Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

RENATO E. HERRERA,
Accused.

CTA Crim. Case No. 0-077
For: Attempt to Evade or Defeat Tax

Members:
ACOSTA, *Chairperson*,
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:

OCT 24 2008 ;2:27 pm

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RESOLUTION

On May 26, 2008, the Court promulgated a Resolution ordering the counsel for the accused to file a written "Manifestation with Motion" with regard to its oral motion to defer the arraignment of accused-Renato E. Herrera. In compliance with the said resolution, counsel for the accused filed a "Manifestation with Motion" on the same day, attaching thereto as Annex "1" a certified true copy of the Resolution of the Secretary of Justice promulgated on July 19, 2007 the dispositive portion of which reads:

> *"WHEREFORE, premises considered, the assailed resolution is hereby MODIFIED. The State Prosecutor handling this case is directed to WITHDRAW the information against respondent Renato E. Herrera for tax evasion under Sections 51 (A)(a) and 74, in relation to Sections 254 and 255, and violations of Section 275 of the National Internal Revenue Code and report the action taken thereon within ten (10) days from receipt hereof. On the other hand, the Bureau of Internal Revenue (BIR) is directed to determine the correct tax liabilities of the respondent and to*

> *collect the same and further directed to inform this office of the action taken thereon.*
>
> *SO ORDERED."*

Accused thus, moves for the dismissal of the instant case based on the above-quoted resolution of the Secretary of Justice.

On June 27, 2008, the Court promulgated a Resolution, to wit:

> *"State Prosecutor II Stewart Allan A. Mariano is hereby ordered to submit to this Court a copy of the Motion for Reconsideration filed by the BIR and its attachments, if any, and to inform this Court of the status of the said motion within ten (10) days from receipt of this Resolution.*
>
> *Accordingly, the resolution of the motion for the dismissal of this case is hereby **HELD IN ABEYANCE** pending compliance of the State Prosecutor of this Resolution.*
>
> ***SO ORDERED**."*

On September 10, 2008, another Resolution was promulgated by the Court, to wit:

> *"However, records show that State Prosecutor II Allan A. Mariano has not yet complied with the above-mentioned Resolution. Therefore, State Prosecutor II Allan A. Mariano is hereby **ORDERED** to comply with the June 27, 2008 Resolution within a final and non-extendible period of ten (10) days from receipt of this Resolution. Fail not under penalty of law.*
>
> ***SO ORDERED."***

Up to date, no compliance has been submitted by State Prosecutor II Stewart Allan A. Mariano. Accordingly, adopting the resolution of the Secretary of Justice in I.S. No. 2005-278 entitled, *"Bureau of Internal Revenue vs. Renato E. Herrera"* promulgated on July 19, 2007, the instant case is hereby **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

(Inhibited)
LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice