REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NO. O-1024** For: Violation of Section 255, in rel. to Sec. 236 (d) of National Internal Revenue Code of 1997, as amended
- versus -	
GRACE A. YAP, BERNADETTE P. NARCELLES and MALOU C. CATAYLO (GRACO HOLDINGS LIMITED INC,) (247 Balayan St., Ayala Alabang 1780 Muntinlupa City and/or Lot 5 Block 6, Camella Homes, Bacoor 4102 Cavite and/or 25 Sun Valley Drive, NAIA, 1301, Pasay City and/or 6 Sta. Agueda St., Bo Ibayo, Sto. Niño 1704 Parañaque City), Accused.	Members: **RINGPIS-LIBAN,** *Chairperson*, **MODESTO-SAN PEDRO,** and **FERRER-FLORES,** JJ. Promulgated: MAR 30 2023 11:52 a.m.

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RESOLUTION

On February 1, 2023, an Information was filed against accused GRACE A. YAP, BERNADETTE P. NARCELLES and MALOU C. CATAYLO as responsible corporate officers of Graco Holdings Limited Inc. for violation of Section 255 in relation to Section 236 of the National Internal Revenue Code (NIRC) of 1997, as amended, allegedly committed as follows:

> "Sometime on May 2018 and thereafter, in the City of Makati, the Philippines, accused, being the Chairman and President, Treasurer and Corporate Secretary respectively of GRACO HOLDINGS LIMITED INC., a corporate taxpayer, did and there willfully and unlawfully fail pay tax liabilities for the year 2009, to wit:

Kind of Tax	Deficiency Tax	Surcharge	Interest	TOTAL AMOUNT DUE
Income Tax	4,716,542.53	2,358,271.27	7,626,584.66	14,701,398.46
Value Added Tax	32,925.57		54,683.51	87,609.08
Expanded Withholding Tax	3,360.00		5,598.77	8,958.77
Total:	4,752,828.10	2,358,271.27	7,686,866.94	14,797,966.31

despite prior notices, post notices and a final notice issued by the Bureau of Internal Revenue on May 10, 2018, to the damage and prejudice of the government in the aforesaid total amount of Php14,797,966.31 (Fourteen Million, Seven Hundred Ninety-Seven and Nine Hundred Sixty-Six pesos and Thirty-One Centavos).

CONTRARY TO LAW."

Upon cursory examination of attachments in the Information, the Court found that some of the said supporting documents were mere photocopies.

The Court further observed the following:

1. While the Information as well as the dispositive portion of the Department of Justice (DOJ) Resolution dated January 20, 2023 states that the above-named accused Yap, Narcelles and Cataylo are being charged for violation of Section 255 in relation to **Section 236 (d)** of the National Internal Revenue Code, as amended, the title and body of the same DOJ Resolution shows that it is a violation of Section 255 in relation to **Section 253 (d)** of the same Code;

2. The Referral Letter dated August 31, 2022 has indicated that Revenue Officers Edmundo C. Uy, Lina I. Inductivo, Roel Q. Dagan, Leo R. Paceno, Rhodora P. Cantilang, Odilon A. Albornoz, Reynaldo M. Laureta and Jan Jenson B. Teologo executed the Joint Complaint-Affidavit. Only Cantilang, Albornoz, and Teologo are signatories to the Joint Complaint-Affidavit; and

3. Complainant Revenue Officer Odilon A. Albornoz has **failed to affix his/her signature** on the Joint Complaint-Affidavit.

Moreover, the crimes charged in this case pertain to violation of Section 255 in relation to Sections 236(d) of the NIRC of 1997, as amended, which states:

> "SECTION 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* — Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.
>
> Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of internal revenue office wherein the same was actually filed shall, upon conviction therefore, be punished by a fine of not less than Ten thousand pesos (P10,000) but not more than Twenty thousand pesos (P20,000) and suffer imprisonment of not less than one (1) year but not more than three (3) years."

On the other hand, Section 236 (D) of the NIRC of 1997, as amended provides:

> "SECTION 236. *Registration Requirements.*—
>
> xxx xxx xxx
>
> "(D) *Transfer of Registration.*— In case a registered person decides to transfer his place of business or his head office or branches, it shall be his duty to update his registration status by filing an application for registration information update in the form prescribed therefor."

The term 'person' means an individual, a trust, estate or corporation. [1]

In this case, the person required to pay the alleged deficiency taxes, surcharges, and interests for taxable year 2009, which allegedly committed the violations under the NIRC of 1997, as amended, is the corporate taxpayer Graco Holdings Limited Inc.

After a careful perusal of the Information, only the responsible corporate officers of Graco Holdings Limited Inc., namely, Yap (Chairman and President), Narcelles (Treasurer) and Cataylo (Corporate Secretary) were charged as accused; however, Graco Holdings Limited Inc. was not charged in the Information.

Based on the foregoing discussions, this Court concludes that its responsible officers cannot be impleaded in the Information without accusing the corporate taxpayer in the Information, the person obliged to pay the alleged tax liabilities.

WHEREFORE, for failure of the plaintiff to include Graco Holdings Limited Inc. as accused, the case is **DISMISSED** without prejudice.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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[1] Section 22(A) of the 1997 NIRC, as amended.