REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

C.T.A. CRIM CASE NO. 0-021

-versus-

Members:

ACOSTA, *PJ,* Chairman
BAUTISTA, and
CASANOVA, *JJ.*

ROSALINDA M. PARRILLA
1837 Laroza St., Paco, Manila,
Accused.

Promulgated:

APR 26 2006

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RESOLUTION

In Our Resolution dated March 10, 2006, the Court ordered the Assistant City Prosecutor Armando C. Velasco "to forward the record of the preliminary investigation; to submit a copy of the certification or letter of authority issued by the Commissioner of Internal Revenue to the Regional Director for the filing of a criminal complaint against the accused pursuant to Sections 220 and 221 of the National Internal Revenue Code of 1997".

In his "Manifestation" posted on April 4, 2006, Asst. City Prosecutor Velasco manifested that the record of the preliminary investigation is already with the City Prosecutor, and that he has no authority to forward the same to this Court. He, thus, prays that an order to forward the record of preliminary investigation to this Court be addressed instead to the City Prosecutor.

The "Manifestation" is hereby **NOTED** by the Court, however, it is not inclined to grant the prayer. Being the officer tasked to prosecute the above-captioned case, it is incumbent upon Asst. City Prosecutor Velasco to exert efforts within his means to submit the record of the preliminary investigation to this Court. Inasmuch as the record is in the custody of the City Prosecutor, of whom the Assistant City Prosecutor represents in this case, it follows that the order of the Court which was directed to the latter extends to the City Prosecutor.

Now, for failure to comply with the Resolution of the Court dated March 10, 2006, and after a judicious consideration of the allegations in the Information and personally evaluating the Resolution of the Office of the City Prosecutor dated February 21, 2005 and its supporting evidence attached to the record, this Court finding no approval of the Commissioner of Internal Revenue for the institution of a criminal complaint pursuant to Sections 220 and 221 of the National Internal Revenue Code of 1997 (NIRC), hereby resolves to **DISMISS** the Information for want of the approval from the Commissioner of Internal Revenue pursuant to Sections 220 and 221 of the NIRC.

The provisions of Sections 220 and 221 of the NIRC, which we quote hereunder, are clear and need no interpretation.

> *"SEC. 220. Form and Mode of Proceeding in Actions Arising under this Code. – Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the Bureau of Internal Revenue but no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner.*
>
> *SEC. 221. Remedy for Enforcement of Statutory Penal Provisions.- The remedy for enforcement of statutory penalties of all sorts shall be by criminal or*

civil action, as the particular situation may require, subject to the approval of the Commissioner.

WHEREFORE, the Information is hereby **DISMISSED** for violation of the provisions of Secs. 220 and 221 of the NIRC without prejudice to the re-filing of the same should the proper approval of the Commissioner of Internal Revenue be submitted by the Plaintiff.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

(on leave)
CAESAR A. CASANOVA
Associate Justice