REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

JOHNEL D. BUNAO,
#4449 BCL Homes, Independence St., Gen. T. de Leon, Valenzuela City, (AT-LARGE),
Accused.

CTA Crim. Case No. O-583
(XV-17-INV-16A-83)

Violation of Section 255 of the National Internal Revenue Code of 1997

Members:

DEL ROSARIO, *Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUL 28 2016 ; 3:29 p.m.

x - x

RESOLUTION

UY, *J.*:

Accused Johnel D. Bunao is charged before this Court with a violation of Section 255 of the National Internal Revenue Code of 1997, under the Information[1] dated June 14, 2016, the accusatory portion of which reads:

> "That on August 22, 2011, in the City of Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the accused, despite finality of the assessment notices from the Bureau of Internal Revenue, did then and there willfully and unlawfully fail and refuse to pay his Deficiency Income Tax in the amount of Php531,213.17, Deficiency Value-add-Tax *(sic)* in the amount of Php495,273.71, and his Deficiency Expanded Withholding Tax in the amount of Php12,866.00,

[1] Docket, p. 6.

Compromise Penalty of 41,000.00 for the year 2008, for a total deficiency tax of Php1,080,352.88.

CONTRARY TO LAW."

Section 7 (b) (1) of Republic Act (R.A.) No. 1125,[2] as amended by R.A. No. 9282,[3] provides that in criminal offenses arising from violations of the NIRC, this Court's jurisdiction is limited to cases where the principal amount of taxes and fees claimed, **exclusive of charges and penalties**, is at least One Million Pesos (Php1,000,000.00). The pertinent provisions of said Section reads as follows:

"**SECTION 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 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

---

[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.

> 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 filling of such civil action separately from the criminal action will be recognized." *(Emphasis supplied.)*

Likewise, Section 3 (b) (1), Rule 4 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, enumerates the cases falling within the jurisdiction of the Court of Tax Appeals in Division, to wit:

> "**SECTION 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
>
> xxx xxx xxx
>
> (b) Exclusive jurisdiction over cases involving criminal offenses, to wit:
>
> (1) **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, **where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more**; x x x." *(Emphasis supplied.)*

In this case, the Information states that the total amount of deficiency taxes claimed is One Million Eighty Thousand Three Hundred Fifty Two Pesos and Eighty Eight Centavos (Php1,080,352.88),[4] broken down as follows:

Deficiency Income Tax	Php531,213.17
Deficiency VAT	Php495,273.71
Deficiency Expanded Withholding Tax	Php12,866.00
Compromise Penalty	Php41,000.00
Total Deficiency Tax	**Php1,080,352.88**

However, a careful examination of the Complaint-Affidavit[5] dated

[4] Docket, p. 6.
[5] Docket, pp. 12 to 16.

January 27, 2016, Preliminary Collection Letter,[6] Preliminary Assessment Notice (PAN),[7] Assessment Notices,[8] and Formal Letters of Demand,[9] which were all attached to the Information filed before this Court, show that the said amounts, except for the said compromise penalty, are inclusive of interest and surcharge.

Correspondingly, on the basis of the aforequoted Section 7(b)(1) of R.A. No. 1125, as amended by R.A. No. 9282, and Section 3(b)(1), Rule 4 of the 2005 RRCTA, said compromise penalties, interests and surcharges should not be included in the determination of the jurisdictional amount and should be limited to the basic deficiency taxes. Thus, on the basis of the documents attached to the Information, the total of the principal amounts of taxes and fees claimed is Php 693,900.58, computed as follows:

Basic Deficiency Income Tax	Php 361,886.49
Basic Deficiency VAT	Php 324,810.28
Basic Deficiency Expanded Withholding Tax	Php 7,203.81
Compromise Penalty	-
Total of the Principal Amounts of Taxes and Fees Claimed	**Php 693,900.58**

Considering that the total amount of the basic deficiency taxes claimed is only Php 693,900.58, or less than One Million Pesos (Php1,000,000.00), it is clear that this Court has no jurisdiction over the instant case.

WHEREFORE, in light of the foregoing considerations, the instant case is hereby **DISMISSED WITHOUT PREJUDICE** to the refiling of the same with the appropriate court of competent 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

---

[6] Docket, p. 27.
[7] Docket, pp. 17 to 18.
[8] Docket, pp. 20 to 22.
[9] Docket, pp. 23 to 25.