CTA Form No. 8

22-000344-0055

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10921

PHILAM PROPERTIES CORPORATION,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. APRILYN T. POBAR
ATTY. SHERYLL P. CACAYURAN
ATTY. FELY ROSE R. DAGANTA
ATTY. FRANCIS GIDEON G. NAPUTO
Bureau of Internal Revenue
Legal Division, Revenue Region No. 8B
2nd Floor, BIR Regional Office Bldg.
No. 313 Sen. Gil Puyat Avenue, Makati City

DU-BALADAD AND ASSOCIATES
20th Floor, Chatham House Building
Rufino corner Valero Streets
Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **September 30, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 1, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PHILAM PROPERTIES CORPORATION, *Petitioner,*	**CTA CASE NO. 10921**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 30 2025 3:30PM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review* filed on July 15, 2022, by petitioner Philam Properties Corporation ("**Petitioner**"), against respondent Commissioner of Internal Revenue ("**CIR**" or "**Respondent**"), seeking the reversal and setting aside of the *Decision* dated May 12, 2022, whereby respondent denied petitioner's *Motion for Reconsideration.*

THE PARTIES

Petitioner is a domestic corporation with principal office at the 17th Floor, Philam Life Head Office, Net Lima Bldg., 5th Avenue cor. 26th St., Bonifacio Global City, Taguig City, 1634 Philippines.[1] It is duly registered with the Bureau of Internal Revenue (**BIR**) as evidenced by its Certificate of Registration dated November 11, 1996, with OCN No. 8RC0000044158, and Tax Identification Number (**TIN**) 004-829-858-000.[2]

[1] Docket, pp. 291–304, Joint Stipulation of Facts and Issues (JSFI), I. Summary of Admitted Facts, par. 1.
[2] *Id.* at par. 4.

Respondent is the duly appointed CIR, vested with the authority under the appropriate laws to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide disputed assessments, grant tax refunds and issue tax credit certificates, pursuant to the provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and other tax laws, rules and regulations. Respondent holds office at the BIR National Office Building, Diliman, Quezon City.[3]

THE FACTS

On May 28, 2009, respondent issued Letter of Authority (**LOA**) No. 2008-00012790, authorizing Revenue Officer (**RO**) Rhea Argoso and Group Supervisor (**GS**) Maricar F. Favis to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for taxable year (**TY**) 2008.[4]

On August 22, 2012, petitioner received respondent's Notice of Informal Conference (**NIC**) dated August 10, 2012, signed by Revenue District Officer Ricardo B. Espiritu (**RDO Espiritu**), regarding alleged deficiency taxes for TY 2008.[5] In response, petitioner filed a Reply to the NIC dated August 29, 2012.[6]

On November 19, 2012, respondent issued a Preliminary Assessment Notice (**PAN**) with Details of Discrepancies,[7] which petitioner received on November 20, 2012. The PAN assessed petitioner of the following deficiency taxes:

TAX TYPE	BASIC TAX	INTEREST	TOTAL
Income Tax	₱ 3,263,356.51	₱ 2,388,955.78	₱ 5,652,312.29
VAT	2,400,063.41	1,862,186.19	4,262,249.60
DST	297,923.00	307,268.80[8]	605,191.80
TOTAL	**₱ 5,961,342.92**	**₱ 4,558,410.77**	**₱10,519,753.69**

On December 5, 2012, petitioner filed a Reply to PAN dated December 3, 2012, questioning the validity of the assessment.[9]

[3] *Id.* at par. 3.
[4] Exhibit "P-4", Docket, p. 405.
[5] Exhibit "P-5", Docket, p. 407; Exhibit "R-2", BIR Records, p. 517.
[6] Exhibit "P-6", Docket, p. 411.
[7] Exhibit "P-7", Docket, pp. 421–425.
[8] Includes 25% surcharge.
[9] Exhibit "P-8", Docket, pp. 426–427.

On April 16, 2013, respondent issued a Formal Assessment Notice (**FAN**), which petitioner received on April 24, 2013.[10] The FAN alleged deficiency taxes for TY 2008 in the total amount of ₱7,011,884.17, broken down as follows:

TAX TYPE	BASIC TAX	INTEREST	TOTAL
Income Tax	₱ 1,343,765.75	₱ 1,100,783.45	₱ 2,444,549.20
VAT	2,400,063.41	2,071,287.60	4,471,351.01
DST[11]	90,480.75	5,503.21	95,983.96
TOTAL	**₱ 3,834,309.91**	**₱ 3,177,574.26**	**₱ 7,011,884.17**

On May 22, 2013, petitioner filed a written Protest to the FAN dated May 21, 2013, seeking reconsideration of the assessments.[12]

On May 10, 2017, petitioner received respondent's Final Decision on Disputed Assessment (**FDDA**) with Details of Discrepancies, dated April 25, 2017, assessing deficiency taxes for TY 2008 in the amount of ₱10,079,332.11, as follows:[13]

	TAX TYPE	BASIC TAX	INTEREST	TOTAL
I	Income Tax	₱1,343,765.75	₱2,175,796.06	₱3,519,561.81
II	VAT	2,400,063.41	3,991,338.33	6,391,401.74
III	DST	90,480.75	77,887.81	168,368.56
	TOTAL	₱3,834,309.91	₱6,245,022.20	₱10,079,332.11

On June 9, 2017, petitioner filed a *Motion for Reconsideration* with the CIR, contesting the assessment of the alleged deficiency taxes for TY 2008.[14] This motion was denied by the CIR in a *Decision* dated May 12, 2022,[15] which was received by petitioner through a certain Rafael Carlos on June 16, 2022.[16]

On June 22, 2022, petitioner received a Warrant of Distraint and/or Levy (**WDL**) dated June 9, 2022, signed by Salina R. Marinduque of the BIR HREA, LTS-Programs and Compliance Group, in connection with the alleged deficiency taxes for TY 2008.[17]

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[10] Exhibit "P-9", Docket, pp. 428–431.
[11] The amount is net of payment allegedly made on January 24, 2013 amounting to ₱538,383.59.
[12] Exhibit "P-10", Docket, pp. 432–435.
[13] Docket, pp. 291–304, JSFI, I. Summary of Admitted Facts, par. 5; Exhibit "P-11", Docket, pp. 436–439.
[14] Exhibit "P-12", Docket, pp. 440–448.
[15] Exhibit "P-13", Docket, pp. 88–96.
[16] Exhibit "P-13-1", Docket, p. 88.
[17] Docket, pp. 291–304, JSFI, I. Summary of Admitted Facts, par. 6.

PROCEEDINGS BEFORE THE COURT

On July 15, 2022, petitioner filed its *Petition for Review.*[18] *Summons* were issued to respondent on August 3, 2022.[19]

On November 22, 2022, respondent filed a *Motion to Admit Answer (with Profuse Apologies),*[20] with attached *Answer to the Petition for Review (With Special and Affirmative Defenses).*[21] On December 20, 2022, petitioner filed its *Comment (to Respondent's Motion to Admit Answer (with Profuse Apologies) dated November 21, 2022).* [22] Respondent's *Answer* was admitted by the Court in a *Resolution* dated January 12, 2023.[23]

On January 11, 2023, respondent elevated the BIR Records of the case to the Court, consisting of one folder covering pages 768 to 1067.[24]

Petitioner filed its *Pre-Trial Brief* on March 28, 2023,[25] while *Respondent's Pre-Trial Brief* was filed on April 12, 2023.[26]

The Pre-Trial Conference was held on April 20, 2023.[27] During the conference, petitioner's *Secretary's Certificate* and respondent's *Special Power of Attorney* were verified and validated. The parties were granted thirty (30) days to file their *Joint Stipulation of Facts and Issues* and a *Motion to Commission an Independent Certified Public Accountant* (**ICPA**). Accordingly, on May 19, 2023, the parties filed their *Joint Stipulation of Facts and Issues,*[28] which was approved by the Court in a *Resolution* dated May 22, 2023.[29] The *Pre-Trial Order* was subsequently issued on July 12, 2023.[30]

In relation to mediation, the Court received the *Mediator's Schedule* on September 5, 2023.[31] A *Request for Extension* was then filed by the Philippine Mediation Center Office on October 5, 2023,[32] followed by a *Joint Manifestation (with Motion to*

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[18] Docket, pp. 6–35.
[19] *Id.* at 144.
[20] *Id.* at 147–151.
[21] *Id.* at 152–169.
[22] *Id.* at 245–248.
[23] *Id.* at 252.
[24] *Id.* at 253–254.
[25] *Id.* at 259–277.
[26] *Id.* at 278–284.
[27] *Id.* at 288–290, Order dated April 20, 2023.
[28] *Id.* at 291–304.
[29] *Id.* at 306.
[30] *Id.* at 314–331.
[31] *Id.* at 340.
[32] *Id.* at 349.

Suspend Proceedings) filed by both parties on October 18, 2023.[33] The Court received the *Mediator's Report* on January 15, 2024,[34] informing it that the mediation was unsuccessful.

Trial thereafter ensued.

At the hearing held on January 23, 2024,[35] petitioner presented its witness, Rafael C. Carlos, who testified through his Judicial Affidavit marked as Exhibit "P-23". Further, petitioner manifested that it would no longer avail of the services of an ICPA.

Petitioner filed its *Formal Offer of Evidence*[36] on February 19, 2024, to which respondent filed his *Comment/ Opposition (To Petitioner's Formal Offer of Evidence)* on February 29, 2024.[37] The Court admitted petitioner's exhibits in a Resolution dated May 8, 2024.[38]

At the hearing held on August 6, 2024,[39] respondent presented two witnesses: RO Joey Fragante, who testified through his Judicial Affidavit marked as Exhibit "R-18", and GS Sohailey Pandapatan, who testified through his Judicial Affidavit marked as Exhibit "R-19".

Respondent filed his *Formal Offer of Evidence*[40] on August 12, 2024, to which petitioner filed its *Comment (to Respondent's Formal Offer of Evidence dated August 12, 2024)*[41] on August 15, 2024. The Court admitted respondent's exhibits in a Resolution dated October 8, 2024.[42]

The *Memorandum for Respondent* was filed on November 11, 2024,[43] while petitioner filed its *Memorandum* on November 14, 2024.[44]

The case was submitted for decision on December 13, 2024.[45]

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[33] *Id.* at 350–353.
[34] *Id.* at 360.
[35] *Id.* at 463–465.
[36] *Id.* at 376–385.
[37] *Id.* at 467–468.
[38] *Id.* at 478–479.
[39] *Id.* at 491–492.
[40] *Id.* at 494–498.
[41] *Id.* at 500–502.
[42] *Id.* at 509–510.
[43] *Id.* at 512–524.
[44] *Id.* at 526–564.
[45] *Id.* at 568.

THE ISSUE

The parties stipulated the following issue for resolution by this Court, *viz.*:[46]

> Whether or not petitioner is liable to pay the alleged deficiency Income Tax (IT), Value-Added Tax (VAT), and Documentary Stamp Tax (DST), in the aggregate amount of ₱10,079,332.11, plus penalty and interest for taxable year 2008.

PETITIONER'S ARGUMENTS

In its *Petition for Review* and *Memorandum,* petitioner alleges that respondent's right to assess and collect has already prescribed. Petitioner also states that the assessment is void on the following grounds:

1. The RO and GS who conducted the audit of its books of accounts were allegedly not authorized by a valid LOA;

2. Respondent "failed to give reason" in the decisions and assessment notices; and

3. The assessment notices "failed to state the facts and the law on which the assessment is made."

Finally, petitioner argues that it is not liable for the alleged deficiency Income Tax, VAT, and DST.

RESPONDENT'S ARGUMENTS

In his *Answer* and *Memorandum*, respondent maintains that petitioner was duly informed in writing of the legal and factual bases of the assessment. Further, even if the FDDA merely reiterates the FAN, respondent states that a void FDDA does not render the assessment void.

In relation to petitioner's argument that respondent's right to assess and collect has prescribed, respondent counterargues that prescription has not set in due to the *Waivers of the Defense of Prescription* executed by petitioner on January 5, 2012, and December 3, 2012.

[46] Docket, pp. 322–323, Pre-Trial Order, IV. Issue to be tried or resolved; 291–304, JSFI, II. Statement of the Issue to be Resolved.

THE COURT'S RULING

The instant *Petition for Review* is impressed with merit.

The Court has jurisdiction over the instant case.

Before delving into the merits, the Court must first resolve whether it has jurisdiction to take cognizance of this case.

Section 7(a)(1) and (2) of Republic Act (**RA**) No. 1125,[47] as amended by RA No. 9282,[48] confers this Court with jurisdiction over decisions and inactions of the CIR, to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the [CIR] 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;
>
> (2) **Inaction by the [CIR] 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, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; *(Emphasis supplied)*

Moreover, Section 11 of RA No. 1125, as amended by RA No. 9282, prescribes the period for filing an appeal before the CTA, *viz.*:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling, or inaction of the [CIR]...**may file an **appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein. ...** *(Emphasis supplied)*

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[47] An Act Creating the Court of Tax Appeals, June 16, 1954.

[48] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

The above provisions are likewise provided under Section 3(a)(1)(2), Rule 4,[49] and Section 3(a), Rule 8[50] of the RRCTA.

Based on the foregoing, it is clear that the Court has exclusive appellate jurisdiction to review decisions of the CIR, provided that the appeal is filed within 30 days from the taxpayer's receipt of such decision.

In the instant case, the CIR's *Decision* dated May 12, 2022, which denied petitioner's *Motion for Reconsideration,* was received by petitioner through a certain Rafael Carlos on June 16, 2022.[51] Accordingly, petitioner had 30 days from the date of receipt, or until July 16, 2022, to file its *Petition for Review.* The present *Petition for Review* was timely filed on July 15, 2022.[52]

The audit was conducted by unauthorized revenue officers.

The power to assess necessarily includes the authority to examine taxpayers to determine the correct amount of tax due.[53] Verily, the law vests the BIR with general powers in relation to the assessment and collection of all internal revenue taxes.[54] However, only the CIR or his duly authorized representative may authorize the examination of a taxpayer and issue an assessment. Section 6(A) of the NIRC of 1997, as amended, provides as follows:

> SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –

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49 *Section 3. Cases Within the Jurisdiction of the Court in Divisions.* — 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;
(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: ...

50 Sec. 3. Who may appeal; period to file petition. — (a) A party adversely affected by a decision, ruling, or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

51 Exhibit "P-13-1", Docket, p. 88.

52 Docket, pp. 6–35.

53 *AFP General Insurance Corporation v. Commissioner of Internal Revenue*, G.R. No. 222133, November 4, 2020 [Per J. Inting, Third Division].

54 *Id.*

> (A) *Examination of Returns and Determination of Tax Due.* – After a return has been filed as required under the provisions of this Code, **the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax**: *Provided, however,* That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer. *(Emphasis supplied)*

Section 10(c) further empowers only the Regional Director to issue LOAs:

> SEC.. 10. *Revenue Regional Director.* - Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, **the Revenue Regional director shall, within the region and district offices under his jurisdiction**, among others:
>
> ....
>
> (c) **Issue Letters of authority for the examination of taxpayers within the region**; (*Emphasis supplied*)

An LOA is the authority given to the appropriate RO assigned to perform assessment functions. It empowers or enables said RO to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax.[55] The issuance of an LOA is premised on the fact that the examination of a taxpayer who has already filed his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives.[56] Section 13 of the NIRC of 1997, as amended, categorically requires that **only ROs with an LOA issued by the appropriate official may conduct such examinations**:

> SEC. 13. *Authority of a Revenue Officer.* - Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, **a Revenue Officer** assigned to perform assessment functions in any district **may, <u>pursuant to a Letter of Authority issued by the Revenue Regional Director</u>, examine taxpayers within the jurisdiction of the district** in order to collect the correct amount of tax, **or to recommend the assessment of any deficiency tax due** in the same manner that the said acts could have been performed by the Revenue Regional Director himself. (*Emphasis supplied*)

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[55] *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010 [Per J. Mendoza, Second Division].

[56] *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021 [Per J. Lopez, J., Third Division].

In *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.* (*McDonald's* case),[57] the Supreme Court emphasized that the issuance and receipt of an LOA by the taxpayer are indispensable to due process. The LOA serves to inform the taxpayer of the identity and authority of the ROs designated to conduct the audit. The Supreme Court explained:

> **<u>To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue officer who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA</u>**. If any revenue officer other than those named in the LOA conducted the examination and assessment, taxpayers would be in a situation where they cannot verify the existence of the authority of the revenue officer to conduct the examination and assessment. Due process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the authorized revenue officers. In other words, **<u>identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment</u>**. [*Emphasis and underscoring supplied.*]

In the present case, respondent issued LOA No. 2008-00012790, authorizing **RO Argoso and GS Favis** to examine petitioner's books of accounts and other accounting records for all internal revenue taxes covering TY 2008.[58] However, records reveal that the actual audit was conducted by **RO Joey Fragante** and **GS Josefina B. Yu,** neither of whom was named in the LOA.

The participation of these unauthorized ROs is evident in their signing of documents, such as the *Waivers of the Defense of Prescription*[59] and the *Memorandum* dated September 18, 2012, addressed to the Regional Director, recommending the issuance of the PAN.[60] The involvement of RO Fragante and GS Yu was likewise noted in the NIC.[61]

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[57] *Id.*
[58] Exhibit "P-4", Docket, p. 405.
[59] Exhibit "R-1", BIR Records, p. 507.
[60] Exhibit "R-5", BIR Records, pp. 537–539.
[61] Exhibit "P-5", Docket, p. 407; Exhibit "R-2", BIR Records, p. 517.

RO Fragante and GS Yu were only named in a *Memorandum* dated January 27, 2010.[62] However, Part C, Item V of Revenue Memorandum Order (**RMO**) No. 43-1990[63] explicitly requires the issuance of a *new* LOA whenever a case is reassigned or transferred to different ROs:

> **Any re-assignment/transfer** of cases to another RO(s), and revalidation of L/As which have already expired, **shall require the issuance of a new L/A**, with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As. (*Emphasis supplied*)

The requirement for a valid LOA aims to protect the taxpayers' right to due process by ensuring that they are informed of any changes in the revenue officers authorized to conduct the audit.

Notably, the *Memorandum* dated January 27, 2010 was signed by RDO Espiritu. However, under Sections 6, 10, and 13 of the NIRC of 1997, as amended, only the CIR or his duly authorized representatives, such as Regional Directors or other high-ranking officials, may issue an LOA.

Moreover, Section D (4) of RMO No. 43-1990 confines the authority to issue and sign LOAs to the CIR, Deputy Commissioners, and Regional Directors, unless another official is specifically authorized by the CIR. On the other hand, RMO No. 29-07 dated September 26, 2007[64] expands this authority within the Large Taxpayers Service, allowing the Assistant Commissioner or Head Revenue Executive Assistants to issue and approve LOAs:

> **RMO No. 43-1990**
>
> D. Preparation and issuance of L/As.
>
> ...
>
> 4. For the proper monitoring and coordination of the issuance of Letter of Authority, the **only** BIR officials authorized to issue and sign Letters of Authority are the **Regional Directors**, the **Deputy Commissioners** and the **Commissioner**. For the exigencies of the service, **other officials may be authorized to issue and sign Letters of**

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62 Exhibit "P-25", BIR Records, p. 502.

63 Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit, September 20, 1990.

64 SUBJECT: Prescribing the Audit Policies, Guidelines and Standards at the Large Taxpayers Service.

> **Authority** but only upon prior authorization by the Commissioner himself. (*Emphasis supplied)*
>
> **<u>RMO No. 29-07</u>**
>
> II. AUDIT POLICIES AND GUIDELINES.
>
> ...
>
> 2. **<u>All</u>** Letters of Authority (LOAs) shall be issued and approved by the **Assistant Commissioner/Head Revenue Executive Assistants.** (*Emphasis supplied*)

Clearly, a Revenue District Officer, such as RDO Espiritu, has no authority to issue or approve an LOA. Thus, the *Memorandum* signed by RDO Espiritu cannot serve as a substitute for the required LOA.

In the absence of a valid LOA authorizing **RO Fragante and GS Yu** to conduct the audit, the assessment is fatally defective. The absence of such authority constitutes a violation of both statutory and due process requirements, rendering the assessment null and void.

The issuance of an LOA is not a mere procedural formality but a substantive requirement designed to safeguard taxpayers' rights to due process. In this case, the failure to issue a new LOA following the reassignment of ROs undermines the legitimacy of the audit and invalidates the resulting assessment.

Accordingly, the Court holds that the assessment is void and cannot be enforced. Having declared the assessment null and void, the Court finds no necessity to address the other issues raised by the parties.

WHEREFORE, in light of the foregoing, the instant *Petition for Review* is **GRANTED**.

Accordingly, the Formal Assessment Notice dated April 16, 2013, is **CANCELLED** and **SET ASIDE**. The Final Decision on Disputed Assessment dated April 25, 2017, and the Decision dated May 12, 2022, assessing petitioner Philam Properties Corporation for deficiency Income Tax, Value-Added Tax, and Documentary Stamp Tax for taxable year 2008, are **REVERSED** and **SET ASIDE**.

Furthermore, respondent is **ENJOINED** and **PROHIBITED** from enforcing the collection of the subject deficiency taxes against petitioner.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice