CTA Form No. 8

23-000272-0058

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11192

AMMEX I-SUPPORT 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. AYESHA HANIA B. GUILING-MATANOG
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Bureau of Internal Revenue
Litigation Division, Room 703, BIR National Office Building
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Unit 1807 Cityland Condominium 10, Tower 1
Ayala Avenue corner H. V. Dela Costa Street
Makati City

GREETINGS:

You are hereby notified by these presents that on **April 17, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 20, 2026.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

AMMEX I-SUPPORT CORPORATION, *Petitioner,*	**CTA CASE NO. 11192**
	Members:
	BACORRO-VILLENA, *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 17 2026 11:05 AM

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DECISION

***CUI-DAVID, J.*:**

At bar is the *Petition for Review*[1] filed by Ammex I-Support Corporation on June 16, 2023, assailing the assessment for deficiency income tax (IT) and expanded withholding tax (EWT) amounting to **₱3,448,382.10**, inclusive of interest, and praying that it be absolved from any deficiency tax liability.[2]

THE PARTIES

Petitioner Ammex I-Support Corporation (Petitioner) is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, primarily engaged in business process outsourcing, using a computer-based, IT-enabled system to serve the needs of global clients. Its principal office address is on the 20th Floor, Citibank Center Building, 8741 Paseo de Roxas, Barangay Bel Air, Makati City. It is registered with the Bureau of Internal Revenue (BIR), Revenue District Office (RDO) No. 50, South Makati, under Revenue Region No. 8A, Makati City.[3]

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1 Docket - Vol. I, pp. 6-16.
2 *Id.* at 15.
3 *Id.* at 571-572, Pre-Trial Order (PTO), Summary of Admitted Facts, par. 1.

Respondent Commissioner of Internal Revenue (CIR or Respondent) is the duly appointed head of the BIR, the government agency officially responsible for the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected with such taxes.[4]

THE FACTS AND PROCEEDINGS

On July 31, 2015,[5] petitioner received *Letter of Authority (LOA) No. AUDM35/002526/2015*, with SN: eLA201100082527 dated July 28, 2015, authorizing Revenue Officer (RO) Arjay Uy and Group Supervisor (GS) Eulogina Lacson of RDO No. 50 – South Makati to examine/audit petitioner's books of accounts and other accounting records for all internal revenue taxes for the period from **January 1 to December 31, 2014**.[6]

On November 10, 2017,[7] petitioner received a *Preliminary Assessment Notice (PAN)*[8] dated November 10, 2017, assessing alleged deficiency Income Tax (IT) and Expanded Withholding Tax (EWT).[9]

On November 24, 2017,[10] petitioner filed a *Reply*[11] to the PAN.

On December 21, 2017,[12] petitioner received the *Formal Assessment Notice* and *Assessment Notices (FAN/ANs)*, all dated December 15, 2017,[13] reiterating the assessments under the PAN.[14]

On January 19, 2018,[15] petitioner filed a *Protest*[16] to the FAN/ANs.

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[4] *Id.* at 572, PTO, Summary of Admitted Facts, par. 2
[5] Docket - Vol. I, p. 7, Petition for Review (PFR), par. 4; Docket - Vol. II, p. 643, Exhibit "P-2".
[6] Docket - Vol. I, p. 572, PTO, Summary of Admitted Facts, par. 3.
[7] *Id.* at 7, PFR, par. 5; 435, Answer, par. 2.
[8] *Id.* at 645-648, Exhibit "P-3" and "Exhibit "R-1".
[9] *Id.* at 572, PTO, Summary of Admitted Facts, par. 4.
[10] *Id.* at 7, PFR, par. 5; Docket - Vol. II, p. 649, Exhibit "P-4".
[11] Docket - Vol. II, pp. 649-653, Exhibit "P-4", Letter dated November 24, 2017.
[12] Docket - Vol. I, p. 7, PFR, par. 6; Docket - Vol. II, p. 815, Exhibit "P-7".
[13] *Id.* at 813, Exhibit "P-5"; 814, Exhibit "P-6"; 815, "Exhibit "P-7"; BIR Records, pp. 874-a-876, Exhibit "R-2".
[14] Docket - Vol. I, pp. 572-573, PTO, Summary of Admitted Facts, par. 5.
[15] Docket - Vol. I, pp. 7-8, PFR, par. 7; Docket – Vol. II, p. 821, Exhibit "P-8".
[16] Docket - Vol. II, pp. 821-829, Exhibit "P-8", Letter dated January 19, 2018.

On January 10, 2020,[17] petitioner received *LOA No. LOA-050-2019-00000948,* with SN: eLA201700029310 dated December 27, 2019,[18] replacing LOA No. AUDM35/ 002526/2015, with SN: eLA201100082527 dated July 28, 2015, authorizing RO Philipp King Cartagena and GS Praxedio II Tulio to continue the audit for taxable year (TY) 2014 arising from the resignation and transfer of previously assigned revenue officers.[19]

On September 20, 2021,[20] petitioner received the *Final Decision on Disputed Assessment (FDDA)* dated July 26, 2021[21] issued by Regional Director Maridur V. Rosario of Revenue Region No. 8A – Makati City, affirming the deficiency tax assessments for TY 2014.[22]

On May 17, 2023,[23] petitioner received a *Decision* dated May 11, 2023,[24] affirming in all respects the FDDA dated July 26, 2021, demanding payment of the alleged deficiency taxes in the total amount of ₱3,448,382.10, broken down as follows:[25]

Tax Type	Basic Tax Due	Interest	Total Amount
IT	₱1,898,014.29	₱ 1,452,682.94	₱ 3,350,697.33
EWT	54,421.79	43,263.08	97,684.87
TOTAL	₱ 1,952,436.08	₱ 1,495,946.02,	₱ 3,448,382.01

Thus, on June 16, 2023,[26] petitioner filed the present *Petition for Review.*

Summons was served on the Office of the Solicitor General on August 9, 2023, and on respondent on August 7, 2023.[27]

On September 5, 2023, respondent filed a *Motion for Extension of Time to File Answer,*[28] which the Court granted, giving respondent a non-extendible period of thirty (30) days to file an *Answer* and ten (10) days thereafter to elevate the BIR Records of the case.[29]

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17 Docket - Vol. I, p. 8, PFR, par. 9; Docket – Vol. II, p. 644, Exhibit "P-2-1".
18 Docket - Vol. II, p. 644, Exhibit "P-2-1".
19 Docket - Vol. I, p. 573, PTO, Summary of Admitted Facts, par. 6.
20 *Id.* at 8, PFR, par. 10; 435, Answer, par. 2.
21 BIR Records, pp. 1301-1305, Exhibit "P-10" and Exhibit "R-3".
22 *Id.* at 573, PTO, Summary of Admitted Facts, par. 7.
23 Docket - Vol. I, p. 6&8, PFR, pars. 1, 12 and 13; 435, Answer, par. 2.
24 BIR Records, pp. 1821-1830, Exhibit "P-1" and Exhibit "R-4".
25 Docket - Vol. I, p. 573, PTO, Summary of Admitted Facts, par. 8.
26 *Id.* at 6.
27 *Id.* at 427-429.
28 *Id.* at 430-432.
29 *Id.* at 434, Notice.

On October 6, 2023, within the extended period, respondent filed his *Answer.*[30]

On October 18, 2023, the Court referred the case for mediation at the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA).[31]

On November 17, 2023, respondent transmitted the BIR Records.[32]

On December 11, 2023, the Court received the *No Agreement to Mediate* dated December 5, 2023[33] from the PMC-CTA. Thus, the Court set the pre-trial conference for March 19, 2024.[34]

On March 12, 2024, petitioner filed its *Pre-Trial Brief*[35] while respondent filed his *Pre-Trial Brief*[36] on March 15, 2024.

On June 6, 2024, petitioner filed a *Motion to Commission.*[37]

On June 13, 2024, the Pre-Trial Conference proceeded.[38] The parties were directed to file their *Joint Stipulation of Facts and Issues* by July 3, 2024.[39]

On July 3, 2024, the parties filed their *Joint Stipulation of Facts and Issues*[40] which the Court approved on July 17, 2024, thereby terminating the Pre-Trial.[41] On July 23, 2024, the Court issued the *Pre-Trial Order.*[42]

Trial ensued. Petitioner presented two witnesses:

1. Mr. Floyd C. Paguio, the Court-commissioned Independent Certified Public Accountant (ICPA);[43] and

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30 *Id.* at 435-450.
31 *Id.* at 453, Notice.
32 *Id.* at 457-459, 461.
33 *Id.* at 462.
34 *Id.* at 463, Notice; 463-468, Notice of Pre-Trial Conference.
35 *Id.* at 469-476.
36 *Id.* at 479-482.
37 *Id.* at 488-490.
38 *Id.* at 486, Notice; 519-522, Minutes of the Hearing, June 13, 2024; 526-529, Order.
39 *Id.* at 519-522, Minutes of the Hearing, June 13, 2024; 526-529, Order.
40 *Id.* at 531-539.
41 *Id.* at 553, Resolution.
42 *Id.* at 559-578.
43 Docket – Vol. I, pp. 579 – 581, Order dated July 23, 2024; Docket - Vol. II, pp. 602-616, Exhibit "P-21"; 619-620, 622-623, Order dated October 15, 2024.

2. Ms. Lhyric C. Gomez, Accounting Supervisor of petitioner.[44]

On October 28, 2024, petitioner filed its *Formal Offer of Evidence (FOE)*[45]. Respondent failed to comment on the FOE.[46]

On January 22, 2025, the Court resolved to admit all of petitioner's offered exhibits **except** *Exhibit "ICPA Report Exhibit A.2.5"*, as the document marked did not show that it pertained to Purchase Invoice No. 10932.[47]

During the April 30, 2025 hearing, respondent waived the presentation of his intended witness, Atty. Katrina Dapula-Balbastre, and instead offered stipulations on the existence and genuineness of respondent's *Exhibits "R-1" to "R-5"*, inclusive of submarkings, which petitioner, through counsel, admitted.[48] Thus, the Court granted respondent three days to file his *FOE*, and petitioner three days to file its comment. The parties were also directed to submit their respective *memoranda* within 30 days from receipt of the Court's Resolution on respondent's FOE.[49]

Petitioner filed its *Memorandum*[50] on May 30, 2025, while respondent filed a *Manifestation*[51] adopting the arguments in his *Answer* as his *Memorandum.*

On June 25, 2025, respondent belatedly filed his *FOE.* [52] Petitioner did not file any comment.[53]

On September 25, 2025, the Court resolved to admit all of respondent's offered exhibits and granted the parties a non-extendible period of 30 days to file their memoranda.[54]

On October 28, 2025, respondent filed a *Manifestation*[55] reiterating his adoption of the arguments in his *Answer* as his *Memorandum.*

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[44] Docket – Vol. I, pp. 579 – 581, Order dated July 23, 2024; 21-28, Exhibit "P-12".
[45] *Id.* at 627-641.
[46] *Id.* at 993, Records Verification dated November 18, 2024; 994,996, Notice.
[47] *Id.* at 1000-1002, Resolution dated January 22, 2025.
[48] *Id.* at 1008-1009, 1011-1012, Order dated April 30, 2025.
[49] *Id.*
[50] *Id.* at 1013-1028.
[51] *Id.* at 1036-1038.
[52] *Id.* at 1042-1047.
[53] *Id.* at 1050, Records Verification dated July 9, 2025; 1051-1052,1054-1055, Notice.
[54] *Id.* at 1059-1060.
[55] *Id.* at 1061-1062.

Thus, on November 24, 2025, the Court submitted the present case for decision.[56]

THE ISSUE

The sole issue stipulated by the parties to be tried in this case is:

> Whether or not petitioner is liable for deficiency Income Tax (IT) and Expanded Withholding Tax (EWT) in the total amount of PhP3,448,382.10 inclusive of interests for TY 2014.[57]

Petitioner's Arguments

Petitioner denies liability for any deficiency taxes.

Petitioner argues that it was not accorded due process in the issuance of the FAN. Allegedly, the assessments in the FAN/ANs dated December 15, 2017 were **exactly the same** as those in the PAN, except for the adjustment in the computation of interest, **without any explanation** of the specific grounds for denying or disregarding the arguments and documentary evidence it submitted in its reply to the PAN. Petitioner invokes the rulings of the Supreme Court in *Ang Tibay v. The Court of Industrial Relations*[58] and *Titanium Corporation v. Commissioner of Internal Revenue.*[59]

Petitioner further contends that the assessments covering TY 2014 have no factual and legal bases.

Regarding the deficiency IT assessment, petitioner explains that the disallowed bad debts were duly ascertained to be worthless and properly charged off, as confirmed by the testimony of the Court-commissioned ICPA.

As to the unsupported expenses also relating to the deficiency IT assessment, petitioner submits that these expenses were appropriately substantiated by purchase invoices and check vouchers, based on the requirements of Section 34(A)(1)(b) of the NIRC of 1997, as amended.

[56] *Id.* at 1071, Notice.
[57] Docket - Vol. I, 574, PTO, IV. Issues to be Tried or Resolved.
[58] G.R. No. 46496, February 27, 1940 [Per J. Laurel, *En Banc*].
[59] CTA Case No. 9644, November 11, 2020.

With respect to the deficiency EWT assessment, petitioner claims that it is not liable for the assessed deficiency EWT since it faithfully and religiously subjected all income payments to withholding taxes, except for income payments to non-regular suppliers not subject to withholding tax and payments that are not subject to withholding.

Petitioner further submits that since it is not liable for any deficiency internal revenue taxes for TY 2014, the imposition of interest has no basis. Hence, the setting aside of the Decision dated May 11, 2023, the FDDA dated July 26, 2021, and the FAN/ANs dated December 15, 2017, covering TY 2014, is warranted under the circumstances.

Respondent's Arguments

Respondent counters that petitioner is liable for the assessed deficiency, IT, EWT, and the corresponding administrative penalties, surcharges, and interest for TY 2014.

Respondent argues that the Court's power of judicial review over decisions of the CIR on disputed assessment is, by nature, exclusive and appellate. Thus, petitioner may not raise issues for the first time on appeal. Allegedly, petitioner did not question the validity of the assessment on the ground that it was denied due process in the issuance of the FAN/ANs, as shown in its protest and motion for reconsideration before the CIR.

Respondent, while acknowledging the Supreme Court decision in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc. (**Avon**),*[60] begs to differ, reasoning that there is no protest at the PAN stage which respondent is obliged to resolve. Moreover, a perusal of the FAN/ANs shows that respondent was able to address the issues raised by petitioner in its reply to the PAN.

On the IT assessment, respondent reiterates that the disallowance of the bad debts expense was reiterated in the FDDA because petitioner failed to substantiate the deduction, citing Section 34(E)(1) of the National Internal Revenue Code (NIRC) of 1997, as amended, and Revenue Regulations No. 25-2002.

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[60] G.R. Nos. 201398-99 et al., October 3, 2018 [Per J. Leonen, Third Division].

With respect to the disallowed deductions for unsupported expenses, respondent cites Section 34(A)(1)(b) of the NIRC of 1997, as amended, as basis for the disallowance.

THE COURT'S RULING

The present *Petition for Review* is meritorious.

The Petition for Review was timely filed.

Section 7(a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282, vests this Court with exclusive appellate jurisdiction over decisions of the CIR involving disputed assessments, refunds, penalties, and other matters arising under the National Internal Revenue Code (NIRC), to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, ..., or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.] (Emphasis supplied)

Likewise, Section 11 of RA No. 1125, as amended by RA No. 9282, provides 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 Commissioner of Internal Revenue ... 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)

The above provisions are reiterated in Section 3(a)(1), Rule 4,[61] and Section 3(a), Rule 8[62] of the Revised Rules of the Court of Tax Appeals (RRCTA).

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

In this case, then CIR Romeo D. Lumagui, Jr. issued the Decision dated May 11, 2023, affirming in all respects the FDDA dated July 26, 2021, which petitioner claims to have received on May 17, 2023.[63]

The CIR admits the existence of the Decision dated May 11, 2023 but denies the alleged date of petitioner's receipt based on lack of knowledge.[64] Jurisprudence,[65] however, instructs that a denial based on ignorance or lack of information of matters which are plainly and necessarily within the party's knowledge is not a specific denial. Such denial lacks the element of sincerity and good faith, hence, insufficient.[66]

The Decision dated May 11, 2023 emanated from respondent; accordingly, the date of its service is necessarily within respondent's knowledge or, at the very least within his means of verification.

Consequently, for failure to specifically deny the date of petitioner's receipt of the Decision, respondent is deemed to have admitted that petitioner received the Decision on May 17, 2023.

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61 SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division 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.

62 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.

63 Docket - Vol. I, p. 6&8, PFR, pars. 1, 12 and 13.

64 Docket - Vol. I, p. 435, Answer, par. 4.

65 *Philippine Bank of Communications v. Court of Appeals*, G.R. No. 92067, March 22, 1991 [Per J. Gutierrez, Jr., Third Division] citing *Capitol Motors Corporations v. Yabut*, G.R. No. 28140, March 19, 1970 [Per J. Villamor, *En Banc*].

66 *Morales v. Court of Appeals*, G.R. No. 91003, May 23, 1991 [Per J. Davide, Jr., Third Division], citing *Gutierrez v. Court of Appeals*, 74 SCRA 127, and *Warner Barnes & Co. v. Reyes*, 103 Phil. 662 [Per C.J. Paras, *En Banc*].

Also, the testimony of petitioner's witness, Ms. Gomez, that petitioner received the Decision dated May 11, 2023 on May 17, 2023[67] is unrebutted. Thus, it must be given full weight and credence.

In *Yap v. The Solicitor General*,[68] the Supreme Court considered the unrebutted testimony of the party's witness as enough evidence:

> He contends, in the first place, that the lower court erred in not finding that the applicant has failed to establish satisfactorily that he had previously filed his declaration of intention to become a citizen of the Philippines and that he is not exempted from the prerequisite of filing said declaration.
>
> Applicant alleged under oath in his petition that he had filed his declaration of intention to become a Filipino citizen with the office of the Solicitor General in 1941, although all the records have been lost by reason of the war. This allegation is not disputed in any answer or objection and is supported by **the unrebutted testimony of applicant, who was duly cross-examined in the trial court**. **This is enough evidence**. Appellant's contention that applicant's testimony should be supported by documentary proof is not well taken. There is nothing in the law in support of such requirement. (Emphasis supplied)

Absent any contrary evidence from respondent, there is no reason for the Court not to give weight and credence to the unrebutted testimony of petitioner's witness.

Thus, the filing of the present *Petition for Review* on June 16, 2023, was within the prescribed 30-day period. The Court therefore acquired jurisdiction over the *Petition.*

The revenue officers who recommended the issuance of the PAN were not authorized by a valid LOA.

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[67] Docket – Vol. I, p. 26, Exhibit "P-12" Q21 and A21.

[68] G.R. No. L-1602, September 9, 1948 [Per J. Perfecto, *En Banc*]; See also *Deutsche Knowledge Services Pte., Ltd. v. Commissioner of Internal Revenue*, CTA *EB* No. 2249, June 1, 2022.

At the outset, the Court notes that petitioner did not raise the lack of authority of the revenue officers who recommended the issuance of the PAN. Nonetheless, Section 1, Rule 14 of the RRCTA empowers the Court to resolve related issues necessary for the orderly disposition of the case, [69] *viz.*:

> **SECTION 1.** *Rendition of judgment.* – . . . .
>
> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

The determination of petitioner's liability for deficiency taxes hinges on whether the assessment was issued in accordance with the requirements of due process.

In *Himlayang Filipino Plans, Inc. v. Commissioner of Internal Revenue*,[70] the Supreme Court nullified a deficiency tax assessment where the investigation was reassigned to another revenue officer without the issuance of a new LOA. The Supreme Court held that such practice violates the taxpayer's right to due process.

An LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. An LOA, however, is not a general authority to any revenue officer. It is a special authority granted to a particular revenue officer.[71]

In *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,[72] the Supreme Court categorically ruled that an LOA must likewise be issued to revenue officers who replace or substitute those originally named therein, *viz.:*

> The LOA is the concrete manifestation of the grant of authority bestowed by the CIR or his authorized representatives to the revenue officers, pursuant to Sections 6, 10(c) and 13 of the NIRC. Naturally, this grant of authority is issued or bestowed upon an agent of the BIR, *i.e.*, a revenue officer. Hence, petitioner is mistaken to characterize the LOA as a document "issued" to the taxpayer, and that once so issued, "any" revenue officer may then act pursuant to such authority.

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69 *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017 [Per J. Martires, Second Division].
70 G.R. No. 241848, May 14, 2021 [Per J. Carandang, First Division].
71 *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021 [Per J. Lopez, J., Third Division].
72 G.R. No. 242670, May 10, 2021 [Per J. Lopez, J., Third Division].

. . . .

The petitioner wants the Court to believe that once an LOA has been issued in the names of certain revenue officers, a subordinate official of the BIR can then, through a mere memorandum of assignment, referral memorandum, or such equivalent document, rotate the work assignments of revenue officers who may then act under the general authority of a validly issued LOA. **But an LOA is not a general authority to any revenue officer. It is a special authority granted to a particular revenue officer**.

The practice of reassigning or transferring revenue officers, who are the original authorized officers named in the LOA, and subsequently substituting them with new revenue officers who do not have a separate LOA issued in their name, is in effect a usurpation of the statutory power of the CIR or his duly authorized representative. The memorandum of assignment, referral memorandum, or such other equivalent internal document of the BIR directing the reassignment or transfer of revenue officers, is typically signed by the revenue district officer or other subordinate official, and not signed or issued by the CIR or his duly authorized representative under Sections 6, 10(c) and 13 of the NIRC. Hence, the issuance of such memorandum of assignment, and its subsequent use as a proof of authority to continue the audit or investigation, is in effect supplanting the functions of the LOA, since it seeks to exercise a power that belongs exclusively to the CIR himself or his duly authorized representatives.

. . . .

Section D(5) of RMO No. 43-90 dated September 20, 1990 provides:

> Any re-assignment/transfer of cases to another RO(s)[64], and revalidation of L/As[65] 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.

The above provision expressly and specifically requires the issuance of a new LOA if revenue officers are reassigned or transferred to other cases. The provision involves the following two separate phrases: "re-assignment/transfer of cases to another RO(s)", on the one hand, and "revalidation of LIAs which have already expired", on the other hand. The occurrence of one, independently of the other, requires the issuance of a new LOA. The new LOA must then have a corresponding relevant notation, including the previous LOA number and date of issue of the said LOAs.

. . . .

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> **Even the Operations Group of the BIR now recognizes that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit or investigation without a separate LOA, is no longer tenable**. Thus, in Operations Memorandum No. 2018-02-03 dated February 9, 2018, the Operations Group has decided that "the issuance of a MOA for reassignment of cases in the aforementioned instances [i.e., the original revenue officer's transfer to another office, resignation, retirement, etc.] shall be discontinued."
>
> . . . .
>
> In summary, We rule that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit or investigation without a separate or amended LOA (i) violates the taxpayer's right to due process in tax audit or investigation; (ii) usurps the statutory power of the CIR or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and (iii) does not comply with existing BIR rules and regulations, particularly R.MO No. 43-90 dated September 20, 1990. (Emphasis supplied)

In this case, a perusal of the *BIR Records* reveals that RO Moises Besol and GS Praxedio Tulio, who recommended the issuance of the PAN, were **not** authorized by a valid Letter of Authority at the time they conducted petitioner's examination.[73]

Their supposed authority was based solely on Memorandum of Assignment No. RR8-050-REA-082516-866 dated August 25, 2016, issued by Revenue District Officer Rosita U. Meniano.[74] Such memorandum cannot substitute for an LOA issued by the CIR or his duly authorized representative.

The subsequent issuance of LOA No. LOA-050-2019-00000948 dated December 27, 2019 did not cure the defect arising from the lack of authority of RO Besol and GS Tulio to continue the audit of petitioner and to recommend the issuance of the PAN. Not only was this LOA issued long after the PAN dated November 10, 2017, it also authorized only GS Tulio.

In the absence of a valid LOA authorizing RO Besol and GS Tulio to conduct the audit, the PAN issued pursuant to their examination is unauthorized and therefore void.

[73] BIR Records, pp. 849-850, Exhibit "R-5-a".
[74] *Id.* at 750, Exhibit "R-5-a".

The FAN/ANs are void for violation of petitioner's right to administrative due process.

Section 228 of the NIRC of 1997, as amended, mandates that the taxpayer be informed in writing of the **law and the facts** on which an assessment is based; otherwise, the assessment shall be void. The taxpayer must likewise be given an opportunity to respond prior to the issuance of a formal assessment, *viz.*:

> **Section 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:
>
> . . . .
>
> **The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings. (Emphasis supplied)

To implement Section 228, Section 3 of RR No. 12-1999, as amended by RR No. 18-2013, prescribes the due process requirements in the issuance of deficiency tax assessments as follows:

> SECTION 3. Due Process Requirement in the Issuance of a Deficiency Tax Assessment. —
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> 3.1.1 Preliminary Assessment Notice (PAN). — If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. **It shall show in detail the facts and the law, rules and regulations, or jurisprudence on which**

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> **the proposed assessment is based** (see illustration in ANNEX "A" hereof).
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> If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
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> If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
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> 3.1.3 Formal Letter of Demand and Final Assessment Notice (FLD/FAN). — The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. **The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; otherwise, the assessment shall be void** (see illustration in ANNEX "B" hereof).
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> **3.1.5** ***Final Decision on a Disputed Assessment (FDDA).*** — The decision of the Commissioner or his duly authorized representative shall state **the (i) facts, the applicable law, rules and regulations, or jurisprudence on which such decision is based,** ***otherwise, the decision shall be void*** (see illustration in ANNEX "C" hereof), and (ii) that the same is his *final decision.* (Emphasis supplied)

Based on the foregoing, both the Preliminary Assessment Notice and the Formal Letter of Demand and Final Assessment Notice must state in detail the factual and legal bases of the assessment; otherwise, they are void. Similarly, the Final Decision on a Disputed Assessment must state the facts and applicable law upon which it is based.

The requirement that the taxpayer be informed of the factual and legal bases of the assessment is **mandatory** and cannot be presumed. This requirement enables the taxpayer to file an intelligent protest and ensures that the BIR meaningfully evaluates the defenses raised.

In the oft-cited case of *Avon,* the Supreme Court underscored that due process in tax assessments requires more than merely affording the taxpayer an opportunity to be heard by submitting explanations and supporting evidence. It demands that the Commissioner and his or her subordinates consider and address the taxpayer's explanations and supporting evidence. While the CIR is not bound to accept such defenses, any rejection must be accompanied by stated reasons and supported by the record. An outright or unexplained disregard of the taxpayer's submissions constitutes a denial of due process and renders the assessment void, *viz.*:

> **Tax assessments issued in violation of the due process rights of a taxpayer are null and void**. While the government has an interest in the swift collection of taxes, **the Bureau of Internal Revenue and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process.**
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> The 1997 National Internal Revenue Code, also known as the Tax Code, and revenue regulations allow a taxpayer to file a reply or otherwise to submit comments or arguments with supporting documents at each stage in the assessment process. **Due process requires the Bureau of Internal Revenue to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions. Failure to adhere to these requirements constitutes a denial of due process and taints the administrative proceedings with invalidity**.
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> The Bureau of Internal Revenue is the primary agency tasked to assess and collect proper taxes, and to administer and enforce the Tax Code . . . **The Commissioner and revenue officers must strictly comply with the requirements of the law, with the Bureau of Internal Revenue's own rules, and with due regard to taxpayers' constitutional rights**.
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> . . . .

Administrative due process is anchored on fairness and equity in procedure. It is satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself. **Moreover, it demands that the party's defenses be considered by the administrative body in making its conclusions, and that the party be sufficiently informed of the reasons for its conclusions.**

. . . .

The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it. **The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as the Formal Letter of Demand with the Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon. Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments**. There was clear inaction of the Commissioner at every stage of the proceedings.

. . . .

Upon receipt of the Preliminary Assessment Notice, Avon submitted its protest letter and supporting documents, and even met with revenue examiners to explain. Nonetheless, the Bureau of Internal Revenue issued the Final Letter of Demand and Final Assessment Notices, merely reiterating the assessments in the Preliminary Assessment Notice. There was no comment whatsoever on the matters raised by Avon, or discussion of the Bureau of Internal Revenue's findings in a manner that Avon may know the various issues involved and the reasons for the assessments.

. . . .

It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. **However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record**.

Indeed, **the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before [him/her] by Avon are deplorable transgressions of Avon's right to due process. The right to be heard, which includes the right to present**

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> **evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.**[75] (Emphasis supplied; citations omitted)

The Court in *Avon* stressed that the right to be heard becomes meaningless if the Commissioner may simply ignore the taxpayer's evidence without explanation. Administrative due process demands fairness in procedure: the taxpayer must be properly informed of the charges, given a reasonable opportunity to respond, and sufficiently apprised of the reasons for the assessment.

In the present case, records show that petitioner filed a reply to the PAN on November 24, 2017, raising factual and legal arguments challenging the proposed assessment. Notwithstanding petitioner's arguments, the subsequently issued FAN neither addressed petitioner's arguments nor even acknowledged receipt of the reply to the PAN. A comparison of the PAN and the FAN shows that they are substantially identical, differing only in the computation of interest.

Such failure to consider and address petitioner's explanations constitutes a violation of Section 228 of the NIRC of 1997, as amended, and implemented by RR No. 12-1999, as amended, and renders the subject FAN/ANs null and void.

The fact that petitioner subsequently filed a protest against the FAN/ANs on January 19, 2018, reiterating the same arguments raised in its reply to the PAN, does not cure the defect nor **denigrate the fact that it was deprived of statutory and procedural due process.**[76] An assessment issued in violation of a taxpayer's right to due process is void.[77]

As to the supposed failure of petitioner to question the validity of the assessment on the ground of denial of due process in the issuance of the FAN/ANs, allegedly shown in its protest and motion for reconsideration before the CIR, such omission is not fatal to petitioner's cause. Similar to the issue of the revenue officers' lack of authority, the Court may properly rule on the violation of petitioner's due process rights pursuant to Section 1, Rule 14 of the RRCTA.

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[75] G.R. Nos. 201398-99 *et al.*, October 3, 2018 [Per J. Leonen, Third Division].
[76] *Commissioner of Internal Revenue v. Next Mobile, Inc.*, G.R. No. 232055, April 27, 2022 [Notice, Third Division].
[77] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* G.R. Nos. 201398 *et al.*, October 3, 2018 [Per J. Leonen, Third Division].

In *Commissioner of Internal Revenue v. Yumex Philippines, Corporation*[78] ***(Yumex)***, the Supreme Court affirmed the CTA *En Banc* which ruled that the CTA Division was justified in ruling on the issue that the taxpayer was denied due process even though it was not expressly raised in the taxpayer's petition for review, *viz.*:

> As the CTA *En Banc* held, **the CTA Division was justified in ruling on the issue that respondent was denied due process even though it was not expressly raised by respondent in its petition for review**. Sec. 1, Rule 14 of the RRCTA provides that "[i]n deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case." Herein, **the issue of the validity of the assessment against respondent also necessarily requires the determination of the matter of the proper issuance of said assessment in accordance with the requirements of due process**. In addition, there were sufficient allegations in respondent's petition for review on the dates of issuance by the BIR and receipt by respondent of the PAN and FLD/FAN, as well as documentary and testimonial evidence to establish the essential facts for resolution of the issue which were presented during the trial without any objection from petitioner. This could be deemed as petitioner's implied consent to try the issue, recognized under Sec. 5, Rule 10 of the Revised Rules of Court, which applies suppletorily to the RRCTA. (Emphasis supplied, citations omitted)

Following *Yumex*, even assuming arguendo that respondent did not raise the invalidity of the assessment on due process grounds, the Court is nonetheless justified in passing upon the issue pursuant to Sec. 1, Rule 14 of the RRCTA. The validity of an assessment necessarily requires the determination whether it was properly issued in accordance with the requirements of due process. As petitioner raised the purported invalidity of the assessment on due process grounds, the Court has all the more reason to look into the matter.

Lastly, respondent may not agree with the pronouncements in *Avon* yet the decisions of the Supreme Court applying or interpreting the law shall form part of the legal system of the Philippines and shall have the force of law.[79] Judicial decisions of the Supreme Court assume the same authority as the statute itself.[80]

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[78] G.R. No. 222476, May 5, 2021 [Per C.J. Gesmundo, First Division].
[79] Civil Code, art. 8.
[80] *San Miguel Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 257697 & 259446, April 12, 2023 [Per J. Singh, Third Division].

In light of the Court's finding that the subject assessment is void, it becomes unnecessary to address the remaining issues raised by the parties. It is well settled that a void assessment bears no valid fruit.[81]

WHEREFORE, premises considered, petitioner Ammex I-Support Corporation's *Petition for Review* is hereby **GRANTED.**

Accordingly, the *Formal Assessment Notice and Assessment Notices*, all dated December 15, 2017, are **CANCELLED** and **SET ASIDE.** The *Decision* dated May 11, 2023, affirming the *Final Decision on Disputed Assessment* dated July 26, 2021, which assessed petitioner for deficiency income tax and expanded withholding tax assessments in the total amount of ₱3,448,382.10 for taxable year 2014, is likewise **REVERSED** and **SET ASIDE**.

Further, respondent Commissioner of Internal Revenue, or any person acting on his behalf, is hereby **ENJOINED** and **PROHIBITED** from instituting, pursuing, or otherwise taking any action for the collection of the subject assessment.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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81 *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2021 [Per J. Mendoza, Second Division].

ATTESTATION

I attest 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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Special First Division Acting Chairperson's Attestation, 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice