

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-760
(NPS Docket No. XVI-INV-18F-
00182)

For: Violation of Section 255, in
relation to Sections 253 and 256,
of the 1997 NIRC, as amended

-versus-

SHEMA Ultimate Business Innovation
Concept Corporation, President
Crispin U. Ando and Treasurer
Arciliza T. Sequira,

Members:
UY, Chairperson,
RINGPIS-LIBAN, and
MODESTO-SAN PEDRO, JJ.

Promulgated:

Accused.

SEP 27 2019

4:01 p.m.

x

x

RESOLUTION

Submitted for resolution is the “Information”¹ filed by the prosecution on July 16, 2019. The Information reads as follows:

“The undersigned Assistant State Prosecutor of the Department of Justice hereby accuses **SHEMA Ultimate Business Innovation Concept Corporation, President Crispin U. Ando and Treasurer Arciliza T. Sequira** of violation of Section 255 of the National Internal Revenue Code of 1997, as amended, committed as follows:

[‘]That on or about January 24, 2018 and thereafter, in Quezon City, and within the jurisdiction of this Honorable Court, SHEMA Ultimate Business Innovation Concept Corporation, a corporation engaged in the business of wholesale/retail distribution/trading of health drinks and health supplement and Crispin U. Ando and Arcilla T. Segura, being its president and treasurer, respectively, with obligation under the law to file value added tax and pay the correct value added tax, did then and there, wilfully, unlawfully, and feloniously fail to pay deficiency value added tax for taxable year **2011**, despite final assessment and formal demand to pay, including the services of several prior and post notices and demands, the latest being in the nature of

¹ Records, pp. 8-67, with annexes.



demand letter before taking criminal action issued in January 2018, to the damage and prejudice of the Government in the amount of Three Million Four Hundred Eighty Five Thousand Seven Hundred Twenty Four and 72/100 Pesos (**Php3,485,724.72**), exclusive of surcharges and interest.[‘]

CONTRARY TO LAW.”²

On August 5, 2019, the Court gave the prosecution a period of ten (10) days from notice a) to correct the applicable provisions of the NIRC in relation to the offense charged in the body of the Information and the caption of the Information; and b) to explain why the bail recommended in this case is not in accordance with Section 4 of Department of Justice (DOJ) Department Circular No. 013. Meanwhile, the determination of probable cause for the issuance of Warrants of Arrest against the accused was held in abeyance.³

Records show that the above-stated Resolution was received by the DOJ, NPS Docket Section on August 8, 2019.⁴ Accordingly, the prosecution had until August 19, 2019⁵ to comply with the order of the Court.

However, on September 2, 2019 and September 10, 2019, Records Verification Reports were issued by the Judicial Records Division stating that the prosecution failed to comply with the August 5, 2019 Resolution of the Court. It must be emphasized that this blunder violates the right of the accused to due process.

Sections 1 and 14 of the Bill of Rights in the 1987 Philippine Constitution provide the following:

**“ARTICLE III
Bill of Rights**

SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

xxx

xxx

xxx

SECTION 14. (1) No person shall be held to answer for a criminal offense without due process of law.

² Emphases retained.

³ Records, pp. 69-72.

⁴ Records, p. 68.

⁵ August 18, 2019 fell on a Sunday.



(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.⁶

Sections 4, 6, 7 and 8 of Rule 110, and Section 1(b) of Rule 115, of the Revised Rules of Criminal Procedure⁷ provide the following:

“RULE 110 - PROSECUTION OF OFFENSES

XXX

XXX

XXX

Sec. 4. *Information defined.* — An information is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court.

XXX

XXX

XXX

Section 6. Sufficiency of complaint or information. — A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information. (6a)

Section 7. Name of the accused. — The complaint or information must state the name and surname of the accused or any appellation or nickname by which he has been or is known. If his name cannot be ascertained, he must be described under a fictitious name with a statement that his true name is unknown.

If the true name of the accused is thereafter disclosed by him or appears in some other manner to the court, such true name shall be inserted in the complaint or information and record. (7a)

Section 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (8a)

⁶ Underscoring ours.

⁷ As amended, December 1, 2000.



XXX

XXX

XXX

RULE 115 - RIGHTS OF ACCUSED

Section 1. Rights of accused at trial. – In all criminal prosecutions, the accused shall be entitled to the following rights:

XXX

XXX

XXX

(b) To be informed of the nature and cause of the accusation against him.

XXX

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XXX”⁸

In the Supreme Court case of *Enrile v. People of the Philippines, et. al.*, G.R. No. 213455, August 11, 2015, the Highest Tribunal ruled as follows:

“B. Procedural Sufficiency of the Information

An Information is an accusation in writing charging a person with an offense, signed by the prosecutor and filed with the court. The Revised Rules of Criminal Procedure, in implementing the constitutional right of the accused to be informed of the nature and cause of the accusation against him, specifically require certain matters to be stated in the Information for its sufficiency. The requirement aims to enable the accused to properly prepare for his defense since he is presumed to have no independent knowledge of the facts constituting the offense charged.

To be considered as sufficient and valid, an information must state the name of the accused; the designation of the offense given by the statute; the acts or omissions constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

XXX

XXX

XXX”⁹

From the above, it can be gathered that, in line with the due process requirement for the accused to be informed of the nature and cause of the accusation against him/her, the rules require that the Information state the name of the accused and the designation of the offense given by the statute.

In the present Information, the provision of law provided in the caption is “Violation of Section 255, in relation to Sections 253 and 256 of the NIRC of 1997, as amended,” while the body reads “violation of Section 255 of the National Internal Revenue Code of 1997, as amended” only.

⁸ Underscoring ours.

⁹ Underscoring ours.



Likewise, the name of accused in the body was inconsistently spelled out; at first, it states "Arciliza T. Sequira;" then, it became "Arcilla T. Segura."

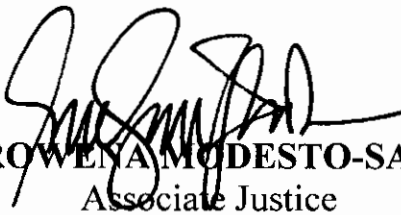
The inconsistencies will make it challenging for accused to prepare their defense and will render them susceptible to surprises, in violation of their right to due process.

WHEREFORE, in light of the foregoing considerations, the instant case is hereby **DISMISSED WITHOUT PREJUDICE** to the filing of a new Information.

SO ORDERED.


ERLINDA P. UY
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

