

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO DELA PEÑA BELICENA, UL DARICO P. ANDUTAN, JR., ASUNCION M. MAGDAET, EVELYN C. DIFUNTORUM, MA. CRISTINA S. MONCADA, ANNA...

G.R. Nos. 272635 and 272917-39, January 22, 2025

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

These appeals[1] assail the following dispositions of the Sandiganbayan in Criminal Case Nos. 25596-25631 & 25633-25636:

- Decision[2] dated August 11, 2023, which convicted accused-appellants Asuncion M. Magdaet, Mark A. Binsol, Cherry L. Gomez, Meros L. Tordesillas, Gemma O. Abara, Gregoria V. Cuento, Raul C. De Vera, and Purita S. Napeñas for violation of Section 3(e)[3] of Republic Act No. 3019 as amended;[4] and

- Resolution[5] dated February 8, 2024, denying their Motions for Reconsideration.

Antecedents

These consolidated appeals arose from a series of issues involving officials and employees of the Department of Finance (DOF) One-Stop Shop Inter-Agency Tax Credit with Duty Drawback Center (OSS Center) dubbed as the DOF "tax credit scam." The scam involved over PHP 60 billion in tax credits which had been granted to various unqualified claimants.[6]

The OSS Center was established on February 7, 1992 under Administrative Order No. 266, series of 1992. The OSS Center's Board was composed of a chairperson from the DOF, one member each from the Board of Investments (BOI), Bureau of Customs (BOC), and Bureau of Internal Revenue (BIR), and with the Revenue Operations Group of the DOF serving as secretariat.[7] The primary mandate of the OSS Center was to accept and process applications for tax credits[8] and/or duty drawbacks. This task must be completed within 30 working days from date of acceptance of complete applications.[9] At the commencement of its operations, Antonio Belicena y Dela Peña (Belicena) and Uldarico Andutan, Jr. y Ponsaran (Andutan) served as its Officer-in-Charge Administrator and Deputy Administrator, respectively. Belicena and Andutan's duties included overseeing the overall operationalization of the OSS Center, coordinating its programs and projects for economical, efficient, and effective administration, and to issue the necessary internal rules and procedures for the effective operation of the OSS Center.[10]

From the testimonies of the witnesses for both the prosecution and the defense, it was established that at least from 1994 to 1998, the years material to these cases, the OSS Center functioned under an industry-based system. An applicant would fill out a Claimant Information Sheet containing its BOI registration, its registered products, and the type and amount of incentive claimed. The applicant likewise prepares an abstract of records, including a table of computation of its claims, a schedule of its direct exports, and a schedule of its imports. These are

submitted to the Information Division or the Receiving Section together with the payment for the application fee. The applications received are sorted according to the type of tax credit claimed and distributed to the division assigned to handle the industry to which the claimant is classified into.[11] The industries are divided into the following classifications: (1) Forest and Agro-Based Division; (2) Chemical and Oil Division; (3) Metals and Mining Division; (4) Packaging and Services Division; (5) Toys, Gifts & Housewares Division; (6) Construction & Electronics Division; and (7) Wearables Division.[12]

The division head of the industry would assign an evaluator to perform a "checklisting" of documents or to determine the completeness and acceptability of the documents submitted by an applicant in support of its claim for tax credits, vis-à-vis the checklist prepared by the OSS Center. If an evaluator deems the documents to be complete and correct, the applicant will be asked to pay the processing fee. The application shall then undergo an evaluation under which the evaluator would: (1) check if the contents of the original documents match the photocopies submitted; (2) preliminarily determine whether the application was made within one year from exportations; (3) assess whether the abstract prepared by the applicant is consistent with the original documents submitted, including the checking of the amount and value of the importations and exportations, the amounts stated on the bill of lading against that stated in the commercial invoices, and the amount of duties paid for the goods; (4) compute the tax credit allowed based on the rates provided by the OSS Center; and (5) prepare an evaluation report which states the date when the application was filed with the OSS Center, when it was accepted following the "checklisting," and the due date for the processing, data about the applicant, the import and export transactions involved, and the tax credit computation.[13]

The draft evaluation report would then be submitted to the division head or officer-in-charge for initial review. Should the division head concur with the findings and computation of the evaluator, the application will be forwarded for approval and signature of the Deputy Executive Director. The approved evaluation report becomes the basis for the issuance of a Tax Credit Certificate (TCC) to the applicant.[14]

Scope Industries, Inc. (Scope) filed several applications for tax credits with the OSS Center from 1994 to 1998. It claimed to be an importer of yarns as raw materials, which it transforms into knitted products for export. In support of its applications, Scope attached documents such as bills of lading, import entries, official receipts from the BOC, export declarations, sales invoices, and credit advice from Equitable Banking Corporation as proof that it imported raw materials and subsequently exported the finished products that it made from such materials. It was discovered, however, that the bills of lading attached to 19 of its applications supposedly issued by K Line Philippines, Inc. (K Line) for Kawasaki Kisen Kaisha, Ltd. and Citadel Shipping Service, Inc. for the Shanghai Shipping Company were inauthentic. There was also evidence that the fabrics produced by Scope were unfinished products or gray fabrics, which could not have been export-quality. It had likewise been alleged that Scope was never engaged in the business of exporting textile products as its fabrics were sold locally. It thus appeared that all its export-related documents had been fabricated and signed by its officers who used fake identities.[15]

The following officers and employees of the OSS Center were charged with violations of Section 3(e) of Republic Act No. 3019[16] in separate Informations filed by the Office of the Special Prosecutor on August 24, 1999: Belicena, Andutan, Asuncion Magdaet y Mesa (Magdaet), and Evelyn Difuntorum y Cemanes (Difuntorum). The aforementioned public employees were indicted alongside Jamie Ling y Sia (Jamie), Wilhelmina Ling y Ang (Wilhelmina), Albert Ling y Sia (Albert), Wilbert Ling y Sia (Wilbert), Vinalyn Ling y Sia (Vinalyn), Angel O. Jimenez (Jimenez), and Bernard T. Santos (Santos), who were officers of Scope, and various John Does, who were officers of corporations where Scope transferred some of its TCCs. It was alleged that, sometime in 1995, the accused government employees conspired with the accused private individuals to grant TCCs to Scope without legal justification and based on spurious documents.[17]

Of the 41 TCCs issued to Scope, 13 were utilized by the company to pay for its own duties and taxes, while 27 had been transferred to various corporations. There remained one TCC that was unutilized by Scope. Thus, the cases involve the 40 TCCs obtained and subsequently utilized by Scope as evidenced by tax debit memos signed by Belicena (and in some instances, by Raul C. De Vera [De Vera], on behalf of Belicena), official receipts from the BOC, and annotations on the back of the TCCs indicating the amount(s) utilized by Scope or its transferee.[18]

By Resolution[19] dated January 19, 2004, the Sandiganbayan granted the prosecution's Motion to formally amend the Informations filed and to withdraw the Information in Criminal Case No. 25632. Thus, the Sandiganbayan admitted the amended Informations. The accusatory portion of the amended Information in Criminal Case No. 25632 reads:

The undersigned Ombudsman Prosecutor, Office of the Special Prosecutor, hereby accuses ANTONIO BELICENA y DELA PEÑA, ULДАРICO ANDUTAN, JR. y PONSARAN, ASUNCION MAGDAET y MESA, MA. CRISTINA MONCADA y SAQUITAN, ANGEL O. JIMENEZ, BERNARD T. SANTOS, JAIME SIA LING, WILHELMINA ANG LING, ALBERT SIA LING, WILBERT SIA LING, VINALYN SIA LING and JOHN DOES for Violation of Section [3(e)] of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, committed as follows:

That on or about June 16, 1995, and for some time prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused public officers, namely Antonio Belicena y Dela Peña, then Undersecretary; Uldarico Andutan, Jr. y Peña, then Deputy Executive Director; Asuncion Magdaet y Mesa, then Officer-in-Charge – Textile Division assigned as Reviewer; Ma. Cristina Moncada y Saquitán, then Planning Officer III assigned as Evaluator, all of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance, while in the performance of their official administrative functions, committing the offense in relation to their office, conspiring and confederating with one another and with the private accused Angel O. Jimenez, then President and General Manager; Bernard T. Santos, then Assistant General Manager; Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling, and Vinalyn Sia Ling, then members of the Board of Directors, all of Scope Industries, Inc., and private accused John Does, then officers of the Dragon Textile Mills, Inc., did then and there willfully, unlawfully and criminally, with evident bad faith, manifest partiality and/or gross inexcusable negligence, give unwarranted benefits or advantage to Scope Industries, Inc. and Dragon Textile Mills, Inc. by allowing the illegal processing, approval and issuance of TCC No. 002593 in the amount of TWO MILLION TWO HUNDRED SEVENTEEN THOUSAND FOUR HUNDRED NINE PESOS (P2,217,409.00), Philippine Currency, in favor of Scope Industries, Inc. without legal basis as the supporting documents thereof are spurious or falsified, thus enabling Scope Industries, inc. (sic) to transfer and/or sell the said void TCC to Dragon Textile Mills, Inc. which in turn utilized the same to pay its taxes and/or custom obligations, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW.[20] (Emphasis in the original)

The Amended Informations in Criminal Case Nos. 25597 to 25606, 25614 to 25618, 25622 to 25630, and 25635 to 25636 are similarly worded to the Information quoted above, uniformly indicting Belicena, Andutan, Magdaet, Jaime, Wilhelmina, Albert, Wilbert, Vinalyn, Jimenez, and Santos. These Informations vary only with respect to the following details:[21]

Criminal Case No.

Name and Position of the additional Accused

TCC No. involved/ Amount

Date of Transaction

Transferee of TCC

25597

Annabelle Janeo Diño

(Dino) Tax Specialist II assigned Evaluator

002615 – [PHP]2,192,370.00

June 22, 1995

Dragon Textile Mills, Inc.

25598

Mark Avisado Binsol (Binsol)

John Does

Tax Specialist II assigned as Evaluator

Officers of Filsyn Corp.

003149 – [PHP]2,521,716.00

[September] 14, 1995

Filsyn Corp.

25599

Cherry L. Gomez (Gomez) Clerk III assigned as Evaluator

John Does

Officers of Manila Bay Spinning Mills, Inc.

004234 – [PHP]2,591,441.00

February 26, 1996

Manila Bay Spinning Mills, Inc.

25600

Sylvialina Fagaragan Dagumol (Dagumol) Senior Tax Specialist assigned as Evaluator

John Does

Officers of Manila Bay Spinning Mills, Inc.

004233 – [PHP]2,645,781.00 February 26, 1996

Manila Bay Spinning Mills, Inc.

25601

Merose Lotilla Tordesillas (Tordesillas) Tax Specialist I assigned as Evaluator

John Does Officers of Manila Bay Spinning Mills, Inc.

004232 – [PHP]2,660,522.00 February 26, 1996

Manila Bay Spinning Mills, Inc.

25602

Merose Lotilla Tordesillas Tax Specialist I assigned as Evaluator

John Does Officers of Pacific Mills, Inc.

004711 – [PHP]2,341,111.00 May 14, 1996

Pacific Mills, Inc.

25603

Annabelle Janeo Diño Tax Specialist II assigned as Evaluator

John Does Officers of Pacific Mills, Inc.

004958 – [PHP]2,073,750.00 June 13, 1996

Pacific Mills, Inc.

25604

Emelita Tusañesa Tizon (Tizon) Clerk III assigned as Evaluator

John Does Officers of Pacific Mills, Inc.

004954 – [PHP] 2,022,503.00 June 13, 1996

Pacific Mills, Inc.

25605

Emelita Tusañesa Tizon Clerk III assigned as Evaluator

John Does Officers of Wise and Company Inc.

004953 – [PHP]2,258,876.00 June 13, 1996

Wise and Company Inc.

25606

Merose Lotilla Tordesillas

Tax Specialist I assigned as Evaluator

John Does Officers of Bush Boake Allen Phils., Inc.

004951 – [PHP]2,285,679.00

June 13 1996

Bush Boake Allen Phils., Inc.

25614

Raul Clauren De Vera (De Vera)

Acting Deputy Executive Director

Gemma Ortiz Abara (Abara) Clerk III assigned as Evaluator

John Does Officers of Pilipinas Shell Petroleum Corp.

009483 – [PHP]2,561,067.00

March 13, 1998

Pilipinas Shell Petroleum Corp.

25615

Raul Clauren De Vera

Acting Deputy Executive Director

Purita Sison Napeñas (Napeñas) Tax Specialist II assigned as Evaluator

John Does Officers of Pilipinas Shell Petroleum Corp.

009521 – [PHP]2,538,764.00

March 16, 1998

Pilipinas Shell Petroleum Corp.

25616

Raul Clauren De Vera

Acting Deputy Executive Director

Gregoria Vidallo Cuento (Cuento) Tax Specialist I assigned as Evaluator

John Does Officers of Pilipinas Shell Petroleum Corp.

009522 – [PHP]2,670,148.00

March 16, 1998

Pilipinas Shell Petroleum Corp.

25617

Raul Clauren De Vera

Acting Deputy Executive Director

Gemma Ortiz Abara

Tax Specialist I assigned as Evaluator

John Does Officers of Pilipinas Shell Petroleum Corp.

009523 – [PHP]2,666,809.00

March 16, 1998

Pilipinas Shell Petroleum Corp.

25618

Raul Clauren De Ver

Acting Deputy Executive Director

Emelita Tusañesa Tizon Clerk III assigned as Evaluator

John Does Officers of Pilipinas Shell Petroleum Corp.

009524 – [PHP]2,593,916.00

March 16, 1998

Pilipinas Shell Petroleum Corp.

25622

Merosé Lotilla Tordesillas

Tax Specialist I assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009780 – [PHP]2,664,688.00

March 27, 1998

ACI Phils., Inc.

25623

Raul Clauren De Vera

Acting Deputy Executive Director

Gregoria Vidallo Cuento Tax Specialist I assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009780 – [PHP]2,574,894.00

April 16, 1998

ACI Phils., Inc.

25624

Raul Clauren De Vera

Acting Deputy Executive Director

Annabelle Janeo Diño Tax Specialist II assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009781 – [PHP]2,738,955.00

April 16, 1998

ACI Phils., Inc.

25625

Raul Clauren De Vera

Acting Deputy Executive Director

Gregoria Vidallo Cuento Tax Specialist I assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009782 – [PHP]2,725,990.00

April 16, 1998

ACI Phils., Inc.

25626

Raul Clauren De Vera

Acting Deputy Executive Director

Gregoria Vidallo Cuento Tax Specialist I assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009783 – [PHP]2,558,332.00

April 16, 1998

ACI Phils., Inc.

25627

Raul Clauren De Vera

Acting Deputy Executive Director

Annabelle Janeo Diño Tax Specialist II assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009785 – [PHP]2,502,232.00

April 16, 1998

ACI Phils., Inc.

25628

Raul Clauren De Vera

Acting Deputy Executive Director

Charmelle Panadero Recoter (Recoter) Senior Tax Specialist assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009784 – [PHP]2,534,135.00

April 16, 1998

ACI Phils., Inc.

25629

Charmelle Panadero Recoter

Senior Tax Specialist assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009789 – [PHP]2,638,526.00

April 23, 1998

ACI Phils., Inc.

25630

Annabelle Janeo Diño

Tax Specialist II assigned as Evaluator

John Does Officers of ACI Phils., Inc.

009790 – P2,547,992.00

April 23, 1998

ACI Phils., Inc.

25635

Gemma Ortiz Abara

Clerk III assigned as Evaluator

John Does Officers of Pilipinas Shell Petroleum Corp.

009365 – [PHP]2,527,522.00

February 19, 1998

Pilipinas Shell Petroleum Corp.

25636

Emelita Tusañesa Tizon

Clerk III assigned as Evaluator

John Does

Officers of Pilipinas Shell Petroleum Corp.

009417 – [PHP]2,707,250.00

February 26,1998

Pilipinas Shell Petroleum Corp.

In Criminal Case Nos. 25607 to 25613, 25619 to 25621, and 25631 to 25634, the accused were charged in relation to TCCs issued to Scope that it did not transfer and instead utilized to pay for its own taxes and duties. The accusatory portion of the amended Information in Criminal Case No. 25607 reads:[22]

The undersigned Ombudsman Prosecutor, Office of the Special Prosecutor, hereby accuses ANTONIO BELICENA [y] DELA PEÑA, ULDARICO ANDUTAN, JR. [y] PONSARAN, ASUNCION MAGDAET [y] MESA, MA. CRISTINA MONCADA [y] SAQUITAN, ANGEL O. JIMENEZ, BERNARD T. SANTOS, JAIME SIA LING, WILHELMIMA ANG LING, ALBERT SIA LING, WILBERT SIA LING, VINALYN SIA LING and JOHN DOES for Violation of Section [3(e)] of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, committed as follows:

That on or about May 23, 1997, and for some time prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused public officers, namely Antonio Belicena y Dela Peña, then Undersecretary; Uldarico Andutan, Jr. y Peña, then Deputy Executive Director; Asuncion Magdaet y Mesa, then Officer-in-Charge – Textile Division assigned as Reviewer; and Gemma Abara y Ortiz, then Clerk III assigned as Evaluator, all of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance, while in the performance of their official administrative functions, committing the offense in relation to their office, conspiring and confederating with one another and with the private accused Angel O. Jimenez, then President and General Manager; Bernard T. Santos, then Assistant General Manager; Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling, and Vinalyn Sia Ling, then members of the Board of Directors, all of Scope Industries, Inc., did then and there willfully, unlawfully and criminally, with evident bad faith, manifest partiality and/or gross inexcusable negligence, give unwarranted benefits or advantage to Scope Industries, Inc. by allowing the illegal processing, approval and issuance of TCC No. 007431 in the amount of TWO MILLION FIVE HUNDRED SEVEN THOUSAND AND SIXTY-FOUR PESOS ([PHP] 2,507,064.00), Philippine Currency, in favor of Scope Industries, Inc. without legal basis as the supporting documents thereof are spurious or falsified, thus enabling Scope Industries, Inc. to utilize the said void TCC to pay its taxes and/or custom obligations, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW.[23] (Emphasis in the original)

The Amended Informations in Criminal Case Nos. 25608 to 25613, 25619 to 25621, and 25631 to 25634 are similarly worded and uniformly indicted Belicena, Andutan, Magdaet, Jaime, Wilhelmina, Albert, Wilbert, Vinalyn, Jimenez, and Santos. These amended Informations, however, differ in the following respects:[24]

Criminal Case No.	Name and Position of the additional Accused	TCC No. involved/	Amount	Date of Transaction
25608	Gemma Ortiz Abara Clerk III assigned as Evaluator			

007433 – [PHP]2,625,620.00 May 23, 1997

25609

Anabelle Janeo Diño Tax Specialist II assigned as Evaluator

007538 – [PHP]2,804,086.00 June 13, 1997

25610

Gregoria Vidallo Cuento Tax Specialist I assigned as Evaluator

007675 – [PHP]2,573,012.00 June 27, 1997

25611

Anabelle Janeo Diño

Tax Specialist II assigned as Evaluator

008362 – [PHP]2,530,738.00 September 29, 1997

25612

Anabelle Janeo Diño

Tax Specialist II assigned as Evaluator

008363 – [PHP]2,613,007.00 September 29, 1997

25613

Anabelle Janeo Diño

Tax Specialist II assigned as Evaluator

008364 – [PHP]2,680,402.00 September 29, 1997

25619

Raul Clauren De Vera Acting Deputy Executive Director

Purita Sison Napeñas Tax Specialist II assigned as Evaluator

009637 – [PHP]2,634,499.00 March 23, 1998

25620

Merose Lotilla Tordesillas Tax Specialist I assigned as Evaluator

009663 – [PHP]2,702,270.00 March 27, 1998

25621

Merose Lotilla Tordesillas Tax Specialist I assigned as Evaluator

009670 – [PHP]2,672,642.00 March 27, 1998

25631

Gemma Ortiz Abara Clerk III assigned as Evaluator

009020 – [PHP]2,707,229.00 January 14, 1998

25633

Emelita Tusañesa Tizon Clerk III assigned as Evaluator

009219 – [PHP]2,661,820.00 January 30, 1998

25634

Emelita Tusañesa Tizon Clerk III assigned as Evaluator

009224 – [PHP]2,767,896.00 February 2, 1998

Following the filing of the initial Informations, the Sandiganbayan issued Hold Departure Orders dated August 27, 1999 and Orders of Arrest dated August 30, 1999 against all the accused. The Sandiganbayan also granted the separate Motions for the reduction of bail filed by Belicena, Magdaet, Andutan, Difuntorum, Anabelle J. Diño (Diño), Binsol, Gomez, Dagumol, Tordesillas, Tizon, Abara, Cuento, De Vera, Napeñas, and Recoter. Later, the Sandiganbayan granted the various Motions for Reconsideration and/or Investigation filed by the accused.[25]

Belicena, Andutan, Magdaet, Binsol, Gomez, Dagumol, Tordesillas, Tizon, Abara, Cuento, De Vera, Napeñas, and Recoter were then arraigned on different dates after the Sandiganbayan denied their respective Motions to Quash.[26]

In its Manifestation dated September 9, 2001, the Office of the Special Prosecutor recommended to the Ombudsman the further prosecution of all the accused except Difuntorum. The Ombudsman then approved the recommendation on July 13, 2001.[27] By Resolution dated June 14, 2002, the court dismissed all the cases against Difuntorum on the ground that her functions in relation to the charges were purely ministerial.[28] The cases against Belicena, Dagumol, and Tizon were also separately dismissed by the Sandiganbayan after receipt of confirmation that these accused were already deceased.[29] As to Ma. Cristina Moncada y Saquitán (Moncada) and the officers of Scope, despite the issuance of warrants for their arrest, they were neither arrested nor did they voluntarily surrender or enter any appearance for their defense.[30] Also, according to the prosecution's witnesses, then President and General Manager Jimenez is actually a certain "Melchor Tan" (Tan) while Assistant General Manager Santos is a certain "Bernard Farin" (Farin). The amended Informations, however, were no longer modified to include such allegations.[31]

With regard to Diño, she posted a bail bond for her provisional liberty on September 2, 1999. She sought the Sandiganbayan's permission for leave to travel to England where her husband, a British National, was residing. She asked for leniency given her age and her fear of not being able to bear children. For humanitarian reasons, the Sandiganbayan allowed her to travel, to stay in England following her conditional arraignment, and to travel back and forth until May 23, 2003. On May 26, 2003, a certain Annabelle Diño-Tobyn motioned to be allowed to stay in England until February 2004 as her multiple returns to the Philippines were not only costly but had also placed her marriage in jeopardy and lowered her chances of conceiving. In its Resolution dated December 9, 2003, the Sandiganbayan denied the Motion as it had become very apparent that Diño had no more intention to come back to the Philippines. The Sandiganbayan then forfeited her cash and travel bond and ordered her arrest.[32]

Andutan's counsel (the firm of Benjamin C. Santos and Ray Montri C. Santos) filed a Motion to be Relieved as Counsel for accused Andutan dated July 13, 2018 citing difficulties in getting him to cooperate, to appear before the Sandiganbayan, and to communicate with him to prepare for his defense. Andutan likewise had unpaid fees since 1999, constraining them to withdraw from the case. The Sandiganbayan denied the motion as it lacked Andutan's prior conformity. Thus, his counsels were ordered to continue representing him until his consent was

obtained. The Sandiganbayan also ordered Andutan to appear during the November 7, 2018 hearing but he did not appear.[33]

The case then proceeded against: (1) Andutan; (2) Magdaet; (3) Diño; (4) Binsol; (5) Gomez; (6) Tordesillas; (7) Abara; (8) Cuento; (9) De Vera; (10) Napeñas; and (11) Recoter (collectively, Andutan et al.). Pre-trial was conducted, after which, trial ensued.[34]

Version of the Prosecution

The prosecution presented the testimonies of 12 witnesses summarized below:[35]

- Philip R. Santiago (Santiago), Records Officer II of the OSS Center

Santiago had custody of all approved applications for TCCs filed with the OSS Center. He was presented in all criminal cases to identify the original records of the TCCs issued to Scope, which were the very same documents processed by the evaluators named in the Evaluation Reports for each TCC. He joined the OSS Center in 1999. He noted that all the documents related to the alleged tax credit scam were stored in a restricted room with a combination lock. Despite his best efforts to locate all the documents he was required to bring, he was unable to find all the originals. He admitted, however, that he neither conducted an inventory of the records nor was he aware of the documents turned over to him when he assumed his post as records custodian.[36] Initially, the investigation was conducted by the Economic Intelligence and Investigation Bureau which endorsed the records to the Office of the Special Prosecutor. Santiago also admitted that he was later charged by a certain Task Force 156 with grave misconduct, due to the loss of some TCCs issued to companies other than Scope, and infidelity in the custody of public documents for which he applied for immunity with the Office of the Ombudsman.[37]

- Rodolfo del Castillo, Jr. (Rodolfo), liaison officer of Scope

Rodolfo testified that he was the liaison officer of Scope from 1991 to 1999. As a liaison officer, he reviewed and evaluated documents to be submitted for the application of tax credits, accompanied representatives of Scope to submit the documents to the OSS Center, facilitated the release of the approved TCCs from the OSS Center, accompanied company representatives to submit documents required to transfer the TCCs to other companies, and other functions as may be assigned by Jimenez. He confirmed that Tan used the name "Angel Jimenez" and that Santos is a certain "Bernard Farin." He identified the documents[38] which were submitted to the OSS Center. Some of these documents were faithful reproductions of documents he submitted to the OCC Center while others appeared to be photocopies but bore the original rubberstamp "Certified True Copy" signed by either Jimenez or Santos. He was also able to identify the signatures of Jimenez and Santos because he saw them signing the documents under their assumed names in his presence.[39]

Further, he claimed that Scope submitted export documents to support its application for TCCs even though it was never engaged in the business of exporting textile products. Scope only imported yarns and utilized these to sell knitted fabrics locally. He therefore claimed that Scope fabricated the following documents: (1) export declarations; (2) shipping documents stating that it was the shipper; (3) sales invoices stating that the shipment came from Manila; (4) sales invoices stating that the shipment came from Manila and that the material was polyester knitted fabric; (5) credit advices to Scope issued by Equitable Banking Corporation; and (6) letters of credit in favor of Scope. Despite the submission of these fabricated export documents, the OSS Center issued TCCs to Scope which were released to him and a certain Dondon Pamatmat.[40] He knew that the TCCs were either utilized or transferred to other corporations as these details were indicated at the back portion of the TCCs and because he was sent to collect the checks from these corporations as payment for the transfer. The checks collected were then deposited to bank accounts with Security Bank, Equitable Bank, and Metrobank.[41]

According to Rodolfo, employees of Scope were involved in the fabrication of the documents. He, however, only checked if the documents handed to him were complete based on the checklist of the OSS Center.[42]

On cross-examination, Rodolfo clarified that he never spoke to any official or employee of the OSS Center and never informed them that Jimenez was not using his real name. He also explained that he was not formally designated in writing as a liaison officer of Scope as he was initially employed by Maniquin International Corporation (Maniquin) which was also owned by Tan. He testified that Scope began operating around 1992 to 1993 in its office located at No. 67 Quezon Avenue, which was owned by Tan's mother Genoveva. Scope then moved to No. 4 Kalinga Street in La Vista, also owned by Genoveva. The office space had no dividers, so everyone was able to see what the others were doing. Hence, it was common knowledge that Tan signed as Jimenez. While he was shocked to see Tan sign as another person, he felt as though he had no authority to question his acts as a mere employee. He then tried to distance himself from Tan sometime in 1997 before the expose on the tax credit scams.[43]

When asked about his relationship with Tan, he disclosed that his half-sister's father was the first cousin of Tan's mother. He and his half-sister, Lorna Briones (Lorna), even stayed at Tan's house in La Vista for a few years, but Lorna had a falling out with Genoveva after she filed an estafa case against Lorna. As to Tan's whereabouts, he said that he heard that Tan had been in Canada since 1998 or 1999 then came back to the Philippines sometime in 2000 after the investigation on the tax credit scams began. He (Rodolfo) and Tan, however, did not discuss the investigations as Tan only spoke about it with the managers.[44]

- Bimal Chand Bhandari (Bhandari), a textile engineer/used textile machine dealer at Sundari Enterprises

Bhandari testified that he was an Indian citizen who had been a permanent resident of the Philippines since 1978 or 1979. He is married to Lorna, the half-sister of Rodolfo. They both lived at Tan's guest house in La Vista sometime in 1999 until Genoveva evicted them. Lorna confronted Genoveva after she became a coaccused of the Tan family in the tax credit scam as she had no involvement in the cases. Notwithstanding her sudden involvement, they did not provide her an attorney for her defense. When asked if he was the subject of a criminal case, Bhandari responded that he and his wife were co-accused in Criminal Case No. 03-122609 which stemmed from Genoveva's complaint.[45]

Though not registered as an engineer in the Philippines, he has a diploma as a knitting engineer from Germany. From 1990 to 1998, Scope engaged his services to locate knitting machines and to subsequently install the machines at its premises. Scope did not use any other machine aside from the 10 to 12 circular knitting machines he found and installed. He would also supervise the maintenance of these machines on a consultancy basis. These machines could produce gray or unfinished knitted fabrics which were of inferior quality. As such, these fabrics were meant for local sale as they would not pass the criteria for export quality fabrics.[46]

- Emerito del Castillo (Emerito), Tax Credit Section Chief and Accountant III of the Cash and Credit Collection of the Accounting Division, Finance Management Office of the BOC

Emerito was presented to identify receipts[47] issued by the BOC to Scope for which it utilized the TCCs subject of the cases as payment for its duties and taxes liabilities.[48] As the Tax Credit Section Chief and Accountant III of the Cash and Credit Collection of the Accounting Division of the BOC, his duties included the recording of all transactions on the issuance and utilization of tax credits as well as monthly reports on the official receipts issued by the BOC which were paid for using TCCs. He also had custody of all records pertaining to these monthly reports as well as the official receipts themselves. Upon confirmation by the accused that the certified true photocopies presented by the prosecution were faithful reproductions, these official receipts were then marked by the prosecution. In the official receipts identified by Emerito, the indicated payor was Scope and that the tax

obligation was paid by way of tax credit.[49]

Eremito clarified that he assumed the position of Chief of the Tax Credit Section sometime in January 2000. Since the official receipts involved in these cases were issued from 1997 to 1998, he was not the one who personally received the official receipts he identified upon submission by the Cash Division for recording. His certification that the documents were certified true copies of the original was nonetheless based on the fact that he personally located the official receipts in the files kept by his division and then made photocopies of the original official receipts.[50]

- Edita C. Yambao (Edita), acting Officer-in-Charge and Customs Officer V of the Ninoy Aquino International Airport, TMW-Express Cargo Clearance Facility Unit

Edita testified that from 1995 to 2001, she was designated as Acting Collecting Officer at the Cash Division of the Port of Manila, BOC. In this capacity, she issued official receipts which were paid for through the utilization of the TCCs involved in the cases at bar.[51] As she narrated, before the issuance of these official receipts, she would first receive a certificate of endorsement of tax credits or tax debit certificates from the Tax-Exempt Industry Division of the BOC. Appended to such certificate is the pink copy of the TCC to be used as well as the corresponding tax debit memo for the endorsement. She would then receive the import entry declaration and supporting documents[52] of the TCC from the importer or the importer's broker. Once the TCC has been applied to the duties of the importer, she would issue the official receipt which comes in the form of BOC Form 38A.[53] BOC Form 38A is issued in quadruplicate carbonized copies—the first of which is given to the importer or consignee; the second or the green copy would be attached to the import documents submitted by the importer; the third or the yellow copy would be forwarded to the Accounting Division of the BOC; and the fourth or the blue copy would be retained on file with the BOC. She then identified the yellow copies of the official receipts which bore her signatures or that of the other collecting officers whose signatures she was familiar with, and the corresponding tax debit memo. In these official receipts, she indicated the name of the entity to whom the TCC was issued and, when transferred, the assignee of the TCCs. She also identified her signatures at the back of the pink copies of the TCCs which she used as basis for issuing the official receipts.[54]

On cross-examination, she testified that she had no hand in the determination of the authenticity of the documents endorsed or submitted for purposes of tax credit applications. She merely relied on the certificate of endorsement from the Tax-Exempt Industry Division. She relayed that once the yellow copies of official receipts were submitted to the Accounting Division, the collecting officers would no longer have access to the copies. Thus, she merely identified the yellow copies but did not provide them.[55] As for the blue copies, no one was specifically assigned for their safekeeping, and these were stored on the mezzanine floor of the building which served as the bodega. The green copies, on the other hand, would be attached to the import entry declaration and would be used by the Liquidation Division as basis for the further processing of the importation.[56] She explained that the issuance of BOC Form 38A, by itself, would not be sufficient to show that there was an effective or full availment of the tax credit since several official receipts may be issued with respect to a single tax credit certificate. Thus, prior to issuing BOC Form 38A, she would first post the utilized amount and details of the transaction at the dorsal portion of the pink copy of the TCC used by the importer. Once she had posted the transaction, she would sign the TCC and detach the original copy of the BOC Form 38A from the booklet and issue the same to the taxpayer.[57]

- Leonides Pilapil Rosel (Rosel), an employee from the Liquidation and Billing Division of the BOC

Rosel testified[58] that from 1994 to 1998, he was designated as Special Collecting Officer at the Tax Credit Unit of the Cash Division of the Port of Manila. He issued official receipts to importers or brokers who utilized TCCs

to pay for their customs duties. Similar to Edita, he also prepared the quadruplicate carbon copies of BOC Form 38A. For each transaction, he would enter the contents of the BOC Form 38A he issued at the back of the pink copy of the TCC used, after which, he would put his initial or his signature at the dorsal portion of the TCC.[59] He then identified the official receipts he issued which utilized TCCs issued to Scope, his signatures on those receipts, the TCCs used in the issuance of the official receipts, his initials or signatures on the dorsal portion of the pink copies of the TCCs, and the tax debit memos submitted together with the TCCs.[60]

He further explained that the tax debit memo would come from the DOF and would be received by the Receiving Division of the BOC. The Receiving Division would later forward the tax debit memo to the Tax-Exempt Division. The original copy of the TCC would be surrendered by the importer to the Tax-Exempt Division so that the division could check and evaluate the tax debit memo against the tax credit certificate. As for the import documents, these would reflect the computation of the dues and taxes that the importer would pay after utilizing the tax credit certificate.[61]

- Teddy J. Sandan (Sandan),[62] Manager of the Documentation Department of K Line

Sandan was the Documentation Manager of K Line. He had been employed by K Line since 1999. As Documentation Manager, he oversaw the custody of the company's documents such as bills of lading. He testified that he received a subpoena from the Office of the Special Prosecutor directing him to issue a certification on whether the copies of the bills of lading marked in evidence for these cases were genuine. He issued a letter dated April 27, 2004, which he identified in court, as his response to the Office of the Special Prosecutor. He confirmed his statement in the April 27, 2004 Letter that K Line never issued the bills of lading which the Office of the Special Prosecutor sent for verification since the bills of lading provided to him indicated different vessel names, shippers, and destinations compared to the bills of lading with the same serial number noted in K Line's logbooks. He then produced the original logbooks in which the bills of lading actually issued by K Line were logged.[63]

Sandan confirmed on cross-examination that when the bills of lading were issued, or from 1994 to 1995, he was not yet the Documentation Manager for K Line. He also attested that he did not personally make the entries in the logbook which he presented. These entries, however, were made in the regular course of business of K Line and kept for monitoring purposes. The basis for the entries in the logbooks of K Line were the pro forma bills of lading which the shipper submitted to K Line prior to shipment. A pro forma bill of lading is prepared by the shipper and contains the shipper's name, the consignee, the vessel, the destination, the packages, and description of the cargo. Only one pro forma bill of lading is prepared and should there be any changes, an amended bill of lading would be submitted by the shipper. Once the pro forma bill of lading is received, K Line prepares one set of bills of lading consisting of three original bills of lading and five non-negotiable bills of lading. The set would be handed over to the shipper who then decides how to distribute these copies, with the exception of one copy of the non-negotiable bill of lading which K Line retains for its file. At the time he testified, however, K Line's copies of the non-negotiable bills of lading were no longer available as K Line only kept their copies for around three years from issuance, after which, they were disposed for economical purposes.[64]

When asked if it was possible that their office issued other bills of lading with the same number which could have indicated Scope as the shipper, he claimed that this was not possible since K Line does not allow the duplication of bill of lading numbers and each bill of lading has its own unique bill of lading number. Even if the logbooks did not indicate the prefix "KKLU" as found in the exhibits of the prosecution, it was understood that the prefix for the bills of lading listed in the logbook were "KKLU" since they were all bound for Nagoya. He was also asked whether it was possible that the bills of lading marked as exhibits for the prosecution could easily pass as the bills of lading issued by K Line to the eyes of a layman, which he answered in the affirmative. As for the entries in the logbook, they appeared to have been made by Ester Delgado as he recognized her handwriting,

having worked together for more or less 20 years.[65]

- Ester Delgado (Delgado),[66] Supervisor and former Documentation Clerk at K Line

Delgado testified on the entries she made in the logbooks of K Line, which had been identified by Sandan. She worked as a Documentation Clerk from 1988 to 1998 assigned to enter details from the pro forma bills of lading submitted by the shipper into the logbooks maintained by K Line. Following receipt of the subpoena from the Office of the Special Prosecutor, she brought with her two logbooks with the caption "Ester R. Delgado, Documentation Department," which became the basis of the April 27, 2004 Letter. She stated that she personally encoded the entries in these logbooks.[67]

In explaining the entries in the logbooks, Delgado recalled that the five columns indicate the following information: assigned bill of lading number, assigned vessel's name and voyage number, destination of the cargo, the shipper's name, and the date when K Line received the pro forma bills of lading from the shipper. These logbooks were official company records.[68] Upon receipt of the pro forma bill of lading from a shipper, she would enter the details supplied by the shipper into K Line's computer and print the bill of lading. The pro forma bill of lading would then be attached to a copy of the printed-out bill of lading and would be kept in their files. When asked if the details in the bills of lading could be changed, she said that this would only be done upon request of the shipper through its submission of an amended pro forma bill of lading. If there is a change in the bill of lading, a copy of the amended bill of lading would be kept in their file. She confirmed that K Line only keeps copies of the bills of lading for five years, after which they were disposed.[69]

- Loida P. Magsombol (Magsombol),[70] Assistant Documentation Manager of Citadel Shipping Service, Inc. (Citadel Shipping)

Magsombol was the Assistant Documentation Manager of Citadel Shipping since 2003. Citadel Shipping acts as a general agent of principals involved in the shipping of cargoes, including Shanghai Shipping Company (Shanghai Shipping) and Hyundai Merchant Marine Company Ltd. As part of her duties, she prepared bills of lading for the principal shipping companies and issued certificates of genuineness of shipping documents upon request of government agencies or private parties. She also supervised the day-to-day activities or operations in the Documentation – Shipping Department, which include double-checking the documents issued by their department with details such as the loading point, shippers, and details of loading stated in the export documentation.[71] She received a subpoena from the Office of the Special Prosecutor instructing her to issue a certification as to whether the copies of the Shanghai Shipping bills of lading attached to the subpoena were genuine. In her Letter dated April 15, 2004, she relayed that she had examined the attached bills of lading and determined that they were not genuine because Scope was not one of their shippers at the time.[72] She also noted that the bills of lading issued by Citadel Shipping were printed using a manual computer while the bills of lading attached to the subpoena were printed using an electronic computer.[73]

- Maria Theresa S. Yambao (Maria Theresa),[74] State Auditor IV at the Commission on Audit (COA)

Maria Theresa had been with the COA since November 23, 1983. She was assigned to COA – BOC from 2007 to 2012 where she audited the financial transactions of the BOC and acted as the custodian of the original documents such as TCCs and tax debit memos. She received a subpoena requiring her to submit TCCs and tax debit memos to the Office of the Ombudsman, some of which she was unable to locate despite exerting efforts.[75] While she had since been reassigned to the Bureau of Treasury, she was authorized by her then supervisor at the BOC, Myrna Monzon, to act on the subpoena as evidenced by a routing slip dated September 11, 2009 with the handwritten note "Tess," pertaining to her.[76] She confirmed that the TCCs submitted by the prosecution were originals and which appeared to be pink in color. She admitted, however, that she had no knowledge of where the

documents originated except that they were on file in their office, as part of their functions was to keep originals of documents. She was also informed by the previous custodian that the documents kept were originals.[77]

- Atty. Alan A. Ventura (Ventura), former Executive Director of the Special Presidential Task Force 156

Ventura testified that from 2001 to 2004, he was designated as the Executive Director of the Special Presidential Task Force 156 (the task force) which was primarily assigned to investigate the "tax credit scam" in the DOF from 1994 to 1999. He investigated several companies that were listed to have engaged in the scam. The cases were assigned to specific lawyers of the task force, after which, he would validate the Investigation Reports. These reports, together with their supporting documents, were thereafter submitted to the Executive Committee for their approval. Following the approval of these reports, he would represent the task force in filing the appropriate cases with the Office of the Ombudsman. Per their investigation, the tax credit scam was specifically committed at the OSS Center. He coordinated with Director Ernesto Q. Hiansen (Director Hiansen) of the OSS Center who toured him at their office and showed him the different departments of the office.[78]

The procedure for applications for TCCs were outlined to him from receipt of the application until the issuance of the tax credit certificate. From this, he understood the application process as follows: an applicant would submit an application for tax credit together with the supporting documents to the OSS Center and pay the filing fee; an administrative staff would validate the completeness of the application with the OSS Center's checklist; if found to be complete, the applicant would be required to pay the processing fee; the application would then be evaluated by an evaluator, which includes monitoring and verification of supporting documents; the same documents would be forwarded to the Reviewer; once the review is completed, its result would be forwarded to the Deputy Director of the OSS Center who would recommend the approval of the application for TCC to the Assistant Secretary of the DOF; upon approval, the TCC would be signed by the Assistant Secretary and released to the applicant. Elaborating on the monitoring and verification process, he explained that this phase involved the actual inspection by the OSS Center of the warehouses and machineries of the applicants in cases involving textile companies like Scope, as well as verifying the genuineness of the supporting documents submitted. For textile companies, in particular, their supporting documents must be validated by the BIR, BOC, and the Garments and Textiles Export Board. This process had been the same since the OSS Center started its operations until he investigated it, as advised by Director Hiansen who toured him around.[79]

Ventura confirmed on cross-examination that he had not been involved with the task force at the time the offenses were allegedly committed and when the Informations were filed. Hence, he was not the one who approved the filing of the complaints for these cases. While he was able to investigate Scope, he was not certain if the TGCs he investigated were the same involved in these cases.[80] Per his investigation, it was the Monitoring and Verification Division[81] of the OSS Center which validated the existence of warehouses and machineries of textile companies. He admitted, however, that he was unaware that the Monitoring and Verification Division was only concerned with the first applications of textile companies or if such matter was true or not. He was not informed that there were special types of businesses and applicants which were specifically under the control of the Monitoring and Verification Division. As for the flowcharts and processes, he stated that he did not know who prepared the documents and when they were prepared. He confirmed that the document does not state that the supporting documents of an application must first be verified by the Monitoring and Verification Division or the functions of the Monitoring and Verification Division. This information came from Director Hiansen but he was able to validate this during investigation.[82]

- Melquiades Del Carmen Castillo (Castillo), Chief Tax Specialist at the DOF

Castillo testified that he had been working with the OSS Center since 1995. He began working when Andutan was

the director, and the undersecretary in-charge of supervising the OSS center was Belicena. When he started out as a tax specialist, he only received the docket applications for the tax credit claims and performed messengerial and other related functions. Upon becoming senior tax specialist, he worked on the evaluation and computation of the application.[83] In 1995, he worked as a tax specialist that received the applications for tax credit claims. He would log it in their logbook then forward it to the concerned divisions, e.g., textile division, forest base division, chemical division, or mining division. At the time, no verification was conducted in relation to the applications. Rather, they would immediately evaluate and compute the tax credit applied for based on the formula given to evaluators. It was only in 2000 or 2001 when new administrators came to the OSS Center and a procedure for verification was developed.[84]

Castillo expounded that the OSS Center has five divisions which were created sometime in 2000 or 2001: (1) the Pre-Evaluation Division which checks the completeness of the application; (2) the Financial Validation Evaluation Division which checks the books of accounts of the applicant by going to the company and meeting the heads of accounting; (3) the Verification and Authentication Division which visits banks, the BIR, and the BOC, to verify if the transactions involved in the submitted documents are really in the logbooks of these banks and agencies; (4) the Claim Evaluation Division which reviews the previous reports and evaluation of the application for the allowable tax credit; and (5) the TCC Issuance Division. This setup is called a process-based structure. Prior to this, the setup during the 1990s when the OSS Center was established was called an industry-based structure. Under the industry-based structure, the process was similar to a table audit where an evaluator would check the completeness of the documents submitted by the applicant and then check the computation set by previous evaluators. Only one evaluator was assigned for the entire claim procedure. Under the prior procedure, the evaluator need not visit the proper offices or agencies to verify the authenticity of the documents submitted by the applicant. The evaluation of the applicant was confined to the documents submitted to the OSS Center. The evaluators merely relied on the declarations made by the applicants that the documents submitted are true and correct as they were not required to validate, confirm, or verify whether the declaration was true or not.[85]

Following the presentation of its witnesses, the prosecution filed its Formal Offer of Evidence with Motion for Re-Marking of Exhibits on November 25, 2015. This was opposed by Diño, Andutan, De Vera, Napeñas, Magdaet, Abara, and Tizon. In its Resolution dated May 16, 2016, the Sandiganbayan granted the Motion for re-marking of exhibits and admitted the exhibits offered by the prosecution.[86]

On June 4, 2016, Magdaet, Abara, and Tizon filed a Consolidated Motion for Leave of Court to File Demurrer to Evidence. Andutan, De Vera, and Napeñas followed suit with their separate Motions for leave to file their demurrer to evidence. The prosecution, in turn, filed its Consolidated Opposition dated June 21, 2016. The Sandiganbayan denied the Motions for Leave to file a Demurrer of the accused and their subsequent Motions for Reconsideration.[87]

Version of the Defense

The defense presented the testimonies of 13 witnesses summarized below:[88]

- Accused Charmelle P. Recoter[89] (Recoter)

Recoter previously worked as an evaluator at the Wearable Textiles Division of the OSS Center from June 9, 1995 to September 23, 1999. As an evaluator, she was assigned to "evaluate" tax credit claims by BOI-registered companies or to check on the completeness of documents submitted by applicants, and to subsequently compute their tax credit claims. To apply for a tax credit, the applicant must submit two sets of documents—an original set and a certified photocopy of import documents (bills of lading, commercial invoices, import entry and internal

revenue declaration, and BOC Official Receipts) and export documents (bills of lading, invoices, bank credit memos, and export declarations). The application is submitted to the Information Division of the OSS Center then segregated per industry and assigned to the appropriate division (Textile Division, Garments Division, Metals and Mining Division, Chemicals and Agro-Base Division, and Packaging Division). Following its assignment, the division supervisor would randomly distribute the application to an evaluator.[90]

Recoter was able to identify Exhibit "LL-1" as a Claimant Information Sheet submitted by Scope for the TCC in Criminal Case No. 25628. The Claimant Information Sheet is accomplished by the applicant which indicates information on the applicant's registered products, its registered capacity, the quantity and the amount of raw materials purchased by the applicant vis-à-vis the products exported by the applicant, and the value of the exported products. Exhibit "LL-1" specifically contained a declaration by Scope that it exported knitted products and that the application fell under the direct investment incentive scheme. She noted that the Claimant Information Sheet contained an attestation signifying the applicant's declaration that the documents submitted are authentic and the claims applied for are legitimate.[91]

Once an application has been accepted by the OSS Center and assigned to her for evaluation, Recoter explained her procedure for assessment which involved: (1) checking if the applicant is registered with the Securities and Exchange Commission and the Department of Trade and Industry (DTI); (2) checking its business permit; (3) checking the completeness of the supporting documents; (4) comparing the original and certified copies of the submission; (5) verifying the date in the bill of lading to determine if the application was made within one year from exportation; (6) since the tax credit would be partly based on the quantity of exported goods indicated in the bill of lading, counterchecking this quantity with the amount indicated in the commercial invoices; (7) checking the commercial invoices to determine the amount of duty value paid for such exports. In case of discrepancy between the quantity exported and the amount of duty paid for, she would prepare a communication to the applicant regarding the matter. If no such issues arise, she would proceed to determine the amount of raw materials imported based on the sales invoices for the imports; (8) after determining the imports and exports related to the application, she would compute the tax credit allowed based on the rates provided by the OSS Center. For direct exports, there is a fixed percentage based on the standard rates scheme provided by the StarCom, composed of representatives from the DOF, BOI, BOC, BIR, and other affiliated government agencies depending on the division involved in the processing of the TCC application; and (9) preparing an evaluation report and submitting it to her supervisor together with all the documents submitted by the applicant. Once the evaluation report is completed and finalized, a TCC would be prepared and issued to the applicant. The OSS Center would also return the originals of the supporting documents submitted and retain the copies. The evaluator is given 30 days from receipt of the application within which to evaluate the application and prepare a tax credit certificate.[92]

On cross-examination, Recoter affirmed that she did not verify or see any reports indicating that the address in the Claimant Information Sheet truly belonged to Scope. She reasoned that because Scope had previous applications from 1995 to 1997, she already knew that it was a manufacturing company. She was also aware that Scope was registered with the BOI since Scope had previously submitted "initial documents" such as its BOI registration, DTI registration, and audited financial statements. These "initial documents" were already on file with the OSS Center and need not be attached for subsequent applications.[93] Further, she admitted that she did not verify if: the documents were actually issued by Scope; the transactions actually happened as stated in the bills of lading and the commercial invoices; or whether Scope had the capacity to export finished products. She merely referred to the documents submitted and the computed tax credit based on the values reflected in the documents. Her evaluation reports were reviewed by Officer-in-Charge/ Reviewer Magdaet and signed by Andutan. Her superiors did not ask her whether she confirmed the veracity of the documents attached to the application. Following her

submission of the report, she no longer had any knowledge what transpired afterward. She also reiterated that it was not her duty to verify the attached documents but admitted that evaluators are not prohibited from doing so. As a Senior Tax Specialist, she merely evaluated tax credit applications and she never submitted any policies or suggested any changes with regard to the process. When asked about the Monitoring and Verification Division, she affirmed its existence in the OSS Center but claimed that she had no idea if it actually existed or if there was a group which verified and monitored claims.[94]

On redirect examination, Recoter clarified that Scope first applied for a TCC in 1995 before the OSS Center had been established. Back then, the claim was filed with the BOI. Because of this, the OSS Center no longer conducted a plant inspection when Scope eventually submitted its claims to the OSS Center because the BOI already conducted the investigation. She also Stated that evaluators never had personal contact with the applicants to protect the integrity of the process.[95]

- Accused De Vera[96]

De Vera joined the DOF as a laborer with the General Services Division and was later promoted to Tax Specialist II in the Revenue Operations Group, headed by Belicena, in 1991. Sometime in 1995, he was promoted to Supervising Tax Specialist at the newly established OSS Center. In 1998, he was promoted to Deputy Executive Director but he never took the oath of office. He thus remained a Supervising Tax Specialist until he left the OSS Center in the same year.[97]

The legal basis for his functions was Administrative Order No. 266, series of 1992, Section 3(b) of which provides that one of the duties and functions of the OSS Center was to "accept applications for tax credits and/or duty drawbacks and finish the evaluation thereof within [30] working days from the date of acceptance of complete applications." [98] The OSS Center usually complied with the 30-day period for evaluation of applications as its non-observance could subject the evaluators to administrative sanctions.[99] As Supervising Tax Specialist, he oversaw the tax credit applications processed by his subordinates by signing and approving their evaluation reports. In reviewing the evaluation reports he: (1) analyzed its contents, particularly the information about the applicant; (2) confirmed that the application was filed within the prescriptive period of claiming the tax credit; (3) checked the completeness of the attachments to the evaluation reports; and (4) confirmed the correctness of the mathematical computation of the evaluator. He would review and sign around 10 to 15 applications per day and submit them to the Deputy Executive Director (Andutan) for appropriate recommendation. He, however, did not check the submitted documents but relied on the tables presented by the evaluators in their report. He presumed that in case there were lacking documents, the evaluator would require the applicant to complete the submission.[100]

Based on his explanation, as part of the "frontline offices," he and the evaluators only "checklisted" and evaluated applications for tax credit. The duty of verifying the submissions fell with the "backline group of offices" based on Section 3(e) of Administrative Order No. 266.[101] The frontline group consisted of the: (1) Forest and Agro-Based Division; (2) Chemical and Oil Division; (3) Metals and Mining Division; (4) Packaging and Services Division; (5) Toys, Gifts & Housewares Division; (6) Construction & Electronics Division; and (7) Wearables Division. On the other hand, the backline group included the: (1) Monitoring & Verification Division; (2) Planning & Research Division; (3) Management Information Systems Division; and (4) Administrative Staff. Accordingly, the duty to verify, specifically the post-audit duty, was performed by the Monitoring and Verification Division and the Management Information Systems Division. Per his recollection, a certain John Bola/Boladen was appointed as head of the division. He expounded that although the creation and plantilla for the Monitoring and Verification Division were approved in 1994 by the Department of Budget and Management, the OSS Center had to wait for the approval of the Civil Service Commission (CSC) which was granted only in

1995.[102]

When confronted with the TCCs for Criminal Case Nos. 25619, 25623, 25624, 25625, 25626, 25627, and 25628, he confirmed that his signature appeared on top of the name of Andutan on the bottom left portion of the document. He claimed that he would sometimes sign for and on behalf of Andutan per the latter's instruction. It became their policy or practice that whenever one of the officials was unavailable and the 30-day period for processing the application was about to expire, the next most senior officer would sign for the absent officer to comply with the processing period. This policy also applied to requests for transfer of TCCs on behalf of Andutan and to tax debit memos on behalf of Belicena. As proof of this supposed policy, he presented and identified Central Office Order No. 97-03, Department Order No. 96-02 dated October 18, 1994, and Office Order No. 94-04 dated August 27, 1994, which while not expressly authorizing him to sign the TCCs, requests for transfers and tax debit memos involved in these cases, nonetheless expressed the tenor that he was previously authorized to sign for Andutan and Belicena.[103]

As to whether the OSS Center still exercised control over a TCC once it had been issued to an applicant, he responded in the negative but said that the TCC can still be the subject of a post-audit, which was expressly stated on the lower portion of the document.[104] He further expressed that during his term, the period for post-audit was open-ended because the OSS Center initially intended for the COA to take over the audit at some point. No audits had taken place for the TCC involved in these cases because it took the OSS Center some time to fill up the positions in the Monitoring and Verification Division.[105]

When asked if verification reports were attached to the TCCs before he signed them, De Vera said there were none. Despite this, he did not insist on conducting a verification before recommending the issuance of the tax credit certificate. He maintained that the verification was the function of the Monitoring and Verification Division and the evaluators were not instructed to perform independent verification. As far as he was concerned, his function was only to validate the application with respect to the mathematical computation of the tax credit and check the prescriptive period of the claim since the core function of their division was the appropriateness of the amount due to each claimant. The OSS Center presumed that Scope had already undergone a series of audits or compliances prior to its registration and it was not their duty to duplicate such action.[106] Scope, being a BOI-registered company, was under the direct supervision and regulation of the BOI. Hence, while Administrative Order No. 266 did not prevent them from conducting an independent verification, he interpreted the lack of authority to verify as a legal proscription for them to conduct such verification.[107]

As for Scope's transfer of its TCCs within a month from issuance, De Vera said that it was legal for Scope to do so. He also stated that he did not file any falsification cases against Scope because issues with respect to the authenticity of documents submitted to the OSS Center were post-audit concerns to be performed by the Monitoring and Verification Division, the COA, and the agency where the TCC was used, i.e., the BIR or the BOC.[108]

- Maria Ney B. Poculan (Poculan), Supervising Administrative Officer at the Central Records Management Division of the DOF

Poculan was called to the witness stand on two separate occasions. Her May 3, 2018 testimony was dispensed with after the parties agreed to stipulate thereon.[109] On November 4, 2019, she was again called to testify for accused Magdaet, Abara, and Napeñas. On that occasion, she presented originals and copies of the Minutes of the 12th Executive Committee Meeting dated May 5, 2000 and the Minutes of the 1st Regular Meeting of the Executive Committee held on June 16, 2004 of the OSS Center Executive Committee. She was unable, however, to bring the manuals of operation of the OSS Center as required by the subpoena since these were not in the

records which she kept.[110]

On cross-examination, Pocalan stated that she had no knowledge of the contents of the minutes that she presented or awareness of the transactions involved in the cases at bar as these were not the concerns of the division she belonged to. She also did not know when the manual of operations took effect.[111]

- Accused Gomez

Gomez began working at the OSS Center in 1994 as a clerk of the Textile Division performing the work of an evaluator. She was tasked with "checklisting" and evaluating documents such as bills of lading, commercial invoices, bank credit memos, import and export entries, terminal revenue declarations, BOC Official Receipts, and import and export declarations. As an evaluator, she prepared evaluation reports, one of which was Exhibit "I-2" for the prosecution. In preparing evaluation reports, she would carefully check the documents submitted including the applicant's information, the BOI-registered number, date of issuance by the BOI, the contract number, and the completeness of the submission. She would then return the documents and submit the evaluation report to the officer-in-charge, who at the time was Magdaet. Once Magdaet signs the report, it would be submitted to the Deputy Executive Director and the Assistant Secretary. After the evaluation report was signed by the Executive Director, it would be brought to the unit preparing the tax credit certificate.[112]

On cross-examination, she was shown Exhibit "I-1" or the Claimant Information Sheet for Criminal Case No. 25599, which she evaluated and verified. She could no longer recall if she was able to communicate with the person who filed it or if she was able to communicate with the companies who issued the supporting documents such as the bill of lading. As for the credit advices, she said she did not verify them with Equitable Banking Corporation.[113]

- Accused Tordesillas

Tordesillas was hired as a contractual employee of the Textile Division of the OSS Center in October 1995. She was regularized sometime in March 1996. Prior to working at the OSS Center, she had training at the BIR Revenue District Office in Taguig. As a Tax Specialist, her duties included "checklisting" the documents submitted for tax credit claims, computing the tax credits, and preparing communication letters and evaluation reports. She identified her signature in the evaluation report marked as Exhibit "K-2," which was the basis for the issuance of TCC No. 004232 issued to Scope subject of Criminal Case No. 25601. In preparing Exhibit "K-2," she stated that she first checked the completeness of the documents then compared the photocopies to the originals submitted. After which, she computed the tax credit based on the schedule of rates of the OSS Center.[114] She also identified other evaluation reports she made[115] and her signatures thereon, which she submitted to Magdaet. Andutan, the Executive Director, would then approve the issuance and release of the tax credit certificate.[116]

She testified that after the issuance of Administrative Order No. 266, the OSS Center used the procedure utilized by the BOI in processing tax credit applications. This process involved "checklisting" the submitted documents, preparing a deficiency letter (if needed), computing the tax credit, and preparing an evaluation report. She presented a document entitled "Department of Finance One-Stop Shop Interagency Tax Credit and Duty Drawback Center Checklist of Document Requirement (sic) for Investment, Incentive Group" as the checklist which they used to determine completeness of the applicant's submission. Per this checklist, an applicant was required to submit: (1) export declaration; (2) export sales invoices; (3) purchase orders; (4) official receipts; and (5) bills of lading.[117]

On cross-examination, she stated that she did not do any field investigation or send confirmation letters to the

issuers of the documents to verify the transactions. She merely followed the procedure outlined in the flowchart marked as Exhibit "B-2" in her evaluation. There was also no training to do field investigation back then.[118]

- Accused Napeñas

In her Judicial Affidavit dated December 3, 2018, Napeñas testified that she began working at the OSS Center in August 1992 as a contractual employee. She became a permanent employee in March 1995. She was designated as an evaluator and part of her duties was to "checklist" the documents submitted by an applicant for tax credit and to compute the tax credits based on the standard rates provided by the OSS Center. She would then prepare evaluation reports which she submitted to her superior, Magdaet, for review and approval. She was also involved in the conduct of plant inspections for first-time applicants of tax credit claims.[119] She confirmed that Exhibit "3-Tordesillas" was the checklist she used as an evaluator as basis for "checklisting,"[120] and that Exhibit "B-2" was the flowchart for the procedure of processing applications for tax credit. This procedure was taught to them by representatives of the BOI. She likewise identified Exhibits "Y-2" and "CC-2" as the evaluation reports which she prepared.[121]

When confronted with her Position Description Form for her position at the OSS Center, she affirmed that part of her responsibilities entailed the "evaluation and verification of supporting documents to determine their authenticity, regularity, and sufficiency." [122] She articulated, however, that she did not conduct verification by sending confirmation letters to verify whether the documents were issued by the issuer as this was not part of her duty as an evaluator. She confirmed that after the documents are forwarded to her for evaluation by the Receiving Section, she would conduct an evaluation and submit her report, together with the documents, to her superior. These documents would no longer pass through any other division such as the Monitoring and Verification Division after she submits them to her superiors.[123] When the Sandiganbayan asked her how she determined the authenticity of the documents, which was part of her job description, she explained that she checked if the documents submitted were complete. While "verification" was part of her job, she only relied on the process outlined in the flowchart issued by the OSS Center as well as the process taught by the representatives of the BOI who trained them as evaluators.[124]

- Director Hiansen

Through his Judicial Affidavit dated April 10, 2019, Director Hiansen testified that he is the Executive Director of the OSS Center. His work at the OSS Center commenced on August 19, 1998 when he worked as the executive assistant at the Office of the Chairman of the Executive Committee. He resigned in 2008 but was rehired on December 2, 2016 for the same position.[125]

In 1998, the OSS Center implemented an "industry-based" system for processing the application for tax credit. Under this system, only the evaluator and the Division Head were involved in the processing of the application for TCCs. The evaluator would (1) assess the acceptability and completeness of the submitted documents and their adherence to policies, guidelines, and requirements of the OSS Center; and (2) compute the tax credit. In "checklisting" the submitted documents, the evaluator would put a check on the list corresponding to the document submitted by the applicant. After evaluating a claim, the evaluator would submit the findings to the Division Head for review and signature. If the Division Head concurs, the entire application would be forwarded for to the Deputy Executive Director for signature. If approved, the TCC would be prepared. The approved application, together with the TCC, would then be forwarded to the Undersecretary for Revenue Operations Group for signature.[126] This procedure was outlined in the flowchart marked as Exhibit "B-2".[127]

For applicants in the textile industry, such as Scope, Director Hiansen expressed that their applications for TCCs were processed under the Direct Export-Standard Scheme which required the submission of the following

documents: (1) fully accomplished and notarized Claimant Information Sheet with documentary stamp; (2) proof of importation (if applicable) such as import entry and internal revenue declaration, bill of lading, import invoice; (3) proof of local purchase (if applicable) such as a purchase invoice and an official receipt; (4) proof of exportation such as sales invoice, export declaration, bill of lading or airway bill, and copy of bank credit memo; and (5) abstract of records such as computation table using standard scheme, schedule of direct exports, schedule of importation and schedule of local purchases.[128]

According to Hiansen, the evaluation reports would contain the following information: (1) data about the applicant; (2) data about the exportation; (3) list of documents submitted; and (4) the computation of the tax credit. An evaluator conducts a "table audit," meaning the documents and information presented to the evaluator would be assessed without verification from third-party sources of the documents.[129] The step of verification of documents was only introduced in the processing of the application for TCCs when the OSS Center shifted from the industry-based procedure to a process-based system as incorporated in the Manual of Operations in 2000, which was approved on May 5, 2000. One such change was the creation of the Verification and Authentication Division, which was established to determine the authenticity of the transactions reported or declared by the applicants by securing confirmation from third-party sources. The process-based system also introduced an "assembly line concept" of evaluation where an application for tax credit is assigned to at least 10 evaluators and four reviewers before it would be approved. This arrangement integrated the necessary checks and balances so that only a collusion in the entire evaluation chain would allow a fraudulent claim to enter the system.[130]

When asked about the divisions existing at the OSS Center in August 1998, Director Hiansen confirmed that there were 10 divisions. He also attested that the organizational chart marked as Exhibit "B-1" was the internal structure of the OSS Center in 1998, which included a Monitoring and Verification Division. He was then shown a document titled "Manual of Operations for the Center" marked as Exhibit "D" for the prosecution. This Manual primarily reflected the system in place in 1998 but he was unsure whether this was approved by the Executive Committee. Based on his reading of Exhibit "D," it is the verifier who makes the verification of the documents and prepares a report which is signed by the Division Chief and forwarded to the evaluator. Presently, the OSS Center uses an updated version of the Manual approved in 2000, which is the 2004 Manual of Operations.[131]

When he became the Executive Director of the OSS Center, he reviewed the procedures observed by the OSS Center. He confirmed that there was no verification in the procedure implemented before the year 2000. He acknowledged that the Position Description Form for the position of a Tax Specialist listed the duty of verifying supporting documents and that the manual provided for a delineation between the function of verification of documents and evaluation of a claim. He, however, was unable to ascertain if the process under the Manual was actually implemented. He added that while the existing plantilla positions for the Monitoring and Verification Division were all filled, the persons assigned in such division were moved to other units after their appointment. Even during the time he assumed the position as Executive Director, no verification reports were attached to the evaluation reports and the Monitoring and Verification Division was not functioning. When the OSS Center was reorganized, the Monitoring and Verification Division was renamed to Verification and Authentication Division. He affirmed that the OSS Center had two mandates which are closely intertwined: (1) to develop an orderly and expeditious process for tax credits; and (b) prevent recurrence of undue claims. Without verification, fictitious documents may pass through their system.[132]

On redirect examination, Director Hiansen affirmed that verification was required by the Manual and that the persons appointed to the Monitoring and Verification Division were not functioning as verifiers. Instead, they were transferred to the Tax and Revenue Group, which was the BIR section of the OSS Center based on a memorandum to that effect. When the Sandiganbayan asked him regarding his testimony, he clarified that he was

testifying based on records found at the OSS Center since he only joined in 1998 while the acts alleged in the Amended Informations were committed from 1995 to 1998. The records showed that there was an approved plantilla of 10 persons for the Monitoring and Verification Division from which he concluded that verification was mandatory; otherwise the OSS Center would not have created a division for verification. He also reiterated that he had no personal knowledge as to whether Exhibit "D" had been officially approved, but from his conversations with the divisions when he took over, the personnel appeared to follow the process outlined in the Manual, except for verification. When he took over, there was still no compliance with the verification procedure and the Division Chiefs proceeded with their evaluation of the applications without such verification.[133]

- Majidi John Rufo Bola (Bola), Tax and Accounting Manager of HAVI Logistics Philippines, Inc. and former Supervising Tax Specialist at the OSS Center

Bola testified on direct examination through his Judicial Affidavit dated May 17, 2018. He previously worked at the OSS Center as a Supervising Tax Specialist from 1993 to 1996. The OSS Center processed all the tax credits and duty drawbacks formerly processed by the BOI, BOC, BIR, and the DOF. As Supervising Tax Specialist, he evaluated and processed tax credit applications. He also assisted in drafting the Manual of Operations for the OSS Center together with a representative from the BOI.[134]

As Bola explained, the draft Manual of Operations was supposed to be used by evaluators as guidelines in processing tax credit applications. Since the OSS Center was an inter-agency office, the intention was to create a uniform procedure for the processing of tax credit applications. The draft was submitted to the Deputy Executive Director and Executive Director who both approved the same. It was presented to the Executive Committee of the OSS Center sometime in 1994 or 1995 but it was not approved because the OSS Center adopted procedures and regulations applied by the BOI, BIR, and BOC in processing tax credit applications.[135]

Bola was assigned to evaluate and process tax credit applications under the provisions on Value Added Tax (VAT) refunds on exports under the Tax Code. He followed the BIR's procedure since there was no Manual from the OSS Center. The general process was as follows: the application for tax credit is filed and the applicant pays the application fee; the applicant files an original and a certified copy with the Receiving Division; the Receiving Division sorts the applications according to the tax credit applied for and forwards the application to the division handling the specific tax credit claim; the division assigned would first check the completeness of the supporting documents depending on the checklist applicable to the type of application filed; if the supporting documents are found to be complete, the applicant would be asked to pay the processing fee, after which, it would be assigned to an evaluator for computation of the allowable tax credit; the evaluator would then prepare an evaluation report for submission to the division chief; once reviewed, the evaluation report would be finalized, signed by the evaluator and the division chief, and forwarded to the Deputy Executive Director for approval. While he was assigned to only evaluate applications for BIR VAT refunds, Bola was trained to evaluate various tax credit applications. As such, the procedure he outlined was the same general procedure adopted by the OSS Center from other agencies. The difference between the procedures lies in the supporting documents required and the computation for the allowable tax credit.[136]

Bola was likewise assigned as the Head of the Monitoring and Verification Division of the OSS Center. The Monitoring and Verification Division audited, processed, and evaluated tax credit applications by verifying the documents submitted in support of the application through a "table audit" or comparison of the original and photocopy of the documents submitted. They would then verify the export invoices against bank remittances or against bank statements for imports. As Head of the Division, he was tasked to: (1) audit the processed tax credit applications under the Tax Revenue Group; (2) review evaluated applications for duty drawback under the Tariff and Customs Code; and (3) review processed tax credit applications under the Investment Incentive Group. If the

Division encountered applications from new applicants, they would also conduct an ocular inspection after the application has been processed and the tax credit released through a "post-audit." [137] In cases where there were discrepancies found during audit in the documents submitted by the applicant, this would be reported to the Executive Director or Deputy Executive Director for the adjustment or cancellation of the TCC. The Office of the Executive Director would then write to the applicant to notify it of the deficiencies and require it to remedy the same. [138]

With regard to the responsibility of an evaluator to perform a "verification," he claimed that this was a general term. To his recollection, an evaluator would only verify the completeness of the supporting documents, accuracy of the computation of the tax credit, and the filing of the claim within the prescriptive period. Evaluators would not immediately know if the supporting document was fabricated since they were not required to perform a detailed examination under the procedure in effect at the time. The role of verifying the authenticity of document fell to the Audit and Verification Division, sometimes called the Monitoring and Verification Division, but at the time material to the cases, there was no clear-cut procedure on how the Division would implement this function. [139]

In drafting the Manual of Operations, Bola adopted the processes from the manuals of the BOI, BOC, and BIR with minor revisions, and consolidated them into the draft Manual for the OSS Center. Thus, even if the draft Manual was not approved, the procedures at the time material to these cases were similar to the procedures in the draft Manual. He, however, had no proof that the draft Manual was not approved by the Executive Committee. Per his recollection also, the OSS Center only established the Monitoring and Verification Division when he was assigned to draft the Manual of Operations to determine the processes of the OSS Center. [140]

When asked why the verification of the authenticity of the supporting documents was only conducted after the TCC had been released, he stated that this was because the OSS Center only had 30 days after acceptance of the application to release the TCC. They were unsure if the verification can be conducted within the same period due to the volume of applications. He was not part of the post-audit for the TCCs involved in these cases since at the time, the Verification Division only conducted audit and verification on a sample basis. [141]

- Lourdes Emelita A. Arante (Arante), Supervising Tax Specialist at the OSS Center

Arante testified on direct examination partially through her Judicial Affidavit dated July 11, 2019. She identified the same in open court on July 15, 2019. She began working at the OSS Center in 1992 and was appointed as Senior Tax Specialist on March 23, 1995. Sometime around 2000 or 2001, she was promoted to Supervising Tax Specialist. During her stint as Senior Tax Specialist in 1995, she was assigned to the Construction and Electronics Division of the OSS Center. She evaluated applications for tax credits following the guidelines or procedures used by the BOI in processing such applications. She testified that when she joined the OSS Center in 1992, the BOI personnel were already at the OSS Center training the employees therein on the process for evaluating tax credit applications. The process adopted from the BOI of evaluating applications was followed until the Manual of Operations was adopted by the OSS Center in 2000, shifting the procedure from an industry-based procedure to a process-based one. [142] The procedure taught by the BOI was applied to all types of tax credit applications. This involved receipt by the Receiving Section of applications which would be distributed to the concerned division; the application would be assigned to an evaluator to check completeness of the attached documents; if the documents were complete, the applicant would be required to pay the processing fee; an evaluator would then assess and match the details of the submitted documents and prepare an evaluation report as well as the computation of the tax credit; the report would be submitted to the division head for review, then forwarded to the Executive Director for final approval. [143]

She used to receive around three dockets per day for "checklisting," "table audit" of documents, and evaluation. "Table audit" was the process of checking if the details provided in the submitted documents were consistent with the "schedule" prepared by the applications. No verification was conducted by evaluators as that duty was to be performed by another person.[144]

The new Manual of Operations then created divisions and designated their responsibilities: (1) Claimant Registration and Pre-Qualification Division, which determines the qualification of the applicants to claim for tax credit; (2) Receiving and Pre-Evaluation Division, which received and checks the documents and other requirements for the tax credit applied for; (3) Financial Validation Division, which validates the claim in the claimant's books of accounts, the sales of the claimants and their importation and local purchases; (4) Verification Division, which verifies the authenticity of the documents submitted; (5) Claim Evaluation Division, which summarizes the reports from the different divisions as to the qualification, documentary requirements, status of validation of claims and verification of documents; and (6) TCC Issuance and Application Division, which prepares the TCC and releases the same.[145]

In the Claim Evaluation Division, they computed the amount of tax credits due to an applicant after evaluating its claim. This would be embodied in an evaluation report to be forwarded to the Deputy Executive Director and Executive Director for approval. Subsequently, the TCC would be issued by the TCC Issuance and Application Division as signed by the Deputy Executive Director and Executive Director. After the Manual was adopted in 2000, the OSS Center shifted to the process-based procedure. Arante could not, however, provide proof as to this shift in procedure in the OSS Center and stated that her duties only required her to conduct a "table audit." [146] On redirect examination, she clarified that she had no proof regarding the new Manual as she was not requested to present it, but she did have a photocopy of the same.[147]

- Carlo V. Baloloy (Baloloy), Supervising Tax Specialist at the OSS Center

Baloloy testified on direct examination through his Judicial Affidavit dated July 12, 2019, which he identified in open court on July 18, 2019. He was presently working as a Supervising Tax Specialist at the OSS Center. As for his educational background, he has a bachelor's degree in civil engineering and a master's degree in public administration. He began working with the DOF in 1989 and with the OSS Center on May 8, 1992, where he was assigned to the Metals, Mining, and Engineering Division. There, he "checklisted" and evaluated tax credit applications in accordance with the guidelines and procedures prescribed by the BOI.[148]

When he entered the OSS Center in 1992, BOI personnel trained the OSS Center employees on how to evaluate tax claims. This procedure was uniformly applied regardless of the industry. He narrated the same procedure as Arante as to how TCCs are applied for, evaluated, and issued.[149] Per his recollection, he would usually receive around three to five dockets per week for "checklisting" and evaluation while the Wearables Division would receive about three dockets per day. Evaluators have no duty to verify documents from the source as they were only tasked to conduct a "table audit" of the documents submitted by the applicant and the "schedule," which is a summary of the details provided in the supporting documents. He was unaware who was responsible for verifying whether the documents were truly issued by the claimed source of the documents.[150] In 2000, the OSS Center adopted a new Manual of Operations which shifted the procedure to one that was process-based. He confirmed the establishment of the six new divisions and their responsibilities as stated by Arante.[151]

On cross-examination, he explained that he was initially detailed to the Administrative Division where he made logistical arrangements and procured computers and supplies. Thereafter, he was assigned to the Management Information Systems Division and created programs for the OSS Center, before he was transferred to the Mining and Metals Engineering Division as an evaluator. In this capacity, he attended orientations where he was taught

how to reconcile documents and assess information from them before calculating the corresponding taxes and duties. He was never ordered to verify documents submitted by claimants.[152] At the time material to these cases, no verification was conducted by any personnel in processing tax credit applications. He admitted, however, that he had no proof that his functions as an evaluator were limited to a "table audit." [153]

On redirect examination, he mentioned that the Manual adopted in 2000 was evidenced by the resolution in the Minutes of the 12[th] Executive Meeting held on May 5, 2000, signed by Director Hiansen and Alberto R. Salanga. He also clarified the distinctions between the industry-based and process-based procedures. Under the former, only one division handled all claims for that particular industry, from the "checklisting" of documents to recommendation of the tax credit claims. No verification of documents was conducted. In the latter, the work is divided into several divisions, i.e., Receiving, Pre-Evaluation and Documentation Division, Financial Validation Division, and the Verification Division, etc. The process-based system was adopted by the OSS Center sometime in 2000 following the alleged scam that transpired in the prior years. He also discussed that while there was a Monitoring and Verification Division under the industry-based system, the function of the division was not followed.[154]

- Melania D. Dingayan (Dingayan), Records Custodian at the Bureau of Investments

As the Records Custodian of the BOI, Dingayan presented a document titled "Certificate of No Record" which stated that following receipt of a subpoena issued by the Sandiganbayan, she conducted a search of the records of the BOI for the document requested, "Certificate of Registration No. EP 90-054" supposedly issued in favor of Scope. Her search, however, was unavailing as no such record was found. She added that based on the general monitoring database of the BOI for registered projects from 1968 to January 2021, the Certificate of Registration No. EP 90-054 with registered activity "knitted projects" had already been cancelled. Since this document was supposedly issued in 1990 or over 30 years ago, this file, among others, was deposited at the basement area of the BOI. In 2009, however, the basement was flooded, leading to the destruction of the files.[155]

- Carmelo T. Casibang Jr. (Casibang), former Deputy Executive Director of the OSS Center

In his direct examination through his Judicial Affidavit dated November 8, 2021, Casibang attested that he began working for the Corporate Affairs Group of the DOF in 1993 and was transferred to the OSS Center on June 16, 1999. He then retired on September 24, 2019 after holding the position of Deputy Executive Director and assisting the Executive Director in overseeing the day-to-day operations of the OSS Center.[156]

Upon transferring to the OSS Center, he noticed that there were flaws in the system. He relayed this to Director Hiansen, who then wrote a letter to the Civil Service Commission-National Capital Region (CSC-NCR) requesting for a system audit and organizational development study. The CSC-NCR recorded the following findings embodied in the documents titled "Organization Development Project for OSS Center Phase I," and "Books I and II of the Final Reports of the Organizational Development Project for the OSS Center": (1) poor records management as evidenced by missing, incomplete, inaccurate, and questionable records; (2) the database for issued TCCs and granted tax debit memos was unavailable; (3) key operation groups such as the Audit and Verification, Management Information Systems, and planning and Research were non-operational; (4) there was no manual of operations; and (5) the Executive Committee held irregular meetings.[157] As to the role of the Monitoring and Verification Division in 1995 to 1998, Casibang expressed that per his review of the old organizational structure, that division was supposed to verify the authenticity of documents submitted to support the tax credit application.[158]

He testified under cross-examination that he was designated as Deputy Executive Director in 2007. As to his knowledge of the cases, he said he was aware that it was the Garments Division which handled the applications

involved; he was never assigned to such division. While he was not part of the CSC-NCR's fact-finding team, he confirmed that he had relayed the flaws he noticed, particularly the absence of a manual of operations for the different divisions.[159]

On redirect examination, he stated that his last assignment prior to becoming Deputy Executive Director was in the Pre-Evaluation Division, where they checked the completeness and acceptability of supporting documents for a tax credit application. The process of pre-evaluation was introduced in 2000 under the Manual of Operations. Prior to that, each industry division handled all applications pertaining to their industry. Under the new system, the output of one division would be the input of another and the application would go through several evaluators instead of just one. As to the flaws he observed in the OSS Center, he said that he noticed that three operation groups were not functioning, and they were at a loss as to who would answer their queries regarding the process involving the issuance of the TCCs. He also mentioned that he helped draft the Manual of Operations for the Pre-Evaluation Division although he had no documentary evidence of this. When they reengineered the system, the Monitoring and Verification Division was renamed to the Verification and Authentication Division. Under the new process, they required a more stringent process of verification and a shorter period of time for the result of a verification request from agencies like the BIR and the BOC.[160]

As to the reason for his testimony, he claimed that the counsel of Napeñas and Magdaet requested him to testify and he acceded because he thought it was the right thing to do.[161]

- Agnes B. Padilla (Padilla), Director IV at the Civil Service Commission

Padilla was an Executive Director IV who was assigned to the CSC-NCR from December 22, 2000 to February 20, 2006. She retired from service in 2013. As a Director, her duties include conducting personnel inspection, audit, and consultancy services for agencies that require the services of the CSC, among others. She recalled that she headed an "Organization Development Project" for the OSS Center involving two phases. Her team studied the organizational structure, systems, processes, and customer perception of the OSS Center. For the first phase of the audit, they diagnosed the organizational problems of the OSS Center. On the second phase, her team submitted recommended changes to the organization which they sent to the OSS Center on August 11, 2003. She identified her letter to Hiansen, the report attached to the letter, as well as Books I and II of the report rendered.[162]

In summary, her team's observations and findings were: (1) on the organizational side: (a) the OSS Center was a very flat organization; (b) at the time of the audit, there was no Executive Director, only Director Hiansen who was then the officer-in-charge; (c) there were very few personnel, most of whom were occupying contractual positions; and (d) there were several plantilla positions which had not been filled; (2) as for the systems of the OSS Center: (a) the records were unorganized; and (b) the Verification and Audit Division, Management Information Systems Division, and the Planning and Research Division were practically not operating; and (3) on the customer perception side, the OSS Center had received a lot of complaints.[163]

She confirmed on cross-examination that the Verification and Audit Division was practically not functioning. In conducting the system audit, they did not look into the procedure or workflow for TCC applications. Her team's recommendations likewise did not include the process for verification of documents because the foci were the organization itself and its systems. When asked who she thought was supposed to conduct the verification of documents for the OSS Center, she said it should have been the supervisors. Her team noted, however, that there was something lacking with respect to the supervision of different units at the OSS Center. They attributed this to the lack of training of supervisors and the lack of real interest by the supervisors in running their divisions well.[164]

According to Padilla, the CSC-NCR conducted the audit pursuant the CSC's constitutional mandate to conduct personnel inspection and audit of organizational systems of government agencies. As an added justification, Director Hiansen himself, as officer-in-charge of the OSS Center, requested the same. Further, Padilla confirmed that she would be incompetent to testify on the legality of the issuance of the TCCs involved as she only performed a system audit. Following their submission of their report to the OSS Center, the CSC-NCR no longer received any written feedback. Padilla only received a verbal reply from the OSS Center that they were internally resolving the matter. She then inferred that the OSS Center was introducing changes since the OSS Center later submitted a list of names of their employees that they wanted the CSC to train.[165]

Proceedings before the Sandiganbayan

De Vera filed his Formal Offer of Exhibits on October 13, 2022, followed by Magdaet, Napeñas, Abara, and Tordesillas who filed their Consolidated Formal Offer of Exhibits on October 27, 2022.[166] In its Manifestation with Motion to Admit Consolidated Comment, the prosecution noted that despite having been given time to file their respective offers of evidence, Andutan, Binsol, Diño, Gomez, Cuento, and Recoter have not submitted any formal offer of evidence. Thus, they are deemed to have waived their respective rights to file one. As for the exhibits of De Vera, Magdaet, Napeñas, Abara, and Tordesilla, the prosecution opposed their offered exhibits for supposedly being misleading, immaterial, and irrelevant.[167]

On November 23, 2022, Atty. Ray Montri C. Santos (Atty. Santos), the counsel of record for Andutan, filed a Manifestation stating that he was not in a position to file a formal offer of exhibit on behalf of his client. Atty. Santos recalled that he initially filed a Motion to be relieved as counsel for Andutan in 2018 as the latter no longer cooperated or communicated with him. Thus, he could not properly defend his client's cause. The Sandiganbayan, however, denied his Motion due to the lack of conformity of Andutan. Given his client's non-cooperation, Atty. Santos manifested that any evidence introduced by the other accused in their defense which tend to exculpate Andutan, as admitted by the Sandiganbayan, be considered in his favor. The Sandiganbayan noted the Manifestation by Resolution dated November 25, 2022.[168]

In its Resolution dated December 12, 2022, the Sandiganbayan admitted De Vera's exhibits except Exhibits 4 and 5, which were provisionally marked photocopies. The exhibits of Magdaet, Napeñas, Abara, and Tordesillas were all admitted except Exhibit 28 or the BOI Certificate of Registration of Scope since it had already been cancelled. The Sandiganbayan also noted the prosecution's Manifestation regarding the failure of the other accused to file their formal offers of evidence. They were deemed to have waived their right to file their formal offer of evidence.[169]

Ruling of the Sandiganbayan

By Decision[170] dated August 11, 2023, the Sandiganbayan convicted Andutan et al. on several counts and acquitted them on other charges of violation of Section 3(e) of Republic Act No. 3019, as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- In the following criminal cases, the following accused are GUILTY BEYOND REASONABLE DOUBT of Violation of Section [3(e)] of R.A. No. 3019, as amended:

Criminal Case No.

Name of the Accused

25597

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Annabelle Diño [y] Janeo

25598

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Mark Binsol [y] Avisado

25599

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Cherry Gomez [y] Lanuza

25600

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

25601

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Merose Tordesillas [y] Lotilla

25602

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Merose Tordesillas [y] Lotilla

25603

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Annabelle Diño [y] Janeo

25604

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

25605

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

25606

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Merose Tordesillas [y] Lotilla

25607

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa
Gemma Abara [y] Ortiz

25608

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Gemma Abara [y] Ortiz

25609

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Annabelle Diño [y] Janeo

25610

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Gregoria Cuento [y] Vidallo

25611

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Annabelle Diño [y] Janeo

25612

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Annabelle Diño [y] Janeo

25613

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Annabelle Diño [y] Janeo

25614

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Gemma Abara [y] Ortiz

25619

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Purita Napeñas [y] Sison

25621

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa

Merose Tordesillas [y] Lotilla

25623

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Raul De Vera [y] Clauren

Gregoria Cuento [y] Vidallo

25631

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Gemma Abara [y] Ortiz

25633

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

25634

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Accordingly, they are hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum. They are likewise sentenced to suffer perpetual disqualification from holding public office.

- In the following criminal cases, the following accused are hereby ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt:

Criminal Case No.

Name of the Accused

25596

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

25615

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Raul De Vera [y] Clauren

Purita Napeñas [y] Sison

25616

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa

Raul De Vera [y] Clauren

Gregoria Cuento [y] Vidallo

25617

Uldarico Andutan, Jr. [y] Ponsaran

Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Gemma Abara [y] Ortiz

25618

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren

25620

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Merose Tordesillas [y] Lotilla

25622

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Merose Tordesillas [y] Lotilla

25624

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Annabelle Diño [y] Janeo

25625

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Gregoria Cuento [y] Vidallo

25626

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Gregoria Cuento [y] Vidallo

25627

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Annabelle Diño [y] Janeo

25628

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Raul De Vera [y] Clauren
Charmelle Recoter [y] Panadero

25629

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Charmelle Recoter [y] Panadero

25630

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Annabelle Diño [y] Janeo

25635

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa
Gemma Abara [y] Ortiz

25636

Uldarico Andutan, Jr. [y] Ponsaran
Asuncion Magdaet [y] Mesa

The bail bond posted by the aforementioned accused EXCEPT for accused ULDARICO ANDUTAN, JR. Y PONSARAN and ANNABELLE DIÑO Y JANEÓ, for their provisional liberty in Criminal Cases Nos. 25596, 25615, 25616, 25617, 25618, 25620, 25622, 25624, 25625, 25626, 25627, 25628, 25629, 25630, 25635, and 25636 are ordered RELEASED subject to the usual auditing and accounting procedures. For having jumping their bail during the trial of the cases at bar, the bail bond posted by accused ULDARICO ANDUTAN, JR. Y PONSARAN and ANNABELLE DIÑO Y JANEÓ are hereby declared forfeited in favor of the government.

Moreover, the Hold Departure Orders dated August 27, 1999, issued against the said accused in Criminal Cases Nos. 25596, 25615, 25616, 25617, 25618, 25620, 25622, 25624, 25625, 25626, 25627, 25628, 25629, 25630, 25635, and 25636 are hereby LIFTED and SET ASIDE.

- Since the Court has not acquired jurisdiction over the persons of the following accused because they remain at-large, the specific cases against them are hereby ordered ARCHIVED:

Criminal Case Nos.

Name of the Accused

25596 – 25631

25633 – 25636

Jaime Sia Ling
Wilhelmina Ang Ling
Albert Sia Ling
Wilbert Sia Ling
Vinalyn Sia Ling
Angel O. Jimenez
Bernard T. Santos

25596

Ma. Cristina Saquitán Moncada

The aforesaid cases are to be revived upon their arrest. Let alias warrants of arrest be issued against the above-named accused.

SO ORDERED.[171] (Emphasis in the original)

The Sandiganbayan assessed each criminal charge against the elements of violation of Section 3(e) of Republic Act No. 3019: (1) the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers); (2) the accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and (3) that the action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his/her functions.[172]

There is no dispute as to the existence of the first element. At the time material to these cases, Andutan et al. were public officers discharging administrative and/or official functions at the OSS Center as indicated in the Amended Informations.[173]

As to the second element, the Sandiganbayan observed that not all the documents submitted by Scope in its applications for tax credits were original documents. Some of the documents were photocopies which bore the rubber-stamp mark "Certified True Copy" signed by Santos or Jimenez. Andutan et al.'s failure to spot this irregularity and their subsequent acceptance of the documents are indicative of gross negligence in the performance of their duties.[174]

Finally, the Sandiganbayan found that 40 TCCs had been issued to Scope despite the spurious documents it submitted and its false representation of being an exporter of knitted fabrics using imported materials. Scope was clearly ineligible for the tax credits. Nonetheless, unwarranted benefits had been granted to Scope as it was able to utilize or transfer the TCCs issued by the OSS Center through the gross negligence of Andutan et al. Further, Andutan et al. also caused undue injury to the government through their gross negligence since the TCCs represented payments of taxes and duties which the government was unable to collect because of the supposed tax credits that Scope obtained in its favor.[175]

With regard to the 16 criminal cases in which the accused were acquitted, the Sandiganbayan found the evidence wanting of proof that unwarranted benefits were granted or undue injury was sustained due to the lack of supporting evidence to establish utilization by Scope of the TCCs or its transfer to other private companies.[176]

Magdaet, Binsol, Gomez, Tordesillas, Abara, Cuento, De Vera, and Napeñas (Magdaet et. al) filed their respective Motions for Reconsideration assailing the Decision.[177] De Vera argued that the prosecution's witnesses had no personal knowledge of the material facts and allegations in the Amended Informations. His acts of signing and approving evaluation reports and signing TCCs on behalf of Andutan and/or Belicena did not amount to a violation of Section 3(e) of Republic Act No. 3019. The violation found by Sandiganbayan pertained to Scope's submission of spurious documents. He could not be faulted for this as he had no hand in the preparation of such documents and did not have knowledge regarding the same. As his duties were only to conduct a table audit and checklisting of documents, it was beyond his mandate, and he also did not have the skills to know whether the documents were falsified. He merely relied, in good faith, on the attestation found in the Claimant Information Sheet submitted by Scope. In processing the application for tax credit, he relied on his subordinates, which is an accepted norm.[178]

Magdaet, Binsol, Gomez, Tordesillas, Abara, Cuento, and Napeñas, on the other hand, argued that the testimonies of Santiago, Rosel, and Sandan were doubtful given the uncertainty of the origin of the documents they identified. They also assailed the testimonies of Bhandari and Del Castillo on the basis of the *res inter alios acta* rule. Thus, they should not have been prejudiced by their declarations. Like De Vera, they argued that they followed the

process taught by the BOI. Belicena also issued various office orders allowing the submission of photocopies of supporting documents. Hence, it was erroneous for the Sandiganbayan to fault them for failing to note that the documents submitted were certified by a single person. Since Scope is a BOI-registered company, it was entitled to avail of and enjoy tax incentives, including tax credits. Since their duties were merely ministerial, and in the absence of any showing of any corrupt intent to favor Scope, they held that they cannot be adjudged guilty of the offenses charged. In any case, the Bureau of Customs could still collect and recover the tax credits utilized by Scope.[179]

The prosecution filed its Consolidated Opposition with Leave of Court.[180] The Office of the Special Prosecutor argued that Magdaet et al. failed to raise substantial arguments warranting the reversal of the Sandiganbayan's Decision. The prosecution also noted that Andutan and Diño failed to file their respective motions for reconsideration despite the lapse of a considerable period of time.[181]

Under its Resolution[182] dated February 8, 2024, the Sandiganbayan denied reconsideration of its Decision.

Magdaet, Binsol, Gomez, Tordesillas, Abara, Cuento, and Napeñas filed their Consolidated Notice of Appeal[183] dated February 14, 2024. De Vera separately filed his Notice of Appeal[184] dated February 16, 2024.

The Present Appeal

Magdaet et al. now separately plead anew for a verdict of acquittal.

Magdaet, Binsol, Gomez, Tordesillas, Abara, Cuento, and Napeñas maintain that they performed their duties in good faith.[185] As against the Sandiganbayan's finding of gross negligence due to their acceptance of photocopies of documents used for their review, they underscore that they were merely complying with Belicena's office orders which allowed the submission of photocopies of supporting documents.[186] Before the establishment of the OSS Center, Scope had been granted TCCs by the BOI who actually conducted inspections of Scope's premises. Upon establishment of the OSS Center, they followed the procedure for evaluating TCC applications prescribed by the BOI, which, at that point, did not include further verification of the application. In fact, in other cases decided by the Sandiganbayan on the tax credit scam involving some of the same accused, the Sandiganbayan acquitted them as it found that they were not required to go beyond the face of the documents evaluated for completeness.[187] It also found in those cases that the Monitoring and Verification Division only undertook to verify the entries in the submitted documents in a post-audit after the TCC had already been issued to an applicant.[188] Further, Magdaet et al. aver that there were no alterations in the documents submitted which, on their face, appeared to be authentic. As the prosecution's own witness (Sandan) testified, the bills of lading presented could easily pass as the bills of lading actually issued by the shipping company. Therefore, in the absence of malicious intent and gross inexcusable negligence on their part, they cannot be convicted of the offenses charged.[189]

In his separate Brief,[190] De Vera emphasized that as a Supervising Tax Specialist, he was tasked with checking the mathematical computation of his subordinates based on the BOI's given formula, and with recommending the evaluation report for the approval of his superiors, Andutan and Belicena. He had no duty to check the due execution and the verification of the submitted documents.[191] Following the determination of the completeness of the documentary requirements, his issuance of an evaluation report becomes a ministerial duty.[192] In so doing, he was guided by the policies in checking the correctness of the tax credit computation. It had also not been shown that he had any knowledge that the documents submitted by Scope were fabricated.[193] Ultimately, he had no final say on the issuance and utilization of TCCs[194] and would merely sign the same for Andutan and/or Belicena, in their absence and upon their instruction.[195] Hence, the prosecution failed to prove that he acted

with gross negligence.[196]

On the other hand, the Office of the Special Prosecutor prays for the dismissal of the appeal.[197] It argues that Magdaet et al. failed to adhere to their mandate as the transactions subject of the case were tainted with blatant irregularities. They failed to observe the diligence required of them by law given the existence of indicia that should have prompted them to act more circumspectly. Their actions then caused undue injury to the government through Scope's utilization of TCCs in the amount of PHP 61,507,725.00.[198]

Our Ruling

We acquit.

The evidence on record shows that there were clear gaps in the industry-based procedure implemented by the OSS Center in evaluating and issuing TCCs. These gaps paved the way for unscrupulous individuals to defraud the government by ultimately depriving it of taxes which were offset from improperly issued TCCs. Notwithstanding this regrettable consequence, the Court finds that there exists reasonable doubt in Magdaet et al.'s particular criminal liability, which warrants their exoneration. Reasonable doubt "refers to the possibility of innocence based on reason and common sense, arising from the evidence or lack of evidence as the case may be." [199] As will be discussed below, there is reasonable doubt as to the existence of the second element of the offense charged.

Conviction for violation of Section 3(e) of Republic Act No. 3019 requires proof of the following elements: (1) the accused must be a public officer discharging administrative, judicial, or official functions; (2) the accused must have acted with manifest partiality, or evident bad faith, or gross inexcusable negligence; and (3) the action caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of official functions.[200]

The presence of the first element is not disputed. At the time material to these cases, Magdaet et al. were all employees of the OSS Center, discharging administrative and official functions.

With respect to the second element, it is apparent from the prosecution's evidence that the accused officers of Scope, i.e., Tan and Farin, knowingly submitted false documents in connection with Scope's supposed exports of processed knitted fabrics. These documents would then be reviewed by the OSS Center, on the basis of which, unwarranted TCCs were issued. The evidence failed to prove, however, that: (1) Magdaet et al. knew of the falsities contained in the documents submitted; (2) they knowingly conspired with Scope to grant it unwarranted benefits; or they specifically had the responsibility to validate the accuracy of the information, under the review structure then implemented at the OSS Center. The Office of the Special Prosecutor itself acknowledges this in its Brief: "[t]he entire scheme employed by Scope, as demonstrative (sic) above, was a complete mockery of the mandate of the OSS-Center. Scope managed to deceive the OSS-Center as the system put in place was very lenient, if not, non-existent." [201]

The question then arises: Do the acts of Magdaet et al. constitute evident bad faith, manifest partiality, or gross inexcusable negligence for the specific purpose of causing undue injury? We find that they do not.

The Sandiganbayan ruled that Magdaet et al. acted with gross and inexcusable negligence when they failed to notice manifest defects in their review of Scope's supporting documents.

Negligence alone does not suffice. A violation of Section 3(e) of Republic Act No. 3019 must be predicated on gross inexcusable negligence. Office of the Ombudsman v. De Leon[202] defined gross inexcusable negligence as follows:

[Gross Negligence] is the omission of that care that even inattentive and thoughtless men never fail to give to their own property. It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In

cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.

In contrast, simple neglect of duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference.[203] (Citations omitted)

More, in a public officer's review and approval of documents, we have held that a cursory perusal and subsequent signing of a document is not tantamount to gross negligence in the absence of conditions that would have triggered further inquiries into the transaction, viz.:

The instant case brings to the fore the importance of clearly differentiating between acts simply negligent and deeds grossly and inexcusably negligent punishable under Sec. 3, par. (e), of the Anti-Graft and Corrupt Practices Act. While we do not excuse petitioner's manner of reviewing the award of the supply of tomato paste in favor of Elias General Merchandising, whereby he cursorily perused the purchase order and readily affixed his signature upon it, since he could have checked the supporting documents more lengthily, it is our considered opinion that his actions were not of such nature and degree as to be considered brazen, flagrant and palpable to merit a criminal prosecution for violation of Sec. 3, par. (e), of RA 3019. To paraphrase *Magsuci v. Sandiganbayan*, petitioner might have indeed been lax and administratively remiss in placing too much reliance on the official documents and assessments of his subordinates, but for conspiracy of silence and inaction to exist it is essential that there must be patent and conscious criminal design, not merely inadvertence, under circumstances that would have pricked curiosity and prompted inquiries into the transaction because of obvious and definite defects in its execution and substance. To stress, there were no such patent and established flaws in the award made to Elias General Merchandising that would have made his silence tantamount to tacit approval of the irregularity.[204] (Emphasis supplied, citations omitted)

We find that several circumstances militate against the finding of gross negligence against Magdaet et al. Consider:

First, Scope had regularly obtained TCCs from the BOI for which its business, transactions, and facilities had undergone prior inspection;

Second, upon establishment of the OSS Center, the evaluation of applications for TCCs was taught and endorsed by the BOI, regardless of the concerned industry. It did not include a verification procedure for each TCC application. In fact, this particular procedure was outlined in a flowchart which was used as a guide by evaluators and tax specialists of the OSS Center. The existence and use of this flowchart in the OSS Center was not disputed;

Third, the evaluation process under the industry-based process implemented by the OSS Center in 1994 to 1998 and taught by BOI was similar to a table audit where an evaluator would check the completeness of the documents submitted by the applicant and compute the applicable tax credit based on the prescribed formula. The evaluators and/or tax specialists were not required to validate, confirm, or verify whether the declarations were true;

Fourth, under the industry-based process, the evaluators and/or tax specialists did not perform the task of verification as there was a "backline" office devoted to such mandate, i.e., the Monitoring and Verification Division. As confirmed by witnesses for both the prosecution and the defense, the Monitoring and Verification Division would conduct post-audits of the applications for TCCs after these had already been issued. The filling up of the positions for the Monitoring and Verification Division, however, took some time, which affected its operations;

Fifth, it was only in 2000 or 2001 when a procedure for verification was developed and implemented following the approval of the OSS Center's Manual of Operations;

Sixth, Magdaet et al. were not in a position to set up and ensure a working Monitoring and Verification Division. Simply stated, this was obviously beyond the ambit of the Textile Division, to which they belonged;

Seventh, each Claimant Information Sheet contained an attestation signifying the applicant's declaration that the documents submitted are authentic and the claims applied for are legitimate;

Eighth, prosecution witness Rodolfo attested that he did not make known to any OSS Center personnel the irregularities of the documents he submitted;

Ninth, prosecution witness Sandan confirmed that the shipping documents had the appearance of originals issued by K Line;

Tenth, Belicena allowed the submission of photocopies of documents;

Eleventh, Magdaet et al. had no contact with Scope, its officers or its representatives, to preserve the integrity of the application process. This was confirmed by Rodolfo; and

Finally, in its Decision dated May 23, 2024 in *People v. Belicena et al.*,^[205] which also involved the tax credit scam and accused Belicena, Andutan, Napeñas, Recoter, and Tordesillas, the Sandiganbayan acquitted Napeñas, Recoter, and Tordesillas of the same charge, viz.:

Testimonial evidence is clear, however, that at this early stage involving the assessment of documents by evaluators, their function was essentially confined to a "table audit" of the dockets. Palpably, it was not the function of the evaluators to verify and authenticate the submitted documents because such responsibility devolved on the Monitoring and Verification Division [MVD].^[.]

....

Since it was the MVD which was responsible for the authentication of documents, the function of the evaluators was simply confined to a mere table audit, or checking of the completeness of the requirements as guided by the Checklist of Requirements for the Investment Incentive Group . . . A checklist of submissions, nothing more.

The evaluators were thus not required to go beyond the four corners of the papers submitted. . . For this reason, the evaluators could not be expected to go beyond what they assessed or evaluated from the four corners of the paper documentary requirements. Hence, as testimonial evidence revealed, they could not have noticed that the supporting documents to the TCC applications may have been falsified. In fact, a few of the prosecution witnesses themselves admitted that the falsities lurking beneath the surface were hard to detect because, at face value, they appeared to have been regularly issued. . .

....

For the prosecution to thus hold accused Napeñas, Recoter, and Tordesillas accountable for not being able to detect the spurious nature of the fraudulent bank credit memos and export declarations appended to the application of Circular Knitting is an imputation that holds no ground. Prosecution's testimonial evidence speak of the opposite; this, in itself, is enough to put a tinge of doubt to the accusation.^[206]

In another Decision dated October 21, 2024 in *People v. Belicena et al.*,^[207] the Sandiganbayan again acquitted Magdaet and held:

Apparently, there existed a Monitoring and Verification Division (MVD) which was supposed to verify the authenticity of the documents submitted. However, the MVD was not operational because people from that division did not function as verifiers but were assigned to different divisions to evaluate tax credit applications. This was confirmed in the Final Report on the Organizational Development Project, which stated that the

Audit and Verification is one of the nonoperational key operations groups in the Center.

Further, the Center's change from an industry-based to a process-based system in the year 2000 lends credence to the notion that evaluators were not required to conduct verification on the authenticity of the documents. This is because, during the transition, new divisions were created, including the Verification and Authentication Division, which was entrusted with verifying the authenticity of the documents submitted by third parties.

Given all the foregoing, the court concludes that the task of evaluators and reviewers to verify the documents pertains only to determining the completeness of the documents submitted and accuracy of the computation for allowable tax credit. Thus, to hold them liable for failing to verify the legitimacy of the documents they were given is unwarranted.[208]

From the foregoing and similar to the above cases decided by the Seventh Division of the Sandiganbayan, it had not been proven that Magdaet et al. flagrantly refused to perform their duty. Rather, the contention lies on the extent of the duties that Magdaet et al. should have performed in their respective capacities as evaluators/tax specialists of the Textile Division. Evidently, Magdaet et al. performed their duties on the basis of their honest belief that their functions were limited to a table audit of the completeness of the documents submitted in support of the TCC application, considering that this was the procedure which the OSS Center was briefed on and adopted since the beginning of its operations and because there was a separate division, the Monitoring and Verification Division, specifically tasked with verifying the truthfulness of an applicant's claims. That there were lapses in the verification and confirmation of the listed information in the application process for tax credits cannot be attributed to them, much less can these lapses serve as evidence of their fraudulent purpose.

There is, indeed, great value in safeguarding the public's trust in government offices dedicated to its service. The foregone taxes, after all, are public funds which the State could have utilized for the benefit and welfare of its citizens. The State must rightfully employ legal means to recover these amounts. Too, it is necessary for the State to ensure that each agency functions in accordance with its mandate and implements measures to deter unethical practices. The defense of such cause, however, should not go so far as criminally sanctioning public employees who merely performed their duties in accordance with the then-prevailing albeit flawed processes of the OSS Center, in the absence of a dishonest purpose. The clear intent of Republic Act No. 3019 must prevail:

As the name or title of RA 3019 implies, the Anti-Graft and Corrupt Practices Act was crafted as an anti-graft and corrupt measure, where graft is understood as acquisition of gain in dishonest ways. By the very language of Section 3(e) of RA 3019, "the elements of manifest partiality, evident bad faith, and gross inexcusable negligence and of giving unwarranted benefit, advantage or preference to another must go hand in hand with a showing of fraudulent intent and corrupt motives."

Graft, defined, is the fraudulent obtaining of public money unlawfully by the corruption of public officers. It also refers to advantage or personal gain received because of the peculiar position or superior influence of one holding a position of trust and confidence without rendering compensatory services or dishonesty transaction in relation to public or official acts.

Corruption, in its fundamental sense meanwhile, is defined as the act of an official or fiduciary person who unlawfully and wrongfully uses his station or charter to procure some benefit for himself or for another person, contrary to duty and the rights of others. It pertains to an act done with an intent to give some advantage inconsistent with official duty and the rights of others.

As a rule, the alleged irregular or anomalous act or conduct complained of under RA 3019 must not only be intimately connected with the discharge of the official functions of an accused. It must also be accompanied by some benefit, material or otherwise, and must have been deliberately committed for a dishonest and fraudulent

purpose and in disregard of public trust.

It is not enough that unwarranted benefits were given to another or that there was damage to the government as a result of a violation of a law, rule, or regulation. The acts constituting the elements of a violation of RA 3019 must be effected with corrupt intent, a dishonest design, or some unethical interest. Here, there is no showing that petitioner and his co-accused were motivated by a desire to acquire gain by dishonest means when they confiscated the subject meat products, which were eventually distributed to different agencies in the province.[209] (Emphasis supplied, citations omitted)

Even assuming that there are mistakes ascribable to Magdaet et al., "[m]istakes committed by public officials, no matter how patently clear, are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith." [210] All told, the evidence of the prosecution failed to pass the test of moral certainty, which is required to convict an accused. Thus, the acquittal of Magdaet et al. is in order. The acquittal of Magdaet et al. is extended to Diño and Andutan despite failing to file their own appeals in accordance with Section 11(a) of Rule 122.[211]

ACCORDINGLY, the Appeals are GRANTED. The assailed Decision dated August 11, 2023 and Resolution dated February 8, 2024 of the Sandiganbayan in Criminal Case Nos. 25596-25631 & 25633-25636 are REVERSED. Accused-appellants Asuncion M. Magdaet, Mark A. Binsol, Cherry L. Gomez, Merosse L. Tordesillas, Gemma O. Abara, Gregoria V. Cuento, Raul C. De Vera, and Purita S. Napeñas, as well as accused Annabelle J. Diño and Uldarico P. Andutan, Jr. are ACQUITTED of violation of Section 3(e) of Republic Act No. 3019.

Let an entry of judgment be issued immediately.

SO ORDERED."

Leonen, SAJ. (Chairperson), M. Lopez, and J. Lopez, JJ., concur.
Kho, Jr.,[*] J., on official business.

[*] On official business.

[1] Rollo, pp. 6-12.

[2] Id. at 18-172. The August 11, 2023 Decision in Criminal Case Nos. 25596-25631 & 25633-25636 was penned by Presiding Justice Amparo M. Cabotaje-Tang and concurred in by Associate Justices Bernelito R. Fernandez and Ronald B. Moreno of the Third Division, Sandiganbayan.

[3] Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(e)

Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[4] Also known as the Anti-Graft and Corrupt Practices Act.

[5] Id. at 175-190. The February 8, 2024 Resolution in Criminal Case Nos. 25596-25631 & 25633-25636 was penned by Presiding Justice Amparo M. Cabotaje-Tang and concurred in by Associate Justices Bernelito R. Fernandez and Ronald B. Moreno of the Third Division, Sandiganbayan.

[6] Id. at 150.

[7] Administrative Order No. 266 series of 1992, sec. 2.

[8] Article 21 of Executive Order No. 226 or the Omnibus Investment Code of 1987 defines a tax credit as any of the credits against taxes and/or duties equal to those actually paid or would have been paid to evidence which tax credit certificate shall be issued by the Secretary of Finance or his representative, or the Board, if so delegated by the Secretary of Finance. The tax credit certificates including those issued by the Board pursuant to laws repealed by this Code but without in any way diminishing the scope of negotiability under their laws of issue are transferable under such conditions as may be determined by the Board after consultation with the Department of Finance. The tax credit certificate shall be used to pay taxes, duties, charges and fees due to the National Government; Provided, That the tax credits issued under this Code shall not form part of the gross income of the grantee/transferee for income tax purposes under Section 29 of the National Internal Revenue Code and are therefore not taxable: Provided, further, that such tax credits shall be valid only for a period of ten (10) years from date of issuance.

[9] Administrative Order No. 266 series of 1992, sec. 3 (b).

[10] Rollo, p. 144.

[11] Id. at 145.

[12] Id. at 97-98.

[13] Id. at 145-147.

[14] Id. at 147.

[15] Id. at 147-148.

[16] Otherwise known as the Anti-Graft and Corrupt Practices Act.

[17] Rollo, p. 19.

[18] Id. at 149-150.

[19] Id. at 19-20.

[20] Id. at 19-20.

[21] Id. at 21-27.

[22] Id. at 27-28.

[23] Id.

[24] Id. at 29-30.

[25] Id. at 30-31.

[26] Id. at 36.

[27] Id. at 31-32.

[28] Id. at 32.

[29] Id. at 33-35. On July 29, 2019, Tizon's counsel informed the Court that she died on January 28, 2017. On July 9, 2021, Belicena's counsel informed the Sandiganbayan that he had passed away on June 2, 2021. In the prosecution's Consolidated Compliance dated May 26, 2022, the prosecution verified that Dagumol has passed on May 16, 2020.

[30] Id. at 32-36.

[31] Id. at 39.

[32] Id. at 36-38.

[33] Id. at 38-39.

[34] Id. at 40.

[35] Id. at 40-41. The testimony of Rosario C. Fuente, Chief Administrative Officer of the DOF, was dispensed with after the parties stipulated that at the time material to the case, the accused were public officials and that they are the same accused mentioned in the Amended Informations (Rollo, p. 48).

[36] Id. at 41-42.

[37] Id. at 46-47.

[38] These documents included: (1) Claimant Information Sheet; (2) bills of lading for import and export; (3) import entry declaration with customs receipts; (4) company invoices; (5) packing lists; (6) export declarations; (7) Equitable Bank credit advices; (7) computation table for standard rate scheme; (8) schedule of importation; and (9) schedule of export (Rollo, p. 49).

[39] Rollo, pp. 48-52.

[40] According to Rodolfo, Dondon Pamatmat was neither a liaison officer nor a regular employee of Scope but worked exclusively on its TCC applications (Rollo, p. 53).

[41] Rollo, pp. 52-53.

[42] Id. at 56.

[43] Id. at 53-56.

[44] Id. at 57.

[45] Id. at 65.

[46] Id. at 63-64.

[47] Emerito identified official receipts involved in Criminal Case Nos. 25598-25604, 25607-13, 25619 25621, 25623, 25631, and 25633-25634.

[48] Rollo, p. 58.

[49] Id. at 58-59.

[50] Id. at 59-60.

[51] Id. at 60.

[52] Id. at 62. The supporting documents typically consisted of import entry declaration invoices, packing lists, and bills of lading.

[53] Id. at 60.

[54] Id. at 60-61.

[55] Id. at 63.

[56] Id. at 62-63.

[57] Id. at 63.

[58] Rosel was presented as a witness for the prosecution for Criminal Case Nos. 25607 to 25613, 25619 to 25623, 25631, 25633, and 25634.

[59] Id. at 66.

[60] Id. at 67.

[61] Id. at 68.

[62] Sandan was presented by the prosecution as a witness in Criminal Case Nos. 25596, 25598, 25599, 25600, 25602, 25605, and 25606.

[63] Rollo, pp. 69-70. Sandan's comparison of the bills of lading is summarized as follows:

Criminal Case No.

Exhibit

Bill of Lading Number

25596

Exhibit "F-1-a"

K Line Bill of Lading No. KKLK 8442320668

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is TDH and not Scope Industries, Inc.

25598

Exhibit "H-1-a-1"

K Line Bill of Lading No. KKLK 844300589

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is Accord Trading and not Scope Industries, Inc.

25598

Exhibit "H-1-a"

K Line Bill of Lading No. KKLK 844300560

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is New Chua Eng and not Scope Industries, Inc.

25599

Exhibit I-1-a"

K Line Bill of Lading No. KKLK 844300913

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is AgroTrends and not Scope Industries, Inc.

Exhibit "I-1-a-1"

K Bill of Lading No. KKLK 844300928

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is JM's Agro Mart and not Scope Industries, Inc.

25600

Exhibit "J-1-a"

K Line Bill of Lading No. KKLK 844300914

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is AgroTrends and not Scope Industries, Inc.

25602

Exhibit "L-1-a"

K Line Bill of Lading No. KKLK 844300927

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is JM's Agro Mart and not Scope Industries, Inc.

25605

Exhibit "O-1-a"

K Line Bill of Lading No. KKLK 844300973

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is PMS and not Scope Industries, Inc.

25606

Exhibit "P-1-a"

K Line Bill of Lading No. KKLK 844300972

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is JM's and not Scope Industries, Inc.

Exhibit "P-1-a-1"

K Line Bill of Lading No. KKLK 844300971

Logbook of K Line for this numbered bill of lading indicate (sic) that the shipper is JM's and not Scope Industries, Inc.

[64] Id. at 72-73.

[65] Id. at 73-74.

[66] Delgado was presented by the prosecution as a witness in Criminal Case Nos. 25596, 25598, 25599, 25600, 25602, 25605, and 25606.

[67] Id. at 75.

[68] Id.

[69] Id. at 75-76.

[70] Magsombol was presented by the prosecution as a witness in Criminal Case Nos. 25607, 25609, 25611, 25612, 25613, 25620, 25621, 25622, 25623, 25626, 25629, and 25630.

[71] Rollo, p. 76.

[72] The bills of lading which she determined were not genuine are Exhibits "Q-1-d" and "Q-1-d-1" for Criminal Case No. 25607, Exhibits "S-1-h" and "S-1-h-1" for Criminal Case No. 25609, Exhibits "U-1-i" and "U-1-i-1" for Criminal Case No. 25611, Exhibits "V-1-h" and "V-1-h-1" for Criminal Case No. 25612, Exhibits "W-1-h", "W-1-h-1", and "W-1-h-2" for Criminal Case No. 25613, Exhibits "DD-1-i", "DD-1-i-1" and "DD-1-i-2" for Criminal Case No. 25620, Exhibits "EE-1-i" and "EE-1-i-1" for Criminal Case No. 25621, Exhibits "FF-1-i" and "FF-1-i-1" for Criminal Case No. 25622, Exhibits "GG-1-i" and "GG-1-i-1" for Criminal Case No. 25623, Exhibits "JJ-1-i" and "JJ-1-i-1" for Criminal Case No. 25626, Exhibits "MM-1-i", "MM-1-i-1", and "MM-1-i-2" for Criminal Case No. 25629, and Exhibits "NN-1-i" and "NN-1-i-1" for Criminal Case No. 25630.

[73] Rollo, pp. 76-77.

[74] Maria Theresa was presented by the prosecution as a witness in Criminal Case Nos. 25599, 25600, 25601, 25602, 25603, 25604, 25605, 25607, 25608, 25610, 25611, 25612, and 25613.

[75] The following TCCs and tax debit memos identified by Maria Therese were marked as Exhibits: "I-4" for Criminal Case No. 25599, "J-6" and "J-4" for Criminal Case No. 25600, "K-6" and "K-4" for Criminal Case No. 25601, "L-6" and "L-4" for Criminal Case No. 25602, "M-4-a" for Criminal Case No. 25603, "N-6", "N-2", and "N-4" for Criminal Case No. 25604, "O-6" and "O-6-a" for Criminal Case No. 25605, "Q-3" for Criminal Case No. 25607, "R-5" and "R-2" for Criminal Case No. 25608, "T-5" and "T-3" for Criminal Case No. 25610, "U-6" for Criminal Case No. 25611, "V-5" and "V-3" for Criminal Case No. 25612, and "W-5" and "W-3" for Criminal Case No. 25613.

[76] Rollo, pp. 79-80.

[77] Id. at 81.

[78] Id. at 81-82.

[79] Id. at 82-83.

[80] Id. at 83.

[81] Sometimes referred to as "Monitoring & Verification Division" in some parts of the rollo.

[82] Rollo, pp. 83-84.

[83] Id. at 84-85.

[84] Id. at 85.

[85] Id. at 85-86.

[86] Id. at 87.

[87] Id. at 87-88.

[88] Id. at 88. Maila O. Rosas, the Chief Human Resource Specialist of the Integrated Records Management Office of the CSC was called to the witness stand as a witness for De Vera. Her testimony, however, was dispensed with after the parties stipulated on her position and duties, and after the prosecution admitted that the certified copy of the CSC Resolution No. 95-0451 was a faithful reproduction of the original. (Rollo, pp. 88-89)

[89] Recoter was presented as a witness for Criminal Case Nos. 25628 and 25629.

[90] Rollo, pp. 8-90.

[91] Id. at 90.

[92] Id. at 90-92.

[93] Id. at 92-93.

[94] Id. at 93-94.

[95] Id. at 94.

[96] De Vera was presented as a witness for Criminal Case Nos. 25614, 25615, 25616, 25617, 25618, 25619, 25623, 25624, 25625, 25626, 25627, and 25628.

[97] Rollo, pp. 95.

[98] Id. at 95-96.

[99] Id. at 96.

[100] Id. at 95-96.

[101] Section 3(e) of Administrative Order No. 266 states: Powers, Duties and Functions – The Center shall have the following powers, duties and functions: (e) To conduct regular post-audit examinations on TCC issued using standard rates[.]

[102] Rollo, pp. 97-98.

[103] Id. at 96-97.

[104] The inscription on the TCC reads: "This TCC is subject to:

- Audit and subsequent adjustment in the event of computational discrepancy." (Rollo, p. 99)

[105] Rollo, pp. 98-99.

[106] Id. at 102-103.

[107] Id. at 100-101.

[108] Id. at 104.

[109] Id. at 104-105. The parties stipulated on: (1) her position as the Supervising Administrative officer of the Central Records Management Division of the DOF; (2) the records on file she brought which were turned over to

her by the OSS Center: Office Order No. 97-03 dated October 13, 1997 and Office Order No. 04-94 dated August 27, 1994 which were marked as Exhibits 3 and 5 for De Vera; (3) the letter transmitted to her by the Personnel Division of the DOF and that the documents she brought were certified by the Chief Administrative Officer of the Central Records Management Division of the DOF named Rodoro Reyes; (4) the letter dated December 26, 1994 from the Personnel Division of the DOF the letter dated December 26, 1994 from the Personnel Division of the DOF which was marked as Exhibit 6 for De Vera; and (5) the lack of personal knowledge as to the preparation and execution of the documents submitted to the court.

[110] Id. at 105.

[111] Id.

[112] Id. at 105-106.

[113] Id. at 106-107.

[114] Id. at 107-108.

[115] Exhibits "K-2", "L-2", "P-2", "DD-2", "EE-2", and "FF-2". (Rollo, p. 109).

[116] Rollo, pp. 108-109.

[117] Id. at 108.

[118] Id. at 109.

[119] Id. at 110.

[120] Id.

[121] Id. at 111.

[122] Id. at 112.

[123] Id.

[124] Id. at 112-113.

[125] Id. at 113.

[126] Id. at 114.

[127] Id. at 115.

[128] Id. at 114-115.

[129] Id. at 115.

[130] Id. at 115-116.

[131] Id. at 116.

[132] Id. at 118-119.

[133] Id. at 120.

[134] Id. at 121.

[135] Id.

[136] Id. at 122-123.

[137] Id. at 123.

[138] Id.

[139] Id. at 123-124.

[140] Id. at 124-125.

[141] Id. at 127.

[142] Id. at 127-128.

[143] Id. at 128.

[144] Id.

[145] Id. at 128-129.

[146] Id. at 129-130.

[147] Id. at 130.

[148] Id. at 130-131.

[149] Id. at 131.

[150] Id. at 132.

[151] Id. at 132-133.

[152] Id. at 133.

[153] Id. at 134.

[154] Id. at 135.

[155] Id. at 135-136.

[156] Id. at 137.

[157] Id. at 136-137.

[158] Id. at 137.

[159] Id. at 138.

[160] Id. at 138-139.

[161] Id. at 138.

[162] Id. at 139-140.

[163] Id. at 140.

[164] Id. at 141.

[165] Id. at 141-142.

[166] Id. at 142.

- [167] Id.
- [168] Id. at 143.
- [169] Id. at 143-144.
- [170] Id. at 18-172.
- [171] Id. at 165-172.
- [172] Id. at 151.
- [173] Id. at 152.
- [174] Id. at 157-161.
- [175] Id. at 162-163.
- [176] Id. at 163.
- [177] Id. at 176.
- [178] Id. at 176-177.
- [179] Id. at 178-179.
- [180] Id. at 176.
- [181] Id. at 180.
- [182] Id. at 175-190.
- [183] Id. at 6-9.
- [184] Id. at 10-12.
- [185] Id. at 228-288.
- [186] Id. at 261-262.
- [187] Id. at 264-276.
- [188] Id. at 276-278.
- [189] Id. at 279-282.
- [190] Id. at 784-804.
- [191] Id. at 797.
- [192] Id. at 798.
- [193] Id. at 799.
- [194] Id. at 791.
- [195] Id. at 799.
- [196] Id. at 800.
- [197] Id. at 201-223.

[198] Id. at 217-220.

[199] *People v. Talaue*, G.R. No. 248652, June 19, 2024 [Per J. Gaerlan, Special First Division].

[200] *Tiongco v. People*, 843 Phil. 225 (2018) [Per J. Carpio, Second Division].

[201] *Rollo*, p. 217.

[202] 705 Phil. 26 (2013) [Per J. Bersamin, First Division].

[203] Id. at 37.

[204] *Sistoza v. Desierto*, 437 Phil. 117, 135-136 (2002) [Per J. Bellosillo, Second Division].

[205] *Rollo*, pp. 466-583. The May 23, 2024 Decision in Criminal Case Nos. SB-12-CRM-0151 to 0162 was penned by Associate Justice Ma. Theresa Dolores C. Gomez-Estoesta and concurred in by Associate Justices Zaldy V. Trespeses and Georgina D. Hidalgo, Seventh Division of the Sandiganbayan.

[206] Id. at 556-583.

[207] Criminal Case Nos. SB-09-CRM-0040 to 0042, 0045 to 0046, 0048 to 0050, 0054 to 0055, 0058 to 0061, 0068 to 0069, October 21, 2024 (Sandiganbayan, Seventh Division, Quezon City).

[208] Id.

[209] *Soriano v. People*, 922 Phil. 726, 741 (2022) [Per J. Nachura, First Division].

[210] *Collantes v. Marcelo*, 556 Phil. 794, 806 (2007) [Per J. Nachura, Third Division].

[211] RULES OF COURT, Rule 122, sec. 11 (a) *Lim v. Court of Appeals*, 524 Phil. 692 (2006) [Per J. Austria-Martinez, First Division].

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