

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

FIRST DIVISION

CTA CRIM. CASE NO. O-539

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

**ALBEVA KONSTRUKT &
DEVELOPMENT CORPORATION
and ALBERTO R. MACARAEG,
SR., 223 Int. 2 Tapuak District,
Dagupan City, and/or 17 Mabuhay cor.
Chronicle Street West Triangle,
Quezon City,**

Accused.

**NOTICE OF
RESOLUTION**

To:

**PROSECUTOR GENERAL BENEDICTO A. MALCONTENTO
SENIOR ASSISTANT STATE PROSECUTOR TOEL G. AUSTRIA**
Department of Justice
Padre Faura, Ermita, Manila

COMMISSIONER OF INTERNAL REVENUE
Thru: Prosecution Division
Room 703, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

GARCIA HABACON & HAN
Unit 1409 Corporate 145 Building
145 Mother Ignacia St., Brgy. South Triangle
Quezon City

ALBEVA KONSTRUKT & DEVELOPMENT CORP.
represented by **ALBERTO R. MACARAEG, SR.**
223 Int. 2, Tapuak District, Dagupan City

and/or

17 Mabuhay cor. Chronicle Street, West Triangle, Quezon City

DIRECTOR
National Bureau of Investigation
Taft Avenue, Manila

REGIONAL DIRECTOR
National Bureau of Investigation
Dagupan District Office
AB Fernandez, West Dagupan City
Pangasinan

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

CHIEF, WARRANT AND SUBPOENA SECTION
Quezon City Police District
Camp BGen Tomas Karingal
Sikatuna Village, Diliman
Quezon City

CHIEF, WARRANT AND SUBPOENA SECTION
Dagupan City Police Station
Dagupan City, Province of Pangasinan

GREETINGS:

You are hereby notified by these presents that on **October 10, 2024**, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 10, 2024.**

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,

- versus -

CTA CRIM. CASE NO. O-539

*For: Violation of Section 255, in
relation to Sections 253(d) and 256,
of the NIRC of 1997, as amended
(Failure to pay VAT)*

ALBEVA KONSTRUKT &
DEVELOPMENT
CORPORATION and ALBERTO
R. MACARAEG, SR.,
223 Int. 2 Tapuak District,
Dagupan City, and/or 17 Mabuhay
cor. Chronicle Street West
Triangle, Quezon City –
At Large,

Members:

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

Accused.

Promulgated: OCT 10 2024; 8:20AM

X ----- X

RESOLUTION

In the Court's Resolution dated July 18, 2024, plaintiff was ordered to submit, within five (5) days from notice, proof of mailing and receipt of the Final Assessment Notice (FAN) dated December 31, 2010 via registered mail on April 11, 2011 under Registry Receipt No. 1739.

To recall, it was alleged in the Joint Complaint-Affidavit attached to the Information dated July 13, 2015 that the FAN dated December 31, 2010 was sent to accused through registered mail on **April 11, 2011, under Registry Receipt No. 1739.**¹ However, the documents attached to the Information do not include said registry receipt. Thus, plaintiff was ordered to submit the same to the Court.

On August 21, 2024, plaintiff filed its Compliance submitting the "Certified True Copy of the proof of mailing and receipt of the Final

¹ CTA Docket, p. 27.

Assessment Notice on April 11, 2011 under Registry Receipt No. 1739," which are reproduced hereunder for easy reference:

PHILIPPINE POSTAL CORPORATION

PHILIPPINES

Penalty for private use to avoid payment of postage P300 fine or six months imprisonment, or both

Form no. 1548

Postmark of delivery Office

2053 1/2

RETURN TO -

Name of sender

Street and number or P.O. Box

Post Office at

Province of

LN Task Force-Secretariat, Bureau of Internal Revenue, Rm. 119

BIR- National Office Bldg., BIR Road Diliman Quezon City

BIR - NOB, Quezon City

SENDER OF REGISTERED ARTICLE MAY USE THIS SPACE FOR THE PRIVATE FILING GUIDE

FILE CASE ON ACCOUNT NUMBER

RD Ranches

038 - TRS - 07 - 00 - 00002

FORM NO. 1548

REGISTRY RETURN RECEIPT

RECEIVED from the postmaster at

Registered (letter parcel) No.

Posted at

Philippines

Addressed to

ALBEVA KONSTRUKT & DEV. CORP.

(Name of the addressee)

FAN - 038 - LNTF - 07 - VT - 077

Date

(Date of delivery)

(Signature or name of addressee)

(Signature of addressee's agent)

A registered article must not be delivered to anyone but the addressee, or upon the addressee's written order, in which case the authorized agent must write the addressee's name on the proper space and then affix legibly his own signature below it.

When this card has been properly accomplished, it must be postmarked clearly to show the actual date of delivery and mailed immediately to the sender's address shown at the other side hereof by ordinary mail.



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Party out *to [illegible]*
187 [illegible]

1st attempt 4-14-11
2nd " " 4-15-11
3rd " "

ALBEVA KONSTRUKT & DEV. CORP.
17 Mabuhay Cor. Chronicle St.
West Triangle, Quezon City
TIN: 005-418-300

BIR IF NO. 002
Revised: Dec. 1994

Rancher



A scrutiny of the Registry Return Receipt reveals that the FAN was not received by accused Albeva Konstrukt & Development Corporation or by its authorized representative as the date of delivery as well as the portions for the signature or name of addressee and addressee's agent are blank. Although nowhere in said registry return receipt is it indicated that it pertains to Registry Receipt No. 1739 referred to in the Joint Complaint Affidavit attached to the Information, the same relates to the FAN that was sent by the BIR since it bears a similar Notice No. "FAN-038-LNTF-07-VT-077."

The mailing envelope not only bears the stamp of the post office and written number "1739", it also contains the remarks "party out" and "Returned to Sender" which support the conclusion that the FAN was not received by accused corporation.

The Court reiterates that absent any proof that the final notice and demand for payment was received by the taxpayer, it cannot be said that an offense has been committed because prior to the receipt of the letter-assessment, no violation has yet been committed.²

WHEREFORE, premises considered, the Amended Information is **DISMISSED**; and, the Warrant of Arrest dated January 29, 2016, the Alias Warrant of Arrest dated March 21, 2016, and the Alias Warrant of Arrest dated December 2, 2016 all issued against Alberto R. Macaraeg, Sr. 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

² *People of the Philippines vs. Cliref Enterprises, Inc., et al.*, CTA Crim. Case No. O-966, March 3, 2023 citing *Emilio E. Lim, Sr. and Antonia Sun Lim vs. Court of Appeals and People of the Philippines*, G.R. Nos. L-48134-37, October 18, 1990.