Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

FELONILA Z. CALUAG,
(438 Saluysoy, Meycauayan, Bulacan or 320 Violeta Street, Barangay Saluysoy, Meycauayan, Bulacan)
(AT-LARGE)
Accused.

CTA Crim. Case No. 0-326
For: Violation of Section 255, paragraph 1, of the Tax Reform Act of 1997, as amended.

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

APR 10 2013
3:15 p.m.

x---x

RESOLUTION

On March 21, 2013, an Information[1] was filed before this Court by Associate Prosecution Attorney II Benjamin R. Samson against herein accused, FELONILA Z. CALUAG, for alleged violation of Section 255, paragraph 1 of the National Internal Revenue Code (NIRC) of 1997, as amended, alleging the following:

> "That on various dates in 2009 in Sta. Maria, Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a registered taxpayer of Revenue

[1] Docket, pp. 4-5.

District No. 25B and with Tax Identification Number 173-100-004-000, sold refined gold to the *Bangko Sentral ng Pilipinas* totaling 4,249.120 troy ounces valued at One Hundred Eighty-Six Million Four Hundred Eighty-Two Thousand Five Hundred Eighty-Eight Pesos and Twenty-Four Centavos (Php 186,482,588.24), excluding refining charges, and despite receipt of payment amounting to One Hundred Eighty-Six Million Three Hundred Thirty-Five Thousand Five Hundred Twenty-One Pesos and Ninety Centavos (Php 186,335,521.90), said accused, although required by law and the rules and regulations to file her annual income tax return for taxable year 2009 on or before April 15, 2010, feloniously, knowingly and willfully failed to file said annual income tax return, which resulted in said accused's failure to pay the correct income tax, to the damage and prejudice of the Government.

CONTRARY TO LAW."

Section 7 (b) (1) of Republic Act No. 9282, which took effect on April 23, 2004, amending Republic Act No. 1125 provides:

"Sec. 7. Jurisdiction.— The CTA shall exercise:

(a) xxx xxx xxx

(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 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 (P1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the**

> **jurisdiction of the CTA shall be appellate.** Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil 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 the civil action, and no right to reserve the filling of such civil action separately from the criminal action will be recognized.

In relation thereto, the 2005 Revised Rules of the Court of Tax Appeals, as amended, specifically enumerated the cases that fall within the jurisdiction of the CTA Division and En Banc. Section 3 of Rule 4 of the said revised rules enumerates the cases within the jurisdiction of the Court in Division, to wit:

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

To begin with, this Court would like to emphasize that in criminal cases, jurisdiction is determined by the allegations in the complaint or information.[2] The Court of Tax Appeals, being a court of special jurisdiction, can only take cognizance of such matters that are clearly within its jurisdiction. Hence, in order for this Court to acquire jurisdiction, the Information must clearly show that the principal amount of taxes and fees claimed, exclusive of charges and penalties, is at least P1,000,000.00.

However, in the case at bench, this Court observed that while the Information stated the value of refined gold and the amount of payment received by the accused from the *Bangko Sentral ng Pilipinas*, we note that no amount whatsoever was mentioned in the Information with respect to the principal amount of duties and taxes being claimed. Thus, the Information failed to meet the minimum jurisdictional amount prescribed by the law and rules in order to confer jurisdiction to this Court. Consequently, we are left with no recourse but to dismiss, without prejudice, the instant criminal case.

WHEREFORE, premises considered, the above-captioned case is hereby **DISMISSED, WITHOUT PREJUDICE,** for lack of jurisdiction.

SO ORDERED.

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

---

[2] Lavibo v. Court of Appeals, G.R. No. 123462, 271 SCRA 143, 146 (1997) citing Asset Privatization Trust v. Court of Appeals, 229 SCRA 627.