Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

DANILO P. CARIAGA,
(No. 1 Diamond Street,
Villa Aurora Townhomes,
Aurora Boulevard,
Loyola Heights, Quezon City),
Accused.

CTA Crim. Case No. 0-312

For: Violation of Section 255, paragraph 1, of the National Internal Revenue Code, as amended.

Members:
DEL ROSARIO, Chairperson,
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
MAY 17 2013 ; 2:30 p.m.

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RESOLUTION

The accused, **DANILO P. CARIAGA ,** was charged in an Information which reads:

> "The undersigned Prosecution Attorney of the Department of Justice hereby accuses **DANILO P. CARIAGA** of violating Section 255 of the National Internal Revenue Code, as amended, committed in the manner herein narrated, as follows:
>
>> 'That on or about April 15, 2007 in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a self employed individual who is a registered taxpayer of Revenue District No. 40 and with Tax Identification Number (TIN) 189-329-287 filed with said revenue district office BIR Form No. 1701, more commonly known as the Annual Income Tax Return, for the taxable year 2007, knowing fully well that he is required by the law and by the rules and regulations to supply correct and correct information within the period mentioned therein, **did then and there, willfully, unlawfully and feloniously failed to supply correct and correct information in said BIR Form No. 1701** by stating in paragraphs 29 that the amount of his sales/receipts/revenues/Fees and cost of sales amounted only to Two Hundred Twenty Thousand Four Hundred Fifty-Six Pesos and Twenty Two Centavos (₱220,456.22), when disbursement voucher and a check clearly show that he received Two Million Four Hundred Twenty Eight

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> Thousand Four Hundred Forty Two Pesos and Ninety Eight Centavos (₱2,428,442.98) as payment of his Attorney's Fees for legal services rendered to Metropolitan Waterworks and Sewerage System covering the period January 2000 to April 2007, **which willful failure to supply correct and accurate information resulted in the substantial under-declaration of sales and the payment of correct taxes in the amount of One Million Three Hundred Ninety Three Thousand Eight Hundred Fifty Nine Pesos and Eleven Centavos (₱1,393,859.11)'.**
>
> **CONTRARY TO LAW.**" (Emphasis supplied)

A perusal of the Information shows that it failed to allege that the amount of One Million Three Hundred Ninety Three Thousand Eight Hundred Fifty Nine Pesos and Eleven Centavos (₱1,393,859.11) is exclusive of charges and penalties. However, the Joint Complaint-Affidavit attached to the letter of recommendation and approval for preliminary investigation and filing of appropriate information in Court by Commissioner of Internal Revenue Kim S. Jacinto-Henares, reveals that the amount of ₱1,393,859.11 consists of ₱625,048.93 as basic tax, ₱312,524.46 as surcharge and ₱456,285.72 as interest.

Section 7 (b) (1) of Republic Act No. 1125 otherwise known as "An Act Creating the Court of Tax Appeals", as amended[1], 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 or the

[1] Republic Act. No. 9282 "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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES"

> 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.** xxx." (Emphasis supplied)

Pursuant to the above provision, and considering that the principal amount of taxes exclusive of charges and penalties is less than One Million Pesos (₱1,000,000.00), since the alleged amount of ₱1,393,859.11 consists of ₱625,048.93 as basic tax, ₱312,524.46 as surcharge and ₱456,285.72 as interest, the CTA has no jurisdiction over the charge, jurisdiction being vested with the regular Courts.

WHEREFORE, premises considered, the instant case is hereby **DISMISSED** for lack of jurisdiction, without prejudice to filing the same in the proper forum.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
ERLINDA P. UY
Associate Justice

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