REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. 0-654** **(NPS Docket No. XV-07-INV-17G-04267)** For: Violation of Section 255, in relation to Sections 253 (d) & 256, of the NIRC of 1997, as amended by R.A. 8424
-versus-	
MARINA C. BABASA & PEDRO C. CARANDANG, *Accused.*	Members: **CASTAÑEDA, JR.**, *Chairperson* **CASANOVA**, *and* **MANAHAN**, *JJ.* Promulgated: FEB 19 2018 3:20 p.m.

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RESOLUTION

Before this Court is plaintiff's **Motion for Reconsideration (Re: Resolution promulgated December 01, 2017)** filed on February 6, 2018 praying for the reconsideration of this Court's Resolution which dismissed the case for lack of evidence on record to establish probable cause as provided in Section 6 (a) of Rule 112 of the Rules of Court and Rule 9 of the Revised Rules of the Court of Tax Appeals. We quote the pertinent portions of the Court's Resolution as follows:

> "Upon a careful consideration of the supporting documents attached to the records of the case, the Court finds that there is no probable cause to issue a warrant of arrest for the following reasons:
>
> (a) There was no evidence to support that MARINA C. BABASA and PEDRO C. CARANDANG, are the designated President and Treasurer, respectively of Portland Chemicals Corporation at the time the alleged crime was committed. The names Marina C. Babasa and Pero C. Carandang were mentioned in the Information in their capacity as said officers of the Corporation yet no evidence was submitted to prove that these

persons are or were still officers when the alleged crime was committed in 2014.

It is quite possible that the two aforementioned persons were not officers of the Portland Chemicals Corporation in 2014 when the crime was allegedly committed.

(b) The documents attached to the Joint Affidavit-Complaint prepared and signed by the revenue officers are not certified true copies but are mere photocopies particularly the Assessment Notices and the Preliminary Assessment Notice. Further, records show that the copies of the Assessment Notices attached to the Joint-Affidavit are not clear copies that one could no longer read the details and figures contained therein.

In view of the foregoing, this case is hereby **DISMISSED** for failure of the evidence on record to establish probable cause as provided in Section 6 (a) of Rule 112 of the Rules of Court and Rule 9 of the Revised Rules of the Court of Tax Appeals."

SO ORDERED."

Plaintiff now requests that the following documents, be admitted by the Court in support of the Information filed against the accused:

1. Certified True Copies of the Assessment Notices dated January 24, 2014 for Income Tax and VAT deficiencies;

2. Certified True Copy of the Formal Letter of Demand against the President of Portland Chemicals Corporation dated January 24, 2014;

3. Certified True Copy of the Letter of Authority (LOA) addressed to Portland Chemicals Corporation dated August 31, 2011 ;

4. Certified True Copy of the Memorandum of Assignment dated July 22, 2013 signed by Head of the Investigating Office of Revenue District Office (RDO) 34;

5. Certified True Copy of the List of Audit Requirements Per Tax Type addressed to Portland Chemicals Corporation;

6. Certified True Copy of the First Request for Presentation of Records signed by the Revenue District Officer; *am*

7. Certified True Copy of the Second Request for Presentation of Records dated September 9, 2011;

8. Certified True Copy of the Final Notice addressed to Portland Chemicals Corporation dated September 29, 2011;

9. Certified True Copy of the Notice for Informal Conference dated July 29, 2013;

10. Certified True Copy of the Memorandum signed by Revenue Officer Reinhard Dale A. Anaban dated August 22, 2013;

11. Certified True Copy of the Assignment Slip;

12. Certified True Copy of the Preliminary Assessment Notice (PAN) addressed to the President of Portland Chemical Corporation;

13. Certified True Copy of the Preliminary Collection Letter signed by the Chief, Collection Division of the BIR dated June 9, 2014;

14. Certified True Copy of the Final Notice Before Seizure signed by the Chief, Collection Division of the BIR;

15. Certified True Copies of Warrants of Garnishments against several banks;

16. Certified True Copy of the Memorandum addressed to Head of the Arrears Management Team signed by Revenue Officer, Jefferson T. Ocampo;

17. Photocopy of the General Information Sheet (GIS) of Portland Chemicals Corporation showing the positions/designation of Marina C. Babasa and Pedro C. Carandang as President and Treasurer, respectively, of said company for the year 2011;

18. Certified True Copy of the Annual Income Tax Return (ITR) of Portland Chemicals Corporation for taxable year 2010. cm

RULING OF THIS COURT

After a careful scrutiny of the aforementioned documents, we take note of the fact that the GIS[1] submitted by the plaintiff and the information and officers indicated therein pertain to the year 2011 and not to the year 2014 when the crime was allegedly committed.

In the Court's Resolution dated December 1, 2017, one of the reasons for the dismissal of the case is the failure of the prosecution to prove that the accused, Marina C. Babasa and Pedro C. Carandang, were officers of the Portland Chemical Corporation when the alleged crime was committed. Further, the copy of the GIS submitted by the plaintiff is not a Certified True Copy of the original document and cannot be considered as such. Although there is a rubber -stamped notation that the same is a certified true copy, said notation is also a mere photocopy.

In view of the foregoing discussion, it is evident that the prosecution still fails to establish a prima facie case against the accused to permit the issuance of a warrant of arrest.

The Court finds no cogent reason to reverse and set aside the Resolution dated December 1, 2017.

WHEREFORE, the Motion for Reconsideration filed by the prosecution is hereby **DENIED** for lack of merit.

SO ORDERED.

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

CAESAR A. CASANOVA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

[1] Annex "EE" attached to the Motion for Reconsideration, Court Docket.