Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

DANTE T. TAN (at large, last known addresses at 131-A Lake Street, Salapan, San Juan, Metro Manila; 69 Zodiac Street, Bel Air, Makati City; and No. 7 Zamboanga Street, Marina Homes, Asia World, Parañaque City),
Accused.

C.T.A. CRIM. CASE NO. 0-004
For: Non-Filing of Income Tax Return

Members

CASTAÑEDA, JR., *Chairman*
UY, and
PALANCA-ENRIQUEZ, ***JJ***

Promulgated:
JUL 18 2005

x - x

RESOLUTION

Accused, Dante T. Tan, based on the caption of this case, stands charged with the crime of "**NON-FILING OF INCOME TAX RETURN".** A perusal of the first paragraph of the Information however shows that Dante T. Tan is accused with the crime of "**NON-PAYMENT OF CAPITAL GAINS TAXES",** penalized under Section 225 of the National Internal Revenue Code.

The Information reads as follows:

"PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

DANTE T. TAN (at large, etc.) ,
Accused.

C.T.A. CRIM. CASE NO. 0-004
For: **Non-Filing of Income Tax Return**

x - x

INFORMATION

The undersigned State Prosecutor, Department of Justice, hereby accuses Dante T. Tan of **non-payment of capital gains taxes** punished under Section 225 of the National Internal Revenue Code committed as follows:

> On or about 15 April 1997 up to the present, within the jurisdiction of the Honorable Court, the accused, a registered taxpayer with Taxpayer Identification Number 132-620-617, did then and there willfully and unlawfully refuse and **fail to file his income tax return for the taxable year 1996.**
>
> CONTRARY TO LAW.
>
> Manila for Quezon City, 20 April 2005 (*Emphasis supplied).*"

Apparently, there are discrepancies in the allegations of the offense charged as contained in the caption, the first and second paragraph of the Information.

More importantly however, the Court notes that the Information does not specify an amount claimed for taxes and fees arising from the non-filing of income tax return for 1996, thereby depriving this Court of its exclusive original jurisdiction over the case at bar as provided under Section 7(b) of Republic Act No. 9282, which reads:

> "Section 7. Section 7 of the same Act is hereby amended to read as follows:
>
> " Section 7. Jurisdiction. – The CTA shall exercise :
>
> (a) x x x
> '(b) Jurisdiction over cases involving criminal offenses as herein provided:
>
> '(1) **Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code** or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: *Provided however,* That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees,

> exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) or **where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. xxx** (*underscoring supplied)*."

Clearly from the foregoing legal provision, this case falls within the exclusive original jurisdiction of the regular courts, and the jurisdiction of this Court shall only be appellate. The Court therefore, is left with no recourse but to dismiss the case for lack of jurisdiction. Moreover, the information failed to allege the date of discovery of the non-filing of accused's income tax return for 1996 which is material for purposes of determining prescription.

WHEREFORE, in view of the foregoing, the case in caption is hereby **DISMISSED** for lack of jurisdiction without prejudice to the filing of the same in the proper forum.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice