REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA Crim. Case No. O-425** (I.S. No. XVI-INV-10L-00354)
	Violation of Section 255 of the National Internal Revenue Code (NIRC) of 1997, as amended (Failure to File Income Tax Return)
- versus -	**Members:**
	DEL ROSARIO, *Chairperson*, **UY,** *and* **MINDARO-GRULLA**, ***JJ.***
FERDINAND P. MAHUSAY, (No. 33 L. Wood Balara Filters, Brgy. Pansol, Quezon City and/or PICC Bldg., CCP Complex, Roxas Blvd., Pasay City) (At-Large), Accused.	**Promulgated:** SEP 01 2014 ; 4:07p.m.

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RESOLUTION

The Information dated March 26, 2014 charging accused Ferdinand P. Mahusay with a violation of Section 255 of the National Internal Revenue Code (NIRC) of 1997, as amended, reads as follows:

> **"INFORMATION**
>
> The undersigned Prosecution Attorney of the Department of Justice, hereby accuses FERDINAND P. MAHUSAY of the offense of failure to file an income tax return for the taxable year 2008 in violation of Section 255 of the National Internal Revenue Code (NIRC) of 1997, as amended, committed as follows"

> That on or about April 16, 2009 in Pasay City and within the jurisdiction of this Honorable Court, the above-named accused, a Filipino Citizen residing in the Philippines and a registered taxpayer earning income as member of the Board of Trustees of the Regular and Corporate Offices of Metropolitan Waterworks and Sewerage System (MWSS) and as such required by law, rules and regulations to file his annual income tax return for taxable year 2008 did, then and there, willfully, unlawfully, and feloniously fail to file his annual income tax return and pay the corresponding tax for taxable year 2008, in violation of the provisions of the National Internal Revenue Code of 1997, as amended, to the damage and prejudice of the Government of the Republic of the Philippines in the amount of Two Hundred Thirty Eight Thousand Nine Hundred Ninety Pesos (P238,990.00), more or less, as basic income tax deficiency, exclusive of penalties, interests and surcharges.
>
> **CONTRARY TO LAW**."

Based on the foregoing allegations in the Information, accused Ferdinand P. Mahusay is charged with Violation of Section 255 of the NIRC of 1997, as amended, for his alleged failure to file his annual income tax return and to pay the corresponding tax for taxable year 2008 in the amount of **Two Hundred Thirty Eight Thousand Nine Hundred Ninety Pesos (P238,990.00)**, more or less, as basic income tax deficiency, exclusive of penalties, interests and surcharges.

It appears however that the basic income tax deficiency for taxable year 2008 is below the jurisdictional amount that would confer jurisdiction upon this Court, pursuant to the provisions of Section 7 (b) (1) of Republic Act (R.A.) No. 1125,[1] as amended by R.A. No. 9282,[2] which states:

> "**SECTION 7**. *Jurisdiction*. – The CTA shall exercise:
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> xxx xxx xxx

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

[2] 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.

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

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

"**SECTION 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, exclusive of charges and penalties, claimed is one million pesos or more**; xxx." *(Emphasis supplied.)*

Clearly from the aforequoted legal provisions, this Court has jurisdiction over 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 (Php1,000,000.00).**

In the instant criminal case, the amount of the basic income tax deficiency involved is only **Two Hundred Thirty Eight Thousand Nine Hundred Ninety Pesos (P238,990.00),** which is below the jurisdictional amount that would confer jurisdiction upon this Court to hear this case. Thus, this Court is left with no recourse but to dismiss this case for lack of jurisdiction, subject to its refiling with the appropriate Regional Trial Court.

Settled is the rule that this Court, being a court of special jurisdiction, can only take cognizance of matters that are clearly within its jurisdiction.[3]

WHEREFORE, in view of the foregoing considerations, the instant case is hereby **DISMISSED WITHOUT PREJUDICE,** for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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

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