REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-1144**
	Members:
- versus -	**REYES-FAJARDO,** Chairperson, and **ANGELES,** *JJ.*
REYNALDO C. LATINA, LAYLANI L. DE VERA, *Accused.*	Promulgated: MAR 27 2026 1:40 p.m.

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RESOLUTION

By Resolution[1] dated December 26, 2025, it was found that accused were charged for willful failure to pay taxes of Asiamovers Corp. (AC), found in the Bureau of Internal Revenue (BIR)'s mailed Final Decision on Disputed Assessment (FDDA) dated May 6, 2019. Yet, the prosecution adduced no sufficient proof to exhibit actual receipt of such FDDA by AC or its duly authorized representative, offensive of AC's right to due process. This impelled Us to conclude that AC, much more, accused, may not be faulted from the non-payment of the taxes found therein; precisely, CTA Crim. Case No. O-1144 was disposed, as follows:

> **ACCORDINGLY,** accused's Demurrer to Evidence dated October 27, 2025 is **GRANTED**. CTA Crim. Case No. O-1144 is **DISMISSED**, for insufficiency of evidence.
>
> **SO ORDERED.**

In its Motion for Reconsideration on the Civil Aspect of the Resolution,[2] the prosecution advances the following postulations:

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1 Docket (Vol. II), pp. 600-614.
2 *Id.* at pp. 616-623.

I.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN RULING THAT THE PROSECUTION FAILED TO ADDUCE PROOF OF SERVICE OF THE FINAL DECISION ON DISPUTED ASSESSMENT.

II.

THE HONORABLE COURT ERRED IN RULING THAT ALL THE ELEMENTS OF THE OFFENSE WAS NOT ESTABLISHED BY THE PROSECUTION

Via Comment/Opposition (To the Motion for Reconsideration on the Civil Aspect of the Resolution),[3] accused retorts that the matters put forward by the prosecution were addressed in the Resolution dated December 26, 2025. For accused, no reversible error was committed in the dismissal of CTA Crim. Case No. O-1144, due to insufficiency of evidence to sustain the charge therein.

We deny the Motion.

First. Per pages 12-13 of the impugned Resolution, AC, much more accused is not liable to pay the taxes per FDDA dated May 6, 2019 because the receipt thereof was denied by AC, and no actual proof of receipt was provided by the prosecution, as enjoined by jurisprudence.

At any rate, *People v. Tiotangco*[4] clarified that "... a final decision on disputed assessment [FDDA] is not a condition precedent to the imposition of civil liability in the criminal action." Thus, even if there was no proof that the FDDA was validly issued and served upon AC or its duly authorized representative, AC may *still* be called to account for the 2014 assessed internal revenue taxes, *if* pertinent provisions of law regarding liability for payment of taxes were observed.

The BIR failed to observe the law.

Gaw, Jr. v. Commissioner of Internal Revenue[5] ruled that "... the taxpayer's obligation to pay the tax is an obligation that is created by

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3 *Id.* at pp. 624-628.
4 G.R. No. 2614192, November 13, 2023.
5 G.R. No. 222837, July 23, 2018.

law and does not arise from the offense of tax evasion, as such, the same is not deemed instituted in the criminal case." Indeed, taxes and the obligation to pay the same are all created by statute; so are its collection and payment governed by statute.[6] Towards this end, Section 6(A) of the 1997 National Internal Revenue Code, as amended, commands, *inter alia,* that the assessed internal revenue taxes be paid upon notice and demand from Commissioner of Internal Revenue (CIR), or his duly authorized representative. *Commissioner of Internal Revenue v. Pacific Hub Corporation*[7] elucidated that said notice and demand is the BIR's FLD/FAN duly issued to, and served upon the taxpayer:

> Jurisprudence instructs that the issuance of a warrant of distraint and/or levy must be premised first and foremost on the existence of delinquent taxes which, in turn, requires a final determination of the taxpayer's actual tax liability. **Indeed, this final assessment coupled with a formal demand to pay is what triggers an obligation on the part of the taxpayer concerned to pay the amount assessed and demanded, and also signals the reckoning point when penalties and interests begin to accrue.**

Before the BIR's FLD/FAN could validly create a legal obligation on the part of the taxpayer to pay the assessed taxes embodied therein, the valid issuance and service of the Preliminary Assessment Notice (PAN), along with the grant of opportunity to file a reply or response thereon, are indispensable.[8]

No valid PAN was issued and served to AC.

Revenue Officer Mu-Haimeen A. Lomondot (RO Lomondot) said that the PAN[9] addressed to AC was served upon the latter, through registered mail.[10] Registry Receipt No. RD 878 788 066 ZZ[11] was presented in support thereof. Meanwhile, AC, through accused, directly denied receipt of said PAN.[12]

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6 See *Proton Pilipinas Corporation v. Republic,* G.R. No. 165027, October 12, 2006.

7 G.R. No. 252944, November 27, 2024. Boldfacing ours.

8 See *Commissioner of Internal Revenue v. Yumex Philippines Corporation,* G.R. No. 222476, May 5, 2021, whereby the Supreme Court ruled that the service of the PAN, as well as the taxpayer's opportunity to file a reply/response thereto within fifteen (15) days from receipt thereof is mandatory.

9 Exhibit "P-21." Docket (Vol. I), pp. 82-84.

10 Answer to Question Nos.42 and 43, Exhibit "P-40." *Id.* at p. 341. See also Exhibit "P-22," *id.* at p. 85.

11 Exhibit "P-21-a." *Id.* at p. 83

12 Par. 4.1.26, accused's Demurrer to Evidence. Docket (Vol. II), p. 564.

Section 3(v), Rule 131 of the Rules of Court, as amended, recognizes the disputable presumption that "a letter duly directed and mailed was received in the regular course of the mail." However, *Commissioner of Internal Revenue v. GJM Philippines Manufacturing, Inc. (GJM)*[13] pointed out that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion, the direct denial of which shifts the burden to the sender to prove that the mailed letter was, in fact, received by the addressee.

AC denied receipt of the mailed PAN. Following *GJM*, proof of actual receipt of the PAN by AC or its duly authorized representative is indispensable. No such proof was adduced by the prosecution here. RO Lomondot professed:

> ATTY. KHO
>
> Q And then after the taxpayer submitted the documents in response to the subpoena duces tecum, you mentioned that you issued the Preliminary Assessment Notice, is that correct?
>
> [RO] LOMONDOT
>
> A Yes, sir.
>
> ATTY. KHO
>
> Q How did you serve the said Preliminary Assessment Notice, is this by mail also?
>
> [RO] LOMONDOT
>
> A Again, no one received the said document on the said address, it is a subdivision. (sic)
>
> ATTY. KHO
>
> Q So, no one received but you mentioned earlier but when you served the subpoena duces tecum, the taxpayer received it personally?
>
> [RO] LOMONDOT
>
> A Not personally, again, it is constructive[,] I left the copy on the Security Guard.

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13 G.R. No. 202695, February 29, 2016.

ATTY. KHO

Q Okay, so you mentioned that the Preliminary Assessment Notice was sent by mail, is that correct?

[RO] LOMONDOT

A The **preliminary notice**?

ATTY. KHO

Q By mailing by registered mail but **you have no proof or any return that the said document was received by the taxpayer**, yes or no?

[RO] LOMONDOT

A **No.**[14]

It means that AC was deprived of opportunity to contest the 2014 proposed deficiency internal revenue taxes at pre-assessment stage, offensive of its right to due process. This resulted in the nullity of the BIR's FLD/FAN; hence, produced no valid effect. Truly, "... a person committing a void act contrary to a mandatory provision of law cannot claim or acquire any right from [its] void act. A right cannot spring in favor of a person from [its] own void or illegal act."[15]

In fine, AC's obligation to pay the 2014 assessed internal revenue taxes under the law did not arise. Being so, AC, much more, accused, should be exonerated from civil liability *ex lege*.

Second. Granting *arguendo* that AC is answerable for the 2014 assessed deficiency internal revenue taxes per FLD/FAN, its corporate officers, such as accused, are under no obligation to shoulder said taxes.

People v. Gernale (Gernale)[16] is straightforward in that "... a corporate officer's liability with respect to the acts of a corporation is dependent on the nature of the latter's liability. **In cases of the civil liability to pay taxes, a corporate officer may not be held liable based on the principle of a corporation's separate juridical personality**. On

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14 Transcript of Stenographic Notes (Hearing held on January 15, 2025), pp. 51-52. Boldfacing ours.

15 *Commissioner of Internal Revenue v. Team Sual Corporation,* G.R. No. 194105, February 5, 2014.

16 G.R. No. 256868, October 4, 2023. Boldfacing ours.

the other hand, a corporate officer may suffer the criminal penalty imposed on the corporation, provided that they are part of the list enumerated in Section 253(d) of the Tax Code."

Prescinding from *Gernale,* AC, and its corporate officers like accused, are separate and distinct from one other. *A fortiori,* the tax liabilities of AC are *not* the tax liabilities of AC's officers, such as accused. *Ergo,* the prosecution's effort[17] to ascribe AC's supposed tax liabilities on its officers should be thwarted.

ACCORDINGLY, plaintiff's Motion for Reconsideration on the Civil Aspect of the Resolution is **DENIED,** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

[17] Prayer, Motion for Reconsideration on the Civil Aspect of the Resolution. *Supra* note 2.