REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM. CASE NO. A-15

PEOPLE OF THE PHILIPPINES,
Plaintiff - Appellant,

- versus -

NOTICE OF RESOLUTION

AGERICO L. BANZON,
Accused - Appellee.

To:

MR. AGERICO L. BANZON
BANZ BUILT CONSTRUCTION
c/o Atty. Ma. Nanette Q. Encarnacion
Peneyra Road beside Coliseum
Puerto Prinsesa City, Palawan

ATTY. CATHERINE ROSE R. TORTOLES
Bureau of Internal Revenue
Room 704, Prosecution Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ATTY. MA. NANETTE Q. ENCARNACION
(Counsel for the Accused Agerico L. Banzon)
Paneyra Road beside Coliseum
Puerto Princesa City, Palawan

THE PRESIDING JUDGE
REGIONAL TRIAL COURT
Branch 52 - Puerto Princesa City
Justice Hall Building, Rafols Road
Puerto Princesa City, Palawan

GREETINGS:

You are hereby notified by these presents that on **February 20, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 21, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellant,

- versus -

AGERICO L. BANZON,
Accused-Appellee.

x-------------------------------------x

AGERICO L. BANZON,
Accused-Appellant,

- versus -

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee.

CTA Crim. Case No. A-15
(Criminal Case Nos. 32803 & 32806
For: Violation of Section 254 of the NIRC of 1997, as amended

Criminal Case Nos. 32804 & 32805
For: Violation of Section 255 of the NIRC of 1997, as amended)

Members:

DEL ROSARIO, P.J., *Chairperson*,
BACORRO-VILLENA, *and*
CUI-DAVID, JJ.

Promulgated:
FEB 2 0 2025 3:25PM

x - x

RESOLUTION

In the Resolution dated 26 February 2024[1], this Court submitted the case anew for decision, after granting accused Agerico L. Banzon's (**accused**'s) request for reconsideration[2] to admit his belatedly filed *Appellee's Brief* dated 03 November 2023[3], as part of the case records.

Thereafter, upon a thorough examination of the records transmitted by the Regional Trial Court (**RTC**) Branch 52-Puerto Princesa City (**court *a quo***), this Court discovered that accused had filed a separate Notice of Appeal dated 22 September 2022[4], which the

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[1] Division Docket, pp. 342-344.
[2] See Accused's *Motion for Reconsideration*, id., pp. 309-324, with *Appellee's Brief.*
[3] Id., pp. 311-324.
[4] RTC Records (Crim. Case No. 32803), pp. 639-640, with Annex A.

court *a quo* approved in its Order dated 07 October 2022.[5] However, instead of transmitting the appeal to the Court of Tax Appeals (**CTA**), the said Order directed that "the entire records of these cases and the transcripts of stenographic notes of the proceedings be transmitted to the **Court of Appeals**".

Perhaps due to the erroneous designation of the appellate court, the RTC Records were not promptly transmitted to the CTA's Second Division[6], where this case was initially raffled before being transferred to the First Division[7] following the reorganization of the CTA's three (3) divisions, and the court *a quo*'s Branch Clerk of Court or Officer-in-Charge (**OIC**) had to show cause why no sanction should be imposed for noncompliance with the Court's directive.

Despite the eventual transmittal of the RTC Records, the Second Division remained unaware that accused had filed a separate Notice of Appeal. This was because only the Notice of Appeal dated 07 October 2022[8], which was filed *via* registered mail by plaintiff People of the Philippines (**plaintiff**) on 10 October 2022, was received by the Court on 13 October 2022, and subsequently noted in its Resolution dated 10 November 2022[9] (which also included the first directive to the court *a quo* to certify and elevate all case records in its possession).

Considering that only plaintiff's Notice of Appeal dated 07 October 2022 was noted and the court *a quo* failed to transmit to this Court accused's Notice of Appeal dated 22 September 2022[10], along with the Order dated 07 October 2022[11], within thirty (30) days from the perfection of the appeal, as required under Section 12[12], Rule

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5 Id., p. 641.

6 The Second Division is composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

7 The First Division is composed of Presiding Justice Roman G. Del Rosario, as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

8 Division Docket, pp. 225-226.

9 Id., pp. 229-230.

10 Supra at note 4.

11 Supra at note 5.

12 SEC. 12. *Transmittal.* — **The clerk of the trial court shall transmit to the appellate court the original record or the approved record on appeal within thirty (30) days from the perfection of the appeal, together with the proof of payment of the appellate court docket and other lawful fees, a certified true copy of the minutes of the proceedings, the order of approval, the certificate of correctness, the original documentary evidence referred to therein, and the original and three (3) copies of the transcripts.** Copies of the transcripts and certified true copies

41[13] of the Rules of Court (**ROC**), as amended, this case was captioned as:

PEOPLE OF THE PHILIPPINES, **CTA Crim. Case No. A-15**
Plaintiff-Appellant,

-versus-

AGERICO L. BANZON,
Accused-Appellee.

Recognizing that the responsibility of transmitting the Notice of Appeal rests with the court *a quo*, that accused was furnished a copy of the court *a quo*'s Order dated 07 October 2022, acknowledging his appeal, and that his appeal was timely filed, *i.e.*, within fifteen (15) days from notice of the court *a quo*'s Order dated 05 September 2022[14] (the **"assailed Order"** affirming his conviction)[15], principles of fairness dictate that this Court take cognizance of accused's separate appeal challenging his conviction on the subject criminal charges.

Since both parties have filed separate Notices of Appeal, this case shall now be captioned as follows:

PEOPLE OF THE PHILIPPINES, **CTA Crim. Case No. A-15**
Plaintiff-Appellant,

-versus-

AGERICO L. BANZON,
Accused-Appellee.
x----------x
AGERICO L. BANZON,
Accused-Appellant,

-versus-

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee.

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of the documentary evidence shall remain in the lower court for the examination of the parties. (Emphasis and underscoring supplied)

13 Appeal from the Regional Trial Courts.

14 RTC Records (Crim. Case No. 32803), pp. 636-638.

15 Accused, through his counsel, received the assailed Order on 15 September 2022. Counting fifteen (15) days therefrom, accused had until 30 September 2022 within which to file an appeal. Since court *a quo* received accused's Notice of Appeal on 23 September 2022, it was filed within the prescribed period and is therefore considered timely.

It is noted that the parties were previously required to submit briefs only concerning plaintiff's appeal. In view of accused's separate appeal, and to streamline the proceedings and prevent further delay, both plaintiff and accused are hereby **DIRECTED** to file a **Manifestation** within **five (5) days** from receipt hereof, stating whether they will adopt their previously filed briefs in plaintiff's appeal as their respective briefs for accused's appeal.

Should either party opt not to adopt their previously filed briefs, they are **GRANTED** a period of **ten (10) days** to submit either a supplemental or an entirely new brief.

Besides the oversight with respect to accused's timely appeal, this Court also notes that plaintiff's Notice of Appeal dated 07 October 2022[16] appears to have been filed out of time.

Contrary to plaintiff's bare allegation that it received the court *a quo*'s assailed Order on 23 September 2022[17], a review of court *a quo*'s assailed Order[18], which forms part of the RTC records, reveals that plaintiff, through the Office of the City Prosecution and the Bureau of Internal Revenue (**BIR**), actually received it on 09 September 2022, and 16 September 2022, respectively—as indicated in writing under the "Copy Furnished" portion. Counting fifteen (15) days from these dates, plaintiff had until **03 October 2022** (as 01 October 2022 fell on a Saturday), at the latest (based on the later receiving date) to file an appeal. However, plaintiff's Notice of Appeal was filed *via* registered mail with court *a quo* only on **10 October 2022**, as evidenced by the Registry Receipt.[19] Since this was beyond the prescribed appeal period, plaintiff's appeal must be deemed untimely and should therefore be dismissed for being filed out of time.

In any case, accused's appeal, which challenges his conviction, was duly perfected within the 15-day reglementary period. As such, despite the dismissal of plaintiff's appeal, the civil aspect of the case may still be resolved in line with this Court's authority to conduct an appellate review of the propriety of the court *a quo*'s judgment of

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16 See Notice of Appeal dated 07 October 2022, RTC Records (Crim. Case No. 32803), pp. 642-643.
17 Id., p. 642.
18 Supra at note 14.
19 See Affidavit of Service dated 10 October 2022, RTC Records (Crim. Case No. 32803), p. 644.

conviction. It is well established that an appeal in a criminal case opens the entire case for review, including both its criminal and civil aspects.[20]

Moreover, the RTC Records do not show that the court *a quo* issued an order granting or recognizing plaintiff's appeal. The absence of such an order necessarily implies that plaintiff's mode of appeal had not been approved by court *a quo*, further reinforcing the conclusion that plaintiff's appeal was procedurally infirm.

WHEREFORE, premises considered, accused Agerico L. Banzon's Notice of Appeal, filed on 23 September 2022, is **NOTED**, while plaintiff People of the Philippines' Notice of Appeal, filed *via* registered mail on 10 October 2022, is hereby **DISMISSED** for being filed out of time.

Given the dismissal of plaintiff's belated appeal and in light of accused's timely (though previously overlooked) appeal, the parties are **DIRECTED** to file a **Manifestation** within **five (5) days** from receipt hereof, stating whether they will adopt their previously filed briefs in plaintiff's appeal as their respective briefs for accused's appeal.

Should either party opt not to adopt their previously filed briefs, they are **GRANTED** a period of **ten (10) days** to submit either a supplemental or an entirely new brief.

The Office of the Clerk of Court is hereby **DIRECTED** to assign a separate docket number for accused's appeal.

Accordingly, once the parties have complied with the Court's directives in this Resolution, the case shall be **SUBMITTED ANEW** for decision.[21] Meanwhile, the Resolution dated 26 February 2024, insofar as it submitted the case for decision, is deemed superseded.

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20 See *Cecilia Rivac v. People of the Philippines*, G.R. No. 224673, 22 January 2018, citing *People of the Philippines v. Ramil Doria Dahil and Rommel Castro y Carlos*, G.R. No. 212196, 12 January 2015.

21 Article VIII, Section 15(2) of the 1987 Constitution, in relation to Rule 14, Section 1 (par. 1) of the Revised Rules of the Court of Tax Appeals, states that "[a] case or matter shall be **deemed submitted for decision** or resolution **upon the filing of the last pleading, brief, or memorandum required** by the Rules of Court or **by the court itself**." (Emphasis supplied.)

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice