REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
QUEZON CITY

**FIRST DIVISION**
*********

**PEOPLE OF THE PHILIPPINES,**
*Plaintiff,*

-versus-

**CLODUALDO JUSTO**
(No. 642 E. McArthur Hi-way
Caloocan City
(At-large)

**NOLLY E. MARIANO**
No. 511 T. Anzures West Ave.
Sampaloc, Manila
(At-large),
*Accused.*

**CTA CRIM CASE No. O- 088**
(I.S. No. 2007-438)

For: Violation of Sec. 3601 in relation to Sec. 2503 of the TCCP

Members:

**Acosta, Chairman,**
**Bautista, and**
**Casanova, *JJ.***

**Promulgated:**

DEC 02 2008 ;2:10pm

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# RESOLUTION

***ACOSTA, PJ:***

For resolution is the "Motion to Quash" filed by the accused Nolly E. Mariano on September 2, 2008 sans Comment/Opposition from the plaintiff.

The accused moves to quash the instant Information on the ground of lack of jurisdiction. Accused avers that in order to vest this Court with jurisdiction over criminal offenses arising from violations of the Tariff and Customs Code, the principal amount of taxes and fees claimed should be at least One Million Pesos.

According to the accused, the allegation in the Information of the amount of One Million Two Hundred Forty *[sic]* Two Thousand Thirty Eight & 14/100 Pesos (P1,242,238.14) did not confer this Court with jurisdiction, the said amount being only the appraised value of the shipment, hence immaterial and irrelevant. The accused maintains that the basis in determining whether this Court has jurisdiction over a case or not, is the amount of claimed taxes and fees due on the shipment and not the appraised value thereof. The cases[1] against the accused are examples of offenses where there is no specified amount claimed, hence cognizable only be regular courts.

The Court finds for the accused.

Sec. 7 (b)(1) of Republic Act No. 1125, as amended by Republic Act No. 9282, endows this Court with jurisdiction over criminal cases in this manner:

> (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 and 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) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate***. Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of such civil action separately from the criminal action will be recognized. *(Emphasis Supplied)*

Thus, it is only where the amount basic or principal amount being claimed is One Million pesos or more that the CTA has original exclusive criminal jurisdiction. Where the amount is less, or where there is no specified amount, it is the regular

[1] *Two Informations were filed against the accused, this and CTA Case No. O-089.*

courts that has original jurisdiction. In the latter case, the CTA's jurisdiction is appellate.

This Court agrees with the accused that the appraised value of the goods alleged to be unlawfully brought into the Philippines is not determinative of its jurisdiction. The law is clear that it is the basic or principal amount of taxes and fees being claimed which is controlling.

In this case the accused is being charged for violation of Section 3601 in relation to Section 2503 of the Tariff and Customs Code by committing the following acts: "willfully, unlawfully, and feloniously import[ing]/bring[ing] in the Philippines one (1) shipment of 1x4 container van of alleged Frozen Lonely Fish that was later discovered as frozen meat with ***appraised value*** in the amount of One Million Two Hundred Forty Thousand Two Hundred Thirty Eight & 14/100 (P1,242,238.14) Pesos, in violation of Memorandum No. 11, Series of 2005, that banned importation of meat from Hongkong and China, causing damage and prejudice to the Philippine Government".

A re-examination of the documents attached to the Information would reveal that indeed the taxes and fees involved in this case is less than One Million Pesos. Annex "A"[2] of the Referral for Preliminary Investigation which served as basis for the filing of the Information against herein accused is the computation of taxes by COO III Julius Peralta:

| | |
|---|---|
| CONSIGNEE: | HAP CHAN |
| Container No. | ZCSU 5910214 |
| AS DECLARED: | FROZEN LONELY FISH |
| T.H. | 03037910 |
| VALUE | $6,160 |
| AS FOUND: | FROZEN BEEF |
| T.H. | 02023000 |

[2] *Rollo, page 22.*

| | | |
|---|---|---|
| VALUE | $25,740 | |
| | $ 25,740.00 | |
| | x 48.261 | |
| | PHP 1,242,238.14 *[sic]* | |
| | x 10% | Rate of Duty |
| | PHP 124,224 | Customs Duty |

BANK CHARGES

| | | |
|---|---|---|
| Customs Duty | PHP | 124,224 |
| Brokerage Fee | | 5 331 |
| Wharfage | | 884 |
| Arrastre Charges | | 2 860 |
| Doc Stamps *[sic]* | | 265 |
| IPF | | 250 |
| Landed Cost | PHP | 133,814 |
| | x | 12% VAT |
| | PHP | 16,057.68 |
| Duty | | 124,224.00 |
| VAT | | 16,057.68 |
| IPF | | 1,000.00 |
| | | 141,282.00 *[sic]* |
| | x | 1.5 |
| TOTAL | PHP | 211,923.00 *[sic]* |

From the foregoing it can be seen that the taxes and fees combined does not amount to more than One Million Pesos, to which this Court has no jurisdiction.

Courts, such as the CTA exercise jurisdiction that are expressly designated; such authority has always been conferred, either by the Constitution or by law, and the question of jurisdiction over the subject matter can be raised at any time even for the first time on appeal.[3] Jurisdiction is not for the courts, let alone the parties, to themselves determine or conveniently set aside.[4]

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[3] *Roxas vs. Rafferty, 37 Phil. 957.*
[4] *La Naval Drug Corporation vs. The Honorable Court of Appeals and Wilson C. Yao, G.R. No. 103200. August 31, 1994.*

**WHEREFORE**, having no jurisdiction over the subject matter of the case, this Court is constrained to **GRANT** the instant Motion to Quash. This dismissal of the case is however without prejudice to its re-filing with the proper court.

**SO ORDERED.**

**ERNESTO D. ACOSTA**
Presiding Justice

**LOVELL R. BAUTISTA**
Associate Justice

**CAESAR A. CASANOVA**
Associate Justice