REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

CTA EB CRIM. NO. 080
(CTA Crim. Case Nos. O-599, O-601, O-603 and O-604)

Present:

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

- versus -

REBECCA S. TIOTANGCO,
Respondent.

Promulgated:
OCT 19 2022 3:35 p.m.

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner People of the Philippines' (**petitioner**'s) "Motion for Reconsideration (of the Decision dated February 3, 2022)"[1] (**MR**) filed on 04 March 2022[2], with respondent Rebecca S. Tiotangco's (**respondent**'s) "Comment to the Motion for Reconsideration (of the Decision dated February 3, 2022)"[3] (**Comment**) filed on 25 April 2022.[4]

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1 *Rollo*, pp. 123-134.
2 Received by the Court on 15 March 2022.
3 *Rollo*, pp. 146-147.
4 Received by the Court on 05 May 2022.

The said MR assails the Court *En Banc*'s Decision dated 03 February 2022 (**assailed Decision**). The dispositive portion of which reads:

> ...
>
> **WHEREFORE**, with the foregoing, the instant Petition for Review filed by petitioner People of the Philippines on 14 July 2020 is hereby **DENIED** for lack of merit. Accordingly, the First Division's Decision and Resolution dated 13 November 2019 and 15 June 2020, respectively, in CTA Crim. Case Nos. O-599, O-601, O-603 and O-604, all entitled *People of the Philippines v. Rebecca S. Tiotangco, Entrepreneur of Anilos Trading and Construction,* are hereby **AFFIRMED.**
>
> **SO ORDERED.**
>
> ...

In the said MR, petitioner contends that the seeming difference in the computation as reflected in the Joint Complaint-Affidavit dated 11 September 2014[5] (**Joint Complaint-Affidavit**) and that which is reflected in the Formal Letter of Demand[6] (**FLD**) are mere typographical errors.

According to petitioner, the noted difference in the 2008 undeclared sales of ₱869,621.64 merely represents the payment made to Anilos Trading and Construction (**Anilos**) for its sales for the first (1^{st}) quarter of 2008 as reflected in its Quarterly Value-Added Tax (**VAT**) Return. Thus, the said amount should be disregarded in the computation of the undeclared income. However, in the computation reflected in the Joint Complaint-Affidavit, such amount was deducted inadvertently from the total amount of undeclared sales for the second (2^{nd}), third (3^{rd}) and fourth (4^{th}) quarters of 2008.

On the other hand, the noted difference in 2010 undeclared sales in the amount of ₱2,837,418.55 represents the difference between the computation *per* tax audit of ₱1,229,435.90 and the sales for the 3^{rd} quarter of 2010, amounting to ₱4,066,854.45 (as reflected in Anilos' Quarterly VAT Return hence there should be no undeclared sales for the said quarter). However, in the computation reflected in the Joint Complaint-Affidavit, the difference between sales *per* audit and sales

5 Exhibit "P-1", Division Docket, Volume II, pp. 508-518.
6 Note that petitioner denominated the same in its pleadings as Final Assessment Notice (FAN).

per return amounting to ₱2,837,418.55 was likewise inadvertently deducted from the total amount of undeclared sales in the 1st, 2nd and 4th quarters of 2010.

For petitioner, the definiteness of the civil liability of respondent should not be affected by the erroneous computation reflected in the Joint Complaint-Affidavit considering that the same has already been corrected in the FLD.

Petitioner also faults the Court *En Banc* in holding that it failed to make an offer of proof or a tender of excluded evidence. Petitioner maintains that it manifested its intention to recall witness Jose Maria Reyes (**Reyes**) for the purpose of identifying the Preliminary Assessment Notice (**PAN**) and Final Assessment Notice (**FAN**) but the First Division denied its motion to recall as well as its MR on the said denial.

Petitioner insists that while procedural rules are not to be disregarded, it is equally true that the courts are not enslaved by technicalities. Petitioner thus invokes the rule that the State cannot be estopped by the mistakes or errors of its officials or agents.

On the other hand, respondent maintains that the issues raised in the MR are mere rehash of the issues raised in the Petition for Review which were already exhaustively passed upon, duly considered and resolved in the assailed Decision.

We resolve.

After due consideration of the arguments raised by the parties, the Court *En Banc* is constrained to deny petitioner's MR.

The crux of petitioner's MR is that the differences in the computation in the Joint Complaint-Affidavit and the FLD resulted from mere inadvertence.

However, as ruled in the assailed Decision, the lack of precise computation from petitioner ties the hands of the Court *En Banc* and prevents it from decreeing the resulting civil liabilities.

Simply stated, the Court *En Banc*'s decree of civil liability cannot be made to rest upon an imprecise computation of tax due, which is still to be adjusted by reason of the BIR's inadvertence in calculating the same. Notably, this supposed inadvertence in the computation was not brought to the First Division's attention at the earliest opportunity.

We thus echo our findings in the assailed Decision[7], *viz*:

> ...
>
> Such differences in the amounts of the supposed undeclared sales only bolster petitioner's admission in the Joint Complaint-Affidavit that the computations appearing thereon are *mere estimates*; hence, uncertain. As the alleged civil liabilities of respondent cannot be determined with accuracy, the Court *En Banc* could not proceed to impose any civil liability.
>
> While it is true that the First Division had found respondent guilty beyond reasonable doubt in the prior consolidated criminal cases against her (and that she had foregone appeal on her criminal conviction when she applied for probation) where the quantum of proof required to prove the same is higher than that for the civil aspect, that is, a mere preponderance of evidence; still, the absence of a precise computation ties the hands of the Court *En Banc* and prevents it from decreeing the resulting civil liabilities.
>
> ...

In sum, the Court *En Banc* finds no cogent reason to depart from its conclusions in the assailed Decision.

WHEREFORE, petitioner People of the Philippines' Motion for Reconsideration filed on 04 March 2022 is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[7] *Rollo*, p. 116; Citation omitted and italics in the original text.

x - x

WE CONCUR:

I reiterate my Separate Opinion

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

I join PJ's SO

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice