REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

**SECOND DIVISION**

**BUREAU OF INTERNAL REVENUE,**
*Petitioner,*

- *versus* -

**REGIONAL TRIAL COURT – BRANCH 16 DAVAO CITY, DIAMONDZ MOTORS CORPORATION / PRESIDENT MARIA CHULA SISON**
*Respondents.*

**CTA SCA Case No. 0026**

Members:

**RINGPIS-LIBAN,** *Chairperson,*
**MODESTO-SAN PEDRO,** and
**FERRER-FLORES,** ***JJ.***

Promulgated:

APR 0 3 2025

1:15 p.m.

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# DECISION

**RINGPIS-LIBAN, *J.*:**

Before the Court is a Petition for *Certiorari*[1] filed by the Bureau of Internal Revenue (BIR) via registered mail on October 28, 2024 under Rule 65 of the Revised Rules of Court. The Petition seeks to annul and set aside the public respondent's Resolution dated July 5, 2024[2] issued in Criminal Case Nos. R-DVO-21-01456-CR and R-DVO-21-01457-CR which granted the Demurrer to Evidence as well as the Order dated August 19, 2024[3] denying petitioner's motion for reconsideration, both for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

The respective dispositive portions of the Assailed Resolution and Order are quoted hereunder:

[1] Court's Docket, pp. 5-26.
[2] *Id.*, pp. 29-33.
[3] *Id.*, p. 34.

__Resolution dated July 5, 2024__:

> "**WHEREFORE**, premises considered, the *"Demurrer to Evidence"* filed by accused **MARIA CHULA SISON** is hereby **GRANTED** and the above-entitled cases are hereby **DISMISSED** for insufficiency of evidence. *(First par. of Sec. 23, Rule 119 of the Revised Rules of Court).*
>
> **SO ORDERED**."

__Order dated August 19, 2024__:

> "As such, the instant motion is hereby **DENIED.**
>
> **SO ORDERED.**"

## THE PARTIES[4]

Petitioner is the Bureau of Internal Revenue (BIR), the government agency mandated to collect national internal revenue taxes for government expenditures and nation building.

Private Respondent Diamondz Motors Corporation is a duly registered corporate taxpayer with Tax Identification Number (TIN) 411-622-052, with business address located in Diversion Road Beside Green Heights Convention Building, Buhangin, Davao City.

Private Respondent Maria Chula Sison is the corporate president of private respondent Diamondz Motors Corporation with residential address located at Block 71, Lot 7, Silver St., DECA Homes Tigatto, Davao City.

Public Respondent Regional Trial Court – Branch 16 Davao City is the court which issued the Assailed Resolution and Order with office address located at Hall of Justice, Ecoland, Davao City.

## THE FACTS

Two (2) Informations were filed before the public respondent as against private respondent Maria Chula Sison as President of Diamondz Motors Corporation, both for violation of Section 255 in relation to Sections 253 and 256 of the National Internal Revenue Code of 1997, as amended.

[4] *Id.*, pp. 7-8.

After due proceedings and trial, the private respondent Maria Chula Sison filed her Demurrer to Evidence which the public respondent granted through the Assailed Resolution. Motion for Reconsideration filed by the petitioner was denied by the public respondent via the Assailed Order.

Petitioner received a copy of the Assailed Order on August 28, 2024.

On October 28, 2024, the present Petition for *Certiorari* was filed via registered mail.

On January 27, 2025, this Court ordered the private respondent to file comment to the Petition for *Certiorari* within ten (10) days from notice.

On February 17, 2025, private respondent Maria Chula Sison filed the required Comment (on the Petition for *Certiorari* under Rule 65 of the Rules of Court).

In a Minute Resolution dated February 18, 2025, the present Petition for *Certiorari* was submitted for decision.

## THE ISSUE

Petitioner submit the lone issue below for this Court's resolution, to wit:[5]

> **"WHETHER OR NOT PUBLIC RESPONDENT RTC BR. 16 – DAVAO COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT GRANTED THE DEMURRER TO EVIDENCE OF PRIVATE RESPONDENTS DUE TO INSUFFICIENCY OF EVIDENCE."**

## THE COURT'S RULING

### Jurisdiction

In the landmark case of *The City of Manila v. Hon. Caridad H. Grecia-Cuerdo, et. al.*,[6] the Supreme Court categorically declared that the Court of Tax Appeals (CTA), by constitutional fiat, has the power to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC and, in this regard, the authority to issue writs of *certiorari* in cases falling within its exclusive appellate jurisdiction. The relevant part of the said decision states:

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[5] *Id.*, p. 15.
[6] G.R. No. 175723, February 4, 2014.

"x x x Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and *mandamus*. With respect to the Court of Appeals, Section 9(1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and **to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.**

<u>On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases</u>.

Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.* that 'if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction. This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court stated that 'a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court.' The rulings in *J.M. Tuason* and *De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.

Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer." *(Underscoring supplied and citations omitted)*

Section 7 of Republic Act No. 1125, as amended, enumerates the cases over which the CTA exercises exclusive appellate jurisdiction. With respect to criminal cases, Section 7(b)(2) of RA 1125, as amended, provides:

"Sec. 7. *Jurisdiction.* — The CTA shall exercise:

xxx xxx xxx

(b) Jurisdiction over cases involving criminal offenses as herein provided:

xxx xxx xxx

(2) Exclusive appellate jurisdiction in criminal offenses:

(a) Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respective territorial jurisdiction."

The above provision was echoed by Section 3(b)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) as follows:

"RULE 4
Jurisdiction of the Court

SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:

(b) Exclusive jurisdiction over cases involving criminal offenses, to wit:

xxx xxx xxx

(2) Appellate jurisdiction over appeals from the judgments, resolutions or orders of the Regional Trial Courts in their original jurisdiction in criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than one million pesos or where there is no specified amount claimed;"

Considering that the present Petition for *Certiorari* directly challenges the resolutions issued by an RTC in connection with a criminal offense arising from violation of the NIRC in the exercise of the latter's original jurisdiction (principal amount claimed is less than one million pesos), the present petition thus squarely falls within the *certiorari* jurisdiction of the CTA as discussed above.

**Legal Standing to File the present Petition for *Certiorari***

While the present petition squarely falls within the *certiorari* jurisdiction of this Court, petitioner lacks the requisite legal standing to question the dismissal of the criminal case resulting from the grant of the demurrer to evidence.

Section 10, Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

> SEC. 10. *Solicitor General as Counsel for the People and Government Officials Sued in their Official Capacity.* - **The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction.** The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or others laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or others laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their officials capacity: *Provided, however*, such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General. *(Emphasis supplied)*

It is settled that only the Office of the Solicitor General (OSG) that can institute appeals of criminal cases before the appellate courts, insofar as the criminal aspects of the case is concerned. As aptly held by the Supreme Court in *Austria v. AAA*:[7]

> "In any criminal case or proceeding, only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State before the Supreme Court (SC) and the CA. This is explicitly provided under Section 35(1), Chapter 12, Title III, Book III of the 1987 Administrative Code of the Philippines, thus:

[7] G.R. No. 205275, June 28, 2022.

> Section 35. *Power and Functions.* - The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the service of a lawyer. It shall have the following specific power and functions:
>
> (1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings**; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. *(Emphasis supplied)*

**The rationale behind this rule is that in a criminal case, the state is the party affected by the dismissal of the criminal action and not the private complainant. The interest of the private offended party is restricted only to the civil liability of the accused.** In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal on the criminal aspect may be undertaken only by the State through the OSG. The private offended party may not take such appeal, but may only do so as to the civil aspect of the case. Differently stated, the private offended party may file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. Also, the private complainant may file a special civil action for certiorari even without the intervention of the OSG, but only to the end of preserving his or her interest in the civil aspect of the case. **Hence, the Court dismissed for lack of legal standing or personality the appeals or petitions for *certiorari* filed by the private offended parties before the SC and CA, without the consent or conformity of the OSG, questioning the dismissal of the criminal case or acquittal of the accused.**" *(Emphasis supplied)*

Consistent with the above rule, the Supreme Court in *JCLV Realty & Development Corporation v. Mangali*,[8] held that a private complainant cannot question the Order granting the demurrer to evidence in a criminal case absent grave abuse of discretion or denial of due process.

In the present case, petitioner also seeks the reversal of the grant by the public respondent of the demurrer to evidence effectively dismissing the

[8] G.R. No. 236618, August 27, 2020.

criminal cases for insufficiency of evidence. As the petition clearly touches upon the criminal aspect of the cases, petitioner has no legal personality to file the petition.

Petitioner alleged that its lawyers are duly authorized to file the present petition pursuant to its Memorandum of Agreement dated March 17, 2010 with the OSG as embodied under Revenue Memorandum Circular (RMC) No. 25-2010. However, under paragraph B(2)(b) of the said circular, the BIR is required to "periodically submit a list of handling lawyers to the OSG for purposes of deputation." In other words, the authorization granted under the circular is not automatic but invariably requires the further issuance of an instrument of deputation to specific BIR lawyers before the latter may validly institute criminal appeals. Petitioner failed to present any evidence showing that any of its counsels of record in the present case were duly issued with such instrument of deputation specifically authorizing them to file the present Petition.

**Errors of Judgment Not Correctible by *Certiorari* Petition**

At any rate, even assuming that petitioner possesses the required standing, the present Petition must still be denied for lack of merit.

In assailing the grant of the demurrer to evidence, petitioner alleged as follows:[9]

> "48. With all due respect, all of the elements were present in the instant case and was duly proven and shown by the Prosecution during trial, to wit:
>
> a) Diamondz Motors Corporation is a registered taxpayer required under the NIRC of 1997, as amended, to pay IT and VAT pursuant to Sections 56 and 114 thereof. The Corporation **VOLUNTARILY FILED** its return for IT and VAT for return periods September 30, 2015 and December 31, 2016 pursuant to its obligation to file the same under Section 56 of the NIRC of 1997, as amended.
>
> b) Second, after the filing of the returns for IT and VAT, no payment was made by Private Respondent Diamondz. There is *willfulness* on the part of Private Respondent Diamondz not to pay the self-declared taxes because even after several Notices from the BIR, *duly received by* the Corporation through its president Private Respondent Sison, it had deliberately failed to pay its tax obligation. Simply stated, Private Respondent Diamondz failed to pay said self-declared taxes

[9] Petition for *Certiorari*, pp. 13-14, Docket, pp. 17-18.

despite knowledge thereof, and continued to refuse payment to the prejudice of the Government.

c) Finally, there was NO PAYMENT OF TAXES at all on the part of Diamondz Motors Corporation before the filing of the case, which is tantamount to evasion of tax as evidenced by its refusal to pay said tax despite several notices *duly received by its President and responsible officer Maria Chula Sison*, from the time those tax returns were filed until its discovery in 2019.

49. The Public Respondent committed grave abuse of discretion when it granted the demurrer to evidence, which in effect acquitted Private Respondent Sison, despite sufficient evidence proving the obligation of Private Respondent Diamondz to pay its voluntarily declared taxes during trial. The tax obligation of Private Respondent Diamondz is clear and Public Respondent committed grave abuse of discretion when it did not declare a finding of liability against Private Respondent Diamondz."

The above averments readily reveal that petitioner implores this Court to review the purported *errors of judgment* allegedly committed by the trial court particularly in its calibration and appreciation of evidence presented by the prosecution. Other allegations in the Petition are essentially of the same tenor and thus need not be reproduced here.

Errors of judgment, even if truly committed by the trial court, do not fall as exceptions to the protection afforded to an accused by the Constitution against double jeopardy. Misappreciation of facts or misapplication of the law does not, by itself, warrant the filing of a Rule 65 *certiorari* petition. Any error committed by the trial court in the evaluation of evidence is merely an error of judgment not correctible by *certiorari.*[10]

As emphatically held by the Supreme Court in *People v. Court of Appeals*,[11] to wit:

"While *certiorari* may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice. On the other hand, if the petition, regardless of its nomenclature, merely calls for an ordinary review of the findings of the court *a quo*, the constitutional right against double jeopardy would be violated. Such recourse is tantamount to converting the petition for *certiorari* into an appeal, contrary to the express injunction of the Constitution, the Rules of Court and prevailing jurisprudence on double jeopardy."

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[10] *Dormido v. Office of the Ombudsman*, G.R. No. 198241, February 24, 2020.
[11] G.R. No. 128986, June 21, 1999.

**WHEREFORE**, premises considered, the present Petition for *Certiorari* is **DISMISSED** for lack of legal personality to sue and/or lack or merit.

**SO ORDERED.**

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

*WE CONCUR:*

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**CORAZON G. FERRER-FLORES**
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

**MA. BELEN M. RINGPIS-LIBAN**
*Associate Justice*
*Chairperson*

## CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in above 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