Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

FELONILA Z. CALUAG,
(438 Saluysoy Meycauayan, Bulacan or 320 Violeta Street, Barangay Saluysoy, Meycauayan, Bulacan)
Accused.

CTA Crim. Case No. 0-328

For: Violation of Section 255, Paragraph 1, of the Tax Reform Act of 1997, as amended.

Members:
DEL ROSARIO, *PJ., Chairperson,*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:
APR 29 2013, 3:00 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

The accused, **FELONILA Z. CALUAG,** is charged in an Information which reads:

> "The undersigned Associate Prosecution Attorney II of the Department of Justice hereby accuses FELONILA Z. CALUAG of violating Section 255 of the Tax Reform Act of 1997, as amended, committed in the manner herein narrated, as follows:
>
> > That on various dates in 2007 in Sta. Maria, Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a registered taxpayer of Revenue District No. 25B and with Tax Identification Number (TIN) 173-100-004-00, sold refined gold to the Bangko Sentral ng Pilipinas totalling 6,589.311 troy ounces valued at Two Hundred Ten Million Five Hundred Forty Two Thousand Sixteen Pesos and Seventy-

> Nine Centavos (Php210,542,016.79), excluding refining charges, and despite receipt of payment amounting to Two Hundred Ten Million Three Hundred Thirteen Thousand Five Hundred Nineteen and Fifty-Eight Centavos (Php210,313,519.58), said accused, although required by law and the rules and regulations to file her annual income tax return for taxable year 2007 on or before April 15, 2008, feloniously, knowingly and wilfully failed to file said annual income tax return, which resulted in said accused's failure to pay the correct income tax, to the damage and prejudice of the Government."

Attached thereto are supporting documents (Certified True Copy and/or Certified Xerox Copy by the Department of Justice National Prosecution Service Docket Section-Appeal through Benjamin R. Samson Associate Prosecution Attorney II), as follows:

1. Resolution dated January 15, 2013 recommending the filing of an Information, approved by Prosecutor General Claro A. Arellano;
2. Recommendation and approval for preliminary investigation and filing of appropriate Information in Court by Commissioner of Internal Revenue Kim S. Jacinto-Henares;
3. Joint Complaint-Affidavit;
4. Certification from the Banko Sentral ng Pilipinas, Financial Services and Data Management Group, Office of the Assistant Governor- pertaining to the annual gold sales of Ms. Felonila Caluag to the Banko Sentral ng Pilipinas for the years 2005-2009;
5. Letter of Authorization;
6. Various Letters of Delivery and Sale;
7. Sinumpaang Kontra Salaysay;
8. Joint Reply-Affidavit;
9. Sagot sa Sagot (Rejoinder);

The Supreme Court in the case of People of the Philippines vs. Jessie B. Castillo and Felicito R. Mejia, GR. No, 171188, June 19, 2009, held that "*xxx [J]udicial* *determination of probable cause, xxx, is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself that based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice."* The purpose of a warrant of arrest is to place the accused under the custody of the law to hold him for trial of the charges against him.

However, on the Court's jurisdiction over criminal offenses, Section 7 (b) (1) of Republic Act No. 9282[1], amending Republic Act No. 1125[2] provides:

> *"Sec. 7.* ***Jurisdiction.- The CTA shall exercise****:*
> *(a) XXX XXX XXX*
>
> *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 (₱1,000,000.00) 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*

[1] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
[2] AN ACT CREATING THE COURT OF TAX APPEALS.

> *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 filling of such civil action separately from the criminal action will be recognized.(Emphasis supplied)*

Further, Section 3, Rule 4 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, specifically enumerates the cases that fall within the jurisdiction of the Court of Tax Appeals in Division, to wit:

> "SEC. 3. Cases within the jurisdiction of the Court in Divisions. - The Court in Division shall exercise:
>
> (a) xxx xxx xxx.
>
> (b) **Exclusive jurisdiction over cases involving criminal offenses**, to wit:
>
> (1) **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,* **where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more**; xxx *(Emphasis supplied)*

Clearly, this Court has jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code, **where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos (₱1,000,000.00) or more.**

The Court of Tax Appeals, being a court of special jurisdiction, can only take cognizance of such matters that are clearly within its jurisdiction. It is a well-settled rule, that jurisdiction of a court over a criminal case is determined by the allegations in the Information or Complaint. Thus, the Information filed before this Court must clearly show that the principal amount of taxes and fees claimed, exclusive of charges and penalties, is at least one million pesos (₱1,000,000.00).

A perusal of the Information filed before this Court shows that no amount whatsoever is mentioned in the Information with respect to the principal amount of duties and taxes being claimed. Evidently, the Information failed to meet the minimum jurisdictional amount prescribed by law and the rules in order to confer jurisdiction upon this Court.

WHEREFORE, premises considered, the above-captioned case is hereby **DISMISSED, WITHOUT PREJUDICE,** for lack of jurisdiction.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice