

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

SOCORRO NIRO AND
OLIVIA F. DELA CRUZ,
Accused.

CTA Crim. Case No. 0-101

**For: Violation of Section
255 in relation to
Sections 253(d) and
256 of the Tax Code
of 1997**

Members:

CASTAÑEDA, JR., Chairperson;
UY, and
ENRIQUEZ, JJ.

Promulgated:

JAN 19 2009

X -----X
3:00 p.m.

RESOLUTION

Records show that on October 31, 2008, this Court issued a Resolution requiring Public Prosecutor Magnolia P. Gonzales to submit copy of the Certification or Letter of Authority issued by the Commissioner of Internal Revenue to the Regional Director for the filing of a criminal complaint against both accused, pursuant to Sections 220 and 221 of the National Internal Revenue Code of 1997, within five (5) days from notice, pursuant to Section 6 of Rule 112 of the Revised Rules of Criminal Procedure, as amended.

Sections 220 and 221 of the NIRC of 1997 clearly provide:

“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.**" (*Emphasis Ours*)

A perusal of the letter referral dated January 27, 2005 shows that Regional Director Alfredo V. Misajon failed to allege appropriate authorization from the Commissioner of Internal Revenue, as required under the aforequoted legal provisions.

WHEREFORE, premises considered, for failure to show appropriate authority to file the criminal complaint against both accused Socorro Niro and Olivia F. dela Cruz pursuant to Sections 220 and 221 of the NIRC of 1997, the above captioned case is hereby **DISMISSED**, without prejudice.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


ERLINDA P. UY
Associate Justice


OLGA PALANCA-ENRIQUEZ
Associate Justice