Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

MYRNA DELA CRUZ LIM,
In her capacity as President of Bulacan Wellness Center Inc., Sto. Cristo, Pulilan, Bulacan, (AT LARGE)
Accused.

CTA CRIM. CASE NO. O-333

For: Violation of Sec. 255 in relation to Sections 253(d) and 256 of NIRC.

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

Promulgated:
JUN 14 2013 ; 8:52 am.

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RESOLUTION

Accused Myrna Dela Cruz Lim was charged before this Court for violation of "Section 255 in relation to Sections 253(d) and 256 of National Internal Revenue Code (NIRC), as amended," allegedly committed as follows:

> "That on or about the 22nd day of November 2010 and thereafter, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, in her capacity as President of Bulacan Wellness Center Incorporated, did, then and there wilfully, unlawfully and feloniously, fail to pay **Deficiency Income Tax** in the amount of Seven Hundred Eighty Seven Thousand Two Hundred Three Pesos and Twenty Centavos (Php787,203.20) and **Deficiency Value Added Tax (VAT)** in the amount of Six Hundred Twenty Nine Thousand Four Hundred Seventeen Pesos and Seventy Six Centavos (Php629,417.76) or with an aggregate amount of **One Million Four Hundred Sixteen Thousand Six Hundred Twenty Pesos and Ninety Six Centavos** (Php1,416,620.96) both arising from a final, demandable and executory assessment/formal letter of demand Number 31475 dated October 22, 2010 for the taxable year 2007, to the prejudice of the government in the aforementioned amount.

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Contrary to Law."

It is axiomatic that this Court has jurisdiction over criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code, **where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos (P1,000,000.00) or more** pursuant to Section 7 (b) (1) of Republic Act No. 9282[1], amending Republic Act No. 1125,[2] which reads:

> *"Sec. 7.* ***Jurisdiction.- The CTA shall exercise:***
>
> *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 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. [Emphasis supplied.]

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[1] 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
[2] AN ACT CREATING THE COURT OF TAX APPEALS.

Corollary thereto, Section 3 of Rule 4 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, specifically enumerates the cases falling within the jurisdiction of the Court of Tax Appeals in Division, to wit:

> "SEC. 3. Cases within the jurisdiction of the Court in Divisions. - The Court in Division shall exercise:
>
> 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**; xxx [Emphasis supplied.]

It must be borne in mind that the Court of Tax Appeals, being a court of special jurisdiction, can only take cognizance of such matters that are clearly within its jurisdiction. Moreover, well-settled is the rule that jurisdiction of a court over a criminal case is determined by the allegations in the Information or Complaint. Hence, the Information filed before this Court must clearly show that the principal amount of taxes and fees claimed, exclusive of charges and penalties, is at least one million pesos (P1,000,000.00).

A careful examination of the Preliminary Assessment Notice (PAN)[3] and Formal Letter of Demand[4] attached in the Information filed before this Court reveals that the accused was assessed of deficiency Income Tax and Value-Added Tax for taxable year 2007, exclusive of charges and penalties, in the total amount of Eight Hundred Sixty Two Thousand Two Hundred Thirty Three and Fifty Three Centavos

[3] Dated September 13, 2010; Division Docket, p. 47.
[4] Dated October 22, 2010; Division Docket, p. 52.

(P862,233.53) or less than One Million Pesos (P1,000,000.00). Hence, this Court has no jurisdiction over the instant case.

In view of the foregoing, the "**MOTION TO ADMIT ATTACHED AMENDED INFORMATION**" filed by the prosecution on May 30, 2013 and the "**MOTION FOR LEAVE TO DEFER ARRAIGNMENT/PROCEEDINGS PENDING MOTION FOR RECONSIDERATION**" filed by the accused on June 3, 2013 are hereby **NOTED without action.**

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

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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