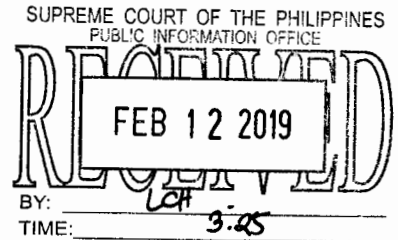




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated January 28, 2019 which reads as follows:*

**“G.R. No. 240674 – Commissioner of Internal Revenue, petitioner, v. China State Philippines Construction Corporation [formerly China State (Philippines) Construction Engineering Corporation], respondent.**

This Court has carefully reviewed the allegations, issues, and arguments adduced in the instant Petition for Review on *Certiorari* and accordingly resolves to **DENY** the same for: (1) late filing in view of the Court’s Resolution dated October 15, 2018, denying petitioner’s Motion for Extension; (2) failure to pay ₱1,000.00 for Sheriff’s Trust Fund, per A.M. No. 17-12-09-SC; (3) failure to state the date when notice of the assailed decision was received, in violation of Sections 4(b) and 5, Rule 45 in relation to Section 5(d), Rule 56 of the Rules of Court; (4) raising a factual issue; and (5) failure to sufficiently show that the Court of Tax Appeals (CTA) *En Banc* (EB) committed any reversible error in its February 8, 2018 Decision and July 16, 2018 Resolution in CTA *EB* No. 1558 (formerly CTA Case No. 8522).

Petitioner insists that he accused respondent of filing a false return in his Answer before the CTA’s 2<sup>nd</sup> Division. However, the CTA *EB* ruled that such claim was only made by petitioner in his motion for reconsideration before the CTA’s 2<sup>nd</sup> Division.

The issue of when petitioner made such allegation is a question of fact, as it would require this Court to look into the pleadings filed before the CTA. Nevertheless, the CTA *EB* has thoroughly discussed this issue in its decision. The CTA *EB* even cited petitioner’s Answer to show that petitioner never accused respondent of filing a false

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return. A perusal of the instant petition also shows that the only time petitioner included the phrase “false or fraudulent return” in his Answer was when he cited Section 222 of the National Internal Revenue Code. Such citation does not automatically convert itself to an allegation that respondent filed a false return.

Note, too, that an allegation of filing a fraudulent return does not necessarily include an allegation of filing a false return. This Court has made a distinction between the two, to wit:


That there is a difference between “false return” and “fraudulent return” cannot be denied. While the first merely implies deviation from the truth, whether intentional or not, the second implies intentional or deceitful entry with intent to evade the taxes due.<sup>1</sup>

Moreover, issues raised concerning the filing of a false or fraudulent return and a prescriptive period in a particular case are factual in nature since it requires a review of the probative value of the evidence presented before the CTA. Section 1, Rule 45 of the Rules of Court explicitly provides that a petition for review on *certiorari* shall raise only questions of law, which must be distinctly set forth. This Court is not a trier of facts. While there are recognized exceptions to the aforesaid rule, none exists in this case.

**ACCORDINGLY**, the Court resolves to **AFFIRM** the Decision dated February 8, 2018 and the Resolution dated July 16, 2018 of the Court of Tax Appeals *En Banc* in CTA *EB* No. 1558.

**SO ORDERED.”**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court <sup># 241</sup>

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<sup>1</sup>*Aznar v. Court of Tax Appeals*, 157 Phil. 510, 523 (1974), as reiterated in *Samar-I Electric Cooperative v. Commissioner of Internal Revenue*, G.R. No. 193100, December 10, 2014, *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016, *Commissioner of Internal Revenue v. Asalus Corporation*, G.R. No. 221590, February 22, 2017, and *Commissioner of Internal Revenue v. Philippines Daily Inquirer, Inc.*, G.R. No. 213943, March 22, 2017.

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

LITIGATION DIVISION  
BUREAU OF INTERNAL REVENUE  
Room 703, BIR National Office  
Building, Agham Road, Diliman  
1101 Quezon City

Court of Tax Appeals  
National Government Center  
Diliman, 1101 Quezon City  
(CTA EB No. 1558)  
(CTA Case No. 8522)

FOLLOSCO MORALLOS  
AND HERCE  
Counsel for Respondent  
25<sup>th</sup> Floor, 88 Corporate Center  
141 Valero cor. Sedenos Streets  
Salcedo Village, 1227 Makati City

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