REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

MARIEANDY A. FRICKE
(No. 111 Guava Drive, Ayala, Alabang Muntinlupa City),
Accused.

CTA Criminal Case No. O-199
For: Violation of Section 255 of the National Internal Revenue Code of the Philippines (NIRC)

Members:

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

Promulgated:
AUG 06 2024
2:46 p.m.

x - x

RESOLUTION

On February 11, 2017, an Information was filed against accused Marieandy A. Fricke, charging her for violation of Section 255 of the National Internal Revenue Code of 1997, as amended. The accusatory portion of which states:

> That sometime in the year 2007, and subsequent thereto, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did, then and there, willfully, unlawfully, and feloniously fail to make and file a capital gains tax return at the time required by law, despite selling a piece of real property worth Thirty Million Pesos (P30,000,000.00) to Melito C. Chua and Malisa C. Chua on August 30, 2007, which transaction is subject to capital gains tax in the principal amount of Two Million Eight Hundred Sixty Five Thousand Five Hundred Sixty Five and 20/100 Pesos (P2,865,565.20) or a total amount of Five Million Nine Hundred Fifty Four Thousand Nine Hundred Thirty One and 04/100 Pesos (P5,954,931.04), inclusive of surcharges and interests, which she failed to pay, resulting in the deprivation of revenues for the government in the mentioned amount.

CONTRARY TO LAW.

This case merits dismissal.

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

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> ...
>
> 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. ...[1]

Relatedly, Section 3(b)(1), Rule 4[2] of the Revised Rules of the Court of Tax Appeals (RRCTA)[3] clarified that the CTA in Division possesses exclusive original jurisdiction over tax criminal offenses, provided the following conditions concur: *first*, the offense charged pertains to, among others, violation of the NIRC; 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. Once it is so shown, the court may validly take cognizance of the case. [4]

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1 Boldfacing supplied.

2 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 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; ... Boldfacing supplied.

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

4 *Cabral v. Bracamonte*, G.R. No. 233174, January 23, 2019.

Indeed, the Information charged accused for violation of Section 255 of the NIRC, as amended. Stated therein is that the amount of the alleged tax due was ₱5,954,931.04. Yet, these averments hardly suffice to bestow the Court with jurisdiction over CTA Crim. Case No. O-199. The Information *failed* to expressly state that the amount of ₱5,954,931.04, pertaining to the principal amount of taxes and fees, is *exclusive* of charges and penalties as mandated by 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.

In sum, the allegations in the prosecution's Information failed to demonstrate the Court's jurisdiction over this case. For this reason, dismissal of CTA Criminal Case No. O-199 is in order.

WHEREFORE, CTA Criminal Case No. O-199 charging accused Marieandy A. Fricke of violation of Section 255 of the National Internal Revenue Code of 1997, as amended is **WITHDRAWN** from the archives and accordingly **DISMISSED** 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