REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

ANTONINO R. MORALES,
Accused.

CTA Crim. Case No. 0-095

For: Violation of Section 255 in relation to Sections 253(d) and 256 of the Tax Code of 1997

Members:

CASTAÑEDA, JR., Chairperson;
UY, and
ENRIQUEZ, JJ.

Promulgated:

OCT 1 5 2008

4:05 p.m.

x - x

RESOLUTION

Records show that on September 4, 2008, this Court issued a Resolution requiring Public Prosecutor Domingo I. Orda, Jr. to submit a copy of the Certification or Letter of Authority issued by the Commissioner of Internal Revenue to the Regional Director for the filing of a criminal complaint against accused Antonino R. Morales, and any other additional evidence for the proper determination of probable cause against the accused.

On October 3, 2008, the prosecution filed its "Compliance" alleging that the filing of Information in the present case was based on a letter-request dated July 14, 2005 issued by Regional Director Alfredo V. Misajon, allegedly pursuant to Revenue Administrative Order No. 10-2000 dated August 7, 2000, sans a certification or letter of authority issued by the Commissioner of Internal Revenue for the filing of a criminal case against herein accused.

Sections 220 and 221 of the National Internal Revenue Code (NIRC) of 1997 provide:

"**SEC. 220. Form and Mode of Proceeding in Actions Arising under this Code**. – Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the Bureau of Internal Revenue but **no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner**." *(Emphasis Ours)*

"**SEC. 221. Remedy for Enforcement of Statutory Penal Provisions**. – The remedy for enforcement of statutory penalties of all sorts shall be by criminal or civil action, as the particular situation may require, **subject to the approval of the Commissioner**." *(Emphasis Ours)*

A perusal of the letter-request dated July 14, 2005 shows that Regional Director Alfredo V. Misajon failed to allege appropriate authorization from the Commissioner of Internal Revenue as required under the aforequoted legal provisions.

WHEREFORE, premises considered, for failure to show appropriate authority to file the criminal complaint against the accused pursuant to Sections 220 and 221 of the NIRC of 1997, the above captioned case is hereby **DISMISSED**, without prejudice.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice