

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

ELMA V. NG,

Petitioner,

CTA EB CRIM. NO. 127

(Crim Case No. M-MNL-21-03533-
CR-Roo-00)

Present:

**DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, JJ.**

- versus -

**PEOPLE OF THE
PHILIPPINES,**

Respondent.

Promulgated:

SEP 30 2024

X ----- X

D E C I S I O N

ANGELES, J.:

Petitioner Elma V. Ng filed before the Court *En Banc* a *Petition for Review*, under Rule 43 of the Rules of Court and Rule 9, Section 9(c) of the Revised Rules of the Court of Tax Appeals (RRCTA) and prays for the reversal and annulment of the *Order*¹ dated 30 May 2023 and the *Decision*² dated 15 March 2023 of the Regional Trial Court (RTC), Branch 21, City of Manila in Criminal Case No. M-MNL 21-03533-CR-Roo-00, which affirmed *in toto* the *Judgment*³ dated September 23, 2022 of the Metropolitan Trial Court (MeTC), Branch 28, Manila in Criminal Case No. M-MNL-21-03533-CR.

¹ EB Docket, pages 208 to 209.

² EB Docket, pages 176 to 184.

³ EB Docket, pages 144 to 152.

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The Facts of the Case

Petitioner, together with accused Joanne P. Ng (Joanne), was charged with the crime of failure to obey summons, in violation of Section 266⁴ in relation to Sections 5⁵, 14⁶, 253 (d)⁷ and 256⁸ of the National Internal Revenue Code of 1997 (1997 NIRC), in the *Information*⁹ dated April 14, 2021, the accusatory portion of which reads as follows:

That on or about October 9, 2020, in the City of Manila, Philippines, the said accused, being then the President and Treasurer, respectively, and responsible officers of ENERGY FACTORS INC., a duly organized and registered domestic corporation with main office located at 2525 Bautista corner C. Ayala St., Brgy. 762, Zone 082, Sta. Ana, this City, and as such, were duly summoned to appear and produce books of accounts and other accounting records for taxable year of 2018 and to furnish information as required by the Bureau of Internal Revenue herein represented by Melecio S. Macatuggal Jr. and Luz F. Porio, did then and there willfully and unlawfully refuse and neglect to appear and produce the aforesaid documents and papers for examination by the said Bureau, and despite notice and demand from the latter, accused failed and refused to do so.

Upon arraignment, petitioner and accused Joanne pleaded not guilty to the charge against them.¹⁰ Thereafter, trial before the MeTC ensued.

⁴ **Section 266.** Failure to Obey Summons. Any person who, being duly summoned to appear to testify, or to appear and produce books of accounts, records, memoranda or other papers, or to furnish information, shall, upon conviction, be punished by a fine of not less than Five thousand pesos (PhP5,000) but not more than ten thousand pesos (PhP10,000) and suffer imprisonment of not less than one (1) year but not more than two (2) years.

⁵ **Sections 5.** Power of the Commissioner to Obtain Information, and to Summon, Examine, and Take Testimony of Persons. In ascertaining the correctness of any return, or in making a return when none has been made, or in determining the liability, or in evaluating tax compliance, the Commissioner is authorized: ...

⁶ **Section 14.** Authority of Officers to Administer Oaths and Take Testimony. – The Commissioner, Deputy Commissioners, Service Chiefs, Assistant Service Chiefs, Revenue Regional Directors, Assistant Revenue Regional Directors, Chiefs and Assistant Chiefs of Division, Revenue District Officers, special deputies of the Commissioner, internal revenue officers and any other employee of the Bureau thereunto especially deputed by the Commissioner shall have the power to administer oaths and to take testimony in any official matter or investigation conducted by them regarding matters within the jurisdiction of the Bureau.

⁷ xxx 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 the employees responsible for the violation.

⁸ **Section 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 (PhP50,000) but not more than One hundred thousand pesos (PhP100,000).

⁹ EB Docket, page 158.

¹⁰ EB Docket, page 144.

The prosecution presented its lone witness, Melecio S. Macatuggal, Jr. (RO Macatuggal), a Revenue Officer of the Bureau of Internal Revenue (BIR), Revenue District Office (RDO) No. 34, Revenue Region No. 6. RO Macatuggal testified that, on September 25, 2019, a Letter of Authority (LOA) was issued authorizing him and Group Supervisor Luz F. Porio to examine the books of accounts and other accounting records of Energy Factors, Inc. (EFI or the corporation).¹¹

Through a Subpoena Duces Tecum (SDT) issued and signed by the Regional Director on September 25, 2020, petitioner and accused Joanne were ordered to appear before the BIR Legal Division at the 5th Floor, BIR Building I, Solana Street, Intramuros, Manila on October 09, 2020 at 10:00 o'clock in the morning.¹² They were directed to submit the books of accounts and other accounting records of EFI for the taxable year 2018 to verify its possible tax liabilities. The SDT was later served at the business address of EFI on October 02, 2020. The service of the SDT was evidenced by an Affidavit of Service executed by RO Macatuggal.¹³

Despite receipt of the SDT, petitioner and accused Joanne failed to comply with the directive. The said events prompted the BIR to file a criminal complaint with the City Prosecutor's Office.¹⁴

The defense presented the testimonies of Mr. Efren Llagas (Mr. Llagas), accused Joanne, and petitioner. The testimonies of the defense witnesses tended to establish that accused Joanne and petitioner had no intention to neglect the SDT.¹⁵ Accused Joanne, as the President of the corporation, ordered Mr. Llagas to personally deliver to the BIR a letter that expressed their willingness to pay the penalties and their intention to avail the Voluntary Assessment and Payment Program (VAPP).¹⁶ The letter was received by Rowell B. Vicente of the BIR Legal Division on October 9, 2020.¹⁷

Petitioner admitted being the Treasurer of the corporation but claimed that she was not involved in the day-to-day operations nor in the custody of any BIR related document.¹⁸

¹¹ EB Docket, page 57.

¹² SDT, dated September 05, 2020, Exhibit "G", EB Docket, page 55.

¹³ *Judgment* dated September 23, 2022, EB Docket, page 146

¹⁴ *Id.*

¹⁵ *Judgment* dated September 23, 2022, EB Docket, page 146 to 147.

¹⁶ *Judgment* dated September 23, 2022, EB Docket, page 146 to 147.

¹⁷ EB Docket, page, 176.

¹⁸ EB Docket, page, 178.

In the *Judgment*¹⁹ dated September 23, 2022, the MeTC found petitioner and accused Joanne guilty beyond reasonable doubt of failure to obey summons, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, this Court finds both Accused Joanne P. Ng/Joanne Ng y Pe and Elma y Ng/Elma Ng y Villanueva GUILTY, beyond reasonable doubt, of *Viol. Of Section 266 in Relation to Sections 5, 14, 253 (d) & 256 of the National Internal Revenue Code of 1997, as amended.*²⁰

This Court hereby sentences each Accused to pay a fine of Five Thousand pesos (Php5,000.00) and to suffer imprisonment of one (1) year.²¹

In separate *Orders* dated October 18, 2022, the MeTC gave due course to the *Application for Probation* filed by accused Joanne and the *Notice of Appeal* filed by petitioner.²² Relative thereto, petitioner filed before the RTC her *Appeal-Memorandum* on November 21, 2022.²³ Petitioner ascribed the following errors upon the MeTC: (a) That the SDT was irregularly issued and served; (b) That EFI and petitioner did not neglect the SDT; and (c) That petitioner is not a responsible officer and not criminally liable.

In its *Decision*²⁴ dated March 15, 2023, the RTC affirmed *in toto* the *Judgment*²⁵ of the MeTC, the dispositive portion²⁶ of which reads as follows:

IN LIGHT OF ALL THE FOREGOING, the Judgment dated September 23, 2022 of the MeTC finding accused-appellant Elma Ng y Villanueva GUILTY beyond reasonable doubt, of Viol. (sic) Of Section 266 in Relation to Sections 266 in Relation to Sections 5, 14, 253(d) & 256 of the National Internal Revenue Code of 1997, as amended and sentenced to pay a Fine of Five Thousand pesos (P5,000.00) and to suffer imprisonment of one (1) year is AFFIRMED IN TOTO.

SO ORDERED.

On April 28, 2023, petitioner filed a *Motion for Reconsideration*²⁷ but it was denied by the RTC in its *Order*²⁸ dated

¹⁹ EB Docket, page 144.

²⁰ EB Docket, page 152.

²¹ *Id.*

²² EB Docket, page 178, *Decision* dated March 15, 2023.

²³ EB Docket pages 156 to 174.

²⁴ EB Docket, page 176 to 184

²⁵ EB Docket, pages 176 to 184, *Decision* dated March 15, 2023.

²⁶ EB Docket, pages 183 to 184.

²⁷ EB Docket, page 185.

²⁸ EB Docket, pages 208 to 209, *Order* dated May 30, 2023.

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May 30, 2023. Aggrieved, petitioner filed with this Court the instant *Petition for Review* on June 16, 2023.

On July 05, 2023, the Court issued a *Resolution* and ordered the respondent to file its comment on the *Petition for Review* within ten (10) days from notice.²⁹

On September 04, 2023, respondent filed a *Motion for Leave to Admit Attached Comment/Opposition* dated August 30, 2023³⁰. Respondent claimed that it received a copy of the *Petition for Review* on August 18, 2023³¹ by registered mail, a month after it received the *Resolution* on July 18, 2023.³²

On October 23, 2023, the Court granted respondent's motion and admitted its *Comment/Opposition*. On same date, the case was submitted for decision.³³

Issue

Whether or not the RTC erred in affirming the *Judgment* of the MeTC, which found the petitioner guilty beyond reasonable doubt for failure to obey summons, in violation of Section 266 in relation to Sections 5, 14, 253 (d) and 256 of the 1997 NIRC, as amended.

Arguments of the petitioner

Petitioner argues that the subject SDT was irregularly issued and served³⁴. She claims that such irregularities violate Revenue Memorandum Order (RMO) 10-2013, as amended by RMO 8-2014.

Petitioner insists that the SDT was incomplete since it did not include the identity of the revenue officer tasked to serve it.³⁵ She also highlighted the different serial numbers indicated in the subject SDT and that indicated in the Affidavit of Service of RO Macatuggal. The present case involves SDT No. RR6-2020-0516.³⁶ The *Affidavit of Service* executed by RO Macatuggal, however, refers to SDT No. RR6-2014-0429.

²⁹ Minute Resolution dated July 05, 2023, EB Docket, p.210.

³⁰ EB Docket, pages 211 to 217.

³¹ Paragraph 2, *Motion for Leave to Admit Attached Comment/Opposition*, EB Docket, p. 211.

³² EB Docket, page 210.

³³ EB Docket, pages 219 to 221, *Resolution* dated October 23, 2023.

³⁴ Paragraph 29, *Petition for Review* dated June 16, 2023, EB Docket, page 22.

³⁵ Paragraph 30, *Petition for Review* dated June 16, 2023, *Id.*

³⁶ Paragraph 35, *Petition for Review* dated June 16, 2023, EB Docket, page 25.

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Petitioner further argues that she did not neglect the SDT because the corporation, through its President and accused Joanne, offered to pay penalties and expressed the intention to avail of the VAPP.

Lastly, petitioner insists that she is not a responsible officer of the corporation because she was not involved in its day-to-day operations.³⁷ Hence, she prays that her conviction be reversed and that she be found not criminally liable.

Arguments of the respondent

The State, as represented by the Department of Justice, in its *Comment/Opposition*, argues that the present case does not warrant the exercise of appellate review by the Court *En Banc*. It insists that the prosecution was able to sufficiently establish the guilt of petitioner beyond reasonable doubt for failure to submit books of accounts and other accounting records of EFI for the taxable year 2018.³⁸ Respondent further argues that the MeTC and the RTC had exhaustively resolved and discussed petitioner's defense, the same arguments she raised in her petition.³⁹

Ruling of the Court *En Banc*

The Petition for Review was timely filed.

Petitioner received on June 1, 2023 the *Order* of the RTC denying her *Motion for Reconsideration*.⁴⁰

Pursuant to Rule 9, Section 9(c) of the RRCTA, petitioner had fifteen (15) days from June 01, 2023 or until June 16, 2023 to file her petition for review with the Court *En Banc*. On June 16, 2023, the instant *Petition for Review* was timely filed.

The Court now rules on the merits of the *Petition for Review* filed by the petitioner.

³⁷ EB Docket, page 39.

³⁸ Paragraph 1, *Comment/Opposition* dated August 30, 2023.

³⁹ Paragraph 2, *Comment/Opposition* dated August 30, 2023

⁴⁰ Paragraph 22, *Petition for Review* dated June 16, 2023.

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The prosecution failed to prove beyond reasonable doubt that the Subpoena Duces Tecum (SDT) was duly served upon petitioner.

In criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those the parties raised as errors.⁴¹ After a careful review of the records of the case, the Court finds reasonable doubt that merits the acquittal of petitioner from the charge against her.

The petitioner was charged with the crime of failure to obey summons, a violation of Section 266 in relation to Sections 5⁴², 14⁴³, 253 (d)⁴⁴ and 256⁴⁵ of the 1997 NIRC, as amended. Section 266 of the 1997 NIRC, as amended, provides:

Section 266. Failure to Obey Summons. Any person who, being **duly summoned** to appear to testify, or **to appear and produce books of accounts, records, memoranda or other papers, or to furnish information**, as required under the pertinent provisions of this Code, neglects to appear or to produce such books of accounts, records, memoranda or other papers, or to furnish such information, shall, upon conviction, be punished by a fine of not less than Five thousand pesos (PhP5,000) but not more than ten thousand pesos (PhP10,000) and suffer imprisonment of not less than one (1) year but not more than two (2) years. (Emphasis supplied)

Section 266 of the 1997 NIRC, as amended, penalizes any person, who despite being summoned, neglects to produce books of account, records, memoranda or other papers required. The crime of failure to obey summons requires the concurrence of the following elements:

1. Offender is duly summoned;
2. Offender is summoned to appear and produce books of accounts, records, memoranda or other papers, or to furnish information required under the pertinent provisions of the 1997 NIRC, as amended;

⁴¹ *People v. Datugan*, G.R. No. 258647. April 24, 2023.

⁴² *Supra*, note 5.

⁴³ *Supra*, note 6.

⁴⁴ *Supra*, note 7.

⁴⁵ *Supra*, note 8.

3. Offender neglects to appear or to produce such documents; and
4. In case the offender is an artificial person, such as a partnership or corporation, the accused is its partner, president, general manager, branch manager, treasurer, officer-in-charge, or responsible officer or employee.

To warrant a conviction for failure to obey summons, the prosecution must first establish that the offender was duly summoned. The issuance and service of summons should be consistent with the mandated procedure. RMO 10-2013⁴⁶, as amended by RMO No. 8-2014⁴⁷, provides the identity of the person to whom an SDT shall be issued. The relevant provisions are as follows:

- 3.6. In case the request for issuance of SDT is found to be meritorious, **the SDT shall be issued to the person liable for tax or required to file a return**, or should the information or records be in the possession of a third party or office, then in that party's name, **requiring the concerned person to appear and submit before the signatory of the SDT the mandated information/documents at an appointed time, date and place.** [Emphasis Supplied]
The time to be indicated in the SDT shall be during regular business hours or from eight o'clock in the morning and five o'clock in the afternoon during the work week, excluding holidays. The venue shall be in the BIR office of the signatory of the SDT.
 - a. **In case of corporations**, partnerships or associations, **the SDT shall be issued** to the partner, **president**, general manager, branch manager, **treasurer**, registered officer-in-charge, employee/s or other persons responsible for the custody of the books of accounts and other accounting records mandated to be submitted or information mandated to be provided. x x x
(Emphasis supplied)

In the event an SDT is issued to a corporation, it shall be addressed to the president, general manager, branch manager, treasurer, registered officer-in-charge, employee/s or other persons responsible for the custody of the books of accounts and other accounting records mandated to be submitted or information mandated to be provided.

⁴⁶ Entitled, *Revised Guidelines and Procedures in the Issuance and Enforcement of Subpoenas Duces Tecum and the Prosecution of Cases for Non-compliance Therewith.*

⁴⁷ Entitled, *Amendment to Revenue Memorandum Order No. 10-2013 dated April 17, 2013 on Revised Guidelines and Procedures in the Issuance and Enforcement of Subpoenas Duces Tecum and the Prosecution of Cases for Non-compliance Therewith.*

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RMO 10-2013, as amended by RMO No. 8-2014, likewise provides the manner and procedure of the service of the SDT. The relevant provisions are as follows:

- 3.10 **The service of the SDT shall be effected by the revenue officers assigned to investigate the case. However, such service may be made by any other internal revenue officer authorized for the purpose.**

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- 3.13 **The SDT shall be served through personal service by delivering personally a copy of the SDT to the party at his registered or known address or wherever he may be found.** A known address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.

- a. **In case personal service is not practicable, the SDT shall be served by substituted service or by mail.**
- b. Substituted service can be resorted to when the party is not present at the registered or known address under the following circumstances:

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- i. The SDT may be left at the party's registered address, with his clerk or with a person having charge thereof.

c. XXX

The SDT should **first be served to the taxpayer's registered address** before the same is served to the taxpayer's known address or simultaneously to the taxpayer's registered address.

- 3.14 **The server shall accomplish the bottom portion of the SDT. He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service,** the name of the person/barangay official/professional courier service company who received the same and such other relevant information. The registry receipt issued by the post office or the official receipt issued by the professional courier company containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.

(Emphasis supplied)

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The SDT should be personally served to the taxpayer at its registered address. Substituted service is resorted to only if the taxpayer is not present at the registered address. Service of the SDT is effected by a revenue officer assigned to investigate the case. The said officer should accomplish the bottom portion of the SDT and set forth the manner, place, and date of service. The same details should be included in the officer's written report, made under oath before a notary public or any person authorized to administer oath under Section 14⁴⁸ of the NIRC.

In the instant case, the prosecution failed to establish that the SDT was duly served. The prosecution relies on the testimony of RO Macatuggal to prove service of the SDT to petitioner. Generally, the highest respect is accorded to the findings and conclusions of the trial court regarding the credibility of the witnesses and their testimonies, considering its unique position to directly observe the demeanor of witnesses on the stand.⁴⁹ The Court, however, finds in the present case that facts of great weight and substance were overlooked and the credibility of the RO Macatuggal is not supported by the evidence on record. His testimony reveals irregularities and deviations from the mandates of RMO 10-2013, as amended by RMO No. 8-2014, casting doubt on the value of his testimony.

RO Macatuggal testified that he served the SDT⁵⁰ and documented his actions in his Affidavit of Service.⁵¹ There is no dispute that an SDT was issued to accused Joanne and petitioner, as the President and Treasurer of EFI, respectively. It is, however, noteworthy that the SDT was served through substituted service and was received by an employee of the corporation, namely Joselito Dayao, on October 02, 2020 at 10: 14 a.m. ⁵²

Interestingly, RO Macatuggal revealed on cross-examination that he did not personally serve the SDT, contrary to the contents of his Affidavit of Service, to wit:

*Cross examination of RO
Macatuggal by Atty. Velandrez⁵³*

ATTY VELANDREZ:

⁴⁸ *Supra*, note 6.

⁴⁹ *People v. De la Torre, et.al.*, G.R. No. 121213 and 121216-23, January 13, 2004.

⁵⁰ EB Docket, page 46.

⁵¹ EB Docket, page 66.

⁵² EB Docket, page 55.

⁵³ EB Docket, pages 75 to 77.

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Let us go to Exhibit "H". Are you the one who executed this Affidavit of Service of Subpoena Duces Tecum, right?

WITNESS:
Yes, sir.

ATTY VELANDREZ:
Now, let's go to paragraph two of this Affidavit of Service of Subpoena Duces Tecum. **You stated here that the subpoena duces tecum that you served is with serial number SDT No. RR6-2020-0516, right?**

WITNESS:
Yes, sir.

ATTY. VELANDREZ:
Okay. Let us go back [to] Exhibit "G". **You are claiming that you are the one who served this subpoena duces tecum?**

WITNESS:
Yes, sir.

... ..

ATTY. VELANDREZ:
So this first page, the lower portion supposedly for the revenue officer, you served the part subpoena duces tecum as it is, remained blank, correct?

WITNESS:
Yes, sir.

... ..

ATTY. VELANDREZ:
Yes, Your Honor. Okay, with this paragraph 8, **would you admit you never mentioned here that you are the person who served the subpoena duces tecum?**

WITNESS:
Sir, the same was duly served pero hindi pa po na-admit na ako nagserve.

(Emphasis supplied)

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When confronted, RO Macatuggal revealed that he has no personal knowledge of how the SDT was served. He simply conclusively stated that the SDT was duly served. He failed to provide the identity of the officer that served the SDT, much less how he had any knowledge of the details and the manner of the service.

RMO 10-2013, as amended, requires the assigned revenue officer who effected the service should accomplish the bottom portion of the SDT, where the officer identifies himself as the person who served the SDT and to set forth the manner, place, and date of service.⁵⁴ Notably, the bottom portion of the subject SDT was left blank and RO Macatuggal's name nor signature does not appear therein. This further casts doubt on the truth of RO Macatuggal's testimony that the SDT was duly served.

Furthermore, a careful scrutiny of the Affidavit of Service reveals that RO Macatuggal referred to an SDT different from that involved in the present case. The SDT addressed to petitioner and accused Joanne is SDT No. RR6-2020-0516.⁵⁵ In RO Macatuggal's Affidavit of Service, he described SDT No. RR6-2014-0420.⁵⁶ Such discrepancy is material but was not explained by RO Macatuggal nor the prosecution. The inconsistency in the identity of the SDT cannot be dismissed as inconsequential since due service of the SDT is an element of the crime, which is necessary to sustain a conviction.

Having no personal knowledge of the service of the SDT, RO Macatuggal's testimony is merely hearsay evidence. Its probative value, if any, is little. In criminal cases, the admission of hearsay evidence would be a violation of the Constitutional right of the accused to confront and cross-examine the witness testifying against the accused.⁵⁷

Assuming *arguendo* that RO Macatuggal had personal knowledge of the service of the correct SDT to petitioner, the manner of service was nonetheless irregularly effected when substituted service was resorted to and the SDT was left with an employee of EFI. He made no mention of any attempt to personally serve the SDT to petitioner or accused Joanne. Evidently, such actions contravene RMO 10-2013, as amended by RMO No. 8-2014, that mandates personal service of the SDT and allows substituted service only when the former is not practicable.

⁵⁴ Section 3.14, RMO 10-2013, as amended by RMO No. 8-2014.

⁵⁵ EB Docket, page 55.

⁵⁶ EB Docket, page 56.

⁵⁷ *People v. Mamalias*, G.R. No. 128073, March 27, 2000.

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In *Commissioner of Internal Revenue vs. Avon Products Manufacturing*⁵⁸, the Supreme Court recognized the BIR as the primary agency tasked to assess and collect proper taxes and to administer and enforce the Tax Code. To perform its functions of tax assessment and collection properly, it is given ample powers under the Tax Code, such as the power to examine tax returns and books of accounts and to issue subpoena. The Supreme Court, however, also recognized that such powers of the BIR must be exercised reasonably and under the prescribed procedure. The Commissioner and revenue officers must strictly comply with the requirements of the law, with the BIR's own rules, and with due regard to taxpayers' Constitutional rights.

In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution.⁵⁹

In view of the failure of the prosecution to prove beyond reasonable doubt that petitioner was duly summoned and the acquittal of the petitioner is in order. The Court finds it unnecessary to discuss the other elements of the crime.

It is a basic Constitutional principle that an accused in a criminal case shall be presumed innocent until the contrary is proven.⁶⁰ The prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the defense.⁶¹ The Court upholds the primacy of the presumption of innocence in favor of the accused when the evidence at hand falls short of the required quantum of proof necessary to support a conviction.⁶²

WHEREFORE, premises considered, the instant *Petition for Review* is hereby **GRANTED**. The *Order* dated May 30, 2023 and the *Decision* dated 15 March 2023 of the Regional Trial Court (RTC) - Branch 21, City of Manila in Criminal Case No. M-MNL 21-03533-CR-R00-00, is

⁵⁸ G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

⁵⁹ *CIR vs. Yumex Philippines Corporation*, G.R. No. 222476, May 05, 2021.

⁶⁰ Article III, Section 14(2) of the Constitution mandates:

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

⁶¹ *People v. De Jesus*, G.R. No. 252352, June 23, 2021.

⁶² *People v. Agustin*, G.R. No. 247718, March 03, 2021.

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REVERSED and **SET ASIDE**. Accordingly, petitioner is **ACQUITTED** of the crime charged on the ground of reasonable doubt.

SO ORDERED.


HENRY S. ANGELES
Associate Justice

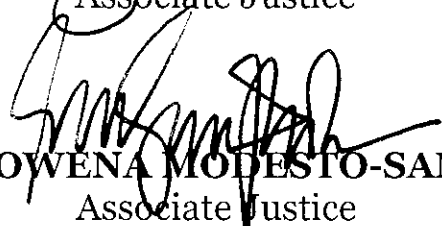
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZÓN G. FERRER-FLORES
Associate Justice

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.


ROMAN G. DEL ROSARIO
Presiding Justice