REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NO. O-486** For: Violation of Sec. 255 of the National Internal Revenue Code of 1997, as amended
- versus -	**Members:** **CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **COTANGCO-MANALASTAS,** *JJ.*
JANET LIM NAPOLES, Accused.	**Promulgated:** JUL 22 2015 9:05 a.m.

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RESOLUTION

Before this Court is plaintiff's **Motion for Reconsideration** filed on July 13, 2015. Plaintiff, through Assistant State Prosecutor Mark Roland S. Estepa and Prosecution Attorney Jayvee Laurence B. Bandong, prays for the reconsideration of the Court's Resolution dated June 30, 2015 which dismissed the case for plaintiff's failure to submit the originals or certified true copies of the originals of the records of the Preliminary Investigation. Plaintiff admitted their negligence and begs the indulgence of this Court to consider the **Compliance** it filed on June 30, 2015 together with certified true copies of the documents attached therewith in accordance with the Court's directive in its Order dated June 9, 2015.

For the reasons stated therein, plaintiff's Motion for Reconsideration is hereby **GRANTED**; and its Compliance is **NOTED**. Hence, the Resolution dated June 30, 2015 dismissing the instant case is hereby **RECALLED** and **SET ASIDE**.

In light of the foregoing, the Court shall likewise address plaintiff's **Motion to Admit Attached First (1st) Amended Information** filed on June 8, 2015, which seeks the amendment of its initial Information so as to clearly reflect the charges against the accused and/or erase all doubts as to the jurisdiction of the Court. Plaintiff prays that its first amended Information be admitted as a matter of right under Section 14[1], Rule 110 of the Revised Rules of Criminal Procedure.

Accordingly, plaintiff's Motion to Admit Attached First (1st) Amended Information is hereby **GRANTED**. The attached Amended Information is **ADMITTED** forming part of the records of the case.

That having been settled, this Court shall now proceed with the determination of the existence of probable cause for the issuance of warrant of arrest against accused Janet Lim Napoles.

The Amended Information reads as follows:

"1st AMENDED INFORMATION

> 'That on or about April **2007**, in Pasig City and within the jurisdiction of this Honorable Court, the above-named accused, an individual and a Filipino citizen residing in the Philippines, and at that time required by law, rules and regulations to file her annual income tax return did, then and there, willfully, unlawfully and feloniously failed to supply correct and accurate information in her annual income tax return, by then and there substantially under-declaring her income for taxable year **2006** which resulted in a basic deficiency income tax of Seven Million Eighty Eight Thousand Two Hundred Five Pesos and Sixty Nine Centavos (P7,088,205.69) for taxable year **2006**, exclusive of surcharge and interest, to the damage and prejudice of the Government of the Republic of the Philippines.'
>
> CONTRARY TO LAW.
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> City of Manila for Quezon City, 3 June 2015."

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[1] "**SEC. 14**. *Amendment or substitution.*—A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

xxx *xxx* *xxx*"

The following supporting documents are submitted with the Information, namely:

1. Department of Justice (DOJ) Resolution dated March 13, 2015 for NPS Docket No. XVI-INV-13I-00340, signed by Assistant State Prosecutors Stewart Allan A. Mariano and Mark Roland S. Estepa, with the recommending approval of the Chairperson of the Task Force on the Bureau of Internal Revenue (BIR), Senior Assistant State Prosecutor Susan F. Dacanay, and as approved by Prosecutor General Claro A. Arellano, certified as true copy of the original document by Corazon T. Consunji, Administrative Officer V, OSJ Prosecution Staff, Docket Section of the DOJ on March 31, 2015;

2. DOJ Investigation Data Form duly accomplished by complainants BIR Revenue Officers Marites P. Arias, Nilda T. Se, and Josephine D. Madera against spouses Janet Lim Napoles and Jaime Garcia Napoles as respondents, which was subscribed and sworn to before Prosecution Attorney Monica T. Liwag, and certified as true copy of the original document by Corazon T. Consunji, Administrative Officer V, OSJ Prosecution Staff, Docket Section of the DOJ;

3. The Joint Complaint-Affidavit dated September 26, 2013, with its corresponding annexes, of BIR Revenue Officers Marites P. Arias, Nilda T. Se, and Josephine D. Madera, charging, *among others*, herein accused Janet Lim Napoles of *Attempt to Evade or Defeat Tax* for taxable years 2004, 2006, 2008, 2009, 2010, 2011, and 2012 under Sections 51(A)(1)(a) and 74 in relation to Section 254 of the National Internal Revenue Code (NIRC) of 1997, as amended; and, in addition, *Willful Failure To Supply Correct and Accurate Information* in their (with spouse Jaime Garcia Napoles) Income Tax Return (ITR) for taxable years 2004, 2006, 2008, and 2009; and, *Willful Failure to File* her ITRs for taxable year 2010, 2011, and 2012, which was subscribed and sworn to before Prosecution Attorney Monica T. Liwag, and certified as true copy of the original document by Corazon T. Consunji, Administrative Officer V, OSJ Prosecution Staff, Docket Section of the DOJ ;

4. Subpoena dated October 9, 2013, issued against spouses Janet Lim Napoles and Jaime Garcia Napoles, directing them and their witnesses to submit their counter-affidavit/s, certified as true copy of the original document by the Docket Section-Appeal of the National Prosecution Service of the DOJ dated June 26, 2015;

5. Joint Reply-Affidavit executed by Marites P. Arias, Nilda T. Se and Josephine D. Madera of the BIR's Run Against Tax Evaders (RATE) Program on January 7, 2014, which was subscribed and sworn to, and certified before Senior Assistant State Prosecutor Edna A. Valenzuela, and certified as true copy of the original document by the Docket Section-Appeal of the National Prosecution Service of the DOJ dated June 26, 2015;

6. Rejoinder (Re: Complainant's Joint Reply-Affidavit dated 07 January 2014) filed by spouses Janet Lim Napoles and Jaime Garcia Napoles on January 24, 2014, which was subscribed and sworn to, and certified before Assistant City Prosecutor-Designate Jaime E. Banatin, and certified as true copy of the original document by the Docket Section-Appeal of the National Prosecution Service of the DOJ dated June 26, 2015;

7. Memorandum for the Complainant dated February 18, 2014 filed by the Bureau of Internal Revenue through its counsels, Claro B. Ortiz, Rosario M. Padilla, Timm B. Renomeron, and Kris Norwin B. Saunar, certified as true copy of the original document by the Docket Section-Appeal of the National Prosecution Service of the DOJ dated June 26, 2015; and

8. Minutes of the Preliminary Investigations held on October 21, 2013, November 5, 2013, November 19, 2013, January 7, 2014, January 24, 2014, and February 18, 2014 before Senior Assistant State Prosecutor Edna A. Valenzuela, Assistant State Prosecutors Stewart Allan A. Mariano and Mark Roland S. Estepa.

It cannot be gainsaid that while probable cause demands more than "bare suspicion", it requires "less than evidence which would justify . . . conviction". A finding of probable cause merely binds over the suspect to stand trial. It is not a pronouncement of guilt.[2] As long as the evidence presented shows a *prima facie* case against the accused, the trial court judge has sufficient ground to issue a warrant of arrest against him.[3]

Thus, after due consideration of the allegations stated in the Information, and by personally evaluating the attached supporting

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[2] Hubert Webb vs. Hon. Raul E. De Leon, et al., G.R. No. 121234, August 23, 1995; *citing* Brinegar vs. United States, 338 US 160 [1949]

[3] Chester de Joya vs. Judge Placido C. Marquez, et al., G.R. No. 162416, January 31, 2006

documents above-mentioned, this Court finds the existence of probable cause to issue a warrant of arrest against the accused.

WHEREFORE, let a Warrant of Arrest be issued against accused JANET LIM NAPOLES, and the bail bond for her provisional liberty is set at Ten Thousand Pesos (₱10,000.00).

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice