REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

-versus-

GREAT DOMESTIC INSURANCE COMPANY OF THE PHILIPPINES, MAR S. LOPEZ, JEMMA L. LAMCES, and MARCELESA F. SARTO,
Respondents.

CTA EB CRIM NO. 094
(CTA CRIM CASE NOS. O-741 to O-744)

(NPS Docket No. XVI-15J-00387)
For: Violation of Section 255 in relation to Sections 253 (d) and 256 of Republic Act No. 8424 [National Internal Revenue Code of 1997, as amended (NIRC)]

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
MAR 06 2024 11:46am

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is petitioner's *Motion for Reconsideration* filed on August 2, 2023, with *Comment/Opposition (to the Motion for Reconsideration dated July 31, 2023)* filed by respondent Jemma L. Lamces (Lamces) on August 30, 2023 and *Comment (to the Motion for Reconsideration dated July 31, 2023)* filed by respondent Marcelesa F. Sarto (Sarto) on October 16, 2023.

Petitioner moves for the reconsideration of the decision, insisting that the Court "erred in ruling that the prosecution failed to prove the first element that the corporate taxpayer is liable to pay tax under the NIRC due to [the] question of identity of the accused corporation". Petitioner states that despite the failure of the four (4) Informations to indicate the word "Inc." after the name of accused corporation, all the pieces of evidence pertain only to *one* taxpayer corporation, "Great Domestic Insurance Company of the Philippines, Inc."[1]

Respondent Lamces, on the other hand, states that in Corporation Law, it is fundamental that a corporation is treated as an entity separate and distinct from the natural persons composing it. Without any proof that the corporation was used to commit fraudulent and illegal acts, the veil of corporate fiction should not be pierced. In sum, in order to disregard the separate juridical personality of the corporation, the wrongdoing on the part of the directors, officers or owners thereof must be established by clear and convincing evidence to prove the latter's liability as the same cannot be presumed.[2]

Finally, respondent Sarto states that the assailed decision correctly noted that the CTA Criminal Case Nos. 741 and 743 filed against her were *dismissed* in the court *a quo*'s Resolution dated February 20, 2020 for failure of the prosecution to establish her actual name/identity.[3] Likewise, CTA Crim. Case Nos. 742 and 744 filed against her were *dismissed* in the Resolution dated August 3, 2020 on the same ground.[4] Since the prosecution did not file any motion seeking reconsideration of the *dismissal*, the *dismissal* had become final under Rule 15, Section 1 of the Revised Rules of the Court of Tax Appeals.[5]

Petitioner's motion must be *denied.*

Petitioner raises an issue with respect to the *identity* of the accused corporation that is both *factual* and *evidentiary*. It maintains that the corporation that was issued the Letter of Authority (LOA), Preliminary Assessment Notice (PAN), Assessment Notices, Final Letter of Demand (FLD) and other requests and papers during the tax audit is the *same corporation* that was eventually charged in the four (4) Informations filed in the court *a quo*. The prosecution, however, failed to explain the discrepancy found in the name of the accused corporation and *to reconcile the same* by pointing to any proof that was presented during trial. This omission is glaring given that it was able to present evidence *before* the case was dismissed when the *Demurrer to Evidence* of respondent Lamces was granted.

While it is true that the proceedings before the Court are *not* governed strictly by the technical rules of evidence, *still* the paramount consideration for the Court remains the ascertainment of truth.[6]

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[1] *Rollo*, pp. 84-89.
[2] *Rollo*, pp. 94-95.
[3] Division Docket (O-741), Volume I, pp. 355-362.
[4] *Id.*, pp. 426-434.
[5] *Rollo*, p. 72.
[6] *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

Unsubstantiated allegation is not evidence and is not equivalent to proof.[7] In this case, the prosecution does *not* contest the finding of the Court with respect to the name of the accused corporation. And in the absence of proof to the contrary, the prosecution's bare allegation that there is in fact only one corporation *cannot* prevail over this *unexplained discrepancy* noted by the Court.

Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the assailed decision, petitioner must convince the Court that certain findings or conclusions in the decision lack basis. As it is, however, the instant motion does not raise any new or legitimate ground or reason to justify the reconsideration sought.

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[7] *ECE Realty and Development, Inc. v. Mandap*, G.R. No. 196182, September 01, 2014.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice