REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-*versus*-

ROLANDO POLICARPIO (MNU), in his capacity as President of KROEM TECHNOLOGIES INC., B1 15 SM Homes Commercial Susana Road, Brgy. 168, Deparo, North Caloocan City, (At-LARGE),
Accused.

CTA Crim. Case No. O-1083
(I.S Docket No. XVI-INV-19B-00068)
For: Violation of Section 255, in relation to Sections 253(d) and 256, of the National Internal Revenue Code of 1997, as amended.

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

OCT 09 2023
8:08 a.m.

x- -x

R E S O L U T I O N

The accused, **Rolando Policarpio**, President of Kroem Technologies Inc. is charged in an Information filed on August 23, 2023, which reads as follows:

> "The undersigned Assistant City Prosecutor hereby accuses **ROLANDO POLICARPIO (MNU)**, in his capacity as President of KROEM TECHNOLOGIES INC. for violation of Section 255, in relation to Section 253(d), and Section 256 of the National Internal Revenue Code of 1997, committed as follows:
>
> That sometime in April 2016, in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, in his capacity as President of KROEM TECHNOLOGIES INC., a responsible corporate officer of said corporation, did, then and there willfully, unlawfully and feloniously fails to pay the BUREAU OF INTERNAL REVENUE, Revenue Region No. 5, Caloocan City, herein represented by Atty. Ayleen B. Almira, of Income Tax, Value Added Tax, Documentary Stamp Tax, Improperly

Accumulated Earnings Tax, Expanded Withholding Tax, and Compromise Penalties, the details of which are as follows:

Kind of Tax/ Liability	Taxable Year	Tax Due	Interest	Total Amount Due
IT	2011	49,392.80	35,799.90	85,192.70
VAT	2011	1,071,705.93	817,068.60	1,888,774.53
IAET	2011	241,385.60	174,956.28	416,341.88
EWT	2011	14,522.38	11,251.94	25,774.32
DS	2011	25,000.00	19,505.00	44,505.00
CP	2011			111,000.00

totaling to TWO MILLION FIVE HUNDRED SEVENTY-ONE THOUSAND FIVE HUNDRED EIGTHY-EIGHT and 43/100 (P2,571,588.43); and despite receipt of the assessment notices and formal demand, accused did, then and there continually and willfully ignored to pay said deficiency tax liabilities of KROEM TECHNOLOGIES INC., in gross violation of said law, to the damage and prejudice of the State.

CONTRARY TO LAW."

Initial perusal of said Information reveals that there are substantial deficiencies.

First, per Section 220 of the 1997 National Internal Revenue Code (NIRC), as amended, the Commissioner of Internal Revenue (CIR) must authorize the filing of the criminal complaint through a letter to the Department of Justice. This was missing from the case docket.

Second, the errant taxpayer is Kroem Technologies Inc. as borne out by the several BIR letters and notice of assessment appearing in the BIR Records is not charged in the Information. Plaintiff should be reminded that a corporation has a legal personality separate and distinct from that of the people comprising it.[1] The responsible officers of the corporation under Sections 253(d) and 256 of the 1997 NIRC, as amended, are impleaded because the resulting penalties are imposed upon them and a corporation cannot be arraigned.[2]

Third, the aggregate amount of the tax liabilities indicated and stated in the Information failed to indicate the amount of

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[1] *Joselito Hernand M. Bustos v. Spouses Fernando and Amelia Cruz, et al.*, G.R. No. 185024, April 24, 2017.

[2] *Kingsam Express Incorporation and Samuel Santos v. People of the Philippines*, Resolution, G.R. No. 254086, September 7, 2022.

the principal or basic tax deficiency which is determinant of the jurisdiction of this Court.

Section 3(b)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> "SEC. 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:
>
> xxx xxx 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*)

As stated in the abovementioned provisions, the principal amount of tax liabilities should at least be One Million Pesos in order for this Court to exercise original jurisdiction.

WHEREFORE, for failure to establish the said material allegations, this case, CTA Crim. Case No. O-1083, is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo
(I concur as to the non-compliance with Section 220 of the 1997 NIRC, as amended)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

(on leave)
HENRY S. ANGELES
Associate Justice