REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

LETTY T. SY,
Accused.

CTA Crim. Case No. 0-097

For: Violation of Section 255 in relation to Sections 253(d) and 256 of the Tax Code of 1997

Members:

CASTAÑEDA, JR., Chairperson;
UY, and
ENRIQUEZ, JJ.

Promulgated:

NOV 0 5 2008

2:04 p.m.

x -x

RESOLUTION

Records show that on September 16, 2008, this Court issued a Resolution requiring Assistant City Prosecutor Shiela Marie G. Alaan-Ignacio to submit copies of the Certification or Letter of Authority issued by the Commissioner of Internal Revenue to Regional Director Alfredo V. Misajon for the filing of a criminal complaint against accused Letty T. Sy, any documentary evidence to show that accused is an employee responsible for the commission of the subject violation as defined under Section 253 (d) of the National Internal Revenue Code (NIRC) of 1997, and any other additional evidence for the proper determination of probable cause against herein accused.

On October 16, 2008, the prosecution filed its "Compliance" with documents attached thereto. However, upon perusal of the said compliance, the Court finds the attached documents to be the same previously included in the Information filed on August 29, 2008.

Consequently, it bears stressing that Sections 220 and 221 of the NIRC of 1997 clearly provide:

> "**SEC. 220. Form and Mode of Proceeding in Actions Arising under this Code**. – Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the Bureau of Internal Revenue but **no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner**."
>
> "**SEC. 221. Remedy for Enforcement of Statutory Penal Provisions**. – The remedy for enforcement of statutory penalties of all sorts shall be by criminal or civil action, as the particular situation may require, **subject to the approval of the Commissioner**." *(Emphasis Ours)*

A perusal of the letter referral dated October 28, 2004 shows that Regional Director Alfredo V. Misajon failed to allege appropriate authorization from the Commissioner of Internal Revenue, as required under the aforequoted legal provisions.

WHEREFORE, premises considered, for failure to show appropriate authority to file the criminal complaint against accused Letty T. Sy pursuant to Sections 220 and 221 of the NIRC of 1997, the above captioned case is hereby **DISMISSED**, without prejudice.

SO ORDERED.

JUANITO C. CASTANEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice