

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No. O-286

- versus -

Members:

Castañeda, Jr., *Chairperson*
Casanova, and
Cotangco-Manalastas, *JJ.*

**ANGELITO T. PEREZ,
FRANCISCO B. ANIAG, JR.,
LOURDES DE LEON,
SUFRONIO DE LUNA,
ROWENA VIRAY,
JERRY L. ACCAD, and
JUVY ESTRADA,**

Promulgated:

JUL 14 2016

Accused.

X- - - - -
RESOLUTION *3:20 p.m.* X

For resolution are the following:

1. Prosecution's Motion for Reconsideration (Re: Civil Aspect of the Case)¹ filed on May 20, 2016, with accused Lourdes De Leon's and Angelito T. Perez's separate Comment/Opposition² filed on May 24, 2016 and June 6, 2016, respectively; and
2. Accused Francisco B. Aniag, Jr.'s Motion to Release Cash Travel Bond and to Lift Hold Departure Order filed on June 8, 2016, with prosecution's Comment/Opposition filed on June 24, 2016.

The foregoing motions arose from the Court's May 5, 2016 Resolution which granted the Demurrers to Evidence resulting to the acquittal of accused Angelito T. Perez, Lourdes De Leon, and Francisco B. Aniag, Jr.³

¹ Docket, pp. 3130-3136.

² Docket, pp. 3139-3142 and pp. 3144-3153.

³ Docket, pp. 3119-3125.

*Prosecution's Motion for
reconsideration of the
civil aspect of the case*

In its motion, the prosecution prays that the Court reconsider its resolution and to render a new one denying the demurrers to evidence filed by the accused. Prosecution argues that the Court erred in not considering the other evidence presented by prosecution and that the Court put too much emphasis on the importance of the originals of the Warehousing Entries. Prosecution argues that the fact of importation, consignee/importer, and amount of unpaid taxes can be gleaned from the other corroborative evidence presented by prosecution.

Accused Lourdes De Leon opposes prosecution's motion for reconsideration on the following grounds: that the motion in effect prays for reconsideration of the acquittal of the accused, which if granted by the Court will result to double jeopardy of the accused; and, that prosecution's motion is without merit considering that the acquittal of the accused is due to the failure of the prosecution to present any evidence that would substantiate the accusations against the accused.

Accused Angelito T. Perez opposes prosecution's motion for reconsideration on the ground that prosecution failed to establish the fact of the importations and who the actors in the same were, as well as the coinciding duties and taxes arising from said transactions. Perez argues that prosecution failed to meet its burden of proof and establish its case and therefore there is also no evidence to show that accused is civilly liable.

The Court finds prosecution's Motion for Reconsideration (Re: Civil Aspect of the Case) unmeritorious.

The Court finds no reason to reconsider the indispensability of the original warehousing entries or competent secondary evidence thereto. Thus, as found in our Resolution, dated May 5, 2016, prosecution failed to establish the elements of the crime charged. The remaining admitted evidence of the prosecution was found to be insufficient to warrant the conviction of the accused and thus, the nature

and extent of participation, if any, of the accused in the crime charged was no longer discussed.⁴

Therefore, the Court finds no merit in prosecution's motion for reconsideration of the civil aspect of the case.

*Motion to Release Cash
Travel Bond and to Lift
Hold Departure Order*

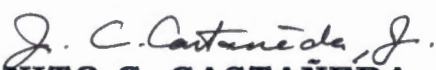
In the Court's Resolution dated April 12, 2016, accused Francisco B. Aniag, Jr. was granted permission to travel subject to the condition that accused post a cash travel bond. Further, the accused shall inform the Court of his return within 48 hours from his arrival.

Considering accused's written motion with appended photocopy of his passport pages and presented to the Clerk of Court, as well as accused's acquittal pursuant to this Court's Resolution dated May 5, 2016, accused Francisco B. Aniag, Jr.'s motion is granted.

WHEREFORE, plaintiff's Motion for Reconsideration (Re: Civil Aspect of the Case) is **DENIED** for lack of merit.

Accused Francisco B. Aniag, Jr.'s Motion to Release Cash Travel Bond and To Lift Hold Departure Order is **GRANTED**. The Cash Travel Bond in the amount of P240,000.00 under Official Receipt No. 4113944 is hereby **CANCELLED**. The Hold Departure Order issued against accused Aniag in this case is **SET ASIDE** and **LIFTED**.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice

(on wellness leave)
CAESAR A. CASANOVA
Associate Justice


AMELIA R. COTANGCO-MANALASTAS
Associate Justice

⁴ Docket, p. 3125.