

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

**C.T.A. CRIM. CASE NO. O-165
(I.S. No. 04H-19916)**

-versus-

*For: Violation of Section 254 in relation
to Sections 56(a), 114(a) &
257(B)(8) of the National Internal
Revenue Code*

VERILYN R. AMARANTE
c/o Rm. 3E Osmeña Bldg.
1991 A. Mabini St., Malate, Manila,
Accused.

Members:

**BAUTISTA, Chairperson
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, II.**

Promulgated:

MAR 1 2010 *2:35 p.m.*
ABT Fernando

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RESOLUTION

Accused, Verilyn R. Amarante, is charged before this Court with the violation of Section 254 in relation to Sections 56(a), 114(a) and 257(B)(8) of the National Internal Revenue Code ("NIRC") in an Information alleging the following:

"The undersigned accuses **VERILYN R. AMARANTE** of a Violation of Section 254 in relation to Sections 56(a), 114(a) and 257(B)(8), NIRC, committed as follows:

That in or about the taxable year 2001 to 2002, inclusive, in the City of Manila, Philippines, the said accused, being then Corporate Accountant of UNITED TRAVEL CONSULTANTS, INC. with business address at Rm. 3E Osmeña Building, 1991 A. Mabini St., Malate, this City, did then and there willfully and unlawfully attempt to evade or defeat tax imposed by the Bureau of Internal Revenue, by making false entries, records or reports by preparing/executing a summary list of Sales and Purchases for the year 2001 as P1,383,249.14 when in truth and in fact, the same is P9,782,979.20 thereby making a willful and deliberately assertion of falsehood neglecting to pay the deficiency value-added tax in the amount of P979,677.16, to the damage and

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prejudice of the Republic of the Philippines, in the aforesaid amount of P3,886,816.50.

Contrary to law.”

Section 7 (b) (1) 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 filing of such civil action separately from the criminal action will be recognized.

(2) xxx “

Pursuant to the aforequoted provision, this Court 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.



It is doctrinal that in criminal cases, jurisdiction is determined by the allegations in the complaint or information.¹ In this case, the Information alleges that the deficiency value-added tax amounts to P979,677.16. Thus, the information failed to show that the principal amount of taxes and fees claimed, exclusive of charges and penalties, is at least P1,000,000.00 which is the required minimum amount that would vest jurisdiction upon this Court.

The allegation in the Information that the accused willfully and unlawfully attempted “to evade or defeat tax imposed by the Bureau of Internal Revenue, by making false entries, records or reports by preparing/executing a summary list of Sales and Purchases for the year 2001 as P1,383,249.14 when in truth and in fact, the same is P9,782,979.20 thereby making a willful and deliberately assertion of falsehood neglecting to pay the deficiency value-added tax in the amount of P979,677.16, to the damage and prejudice of the Republic of the Philippines, in the aforesaid amount of P3,886,816.50” clearly shows that the amount of deficiency value-added tax claimed is P979,677.16 only, thus, below the jurisdictional amount provided for in Sec. 79 (b) (1) of Republic Act No. 9282.

It bears stressing that in pleadings filed in courts of special jurisdiction, the special facts giving the court jurisdiction must be specially alleged and set out.² Succinctly, the Information filed against the accused failed in this regard.

Parenthetically, it appears that the total amount of P3,886,816.50 stated in the Information includes other tax liabilities of the accused aside from the alleged deficiency value-added tax amounting to P979,677.16 only. Records show that the amount of P3,886,816.50 actually pertains to the Information filed in another criminal case filed before this Court, docketed as **C.T.A. CRIM. CASE NO. O-164**,

¹People of the Philippines v. Cawaling, et. al., G.R. No. 117970, 293 SCRA 267, July 28, 1998, citing *Lin vs. Court of Appeals*, 251 SCRA 408, 418, December 19, 1995.

²Tirona v. Alejo, G.R. No. 129313, 367 SCRA 17, October 10, 2001.

People of the Philippines vs Verilyn R. Amarante, involving the same accused.

The Information therein reads as follows:

“The undersigned accuses **VERILYN R. AMARANTE** of a Violation of Section 255 in relation to Sections 52(a), 114(a) and 257(B)(8), NIRC, committed as follows:

That on or about November 14, 2002 and for sometime prior and subsequent thereto, in the City of Manila, Philippines, the said accused being then Corporate Accountant of UNITED TRAVEL CONSULTANTS, INC. with business address at Rm. 3E Osmena Building, 1991 A. Mabini St., Malate, this City, having filed Monthly Value-Added Tax Declaration and Quarterly Income Tax Purchases filed by YAZAKI TORRES MANUFACTURING, INC. VAT-Registered Taxpayer and purchaser of services from the said UNITED TRAVEL CONSULTANTS, INC. for the same year, it has been found that there is due and collectible tax from said corporation, to wit: Deficiency Value-Added Tax in the amount of P979,677.16 and Deficiency Income Tax in the amount of P2,907,139.34 or all in the amount of P3,886,816.50 and without formally protesting against or appealing the same, did then and there willfully and unlawfully failed to file, return, supply correct and accurate information, refuse to neglect to pay said deficiencies despite notice and demand made upon her to do so, and failed to refund excess taxes withheld on compensation to the damage and prejudice of the Republic of the Philippines, in the aforesaid amount of P3,886,816.50, Philippine Currency.

Contrary to law.”

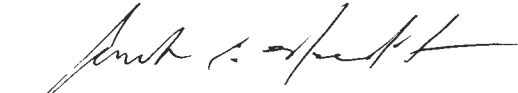
As alleged in the afore-quoted Information filed in C.T.A. CRIM. CASE NO. O-164 , accused has a deficiency Income Tax amounting to P2,907,139.34 in addition to her deficiency Valued-Added Tax of P979,677.16 resulting to a total deficiency tax liability of P3,886,816.50.

WHEREFORE, premises considered, the Information filed against the accused Verilyn R. Amarante is hereby **DISMISSED** for lack of jurisdiction, without prejudice to the filing of a new Information in the proper forum.

SO ORDERED.


LOVELL R. BAUTISTA
Associate Justice


OLGA PALANCA-ENRIQUEZ
Associate Justice


AMELIA COTANGCO-MANALASTAS
Associate Justice

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