REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

FELONILA Z. CALUAG
Accused.

CTA CRIM CASE NO. O-327

For: Violation of Section 255, Paragraph 1, of the Tax Reform Act of 1997, as amended.

Members:

DEL ROSARIO, *P.J., Chairperson*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
MAY 0 2 2013 3:30 pm

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RESOLUTION

DEL ROSARIO, P.J.:

On March 21, 2013, the prosecution filed the Information against accused **FELONILA Z. CALUAG** allegedly for violating Section 255, paragraph 1, of the Tax Reform Act of 1997. Said Information reads:

> "The undersigned Associate Prosecution Attorney II of the Department of Justice hereby accuses FELONILA Z. CALUAG of violating Section 255, paragraph 1, of the Tax Reform Act of 1997, as amended, committed in the manner herein narrated, as follows:
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> That on various dates in 2008 in Sta. Maria, Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a registered taxpayer of Revenue District No. 25B and with Tax Identification Number 173-100-004-000, sold refined gold to the *Bangko Sentral ng Pilipinas* totalling 8,895.066 troy ounces valued at Three Hundred Forty-Six Million Eight Hundred Forty Thousand Three Hundred Fifty-Six Pesos and Twenty-Six Centavos (Php346,840,356.26), excluding refining charges, and despite receipt of payment amounting to Three Hundred Forty-Six Million Five Hundred Twenty-Six Thousand

> Pesos and Ninety-Eight Centavos (Php346,526,000.98), said accused, although required by law and the rules and regulations to file her annual income tax return for taxable year 2008 on or before April 15, 2009, feloniously, knowingly and willfully failed to file said annual income tax return, which resulted in said accused's failure to pay the correct income tax, to the damage and prejudice of the Government.
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> **CONTRARY TO LAW"**

After a careful perusal of the Information, this Court finds that it has no jurisdiction over the case.

Pursuant to Section 7(b) of Republic Act (RA) No. 9282, which took effect on April 23, 2004, as amended by RA No. 9503, and Section 3(b), Rule 4 of the Revised Rules of the Court of Tax Appeals (CTA), this Court has exclusive original jurisdiction involving 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 and the Bureau of Customs where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is at least Php1,000,000.00. On the other hand, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than Php1,000,000.00 or where there is no specified amount claimed, the case shall be tried by the regular courts and the jurisdiction of this Court shall be appellate.

In this case, the Information dated January 15, 2013 evidently failed to state that the principal amount of taxes and fees, exclusive of charges and penalties, being claimed against the accused Felonila Z. Caluag is Php1,000,000.00 or more. What the Information alleged was that accused sold in 2008 refined gold to Bangko Sentral ng Pilipinas and received payment amounting to Php346,526,000.96. Despite receipt of payment, accused allegedly failed to file her income tax return for 2008 and pay the corresponding income tax thereon. However, the Information does not state the amount of income tax liability of accused for 2008.

It is well-settled that the averments in the complaint or information characterize the crime to be prosecuted and the court before which it must be tried.[1] To determine the jurisdiction of the court in criminal cases, the complaint must be examined for the purpose of ascertaining whether or not

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[1] Solemnidad M. Buaya vs. The Honorable Wenceslao M. Polo, Presiding Judge, Branch XIX, Regional Trial, Court of Manila and the Country Bankers Insurance Corporation, G.R. No. L-75079 January 26, 1989, citing *Balite v. People*, L-21475, Sept. 30,1966 cited in *People v. Masilang*, 142 SCRA 680.

the facts set out therein and the punishment provided for by law fall within the jurisdiction of the court where the complaint is filed.[2]

While the Resolution of the Department of Justice, dated January 15, 2013, approved by Prosecutor General Claro A. Arellano, alleged that accused willfully failed to pay deficiency income tax in the total amount of Php212,447,397.27 for taxable year 2008, and make such return, supply the correct and accurate information in violation of Section 255 of the National Internal Revenue Code, still the Information shall be the basis in determining whether this Court has jurisdiction over the case. There being no allegation in the Information on the jurisdictional amount of liability of said accused, specifically that the principal amount of tax liability for 2008 is at least Php1,000,000.00, this Court finds the Information defective as to vest jurisdiction to this Court.

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

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

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

[2] *Id.*, citing *Villanueva v. Ortiz, et al.*, L-15344, May 30, 1960, 108 Phil, 493.