presented herself to the BIR and expressed her willingness to pay the tax liabilities of accused; in fact, she wrote the BIR and offered compromise settlement before the BIR's National Evaluation Board (Technical Working Group, Collection Services); and the BIR has not acted on said proposal since May 10, 2005 up to present; and they were not able to avail of the tax amnesty program because, according to the BIR, this case is not covered by the tax amnesty.

She also identified the documents she mentioned in her Affidavit, marked as *Exhibits "2" to "8" and Exhibits "17" and "20"*, and declared that these documents are photocopies only, as she could not locate the originals or duplicate originals, despite diligent efforts.

On cross examination, Analene Delos Angeles substantially testified that her mother, is a midwife, and can read and write; that Repletion International Trading was registered as a sole proprietorship under accused's name and the business was transferred to Steven Hoo, through a Deed of Sale executed by accused; her husband is the real owner of Repletion; however, the BIR was not duly informed of said transfer; that the signatures of accused appearing on the ITR of Repletion for taxable year 1999 and on the Financial Report are not her signatures; and upon learning the charge against her mother, she verbally reported said facts to the Manila City Prosecutor and to the Chief of the BIR; she corroborated the statement of accused that accused did not receive any BIR letter or notices; that the address appearing on the BIR papers, notices and letters, allegedly sent to accused, is Jade Garden, North Bay Boulevard, where Steven Hoo operated the business; that said address is different from the address appearing in the registration papers of

Repletion, which is Taft, R. Fernandez Building; and in 1999, Steven Hoo was about to fix all the documents, including the business address, but he was deported in year 2000, thus, the documents were not filed with the BIR.

The pertinent law under which the accused is charged is *Section 255 of the NIRC of 1997, as amended*, which reads, as follows:

> "**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 (P10,000.00) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.
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> xxx xxx."

in relation to *Sections 253 (d) and 256 of the same Code.*

The elements of Violation of *Section 255 of the NIRC of 1997, as amended*, are as follows:

1) the accused is a person required to pay tax;
2) the accused failed to pay such tax at the time required by law; and
3) that the failure to pay such tax was willful.

It is basic that in all criminal prosecutions, the burden of proof is on the prosecution to establish the guilt of the accused beyond reasonable doubt. It has the duty to prove each and every element of the crime charged in the information to warrant a finding of guilt for the said crime or for any other crime necessarily included therein *(Leonila Batulanon vs. People of the Philippines, 502 SCRA 35, citing People vs. Caingat, 376 SCRA 387, 396)*.

As regards the first element, the prosecution has established that accused is the registered owner/sole proprietress of Repletion International Trading *(Exhibits "D", "F" to "I", "L" to "S")*. This fact is admitted by the accused in her judicial affidavit *(Exhibit "18")*. Being the registered owner/proprietress of Repletion International Trading, accused is liable for non-payment of the company's tax liabilities.

In the case of *Big AA Manufacturer vs. Antonio, 484 SCRA 47-48,* the Supreme Court ruled:

> "A sole proprietorship does not possess a juridical personality separate and distinct from the personality of the owner of the enterprise. The law merely recognizes the existence of a sole proprietorship as a form of business organization conducted for profit by a single individual and requires its proprietor or owner to secure licenses and permits, register its business name, and pay taxes to the national government. The law does not vest a separate legal personality on the sole proprietorship or empower it to file or defend an action in court."

Being the registered owner of Repletion International Trading, a sole proprietorship, accused is, therefore, the person liable to pay taxes to the national government under the law.

As regards the second element, the documentary evidence adduced by the prosecution shows that Repletion International Trading, a sole proprietorship, has VAT and EWT deficiencies for taxable year 1999.

The evidence adduced by the prosecution shows that Demand Letters, all dated April 4, 2003, under Demand No. 29-41-000360-99, together with Assessment Notice No. 29-14-000360-99, were sent to accused, demanding payment of Repletion's tax liabilities in the aggregate amount of P 3,632,971.26 *(Exhibits "O", "Q", "R" and "S")*. Despite said demands, accused failed to pay said tax obligations.

Pursuant to *Section 228 of the NIRC of 1997, as amended,* the taxpayer should file a protest, within thirty (30) days from receipt of the assessment, which the accused failed to do. For failure of the accused to file a protest, within thirty (30) days from receipt of the assessment on April 4, 2003, the assessment had become final, executory and demandable on May 5, 2003.

As regards the third element of "willfulness", the prosecution failed to show proof beyond reasonable doubt that the accused deliberately failed to pay the tax obligations of Repletion International Trading.

Willful in the tax crimes statutes means a voluntary, intentional violation of a known legal duty and bad faith or bad purpose need not be shown *[Mertens (Law of Federal Income Taxation) Chapter 47.05, page 28, Volume 13, see U.S. v. Green, 757 F2d 116, 85-1 USTC 9178 (CA7 1985), in which the Court, citing U.S. v. Moore, 627 F2d 830 (CA 1980) and U.S. v. Verkuilen, 690 F2d 648, 82-2 USTC 9618 (CA7 1982), upheld the conviction of a tax protester for willful failure to file returns]*.

An act or omission is "willfully" done if done voluntarily and intentionally and with specific intent to do something the law forbids, or with specific intent to fail to do something the law requires to be done;

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that is, with bad purpose to either disobey or disregard the law. A willful act may be described as one done intentionally, knowingly, and purposely, without justifiable excuse *(Black's Law Dictionary, 5th ed., p. 1434).*

In the case at bar, the Court finds that the prosecution's evidence is insufficient to prove that accused intentionally, knowingly and purposely failed and refused to pay her tax obligations.

Upon learning that there was a case filed by the BIR against her, accused immediately responded to the subpoena issued by the Office of the City Prosecutor of Manila, and offered to settle her tax obligations and tried to avail of the tax amnesty program of the BIR. She also asked her daughter, Analene, to represent her before the BIR. Thus, in her judicial affidavit, accused categorically declared:

> "xxx xxx
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> Q.9 What did you do with the subpoena?
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> A.9 I responded and went to OCP-Manila where I submitted my Counter-Affidavit, etc. with the Investigating Prosecutor. I also talked with the said actual and beneficial owners of Repletion and asked them to make representations with the BIR and set the records straight.
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> Q.10: What do you mean by this?

> A.10: I asked them to verify the assessment and if warranted, to pay what BIR is demanding so that this criminal charge against me will be dismissed.
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> Q.11: And what happened to this?
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> A.11: Steven Hoo and Analene de los Angeles have owned the BIR assessment against Repletion as well as its tax liabilities, and they offered to pay compromise settlement (Exhibits 10,11,12, 13) but this remains to be acted upon by the BIR Technical Working Group on Compromise Settlement (Exhibits 13 and 14) *(Exhibit "18")*.

This was corroborated by Analene in her judicial affidavit, to wit:

> "xxx xxx
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> Q.34: What else, if any have you done to help your mother in this case?
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> A.34: I have presented myself to the BIR as amenable to pay whatever tax liabilities of my mother in the instant charge. I have written BIR about this and even offered compromise settlement which was taken up by the BIR's National Evaluation Board (Technical Working Group, Collection Services) as shown in Exhibits 11, 13 and 14 but nothing came out of these negotiations *(Exhibit "22")*.

It is clear from the above testimony of accused that there were affirmative acts on the part of the accused to pay her tax obligations. In effect, these acts negate the deliberate or voluntary intention, on her part, not to pay her tax liabilities. Thus, the prosecution failed to prove the existence of the element of "willfulness".

The prosecution's contention that the charge against accused is "mala prohibita", being an offense punishable by special law, and hence, good faith and absence of criminal intent are not valid defenses, is without merit.

Whether or not in a given case the statute is to be construed as forbidding the doing of an act and criminalizing the same without regard to the intent of the perpetrator of the act, is to be determined by the court by considering the subject matter of the prohibition, as well as the language of the statute, thereby ascertaining the intention of the lawmaker. The index of whether or not a crime is *malum prohibitum* is not its form, that is, whether or not it is found in the Revised Penal Code or in a special penal statute, but the legislative intent that underlies its continuing existence as part of the law of the land *(People vs. Quijada, 259 SCRA 269)*.

Considering that under *Section 255 of the NIRC of 1997, as amended,* willful or deliberate intent to violate the law must be present in order to be liable under said Section, then the same cannot be considered as *malum prohibitum.* Accordingly, if willfulness is not shown, accused cannot be guilty of said crime.

Absent the third element, the Court finds that the prosecution has failed to establish the guilt of the accused with the requisite quantum of evidence.

Having fallen short of that quantum necessary to establish accused's guilt, the prosecution's case must fall. In all criminal cases, where there is reasonable doubt, accused must be acquitted even though their innocence may not have been established. The Constitution presumes a person innocent until proven guilty by proof beyond reasonable doubt. When guilt is not proven with moral certainty, it has been the policy of the Supreme Court of long standing that the presumption of innocence must be favored, and exoneration granted as a matter of right *(Aurea R. Monteverde vs. People of the Philippines, 387 SCRA 196).*

As regards the civil liability, *Section 11 of the Revised Rules of the Court of Tax Appeals* provides:

> "**SEC. 11**. *Inclusion of civil action in criminal action.* – In cases within the jurisdiction of the Court, the criminal action and the corresponding civil action for the recovery of

> civil liability for taxes and penalties shall be deemed jointly instituted in the same proceeding. The filing of the criminal action shall necessarily carry with it the filing of the civil action. No right to reserve the filing of such civil action separately from the criminal action shall be allowed or recognized."

Pursuant to the above provision, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA.

Corollary thereto is the rule that an accused acquitted of a criminal charge may, nevertheless, be held in the same case civilly liable, where the facts established by the evidence so warrants.

In this case, records show that accused was notified by the BIR of the assessment pertaining to her tax deficiencies. Initially, on September 20, 2000 a Letter of Authority (LOA) No. 00049238 was issued by Director Teodorica R. Arcega authorizing Revenue Officers Josephine Meron and Manuel S. Trias, Jr. to examine the books of accounts and other accounting records of Repletion International Trading, a copy of which was sent to and duly received by accused on September 27, 2000 *(Exhibits "A" and "A-1")*. On October 19, 2000, a "Second Request for

Presentation of Records" was sent to accused, reiterating the BIR's request to present accounting records *(Exhibit "B")*. On November 21, 2000, a Final Notice was sent to accused through registered mail under registry receipt no. 38350, requesting her to present her accounting records and documents, within five (5) days from notice *(Exhibits "C" and "C-1)"*. Accused complied with said request 90 days thereafter. Thereafter, Demand Letters, all dated April 4, 2003, under Demand No. 29-41-000360-99, together with Assessment Notice No. 29-41-000360-99 for EWT deficiency and Assessment Notice No. 29-14-000360-99 for VAT deficiency both for taxable year 1999, were sent to and received by accused on April 4, 2003. Pursuant to *Section 228 of the NIRC of 1997, as amended*, in relation to *Revenue Regulations Nos. 2-85 and 12-99*, if the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice, within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable.

In this case, considering that accused failed to protest the subject assessment, within thirty (30) days from April 4, 2003, the assessment had become final, executory and demandable on May 5, 2003.

Finally, while the Information alleges that accused's tax liabilities amounts to P3,614,971.24, the evidence for the prosecution, however, has clearly established that the tax liabilities of accused amounts to the aggregate sum of P3,632,971.26, inclusive of compromise in the amount of P20,000.00, as shown in the Assessment Notices and Demand Letters.

Since the aggregate amount of P3,632,971.26 includes the compromise penalty of P20,000.00 (P4,000.00 for Compromise on EWT, and P16,000.00 for Compromise on VAT), and considering that a compromise penalty is imposed in lieu of criminal prosecution and upon mutual consent of the parties, which is not so in the present case; the compromise penalty is hereby deleted.

Accused is, therefore, held liable to pay the assessed tax deficiencies for taxable year 1999, in the aggregate amount of P3,612,971.26, broken down as follows:

VAT deficiency	P3,579,056.15	Exhibit "S"
EWT deficiency	P33,915.11	Exhibit "R"
Total Amount:	**P3,612,971.26**	

WHEREFORE, on ground of reasonable doubt, accused **ESTELITA DELOS ANGELES** is hereby **ACQUITTED** of the crime charged.

As regards the civil liability, accused as the registered sole proprietress of Repletion International Trading is hereby **ORDERED** to pay the Commissioner of Internal Revenue the aggregate amount of THREE MILLION SIX HUNDRED TWELVE THOUSAND NINE HUNDRED SEVENTY ONE AND 26/100 PESOS **(P3,612,971.26),** representing VAT deficiency and EWT deficiency, inclusive of 25% surcharge, pursuant to *Section 248 (A) of the NIRC of 1997, as amended.*

In addition, accused is further **ORDERED** to pay the Commissioner of Internal Revenue 20% delinquency interest on the total amount of P3,612,971.26, counted from May 14, 2003, until fully paid, pursuant to *Section 249 (C) of the NIRC of 1997, as amended.*

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ATTESTATION

I attest 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's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ERNESTO D. ACOSTA
Presiding Justice