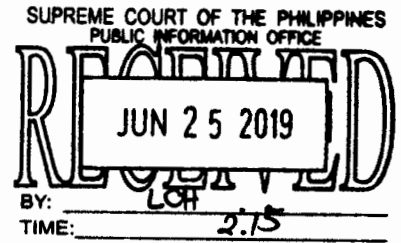




Republic of the Philippines
Supreme Court
 Baguio City

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 10, 2019 which reads as follows:

“G.R. No. 241338 (Commissioner of Internal Revenue v. Roca Security and Investigation Agency, Inc.)

After review of the records, the Court resolves to **DENY** the petition for failure to sufficiently show that the Court of Tax Appeals (CTA) *En Banc* committed any reversible error in its March 7, 2018 Decision,¹ as to warrant the exercise of the Court’s appellate jurisdiction.

As correctly held by the CTA *En Banc*, the Final Assessment Notice (FAN) issued by the Commissioner of Internal Revenue (CIR) is void as it violates respondent’s right to due process. Section 228² of the National Internal Revenue Code (NIRC) gives the taxpayer being assessed a period of sixty (60) days from the date of filing a protest assailing the Preliminary Assessment Notice (PAN) within which to submit relevant supporting documents. In this case, the respondent filed its protest on April 18, 2013. It had sixty (60) days from that date, or until **June 17, 2013**, to present its relevant

- over – two (2) pages ...

¹ *Rollo*, pp. 8-23; penned by Associate Justice Esperanza R. Fabon-Victorino with Presiding Justice Roman G. Del Rosario, Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy (on leave), Caesar A. Casanova, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan, concurring.

² **SEC. 228. Protesting of Assessment.** - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:

x x x x

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

x x x x

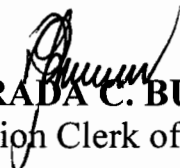
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documents to support its protest against the PAN. Clearly, the FAN issued by the CIR on **April 12, 2013** and received by respondent only on **April 19, 2013** violated the latter's right to due process as the latter had only one (1) day (instead of 60 days) to present its relevant documents in support of its protest. Besides, the 60-day period to protest alluded to in Section 228 of the NIRC refers to one made against the PAN and *not* the FAN as the CIR insists, as only upon expiration of the said period does a contested assessment "become final." Therefore, the CTA *En Banc* properly found the CIR to have violated the statutory guidelines in terms of affording respondent taxpayer the right to due process.

WHEREFORE, the petition is **DENIED**. The March 7, 2018 Decision of the Court of Tax Appeals in CTA EB No. 1523 is **AFFIRMED**.

SO ORDERED. *Del Castillo, J., on official business.*
Jardeleza, J., on official leave.

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court ^{in office}
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(CTA Case No. 8718)

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