Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

ANTONIO M. TALAUE,
LEANDRO ANTONIO M. TALAUE,
HANNAH AILEEN LIM FERNANDEZ,
ANALYN G. FERNANDEZ,
ANGEL T. DERAY, JR., and
MEYNARDO B. BANAYO.
(ALL AT LARGE)

Accused.

CTA Crim. Case No. 0-274
For: Violation of Section 3602 in relation to Sections 2503 and 2530 paragraphs (f), (i) and (l) subparagraphs 3, 4 and 5 of the Tariff and Customs Code of the Philippines (TCCP) as amended.

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUN 05 2012
2:25 p.m.

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RESOLUTION

Antonio M. Talaue, Leandro Antonio M. Talaue, Hannah Aileen Lim Fernandez, Analyn G. Fernandez, Angel T. Deray, Jr. and Meynardo B. Banayo, are charged before this Court with the violation of Section 3602 in relation to Sections 2503 and 2530 paragraphs (f), (i) and (l) subparagraphs 3, 4 & 5 of the Tariff and Customs Code of the Philippines (TCCP), as amended, in an Information alleging the following:

> "That on or about April 1, 2008 and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud the government, in conspiracy with one another did then and there, willfully, unlawfully and feloniously, misrepresented the subject shipments of 32x20 container vans of wheat flour valued approximately at Nine Million Two Hundred Ninety-Five Thousand Seven Hundred Eighty-Four Pesos & 80/100 (P9,295,784.80) consigned to Rubills International Inc. (Rubills), for the account of Fil Haus Enterprises (Fil Haus) with corresponding duties and taxes of One Million Seventy Seven Thousand Two Hundred Ninety-Two Pesos & 45/100 (P1,077,292.45), by misdeclaring and undervaluing the same in the Warehousing Entry Nos. W-8720, W-8696, W-8707, W-8693, W-8725, and W-8731 covering the subject shipments, considering that it was declared at $220 per metric tons (sic) instead of the VRIS value of $297 per metric tons (sic), per report of the VRIS-OCOM, Bureau of Customs (BOC) and the subject shipments of flour were likewise under-weight per bag considering that the subject shipments were declared at less than 25 kgs. per bags (sic), per report of VRIS-OCOM, Bureau of Customs (BOC), to the damage and prejudice of the Philippine government."

After a careful and thorough evaluation and consideration of the records of the case, this Court finds that it has no jurisdiction over the instant case.

The Court of Tax Appeals, being a court of special jurisdiction can only take cognizance of such matters as are clearly within its jurisdiction.

Section 7 (b) (1) of Republic Act No. 9282, which took effect on April 23, 2004, amending Republic Act No. 1125 provides:

> "Sec.7. Jurisdiction.— The CTA shall exercise:
>
> (a) 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 and 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.

Corollary thereto, the 2005 Revised Rules of the Court of Tax Appeals, as amended, specifically enumerated the cases that fall within the jurisdiction of the CTA Division and En Banc. Section 3 of Rule 4 of the said revised rules enumerates the cases within the jurisdiction of the Court in Division, to wit:

> "SEC. 3. Cases within the jurisdiction of the Court in Divisions. — The Court in Division shall exercise:
>
> (a) 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; and

xxx xxx xxx."

Based on the foregoing, the Court in Division shall exercise original jurisdiction over all criminal offenses arising from violations of the Tariff and Customs Code and other laws administered by the Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more.

In the case at bench, the Information alleges that the above-named accused misrepresented the subject shipments of 32x20 container vans of wheat flour valued ***approximately at Nine Million Two Hundred Ninety-Five Thousand Seven Hundred Eighty-Four Pesos & 80/100 (P9,295,784.80)*** **consigned to Rubills International Inc., for the account of Fil Haus Enterprises with corresponding** ***duties and taxes of One Million Seventy Seven Thousand Two Hundred Ninety-Two Pesos & 45/100*** **(P1,077,292.45)***,* by misdeclaring and undervaluing the same; it was declared at $220 per metric ton instead of the VRIS value of $297 per metric ton; and the subject shipments of flour were likewise under-weight per bag considering that the subject shipments were declared at less than 25 kilograms (kgs.) per bag.

Atty. Tristan Armando III F. Langcay, member of the Run After The Smugglers (RATS) Program of the Bureau of Customs, showed in his Complaint-Affidavit, attached to the Bureau of Customs' Referral for Preliminary Investigation, the RAT's findings on the alleged unlawful importation of 32x20 container vans of wheat flour by the accused, which is herein reproduced for easy reference:

"8. On 09 April 2008 the subject shipments were spot-checked by the officers-on-case who found that:

8.1 The shipments yielded absolutely unmarked sacks of flour;

8.2 The entries were not properly endorsed by the PCCI Secretariat considering that the ICE reports attached to the entries were not issued by the PCCI Secretariat;

8.3 The subject shipments are not covered by certificate of a product registration from BFAD;

9. On 14 April 2008 a Warrant of Seizure and Detention (WSD) was issued by Horacio Suansing, District Collector of POM against the subject shipments upon recommendation of the officers on case for violation of Section 101(K) of the Tariff and Customs Code of the Philippines;

10. Further verification revealed the following:

10.1 The subject shipments of wheat flour were undervalued considering that it was declared at $220 per metric tons instead of the VRIS value of $297 per metric tons, per report of the VRIS-OCOM;

10.2 The subject shipments of flour were likewise under-weight per bag considering that the subject shipments were declared at less than 25 kgs. per bags (sic), per report of VRIS-OCOM;

10.3 The foregoing discrepancies are clearly shown below:

10.3.1 **Entry No. W8725-08**

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value (Php.)	Duties and Taxes (Php.)
W8725-08	$220	8,040	19.02	153,000	1,532,949.75	107,705.00

instead of:

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value (Php.)	Duties and Taxes (Php.)
W8725-08	$297	8,040	25	201,000	2,660,741.37	320,298

10.3.2 **Entry No. W8731-08**

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value (Php.)	Duties and Taxes (Php.)
W8731-08	$220	5,280	19.31	102,000	1,021,966.50	71,788.00

Instead of:

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value	Duties and Taxese (sic) (Php.)
W8731-08	$297	5,280	25	132,000	1,748,098.49	210,772

10.3.3 **Entry No. W8696-08**

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value	Duties and Taxese (sic) (Php.)
W8696-08	$220	1,775	19.15	34,000	340,655.50	24,096.00

Instead of:

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value	Duties and Taxese (sic) (Php.)
W8696-08	$297	1,775	25	44,375	587,523.92	71,253.00

10.3.4 **Entry No. W8720-08**

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value	Duties and Taxes (Php.)
W8720-08	$220	5,160	19.76	102,000	1,021,966.50	71,788.00

Instead of:

Entry No.	Value Per Metric	Number of Bags	Net Weight	Total Weight	Dutiable Value	Duties and Taxes

	Ton		Per Bag (Kg.)	(Kg.)		(Php.)
W8720-08	$297	5,160	25	129,000	1,709,504.86	206,141.00

10.3.5 **Entry No. W8693-08**

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value (Php.)	Duties and Taxes (Php.)
W8693-08	$220	2,640	19.31	51,000	510,983.25	37,018.83

Instead of:

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value	Duties and Taxes (Php.)
W8693-08	$297	2,640	25	66,000		61,933.45

10.3.6 **Entry No. W8707-08**

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value	Duties and Taxes (Php.)
W8707-08	$220	5,160	22.09	114,000	1,021,966.00	71,788.00

Instead of:

Entry No.	Value Per Metric Ton	Number of Bags	Net Weight Per Bag (Kg.)	Total Weight (Kg.)	Dutiable Value	Duties and Taxes (Php.)
W8707-08	$297	5,160	25	129,000	1,715,866.92	206,904.00

A close scrutiny of the above-quoted findings would show that the complainant presented both the "actual amount of duties and taxes paid" (actual amount paid) and the "amount of the duties and taxes that should have been paid" (should be amount), were it not for the said misdeclaration and undervaluation committed by the accused.

Thus, to determine whether this Court has jurisdiction, *We* deem it proper to deduct first the "actual amount paid" by the accused from the "should be amount" of the taxes and duties per Warehouse Entry Number. Then, add altogether the resulting difference per Warehouse Entry Number. And in doing so, *We* find that the principal amount of the deficiency duties and taxes being claimed only amounts to P693,117.62, which is obviously way below the minimum jurisdictional amount prescribed by the law and rules in order to confer jurisdiction to the Court of Tax Appeals, as shown below:

	Entry Number W8725-08	Entry Number W8731-08	Entry Number W8696-08	Entry Number W8720-08	Entry Number W8693-08	Entry Number W8707-08	Summation of the resulting difference between the "Should be Amount" and the "Actual Amount Paid"
"Should be Amount"	320,298.00	210,772.00	71,253.00	206,141.00	61,933.45	206,904.00	
""Actual Amount Paid"	107,705.00	71,788.00	24,096.00	71,788.00	37,018.83	71,788.00	
Difference between the two amounts	212,593.00	138,984.00	47,157.00	134,353.00	24,914.62	135,116.00	**693,117.62**

To recapitulate, the duties and taxes stated in the Information which amount to P1,077,292.45, actually pertains to the entire subject shipments of wheat flour valued approximately at P9,295,784.80. Thus, it can be inferred that the Information failed to state the actual principal amount of deficiency duties and taxes claimed, when plaintiff failed to deduct from P1,077,292.45 the actual duties and taxes already paid at the time of the withdrawal of the subject shipments.

After taking into consideration the Information and the supporting documents attached thereto, *We* find that the Information failed to meet the minimum jurisdictional amount prescribed by the law and rules in order to confer jurisdiction to this Court. Consequently, this Court is left with no recourse but to dismiss without prejudice the instant criminal case.

WHEREFORE, premises considered, the above-captioned case is hereby **DISMISSED, WITHOUT PREJUDICE** for lack of jurisdiction.

SO ORDERED.

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

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO GRULLA
Associate Justice