REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

OSCAR GARCIA Y ITCHON,
Respondent.

CTA EB CRIM. No. 032
(CTA Crim. Case Nos. O-253, O-254, O-255, and O-256)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, and
RINGPIS-LIBAN, JJ.

Promulgated:

JUN 30 2016 3:05 p.m.

x - x

DECISION

UY, *J.*:

This Petition for Review[1] filed on September 4, 2014, seeks to set aside the Resolution dated August 15, 2014[2] promulgated by the Second Division of this Court (Court in Division) in CTA Crim. Case Nos. O-253, O-254, O-255, and O-256, entitled, *"People of the Philippines, Plaintiff, vs. Oscar Garcia y Itchon, Accused*", and to reopen said case for the reception of evidence of the accused for the determination of civil liability. The dispositive portion thereof reads:

[1] Docket, pp. 1 to 15.
[2] Docket, pp. 17 to 23.

> "**WHEREFORE,** plaintiff's Motion for Partial Reconsideration (of the Civil aspect of the case) is hereby **DENIED.**
>
> **SO ORDERED.**"

THE FACTS

Respondent Garcia was charged before this Court for violations of Sections 254 and 255 of the National Internal Revenue Code (NIRC) of 1997 under four (4) separate Information, which were docketed as Crim. Case Nos. O-253[3] and O-254[4], for violation of said Section 255 for taxable year 2009 and 2008, respectively, and Crim. Case Nos. O-255[5] and O-256[6], for violation of said Section 254 for the same taxable years, respectively. The said cases were consolidated.[7]

Respondent was arraigned on May 14, 2012, where he entered his plea of not guilty to the crimes charged against him.[8]

During trial, petitioner presented its testimonial and documentary evidence, and submitted its *Formal Offer of Evidence (For the Prosecution)* on September 2, 2013.[9]

At the hearing held on October 14, 2013,[10] respondent filed his *Motion for Leave to File Demurrer to Evidence.*[11] The said Motion was granted in the Resolution dated February 12, 2014.[12]

Subsequently, respondent filed his *Demurrer to Evidence* on February 28, 2014.[13]

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[3] Division Docket (CTA Crim. Case No. O-253, Vol. I), pp. 4 to 6.
[4] Division Docket (CTA Crim. Case No. O-254), pp. 4 to 6.
[5] Division Docket (CTA Crim. Case No. O-255), pp. 261 to 263.
[6] Division Docket (CTA Crim. Case No. O-256), pp. 263 to 265.
[7] Resolution dated April 24, 2012, Division Docket (CTA Crim. Case No. O-254), pp. 408 to 411; Resolution dated April 13, 2012, Division Docket (CTA Crim. Case No. O-255), pp. 291 to 303; and Resolution dated April 13, 2012, Division Docket (CTA Crim. Case No. O-256), pp. 293 to 305.
[8] Division Docket (CTA Crim. Case No. O-253, Vol. I), pp. 343 to 346.
[9] Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 792 to 815.
[10] Minutes of the hearing, Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 1076.
[11] Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 1073 to 1075.
[12] Division Docket (CTA Crim. Case No. O-253, Vol. III), pp. 1103 to 1107.
[13] Division Docket (CTA Crim. Case No. O-253, Vol. III), pp. 1108 to 1126.

Finding merit in the respondent's *Demurrer to Evidence*, the Court in Division issued the Resolution dated June 3, 2014,[14] dismissing the consolidated criminal cases against the accused.

Aggrieved, plaintiff filed a *Motion for Partial Reconsideration (of the Civil Aspect of the case)* on June 19, 2014,[15] to which accused filed his *Comment/Opposition to Motion for Partial Reconsideration* on July 9, 2014.[16]

In the assailed Resolution dated August 15, 2014,[17] the said *Motion for Partial Reconsideration* was denied by the Court in Division.

Consequently, petitioner filed the instant *Petition for Review*[18] before the Court *En Banc* on September 4, 2014, praying that the Resolution dated August 15, 2014,[19] promulgated by the Court in Division be set aside in CTA Crim. Case Nos. O-253, O-254, O-255, and O-256, and that the case be reopened for the reception of evidence of the accused and for the determination of his civil liability.

Without necessarily giving due course to the instant *Petition for Review*, the respondent was ordered by the Court *En Banc* to file his comment thereon.[20] Respondent, for his part, filed a *Motion for Extension* on November 13, 2014, praying for an extension of thirty (30) days or until December 13, 2014, within which to file his comment to the said *Petition*.[21]

The Court *En Banc* granted respondent a final and non-extendible period of thirty (30) days from November 13, 2014, or until December 13, 2014, within which to file his comment to the *Petition for Review*.[22] Despite the extended period granted respondent, however, he still failed to file said comment.[23]

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[14] Division Docket (CTA Crim. Case No. O-253, Vol. III), pp. 1174 to 1207.
[15] Division Docket (CTA Crim. Case No. O-253, Vol. III), pp. 1208 to 1218.
[16] Division Docket (CTA Crim. Case No. O-253, Vol. III), pp. 1221 to 1239.
[17] Division Docket (CTA Crim. Case No. O-253, Vol. III), pp. 1243 to 1249.
[18] EB Docket, pp. 1 to 15.
[19] EB Docket, pp. 17 to 23.
[20] Resolution dated October 20, 2014, EB Docket, pp. 29 to 30.
[21] EB Docket, pp. 31 to 32.
[22] Minute Resolution dated November 24, 2014, EB Docket, p. 34.
[23] Records Verification dated February 24, 2015, EB Docket, p. 35.

In the Resolution dated March 9, 2015,[24] the Court *En Banc* resolved to require the parties to submit their respective memorandum, considering the issues raised in the *Petition for Review*.

In compliance thereto, respondent filed his *Memorandum* on May 7, 2015.[25] Petitioner, however, failed to file its memorandum within the period allowed by the Court.[26]

On June 15, 2015, petitioner filed an *Urgent Ex Parte Motion For Leave To Admit Memorandum For The Petitioner*,[27] praying that the *Memorandum*[28] attached thereto be admitted and be made part of the records of this case. In the interest of substantial justice, the said *Urgent Ex Parte Motion* was granted by the Court *En Banc*, and the Memorandum attached therein was noted and admitted.[29]

The instant *Petition for Review* was submitted for decision on June 30, 2015.[30]

THE ISSUE

Petitioner advances this sole issue, to wit:

> "WHETHER OR NOT THE RESPONDENT CAN STILL BE HELD CIVILLY LIABLE DESPITE THE FINDING OF THE HONORABLE SECOND DIVISION THAT THE CASE SHOULD BE DISMISSED FOR INSUFFICIENCY OF EVIDENCE AS THE COA REPORTS ON SALARIES, ALLOWANCES AND OTHER PERSONNEL BENEFITS ARE *'MERE CERTIFIED COPIES OF THE RECEIVING COPIES.'*"[31]

Petitioner's arguments:

Petitioner contends that the respondent can still be held civilly

[24] EB Docket, pp. 37 to 38.
[25] EB Docket, pp. 39 to 71.
[26] Records Verification dated May 26, 2015, EB Docket, p. 73.
[27] EB Docket, pp. 74 to 78.
[28] EB Docket, pp. 79 to 89.
[29] Resolution dated June 30, 2015, EB Docket, pp. 91 to 92.
[30] *Id.*
[31] EB Docket, pp. 81 and 4.

liable despite the finding that the COA Reports on Salaries, Allowances and Other Personnel Benefits (COA ROSA) are "mere certified copies of the receiving copies", and that there is a preponderance of evidence that would point to the civil liability of the accused.

The COA ROSA were not allegedly the only basis of the alleged tax liabilities or the civil liability of the accused. The basis of accused's tax liabilities lie in the Final Assessment Notice/Formal Letter of Demand issued by the BIR and supported by the Preliminary Assessment Notice. These documents were validly authenticated by competent witnesses and are thus admissible in ascertaining the civil liability of the respondent.

Petitioner also argues that the witnesses from the Metropolitan Waterworks and Sewerage System (MWSS) presented by the BIR, although not the present custodians of the original documents, are nevertheless competent to testify on the contents of the documents. They are competent because they were the ones involved in the preparation of the documents.

According to petitioner, Section 7, Rule 130 of the Rules of Court is not exclusive in nature, it is permissive, which is why the COA ROSA should not be considered as devoid of probative value.

In addition, the strict application of the rules of procedure should allegedly not be the benchmark in deciding. The law creating the Court of Tax Appeals, specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth.

Petitioner points out that Schedule 4 of BIR Form No.1604E for the year 2009 is a document that shows that the respondent received income from MWSS. The ATC code used, W1091, supports the contention that MWSS considered the respondent, not as a regular employee, but as a Director. Hence, he was allegedly not covered by the rule on substituted filing.

Finally, there is a preponderance of evidence showing that respondent earned income, and 15% was withheld from him, instead of what is required under his tax bracket, which is ₱125,000 + 32% of the excess over 500,000. Thus, even if respondent would be

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considered as a regular employee of the MWSS, a tax deficiency still exists on his part.

Respondent's counter-arguments:

Respondent counters that the evidence clearly shows that petitioner had no cause of action for a tax deficiency, so there is nothing for respondent to disprove. From the very start, the cases subject of this Petition were instituted based on the theory that an assessment for a tax deficiency is not necessary for criminal prosecution, as stated in the Resolution dated June 1, 2011 of the DOJ, which found probable cause against respondent.

The COA ROSA, as well as the Final Assessment Notice/Formal Letter of Demand and the Preliminary Assessment Notice based thereon has no probative value. The FAN/FLD/PAN were all based on the discredited COA ROSA, as testified to by Gerry E. Saga, who stated that the figures they used were merely copied from the COA ROSA. Moreover, Ma. Lourdes M. Sante testified that the FAN/FLD/PAN were not accurate and required a recomputation. Petitioner, however, already rested its case and formally offered its evidence without any recomputation.

Petitioner cannot allegedly rely on BIR Forms 1604E (Alpha List of Payees Subject to Expanded Withholding Tax) offered as Exhibits "BB," "DD," and "FF." The Exhibits in question were offered as incorrect declarations of respondent's income and as proof that he was not an employee of the MWSS. Petitioner is now claiming that the amounts indicated therein are correct after all, but the taxes withheld were insufficient. This is tantamount to amending a complaint in a civil case involving a completely opposite cause of action or theory of the case after the petitioner completed the presentation of its evidence.

Respondent stresses that no witness was presented to testify on how the figures shown in the COA ROSA came about, and the sole witness from COA was not even familiar with the signatures of the COA Auditors who signed the same. The witnesses from the MWSS could not explain how the figures came about because all original and supporting documents had already been submitted to the COA, and all of them had nothing to do with the preparation of the BIR Forms submitted to the BIR. Thus, the cases subject hereof cannot allegedly be reopened and respondent cannot be compelled to present evidence.

Respondent was an employee of the MWSS, or the government, during the period material hereto, and the MWSS was his only source of income. Hence, respondent was covered by the system of substituted filing of income tax returns.

THE COURT *EN BANC*'S RULING

The instant Petition for Review lacks merit.

It is an elementary rule of criminal procedure which states that the extinction of the penal action does not carry with it the extinction of the civil liability where the acquittal is based on reasonable doubt as only preponderance of evidence is required in civil cases.[32] In other words, even if the guilt of the accused has not been satisfactorily established, he is not necessarily exempt from civil liability which may be proved by preponderance of evidence only.

Preponderance of evidence is defined as the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term greater weight of evidence or greater weight of the credible evidence. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[33]

In addition, settled is the principle that parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent.[34]

Thus, the crux of the controversy before the Court *En Banc* is whether petitioner was able to prove respondent's tax or civil liability by preponderance of evidence.

We answer in the negative.

To establish that petitioner was able to prove respondent's civil liability by a preponderance of evidence, it points to the following evidence, to wit:

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[32] *Emilia Lim vs. Mindanao Wines & Liquor Galleria,* G.R. No. 175851, July 4, 2012.
[33] *Emilia Lim vs. Mindanao Wines & Liquor Galleria,* supra.
[34] *Emilia Lim vs. Mindanao Wines & Liquor Galleria,* supra.

1. Final Assessment Notice/Formal Letter of Demand;[35]
2. Preliminary Assessment Notice (PAN) dated September 13, 2011;[36]
3. Details of Discrepancies;[37]
4. The testimonies of the witnesses from the Metropolitan Waterworks and Sewerage System (MWSS);
5. Schedule 4 of BIR Form 1604E.[38]

We are not convinced.

Correspondingly, the following are the findings of the Court *En Banc*, to wit:

I. The basis of respondent's alleged tax liabilities as indicated in the Preliminary Assessment Notice and Formal Letter of Demand are based solely on the discredited COA ROSA.

Petitioner argues that the COA ROSA reports were not the only basis of the alleged tax liabilities or the civil liability of the accused, and that the basis of respondent's tax liabilities lie in the Final Assessment Notice/Formal Letter of Demand issued by the BIR and supported by the PAN. According to petitioner, these documents were validly authenticated by competent witnesses and are thus, admissible in ascertaining the civil liability of the respondent.

We disagree.

In this case, a perusal of the documentary and testimonial evidence presented by the prosecution easily leads to the conclusion that the alleged tax liabilities of respondent, as stated in the PAN dated September 13, 2011,[39] Annex "A" thereof, showing the Details of Discrepancies,[40] and Final Assessment Notice/Formal Letter of Demand dated July 5, 2012,[41] are based solely on the unverified COA ROSA.

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[35] Exhibit "TT", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 988 to 993.
[36] Exhibit "G", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 829 to 830.
[37] Exhibit "H", Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 831.
[38] Exhibit "FF," Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 941.
[39] Exhibits "G" to "G-1", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 829 to 830.
[40] Exhibit "H", Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 831.
[41] Exhibit "TT", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 988 to 993.

The Annex "A" of the PAN dated September 13, 2011,[42] showing the Details of Discrepancies[43] categorically state that the alleged income earned by respondent was derived from the COA ROSA, to wit:

> "The assigned examiners secured from Metropolitan Waterworks & Sewerage System (MWSS) certified true copies of the report on salaries and other personnel benefits received by the principal officers and members of governing board for taxable years 2007-2009 indicating the income earned by Mr. Oscar I. Garcia xxx."

The figures contained therein, as well as in the Formal Letter of Demand dated July 5, 2012,[44] were merely copied verbatim the amounts stated in the unverified COA ROSA, and are based solely thereon, as testified to by Mr. Gerry E. Saga, during his cross-examination.[45]

If there is no other basis for the tax assessment apart from the mere photocopies of the COA ROSA, the subject PAN and Formal Letter of Demand should be treated as a "naked assessment" or one that is without any rational basis.

In the case of *Commissioner of Internal Revenue vs. Hantex Trading Co., Inc.*,[46] the Supreme Court ruled that an assessment based on mere photocopies of records/documents is one that is utterly without foundation, meaning it is arbitrary and capricious, to wit:

> "...**the best evidence obtainable under Section 16 of the 1977 NIRC, as amended, does not include mere photocopies of records/documents. The petitioner, in making a preliminary and final tax deficiency assessment against a taxpayer, cannot anchor the said assessment on mere machine copies of records/documents.** Mere photocopies of the Consumption Entries have no probative weight if offered as proof of the contents thereof. **The reason for this is**

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[42] Exhibits "G" to "G-1", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 829 to 830.
[43] Exhibit "H", Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 831.
[44] Exhibit "TT", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 988 to 990.
[45] Transcript of Stenographic Notes (TSN) at the hearing held on October 8, 2012, pp. 61 to 63.
[46] G.R. No. 136975, March 31, 2005.

that such copies are mere scraps of paper and are of <u>no probative value</u> as basis for any deficiency income or business taxes against a taxpayer. Indeed, in *United States v. Davey*, the U.S. Court of Appeals (2nd Circuit) ruled that where the accuracy of a taxpayer's return is being checked, the government is entitled to use the original records rather than be forced to accept purported copies which present the risk of error or tampering.

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We agree with the contention of the petitioner that, as a general rule, tax assessments by tax examiners are presumed correct and made in good faith. All presumptions are in favor of the correctness of a tax assessment. It is to be presumed, however, that such assessment was based on sufficient evidence. Upon the introduction of the assessment in evidence, a *prima facie* case of liability on the part of the taxpayer is made. If a taxpayer files a petition for review in the CTA and assails the assessment, the *prima facie* presumption is that the assessment made by the BIR is correct, and that in preparing the same, the BIR personnel regularly performed their duties. This rule for tax initiated suits is premised on several factors other than the normal evidentiary rule imposing proof obligation on the petitioner-taxpayer: the presumption of administrative regularity; the likelihood that the taxpayer will have access to the relevant information; and the desirability of bolstering the record-keeping requirements of the NIRC.

However, the *prima facie* correctness of a tax assessment does not apply upon proof that an assessment is utterly without foundation, meaning it is arbitrary and capricious. **Where the BIR has come out with a 'naked assessment,' *i.e.*, without any foundation character, the determination of the tax due is without rational basis.** In such a situation, the U.S. Court of Appeals ruled that the determination of the Commissioner contained in a deficiency notice disappears. ***Hence, the determination by the CTA must rest on all the evidence introduced and <u>its ultimate determination must find support in credible evidence</u>.***" *(Emphases and underscoring supplied)*

In this case, petitioner's failure to present a certified true copy of the COA ROSA from the public officer in custody thereof, is fatal to its case. The COA ROSA, being a mere unverified photocopy of the original document, has no probative value, and any assessment based thereon is considered a "naked assessment" or one that is without any foundation, or rational basis, and thus, cannot be upheld or sustained by this Court.

II. The testimonies of the witnesses from the MWSS are not reliable.

In this case, the testimony of the prosecution witnesses in CTA Crim. Case Nos. O-253, O-254, O-255, and O-256, are not reliable for purposes of proving the contents of the subject documents, considering that some of them merely relied on the reports made by their subordinates, while another failed to present the check and disbursement vouchers on which they had based their certification.

Angela B. Bolos, the Audit Team Leader at the MWSS Corporate Office, is incompetent to testify that the subject COA ROSA covering taxable years 2007 to 2009 are duplicate copies of the originals since she was appointed as Audit Team Leader only in December 2010.[47] In fact, she admitted that she had nothing to do with the said reports.[48]

Moreover, Estrellito A. Polloso, in his Judicial Affidavit,[49] stated that he merely relied on the capability of his subordinate, to wit:

> "Q8: By the way Mr. Witness, when did you prepare the report, if you can still remember?
>
> A8: I was not the one who prepared the reports but it was my subordinate, as I understand, based on the documents submitted from the Administrative and Services Department, particularly the Human Resource Division who was responsible for the preparation of payroll and other documents relating to the salaries and wages and other forms of compensation.
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[47] TSN at the hearing held on July 8, 2013, pp. 13 to 17.
[48] TSN at the hearing held on July 8, 2013, pp. 21 to 22.
[49] Exhibit "III", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 723 to 732.

Q14: Considering also that Oscar Garcia received a total of P1,893,700.07 as total allowances and other personnel benefits from MWSS-Corporate Office, how did you withhold the tax from the income received by Mr. Garcia, if you know?

A14: With all due respect ma'am, I cannot categorically give a correct answer because as I have mentioned earlier the function of preparing the payroll and the corresponding deductions was the responsibility of the Human Resource Division under the Administrative and General Services Department.

Q15: In certifying correct the Report that you identified in this Honorable Court, what documents did you base your certification?

A15: In certifying correct the Report, I just relied on the capability of my subordinate who prepared the said Report based on the documents submitted by the Human Resource Division.

Q16: Mr. witness, you said that the payroll and other documents submitted by the Human Resource Division were the basis of the Report that was prepared by your staff which you certified correct, where are those documents now, if you know.

A16: It is now under the custody of the Commission on Audit. As a matter of compliance to COA regulations, all original documents and accounting reports shall be submitted to the COA Resident Auditor for safe-keeping."

Furthermore, in her Judicial Affidavit,[50] Jocelyn M. Toledo likewise admitted that she merely relied on the scrutiny of those who initialed the documents before it was submitted to her for certification, thus:

"Q16: In certifying correct the Report that you identified in this Honorable Court, what documents did you base your certification?

[50] Exhibit "JJJ," Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 740 to 745.

A16: My certification was based on initials reflected under my signature. Since the documents passed the scrutiny of those who initialed the documents, it means that complete staff work was done, basis of which are records posted on file.

Q17: Madam witness, what documents were made as basis of the Report which you certified correct, if you know.

A17: The Report was based on disbursement vouchers and check duplicates.

Q18: Madam witness, where are those documents now, if you know.

A18: All of the documents were submitted to the Commission on Audit (COA)."

For her part, Virginia V. Octa, admitted that she noted the subject reports, but was not the one who prepared them.[51] She also admitted that when she notes a report, she doesn't even go to the supporting documentation.[52]

As for Ramon A. Javier, he stated in his Judicial Affidavit[53] that he based his certification on disbursement and check vouchers, to wit:

"Q16: Mister witness, if no creditable withholding tax was deducted from the income received by accused Oscar Garcia as allowances and other personnel benefits from MWSS-Regulatory Office, how much income was actually received by Oscar Garcia for taxable years 2007 and 2008?

A16: Mr. Oscar Garcia actually received from MWSS-Regulatory Office P718,200.00 and P1,813,200.00 for taxable years 2007 and 2008, respectively.

Q17: In certifying correct the Report that you identified in this Honorable Court, what documents did you

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[51] TSN at the hearing held on August 5, 2013, pp. 5, 8 to 9, and 11 to 13.
[52] TSN at the hearing held on August 5, 2013, pp. 5 to 6.
[53] Exhibit "HHH", Division Docket (CTA Crim. Case No. O-253, Vol. II), pp. 635 to 640.

base your certification?

A17: My certification was based on disbursement vouchers and check vouchers issued to Oscar I. Garcia for allowances and other personnel benefits as Chairman of the MWSS Board of Trustees.

Q18: Mr. witness, you said that the check and disbursement vouchers are the basis of the Report which you certified correct, where are those vouchers now, if you know.

A18: The check and disbursement vouchers are already in the custody of the Commission on Audit."

However, on re-cross examination, Mr. Javier admitted that he was only able to present less than fifty percent (50%) of the disbursement and check vouchers, which was used as his bases for certifying correct the said Report.[54]

Based on the foregoing, there can be no merit in petitioner's argument that the witnesses from the MWSS are competent because they were the ones involved in the preparation of the documents. Thus, it is clear that the testimonial evidence presented by the prosecution is insufficient to prove the contents of the subject COA ROSA; nor are said testimonial evidence indicative of respondent's tax liabilities.

III. The purpose for which BIR Form 1604E for 2008 and 2009 were offered is not to establish respondent's tax liabilities. Thus, the same cannot be used to determine the same.

Petitioner, in contending that there is preponderance of evidence showing that respondent earned income, points to Schedule 4 of BIR Form 1604E for year 2009[55]. According to petitioner, the ATC code used, W1091, supports the contention that MWSS considered respondent, not as a regular employee, but as a Director.

The argument is untenable.

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[54] TSN at the hearing held on April 15, 2013, pp. 33 to 34.
[55] Exhibit "FF," Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 941.

It must be remembered that the purpose for which evidence is offered must be specified because such evidence may be admissible for several purposes under the doctrine of multiple admissibility, or may be admissible for one purpose and not for another, otherwise the adverse party cannot interpose the proper objection. **Evidence submitted for one purpose may not be considered for any other purpose.**[56]

Upon review of the prosecution's *Formal Offer of Evidence*[57], it is clear that the purpose for which the said evidence (*i.e.*, Schedule 4 of BIR Form 1604E, marked as Exhibit "FF") was offered is **not** to establish respondent's income tax liabilities; rather, it is merely to prove that the name of respondent appeared therein, to wit:

> "The aforesaid exhibit is being offered **to prove that the name of accused Garcia appeared in the said Alphalist of Payees (attachment to BIR Form 1604E as Schedule 4) and his declared income in the amount Php854,000.00 was subjected to a 15% Expanded Withholding Tax (EWT)**. The Alphanumeric Tax Code (ATC) W1091 in which the accused's tax payment was subjected denotes that, as Director of MWSS who is not an employee of the company, he has the legal obligation to file his income tax return for the said year. However, based on the report filed with COA, accused earned income in the total amount of Php5,395,991.22 for taxable year 2009 which was not subjected to EWT."[58] *(Emphasis supplied)*

Thus, the Court *En Banc* cannot utilize Exhibit "FF" as evidence of respondent's income tax liabilities.

As a final note, it must be emphasized that the failure of the State to collect any civil liability on the part of the respondent, if any, was due to the shortcomings of the public prosecutors in failing to secure, at the very least, a certified true copy of the COA ROSA. The public prosecutors should have employed and used all government resources and powers efficiently, effectively, honestly and economically, particularly to avoid wastage of public funds and revenues. They should have performed and discharged their duties

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[56] *Uniwide Sales Realty and Resources Corporation vs. Titan-Ikeda Construction and Development Corporation*, G.R. No. 126619, December 20, 2006.
[57] Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 792 to 814.
[58] Division Docket (CTA Crim. Case No. O-253, Vol. II), p. 803 to 804.

with the highest degree of excellence, professionalism, intelligence and skill.[59]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack or merit. The Resolution dated August 15, 2014 of the Court in Division in CTA Crim. Case Nos. O-253, O-254, O-255, and O-256 is **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

(On Official Business)
CAESAR A. CASANOVA
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Official Business)
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[59] Refer to *Republic of the Philippines vs. Ma. Imelda Imee R. Marcos-Manotoc, et al.*, G.R. No. 171701, February 8, 2012.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified 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 *En Banc*.

ROMAN G. DEL ROSARIO
Presiding Justice