REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA Crim. No. O-329** **(I.S. No. XVI-INV-11D-00173)**
	For: Violation of Section 255, paragraph 1, of the Tax Reform Act of 1997, as amended
-versus-	
	Members: **Del Rosario,** *Chairperson,* **Uy,** *and* **Mindaro-Grulla,** ***JJ.***
FELONILA Z. CALUAG (#438 Saluysoy, Meycauayan, Bulacan or 320 Violeta St., Bgy. Saluysoy, Meycauayan, Bulacan), Accused.	Promulgated: MAY 02 2013 10:00 Am.

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RESOLUTION

UY, ***J.***:

Records show that on March 21, 2013, the prosecution filed an Information dated January 15, 2013, charging **FELONILA Z. CALUAG** for violation of Section 255, paragraph 1 of the Tax Reform Act of 1997 (should be National Internal Revenue Code [NIRC] of 1997), which reads as follows:

> "The undersigned Associate Prosecution Attorney II of the Department of Justice hereby accuses FELONILA Z. CALUAG of violating Section 255, paragraph 1, of the Tax Reform Act of 1997, as amended, committed in the manner herein narrated, as follows:
>
> > 'That on various dates in 2006 in Sta. Maria, Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a registered taxpayer of Revenue District No. 25B and with Tax Identification Number 173-100-004-000, sold refined gold to the *Bangko Sentral ng Pilipinas* totaling 9,403.056 troy ounces valued at Two Hundred

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> Eighty-Six Million Nine Hundred Sixty-Seven Thousand Seven Hundred Forty-Three Pesos and Forty-Eight Centavos (Php286,967,743.48), excluding refining charges, and despite receipt of payment amounting to Two Hundred Eighty-Six Million Six Hundred Forty-Three Thousand Seven Hundred Nine Pesos and Eight Centavos (Php286,643,709.08), said accused, although required by law and the rules and regulations to file her annual income tax return for taxable year 2006 on or before April 15, 2007, feloniously, knowingly and willfully failed to file said annual income tax return, which resulted in said accused's failure to pay the correct income tax, to the damage and prejudice of the Government.'

CONTRARY TO LAW."

After careful reading of the allegations in the foregoing Information, the Court finds that it has no jurisdiction over this criminal case for failure to allege the jurisdictional amount being claimed in the instant case.

Jurisdiction has been defined as the power conferred by law upon a judge or court to try a case the cognizance of which belongs to them exclusively and it constitutes the basic foundation of judicial proceedings. The term derives its origin from two Latin words – *"jus"* meaning law and the other, *"dicere"* meaning to declare. The term has also been variably explained to be the power of a court to hear and determine a cause of action presented to it, the power of a court to adjudicate the kind of case before it, the power of a court to adjudicate a case when the proper parties are before it, and the power of a court to make the particular decision it is asked to render.[1] Furthermore, the jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information.[2]

Section 7 of Republic Act No. (RA) 1125, as amended by RA 9282, provides as follows:

"SEC. 7. *Jurisdiction.*— **The CTA shall exercise:**

[1] *Macasaet, et al. vs. People of the Philippines, et al.*, G. R. No. 156747, February 23, 2005.
[2] *Uy vs. Court of Appeals, et al.*, G.R. No. 119000, July 28, 1997

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(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 and 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.** xxx." *(Emphases supplied)*

Clearly from the foregoing, where the Information does not specify the amount claimed, the criminal case shall be tried by the regular courts, and the jurisdiction of this Court shall be appellate.

In this case, while the Information alleges that there is willful failure on the part of the accused to file the annual income tax return for taxable year 2006, it does not specify the amount constituting accused's supposed income tax liability for the year 2006 which is being claimed from him. Such being the case, and by virtue of the above-quoted Section 7 of RA 1125, as amended by RA 9282, it is the regular courts which can take cognizance of the instant criminal case.

In *Buaya vs. Polo, et al.*,[3] the Supreme Court said:

"**It is well-settled that the averments in the complaint or information characterize** the crime to be prosecuted and **the court before which it must be tried** (*Balite v. People*, L-21475, Sept. 30, 1966 cited in *People v. Masilang*, 142 SCRA 680).

[3] G.R. No. L-75079, January 26, 1989.

> In *Villanueva v. Ortiz, et al.* (L-15344, May 30, 1960, 108 Phil, 493) this Court ruled that **in order to determine the jurisdiction of the court in criminal cases, the complaint must be examined for the purpose of ascertaining whether or not the facts set out therein and the punishment provided for by law fall within the jurisdiction of the court where the complaint is filed.** The jurisdiction of courts in criminal cases is determined by the allegations of the complaint or information, and not by the findings the court may make after the trial (People v. Mission, 87 Phil. 641)." *(Emphases supplied)*

WHEREFORE, in light of the foregoing considerations , the above-captioned case is hereby **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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