REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA Crim. No. O – 010
For: Violation of Sec. 255, in relation to Secs. 253(d) and 256, Tax Code of 1997 as amended by R.A. 8424

Promulgated:

MADELEINE P. HERNANDEZ,
Accused.

FEB 16 2006

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RESOLUTION

After careful consideration of the allegations in the Information and personally evaluating the Resolution of the Department of Justice, dated October 21, 2004, 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 Secs. 220 and 221 of the NIRC.

The submission of a copy of the Revenue Administrative Order (RAO) No. 5-83, dated February 15, 1983, signed by the then Acting Commissioner Ruben B. Ancheta, is merely the guidelines on Civil and Criminal Cases to be handled by the Revenue Regions. 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.**

RAO No. 5-83 cited by the Plaintiff in its Compliance posted on October 6, 2005 is not the approval as contemplated in Sec. 220 of the NIRC. The RAO pertains only to the guidelines in assigning of BIR lawyers to handle criminal cases.

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.

Quezon City, Philippines.

Ernesto D. Acosta
Presiding Justice
Chairman

Lovell R. Bautista
Associate Justice

Caesar A. Casanova
Associate Justice