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.,
Accused.

NOTICE OF RESOLUTION

To:

PROSECUTOR GENERAL RICHARD ANTHONY D. FADULLON
SENIOR ASSISTANT STATE PROSECUTOR TOEL G. AUSTRIA
Department of Justice
Padre Faura St., Ermita, Manila

ATTY. GENEVIEVE A. TAYLAN
Bureau of Internal Revenue - Revenue Region No. 7A
Legal Division, Room 516, Roof Deck, Fisher Mall
Quezon Avenue corner Fernando Poe Jr., Avenue
Queazon 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

GREETINGS:

You are hereby notified by these presents that on **March 5, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 6, 2025.**

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 -

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,
Accused.

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)

Members:

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

Promulgated: MAR 0 5 2025 3:05 PM

x - x

RESOLUTION

For the Court's resolution is plaintiff's **Motion for Reconsideration (Resolution dated 10 October 2024)** [Motion] filed on November 8, 2024, without accused's comment despite notice, per Records Verification dated January 27, 2025.

To recall, in the Resolution dated October 10, 2024, the Court dismissed the Amended Information dated December 4, 2015 and cancelled and set aside the following issuances of the Court against accused Alberto R. Macaraeg, Sr.:

1. Warrant of Arrest dated January 29, 2016;
2. Alias Warrant of Arrest dated March 21, 2016; and,
3. Alias Warrant of Arrest dated December 2, 2016.

In its Motion, plaintiff argues that since the service of notices through registered mail is valid under Section 3.1.6 of Revenue

Regulations (RR) No. 18-2013[1], the Final Assessment Notice (FAN) dated December 31, 2010 was properly served upon the accused via registered mail under Registry Receipt No. 1739. Prescinding therefrom, plaintiff claims that the subsequent issuance of the Preliminary Collection Notice dated August 17, 2011 and the Final Collection Notice Before Seizure dated September 9, 2011 are both valid.

Plaintiff further avers that since the proper officials of the National Bureau of Investigation and the Pangasinan Police Provincial Office are unable to arrest accused Macaraeg, Sr. despite the standing Warrant of Arrest and Alias Warrant of Arrest, he is presumed to be in hiding and is wilfully avoiding his liabilities.

Lastly, plaintiff stresses that taxes are the lifeblood of the government and the same must be collected without unnecessary hindrance.

Plaintiff's Motion for Reconsideration is bereft of merit.

The fact that the authorities are unable to locate and arrest Macaraeg, Sr. does not *ipso facto* lead to the presumption that he is in hiding and is wilfully avoiding his tax liabilities. Truth to tell, there are various possible reasons for failure of authorities to arrest an accused. There should be adequate information that suggests that accused indeed is intentionally avoiding arrest. The prosecution has not put forth any such information.

On the substantive aspect of the present Motion, there is no doubt that the service of notice through registered mail is sanctioned under RR No. 12-99,[2] as amended by RR No. 18-2013. This notwithstanding, the fact of service of the FAN *via* registered mail should not be confused from the required "proof of receipt" of the FAN by the taxpayer.

As discussed in the October 10, 2024 Resolution, the mailing envelope and the Registry Return Receipt pertaining to the service of the FAN do **not** indicate that the same had been received by accused corporation. It is stressed that absent any proof that the final notice and

---

[1] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment

[2] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-judicial Settlement of a Taxpayer's Criminal Violation of the Code through Payment of a Suggested Compromise Penalty.

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 of 1997, as amended, has yet been committed.[3]

Otherwise stated, **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**.[4]

Lastly, while it is true that taxes are the lifeblood of the government and should be collected without unnecessary hindrance, such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself.[5]

WHEREFORE, premises considered, plaintiff's **Motion for Reconsideration (Resolution dated 10 October 2024)** is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

---

[3] *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*, G.R. No. L-48134-37, October 18, 1990.
[4] *Emilio E. Lim, Sr. and Antonia Sun Lim vs. Court of Appeals*, G.R. No. L-48134-37, October 18, 1990.
[5] *Commissioner of Internal Revenue vs. Algue, Inc. and The Court of Tax Appeals*, G.R. No. L-28896, February 17, 1988.