CTA Form No. 8 (For DCC)

22-000204-0016

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CRIM. CASE NO. O-904

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

NOTICE OF RESOLUTION

LILIBETH RAMOS ARAGON,
Accused.

To:

PROSECUTOR GENERAL RICHARD ANTHONY D. FADULLON
ASST. STATE PROSECUTOR MOISES YAO ACAYAN
Department of Justice
Padre Faura Street, Ermita
1000 Manila

ATTY. PAULYN ANN A. UMIPIG-LABUCAY
Bureau of Internal Revenue - Revenue Region No. 7A
Legal Division, Room 516, Roof Deck, Fisher Mall
Fernando Poe Jr., Avenue corner Quezon Avenue
Quezon City

GREETINGS:

You are hereby notified by these presents that on **April 8, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 10, 2025.**

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,

-versus-

LILIBETH RAMOS ARAGON,
On-Line Janitorial Services
No. 134 Kamias Road, East Kamias, Quezon City (AT-LARGE),
Accused.

CTA Crim. Case No. O-904

For: Violation of Section 255 of the NIRC of 1997, as amended (Willful Failure to Pay Deficiency Value-Added Tax)

Members:

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

Promulgated:

APR 08 2025; 11:25 AM

x- -x

RESOLUTION

For resolution is plaintiff's Motion for Reconsideration (Re: Resolution dated January 08, 2025) filed via e-mail and accredited courier on January 24, 2025. Plaintiff's *Motion* seeks the reversal of the Court's *Resolution* dated January 8, 2025, which dismissed the instant criminal case. The dispositive portion of the Resolution reads:

> **WHEREFORE**, premises considered, CTA Crim. Case No. O-904 is hereby **DISMISSED**.
>
> Accordingly, the Alias Warrant of Arrest issued against accused is **RECALLED** and **SET ASIDE**.
>
> **SO ORDERED**.

In its *Motion*, plaintiff argues that the Final Assessment Notice with Formal Letter of Demand (**FAN/FLD**) is valid, asserting that no substantive law imposes the requirement of indicating a due date in the FAN/FLD. Plaintiff also contends that the FAN/FLD was properly served, citing registry receipts and affidavits of service as proof of delivery.

Plaintiff's *Motion* is bereft of merit.

The requirement to specify a definite due date in the FAN/FLD has long been established in *Commissioner of Internal Revenue v. Fitness By Design, Inc. (Fitness by Design)*,[1] and has been consistently upheld by both this Court and the Supreme Court in numerous cases.[2] To reiterate:

> **A final assessment notice provides for the amount of tax due with a demand for payment.** ...
>
> ...
>
> The issuance of a valid formal assessment is a substantive prerequisite for collection of taxes. Neither the National Internal Revenue Code nor the revenue regulations provide for a "specific definition or form of an assessment." However, the National Internal Revenue Code defines its explicit functions and effects. **An assessment does not only include a computation of tax liabilities; it also includes a demand for payment within a period prescribed. Its main purpose is to determine the amount that a taxpayer is liable to pay**.
>
> ...
>
> **A final assessment is a notice "to the effect that the amount therein stated is due as tax and a demand for payment thereof."** This demand for payment signals the time "when penalties and interests begin to accrue against the taxpayer and enabling the latter to determine his remedies[.]" Thus, it must be "sent to and received by the taxpayer, and must demand payment of the taxes described therein within a specific period."
>
> **The disputed Final Assessment Notice is not a valid assessment.**
>
> ...
>
> Contrary to petitioner's view, April 15, 2004 was the reckoning date of accrual of penalties and surcharges and not **the due date for payment of tax liabilities**. The total amount depended upon when respondent decides to pay. The notice, therefore, did not contain a definite and actual demand to pay. [*Emphasis and underscoring supplied; citations omitted*]

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1 G.R. No. 215957, November 9, 2016, 799 SCRA 391-420 [Per J. Leonen, Second Division].

2 *Republic v. First Gas Power Corporation*, G.R. No. 214933, February 15, 2022 [Per J. Lopez, J., First Division]; *Commissioner of Internal Revenue v. T Shuttle Services, Inc*, G.R. No. 240729 (Resolution), August 24, 2020 [Per J. Inting, Second Division].

Further, as mentioned in the assailed *Resolution*, the record is bereft of evidence proving that the accused received the FAN/FLD. The prosecution failed to submit the Registry Return Receipt, which serves as conclusive proof that the intended recipient received the mailed FLD/FAN. Merely attaching photocopies of the registry receipt and an affidavit of service is insufficient to establish the taxpayer's receipt of the FAN/FLD.

Since the actual receipt of a valid FAN/FLD is indispensable in cases involving willful failure to pay taxes, the Court finds no compelling reason to reverse or set aside its prior *Resolution.*

WHEREFORE, premises considered, plaintiff's *Motion for Reconsideration (Re: Resolution dated January 08, 2025)* is hereby **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