REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

GENOVEVA S. SUAREZ
Petitioner,

CTA EB CRIM. NO. 066
(CTA Crim. Case No. A-4)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

- *versus* –

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

SEP 01 2020 2:45pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution of the Court *En Banc* is petitioner's *Motion for Reconsideration*[1] filed on December 6, 2019. Petitioners' *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on November 19, 2019,[2] (the "Assailed Decision") denying her Petition for Review for lack of merit.

Petitioner moves for reconsideration of the Assailed Decision based on the ground that the evidence on record are insufficient to convict the accused of the crime charged.[3]

[1] Court *En Banc*'s Docket, pp. 97-122.
[2] *Id.*, pp. 74-88.
[3] *Id.*, p. 97.

In a Resolution dated January 6, 2020, the Court *En Banc* required respondent to file its Comment or Opposition to petitioner's *Motion*. Respondent, however, failed to file its required Comment or Opposition as per the Records Verification Report dated July 17, 2020 issued by this Court's Judicial Records Division.

In her *Motion*, petitioner claims that the prosecution failed to prove her participation in the purported criminal acts of the corporation.[4] Petitioner asserts that her conviction must rest, not on the weakness of the defense, but on the strength of the prosecution.[5] The burden is on the prosecution to prove her guilt beyond reasonable doubt.[6] She maintains that her desire to settle the liability of the corporation is not an admission of guilt that makes her criminally liable for the crime charged.[7]

The Court *En Banc* resolves to deny the *Motion for Reconsideration* for lack of merit.

As discussed in the Assailed Decision, the following elements must be established by the prosecution to secure the conviction of accused in the present criminal case, to wit:

1. That a **corporate taxpayer is required under the National Internal Revenue Code of 1997, as amended (1997 NIRC), to pay any tax,** make a return, keep any record, or supply correct and accurate information; and

2. That the **corporate taxpayer failed to pay the required tax**, make a return or keep the required record, or supply the correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations; and

3. That **accused, as the employee responsible for the violation, willfully failed to pay such tax,** make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations. *(Emphasis supplied)*

After a careful study of the grounds raised by the petitioner in her *Motion* and a more judicious review of the case records, the Court *En Banc*

[4] *Id.*, p. 121.
[5] *Id.*, p. 113.
[6] *Id.*
[7] *Id.*, p. 121.

finds no compelling reason to deviate from its ruling in the Assailed Decision. The prosecution was able to establish all of the foregoing elements and, as such, proved the guilt of the accused beyond reasonable doubt.

To reiterate, the prosecution need not prove petitioner's involvement with 21st Century Entertainment, Inc. (the "Corporation") because she herself judicially admitted the same. Petitioner's position as the Corporation's EVP is covered by Sections 253(d) and 256 of the 1997 NIRC given that these provisions penalize not only the partner, president, general manager, branch manager and treasurer but also the officers-in-charge and employees responsible for the violation. Petitioner's judicial admission that she was the EVP of the Corporation[8] at the time of assessment coupled with the proof that petitioner sent a letter dated August 24, 2006 addressed to Mr. Petronilo Fernando, Revenue District Officer of BIR RDO No. 31[9] wherein petitioner acknowledged that the Corporation's tax assessment case has become "delinquent account" and also requested for considerable time to put its accounting records in order to be able to settle the Corporation's tax liabilities by way of compromise, firmly established the fact that petitioner is a responsible officer of the Corporation and thus, must be held liable for the criminal infraction committed by the latter.

WHEREFORE, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

(I reiterate my Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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[8] Pre-Trial Order dated February 7, 2014, RTC Docket, p. 265.
[9] Exhibit "CCC", RTC Docket, p. 416.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice