CTA Form No. 8

23-000048-0006

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM. CASE NO. O-1027

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

RONALDO STA. MARIA MANALO RS MANALO ENTERPRISES Unit 1 Don Bosco Compound Road 10 Magsaysay Brgy. 116 Zone 009 Tondo, Manila 1013,
Accused.

NOTICE OF RESOLUTION

To:

SENIOR ASSISTANT CITY PROSECUTOR GERARDO L. MERCADO
ASSISTANT CITY PROSECUTOR NILO N. MARTIN
Office of the City Prosecutor
Manila City Hall
Manila City

COMMISSIONER OF INTERNAL REVENUE
Thru: Prosecution Division
Bureau of Internal Revenue
BIR National Office Building
BIR Road, Diliman, Quezon City

GREETINGS:

You are hereby notified by these presents that on **May 26, 2023,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 30, 2023.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA CRIM. CASE NO. O-1027** For: Violation of Section 255 of RA 8424
- versus -	Members:
RONALDO STA. MARIA MANALO RS MANALO ENTERPRISES Unit 1 Don Bosco Compound Road 10 Magsaysay Brgy. 116 Zone 009 Tondo, Manila 1013 *Accused.*	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.* Promulgated: MAY 26 2023; 1:36 PM

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RESOLUTION

In a Resolution dated April 26, 2023, the Court directed the prosecution to submit proof of actual receipt of the Formal Letter of Demand (FLD) and its corresponding Assessment Notice (AN) by the accused within a period of five (5) days from receipt.

On May 4, 2023, the prosecution received the said Resolution. The prosecution had five (5) days therefrom, or until May 9, 2023, within which to submit the required proof of actual receipt.

Records Verification dated May 12, 2023, issued by the Judicial Records Division of the Court of Tax Appeals, reveals that the prosecution failed to submit any proof of actual receipt of the FLD and the AN within the prescribed period.

To reiterate, **the crime of failure to pay tax is committed only after receipt of the final notice and demand for payment, coupled with the willful refusal to pay the taxes due within the**

allotted period, *Emilio E. Lim, Sr. and Antonia Sun Lim vs. Court of Appeals*,[1] declares:

> "Inasmuch as the final notice and demand for payment of the deficiency taxes was served on petitioners on July 3, 1968, it was only then that the cause of action on the part of the BIR accrued. **This is so because prior to the receipt of the letter-assessment, no violation has yet been committed by the taxpayers. The offense was committed only after receipt was coupled with the willful refusal to pay the taxes due within the allotted period**. The two criminal informations, having been filed on June 23, 1970, are well within the five-year prescriptive period and are not time-barred." (*Boldfacing supplied*)

Otherwise stated, absent any proof that the final notice and demand for payment was **actually received** by the taxpayer, it cannot be said that an offense has been committed because prior to the receipt of the assessment, no violation of the National Internal Revenue Code (NIRC) of 1997, as amended, has yet been committed.

Considering that the prosecution failed to submit any proof of actual receipt of the FLD and the AN within the prescribed period, the Court is unable to confirm the existence of probable cause to issue a warrant of arrest against the accused. Thus, the Court is constrained to dismiss the case for lack of probable cause.

WHEREFORE, premises considered, the Amended Information filed on March 22, 2023, is hereby **DISMISSED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

(*On Leave*)
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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[1], G.R. No. L-48134-37, October 18, 1990.