

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

C.T.A. CRIM. CASE NO. O-169
(I.S. No. 2006-1199)
For: Violation of Section 255 of the National
Internal Revenue Code

-versus-

Members:

BAUTISTA, Chairperson
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, II.

DEXTER FEDERICO P. CERIALES,
HELEN B. LAGURA, and
ROSALINDA B. MENDOZA,
all c/o ALC Industries, Inc., A.B. Locsin
Bldg., 7844 Makati Ave. cor. Guerrero St.,
Makati City,
Accused.

Promulgated:

MAR 03 2010

13:25 p.m.
JB Furana

RESOLUTION

Accused, Dexter Federico P. Cerialles, Helen B. Lagura and Rosalinda B. Mendoza, are charged before this Court with Violation of Section 254 of the National Internal Revenue Code ("NIRC") in an Information which reads, as follows:

The undersigned State Prosecutor accuses **DEXTER FEDERICO P. CERIALES, HELEN B. LAGURA, and ROSALINDA B. MENDOZA** of the crime of Violation of Sec. 255 of the National Internal Revenue Code (NIRC) of the Philippines, committed as follows:

That sometime in the year 1999 and subsequent thereto, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the abovementioned accused, conspiring and confederating with one another, being the President, Vice-President for Administration and Treasurer, respectively, of ALC Industries, Inc. (ALCI), and as such, the corporation's responsible corporate officers, did, then and there, knowingly, willfully and unlawfully fail to make or file a Value-added Tax (VAT) return at the time required

by law, despite selling construction tools and equipment worth Three Million Four Hundred Fifty Thousand U.S. Dollars (US\$3,450,000.00) to Robin International, Ltd., on June 4, 1999, which transaction is subject to value-added tax, in violation of the above cited law.

CONTRARY TO LAW.
Manila, August 20, 2009.

Section 7 (b) (1) of Republic Act No. 9282, which took effect on April 23, 2004, amending Republic Act No. 1125 [The Law Creating the Court of Tax Appeals ("CTA")] provides:

Sec. 7. Jurisdiction. — The CTA shall exercise:

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

(2) xxx (*Boldfacing supplied*)

Pursuant to the aforequoted provision, the CTA has exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or the 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 P1,000,000.00 or more.

It is doctrinal that in criminal cases, jurisdiction is determined by the allegations in the complaint or information.¹ In this case, the Information only alleges that the accused failed to make or to file a VAT return for ALCI's sale of construction tools and equipment worth US\$3,450,000.00 to Robin International, Ltd., on June 4, 1999, which is subject to VAT. Records show that the amount of US\$3,450,000.00 pertains to the consideration of the subject sale.² There is no amount of deficiency VAT claimed, exclusive of charges and penalties, stated in the Information, which amount should be at least P1,000,000.00 in order to vest jurisdiction upon this Court pursuant to Sec. 7 (b) (1) of Republic Act No. 9282.

It bears stressing that in pleadings filed in courts of special jurisdiction, the special facts giving the court jurisdiction must be specially alleged and set out.³ Succinctly, the Information filed against the accused failed in this regard.

WHEREFORE, premises considered, the Information filed against the accused Dexter Federico P. Ceriales, Helen B. Lagura and Rosalinda B. Mendoza is hereby **DISMISSED** for lack of jurisdiction, without prejudice to the filing of a new Information in the proper forum.

SO ORDERED.



LOVELL R. BAUTISTA
Associate Justice



OLGA PALANCA-ENRIQUEZ
Associate Justice



AMELIA COTANGCO-MANALASTAS
Associate Justice

¹People of the Philippines v. Cawaling, et. al., G.R. No. 117970, 293 SCRA 267, July 28, 1998, citing *Lim vs. Court of Appeals*, 251 SCRA 408, 418, December 19, 1995.

² Rollo, p. 4.

³ Tirona v. Alejo, G.R. No. 129313, 367 SCRA 17, October 10, 2001.