



**In the Court of Magistrates (Malta) as a Court of  
Criminal Judicature**

**Magistrate Dr. Yana Micallef Stafrace LL.D., Adv. Trib.  
Ecc.Melit**

The Police

Inspector S Magri

Vs

PC/VAT/5092

REG NO MT 2144-3426

Irina Magro

Sitting: VAT

Today, 2<sup>nd</sup> November 2023

The Court,

After having considered the charges brought against Irina Magro (I.D. 106888A) born on 4<sup>th</sup> October 1972 in Russia, residing at Porto Paolo, Blk A, Fl 15, Triq Bugibba, San Pawl il-Bahar, Malta, business address

Sewing Studio, Sqaq Bisazza, Sliema accused for as a person registered with the Commissioner for Revenue according to Act XXIII of 1998 and regulations made by virtue of the same Act, during an inspection carried out on the **21<sup>st</sup> June 2022 at The Sewing Studio, Parisio Street, Gzira, Malta**, it resulted that either you or any other person acting on your behalf, failed to provide the requested information to the Commissioner for Revenue, and this in breach of articles 48 and 77 (e ) of the Act of 1998 on Value Added Tax (Att Nru. XXIII of 1998).

Having seen that on the 12<sup>th</sup> April 2023 when the case was called there appeared Dr Vincienne Vella for the prosecution who exhibited Doc. A

Having heard the evidence on oath of Daryl John Cachia who exhibited email Doc B on the 12<sup>th</sup> April 2023;

Having seen that on the 12<sup>th</sup> April 2023 the Prosecution rested its case and that the accused chose not to testify.

After hearing the oral submissions made by the parties' legal representatives.

After seeing articles 48 and 77 ( e) of the Act of 1998 on Value Added Tax (Att Nru. XXIII of 1998).

After seeing all the documents, evidence and the acts.

Considers

The sole witness in this case is **Daryl Cachia**, revenue inspector, who gave tendered his evidence on the 12<sup>th</sup> April 2023. He states that *“we visited the Sewing Shop she had eight missing pending returns and we informed her about this we also requested to see the books which she had no books available because she was working with the cash register, the cash register was not working neither.”* The witness confirms that he is referring to Miss Irina Magro, VAT number MT 21443426. The inspection was held on the 21<sup>st</sup> of June 2022, in the Sewing Studio in Sliema.

On being asked on Document A exhibited in the acts he states that it is the report he did and that they were in Sqaq Bisazza, Sewing Studio.

He states *“We informed Ms Irina Magro that she had 8 missing pending returns we also requested her to see the leisure (sic) from January 2020 till June 2022 which she did not have she told us she is going to contact the accountant we sent her an email about all the things we discussed.”*

*“The problem is not the Z reading it is the leisures (sic).*

The witness states that he sent a number of emails 3<sup>rd</sup> June 2022, 30<sup>th</sup> June 2022 and 3<sup>rd</sup> email on the 12<sup>th</sup> July 2022 which are exhibited in the acts.

On further questioning the witness stated that he made a mistake on the address and wanted to refer to the Sewing Studio, Triq Parisio, Gzira, Malta.

The emails were sent at an email address that was taken from the accused's business address. No replies were received to the emails sent.

Considers,

The accused is being accused that she failed to produce the requested information to the Commissioner of Revenue in breach of article 48 and 77 (e) of Value Added Tax Act, Act XXIII of 1998, Chapter 406 of the Laws of Malta.

Article 48 (1) provides that

48.(1) Every registered taxable person established in Malta shall keep full and proper records of all transactions carried out in the course or furtherance of his economic activity.

(2) Every person who is liable to tax on any transaction or whoidentifies himself as a person registered under this Act for the purpose of any transaction shall keep full and proper records of any such transaction.

(3) Every taxable person and every non-taxable legal person shall keep full and proper records of all intra-community acquisitions made by him.

(4) The records referred to in sub-articles (1), (2) and (3) shall be kept and stored in such manner, contain such details and besupported by such information, documents and accounts as set out in the Eleventh Schedule and such records, information, documentsand accounts shall be retained for a period of at least six years from the end of the year to which they relate, or such other period or periods as the Minister may, in special cases, by regulation prescribe:

Provided that, where a tax return is furnished after its due date or, in the case where a person makes a correction in terms of article 28(1), the six year period provided for in this sub-article shall start to run from the date on which a tax return is furnished or the date on which the Commissioner receives a request for the correction.

(5) The Commissioner may, at any time within the period specified in sub-article (4), request any person to produce, or may remove from any person, including a third party, the records, documents, accounts and electronic data required to be kept by him in virtue of this article and to make copies thereof:

Provided that, if there is evidence that after being requested by the Commissioner by means of a notice in writing, that such person failed to produce without any reasonable excuse any records, documents, accounts and electronic data within thirty days from the date of service of such notice, such person shall not be allowed to produce such records, documents, accounts and electronic data at a later stage after the issue of the provisional assessment or assessments or before the Tribunal or in any Court of law:

Provided further that when reliance is placed on any other person to perform any task, the fact of that reliance or any delay or inaccuracy on the part of the person relied upon shall not constitute a reasonable excuse for the purposes of this sub-article”

Article 77 (e ) of Chapter 406 provides that

77 Any person who

( e) fails to provide or produce a tax or other invoice or document as and when required by article 50, 51 or 52 or provides any such tax or other invoice or document which is incorrect or misleading in any material respect or fails to provide to the Commissioner, without any valid reason, all copies of any used or unused manual fiscal receipts where required by the Commissioner.

. . . omissis . . .

shall be guilty of an offence and shall, on conviction, be liable –

- (i) to a fine (multa) of not less than six thousand euro (€6,000) and not exceeding ten thousand euro (€10,000) for an offence committed under paragraphs (c) and (d); and

- (ii) to a fine (multa) of not less than seven hundred euro (€700) and not exceeding three thousand five hundred euro (€3,500) for an offence under the other paragraphs, and in addition, for any offence as above referred to in all paragraphs, except for paragraph (p), where tax amounting to more than one hundred euro (€100) would be endangered, to a further fine (multa) equal to two times the endangered tax or to imprisonment of not more than six months or to both such fines and imprisonment:
- (iii) Provided that, the two times fine (multa) for the endangered tax shall in no case be less than one thousand euro (€1,000). In addition, on a request by the prosecution, the court shall order the offender to comply with the law within a time sufficient for the purpose, but in any case not exceeding one month, and, in default, the offender shall be liable to the payment of a further fine (multa) of five euro (€5) for every day on which the default continues after the lapse of the time fixed by the Court.

Considers,

In this particular case according to Daryl Cachia, the witness produced by the prosecution when the inspection was carried out on the 21<sup>st</sup> June 2022 at The Sewing Studio in Sqaq Bisazza, Sewing Studio, Sliema. The address is reflected in the reports exhibited by the prosecution (Document A, page 2 onwards) the address on the complaint is on the other hand Triq Parisio, Gzira.

The summons refers to an inspection carried out at The Sewing Studio, Parisio Street, Gzira. In his evidence the witness states that he made a mistake and he wanted to refer to The Sewing Studio in Triq Parisio, Gzira Malta.

The inspection was followed by three emails dated 12<sup>th</sup> July 2022, 23<sup>rd</sup> June 2022 and 30<sup>th</sup> June 2022 which was not acknowledged by the defendant and no proof that they have been delivered has been provided in the acts.

The defendant's lawyer in his submissions said that there is a contradiction in the address of where the inspection was carried out.

The Court concurs with the defendant's argument that it is not clear where the inspection was carried out. Basing itself on the principle *in dubio pro reo* the Court cannot find the accused guilty of the accusations.

Decide

Consequently for the above-mentioned reasons, the Court, after having seen articles 48 and 77 ( e) of Chapter 406 of the Laws of Malta the court find Irina Magro not guilty of all the charges against her.

**DR. YANA MICALLEF STAFRACE LL.D.**

**MAGISTRATE**

**Doris Serpina Sciberras**

**Deputy Registrar**

