REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

FELONILA Z. CALUAG,
438 Saluysoy, Meycauayan, Bulacan, or 320 Violeta Street, Baranggay Saluysoy, Meycauayan, Bulacan,
Accused.

CTA Crim. Case Nos. O-345, O-346, O-347, and O-348

For: Violation of Section 255, paragraph 1, of the Tax Reform Act of 1997, as amended

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:

FEB 11 2019 1:33 pm

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AMENDED DECISION

UY, *J.*:

For resolution is accused's **"MOTION FOR RECONSIDERATION"** filed on September 20, 2018,[1] with plaintiff's **"COMMENT and OPPOSITION (To the Accused's Motion for Reconsideration dated September 20, 2018)"** filed on November 5, 2018.[2] In the said *Motion*, accused prays for the reconsideration of the judgment with regard to her civil liability, in the Court's Decision dated September 5, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing, accused Felonila Z. Caluag is hereby **ACQUITTED in CTA Crim. Case Nos. 0-345, 0-346, 0-347 And 0-348** for failure of the prosecution to prove her guilt beyond reasonable doubt.

[1] Docket (Vol. III), pp. 2118 to 2138.
[2] Docket (Vol. III), pp. 2141 to 2146.

Accused Felonila Z. Caluag, however, is **ORDERED TO PAY** the total amount of Four Hundred Eleven Million Seven Hundred Two Thousand Five Hundred Pesos and Sixty Three Centavos (₱411,702,500.63) for taxable years 2006 to 2009, inclusive of the 25% penalty imposed under Section 248 (A) (1) of the NIRC of 1997, as amended, computed as follows:

Taxable Year	BASIC INCOME TAX DUE	50% Penalty	TOTAL	Date Prescribed for Payment
2006	₱91,684,586.91	₱22,921,146.73	₱114,605,733.64	April 15, 2007
2007	67,258,926.27	16,814,731.57	84,073,657.84	April 15, 2008
2008	110,842,120.31	27,710,530.08	138,552,650.39	April 15, 2009
2009	59,576,367.01	14,894,091.75	74,470,458.76	April 15, 2010
TOTAL	₱329,362,000.50	₱82,340,500.13	₱411,702,500.63	

In addition, accused Felonila Z. Caluag is **ORDERED TO PAY** the following deficiency and delinquency interest, computed in accordance with the provisions of Section 249 of the NIRC of 1997, in its original text and as amended by RA No. 10963 (TRAIN law), *viz.*:

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax from the date prescribed for payment (as above identified) until **December 31, 2017;**

(b) Delinquency interest at the rate of 20% per annum on the total amount of Four Hundred Eleven Million Seven Hundred Two Thousand Five Hundred Pesos and Sixty Three Centavos (₱411,702,500.63), and on the 20% deficiency interest which have accrued as stated in (a) hereof, computed from the date prescribed for payment (as above identified) until **December 31, 2017;** and

(c) Delinquency interest at the rate of 12% on the total unpaid amount [basic taxes, surcharges, and interests computed on (a) and (b) above] from **January 1, 2018**, until the same is fully paid.

SO ORDERED."

In her *Motion*, accused argues that the prosecution was not able to prove any income, despite her own vague and equivocal admissions. In addition, the BSP Certification relied upon was not validly authenticated and should not have been considered as evidence.

In its *Comment and Opposition*, plaintiff counters that it is very unusual and absurd that accused argues that there were no transactions between her and the BSP. Aside from the documentary and testimonial evidence of the prosecution, accused herself admitted that she had several transactions with the BSP for taxable years 2006 to 2009, both in her testimony in open court and in her judicial affidavit.

THE COURT'S RULING

Accused's *Motion for Reconsideration* lacks merit.

After a careful examination and consideration of the accused's *Motion for Reconsideration*, it is noted that the arguments raised therein are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein. However, this Court resolves to modify the imposition of deficiency and delinquency interests in accordance with the recently promulgated Revenue Regulation (RR) No. 21-2018, implementing Section 249 of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 10963.

WHEREFORE, premises considered, the instant *Motion for Reconsideration* is hereby **DENIED** for lack of merit. Nevertheless, in view of the recently promulgated RR No. 21-2018, implementing Section 249 of the NIRC of 1997, as amended by RA No. 10963, the dispositive portion of this Court's Decision dated September 5, 2018 is hereby **MODIFIED** to read as follows:

> "**WHEREFORE**, in light of the foregoing, accused Felonila Z. Caluag is hereby **ACQUITTED in CTA Crim. Case Nos. 0-345, 0-346, 0-347 And 0-348** for failure of the prosecution to prove her guilt beyond reasonable doubt.
>
> Accordingly, Accused Felonila Z. Caluag, is hereby **ORDERED TO PAY** the total amount of **One Billion Five Hundred Seventeen Million Four Hundred Twenty-Seven Thousand Seven Hundred Eighty-Five Pesos and Fifty-Three Centavos (₱1,517,427,785.53)**, for

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taxable years 2006 to 2009, inclusive of the 25% surcharge, and 20% deficiency interest and delinquency interest, respectively imposed under Sections 248(A), and 249(B) and (C), of the NIRC of 1997, as amended RA No. 10963, computed until December 31, 2017, as follows:

	Taxable Year				Total
	2006	2007	2008	2009	
Basic Tax Due	₱91,684,586.91	₱67,258,926.27	₱110,842,120.31	₱59,576,367.01	₱329,362,000.50
25% Surcharge	22,921,146.73	16,814,731.57	27,710,530.08	14,894,091.75	82,340,500.13
Sub-Total	114,605,733.64	84,073,657.84	138,552,650.39	74,470,458.76	411,702,500.63
Add: 20% Deficiency Interest					
April 16, 2007 to January 9, 2015 (91,684,586.91 x 20% x 2826/365)	141,972,954.85				141,972,954.85
April 16, 2008 to January 9, 2015 (67,258,926.27 x 20% x2460/365)		90,661,347.19			90,661,347.19
April 16, 2009 to January 9, 2015 (110,842,120.31 x 20% x 2095/365)			127,240,680.58		127,240,680.58
April 16, 2010 to January 9, 2015 (59,576,367.01 x 20% x 1730/365)				56,475,131.47	56,475,131.47
Total Amount Due, January 9, 2015	**₱256,578,688.49**	**₱174,735,005.03**	**₱265,793,330.96**	**₱130,945,590.23**	**₱828,052,614.71**
Add: 20% Deficiency Interest – From January 10, 2015 to December 31, 2017 (1,087 Days)					
(91,684,586.91 x 20% x 1087/365)	54,608,847.11				54,608,847.11
(67,258,926.27 x 20% x 1087/365)		40,060,522.11			40,060,522.11
(110,842,120.31 x 20% x 1087/365)			66,019,388.92		66,019,388.92
(59,576,367.01 x 20% x 1087/365)				35,484,663.53	35,484,663.53
Add: 20% Delinquency Interest – From January 10, 2015 to December 31, 2017 (1,087 Days)					
(256,578,688.49 x 20% x 1087/365)	152,822,484.60				152,822,484.60
(174,735,005.03 x 20% x 1087/365)		104,075,041.35			104,075,041.35
(265,793,330.96 x 20% x 1087/365)			158,310,877.13		158,310,877.13
(130,945,590.23 x 20% x 1087/365)				77,993,346.07	77,993,346.07
Total Amount Due, December 31, 2017	**₱464,010,020.20**	**₱318,870,568.49**	**₱490,123,597.01**	**₱244,423,599.83**	**₱1,517,427,785.53**

In addition, accused Felonila Z. Caluag is **ORDERED TO PAY** the delinquency interest at the rate of twelve percent (12%), on the total unpaid amount as of January 9, 2015 in the amount of **₱828,052,614.71**, as determined above, computed from January 1, 2018 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963, and as implemented by RR No. 21-2018.

SO ORDERED."

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

(With Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA Crim. Case Nos. O-345, O-346, O-347, and O-348**
	For: Violation of Section 255, paragraph 1, of the Tax Reform Act of 1997, as amended
-versus-	
	Members:
FELONILA Z. CALUAG, 438 Saluysoy, Meycauayan, Bulacan, or 320 Violeta Street, Baranggay Saluysoy, Meycauayan, Bulacan, Accused.	**DEL ROSARIO,** *P.J., Chairperson,* **UY,** and **MINDARO-GRULLA,** *JJ.*
	Promulgated: FEB 11 2019 1:33 pm

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CONCURRING AND DISSENTING OPINION

DEL ROSARIO, P.J.:

I reiterate my Concurring and Dissenting Opinion on the Decision dated September 5, 2018, albeit with **MODIFICATION** as to the computation of deficiency and delinquency interests which should be computed pursuant to Revenue Regulations (RR) No. 21-2018 dated September 14, 2018.[1]

Thus, I **VOTE** to:

1. **DENY** the Motion for Reconsideration filed by accused for lack of merit; and,

2. **ORDER** accused Felonila Z. Caluag **TO PAY** the total amount of **One Billion Seven Hundred Eighteen Million**

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[1] Implementing Section 249 (Interest) of the National Internal Revenue Code of 1997, as amended by Section 75 of Republic Act No. 10963.

CERTIFIED TRUE COPY

ATTY. MARGARETTE Y. GUZMAN
Executive Clerk of Court III
Court of Tax Appeals

Six Hundred Twenty-Eight Thousand Two Hundred Sixteen Pesos and Eighteen Centavos (₱1,718,628,216.18), for taxable years 2006 to 2009, inclusive of the **50% surcharge**, and 20% deficiency interest and delinquency interest, respectively imposed under Sections 248(B), and 249(B) and (C), of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 10963, computed until December 31, 2017, as follows:

		Taxable Year				
		2006	2007	2008	2009	Total
Basic Deficiency Tax	₱	91,684,586.91	67,258,926.27	110,842,120.31	59,576,367.01	329,362,000.50
Add: 50% Surcharge		45,842,293.46	33,629,463.14	55,421,060.16	29,788,183.51	164,681,000.25
Deficiency Interest from 4/16/2007 to 01/09/2015 (₱91,684,586.91 x 20% x 2,826/365 days)		141,972,954.85				141,972,954.85
Deficiency Interest from 4/16/2008 to 01/09/2015 (₱67,258,926.27 x 20% x 2,460/365 days)			90,661,347.19			90,661,347.19
Deficiency Interest from 4/16/2009 to 01/09/2015 (₱110,842,120.31 x 20% x 2,095/365 days)				127,240,680.58		127,240,680.58
Deficiency Interest from 4/16/2010 to 01/09/2015 (₱59,576,367.01 x 20% x 1,730/365 days)					56,475,131.47	56,475,131.47
Total Amount Due, January 9, 2015	₱	279,499,835.22	191,549,736.60	293,503,861.04	145,839,681.98	910,393,114.84
Deficiency Interest						
From 1/10/2015 to 12/31/2017						
(₱91,684,586.91 x 20% for 1,087/365 days)	₱	54,608,847.11				54,608,847.11
(₱67,258,926.27 x 20% for 1,087/365 days)			40,060,522.11			40,060,522.11
(₱110,842,120.31 x 20% for 1,087/365 days)				66,019,388.92		66,019,388.92
(₱59,576,367.01 x 20% for 1,087/365 days)					35,484,663.53	35,484,663.53
Delinquency Interest						
From 1/10/2015 to 12/31/2017						
(₱279,499,835.22 x 20% x 1,087/365 days)	₱	223,753,018.77				223,753,018.77
(₱191,549,736.60 x 20% x 1,087/365 days)			153,344,748.04			153,344,748.04
(₱293,503,861.04 x 20% x 1,087/365 days)				234,963,912.87		234,963,912.87
(₱145,839,681.98 x 20% x 1,087/365 days)					86,864,511.95	86,864,511.95
Total Amount Due, December 31, 2017	₱	557,861,701.10	384,955,006.75	594,487,162.82	268,188,857.46	1,718,628,216.18

3. **ORDER** accused Felonila Z. Caluag **TO PAY** the delinquency interest at the rate of twelve percent (12%) on the total unpaid amount as of January 9, 2015 in the amount of **₱910,393,114.84** as determined above, computed from January 1, 2018 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963, and as implemented by RR No. 21-2018.

ROMAN G. DEL ROSARIO
Presiding Justice

CERTIFIED TRUE COPY

ATTY. MARGARETTE Y. GUZMAN
Executive Clerk of Court III
Court of Tax Appeals