REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

SAMMY DELA CRUZ, in his capacity as the President of SAMDEC Construction & General Services, Inc.,
4087 Gen. T. De Leon, Valenzuela City,
Accused.

CTA Crim. Case No. O-354
(XV-17-INV-13F-762)

For violation of Section 255 of the National Internal Revenue Code of 1997 (NIRC of 1997)

Members:

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

Promulgated:

MAR 25 2014, 11:00 a.m.

x - x

RESOLUTION

UY, J.:

Accused Sammy Dela Cruz is charged before this Court for violation of Section 255 of the National Internal Revenue Code of 1997, under the Information[1] dated February 4, 2014 filed on February 17, 2014, the accusatory portion of which reads:

> "That sometime 2005, in the City of Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the accused, despite finality of the assessment notices from the Bureau of Internal Revenue, did then and there willfully and unlawfully fail and refuse to pay his Deficiency Income Tax in the amount of 786,877.17, Deficiency Value-add-Tax in the amount of

[1] Docket, p. 4.

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P427,318.52, and his Deficiency Expanded Withholding Tax in the amount of P24,836.87, Improperly Accumulated Earnings Tax in the amount of P 76,326.31 and compromise penalty of P64,500.00, for the year 2005, for a total deficiency tax of Php1,379,868.87.

CONTRARY TO LAW."

Considering that this Court is a court of special jurisdiction, and can only take cognizance of matters that are clearly within its jurisdiction,[2] it is necessary to first determine whether this Court has jurisdiction over this case.

Section 7(b)(1) of Republic Act (R.A.) No. 1125,[3] as amended by R.A. No. 9282,[4] states:

> "SEC. 7. *Jurisdiction.* – The CTA shall exercise:
>
> 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, <u>exclusive of charges and penalties</u>, 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**

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[2] *Allied Banking Corporation vs. Commissioner of Internal Revenue*, G.R. No. 175097, February 5, 2010.

[3] AN ACT CREATING THE COURT OF TAX APPEALS.

[4] 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.

> **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 filling of such civil action separately from the criminal action will be recognized." *(Emphases and underscoring supplied.)*

Likewise, Section 3(b)(1), Rule 4 of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA) enumerates the cases falling within the jurisdiction of the Court of Tax Appeals in Division, to wit:

> "SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
>
> 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, <u>exclusive of charges and penalties</u>, claimed is one million pesos or more**; xxx." *(Emphases and underscoring supplied.)*

Based on the foregoing, it is clear that this Court's jurisdiction is limited only to criminal offenses arising from violations of the National Internal Revenue Code, where the principal amount of taxes and fees claimed, **exclusive of charges and penalties**, is at least One Million Pesos (₱ 1,000,000.00).

In this case, the Information alleges that the total amount of deficiency taxes is One Million Three Hundred Seventy Nine

Thousand Eight Hundred Sixty Eight Pesos and Eighty Seven Centavos (₱ 1,379,868.87),[5] broken down as follows:

Deficiency income tax	₱ 786,877.17
Deficiency VAT	₱ 427,318.52
Deficiency expanded withholding tax	₱ 24,836.87
Improperly accumulated earnings tax	₱ 76,326.31
Compromise penalties	₱ 64,500.00
Total deficiency tax	**₱ 1,379,868.87**

However, a careful examination of the Preliminary Assessment Notices,[6] Assessment Notices,[7] and Formal Letters of Demand,[8] which were all attached to the above-stated Information, would show that a breakdown of the said amounts, except for the said compromise penalties, readily show that the assessments for Deficiency Income Tax and Deficiency VAT[9] are **inclusive of interests,** while the assessments for Deficiency Expanded Withholding Tax (EWT)[10] and Deficiency Improperly Accumulated Earnings Tax (IAET)[11] are **inclusive of interests and surcharges.**

Correspondingly, on the basis of the aforequoted Section 7(b)(1) of R.A. No. 1125, as amended by R.A. No. 9282, and Section 3(b)(1), Rule 4 of the 2005 RRCTA, said compromise penalties, interests and surcharges should not be included in the determination of the jurisdictional amount. Thus, the proper computation thereof should be as follows:

Deficiency income tax	₱ 503,440.29
Deficiency VAT	₱ 265,712.30

[5] Docket, p. 4.
[6] Docket, pp. 20 to 25.
[7] Docket, pp. 27 to 30.
[8] Docket, pp. 31 to 35.
[9] Annex "J-1", Docket, p. 32
[10] Annex "J-2", Docket, p. 33
[11] Annex "J-3", Docket, p.34

Deficiency expanded withholding tax	₱ 13,305.94
Improperly accumulated earnings tax	₱ 40,890.56
Total principal amount of taxes claimed	**₱ 823,349.09**

Considering that the total principal amount of taxes claimed herein is only Eight Hundred Twenty Three Thousand Three Hundred Forty Nine Pesos and Nine Centavos (₱ 823,349.09), or is less than One Million Pesos (₱ 1,000,000.00), it is clear that this Court has no jurisdiction over the instant case.

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

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR :

ROMAN G. DEL ROSARIO
Presiding Justice

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