REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NOS. O-454, O-455, O-456 and O-457**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **and** **MINDARO-GRULLA,** *JJ.*
ARNEL CORTEZ MANALOTO, Accused.	Promulgated: APR 16 2019 1:00 p.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

This resolves plaintiff's "Motion for Reconsideration (of the Decision Promulgated December 5, 2018)" filed on December 20, 2018. Accused filed his "Comment (on the Prosecution's Motion for Reconsideration)" on January 24, 2019.

The dispositive portion of the December 5, 2018 Decision states that:

> **WHEREFORE**, premises considered, CTA Crim. Case Nos. O-454, O-455, O-456, and O-457 are **DISMISSED** for failure of the prosecution to establish the guilt of the accused beyond reasonable doubt. Accused Arnel Cortez Manaloto is **ACQUITTED** of the crimes charged and without civil liability.
>
> **SO ORDERED**.

In its motion, plaintiff argues that it was able to prove the guilt of accused for the crime charged in the Informations. Plaintiff also argues that the deferred income of the accused should not be an issue in the instant criminal cases since it was already found and recognized by accused in his Financial Statements. Plaintiff states that since deferred revenue was recognized in the accused's financial statements, what actually transpired was that he has already received income from his clients in advance, and not the other way around. Plaintiff points out that the BIR need not have to go through the whole audit process if and when it is already apparent that violations were already committed. Plaintiff states that the computation of accused's deficiency taxes is approved by the Commissioner of Internal Revenue.

On the other hand, accused in his Comment (on the Prosecution's Motion for Reconsideration) prays that the motion should be denied. He argues that the criminal aspect of the consolidated cases cannot be reconsidered because it places the accused under double jeopardy. As to the civil aspect, accused states that the grounds raised are mere rehash of prosecution's previous arguments and that the prosecution has failed to raise new or substantive matters to justify the reconsideration sought.

After a careful review of the arguments raised by the parties, this Court finds no valid or cogent reason to deviate from our findings and conclusions reached in the December 5, 2018 Decision, thus, the motion is denied.

We reiterate that the burden of proof is on the prosecution to prove the guilt of the accused beyond reasonable doubt. In these consolidated cases, the prosecution failed to prove the elements of the crimes charged under Sections 254 and 255 of the National Internal Revenue Code of 1997, as amended. "When guilt is not proven with moral certainty, it has been our policy of long standing that the presumption of innocence must be favored, and exoneration granted as a matter of right."[1]

To recall, accused is charged of the crimes of: attempt to evade or defeat the payment of Value-Added Taxes (VAT) under Section 254 of the National Internal Revenue Code (NIRC) of 1997, as amended, by failure to pay VAT for taxable year 2011 (CTA Crim. Case No. O-454); attempt to evade or defeat tax under Section 254 of the NIRC,

[1] *Monteverde vs. People of the Philippines,* G.R. No. 139610, August 12, 2002.

as amended, by substantial under-declaration of income tax for taxable year 2011 (CTA Crim. Case No. O-455); failure to file VAT Return under Section 255 of the NIRC, as amended, for taxable year 2011 (CTA Crim. Case No. O-456); and failure to supply correct and accurate information in his Income Tax Return (ITR) under Section 255 of the NIRC, as amended, for taxable year 2011 (CTA Crim. Case No. O-457).

During the trial, the prosecution's witness admitted that based on accused's ITR and financial statement, the accused is not liable to pay VAT.[2] Moreover, the prosecution merely relied on the deferred revenue account stated in the accused's financial statement then conclude that there is an undeclared income. For lack of supporting documents, the prosecution has failed to convince this Court that there is undeclared income. It is noted that the BIR did not perform a formal investigation after the preliminary investigation.

Anent the civil liability which was deemed instituted with the criminal case, the acts or omissions from which the civil liability might arise do not exist. It is also noted that no assessment notices were presented in these cases. Only the BIR's computations of accused's alleged unreported income using Expenditure Method, deficiency income tax, and deficiency VAT found during the preliminary investigation were presented during trial.

WHEREFORE, premises considered, plaintiff's "Motion for Reconsideration (of the Decision Promulgated December 5, 2018)" is **DENIED** for lack of merit.

SO ORDERED.

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

I CONCUR:

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[2] TSN, February 6, 2017, p. 14.