REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA Crim. Case No. O-384** (NPS Docket No. XVI-INV-13H-00259)
	For: Violation of Sec. 3601 (Unlawful Importation) in rel. to Sec. 3602 (Various Fraudulent Practices Against Customs Revenues) & Sec. 101 of the TCCP, as amended
- versus -	**Members:**
	DEL ROSARIO, *Chairperson,* **UY,** *and* **MINDARO-GRULLA,** ***JJ.***
JANE MABANO y BACULI (c/o MMSM Trading 33 Sanciangko St., Camagayan, Cebu City), Accused.	**Promulgated:** AUG 20 2014 ; 10:03 a.m.

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RESOLUTION

For resolution is the prosecution's **"Motion for Reconsideration with Compliance"** filed on July 22, 2014, seeking reconsideration of this Court's Resolution dated July 3, 2014, which denied the prosecution's Ex Parte Motion To Amend and Admit the Amended Information filed on May 20, 2014[1].

In the said motion, the prosecution avers that the amendment in this case is a matter of right because the accused has not yet entered her plea and the amendment only involves the date of the alleged commission of the offense. Moreover, the prosecution maintains that the allegation of duties and taxes in the information is sufficient

[1] Docket, pp. 175 to 178.

enough to vest jurisdiction in this Court and it is of no consequence whether an allegation has to be made on the exclusivity of charges and penalties in addition to the principal amount of taxes and duties on the criminal information since the government would have to legally impose anyway certain charges and penalties on said principal amount.

In the same motion, the prosecution, nevertheless, clarified that the amount of Three Hundred Ninety Nin Million Six Hundred Sixty Four Five Hundred Seventy Four and Forty Centavos (Php399,664,574.40) exclusively pertains to the principal amount of taxes and duties being claimed by the government in the above-captioned case.

The arguments raised by the prosecution are misplaced.

Although the prosecution is correct in invoking the general rule that the amendment sought in this case is a matter of right because the accused has not yet entered her plea, its insistence that it is of no consequence that an allegation on the exclusivity of charges and penalties in addition to the principal amount of taxes and duties on the criminal information is wrong.

It must be remembered that before taking cognizance of any criminal case, it is the duty of the Court to determine whether said case is clearly within its jurisdiction.

Section 7 (b)(1) of the Republic Act No, 1125,[2] as amended by R.A. No. 9282[3], specifically defines this Court's criminal jurisdiction, to wit:

> "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 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:

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

[3] 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.

> *Provided, however,* **That offenses of 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 (Php1,000,000.00) or where there is no specified amount claimed shall be tried by regular Courts and the jurisdiction of the CTA shall be appellate**. xxx" (*Emphasis supplied).*

It is clear from the foregoing that, in cases involving violations of the Tariff and Customs Code, the jurisdiction of this Court is limited to criminal offenses where **the principal amount of taxes and fees claimed, is at least One Million Pesos (Php1,000,000.00), exclusive of charges and penalties**.

While it is the law that confers jurisdiction, what determines whether this Court actually has jurisdiction over a particular criminal case are the allegations contained in the information. Therefore, the information must necessarily follow the form established by law with regard to the allegation of the jurisdictional amount.

In other words, before this Court can exercise jurisdiction over a criminal case, the information must specifically establish that the principal amount of taxes and fees claimed is at least One Million Pesos (Php1,000,000.00) and that the same is exclusive of charges and penalties.

In this case, both the original Information dated February 27, 2014 and Amended Information dated May 13, 2014 failed to clearly establish the jurisdictional amount. While both informations state that the damage and prejudice to the government in taxes and duties amounts to Php399,664,574.40, the same failed to specifically indicate whether said amount pertains to the principal amount of taxes and fees claimed, and that the same is exclusive of charges and penalties.

Absent a clear showing in the information of the jurisdictional amount involved in this case, the Court is without authority to properly entertain the same.

Indeed, an allegation as to whether the amount claimed is exclusive of penalties and charges, as required by law, is not a useless formality. As mentioned earlier, while We recognize the prosecution's right to amend the information at this early stage of the proceedings, the Court is left with no alternative but to deny an information which is insufficient in form, more so, when said insufficiency directly affects the Court's very authority to take cognizance of the instant case.

As regards the prosecution's Compliance incorporated in its Motion for Reconsideration, the Court finds the same inadequate to cure the defect in the original and Amended Information inasmuch as the clarification directed by the Court in its assailed Resolution dated July 3, 2014 as to the total amount of taxes and duties claimed by the government in the instant case has not been alleged in the Amended Information as the same was filed on May 20, 2014, or prior to the issuance of the said Resolution of July 3, 2014.

For clarity, We quote the pertinent observations of the Court in the assailed Resolution dated July 3, 2014, to wit:"

> "Bearing in mind therefore that the jurisdiction of a court over a criminal case is determined by the allegations in the Complaint or Information, it is necessary that the Information filed with this Court clearly state that the principal amount of taxes and fees claimed, is at least One Million Pesos (Php1,000,000.00), and the same is ***exclusive of charges and penalties.***
>
> In the instant criminal case, the Court notes that both the original Information, and the Amended Information sought to be admitted in this case, fail to allege whether the government duties and taxes claimed in amount of Php399,664,574.40 **is exclusive of charges and penalties,** which would vest exclusive original jurisdiction upon this Court to entertain the same.[4]"

Based on the foregoing observations, the Court denied the prosecution's "Ex-Parte Motion To Amend and Admit Information" because it found the Amended Information insufficient despite the amendments incorporated therein, as it failed to specifically include therein the averments that the principal amount of taxes and fees claimed, is **exclusive of charges and penalties.**

Thus, considering that the Court had already given the prosecution the opportunity to take appropriate action to address the insufficient allegations in the Amended Information, but nevertheless, the prosecution still adamantly refuses to comply with the said directive and instead insists on the admission of the defective Amended Information, in the instant Motion for Reconsideration, We are left with no other recourse but to dismiss the instant case.

WHEREFORE, in view of the foregoing considerations, the prosecution's **"Motion for Reconsideration with Compliance"** is

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[4] Docket, pp. 169-174, at p. 173.

hereby **DENIED**, for lack of merit. This case is hereby **DISMISSED WITHOUT PREJUDICE.**

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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