REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NO. O-1066** For: Violation of National Internal Revenue Code Sec. 255 in relation to Secs. 253 (d) and 256
- versus -	
EARLY BIRD BREAKFAST CLUB, INC., KENDRICK CU CO, NATALIA BLANCA GUADINES, (c/o Early Bird Breakfast Club, Inc., Unit C G/F Fort Pointe 2 Bldg., The Fort Bonifacio Complex, 28th Street, Bonifacio Global City, Fort Bonifacio, Taguig City), Accused.	Members: **RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.* Promulgated: NOV 30 2023

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RESOLUTION

This addresses the prosecution's **Compliance with the Attached Amended Information** *(Compliance)*, filed *via* courier on September 22, 2023 and received by this Court on September 26, 2023.

At the outset, the prosecution filed an Information on July 10, 2023, attaching therewith supporting documents, against herein accused for violation of Section 255 in relation to Sections 253 (d) and 256 of the National Internal Revenue Code (NIRC) of 1997, as amended.

However, since the Court noted that the amount alleged in the Information is inclusive of interest, the Court cannot determine whether the case is within its jurisdiction. In addition, the Court observed that the signature portion in the Information does not contain the specific address of the prosecution as required under Section 6 of Rule 6 of the Revised Rules of the Court of Tax Appeals (RRCTA).

Hence, the prosecution was given a period of five (5) days from notice within which to amend the information to clearly state the principal amount of tax, exclusive of interest and penalties, as well as to make necessary clarifications in relation to the required information of the signing prosecutors.[1] Consequently, the determination of probable cause for the issuance of Warrant of Arrest against the accused was held in abeyance.[2]

Subsequently, the Judicial Records Division of this Court reported that the prosecution failed to comply with the Resolution dated August 3, 2023.[3]

The Court then received the instant *Compliance* only on September 26, 2023.

At this juncture, the Court is now confronted whether the instant *Compliance* shall be considered in determining whether there is probable cause to issue a warrant of arrest in this case.

A careful and thorough perusal of the records reveals that the prosecution received on **August 17, 2023** the Court's Resolution dated August 3, 2023.[4] Counting five (5) days therefrom, the prosecution had until August 22, 2023 to amend the Information and to clarify the failure of the signing prosecutor to comply with Section 6 of Rule 6 of the RRCTA.

The prosecution, however, only filed its *Compliance* on September 22, 2023, which was a month late from the date it was supposed to comply with the Court's directive. Moreover, the prosecution neither stated in its *Compliance* any valid and justifiable reason for the belated filing thereof with a prayer for its admission, nor moved for an extension of time before the lapse of the given period to comply therewith.

Considering the foregoing, the said *Compliance* is deemed as if it has not been filed.

Without taking into account the prosecution's *Compliance*, the Court cannot determine whether it has jurisdiction in this case to determine the existence of a probable cause.

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1 Resolution dated August 3, 2023, Docket.
2 *Id.*
3 *Records Verification* dated September 7, 2023, Docket.
4 *Notice of Resolution* dated August 3, 2023, Docket, p. 74; *Records Verification* dated September 7, 2023.

In *Gomez vs. People*,[5] the Supreme Court, citing *Maximo vs. Villapando, Jr. (Maximo)*, held that the court does not acquire jurisdiction over the case when there is a defect in the information, to wit:

> "Finally, this Court in *Maximo v. Villapando, Jr. (Maximo)* finally institutionalized *Villa* when it categorically declared that: (1) '[a]n Information, when required by law to be filed by a public prosecuting officer, cannot be filed by another;' (2) **'[t]he court does not acquire jurisdiction over the case because there is a defect in the Information;'** and (3) '[t]here is no point in proceeding under a defective Information that could never be the basis of a valid conviction.' [. . .] " *(Emphasis supplied; citations omitted)*

WHEREFORE, premises considered, the filing of the prosecution's **Compliance with the Attached Amended Information** is **NOTED WITHOUT ACTION**.

Accordingly, the instant Information 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

[5] G.R. No. 216824, November 10, 2020.