REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1149** (CTA Case No. 8496)
- versus -	Present: *Del Rosario, P.J., Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Cotangco-Manalastas, and Ringpis-Liban, JJ.*
SVI INFORMATION SERVICES CORPORATION, *Respondent.*	Promulgated: MAR 03 2016 1:00pm

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DECISION

BAUTISTA, J:

This is a Petition for Review under *Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals* ("CTA")[1] filed by petitioner Commissioner of Internal Revenue ("CIR") before the CTA *En Banc* praying for the reversal of the CTA Second Division's Decision[2] promulgated on February 10, 2014 (the "Assailed Decision") and Resolution[3] promulgated on March 21, 2014 (the "Assailed

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[1] SECTION 3. *Who May Appeal; Period to File Petition.* — xxx
(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.
[2] *Records, CTA Case No. 8496*, pp. 1330-1348; penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justices Caesar A. Casanova and Amelia R. Contangco-Manalastas concurring.
[3] *Records*, pp. 1362-1363.

Resolution").

The Facts

The facts of the case, as found by the CTA Second Division, are as follows:[4]

> SVI Information Services Corporation [] is a corporation organized and existing under the laws of the Philippines, with office address at the 6th Floor, JMT Building, 27 ADB Avenue, Ortigas Center, Pasig City. Petitioner is principally engaged in the business of providing information and related services in the areas of information technology, finance, economics, investments, real estate and the like.
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> Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue [("BIR")] vested with authority to exercise the functions of said office, including, *inter alia*, the power to abate or cancel tax liability when the tax or any portion thereof appears to be unjustly or excessively assessed. She holds office at the BIR National Office Building, Diliman, Quezon City.
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> Petitioner received Letter of Authority [("LOA")] No. 00008783 dated September 11, 2008 from the BIR, authorizing the examination of petitioner's books of accounts and other financial records for all internal revenue taxes for taxable year 2007.
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> On October 20, 2009, petitioner received a Post Reporting Notice from BIR Revenue District Office [("RDO")] No. 43A. Said notice, pursuant to the LOA, informed petitioner of the tentative findings for deficiency income tax, VAT, EWT, and withholding tax on compensation liabilities for taxable year 2007 and directed petitioner to attend an informal conference or to submit documentary evidence to refute said findings.
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> On October 28, 2009, petitioner replied to the Post Reporting Notice through a letter dated October 26, 2009 addressed to Mr. Wilfredo M. Pantino, the Revenue Officer of BIR RDO No. 43A.

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[4] *Id.*, pp. 1330-1337.

Thereafter, on November 11, 2010, petitioner received from respondent Assessment Notices [("FAN")] and a Formal Letter of Demand [("FLD")] with attached Details of Discrepancies dated October 18, 2010. The [FLD] is detailed as follows:

DEFICIENCY INCOME TAX				
Taxable Income per ITR			Php	-
Add: Adjustments per investigation:				
Income payments not subjected to withholding tax	Php	18,637,024.40		
Unaccounted source of cash		790,682.22		
Non-deductible representation expense		589,022.81		20,016,729.43
Taxable Income per Investigation				20,016,729.43
Income Tax due thereon				7,005,855.30
Less: Allowable tax credits/payments				-
Deficiency Income Tax				7,005,855.30
Add: 20% interest p.a. (04.16.08 to 11.18.10)				3,631,528.28
Total Amount Due			**Php**	**10,637,383.58**

DEFICIENCY VALUE-ADDED TAX				
Taxable sales/receipts per VAT returns			Php	93,925.58
Add: Adjustments per investigation				
Unaccounted source of cash	Php	790,682.22		
Taxable sales/receipts not subject VAT		16,331,893.42		17,122,575.64
Taxable sales/receipts per investigation				17,216,501.22
Output tax due thereon				2,065,980.15
Less: Allowable tax credits/payments				
Input tax carried over from previous period	Php	3,383,038.74		
Claimed input tax		355,383.66		
Total	Php	3,738,422.40		
Less: Taxes carried over to next period		3,725,160.79		13,261.61
Deficiency VAT				2,052,718.54
Add: 20% interest p.a. (01.26.08 to 11.18.10)				1,155,146.27
Total Amount Due			**Php**	**3,207,864.81**

DEFICIENCY EXPANDED WITHHOLDING TAX

		AMOUNT	EWT RATE		EWT DUE
Income payments to subcontractors	Php	16,925,401.50	2%	Php	338,508.03
Rent, communication and utilities		1,667,646.00	5%		83,382.30
Management and professional services		43,976.90	10%		4,397.69
Deficiency Expanded Withholding Tax					426,288.02
Add: 20% interest p.a. (01.16.08 to 11.18.10)					242,225.03
Total Amount Due				**Php**	**668,513.05**

Petitioner protested the FAN through a letter dated December 10, 2010, addressed to Ms. Lorna Tobias, Chief of the Assessment Division of BIR RDO No. 43A.

Subsequently, petitioner received a Preliminary Collection Letter on April 26, 2012, finding petitioner liable for deficiency taxes in the total amount of [Php]14,513,761.44, inclusive of interest.

On May 24, 2012, petitioner received a Final Notice Before Seizure (Final Notice) dated May 10, 2012 from BIR RDO No. 43A, reiterating the demand for payment of the alleged deficiency income tax, VAT and EWT for taxable year 2007. Hence, petitioner filed the instant Petition for Review on May 25, 2012.

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On February 10, 2014, the CTA Second Division promulgated a Decision granting the Petition for Review, the dispositive portion of which reads: [5]

> **WHEREFORE,** premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the Preliminary Collection Letter dated April 23, 2012 is hereby **CANCELLED** and **WITHDRAWN**.

Aggrieved, on February 18, 2014, petitioner filed a Motion for Reconsideration[6] of the above Decision. On March 7, 2014, respondent filed an Opposition to Motion for Reconsideration (Dated February 17, 2014)[7]. In a Resolution[8] promulgated on March 21, 2014, the CTA Second Division denied petitioner's Motion for Reconsideration for lack of merit, the dispositive portion of which reads:[9]

> **WHEREFORE,** premises considered, respondent's Motion for Partial Reconsideration is **DENIED** for lack of merit.

Hence, the present Petition for Review[10] was filed by petitioner on April 7, 2014.

On October 23, 2014, respondent filed its Comment on Petition

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[5] *Records*, p. 1347.
[6] *Id.*, pp. 1349-1352.
[7] *Id.*, pp. 1355-1360.
[8] *Id.*, pp. 1362-1363.
[9] *Id.*, p. 1363.
[10] *Rollo, CTA EB No. 1149*, pp. 1-33, with annexes.

for Review (Dated April 7, 2014)[11].

In compliance with this Court's Resolution[12] dated January 7, 2015, which ordered the parties to file their respective memoranda within thirty (30) days from receipt thereof, petitioner and respondent filed their memoranda on February 5, 2015[13] and March 2, 2015[14], respectively.

On March 19, 2015, this Court promulgated a Resolution[15] submitting the case for decision.

The Issues

Essentially, the following are the assigned errors/issues to be resolved by this Court:[16]

1. WHETHER THE CTA DIVISION HAS JURISDICTION TO DETERMINE THE VALIDITY OF THE PRELIMINARY COLLECTION LETTER ("PCL") FOR THE AGGREGATE AMOUNT OF PHP14,513,761.44, INCLUSIVE OF INTEREST, REPRESENTING RESPONDENT'S ALLEGED DEFICIENCY INCOME TAX, VAT, AND EWT FOR CY 2007;

2. WHETHER THE ASSESSMENT FOR DEFICIENCY INCOME TAX, VAT, AND EWT FOR CY 2007 ARE VALID; AND

3. WHETHER PETITIONER'S RIGHT TO ASSESS RESPONDENT FOR DEFICIENCY INCOME TAX, VAT, EWT FOR CY 2007 HAS PRESCRIBED.

The Ruling of the Court En Banc

The Petition is bereft of merit.

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[11] *Id.*, pp. 52-60.
[12] *Rollo*, pp. 62-63.
[13] *Id.*, pp. 64-68.
[14] *Id.*, pp. 74-93.
[15] *Id.*, pp. 95-96.
[16] *Rollo, Petition for Review*, pp. 3-4; *Rollo*, pp. 64-68, 74-93.

The Court in Division has jurisdiction.

Petitioner argues that the CTA has no jurisdiction to decide on the validity of the PCL because the same would be tantamount to suspending the payment, levy, distraint, and/or sale of any property of respondent to satisfy its tax liability. Further, the CTA only acquires exclusive original jurisdiction when the principal amount of taxes and fees, exclusive of charges and penalties, in tax collection cases is at least Php1,000,000.00. In any case, petitioner argues that the present case is not a collection case but a question on the validity of the PCL, a subject which the CTA has no jurisdiction over. Finally, petitioner posits that respondent's failure to submit the pertinent documents within sixty (60) days from the filing of the protest results in the CTA's lack of jurisdiction to rule on the matter.[17]

We disagree.

Jurisdiction is conferred by law and is the capacity of a court to "entertain, hear, and determine certain controversies."[18] The CTA, as a court of special jurisdiction, can only take cognizance of matters clearly within its jurisdiction.[19]

Section 7(a)(1) of Republic Act ("RA") No. 1125[20], as amended, provides that this Court has exclusive appellate jurisdiction to review by appeal decisions of the CIR involving disputed assessments or other matters arising under the *National Internal Revenue Code of 1997 ("1997 NIRC")*[21], as follows:

> **Sec. 7.** ***Jurisdiction.*** – The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments,

[17] *Rollo, Petition for Review,* pp. 4-7.
[18] *Guy v. Court of Appeals,* G.R. Nos. 165849, 170185, 170186, 171066 & 176650, December 10, 2007, 539 SCRA 584.
[19] *CIR v. Silicon Philippines, Inc.,* G.R. No. 169778, March 12, 2014, 718 SCRA 513.
[20] "An Act Creating the Court of Tax Appeals," June 16, 1954.
[21] Republic Act No. 8424, as amended (1997).

> refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

On the other hand, *Section 3(a)(1)*[22], *Rule 4 of the Revised Rules of the CTA* implements the foregoing by stating that the CTA, in Division, has exclusive original or appellate jurisdiction to review by appeal the decisions of the CIR involving disputed assessments or other matters arising under the *1997 NIRC*, to wit:

> **Sec. 3.** ***Cases within the jurisdiction of the Court in Divisions. –***
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> The Court in Divisions shall exercise:
>
> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;

The term "disputed assessment" covers assessments wherein the taxpayer is accorded the opportunity to challenge the same, which presupposes that a valid assessment was issued by petitioner.

Under *Revenue Regulations ("RR") No. 12-99*[23], as a rule, if after review and evaluation by petitioner, there exists sufficient basis to assess the taxpayer for any deficiency tax, petitioner shall issue, at least by registered mail, a PAN for the proposed assessment showing in detail the fact/s and the law/s on which the proposed assessment is/are made.[24] If the taxpayer fails to respond within fifteen (15) days from receipt of the PAN, he shall be considered in default, and only then will a FAN be issued by petitioner calling for the payment of the

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[22] A.M. No. 05-11-07-CTA, November 22, 2005.
[23] "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," September 6, 1999.
[24] § 3.1.2.

taxpayer's deficiency tax liability.[25]

Compliance with the procedure outlined in *RR No. 12-99* is necessary for the CTA to acquire jurisdiction over the assessment.[26] Thus, in *Oceanic Wireless Network, Inc. v. CIR*[27], the Supreme Court held:

> The rule is that for the Court of Tax Appeals to acquire jurisdiction, an assessment must first be disputed by the taxpayer and ruled upon by the Commissioner of Internal Revenue to warrant a decision from which a petition for review may be taken to the Court of Tax Appeals. Where an adverse ruling has been rendered by the Commissioner of Internal Revenue with reference to a disputed assessment or a claim for refund or credit, the taxpayer may appeal the same within thirty (30) days after receipt thereof.[28]

On the other hand, the term "other matters" may include the following: prescription of the CIR's right to collect taxes[29], determination of the validity of a warrant of distraint and levy issued by the CIR[30], and validity of a waiver of the statute of limitations[31].

In *CIR v. Hambrecht & Quist Philippines, Inc.*[32], the Supreme Court had occasion to dissect the jurisdiction of the CTA, as follows:

> xxx [W]e have previously ruled that the appellate jurisdiction of the CTA is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the National Internal Revenue Code (NIRC) or related laws administered by the Bureau of Internal

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[25] Revenue Regulations No. 12-99, § 3.1.2.
[26] *SMI-Ed Philippines Technology, Inc. v. CIR*, G.R. No. 175410, November 12, 2014, 739 SCRA 691; *Rizal Commercial Banking Corporation v. CIR*, G.R. No. 168498, April 24, 2007, 522 SCRA 144; *Oceanic Wireless Network, Inc. v. CIR*, G.R. No. 148380, December 9, 2005, 477 SCRA 205.
[27] G.R. No. 148380, December 9, 2005, 477 SCRA 205.
[28] Underscoring ours.
[29] *CIR v. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010, 635 SCRA 162; *Jacinto-Henares v. Atlas Consolidated Mining and Development Corporation*, CTA *EB* No. 1101 (CTA Case No. 8150), August 14, 2015.
[30] *Philippine Journalists, Inc. v. CIR*, G.R. No. 162852, December 16, 2004, 447 SCRA 214; *CIR v. Abundance Providers and Entrepreneurs Corporation*, CTA *EB* No. 999 (CTA Case No. 8040), August 18, 2014.
[31] *Philippine Journalists, Inc. v. CIR*, G.R. No. 162852, December 16, 2004, 447 SCRA 214.
[32] G.R. No. 169225, November 17, 2010, 635 SCRA 162.

> Revenue (BIR).
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> Furthermore, the phraseology of Section 7, number (1), denotes an intent to view the CTA's jurisdiction over disputed assessments and over "other matters" arising under the NIRC or other laws administered by the BIR as separate and independent of each other. This runs counter to petitioner's theory that the latter is qualified by the status of the former, *i.e.*, an "other matter" must not be a final and unappealable tax assessment or, alternatively, must be a disputed assessment.
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> To be sure, the fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. However, the validity of the assessment itself is a separate and distinct issue from the issue of whether the right of the CIR to collect the validly assessed tax has prescribed. This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.[33]

Similarly, *Phinma Property Holdings Corporation v. CTA*[34] elaborated on the term "other matters" in this wise:

> In line with the principle of *"ejusdem generis,"* the term "other matters" in regard to the respondent court's jurisdiction could be those cases which do not necessarily involve disputed assessments or refunds of internal revenue taxes, fees or other charges, penalties in relation thereto or those related to customs protest or forfeiture cases but controversies which are still within the scope of the functions of the BIR and Customs.[35]

From the foregoing, it is clear that the determination of the validity of the PCL falls within the exclusive appellate jurisdiction of the CTA in Division under the term "other matters arising from the

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[33] Underscoring ours.
[34] CA-G.R. SP No. 38666, October 25, 1996.
[35] Underscoring ours.

NIRC." The CTA Division thus correctly held that the Court has jurisdiction over the matter, as follows:

> It has been held time and again that this Court may take cognizance of "other matters" which do not necessarily involve a disputed assessment. In the instant case, the issue of whether a PAN was indeed sent to petitioner to validate the issued FAN constitutes "other matters" arising under the NIRC and other laws administered by the BIR. This Court has promulgated more than enough cases in which this Court's jurisdiction over "other matters" arising under the NIRC or other tax laws administered by the BIR had been thoroughly discussed. Having that in mind, this Court upholds its jurisdiction over the instant case.[36]

The assessment made against respondent is void as respondent did not receive the PAN.

Petitioner argues that she sent the PAN to respondent *via* registered mail with Registry Receipt No. 1119. If indeed respondent failed to receive the PAN, the mailed document should have been returned to petitioner with a note that the same was not served. Further, petitioner argues that it sent the PAN, the FAN, and the FLD to the same address; however, while respondent admits to having received the FAN and the FLD, it denies receiving the PAN.[37]

It is elementary that a taxpayer must actually receive any assessment issued by petitioner in order for the same to be valid.[38] While the presumption exists that constructive service of an assessment - provided the same is properly addressed with postage prepaid and is actually mailed - is received by the taxpayer in the ordinary course of mail, the same is merely a disputable presumption, which can be directly denied by the taxpayer.[39] In such

[36] *Records, Decision,* pp. 1340-1341.
[37] *Rollo, Petition for Review,* pp. 7-8.
[38] *CIR v. Metro Star Superama, Inc.,* G.R. No. 185371, December 8, 2010, 637 SCRA 633; *Barcelon, Roxas Securities, Inc. v. CIR,* G.R. No. 157064, August 7, 2006, 498 SCRA 126; *Estate of the Late Juliana Diez Vda. De Gabriel v. CIR,* G.R. No. 155541, January 27, 2004, 421 SCRA 266; *CIR v. United International Pictures AB,* CA-G.R. SP No. 73200, June 22, 2006; *Pundanera v. CIR,* CTA Case No. 8333, December 2, 2014; *Palaganas v. CIR,* CTA Case No. 8394, September 17, 2014; *Coolmate Corporation v. CIR,* CTA Case No. 8264, May 19, 2014.
[39] *CIR v. Metro Star Superama, Inc.,* G.R. No. 185371, December 8, 2010, 637 SCRA 633; *Barcelon, Roxas Securities, Inc. v. CIR,* G.R. No. 157064, August 7, 2006, 498 SCRA 126; *CIR v. United International Pictures AB,* CA-G.R. SP No. 73200, June 22, 2006; *Pundanera v. CIR,* CTA Case No.

an instance, petitioner has the burden of proving that the assessment was indeed received by the taxpayer.[40]

Considering the fact that respondent denied having received the PAN, the burden is on petitioner to prove, with substantial evidence, the receipt thereof by respondent. As discussed above, the presumption of regularity in the ordinary course of mail is merely disputable. Thus, when the taxpayer-addressee denies the receipt of the disputed assessment issued by petitioner - delivered and served through registered mail - the burden of proof is now shifted to petitioner to present and offer evidence to prove that the same was duly delivered and actually received by the taxpayer-addressee.

A perusal of the records shows that petitioner failed to present evidence that respondent actually received the PAN. In its defense, petitioner posits that, taking into account respondent's receipt of the FAN and FLD, respondent should have also received the PAN since these documents were all sent to the same address.

This argument is, however, fallacious. Following the prevailing law and jurisprudence on the matter, actual receipt of the PAN must be proven - mere surmises and assumptions of receipt of the PAN as the same was sent to the same address as the FAN and FLD will not suffice. Accordingly, the CTA Division correctly held that the assessment was void, in this wise:[41]

> In the instant case, respondent failed to prove that the PAN was delivered to petitioner. Records show that respondent did not formally offer as her evidence any document, such as a copy of a registry return receipt in case of service through registered mail or the alleged request for certification addressed to the Pasig City Post Office, which will prove that petitioner did in fact receive the disputed PAN. Respondent also failed to convince this Court that the PAN was personally received by petitioner. Accordingly, in the absence of proof of actual receipt by petitioner of a PAN in

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8333, December 2, 2014; *Palaganas v. CIR*, CTA Case No. 8394, September 17, 2014; *Coolmate Corporation v. CIR*, CTA Case No. 8264, May 19, 2014.

[40] *CIR v. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010, 637 SCRA 633; *Barcelon, Roxas Securities, Inc. v. CIR*, G.R. No. 157064, August 7, 2006, 498 SCRA 126; *CIR v. United International Pictures AB*, CA-G.R. SP No. 73200, June 22, 2006; *Pundanera v. CIR*, CTA Case No. 8333, December 2, 2014; *Palaganas v. CIR*, CTA Case No. 8394, September 17, 2014; *Coolmate Corporation v. CIR*, CTA Case No. 8264, May 19, 2014.

[41] *Records, Decision*, p. 1346.

> violation of Section 228 of the NIRC of 1997 and RR No. 12-99, as amended by RR No. 18-2013, this Court finds that petitioner was not accorded procedural due process in the issuance of the assessment.

Finally, the imperative nature of receipt by the taxpayer of the PAN has been ruled on and settled by the Supreme Court in *CIR v. Metro Star Superama, Inc.*[42], thus:

> Indeed, Section 228 of the Tax Code clearly requires that the taxpayer must first be informed that he is liable for deficiency taxes through the sending of a PAN. He must be informed of the facts and the law upon which the assessment is made. The law imposes a substantive, not merely a formal, requirement. To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations - that taxpayers should be able to present their case and adduce supporting evidence.
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> From the provision quoted above, it is clear that the sending of a PAN to taxpayer to inform him of the assessment made is but part of the "due process requirement in the issuance of a deficiency tax assessment," the absence of which renders nugatory any assessment made by the tax authorities. The use of the word "shall" in subsection 3.1.2 describes the mandatory nature of the service of a PAN. The persuasiveness of the right to due process reaches both substantial and procedural rights and the failure of the CIR to strictly comply with the requirements laid down by law and its own rules is a denial of Metro Star's right to due process. Thus, for its failure to send the PAN stating the facts and the law on which the assessment was made as required by Section 228 of R.A. No. 8424, the assessment made by the CIR is void.

Accordingly, it is clear that the assessment made against respondent for deficiency taxes in CY 2007 is void for failure to accord respondent due process in the issuance thereof.

In view of the foregoing conclusion, the Court *En Banc* deems it

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[42] G.R. No. 185371, December 8, 2010, 637 SCRA 633.

unnecessary to address the other issues raised by the parties.

In sum, the Court *En Banc* finds no cogent reason to disturb the findings and conclusions reached in the Assailed Decision and the Assailed Resolution of the CTA Second Division. The arguments raised by petitioner in the present Petition for Review have already been considered and passed upon by the Court in Division.

WHEREFORE, the instant Petition for Review is hereby **DENIED**. The Decision promulgated on February 10, 2014 and the Resolution promulgated on March 21, 2014 by the Second Division are hereby **AFFIRMED**.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen s

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to *Section 13 of Article VIII of the Constitution,* it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of this Court.

ROMAN G. DEL ROSARIO
Presiding Justice