REPUBLIC OF THE PHILIPPINES

Court of Tax Appeals

QUEZON CITY

Third Division

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA CRIM. CASE NO. O-531** (NPS Docket No. XVI-INV-12B-00105) *For: Violation of Section 255 of the 1997 NIRC, as amended.*
- versus -	Members:
EAGLE'S FORTUNE, INCORPORATION and WHANG ZHI ZIN a.k.a. Alex Ong, *Accused.*	**BAUTISTA,** *Chairperson* **FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.* Promulgated: DEC 10 2015 4:14 p.m.

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RESOLUTION

For resolution is the "Urgent Motion to Quash" filed by accused Wang Zhi Zin on September 21, 2015 (the "Motion").

In the Motion, accused Wang Zhi Zin moves for the quashal of the Information in the above-captioned case for lack of the Court's jurisdiction over the same, arguing that the inclusion of the phrase "more or less" in the Information is reflective of the fact that the exact principal amount of taxes and fees being claimed by the Bureau of Internal Revenue ("BIR") has not been fixed.

Accused Wang Zhi Zin likewise notes that he is totally different from the person named in the Information, Whang Zhi Zin. Nevertheless, as a law-abiding business person, and to avoid any inconvenience and indignity, he readily appeared before this Court, voluntarily surrendered, and posted bail. Accused Wang Zhi Zin also notes that the prosecution has not clarified nor confirmed the name of the accused natural person in the Information.

We find merit in the Motion.

Under *Section 1, Rule 117 of the Revised Rules of Court,* the accused may move to quash the information at any time before entering his plea. *Section 3 of the same Rule* enumerates the grounds which the accused may use as basis for the quashal of the information. As applied to the present case, the relevant provision reads:

> **Sec. 3.** ***Grounds.*** - The accused may move to quash the complaint or information on any of the following grounds:
>
> x x x
>
> (b) That the court trying the case has no jurisdiction over the offense charged;

Jurisdiction is conferred by law and is the capacity of a court to "entertain, hear, and determine certain controversies."[1] The Court of Tax Appeals, as a court of special jurisdiction, can only take cognizance of matters clearly within its jurisdiction.[2]

Under *Republic Act No. 1125,* as amended,[3] the Court has exclusive original jurisdiction over all criminal cases arising from violations of the National Internal Revenue Code where the principal amount of taxes and fees claimed, exclusive of charges and penalties, is Php1,000,000.00 or more.[4] Moreover, pursuant to the *Revised Rules*

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[1] *Guy v. Court of Appeals,* G.R. Nos. 165849, 170185, 170186, 171066 & 176650, December 10, 2007, 564 Phil. 540.
[2] *CIR v. Silicon Philippines, Inc.,* G.R. No. 169778, March 12, 2014.
[3] An Act Creating the Court of Tax Appeals (1954).
[4] Section 7 of Republic Act No. 1125, as amended, states:

> **Sec. 7.** ***Jurisdiction.*** - The CTA shall exercise:
>
> x x x
>
> (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. Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the

of the Court of Tax Appeals,[5] such criminal offenses are within the exclusive jurisdiction of the Court of Tax Appeals in Division.[6]

Clearly, the exact principal amount of taxes and fees being claimed, exclusive of charges and penalties is essential to determine whether the Court has jurisdiction over the present case.

The Information in the present case reads:

> That sometime in April 2007, in Quezon City, and within the jurisdiction of this Honorable Court, accused Eagle's Fortune, Incorporation and Whang Zhi Zin, *a.k.a.* Alex Ong, the latter being the general manager and responsible officer of the said corporation and at the time required by law, rules and regulations to pay correct taxes for Eagle's Fortune, Incorporation, did then and there willfully, unlawfully and feloniously failed to supply correct and accurate information in the Income Tax Return by not declaring all the income of Eagle's Fortune, Incorporation for taxable year 2006, which resulted to the corporation's basic deficiency income tax in the amount of <u>Fourteen Million Six Hundred Seven Thousand Four Hundred Sixty-Six Pesos and Twenty Centavos (Php14,607,466.20), **more or less**, exclusive of surcharges and interest</u>, to the damage and prejudice of the government.[7]

Considering that the exact amount of the taxes and fees being claimed cannot be ascertained by reason of the phrase "more or less," it cannot be undoubtedly said that this Court has the capacity to exercise jurisdiction over the present case. Hence, the Court is

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filing of such civil action separately from the criminal action will be recognized. [Emphases ours]

[5] A.M. No. 05-11-07-CTA (2005).

[6] Rule 4, Section 3(b)(1) of the Revised Rules of the Court of Tax Appeals states:

> **Sec. 3.** ***Cases within the jurisdiction of the Court in Divisions.*** –
>
> The Court in Divisions shall exercise:
>
> x x x
>
> (b) Exclusive jurisdiction over cases involving criminal offenses, to wit:
>
> (1) <u>Original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code</u> or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs, <u>where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more</u>; and x x x [Emphases ours]

[7] Underscoring ours.

constrained to dismiss the same without prejudice pursuant to *Section 6, Rule 117 of the Revised Rules of Court.*[8]

WHEREFORE, premises considered, the "Urgent Motion to Quash" filed by accused Wang Zhi Zin is hereby **GRANTED**. The instant case is hereby **DISMISSED** without prejudice.

Let a copy of this Resolution be served on the Secretary of Justice and the Commissioner of Internal Revenue.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[8] Section 6, Rule 117 of the Revised Rules of Court states:

> Sec. 6. *Order sustaining the motion to quash not a bar to another prosecution; exception.* - An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in section 3(g) and (i) of this Rule.