REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION
* * * * * *

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

C.T.A. CRIM. CASE NO. O-089
(I.S. No. 2007-438)
For: Violation of Sec. 3602 in relation to Sec. 2503 of the Tariff and Customs Code of the Philippines

Members:

ACOSTA, *PJ, Chairman*
BAUTISTA, *and*
CASANOVA, *JJ.*

CLODUALDO JUSTO
No. 642 E. McArthur Hi-way
Caloocan City (At Large), and

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

Promulgated:

NOV 13 2008 9:10 am

x---x

RESOLUTION

For resolution is the "Motion to Quash" filed by the accused Nolly E. Mariano on September 11, 2008. In the Motion, the accused moves to quash the Information on the following grounds:

a) The Honorable Court of Tax Appeals has no jurisdiction to hear and try the case; and

b) The facts charged, in Criminal Case No. O-089, do not constitute an offense under Section 3602 of the Tariff and Customs Code of the Philippines, as amended.

On September 17, 2008, the Court issued a Resolution ordering State Prosecutor Philip L. Dela Cruz to file a Comment to the "Motion to Quash," and to comply with the Court's Resolution dated August 28, 2008, requiring him to make the necessary formal correction in the Information against the accused Clodualdo Justo and Nolly E. Mariano, within five (5) days from receipt of the Resolution dated September 17, 2008.

On September 25, 2008, the Court received the "Manifestation and Motion" of the accused Nolly E. Mariano, which the Court noted and granted in its Resolution dated October 2, 2008.

On October 7, 2008, the Court received the "Entry of Appearance (With Motion for Extension of Time to Comply with the 17 September 2008 Order of the Court)" filed by registered mail by State Prosecutor Cielito C. Celi on September 29, 2008.

On October 21, 2008, the Court noted the "Entry of Appearance" of State Prosecutor Cielito C. Celi and granted his "Motion for Extension of Time to Comply with the 17 September 2008 Order of the Court." The State Prosecutor was given an additional period of ten (10) days from receipt of the Resolution within which to comply with the Resolution dated September 17, 2008.

On October 30, 2008, State Prosecutor Cielito C. Celi filed an "Opposition to Motion to Quash with Manifestation."

In the Opposition, he insists that the value of the subject shipment is worth One Million Two Hundred Forty Two Thousand Two Hundred Thirty Eight Pesos 14/100 (P1,242,238.14), and that the facts established in this case constitutes an offense because it is very clear that the accused did not secure a permit from the Bureau of Animal Industry and National Meat Inspection Board, which is a violation of Section 3602 in relation to Section 2503 of the Tariff and Customs Code of the Philippines, as amended. He also manifests that the copy of the Resolution dated August 28, 2008 was received only on October 27, 2008.

After a careful study of the records, the Court hereby finds the "Motion to Quash" meritorious.

Section 7 of Republic Act No. 9282, which took effect on April 23, 2004, amending Republic Act No. 1125 [The Law Creating the Court of Tax Appeals (CTA)] provides:

> "**Sec. 7. *Jurisdiction.*** — The CTA shall exercise:
>
> (a) 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 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. 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.
>
> (2) xxx" *(Emphasis supplied)*

Pursuant to the aforequoted provision, the CTA has exclusive original jurisdiction over all criminal offense arising from violations of the National Internal Revenue Code or the 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 P1,000,000.00 or more. Where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than P1,000,000.00 or where there is no specified amount claimed, the same shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate.

In this case, the Information filed on July 10, 2008 reads:

> "The undersigned State Prosecutor of this Department of Justice, hereby accuses CLODUALDO JUSTO and NOLLY E. MARIANO of violation of Section 3602 in relation to Sec. 2503 of the Tariff and Customs Code of the Philippines, committed as follows:
>
> That on or about the period between June, July to September 2006, at Manila International Container Port (MICP), South Harbor, Manila, and within the jurisdiction of this Honorable court, accused CLODUALDO JUSTO and NOLLY E. MARIANO, conspiring and confederating with each other, did then and there, willfully, unlawfully, and feloniously import/bring in the Philippines one (1) shipment of 1 x 4 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 Two Thousand Two Hundred Thirty Eight & 14/100 (P1,242,238.14) Pesos**, which was in violation of Memorandum No. 11,

Series of 2005, that banded importation of meat from Hongkong and China, causing damage and prejudice to the Philippine Government.

CONTARY TO LAW." *(Emphasis supplied)*

Evidently, the Information failed to state the principal amount of taxes and fees claimed. Moreover, the computation of the value of the subject shipment by COO II Julius Peralta, Section 1, Formal Entry Division (FED), Manila International Container Port (MICP), reveals that the principal amount of taxes and fees claimed is less than P1,000,000.00 or P211,923.00 to be exact.[1]

In view of the foregoing, the CTA has no jurisdiction over the charge, jurisdiction being vested with the regular Courts. This Court, therefore, is left with no recourse, but to dismiss the case.

WHEREFORE, the "Motion to Quash" is hereby **GRANTED**. Accordingly, the instant case is **DISMISSED** for lack of jurisdiction, without prejudice to the filing of the same in the proper forum.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

---

[1] *Rollo*, p. 29, Annex "A" of the Complaint-Affidavit of Atty. Michael A. Vito Cruz.