



Tax Law
for
Business

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Acting in good faith?

May 29, marked a momentous event in Philippine history as Filipinos were glued to their televisions giddily anticipating the culmination of the politikaserye that started on January 16 after having undergone a harrowing 43 trial days.

Finally, after seven unsuccessful impeachment attempts in Philippine history, on Tuesday, an overwhelming majority of senator-judges voted 20-3 for the removal of Chief Justice (CJ) Renato Corona from office, making him the first-ever government official to be convicted by an Impeachment Court.

As we all know, CJ Corona was convicted on charges of culpable violation of the Constitution and betrayal of public trust. Both formidable teams engaged in a battle of political and legal flamboyance, which was focused on Article II of the impeachment complaint delving on Corona's inaccurate declaration of his assets, including peso and dollar deposits and real-estate property.

Refuting the allegations of lying about his Statement of Assets, Liabilities and Net worth (SALN) to conceal his wealth, the defense argued, to no avail, that the nondisclosure of some of Corona's accounts did not constitute an impeachable offense as he did it in "good faith."

No, I do not intend to assail the arguments raised by both camps. Neither do I wish to belabor what transpired during the impeachment trial, albeit, it may be addressed in a proper forum.

Moving on, it is worth mentioning that in a striking similarity, the Bureau of Internal Revenue's steadfast series of attempts to sentence tax evaders finally paid off sometime in February of this year when the Supreme Court (SC) released its first-ever guilty verdict in GR 196340. Echoing that SC pronouncement was the decision promulgated on May 7, by the Court of Tax Appeals En Banc in CTA E.B. 012.

In both related cases, the accused spouses were separately charged with violations of Article 255 of the Tax Code, which punishes failure to file return, supply correct and accurate information, pay tax, withhold and remit tax and refund excess taxes withheld on compensation, with a fine of not less than P10,000 and imprisonment of not less than one year but not more than 10 years.

Time and again, acting in good faith has become an austere scapegoat making it an overrated defense of individuals facing charges penalized with civil, criminal and or administrative liabilities.

Parallel to CJ Corona's belief in good faith in the absolute confidentiality of foreign-currency deposits, the spouses anchored their main argument in their belief in good faith that their alleged accountant had been up-to-date in filing their income-tax returns (ITRs) for the taxable years 2000 and 2001. As such, they alleged that there is no deliberate and wilful neglect to file their ITRs. Unconvinced, the SC and CTA found the accused guilty beyond reasonable doubt.

In CTA E.B. 012, the court considered the taxpayer's complete reliance on his supposed accountant to file his required ITRs, as a willful neglect to delegate the performance of his legal duty to said accountant, tantamount to "deliberate ignorance" or "conscious avoidance" on his part to ensure the filing of his required ITR. Consequently, as the accountant clearly failed to perform her supposed duties, the taxpayer must bear the legal consequences arising from such omission.

It must be remembered that the material element of "willfulness" in the crime charged in these cases should not be equated with criminal intent. The knowledge of a taxpayer's obligation to file the required return and the voluntary failure to comply therewith in the manner required by law are sufficient to establish the element of willfulness in this particular offense.

The court further noted that the failure to ensure proper compliance to file a return by itself is a sin of omission on the part of the taxpayer, tantamount to a willful nonfiling of a return.

Having witnessed the denouement of this national drama, it is safe to surmise that indeed no one is above the law. To all concerned, may you respond to the clamor for transparency not only in the declaration of SALN but also in the payment of taxes due the government.

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