REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM. CASE NO. O-431

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

ROVIC PISO EMPLEO,
(Consolacion Manpower Consultant Services),
Accused.

NOTICE OF RESOLUTION

To:

PROSECUTOR GENERAL BENEDICTO A. MALCONTENTO
STATE PROSECUTOR ROMEO MARTIN P. SERANILLA
Department of Justice
Padre Faura St., Ermita, Manila

COMMISSIONER OF INTERNAL REVENUE
Thru: Prosecution Division
Room 704, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

DIRECTOR
National Bureau of Investigation
Taft Avenue, Ermita
Manila

PNP CHIEF
Thru: CIDG
Philippine National Police
National Headquarters
Camp BGen Rafael Tagle Crame
EDSA,Quezon City

CHIEF, WARRANT & SUBPOENA SECTION
Consolacion Police Station
M. Pepito Street, Consolacion
6001 Cebu

GREETINGS:

You are hereby notified by these presents that on **August 15, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 16, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	CTA Crim. Case No. **O-431**
	For: Violation of Section 254 of the NIRC of 1997, as amended
- versus -	Members: **DEL ROSARIO**, P.J., *Chairperson*, **BACORRO-VILLENA**, *and* **CUI-DAVID**, JJ.
ROVIC PISO EMPLEO, (Consolacion Manpower Consultant Services), Accused.	Promulgated: AUG 15 2024 2:00PM

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RESOLUTION

On 28 October 2014, the plaintiff filed an Information[1] against herein accused **ROVIC PISO EMPLEO (accused)** of Consolacion Manpower Consultant Services (**CMCS**), for violation of Section 254[2] of the National Internal Revenue Code (**NIRC**) of 1997, as amended. The accusatory portion of which reads:

> ...
> "That sometime in 2005 or until the filing of the quarterly Value Added Tax (VAT) Return and the corresponding payment of VAT for third quarter of taxable year 2005, in Cebu and within the jurisdiction of this Honorable Court, the above-named accused Rovic Piso Empleo, as a registered taxpayer and being the sole

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[1] Division Docket, pp. 4-5.

[2] **SEC. 254.** *Attempt to Evade or Defeat Tax.* — **Any person who willfully attempts in any manner to evade or defeat any tax imposed under this Code or the payment thereof** shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine not less than Thirty thousand (₱30,000) but not more than One hundred thousand pesos (₱100,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years: Provided, That the conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes. (Emphasis supplied)

proprietress of Consolacion Manpower Consultant Services which is engaged in providing manpower services, did then and there willfully, unlawfully and feloniously attempt to evade or defeat the payment of correct VAT by under declaring all the sales and exchange of services of her company for the third quarter of taxable year 2005, which resulted to basic VAT deficiency in the amount of One Million Eighty Five Thousand Eight Hundred Seventeen and 96/100 centavos (Php1,085,817.96), more or less, exclusive of surcharges and interest, to the damage and prejudice of the government."

CONTRARY TO LAW.[3]

...

The plaintiff attached the following supporting documents to the Information for the Court's examination:

1. Certified Xerox Copy of the Resolution dated 11 July 2014, signed by State Prosecutor Romeo Martin P. Serranilla, with recommending approval of Edna A. Valenzuela, Senior Assistant State Prosecutor, and approved by Prosecutor General Claro A. Arellano;[4]

2. Certified Xerox Copies of National Prosecution Service (**NPS**) Hearing Forms/Minutes dated 10 October 2013[5] and 26 September 2013[6];

3. Certified Xerox Copy of the Subpoenas dated 30 September 2013[7] and 03 September 2013[8] issued to the accused;

4. Certified Xerox Copy of the Referral Letter dated 08 August 2013 of then Bureau of Internal Revenue (**BIR**) Commissioner Kim S. Jacinto-Henares, addressed to then Secretary of Justice Leila de Lima;[9] and,

5. Certified Xerox Copy of the Joint Complaint-Affidavit dated 08 August 2013[10] of Revenue Officers (**ROs**) Rogelio S.

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[3] Emphasis in the original text and underscoring supplied.
[4] Division Docket, pp. 6-12.
[5] Id., p. 13.
[6] Id., p. 15.
[7] Id., p. 14.
[8] Id., p. 16.
[9] Id., pp. 18-19.
[10] Id., pp. 20-26.

Lusares (**Lusares**) and Pilar G. Namoc (**Namoc**), with attached Annexes "A" to "L", inclusive of sub-markings.[11]

In a Resolution dated 11 November 2014[12], the Second Division found probable cause and ordered the issuance of a Warrant of Arrest against the accused. It also fixed the bail bond for his provisional liberty in the amount of ₱100,000.00.

As the accused had not been apprehended after the lapse of approximately three (3) months, the Second Division issued an Alias Warrant of Arrest[13] on 04 February 2015. Even after a considerable period, accused remained at large. Hence, the instant case was archived, subject to revival upon the arrest of accused.[14]

In the meantime, following the reorganization of the different divisions of the Court, the case was transferred to the First Division.[15] In an effort to speedily dispose the cases and to de-clog court dockets, an inventory of archived cases was made thereafter.

After a second hard look upon the allegations in the Information[16], and personal evaluation of the supporting documents[17] submitted, We find that this Court lacks capacity to exercise jurisdiction over the instant case.

Under Republic Act (**RA**) No. 1125[18], as amended by RA No. 9282[19], the Court has exclusive original jurisdiction over all criminal cases arising from violations of the NIRC of 1997, as amended, where the **principal amount** of taxes and fees claimed, **exclusive of charges and penalties**, is ₱1,000,000.00 or more.[20]

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11 Id., pp. 27-68.
12 Id., pp. 70-71.
13 Id., p. 78.
14 Id., p. 80.
15 Id., p. 85.
16 Supra at note 1.
17 Supra at notes 4-11.
18 AN ACT CREATING THE COURT OF TAX APPEALS.
19 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
20 **SEC. 7. *Jurisdiction*.** — The CTA shall exercise:

...

(b) Jurisdiction over cases involving criminal offenses as herein provided:

Moreover, Rule 4, Section 3(b)(1)[21] of the Revised Rules of the Court of Tax Appeals[22] (**RRCTA**) states that such cases are within the exclusive jurisdiction of the Court of Tax Appeals in Division.

From the foregoing provisions, it is evident that the **exact principal amount** of taxes and fees being claimed, **exclusive of charges and penalties**, is crucial in establishing whether the Court has jurisdiction over a case.

In the case at bar, the Information[23] indicates a **basic value-added tax [VAT] deficiency** "in the amount of One Million Eighty Five Thousand Eight Hundred Seventeen and 96/100 centavos (Php1,085,817.96), **more or less**, exclusive of surcharges and interest[.]"

With the phrase "*more or less*", the exact principal amount of taxes being claimed cannot be precisely ascertained; hence, the Court's capacity to exercise jurisdiction over the present case cannot be definitively established.

Assuming *ex gratia in argumenti* that the modifier "more or less" was not intended to introduce an element of uncertainty to the deficiency amount, an assiduous review of the allegations in the Joint Complaint-Affidavit, and the supporting documentation attached

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

21 **SEC. 3.** ***Cases Within the Jurisdiction of the Court in Divisions.*** — The Court in Divisions shall exercise:

...

(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**[.] (Emphasis supplied.)

22 A.M. No. 05-11-07-CTA.

23 Supra at note 1.

thereto, reinforces the notion that the subject matter herein is outside the Court's jurisdiction.

Per the "Computation of Tax Deficiencies & Penalties" portion[24] in the said Joint Complaint-Affidavit, the accused's deficiency VAT was computed as follows:

2.) VALUE-ADDED TAX (SECTION 108 OF THE NIRC, AS AMENDED)

Computations per Quarter	3rd Quarter
Gross Revenue *per* Data/Evidences Furnished by the Taxpayer's Customer/Client	₱3,579,937.81
Multiply by: VAT Rate	10%
Total VAT Payable *per* Investigation	357,993.78
Less: VAT Payment *per* returns filed	(5,391.88)
Basic VAT Deficiency	352,601.90
Add: 50% Surcharge	176,300.95
20% Interest per annum (26 October 2005 to 08 August 2013)	556,915.11
Total VAT Deficiency	**₱1,085,817.96**

As can be gleaned from the above calculation, the amount of ₱1,085,817.96 represents the accused's total VAT deficiency for the 3rd quarter of the subject calendar year (**CY**) 2005. Notably, the said amount includes a 50% surcharge and 20% deficiency interest, both imposed on the basic VAT deficiency amounting to ₱352,601.90.

This runs contrary to the allegations in the Information[25], which specifies that amount of ₱1,085,817.96 pertains to the **basic VAT deficiency, exclusive of surcharges and interest**.

Consequently, since the Information erroneously stated the components of the deficiency tax demandable from the accused, it can thus be said that the same evidently failed to accurately state the omission complained of as constituting the offense of attempting to evade or defeat tax under Section 254[26] of the NIRC of 1997, as amended. As a result, the accused was not properly informed of the exact nature and cause of the accusation, undermining their ability to mount a proper defense. Such a fatal defect in the Information can operate to deprive the Court of jurisdiction to proceed with the case.

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24 Paragraph 18, Joint Complaint-Affidavit, supra at note 10, pp. 24-25.
25 Supra at note 1.
26 Supra at note 2.

More importantly, however, as the actual basic VAT deficiency only amounts to ₱352,601.90 (instead of the ₱1,085,817.96 originally alleged in the Information), the instant case falls outside the jurisdiction of this Court as the principal amount of taxes claimed is below the ₱1,000,000.00 jurisdictional amount.[27]

It bears emphasis that jurisdiction is conferred by law and is the capacity of a court to entertain, hear, and determine certain controversies.[28] The Court of Tax Appeals, as a court of special jurisdiction, can only take cognizance of matters clearly within its jurisdiction.[29] As the records would show, the instant case fails to meet the pertinent criteria.

WHEREFORE, in consideration of the foregoing, CTA Criminal Case No. O-431 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON OFFICIAL BUSINESS
LANEE S. CUI-DAVID
Associate Justice

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27 Supra at notes 20 and 21.

28 See *Gilbert G. Guy v. The Court of Appeals, et al.*, G.R. Nos. 165849, 170185, 170186, 171066 and 176650,10 December 2007.

29 *Commissioner of Internal Revenue v. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, 12 March 2014.