REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

VIRGILIO OCAMPO y IPAPO,
Accused.

CTA CRIM. CASE NO. O-293

For: Violation of Sec. 255 of the National Internal Revenue Code.

Members:

ACOSTA, *Chairperson*
UY, *and*
FABON-VICTORINO, *JJ.*

Promulgated:

DEC 06 2012 ; 10:50 a.m.

x- x

RESOLUTION

On September 25, 2012, the Court issued a resolution which ordered the prosecution to:

1. Correct the discrepancy found in the information filed; and
2. Submit the original or certified true copy of the Approval of the Commissioner dated November 10, 2011, page 2.

Said order shall be complied within five (5) days from receipt of the said Resolution, with warning that non-compliance with the said directive is a ground for the dismissal of the case.

Upon careful review of the records of the case, as of the promulgation of this resolution, the prosecution failed to comply with the said order of this Court.

The pertinent provisions of the Revised Rules of the Court of Tax Appeals provide:

RULE 9
PROCEDURE IN CRIMINAL CASES

> **SEC. 4.** *Warrant of arrest.* – Within ten days from the filing of the information, the Division of the Court to which the case was raffled shall evaluate the resolution of the public prosecutor and its supporting evidence. ***The Division may immediately dismiss the case if it finds that the evidence on record clearly fails to establish probable cause***. If the Division finds probable cause, it shall issue a warrant of arrest signed by the Chairperson of the Division. In case of doubt on the existence of probable cause, the Division may order the prosecutor to present additional evidence, *ex parte*, within five days from notice. (emphasis supplied)

Likewise, the pertinent provisions of section 220 of the National Internal Revenue Code 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 supplied)

WHEREFORE, premises considered, for failure of the prosecution to comply, despite notice, with the resolution of this Court promulgated on September 25, 2012, ordering the prosecution to correct the discrepancy found in the information filed and submit the original or certified true copy of the Approval of the Commissioner dated November 10, 2011, page 2, pursuant to section 220 of the National Internal Revenue Code, the above-captioned case is hereby **DISMISSED,** without prejudice.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice