REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-1119**
- versus -	Members:
AILEEN ALBA DESIERDO (Lot 1, Block 139 Aquino Street, Phase 1, Upper Bicutan, Taguig City) and	**MANAHAN**, *Chairperson,* **REYES-FAJARDO**, and **ANGELES**, *JJ.*
RANDOLPH S. ALBA (Block 1, Lot 5, Mariategui Homeowners Association Purok 8, Alabang City) (Both at [L]arge), *Accused.*	Promulgated: APR 19 2024 9:14 a.m.

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RESOLUTION

In the Resolution dated November 22, 2023, the prosecution was directed to amend the original Information, specifying the precise breakdown of the amount of ₱26,122,963.40 stated therein. Such required breakdown must state: (1) the dutiable value of the articles mentioned therein; and (2) the sums relating to the customs duties and taxes, *exclusive of charges and penalties.*[1]

By Compliance filed on March 4, 2024,[2] the prosecution submitted an Amended Information, allegedly adhering to the directive in said resolution. Precisely, in the Amended Information dated February 18, 2024,[3] Aileen Alba Desierdo and Randolph S. Alba were indicted for violation of Section 1401(e), in relation to Sections

[1] Docket, pp. 120-122.
[2] *Id.* at p. 126.
[3] *Id.* at pp. 127-128.

1400 and 117 of Republic Act (RA) No. 10863,[4] the accusatory portion of which reads:

> That on or about November 27, 2022, in Manila City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, as the owner/general manager and licensed customs broker of Burias Jang Consumer Goods Trading, respectively, conspiring and confederating with John Does and Jane Does, whose true names, real identities[,] and present whereabouts are still unknown, and all of them mutually helping and aiding one another, did then and there willfully, knowingly, unlawfully, and fraudulently import and bring into the Philippines[,] a shipment of 5x40′ container[,] with Import Entry No. C-425831-22[,] which declared the shipment as only consisting of 1,000 packages of insulator, 450 packages of surge arrester, 1,250 packages of slipper outsoles[, and] 420 packages of styrene butadiene rubber, when in truth and in fact, the shipment consisted of undeclared 1,275 sacks of PRA1 refined cane sugar (25kgs/sack Malaysia), undeclared 630 sacks of MITR PHOL pure refined sugar (50kgs/sack, Thailand), undeclared 1,275 sacks of PRA1 refined [cane] sugar (25kgs/sack, Malaysia), undeclared 1,230 sacks of PRA1 refined cane sugar (25kgs/sack, Malaysia), and undeclared 1,350 sacks of PRA1 refined cane sugar (25kgs/sack, Malaysia), <u>with a dutiable value of Four Million Nine Hundred Seventy-Seven Thousand Two Hundred Eleven Pesos and Ninety Centavos ([₱]4,977,211.90), customs duties and taxes in the amount of Twenty-One Million One Hundred Forty-Five Thousand Seven Hundred Fifty-One Pesos and Fifty Centavos ([₱]21,145,751.50),</u> with a <u>total</u> aggregate amount of Twenty[-Six] Million One Hundred Twenty-[T]wo Thousand Nine Hundred Sixty-[T]hree Pesos and [F]orty [C]entavos ([₱]26,122,963.40), to the damage and prejudice of the government and the public.[5]

This case must be dismissed.

Section 7(b)(1) of RA No. 1125, as amended by RA No. 9282, reads:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
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> ...
>
> 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

[4] Customs Modernization and Tariff Act. CMTA for brevity.

[5] Docket, unpaginated. Underscoring in the original.

> Tariff and Customs Code and other laws administered by the 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. ...[6]

Section 3(b)(1), Rule 4[7] of the Revised Rules of the Court of Tax Appeals (RRCTA)[8] clarified that the CTA in Division possesses exclusive original jurisdiction over tax criminal offenses, provided the following conditions concur: *first,* the offense charged pertain to, among others, violation of the CMTA; and *second,* the principal amount of taxes and fees claimed, *exclusive of charges and penalties* is at least ₱1,000,000.00. In turn, the jurisdiction of a court over a criminal case is determined by the allegations in the complaint or information.[9]

Indeed, the Amended Information dated February 18, 2024 charged accused for violation of Section 1401(e), in relation to Sections 1400 and 117 of the CMTA. Equally stated therein is the breakdown of the amount of ₱26,122,963.40, consisting of: (1) dutiable value of the alleged illegally imported articles amounting to ₱4,977,211.90; and (2) customs duties and taxes in the amount of ₱21,145,751.50. Yet, these averments hardly suffice to bestow us with jurisdiction over CTA Crim. Case No. O-1119. Ponder on these points:

First. Section 7(b)(1) of RA No. 1125, as amended by RA No. 9282, in relation to Section 3(b)(1), Rule 4 of the RRCTA commands that the customs duties and taxes must be *exclusive* of charges and penalties. No such averment is found in the Amended Information.

Second. Section 102(oo) of the CMTA defines taxes as follows:

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6 Boldfacing supplied.

7 SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:

...

(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 (now CMTA) 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; ...

8 A.M. No. 05-11-07-CTA.

9 See *David v. Marquez,* G.R. No. 209859, June 5, 2017, citing *Foz, Jr. v. People,* G.R. No. 167764, October 9, 2009.

SEC. 102. *Definition of Terms.* - As used in [the CMTA]:

...

(oo) *Taxes* refer to all **taxes, fees and charges** imposed under [the CMTA] and the National Internal Revenue Code (NIRC) of 1997, as amended, and collected by the Bureau;[10]

Since the Amended Information *failed* to expressly state that the amount of ₱21,145,751.50, pertaining to customs duties and taxes is *exclusive* of charges and penalties, the taxes referred to therein are understood as taxes, fees and charges, based on Section 102(oo) of the CMTA.

In sum, the allegations in the prosecution's Amended Information failed to demonstrate our jurisdiction over this case. For this reason, dismissal of CTA Crim. Case No. O-1119 is in order.

WHEREFORE, we **RESOLVE** to:

a. **NOTE WITHOUT ACTION** the prosecution's Compliance filed on March 4, 2024; and

b. **DISMISS** CTA Crim. Case No. O-1119 for lack of jurisdiction.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

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10 Boldfacing supplied.