

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM. CASE NO. O-1013

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

NOTICE OF RESOLUTION

WESTGATE PHILIPPINES
TRADING & MERCHANDISING,
INC. and ANTONIO C. BERNAL,
Accused.

To:

PROSECUTOR GENERAL RICHARD ANTHONY D. FADULLON
ASST. STATE PROS. HJALMAR M. QUINTANA, JR.
Department of Justice
Padre Faura Street, Ermita
1000 Manila

COMMISSIONER OF INTERNAL REVENUE
Thru: Prosecution Division
Rtoom 704, BIR National Office Bulding
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

DIRECTOR
Thru: General Services Division
National Bureau of Investigation
Building C and D, Filinvest Cyberzone
Bay City, Pasay City

PNP CHIEF
Thru: CIDG
Philippine National Police
National Headquarters
Camp BGen Rafael Tagle Crame
EDSA, Quezon City

CHIEF, WARRANT AND SUBPOENA SECTION
Manila Police District
United Nations Avenue
Ermita, Manila

GREETINGS:

You are hereby notified by these presents that on **December 18, 2024**, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **December 18, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE
PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-1013
For: Violation of Section 255, in
relation to Sections 253(d) and 256
of the NIRC of 1997, as amended

-versus-

Members:

WESTGATE PHILIPPINES
TRADING &
MERCHANDISING, INC.
and ANTONIO C.
BERNAL,

DEL ROSARIO, P.J., Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.

Promulgated:

Accused.

DEC 18 2024 9:05 AM

X- - - - -X

RESOLUTION

On November 13, 2024, the Court directed plaintiff to submit proof of mailing and receipt of the Formal Letter of Demand and Final Assessment Notice (FLD/FAN) dated January 12, 2018, within five (5) days from notice.

To recall, the Joint Complaint-Affidavit attached to the Information dated June 4, 2021, alleged that the FLD/FAN issued on January 12, 2018, was served on accused¹ through registered mail under Registry Receipt No. 902432² and was subsequently received by accused.³

Pursuant to the Court's policy to review archived cases, accompanying documents were re-evaluated. Upon re-evaluation, it became evident that no proof or dates of mailing and receipt of the FLD/FAN by accused were provided. Thus, given plaintiff's claim that the FLD/FAN was served and received by accused, the Court ordered plaintiff to submit proof of mailing and receipt of the FLD/FAN.

¹ Docket, p. 17, Joint Complaint-Affidavit, par. 10.
² *Id.* at 16, Joint Complaint-Affidavit, par. 3; 32, Annex "I".
³ *Id.* at 17, Joint Complaint-Affidavit, par. 11.

RESOLUTION

CTA Crim Case No. O-1013

People of the Philippines v. Westgate Philippines Trading & Merchandising, Inc. and Antonio C. Bernal

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On November 29, 2024, plaintiff filed an *Ex-Parte Compliance*, submitting proof of mailing of the FLD/FAN. This comprised certified true copies of a letter from the Bureau of Internal Revenue (BIR) dated March 9, 2018, addressed to the postmaster of the Central Post Office, Lawton, Manila, along with Registry Receipt No. 902432 dated March 9, 2018.

The BIR Letter dated March 9, 2018 instructs the Postmaster to mail the enclosed FLD/FAN to accused. Registry Receipt No. 902432 dated March 9, 2018, supports the allegation in the Joint Complaint-Affidavit that the FLD/FAN was dispatched to accused⁴ *via* registered mail under the said receipt number.⁵

While this submission confirms that the FLD/FAN was mailed to accused on March 9, 2018, it falls short of substantiating the claim in the Joint Complaint-Affidavit that accused actually received the document.

The Court emphasizes that, in the absence of proof of receipt of the final notice and demand for payment by the taxpayer, it cannot be concluded that an offense has been committed. This is because prior to the receipt of the letter-assessment, no violation has yet been committed by the taxpayer.⁶

WHEREFORE, the Information is **DISMISSED** and the Warrant of Arrest dated January 10, 2023 and Alias Warrant of Arrest dated February 27, 2023, both issued against Antonio C. Bernal are **CANCELLED** and **SET ASIDE**.

SO ORDERED.


ROMAN G. DEL ROSARIO
Presiding Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


LANEE S. CUI-DAVID
Associate Justice

⁴ *Id.* at 17, Joint Complaint-Affidavit, par. 10.

⁵ *Id.* at 16, Joint Complaint-Affidavit, par. 3; 32, Annex "I".

⁶ *Lim, Sr., et al. v. Court of Appeals and People*, G.R. Nos. L-48134-37, October 18, 1990.