REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

BARTOLOME A. OFIANA, LOUISITO L. SISON, ASATSU ADVERTISING & PR CONSULTANCY, INC.,
Unit 220-221 2/F Cityland Vito Cruz Tower II, 720 P. Ocampo Street, Barangay 719, Zone 28, Malate, Manila
Accused.

CTA CRIM. CASE NO. O-1233

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

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

FEB 2 0 2025
2:56 p.m.

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RESOLUTION

Records show that on December 17, 2024, the prosecution filed an Information against herein accused for violating Section 255, in relation to Sections 253(d) and 256, of the National Internal Revenue Code (NIRC) of 1997, as amended, allegedly committed as follows:

> "That on or about December 19, 2019, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and mutually helping each other, being then the President and Treasurer respectively, and responsible officers of ASATSU ADVERTISING & PR CONSULTANCY INC., with business address at Unit 220-221, 2/F Cityland Vito Cruz Tower II, 720 P. Ocampo Street, Barangay 719, Zone 28, Malate, this City, did then and there willfully and unlawfully fail,

> refuse and neglect, as they still fail, refuse and neglect to pay their deficiency internal revenue tax liabilities for the year 2016, in the total amount of P1,532,952.67, inclusive of increments under Assessment Number 33-16-20950-19-370 (IT), despite notice, without formally protesting against or appealing the same, and repeated demands made upon them to do so, to the damage and prejudice of the Government of the Republic of the Philippines in the aforesaid amount of P1,532,952.67, Philippine Currency.
>
> CONTRARY TO LAW."

Pursuant to Section 4, Rule 9 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, the Court shall determine the existence or non-existence of probable cause. In this respect, "the judge must satisfy himself that based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice."[1]

Corollary thereto, the prosecution presented the following supporting documents for examination of the Court:

1. DOJ Resolution;

2. Referral Letter of BIR Regional Director Mahinardo G. Mailig; and

3. Joint Complaint-Affidavit of Blessing Mamilig-Lugo and Geraldine Joy Dela Cruz, with annexes.

The Court finds that the present case must be dismissed for lack of jurisdiction.

Section 7(b)(1) of Republic Act (RA) No. 1125, as amended, provides:

> Sec. 7. Jurisdiction. – The CTA shall exercise:
>
> ...
>
> (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

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[1] *Alfredo C. Mendoza v. People of the Philippines and Juno Cars, Inc.*, G.R. No. 197293, April 21, 2014, 722 SCRA 647 citing *People v. Castillo and Mejia*, 607 Phil. 754; 590 SCRA 95 (2009).

> Bureau of Internal Revenue or 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 filing of such civil action separately from the criminal action will be recognized.

In *People v. Joel Mendez*,[2] the Supreme Court briefly explained the application of the above provision as follows:

> "[F]or criminal offenses **with an attendant claim amounting to P1,000,000.00 or more**, exclusive original jurisdiction is vested with the CTA Division. Whereas, when the tax claim is **below P1,000,000.00 or there is no specified amount or no attendant claim**, as when the offense is only punishable by a fine and/or imprisonment, original jurisdiction is vested with the regular courts." *(Citations omitted)*

The original jurisdiction of this court with respect to criminal cases is limited to criminal offenses where the principal amount of taxes or fees claimed is at least One Million Pesos (₱1,000,000.00) exclusive of charges and penalties. It is important that the Information clearly states the amount of taxes and fees claimed is more than ₱1,000,000.00 and the same is exclusive of charges and penalties.

Here, the Information states that the amount claimed is: *"P1,532,952.67, inclusive of increments."* Indubitably, such allegation fails to demonstate that the case falls within the exclusive original jurisdiction of this Court.

The failure of the Information to specifically allege matters required by law to vest jurisdiction to this Court effectively bars it from acquiring jurisdiction over the case. Averments in the Information characterize the crime to be prosecuted and the court before which it must be filed.[3]

WHEREFORE, Criminal Case No. O-1233 is **DISMISSED** for lack of jurisdiction.

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[2] G.R. Nos. 208310-11, March 28, 2023.
[3] *Pangilinan v. Court of Appeals*, G.R. No. 117363, December 17, 1999.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice