Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA CRIM. CASE NO. O-530**
-versus-	For: Violation of Section 255 of the NIRC of 1997, as amended.
EAGLE'S FORTUNE, INCORPORATION AND WHANG ZHI ZIN *a.k.a.* ALEX ONG, c/o Jaromay Laurente Pamaos Law Offices, 6th Floor, One Jaroma Place Congressional Avenue corner San Beda St., Quezon City, *Accused.*	Members: DEL ROSARIO, *Chairperson* UY, and MINDARO-GRULLA, *JJ.* Promulgated: OCT 13 2015 ; 3:25 p.m.

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RESOLUTION

Submitted for Resolution is co-accused WANG ZHI ZIN a.k.a. ALEX ONG's "Urgent Joint Motion to Quash" the Information subject of the instant case filed on October 5, 2015.

In his motion, co-accused assails the Information filed against him for want of jurisdiction. He argues that the phrase "more or less, exclusive of surcharges, interest and penalties" in the Information do not reflect the exact principal amount of taxes and fees being claimed. He similarly notes that the prosecution failed to clarify nor confirm the name of the natural person indicated as accused in the instant case.

We resolve.

In a Resolution dated September 16, 2015, the plaintiff, through the Senior State Prosecutor Edna Azurin-Valenzuela and Prosecutor General Claro A. Arellano, was ordered to take appropriate action to clarify the allegations in the Information pertaining to the jurisdictional amount and to state the real name of the accused in the instant case within a period of ten (10) days from receipt of notice.

Record shows that the plaintiff duly received a copy of the said Resolution on September 17, 2015. Nevertheless, as per Records Verification dated October 1, 2015 issued by the Records Division of this Court, the counsel for the plaintiff failed to comply with the foregoing Resolution of this Court.

Settled is the rule that jurisdiction of a court over a criminal case is determined by the allegations of the complaint or information.[1] Moreover, in a criminal case, the prosecution must not only prove that the offense was committed, it must also prove the identity of the accused and the fact that the offense was committed within the jurisdiction of the court.[2]

As we have emphasized in the Resolution dated September 16, 2015, the Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[3] Consequently, it is necessary that the Information filed with this Court clearly states that the exact principal amount of taxes and fees claimed, is One Million Pesos (₱1,000,000.00) or more, and the same is exclusive of charges and penalties.

Considering that the Information alleges that the Income Tax deficiency for taxable year 2005 is in the amount of "Nine Million Eight Hundred Sixty One Thousand Four Hundred Eleven Pesos and Seventy Centavos (Php9,861,411.70), **more or less**, exclusive of surcharges, interest and penalties, xxx", it fails to clearly state the principal amount of income tax deficiency, exclusive of surcharges, interest and penalties, that determines the jurisdiction of this Court. Moreover, the plaintiff failed to clarify the disparity in the surname of the co-accused as

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[1] *Vicente Foz, Jr., et al., v. People of the Philippines*, G.R. No. 167764, October 9, 2009, citing *Agustin v. Pamintuan*, G.R. No. 164938, August 22, 2005, 467 SCRA 601.
[2] Hector Treñas vs. People of the Philippines, G.R. No. 195002, January 25, 2012.
[3] *Rizal Commercial Banking Corp. vs. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007, 522 SCRA 144.

appearing in the Information filed before this Court **(WHANG ZHI ZIN *a.k.a.* ALEX ONG)** vis-à-vis in the Undertaking for Bail and Accused's Personal Information Sheet executed by the co-accused as **WANG ZHI ZIN *a.k.a.* ALEX ONG** on September 2, 2015.

Notwithstanding this Court's Resolution dated September 16, 2015 for the prosecution to clarify the jurisdictional amount and the surname of the co-accused in the instant case, the plaintiff failed to comply with the said order without justifiable reason. Hence, this Court is constrained to dismiss the instant case without prejudice pursuant to Section 3, Rule 17 of the Rules of Court.[4]

WHEREFORE, premises considered, co-accused's "Urgent Joint Motion to Quash" is hereby **GRANTED**. The instant case is hereby **DISMISSED** without prejudice.

Let a copy of this Resolution be served upon the Secretary of Justice and the Commissioner of Internal Revenue.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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

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[4] **Section 3.** *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (3a)