REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA Crim. Case No. O-381**
	VIOL. OF SEC. 255 IN REL. TO SEC. 253 (d), TAX CODE OF 1997 AS AMENDED BY RA 8424
- versus -	**Members:**
	DEL ROSARIO, *Chairperson,* **UY,** *and* **MINDARO-GRULLA,** ***JJ.***
DOLAN T. GAPUD, Vetyard Arrastre & Allied Port Services, Inc., Marine Slipway, Marcos Road, North Harbor, Tondo, Manila, Accused.	**Promulgated:** APR 2 2 2014 ; 1:37 p.m.

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RESOLUTION

UY, J.:

Accused Dolan T. Gapud is charged before this Court with violation of Section 255 in relation to Section 253 (d) of the National Internal Revenue Code of 1997, as amended, under the Information dated November 19, 2013, the accusatory portion of which reads:

> "That sometime in the year 1998, in the City of Manila, Philippines, the said accused, being then the responsible officer of VETYARD ARRASTRE & ALLIED PORT SERVICES, INC., with business address at Marine Slipway, Marcos Road, North Harbor, Tondo, this City, having filed its internal revenue tax of the latter for the year 1998 and after examination and audit of the same, it has been found that there is due collectibles from said Vetyard Arrastre & Allied Services, Inc., the following to wit:

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Kind of Tax	Assessment No.	Year	Date	Amount
Def. Income/ Compromise	29-1-000069	1998	1/24/02	P414,489.47
Def. VAT/ Compromise	29-1-000069	1998	1/24/02	P128,666.14
Def. EWT/ Compromise	29-1-000069	1998	1/24/02	P106,938.12

for the said year under BIR Letter Notice, did then and there willfully and unlawfully fail and refuse and neglect to pay Deficiency Value-Added Tax in the amount of P128,666.14, Deficiency Expanded Withholding Tax in the amount of P106,938.12 and Deficiency Income Tax in the amount of P414,489.47 or in the total of P650,093.73 and without formally appealing the same, despite due assessment, notice and demand to do so, to the damage and prejudice of the Republic of the Philippines, in the aforesaid total amount of P650,093.73, Philippine Currency.

CONTRARY TO LAW."

After careful consideration of the allegations in the Information, and the supporting documents attached thereto, this Court finds that it has no jurisdiction over the instant criminal case. Being a court of special jurisdiction, it can only take cognizance of matters that are clearly within its jurisdiction pursuant to the provisions of Section 7 (b) (1) of Republic Act (R.A.) No. 1125,[1] as amended by R.A. No. 9282,[2] which states:

"**SECTION 7**. *Jurisdiction*. – The CTA shall exercise:

x x x x

(b) Jurisdiction over cases involving criminal offenses as herein provided:

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

(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 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:

x x x x

(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.)*

Based on the foregoing, this Court has jurisdiction over criminal offenses arising from violations of the National Internal Revenue

Code, where the principal amount of taxes and fees claimed, **exclusive of charges and penalties**, is at least One Million Pesos (Php1,000,000.00).

Thus, bearing in mind that the jurisdiction of a court over a criminal case is determined by the allegations in the Complaint or Information,[3] it must first be shown in the Information filed before this Court, that the principal amount of taxes and fees claimed is at least One Million Pesos (Php1,000,000.00).

In this case, the Information states that the total amount of deficiency taxes claimed is Six Hundred Fifty Thousand Ninety Three Pesos and Seventy Three Centavos (Php650,093.73), broken down as follows:

Kind of Tax	Amount
Deficiency Income Tax/ Compromise	Php414,489.47
Deficiency VAT/ Compromise	Php128,666.14
Deficiency Expanded Withholding Tax/ Compromise	Php106,938.12
Total Deficiency Tax	**Php650,093.73**

Notably, the alleged deficiency Income Tax, VAT and Expanded Withholding Tax included Compromise Penalties, which should have been excluded because only the principal amount of taxes and fees should be considered for purposes of determining the jurisdictional amount in this case. Nevertheless, notwithstanding the inclusion of said compromise penalty, the total amount of the alleged deficiency taxes claimed is less than One Million Pesos. Clearly therefore, this Court has no jurisdiction over the instant case.

Moreover, it is observed that the prosecution failed to attach complete supporting documents, such as, copies of the Assessment

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[3] *Hector Treñas vs. People of the Philippines*, G.R. No. 195002, January 25, 2012, citing *Isip vs. People,* G.R. No. 170298, 26 June 2007, 525 SCRA 735; *Teofilo Evangelista vs. People of the Philippines,* G.R. No. 163267, May 5, 2010; *Ramil P. Ortiz vs. Court of Appeals,* G.R. No. 157370, June 8, 2007, citing *Macasaet vs. People*, G. R. No. 156747, February 23, 2005, 452 SCRA 255.

Notices for Deficiency Income Tax and Deficiency VAT, which would have shown the precise amount of principal taxes and fees claimed.

In any case, considering that the total amount of taxes claimed, as stated in the Information dated November 19, 2013, is less than One Million Pesos, this Court has no jurisdiction over this case.

WHEREFORE, premises considered, the instant 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