REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

REYNALDO A. PAZCOGUIN, III, with residence at Block 8 Lot 15, Multinational Village, Muntinlupa, City;
NENITA BIAG, with residence at 264 Moriones Street, Tondo, Manila; and
REN TRANSPORT CORPORATION, with place of business at 14-A Timog Avenue, Quezon City,
Accused.

CTA CRIM. CASE NOS. O-237, O-238 & O-239

For: Failure to Supply Correct and Accurate Information under Sec. 255 of the National Internal Revenue Code

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

REYNALDO A. PAZCOGUIN, III, with residence at Block 8 Lot 15, Multinational Village, Muntinlupa, City;
NENITA BIAG, with residence at 264 Moriones Street, Tondo, Manila;
EDSON O. FERNANDEZ, at large, with last known office address at 14-A Timog Avenue, Quezon City; and
REN TRANSPORT CORPORATION, with place of

CTA CRIM. CASE NO. O-240

For: Failure to Supply Correct and Accurate Information under Sec. 255 of the National Internal Revenue Code

Members:

BAUTISTA, *Chairperson*;
FABON-VICTORINO, and
RINGPIS-LIBAN, *JJ.*

Promulgated:

NOV 02 2016
1:43 p.m.

business at 14-A Timog Avenue, Quezon City,
Accused.

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DECISION

FABON-VICTORINO, *J.*

Indicted under CTA Criminal Case No. O-237, O-238 and O-239 for violation of Section 255 of the National Internal Revenue Code (NIRC) of 1997, as amended, are Reynaldo A. Pazcoguin III, Nenita Biag and Ren Transport Corporation for their failure to supply correct and accurate information in their income tax returns for taxable years 2007, 2009, 2006, allegedly committed as follows:

CTA Crim. Case No. O-237

> "That on or about 8 April 2008, in Quezon City, Metro Manila, within the jurisdiction of this Honorable Court, accused Ren Transport Corporation, a domestic corporation duly registered with the Securities and Exchange Commission, through its president and treasurer, accused Reynaldo A. Pazcoguin III and Nenita Biag, respectively, did then and there willfully and unlawfully file a fraudulent income tax return for the taxable year 2007, falsely and fraudulently stating therein that its gross receipts for the taxable year 2007 amounted to only P65,535,673.34 when in truth and in fact its actual gross receipts for the taxable year 2007 amounted to P186,407,019.31, thereby under-declaring its gross receipts by P120,871,381.97, which constitute more than thirty percent (30%) of P65,535,673.34, and incurring basic deficiency income tax for the taxable year 2007 in the amount of P65,242,456.76, exclusive of interest and penalty charges, to the damage and prejudice of the Government.

CONTRARY TO LAW."

CTA Crim. Case No. O-238

"That on or about 15 November 2010, in Quezon City, Metro Manila, within the jurisdiction of this Honorable Court, accused Ren Transport Corporation, a domestic corporation duly registered with the Securities and Exchange Commission, through its president and treasurer, accused Reynaldo A. Pazcoguin III and Nenita Biag, respectively, did then and there willfully and unlawfully file a fraudulent income tax return for the taxable year 2009, falsely and fraudulently stating therein that it derived no gross receipts for the taxable year 2009 when in truth and in fact its actual gross receipts for taxable year 2009 amounted to P27,582,362.92, incurring basic deficiency income tax for taxable year 2009 in the amount of P8,274,708.88, exclusive of interest and penalty charges, to the damage and prejudice of the Government.

CONTRARY TO LAW."

CTA Crim. Case No. O-239

"That on or about 13 April 2007, in Quezon City, Metro Manila, within the jurisdiction of this Honorable Court, accused Ren Transport Corporation, a domestic corporation duly registered with the Securities and Exchange Commission, through its president and treasurer, accused Reynaldo A. Pazcoguin III and Nenita Biag, respectively, did then and there willfully and unlawfully file a fraudulent income tax return for the taxable year 2006, falsely and fraudulently stating therein that its gross receipts for the taxable year 2006 amounted to only P54,089,454.66 when in truth and in fact its actual gross receipts for the taxable

> year 2006 amounted to P150,474,855.97, thereby under-declaring its gross receipts by P96,385,401.31, which constitute more than thirty percent (30%) of P54,089,454.66, and incurring basic deficiency income tax for the taxable year 2006 in the amount of P52,666,199.59, exclusive of interest and penalty charges, to the damage and prejudice of the Government.
>
> CONTRARY TO LAW."

The three named accused also stand charged for a similar offense in CTA Criminal Case No. 240, together with accused Edson O. Fernandez, pertaining to taxable year 2008, committed as follows:

<u>CTA Crim. Case No. O-240</u>

> "That on or about 8 April 2009, in Quezon City, Metro Manila, within the jurisdiction of this Honorable Court, accused Ren Transport Corporation, a domestic corporation duly registered with the Securities and Exchange Commission, through its president, treasurer, and accountant accused Reynaldo A. Pazcoguin III, Nenita Biag, and Edson O. Fernandez, respectively, did then and there willfully and unlawfully file a fraudulent income tax return for the taxable year 2008, falsely and fraudulently stating therein that its gross receipts for the taxable year 2008 amounted to only P18,591,196.65 when in truth and in fact its actual gross receipts for the taxable year 2008 amounted to P85,126,542.62, thereby under-declaring its gross receipts by P66,535,345.97, which constitute more than thirty percent (30%) of P18,591,196.65, and incurring basic deficiency income tax for the taxable year 2008 in the amount of P29,794,289.92, exclusive of interest and penalty charges, to the damage and prejudice of the Government.

CONTRARY TO LAW."

When arraigned, accused Reynaldo A. Pazcoguin III and Nenita Biag, duly assisted by their counsel, pleaded "Not Guilty" of the crimes charged.

Accused Edson O. Fernandez has not been arraigned for he remains to be at-large to date.

On April 20, 2012, the four (4) criminal cases were consolidated.

Trial ensued but only as against Reynaldo A. Pazcoguin III, Nenita Biag and Ren Transport Corporation.

To prove the accusations, the prosecution presented witnesses Josephine D. Madera, Nilda T. Se, Marites P. Arias, Mahinardo G. Mailig, Shirley Calapatia, Edna Centeno, Eustaquio M. Angeles, Edwin T. Suitado, and Alicia Cruz Barazon.

Revenue Officer (RO) **Josephine D. Madera** is with the National Investigation Division (NID) of the Bureau of Internal Revenue (BIR). She testified that as a BIR examiner, she examines the books of accounts and other documents of taxpayers for internal revenue tax purposes, reports the result thereof, and recommends appropriate actions against erring taxpayers.

During a special NID audit investigation conducted against the City Government of San Juan, they discovered that it paid millions of pesos to for services rendered as garbage collector of the City. Upon their request, the City Government of San Juan provided them with the details of such payments for taxable years 2006 to 2009. They reported the unearthed information to their Chief who issued Memorandum of Assignment (MOA) [1] Number KJH SCD-2010-02-1769-1 dated February 17, 2010 to investigate further Ren Transport Corporation.

[1] Exhibit EE.

Pursuant to the said MOA, they profiled Ren Transport Corporation securing its address, status as a taxpayer, and the summary of its tax payments. They also accessed the BIR Integrated Tax System (BIR ITS) and the website of the Securities and Exchange Commission (SEC) from which the following information were obtained, to wit: (1) Ren Transport Corporation with business address at Timog Avenue, Barangay Laging Handa, Quezon City was registered with BIR Revenue District Office No. 39 - South Quezon City with Taxpayer Identification Number (TIN) 001-901-649; (2) it was registered with the SEC as a domestic corporation on August 14, 1992 with the corresponding Certificate of Registration No. 177229[2]; and (3) that accused Reynaldo Pazcoguin III and Nenita Biag were its President and Treasurer, respectively, per its General Information Sheet[3] (GIS) filed with the SEC for the year 2008.

Thereafter, they compared the income received by Ren Transportation Corporation from the City Government of San Juan with its income as reflected in its ITRs retrieved from the BIR ITS, and found a significant under declaration of income, a prima facie evidence of fraud or tax evasion on the part of Ren Transport Corporation.

Next, they sent access letters to the different Local Government Units (LGUs) in Metro Manila to determine whether Ren Transport Corporation also received income from them for similar services rendered. They also sent access letters to Revenue District Office (RDO) No. 39 where Ren Transport Corporation was a registered taxpayer.

In response to the said access letters, the respective Accountants/Heads of Accounting Office of Caloocan, Malabon, Muntinlupa, and San Juan, issued Certifications on the income received by Ren Transport Corporation from them for garbage collection services rendered.

For her part, Assistant Revenue District Officer Shirley Calapatia of RDO No. 39 forwarded to them Certified True Copies of the Income Tax Returns (ITRs) filed by Ren Transport Corporation for the taxable years 2006, 2007 and

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[2] Exhibit M
[3] Exhibit L.

2008, while Revenue District Officer Mahinardo G. Mailig certified on December 21, 2010 that Ren Transport Corporation had no record of income tax, value added tax, percentage tax and/or withholding tax payments filed in the said RDO for the year 2009.

Out of the information gathered, they submitted a Memorandum[4] for the Commissioner of Internal Revenue (CIR) about the gross under declaration of income committed by Ren Transportation Corporation which surfaced when they compared the figures it reported in its ITRs for taxable years 2006, 2007 and 2008 with the figures appearing in the Certifications issued by the various LGUs concerned. The result allegedly was a strong indication that Ren Transport Corporation deliberately failed to declare its correct tax base to avoid payment of correct taxes to the Government.

On September 21, 2010, Letter of Authority (LOA) No. 211-2010-00000225 was issued authorizing the same NID group to examine the books of accounts and other accounting records of Ren Transport Corporation for the period from January 1, 2006 to December 31, 2009 for all internal revenue taxes. Attached to the said LOA were the Check List of Requirements and the First Notice for presentation of documents and records for investigation. All these were personally served upon Ren Transport Corporation and received by its representative Carlota "Chuchay" P. Coronel.

At their instance, a complaint against Ren Transport Corporation and its corporate officers, namely, Reynaldo Pazcoguin III, Nenita Biag and Edson Fernandez, its President, Treasurer and Accountant, respectively, were referred the Department of Justice (DOJ) for preliminary investigation and filing of appropriate criminal charges in Court.

The witness confirmed that the name of accused Reynaldo Pazcoguin III appeared on the ITRs of Ren Transport Corporation for taxable years 2006 and 2007.

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[4] Exhibit A.

However, the signatures appearing on top of his name were not the same. Hence, she was uncertain which of the ITRs had the real signature of accused Reynaldo Pazcoguin III. The same witness also confirmed that accused Nenita Biag was implicated only because her name appeared in the incorporation papers of Ren Transport Corporation filed with the SEC.

As part of the investigating team, Revenue Officer (RO) **Nilda T. Se**, corroborated the foregoing testimony adding that it was their Division Chief Sixto Dy who issued a memorandum directing them to conduct a preliminary investigation on the tax liabilities of Ren Transport Corporation.

In a Memorandum Report to the CIR, they recommended to forward the case to the Run After Tax Evaders (RATE) - Legal Writing and Appearance Group (LWAG) for evaluation and filing of appropriate criminal cases with the DOJ against Ren Transport Corporation and its responsible corporate officers.

Per their recommendation, the CIR issued an LOA against Ren Transport Corporation to preclude it from amending or modifying its tax returns before the RATE cases were filed. The LOA issued authorized ROs Marites Arias, Amercia Ami, and herself, under Group Supervisor Josephine Madera, to audit the company for all internal revenue taxes for the period covering January 1, 2006 to December 31, 2009. The CIR likewise issued a referral letter to the DOJ attaching thereto the Joint Complaint Affidavit they executed. They continued with the assessment procedures against the company for purposes of civil liabilities.

A Notice to Taxpayer was issued by the NID Chief to Ren Transport Corporation stating the result of the tax investigation. This prompted Ren Transport Corporation to send its representative to their office to discuss the basis of their assessment.

On May 18, 2011, a Preliminary Assessment Notice (PAN) was issued and served with attached Details of

Discrepancies upon Ren Transport Corporation through its secretary Chuchay Coronel. For failure of Ren Transport Corporation to file a reply, a Final Assessment Notice (FAN) was issued. Again, the company failed to take any action, rendering the FAN final and executory.

Witness Se admitted that no assessment was issued against the accused before their Joint Complaint Affidavit was filed with the DOJ. She was merely informed by her teammates that both the PAN and the FAN were served upon Ren Transport Corporation. Since the company did not declare in its ITRs the income received from the various LGUs concerned, she did not consider the tax withheld by the LGUs in the computation of the company's income tax liability.

RO **Marites P. Arias** validated the declaration of her co-witnesses that they personally served the LOA to Ren Transport Corporation and it was received by its authorized representative Chuchay P. Coronel on September 21, 2011. The Notice to Tax Payer, the PAN with Details of Discrepancy, Summary of Deficiency Taxes for 2006 to 2007 and Computation of Deficiency Income Tax and Value added Tax were also received by Chuchay Coronel for Ren Transport Corporation. A meeting with the representative of Ren Transport Corporation was also held.

On June 25, 2011, a FAN was issued with Details of Discrepancies, Deficiency Income Tax, Audit Result/Assessment Notice for income tax and value added tax for taxable years 2006 to 2009, which were all personally served to Ren Transport Corporation, through Chuchay Coronel on August 22, 2011 at the address indicated in the LOA. It was also Chuchay Coronel who personally dealt with them during all the events and conferences held relative to this investigation.

The prosecution also presented Attorney **Mahinardo G. Mailig**, Technical Assistant at the BIR Taxpayers Service. He testified that while he was the Regional District Officer of RDO No. 39 from 2009 to 2010, he received a letter[5] from

[5] Exhibit LL.

the NID, requesting for the ITRs filed by Ren Transport Corporation for the taxable years 2006 to 2008. He referred the said letter to his assistant Attorney Shirley Calapatia, who later presented to him the requested ITRs together with their attachments which she retrieved from the BIR ITS. He confirmed that the signatures appearing on each and every page of the said ITRs were those of Attorney Calapatia.

Attorney **Shirley Calapatia** acknowledged her receipt of the letter request dated August 4, 2010. She readily requested the BIR Collection Section to locate the requested documents. Per their standard procedure, the Collection Officer would access the BIR ITS for the Document Locator Number (DLN) of the requested documents. Once found and identified, the Collection officer would go to the storage room to get the physical document for reproduction before presentation to her or to the RDO for signature.

The documents she retrieved revealed that Ren Transport Corporation filed its ITRs for taxable years 2006, 2007, and 2008. She affixed her signature on each and every page of the machine copies of the retrieved documents, the originals of which were presented to and examined by her.

The City Accountant of the City of Caloocan, **Edna V. Centeno** also received a similar access letter from the BIR dated August 24, 2010. Upon her instruction and personal supervision, her staff prepared a certification on the payments made by the City of Caloocan to Ren Transport Corporation, on which she affixed her signature.

Per the Certification, the City of Caloocan paid Ren Transport Corporation for garbage hauling services the amounts of Php38,883,770.00, Php36,751,970.00, Php45,203,220.00, and Php8,792,777.80 for taxable years 2006, 2007, 2008 and 2009, respectively. The said amounts were taken from the disbursement vouchers and their subsidiary ledgers all kept in their office. The corresponding official receipts from Ren Transport Corporation were attached to the original disbursement vouchers submitted by the City of Caloocan to the Commission on Audit (COA) for post audit. The City

Accountant recorded such payments while the Treasurer's Office released them.

A similarly dated access letter was received by Assistant City Accountant of Malabon City **Eustaquio Angeles.**[6] In connection thereto, his staff prepared under his direct supervision and review a Summary of Billings and Corresponding Payments[7] showing that for the months of January to May 2007, the City of Malabon paid Ren Transport Corporation a total amount of Php23,109,828.09 for the garbage hauling services it rendered. The said amount was based on the original disbursement vouchers with the supporting billings and the garbage hauling receipts pursuant to the service contract, machine copies of which he brought to the court.

As part of the standard procedures, the originals of the ORs issued by Ren Transport Corporation for payments received from City Treasurer were submitted to the COA for audit and only the machine copies thereof were retained by the City of Malabon. The vouchers for the said transactions were forwarded to his department for recording in the journals and ledgers which he could produce if required by the Court.

Acting City Accountant of the City of Muntinlupa, **Edwin T. Suitado** also received an access letter from the BIR dated August 16, 2010. Acting on the said access letter, he instructed his staff to get the records of Ren Transport Corporation and prepare a certification pertaining to the income payments made by the City of Muntinlupa in its favor. Only after verification and review of the figures and other information in the Certification[8] that he affixed his signature thereon.

The Certification indicated that the City of Muntinlupa paid Ren Transport Corporation the amounts of Php82,322,701.56 for the period January to December 2006, Php78,814,631.89 for the period January to November 2007, Php11,225,822.94 for the period November to December

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[6] Exhibit F.
[7] Exhibit G.
[8] Exhibit I.

2007, and Php7,483,881.96 for the month of January 2008. The figures were taken from their subsidiary ledger in which disbursement vouchers were posted. All these payments were supported by ORs issued by Ren Transport Corporation the originals of which were forwarded to the COA for audit purposes.

City Accountant II of the City of San Juan, **Alicia Cruz-Barazon** also confirmed receipt of an access letter[9] from the BIR dated August 3, 2010. Thereupon, she directed her staff in charge of all withholding tax records to look into their files and list the items relevant to the said request. Her staff prepared and drafted a Certification[10] based on the documents from their files. She reviewed and verified the information directly from the source documents before she affixed her signature. She caused the delivery of the said Certification to the BIR.

The said Certification indicated the payments made by the City of San Juan in favor of Ren Transport Corporation for garbage hauling services in the amounts of Php27,913,810.87 for the period December 2005 to November 2006, Php33,126,696.48 for the period December 2006 to November 2007, Php35,196,674.13 for the period December 2007 to November 2008, and Php25,481,249.99 for the period December 2008 to July 2009. The foregoing figures were the base amounts used in computing the withholding tax. Apart from the vouchers which the City of San Juan regularly prepared for the transactions, the said amounts were based on the Statements of Accounts, ORs issued by Ren Transport Corporation, as well as the Alphabetical List.

She further testified that the Office of the City Treasurer released the payments to Ren Transport Corporation. She however could not produce the pertinent vouchers and the contract entered into by and between Ren Transport Corporation and the City of San Juan during her testimony in court due to several factors. For one, the City of San Juan retains documents for the current year and for the two previous years only. The rest were archived. For

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[9] Exhibit J.
[10] Exhibit K.

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another, it was difficult and cumbersome to search for the pertinent documents as there were voluminous documents in their archive. Besides, the transactions occurred between December 2005 and July 2009 and she was accorded only a very little time to locate and produce them for her presentation in Court. Further, the old documents in their archive were submerged in water and damaged during the onslaught of Typhoon Ondoy.

After the prosecution rested, the three accused, with leave of Court, filed a *Demurrer to Evidence*[11] praying for the dismissal of the four cases filed against them.

On September 8, 2014, the Court partially granted the said *Demurrer to Evidence* dismissing CTA Crim. Case No. O-238 filed against accused Reynaldo A. Pazcoguin III, Nenita Biag and Ren Transport Corporation, for insufficiency of evidence.[12]

Both the prosecution and the defense moved for reconsideration of the foregoing Resolution, but they were denied in the Resolution[13] dated November 17, 2014.

In their defense, the accused presented Christy Ann A. Pazcoguin and accused Reynaldo A. Pazcoguin III. Accused Nenita Biag twice failed to appear despite due notice, hence, her testimony was deemed waived.

Witness **Christy Ann A. Pazcoguin** claimed that she was the auditor of Ren Transport Corporation from 2002 to 2008. The company rendered garbage collection and disposal services to various LGUs.

She and Josephine Dayao, the Payroll Master of Ren Transport Corporation, executed a Joint Affidavit[14] dated November 10, 2011.

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[11] Docket, Volume 4, pp. 1793-1795.
[12] Docket, Volume 4, pp. 1811-1825.
[13] Docket, Volume 5, pp. 1858-1862.
[14] Exhibit 17.

She did not know accused Nenita Biag, the Treasurer of Ren Transport Corporation, as appearing in the company's Articles of Incorporation. During her entire employment with the company, not once did she see her in their office nor witness her sign any document involving Ren Transport Corporation. Her employment with Ren Transport Corporation ended in 2008 when it suffered business reverses and ceased operation.

Accused **Reynaldo A. Pazcoguin III** admitted that he was the President of Ren Transport Corporation. He did not know about the charges against him until he received a letter from the DOJ regarding the complaint against Ren Transport Corporation on the alleged discrepancies in its ITRs for taxable years 2006, 2007, and 2008.

He attributed the lapses to the company's Accountant and co-accused Edson Fernandez to whom everything about the company's filing of the ITRs and book keeping were entrusted. Accused Fernandez reported directly to the company's Operations Manager Edison Lim, whom he hired for lack of full understanding about garbage hauling business. He was seldom in the office and present only when there were office problems to discuss.

While he admitted his company's filing of ITRs for the taxable years 2006, 2007 and 2008, accused Pazcoguin III disowned the signatures appearing above his printed names in the 2006 and 2007 ITRs. He could not also identify the signature above the printed name Edson O. Fernandez in company's ITR for 2008, as he was unfamiliar with the latter's signature.

Accused Pazcoguin III also admitted that his mother-in-law and co-accused Nenita Biag was the Treasurer and one of the incorporators of Ren Transport Corporation. He made her an incorporator simply because he trusted her. Despite his position, he had no involvement in its operations and management. As the company's President from 1992 to 2010, he was aware that the company had the legal obligation to annually file an ITR. Precisely, he hired an accountant.

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Finally, accused Pazcoguin III denied any knowledge about the fraudulent ITRs which he allegedly saw for the first time when he received the DOJ letter. Although he was the President of the company, he did not review or inquire about its ITRs and for the lapses he merely offered an apology.

In the Resolution[15] dated July 6, 2015, the defense was deemed to have rested its case after all the evidence it formally offered were admitted by the Court.

THE ISSUE

The lone issue as defined by the parties and indicated in the Pre-Trial Order dated July 24, 2012, is as follows:

> WHETHER OR NOT THE ACCUSED MAY BE HELD LIABLE FOR THE CRIMES CHARGED IN THE FOUR[16] (now three) INFORMATIONS.

THE RULING OF THE COURT

In the consolidated cases, the three accused are indicted for violations of Section 255 of the NIRC, as amended, for their alleged failure to supply true and accurate information in the ITRs of Ren Transport Corporation for taxable years 2006, 2007, and 2008. The provision reads as follows:

> SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* — **Any person required under this Code or by rules and regulations promulgated thereunder to** pay any tax, make a return, keep any

[15] Docket, Volume 5, pp. 1962-1963.
[16] CTA Crim. Case No. O-238 is dismissed per Resolution dated September 8, 2014.

> record, or **supply correct and accurate information, who willfully fails 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** shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years. (*Emphasis supplied*)

A related provision mandating the same legal obligations upon juridical persons or persons created by legal fiction, such as Ren Transport Corporation, is found in Section 52(A) of the same Tax Code. Note that under the provision, the obligation to file a true and accurate tax return **shall** be upon the responsible officers of the company such as its president, vice-president or other principal officer of the company, thus:

> "SEC. 52. **Corporation Returns. – (A) Requirements. –** Every corporation subject to the tax imposed, except foreign corporations not engaged in trade or business in the Philippines, shall render, in duplicate, **<u>a true and accurate quarterly income tax return and final or adjustment return</u>** in accordance with the provisions of Chapter XII of this Title. **<u>The return shall be filed by the president, vice-president or other principal officer, and shall be sworn to by such officer and by the treasurer or assistant treasurer.</u>**
>
> **(B) Taxable Year of the Corporation. –** A corporation may employ either calendar or fiscal year as a basis for filing its annual income tax return: *Provided,* That the corporation shall not change the accounting period employed without prior approval from the Commissioner in *accordance* with the provisions of Section 47 of this code. Xxx " (Emphasis supplied.)"

Precisely, in case of any violation by associations, partnerships or corporations, the penalty is imposed upon its responsible officers or employees as provided in Sections 253 (d) and 256 of the NIRC of 1997, viz.,:

> SEC. 253. *General Provisions.* —
>
> xxx xxx xxx
>
> (d) **In the case of** associations, partnerships or **corporations, the penalty shall be imposed on** the partner, **president**, general manager, branch manager, **treasurer**, officer-in-charge, **and employees responsible for the violation**.
>
> SEC. 256. *Penal Liability of Corporations.* — Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000).

Thus, to sustain the indictment and secure conviction of the accused, the prosecution must prove beyond reasonable doubt the concurrence of the following elements of the crimes charged, namely:

1. The accused is the person required under the Tax Code or by the rules and regulations to supply correct and accurate information;

2. The accused failed to supply correct and accurate information at the time required by law;

3. Such failure was willful; and

4. In case of corporate taxpayers, that the accused is its responsible officer.

For The First Requisite:
REN TRANSPORTATION CORPORATION IS THE PERSON REQUIRED BY LAW TO SUPPLY CORRECT AND ACCURATE INFORMATION.

It was never disputed that Ren Transport Corporation was a duly registered domestic corporation required by law, rules and regulations to file ITR, quarterly or annually, indicating therein correct and accurate information on its receipts or income, expenses and other relevant information for purposes of payment of proper taxes to the Government. Cognitive of such legal obligation, accused Reynaldo A. Pazcoguin III, unequivocally acknowledged in open court the existence of this legal duty of the company under his stewardship as president for almost two decades. He even testified that in compliance with such legal requirement, his company filed its ITR for taxable years 2006, 2007 and 2008, copies of which he showed to the Court as a witness. Without any doubt, the first element exists.

Second Requisite:
REN TRANSPORTATION CORPORATION FAILED TO SUPPLY CORRECT AND ACCURATE INFORMATION IN ITS ITRs FOR TAXABLE YEARS 2006, 2007, AND 2008.

It must be stressed that evidence against Ren Transport Corporation first surfaced while the BIR was conducting a special audit for the tax liabilities of the City of San Juan. Some of the documents unearthed during the said audit revealed that the said LGU paid millions of pesos to Ren Transport Corporation for services rendered as garbage collector. Alerted by the said information, the Chief of the NID issued a Memorandum of Assignment dated

February 17, 2010 authorizing the investigation of said company for possible violations of the Tax Code.

The investigating team first profiled Ren Transport Corporation using the BIR ITS which provided vital information about it as a taxpayer, the most relevant of which was the summary of tax paid for income it received from various LGUs in Metro Manila for collection and disposal of garbage services rendered to them. Additional information show that the company filed its ITRs declaring gross income of Php54,089,454.66, Php65,535,637.34, and Php18,591,196.65 for taxable years 2006, 2007 and 2008, respectively.

Subsequent verifications however show that the income appearing in the said ITRs were significantly lower than those indicated in the Certifications issued by the LGUs of Caloocan, Malabon, Muntinlupa and San Juan respecting their payments to Ren Transport Corporation for the services it rendered to them. When totalled, the income it received from the various LGUs amounted to Php150,474,855.97 for taxable year 2006, Php186,407,019.31 for taxable year 2007, and Php85,126,542.62 for taxable year 2008.

The figures reflected in the Certifications issued by the LGUs of Caloocan[17], Malabon[18], Muntinlupa[19], and San Juan[20] were certainly far remote from those indicated in the certified true copies of the ITRs filed by Ren Transport Corporation with the BIR for taxable years 2006, 2007[21], and 2008[22]. In other words, there was a significant under declaration by Ren Transport Corporation of its income received from various LGUs for taxable years 2006, 2007 and 2008 as shown below:

Taxable year	Total Payments Made by LGU's	Gross Income per ITR	Undeclared Gross Income	% of Underdeclaration
2006	150,474,855.97	54,089,454.66	96,385,401.31	178.19%
2007	186,407,019.31	65,535,637.34	120,871,381.97	184.44%
2008	85,126,542.62	18,591,196.65	66,535,345.97	357.88%

[17] Exhibit E.
[18] Exhibit G.
[19] Exhibit I.
[20] Exhibit K.
[21] Exhibit P.
[22] Exhibit Q.

Let it be stressed that the ITRs used in the preliminary investigation of the cases before the DOJ and later presented in Court by the prosecution were the very same ITRs that accused Reynaldo A. Pazcoguin III presented and identified when he testified in his defense.

Notably, accused failed to refute the content of these Certifications all of which were duly authenticated by the responsible City Officers of the named LGUs. Accused Pazcoguin III did not even attempt to demolish or overcome by sufficient evidence the information as appearing in the said Certifications.

The defense also failed to destroy the credibility of the City Officers who were extensively cross-examined but remained steadfast and consistent in their testimonies pertaining to the issuance of the said Certifications and source documents. It must be stressed that these City Officers of the various LGUs concerned were disinterested parties and came to Court in the performance of their official duties and in compliance with the Court processes.

The Court cannot also ignore the presumption of regularity in their issuance of the Certifications which may only be rebutted by affirmative evidence of irregularity or failure to perform a duty. This presumption prevails until it is overcome by no less than clear and convincing evidence to the contrary. Unless the presumption is rebutted, it becomes conclusive as in the case at bar. Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officers act being lawful or unlawful, construction should be in favor of its lawfulness.[23]

Further, except for the general denial of accused Reynaldo A. Pazcoguin III of any knowledge about the false and inaccurate information in the subject ITRs and attributing the anomalous acts to his accountant and co-accused Edson O. Fernandez, who is still at large but whom he points to as the lone person criminally responsible for it all, no other evidence was offered either to controvert the

[23] People v. De Guzman, G.R. No. 106025, February 9, 1994.

evidence adduced by the prosecution or buoy his claimed innocence.

The evidentiary weight of unsubstantiated denial of any criminal liability by an accused was expounded by the Supreme Court, in the case of *People vs. Baniega,*[24] in the following fashion:

> Between the categorical statements of the prosecution witnesses, on the one hand, and the bare denial of accused-appellant, on the other hand, the former must perforce prevail. An affirmative testimony is far stronger than a negative testimony especially when the former comes from the mouth of a credible witness. Alibi and **denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law**. It is considered with suspicion and always received with caution, not only because it is inherently weak and unreliable but also because it is easily fabricated and concocted. [25] (*Emphasis supplied*)

Also disturbing is the fact that when asked by the Court on his alleged belated knowledge about the violations committed by his company which he admitted to be in operation for nearly two decades under his stewardship, accused Reynaldo A. Pazcoguin III did go beyond an apology.

In fine, the second element of the crimes charged likewise exists.

Third and fourth Requisites:
THE FAILURE TO SUPPLY CORRECT AND ACCURATE INFORMATION WAS WILLFUL AND ACCUSED WERE RESPONSIBLE THEREOF.

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[24] G.R. No. 139578, February 15, 2002, 377 SCRA 170.
[25] People vs. Baniega , ibid., at note 69, citing People vs. Crisanto, G.R. No. 120701, June 19, 2001, 358 SCRA 647.

The three (3) accused claim that the element of wilfulness in the commission of the alleged infractions to warrant conviction is lacking.

A willful act is described in the Eighth Edition of Black's Law Dictionary as a voluntary and intentional act but not necessarily malicious, viz,:

> The word "wilful" or "wilfully" when used in the definition of a crime, it has been said time and again, means only intentionally or purposely as distinguished from accidentally or negligently and does not require any actual impropriety; while on the other hand it has been stated with equal repetition and insistence that the requirement added by such a word is not satisfied unless there is a bad purpose or evil intent. Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 875-76 (3D D. 1982).
>
> "Almost all of the cases under [Bankruptcy Code 53 (a)(6)] deal with the definition of the two words 'willful' and 'malicious' initially one might think that willful and malicious mean the same thing. If they did, Congress should have used one word and not both. Most courts feel compelled to find some different meaning for each of them. David B. Epstin, et al. *Bankruptcy* 730, at 531 (1993).

However, in the cases of *Cheek vs. United States* [498 U.S. 192 (1991)], *United States vs. Pomponio* [429 U.S. 10 (1976)], and *United States vs. Bishop* [412 U.S. 346, 360 (1973)], the United States Supreme Court defined willfulness as a voluntary, intentional violation of a known legal duty. In the *Pomponio* case, the United States Supreme Court further states, thus:

> "The Court, in fact, has recognized that the word 'willfully' in these statutes generally connotes a voluntary, intentional violation of a known legal duty. It has formulated

> the requirement of willfulness as bad faith or evil intent."

Therefore, to convict accused for willful failure to supply correct and accurate information in the subject ITRs, the prosecution must show that the violations were done by the accused knowingly, intentionally and with the specific intent to disregard the law. In other words, the prosecution must establish that the accused were cognizant of the lawful obligation to supply correct and accurate information in its ITRs for the taxable years 2006, 2007 and 2008 and yet voluntarily, knowingly and intentionally failed to comply.

Note that accused Reynaldo A. Pazcoguin III did not feign ignorance of the legal and mandatory requirement on the part of Ren Transport Corporation to file ITRs containing correct and accurate information for purposes of paying what is due the Government. In fact, he categorically acknowledged the existence of such legal duty which according to him was complied with by his company. As proof thereof, he presented its ITRs filed for taxable years 2006, 2007 and 2008. However, these very same ITRs betrayed his defense. The said ITRs, with the other documents on record unfolded the truth – that the company on three occasions made gross under declaration of its income of more than 30% of what had been declared for taxable years 2006, 2007 and 2008. By presenting these ITRs, accused Pazcoguin III effectively admitted the false and inaccurate information reported in the said ITRs which he allowed to be filed bearing his name and his signature. While he disowned the signature on top of his name in the ITRs, the same is deemed self-serving without any other evidence to support the claim.

It is also incredible for accused Reynaldo Pazcoguin III, as President of the company which had been in continuous operation for nearly two decades, not to know vital financial information affecting his company which was then earning millions of pesos. The excuse that he did not know anything about the infractions committed by the company as he delegated the functions of filing the required ITRs and corresponding payment of taxes for income received to his accountant and co-accused is simply incredible if not unacceptable. As the President of Ren Transport Corporation, accused Pazcoquin III had the utmost duty to ensure that the company complied with existing law, rules and regulations affecting his business including the filing of ITR and payment of proper taxes.

The enormous investment in garbage collection and disposal business and its equally astonishing huge return in terms of payments for the services rendered were glaring factors that controvert accused' claim of lack of knowledge about the operation of his business. These huge receipts from such services courted the interest of the BIR who discovered the company's transactions with various LGUs accidentally. To be sure, no astute businessman, who had infused a big capitalization into his business which was earning millions, would allow another person, who did not contribute even a penny thereto to take full charge and control of the financial aspect of the venture. Significantly, accused Pazcoguin III admitted that he was in the office every time a company problem arose or when his presence was needed. In other words, he held the reign of operation and was all too aware of his company's financial frame including the filing of the subject ITRs and the payment of the corresponding taxes.

The almost two decades of continuous operation and the repeated commission of the offense charged are also circumstances that negate absence of willfulness and criminal intent to cheat the Government of its taxes. The repeated and deliberate significant under-declarations of income in the subject ITRs are clear indications of the propensity of the accused to evade payment of correct taxes to the damage and prejudice of the Government. The ruling of the Supreme Court in *Republic vs. Gonzalez*[26] on the matter is instructive, thus:

> "Since fraud is a state of mind, it need not be proved by direct evidence but may be inferred from the circumstances of the case. The failure of the appellant to declare for taxation purposes his true and actual income derived from his furniture business

[26] L-17962, April 30, 1965.

> for two consecutive years is an indication of his fraudulent intent to cheat the Government of its taxes."

In fine, the prosecution was able to establish the guilt of accused Reynaldo Pazcoguin III beyond reasonable doubt for violation of Section 255 of the NIRC of 1997, as amended, on three counts.

After the decision was prepared and set for promulgation, the defense counsel on September 9, 2016, filed an *Omnibus Motion* praying for: (1) the dismissal of the instant criminal cases against accused Reynaldo A. Pazcoguin III who allegedly passed away on August 24, 2016; (2) the release of the cashbond he posted; and (3) the resetting of the promulgation of judgment scheduled on September 21, 2016.

The defense averred that accused Reynaldo A. Pazcoguin III joined his Creator on August 24, 2016 while confined at the St. Luke's Medical Center - Global City due to heart, kidney and liver ailments. Attached to the *motion*, marked as Annex "A", was a photocopy of accused Reynaldo A. Pazcoguin III's Certificate of Death. It is alleged that with the death of accused Reynaldo A. Pazcoguin III, his criminal liability is totally extinguished pursuant to Article 89[27] of the Revised Penal Code. Further, since the civil liability *ex delicto* of accused Reynaldo A. Pazcoguin III is grounded on the criminal action, his civil liability is also extinguished by his death pursuant to Section 4, Rule 111 of the Rules of Court. Hence, defense submits that the charges against accused Reynaldo A. Pazcoguin III be dismissed.

If the cases against accused Reynaldo A. Pazcoguin III be dismissed, the defense moves that the cashbond posted by accused for his provisional liberty in the amount of Php80,000.00 be released to accused' legal or duly authorized representative.

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[27] Article 89. *How criminal liability is totally extinguished.* - Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment. xxx

By way of *Comment/Opposition (To Accused's Omnibus Motion)*, the prosecution moves to deny the *Omnibus Motion* for lack of merit. The attached death certificate to prove the alleged demise of accused Reynaldo A. Pazcoguin III was a mere photocopy. For the prosecution, only upon presentation of the original death certificate of accused Reynaldo A. Pazcoguin III together with the affidavit of the attending physician who signed the death certificate, and other pertinent documents will the exercise of discretion to release cash bond be justified.

The prosecution also objects to the extinguishment of the criminal and civil liability of accused Reynaldo A. Pazcoguin III by reason of his alleged demise. The prosecution posits that when the law declares that both the criminal and civil liability of accused shall be extinguished upon his death before final judgment is rendered against him, it is for the obvious reason that they can no longer be proved or because he can no longer be heard by reason of his death. In the instant case, accused Reynaldo A. Pazcoguin III was given the opportunity to cross-examine the prosecution's witnesses and also given the chance to be heard and present witnesses to prove his innocence, says the prosecution.

Lastly, the prosecution argues that the application of Section 4, Rule 111 of the Rules of Court which provides that "*the death of the accused after arraignment and during the pendency of the criminal action shall extinguish the civil liability arising from the delict*" would run counter to the principle that taxes are the lifeblood of the nation.

On October 13, 2016, the defense filed a *Manifestation* dated October 12, 2016 with a Certified True Copy of the Certificate of Death of accused Reynaldo A. Pazcoguin III to confirm his death.

Section 89(1) of the Revised Penal Code, as amended, specifically provides the effect of death of the accused on his criminal, as well as civil, liability. It reads, thus:

> Art. 89. *How criminal liability is totally extinguished.* – Criminal liability is totally extinguished:
>
> 1. By the **death of the convict, as to the personal penalties; and as to pecuniary penalties,** liability therefore is extinguished only when the death of the offender occurs before final judgment; xxx (*Boldfacing supplied*)

The Supreme Court, in *People v. Bayotas*[28], laid down the following guidelines in the application of the foregoing provision, thus:

> 1. Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. As opined by Justice Regalado, in this regard, the death of the accused prior to final judgment terminates his criminal liability and only the civil liability directly arising from and based solely on the offense committed, i.e., civil liability *ex delicto* in *senso strictiore.*
>
> 2. Corollarily, the claim for civil liability survives notwithstanding the death of [the] accused, if the same may also be predicated on a source of obligation other than delict. Article 1157 of the Civil Code enumerates these other sources of obligation from which the civil liability may arise as a result of the same act or omission:
>
>   a) Law
>   b) Contracts
>   *c) Quasi-contracts*
>   d) xxx
>   *e) Quasi-delicts*

[28] G.R. No. 102007, September 2, 1994.

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3. Where the civil liability survives, as explained in Number 2 above, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Section 1, Rule 111 of the 1985 Rules on Criminal Procedure as amended. This separate civil action may be enforced either against the executor/administrator or the estate of the accused, depending on the source of obligation upon which the same is based as explained above.

4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with [the] provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription.

It is evidently clear that the death of the accused pending final judgment extinguishes his criminal liability, as well as the civil liability *ex delicto*. The rationale, therefore, is that the criminal action is extinguished inasmuch as there is no longer a defendant to stand as the accused, the civil action instituted therein for recovery of civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal case.[29]

Thus, whether or not accused Reynaldo A. Pazcoguin III was guilty of the crime charged had become irrelevant for even assuming that accused did incur criminal liability and civil liability *ex delicto*, these were totally extinguished by his death, following the provisions of Article 89(1) of the Revised Penal Code.

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[29] *People v. Romero*, 365 Phil. 531, 543 (1999).

Moving on to accused Nenita Biag, aside from the fact that her name appeared in the Amended Article of Incorporation as the company's Treasurer, no clear and convincing evidence was presented by the prosecution to sustain the accusation that she is guilty of supplying incorrect and inaccurate information in the relevant ITRs about the company's receipts during its almost twenty years in existence. Otherwise stated, the prosecution failed to prove beyond reasonable doubt the indictment against accused Nenita Biag. In the case of *People v. Tigulo*[30], the Supreme Court defined proof beyond reasonable doubt as proof against the accused which must survive the test of reason and the strongest suspicion must not be permitted to sway judgment. With more reason in the case of accused Nenita Biag where there was really nothing in the record that even insinuates or suggests her participation or knowledge in the commission of the offense charged.

Besides, in all criminal prosecution, the accused shall be entitled to be presumed innocent until the contrary is proved beyond reasonable doubt. In the case of Nenita Biag, the prosecution simply failed to overcome this constitutional presumption.

As to the alleged absence of any assessment against Ren Transport Corporation for the subject taxable years, suffice it to say that the Supreme Court has ruled in many occasions that an assessment for deficiency tax is not necessary to a criminal prosecution.[31] The Supreme Court concisely explained, as follows:

> An assessment of a deficiency is not necessary to a criminal prosecution for willful attempt to defeat and evade the income tax. A crime is complete when the violator has knowingly and willfully filed a fraudulent return with intent to evade and defeat the tax. <u>The perpetration of the crime is grounded upon knowledge on the</u>

[30] L-34334, November 7, 1997.
[31] *Ungab vs. Cusi*, G.R. No. L-41919-24, May 30, 1980. See also *Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation, et al.*, G.R. No. 128315, June 29, 1999; and *Adamson vs. Court of Appeals*, G.R. No. 120935, May 29, 2009.

> <u>part of the taxpayer that he has made an inaccurate return, and the government's failure to discover the error and promptly to assess has no connections with the commission of the crime</u>.[32]

On the civil aspect, the same is deemed instituted with the present cases pursuant to Section 7 (b) (1) of Republic Act No. 9282, which provides that "criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of a criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action will be recognized."

The defense complain that accused were deprived of due process since the BIR failed to establish receipt of the PAN, the FAN, and the FLD. Allegedly, the LOA, the Notice to Taxpayer, the PAN and the FAN were served at Auto Trend and NOT to Ren Transport Corporation and/or Reynaldo Pazcoguin III. They were served to Chuchay Coronel, who did not show proof of her authority to represent either the accused or the company.

Evidence however show that all the communications and notices from the BIR were all received by Carlota "Chuchay" P. Coronel who had previously represented Ren Transport Corporation in all the latter's dealings and conferences/meetings with the BIR in connection with the instant cases. On one occasion, Ren Transport Corporation, responding to the notice about its tax liabilities with invitation for a conference, sent Atty. Espejo, who arrived at the BIR office at the exact time and date indicated in the notice. In other words, accused were duly notified and not deprived of their right to due process.

The record also revealed that the LOA, the Notice to Taxpayer, the PAN, and the FAN issued to Ren Transport Corporation were all personally served at the latter's BIR registered address at No. 14 Timog Avenue, Laging Handa,

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[32] *Ungab vs. Cusi*, supra.

Quezon City by the members of the investigating team where they were entertained by Chuchay Coronel. Hence, neither accused nor the company can claim denial of due process as in all occasions they were notified and were able to respond accordingly.

In the FAN/FLD dated June 25, 2011, Ren Transport Corporation was found liable for deficiency Income Tax, Value-Added Tax, and Expanded Withholding Tax for taxable years 2006 to 2009, as follows:

	2006	2007	2008	2009	TOTAL
INCOME					
Basic	52,666,199.59	65,242,456.76	29,794,289.92	8,274,708.88	155,977,655.15
Surcharge	26,333,099.79	32,621,228.38	14,897,144.96	4,137,354.44	77,988,827.57
Interest	49,616,826.63	48,416,427.16	16,151,484.56	1,415,388.95	115,600,127.30
Sub-Total	128,616,126.01	146,280,112.30	60,842,919.44	13,827,452.27	349,566,610.02
VAT					
Basic	11,729,200.18	14,527,675.60	8,687,475.29	3,584,524.67	38,528,875.74
Surcharge	5,864,600.18	7,263,837.80	4,343,737.65	1,792,262.23	19,264,437.87
Interest	11,572,028.90	11,427,469.62	5,096,073.01	1,385,777.24	29,481,348.77
Sub-Total	29,165,829.17	33,218,983.02	18,127,285.95	6,762,564.24	87,274,662.38
EXPANDED					
Basic	499,743.66	610,147.57	167,117.72	-	1,277,008.95
Surcharge	249,871.83	305,073.79	83,558.86	-	638,504.48
Interest	496,895.12	479,759.04	96,644.18	-	1,073,298.34
Sub-Total	1,246,510.61	1,394,980.40	347,320.76	-	2,988,811.77
SUMMARY					
Basic	64,895,143.43	80,380,279.93	38,648,882.93	11,859,233.55	195,783,539.84
Surcharge	32,447,571.71	40,190,139.97	19,324,441.47	5,929,616.77	97,891,769.92
Interest	61,685,750.65	60,323,655.82	21,344,201.75	2,801,166.19	146,154,774.41
TOTAL	159,028,465.79	180,894,075.72	79,317,526.15	20,590,016.51	439,830,084.41

Despite notice and receipt, Ren Transport Corporation failed to file any protest against the foregoing assessment, hence, they became final and demandable pursuant to Section 228 of the NIRC of 1997, as amended.

However, the assessment for taxable year 2009 should not be considered since Criminal Case No. O-238 was dismissed.

WHEREFORE, in view of the death of accused **Reynaldo Pazcoquin III**, the cases against him under Criminal Case Nos. O-237, 0-239 and O-240 are hereby **DISMISSED**. Accordingly, the cashbond posted for his provisional liberty in the four (4) cases for violations of Section 255 of the National Internal Revenue Code of 1997, as amended, in the total amount of EIGHTY THOUSAND PESOS (PHP80,000.00), is ordered **RELEASED** to his legal or duly authorized representative upon presentation of pertinent documents.

On the other hand, accused **Nenita Biag** is hereby **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt.

Insofar as accused **Edson O. Fernandez**, who to date remains at large, let an *alias* warrant for his arrest be issued to be returned only upon his arrest. However, the case against him shall be archived to be revived upon his arrest.

With regard to the civil liability, **Ren Transport Corporation** is **ORDERED** to **PAY** its deficiency income tax for the taxable years 2006, 2007, and 2008, in the amounts of Php159,028,465.79, Php180,894,075.72, and Php79,317,526.15, respectively, inclusive of penalties, surcharges and interests, plus 20% delinquency interest per annum counted from December 31, 2011 until full payment thereof, pursuant to Section 249 (C) (3) of the NIRC of 1997, as amended.

In addition, **Ren Transport Corporation** is further **ORDERED TO PAY** a fine of Php100,000.00, for each of the criminal case, pursuant to Section 256 of the NIRC of 1997, as amended.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

LOVELL R. BAUTISTA
Associate Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
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 the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice