REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PHILIPPINE INTERNATIONAL AIR TERMINALS CO., INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9181

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:

JUN 06 2018
4:30 p.m.

x- x

D E C I S I O N

MANAHAN, *J.*:

This involves the Petition for Review filed by Philippine International Air Terminals Co., Inc. (PIATCO) seeking to reverse and set aside the assessments against it for deficiency income tax and value-added tax (VAT) in the total amount of Php3,169,843.45, inclusive of penalties, surcharges and interest, for taxable year 2011.

FACTS

Petitioner PIATCO is a corporation duly organized and existing under Philippine laws, with address at the 3rd Floor, PAIR-PAGS Center, NAIA Compound, NAIA Avenue, Pasay City. It may be served with notices and processes of this Honorable Court through counsel, Quasha Ancheta Peña & Nolasco with office address at 6th Floor, Don Pablo Building, 114 Amorsolo St., Legaspi Village, Makati City.[1]

Respondent is the duly appointed Commissioner of Internal Revenue with office address at BIR National Office Building, Diliman, Quezon City. Respondent may be served with

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[1] Docket, CTA Case No. 9181, Vol. I, Joint Stipulation of Facts and Simplification of Issues (JSFI), p. 258.

summons and other court processes through Atty. Wilmer B. Dekit with office address at the Legal Division, BIR Revenue Region No. 8, 2/F BIR Building, 313 Sen. Gil Puyat Avenue, Makati City.[2]

On December 21, 2004, the Government of the Republic of the Philippines (GRP) filed a complaint for expropriation of the Ninoy Aquino International Airport International Passenger Terminal 3 (NAIA IPT3) docketed as Civil Case No. 04-0876 in the RTC Branch 117, Pasay City. This case is currently pending before the Supreme Court *En Banc.*[3]

The GRP, through Manila International Airport Authority (MIAA), has operated NAIA IPT3 since July 2008.[4]

On June 19, 2014, an undated Follow-up Letter with the subject "Letter Notice-RELIEF/BOC No. Letter Notice-No. 051-RLF-11-00-00158" from respondent addressed to PIATCO was delivered at the general receiving area of People's Air Cargo and Warehousing Co., Inc. (PAIRCARGO).[5]

The undated Follow-up Letter made reference to a Letter Notice No. 051-RLF-11-00-00158 (the LN), which stated that respondent had noted an alleged discrepancy in PIATCO's income tax returns for taxable year 2011, resulting in the discovery of undeclared income. The alleged discrepancy was supposedly revealed through respondent's Reconciliation of Listing for Enforcement (RELIEF), Third Party Matching-Bureau of Customs (TPM-BOC) and Data Program and/or Tax Reconciliation System (TRS).[6]

On July 1, 2014, PIATCO filed a Letter dated June 30, 2014 with respondent, through BIR Pasay Revenue District Officer, Atty. Shirley A. Calapatia.[7]

Petitioner PIATCO explained in its Letter dated June 30, 2014 that it did not receive the supposed LN or any other letter from respondent regarding the alleged undeclared income.[8]

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[2] Docket, Vol. I, JSFI, pp. 258-259.
[3] Docket, Vol. I, JSFI, p. 259.
[4] Docket, Vol. I, JSFI, p. 259.
[5] Docket, Vol. I, JSFI, p. 259.
[6] Docket, Vol. I, JSFI, p. 259.
[7] Docket, Vol. I, JSFI, p. 259.
[8] Docket, Vol. I, JSFI, p. 260. *an*

On February 12, 2015, respondent again delivered to the general receiving area of PAIRCARGO a Preliminary Assessment Notice (PAN) addressed to PIATCO dated February 10, 2015.[9]

The PAN stated that PIATCO was being assessed deficiency income tax and VAT based on third-party matching conducted by respondent, where sales made to PIATCO by its suppliers were compared with purchases declared by PIATCO in its income tax returns.[10]

On February 27, 2015, PIATCO submitted its written reply to the PAN.[11]

On March 16, 2015, PIATCO received respondent's Formal Assessment Notice and Assessment Notices (FLD/FAN) all dated March 9, 2015, which were once again delivered to the general receiving area of PAIRCARGO, demanding payment of alleged deficiency income tax and VAT for taxable year 2011, as follows:[12]

I. Income Tax		
Taxable Income/(Loss) per Return		P -
Add: Adjustments		
Undeclared Income (Schedule 1)		3,571,428.57
Adjusted Taxable Income		P 3,571,428.57
Deficiency Income Tax		P 1,071,428.57
Add: Surcharge (50%)	P 535,714.29	
Interest (4/16/12 to 4/17/15)	643,444.23	1,179,158.52
TOTAL AMOUNT STILL DUE		P 2,250,587.09
II. Value-Added Tax		
Sales per VAT returns		P -
Add: Undeclared Sales/Receipts		3,571,428.57
Sales subject to VAT		P 3,571,428.57
Deficiency VAT		P 428,571.43
Add: Surcharge (50%)	P 214,285.71	
Interest (1/26/12 to 4/17/15)	276,399.22	490,684.93
TOTAL AMOUNT STILL DUE		P 919,256.36

[9] Docket, Vol. I, JSFI, p. 259.
[10] Docket, Vol. I, JSFI, p. 259.
[11] Docket, Vol. I, JSFI, p. 259.
[12] Docket, Vol. I, JSFI, pp. 259-260.

On April 8, 2015, PIATCO filed its Protest with respondent contesting the FLD/FAN.[13]

On May 20, 2015, PIATCO's legal counsel received a Letter from respondent dated May 18, 2015, through Regional Director Jonas DP. Amora of BIR Revenue Region No. 8, informing that the entire tax docket together with PIATCO's Letter of Protest would be forwarded to Revenue District Office No. 51-Pasay City under 1st Indorsement dated May 18, 2015.[14]

On June 19, 2015, PIATCO received a Letter from respondent dated June 17, 2015, through RDO Atty. Shirley A. Calapatia, informing that the entire docket of the case was reassigned to Revenue Officer Jason O. Vergara under the supervision of Group Supervisor Liza C. Dimaya, for further evaluation of the case.[15]

On November 3, 2015, PIATCO filed its Petition for Review[16] praying that the assessments for deficiency income tax and VAT for taxable year 2011 be set aside and cancelled on the ground that PIATCO never commenced commercial operations; and, that its primary source of funds is from stockholder advances which should not be considered as income.

Upon extension,[17] respondent filed his Answer,[18] through registered mail on December 28, 2015, and received by this Court on January 6, 2016. On January 18, 2016, PIATCO filed its Reply.[19]

On April 21, 2016, the Court received the parties Joint Stipulation of Facts and Simplification of Issues (JSFI),[20] which was filed through registered mail on April 15, 2016. Said JSFI was approved and adopted in the Pre-Trial Order[21] dated May 12, 2016.

PIATCO presented its sole witness, Atty. Moises S. Tolentino, Jr. on May 23, 2016.[22] After which, PIATCO filed its

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[13] Docket, Vol. I, JSFI, p. 260.
[14] Docket, Vol. I, JSFI, p. 260.
[15] Docket, Vol. I, JSFI, p. 260.
[16] Docket, Vol. I, pp. 12-26.
[17] Docket, Vol. I, Order dated December 11, 2015, p. 75.
[18] Docket, Vol. I, pp. 76-80.
[19] Docket, Vol. I, pp. 84-91.
[20] Docket, Vol. I, pp. 258-264.
[21] Docket,
[22] Docket, Vol. I, Minutes of Hearing on May 23, 2016, p. 277.

Formal Offer of Evidence (FOE)[23] on June 2, 2016, which was resolved by the Court on August 3, 2016.[24]

On the other hand, respondent presented Revenue Officer, Narissa B. Ty on October 3, 2016.[25] On February 1, 2017, the Court granted respondent's Motion to Admit (Formal Offer of Evidence) With Profuse Apologies[26] filed through registered mail on November 29, 2016, and received by this Court on December 27, 2016. Accordingly, respondent's FOE[27], with petitioner's Comment *Ex Abundante Ad Cautelam* (to Respondent's Formal Offer of Evidence)[28] received on April 26, 2017, was resolved in the Court's Resolution[29] dated September 25, 2017.

On rebuttal, petitioner recalled its witness, Atty. Moises S. Tolentino, Jr., on October 23, 2017.[30]

Petitioner filed its Memorandum[31] on December 7, 2017, while respondent, per Records Verification,[32] failed to file his memorandum. Hence, the case was submitted for decision on January 4, 2018.[33]

ISSUES

The parties submit the following issues:

1. Whether PIATCO is liable for payment of the assessed deficiency income tax; and

2. Whether PIATCO is liable for payment of the assessed deficiency VAT.

Petitioner's Arguments[34]

Petitioner argues that it cannot be made liable for the alleged deficiency income tax and VAT for taxable year 2011 on

[23] Docket, Vol. I, pp. 278-286.
[24] Docket, Vol. I, Resolution dated August 3, 2016, pp. 289-290.
[25] Docket, Vol. I, Order dated October 3, 2016, p. 300.
[26] Docket, Vol. I, pp. 335-337.
[27] Docket, Vol. I, pp. 338-340.
[28] Docket, Vol. II, pp. 392-401.
[29] Docket, Vol. II, pp. 410-411.
[30] Docket, Vol. II, Order dated October 23, 2017, p. 421.
[31] Docket, Vol. II, pp. 427-458.
[32] Docket, Vol. II, Records Verification dated December 18, 2017, p. 459.
[33] Docket, Vol. II, Resolution dated January 4, 2018, p. 460.
[34] Docket, Vol. I, PFR, pp. 7-13.

the grounds that PIATCO has been deprived of possession of NAIA IPT3 and it never commenced any commercial operations which would result in any taxable income.

Petitioner states that the supposed discrepancy stated in the FAN amounting to Php3,571,428.57 represents payments related to services rendered by both professional and other parties to handle on-going claims and pending litigation; that such expenses should not be used by respondent as justification for assessing income tax; that respondent erroneously treated PIATCO's limited inflow of cash from its stockholders as undeclared income; that respondent failed to consider that the cash received by PIATCO is not through recognition of income but as liability to its stockholders; that a borrower does not become liable for income tax or VAT upon recognition of a liability through receipt of cash; and, that PIATCO's receipt of sums of money as advances from its stockholders are not transactions subject to income tax or VAT.

Thus, PIATCO states that the assessments for alleged deficiency income tax and VAT for taxable year 2011 are arbitrary, oppressive and without legal basis.

Respondent's Counter-Arguments[35]

Respondent argues that the assessments were made and issued in accordance with law, rules and regulations; that the government is allowed to resort to all evidence or resources available to determine a taxpayer's income and to use methods to reconstruct his income, such as the expenditure method; that the legal basis for the use of the expenditure method in determining the income of the taxpayer is found in Section 6(B) of the 1997 National Internal Revenue Code, as amended (NIRC).

In the present case, respondent used the expenditure method of reconstructing income, to determine PIATCO's tax liability when its records are inadequate or inaccurate; that PIATCO failed to satisfactorily explain, with documentary evidence, the alleged unreported or undeclared income, thus, the deficiency tax assessments shall stand. Respondent further states that verification from the computerized matching on the sales submitted by PIATCO's suppliers against the purchases declared in PIATCO's tax returns shows unaccounted

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[35] Docket, Vol. I, Answer, pp. 76-78.

purchases resulting to undeclared sales/income in the amount of Php3,571,428.57. Such undeclared sales/income is subject to income tax and VAT. Respondent also argues that since PIATCO deliberately failed to declare or report its purchases made for taxable year 2011, the returns filed for the said year constitute false or fraudulent returns which justify the application of the ten (10) year period to assess pursuant to Section 222(A) of the NIRC, and the imposition of the 50% fraud penalty.

Finally, respondent states that all presumptions are in favor of the correctness of the tax assessment. The burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the Commissioner of Internal Revenue is wrong but that the taxpayer is right.

RULING OF THE COURT

The petition has merit.

The Court has jurisdiction over the petition for review.

Under Rule 4, Section (3)(a)(2)[36] of the Revised Rules of the Court of Tax Appeals (RRCTA), the Court in division has jurisdiction over the inaction of the CIR in cases involving disputed assessments. In the instant case, the FLD/FAN dated March 9, 2015 was received by PIATCO on March 16, 2015. PIATCO timely filed its protest on April 8, 2015.

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[36] Rule 4 Jurisdiction of the Court

Sec. 3. Cases within the jurisdiction of the Court in Divisions. –

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

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(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: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty-day period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty-day period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; xxx

The relevant portion of Section 228 of the NIRC provides:

> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Counting 180 days from April 8, 2015, respondent had until October 5, 2015 within which to render his decision on PIATCO's protest, but failed to issue a final decision on said protest. On November 3, 2015, PIATCO filed the instant petition for review, which is within the thirty (30)-day period counted from the lapse of the 180-day period on October 5, 2015. Considering the foregoing, the Court has jurisdiction.

There was no Letter of Authority (LOA) issued for the investigation of the records of petitioner. Thus, the tax assessments are void.

The Supreme Court has ruled that after an LN has been served on a taxpayer, an LOA is still required for further examination and assessment. Further, an LOA cannot be dispensed with just because none of the financial books or records kept by the taxpayers were examined.[37] Thus, in *Medicard Philippines, Inc. v. CIR* (*Medicard case*),[38] the Supreme Court stated:

> ***The absence of an LOA violated MEDICARD's right to due process***
>
> An LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. An LOA is premised on the fact that the examination of a taxpayer who has already filed

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[37] *Medicard Philippines, Inc. v. CIR*, G.R. No. 222743, April 5, 2017.
[38] *Id.*

his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives. Section 6 of the NIRC clearly provides as follows:

> SEC. 6. *Power of the Commissioner to make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
>
> (A) **Examination of Return and Determination of Tax Due**. – After a return has been filed as required under the provisions of this Code, **<u>the Commissioner or his duly authorized representative</u> 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
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> x x x x(Emphasis and underlining ours)

Based on the afore-quoted provision, it is clear that unless and authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of a taxpayer cannot ordinarily be undertaken. The circumstances contemplated under Section 6 where the taxpayer may be assessed through best-evidence obtainable, inventory-taking, or surveillance among others has nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority.

With the advances in information and communication technology, the Bureau of Internal Revenue (BIR) promulgated RMO No. 30-2003 to lay down the policies and guidelines once its then incipient centralized Data Warehouse (DW) becomes fully operational in conjunction with its Reconciliation of Listing for Enforcement System (RELIEF System). This system can detect tax leaks by matching the data available under the BIR's Integrated Tax System (ITS) with data gathered from third-party sources. Through the consolidation and cross-referencing of third-party information, discrepancy reports on sales and purchases can be generated to uncover under declared income and over claimed purchases of goods and services.

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RMO No. 30-2003 was supplemented by RMO No. 42-2003, which laid down the "***no-contact-audit approach***" in the CIR's exercise of its power to authorize any examination of taxpayers and the assessment of the correct amount of tax. The *no-contact-audit approach* includes the process of computerized matching of sales and purchases data contained in the Schedules of Sales and Domestic Purchases, and Schedule of Importation submitted by VAT taxpayers under the RELIEF System pursuant to RR No. 7-95, as amended by RR Nos. 13-97, 7-99 and 8-2002. This may also include the matching of data from other information or returns filed by the taxpayers with the BIR such as Alphalist of Payees subject to Final or Creditable Withholding Taxes.

Under this policy, even without conducting a detailed examination of taxpayer's books and records, if the computerized/manual matching of sales and purchases/expenses appears to reveal discrepancies, the same shall be communicated to the concerned taxpayer through the issuance of LN. The LN shall serve as a discrepancy notice to taxpayer similar to a Notice of Informal Conference to the concerned taxpayer. Thus, under the RELIEF System, a revenue officer may begin an examination of the taxpayer even prior to the issuance of an LN or even in the absence of an LOA with the aid of a computerized/manual matching of taxpayers' documents/records. Accordingly, under the RELIEF System, the presumption that the tax returns are in accordance with law and are presumed correct since these are filed under the penalty of perjury are easily rebutted and the taxpayer becomes instantly burdened to explain a purported discrepancy.

Noticeably, both RMO No. 30-2003 and RMO No. 42-2003 are silent on the statutory requirement of an LOA before any investigation or examination of the taxpayer may be conducted. As provided in the RMO No. 42-2003, the LN is merely similar to a Notice for Informal Conference. However, for a Notice of Informal Conference, which generally precedes the issuance of an assessment notice to be valid, the same presupposes that the revenue office who issued the same is properly authorized in the first place.

With this apparent lacuna in the RMOs, in November 2005, RMO No. 30-2003, as supplemented by RMO No. 42-2003, was amended by RMO No. 32-2005 to fine tune existing procedures in handling assessments against taxpayers issued LNs by reconciling various revenue issuances which conflict with the NIRC. Among the objectives in the issuance of RMO No. 32-2005 is to prescribe procedure in the resolution of LN discrepancies, conversion of LNs to LOAs and assessment and collection of deficiency taxes.

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In this case, there is no dispute that no LOA was issued prior to the issuance of a PAN and FAN against MEDICARD. Therefore no LOA was also served on MEDICARD. The LN that was issued earlier was also not converted into an LOA contrary to the above quoted provision. Surprisingly, the CIR did not even dispute the applicability of the above provision of RMO 32-2005 in the present case which is clear and unequivocal on the necessity of an LOA for the assessment proceeding to be valid. Hence, the CTA's disregard of MEDICARD's right to due process warrant the reversal of the assailed decision and resolution.

In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, the Court said that:

> Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment. Equally important is that the revenue officer so authorized must not go beyond the authority given. **In the absence of such an authority, the assessment or examination is a nullity**. (Emphasis and underlining ours)

The Court cannot convert the LN into the LOA required under the law even if the same was issued by the CIR himself. Under RR No. 12-2002, LN is issued to a person found to have underreported sales/receipts per data generated under the RELIEF System. Upon receipt of the LN, a taxpayer may avail of the BIR's Voluntary Assessment and Abatement Program. If a taxpayer fails or refuses to avail of the said program, the BIR may avail of administrative and criminal remedies, particularly closure, criminal action, or audit and investigation. Since the law specifically requires an LOA and RMO No. 32-

2005 requires the conversion of the previously issued LN to an LOA, the absence thereof cannot be simply swept under the rug, as the CIR would have it. In fact, Revenue Memorandum Circular No. 40-2003 considers an LN as a notice of audit or investigation only for the purpose of disqualifying the taxpayer from amending his returns.

The following differences between an LOA and LN are crucial. First, an LOA addressed to a revenue officer is specifically required under the NIRC before an examination of a taxpayer may be had while an LN is not found in the NIRC and is only for the purpose of notifying the taxpayer that a discrepancy is found based on the BIR's RELIEF System. Second, an LOA is valid only for 30 days from date of issue while an LN has no such limitation. Third, an LOA gives the revenue officer only a period of 120 days from receipt of LOA to conduct his examination of the taxpayer whereas an LN does not contain such a limitation. Simply put, LN is entirely different and serves a different purpose from an LOA. Due process demands, as recognized under RMO No. 32-2005, that after an LN has served its purpose, the revenue officer should properly secure an LOA before proceeding with the further examination and assessment of petitioner. Unfortunately, this was not done in this case.

Contrary to the ruling of the CTA *en banc*, an LOA cannot be dispensed with just because none of the financial books or records being physically kept by MEDICARD was examined. To begin with, Section 6 of the NIRC requires an authority from the CIR or from his duly authorized representatives before an examination "of a taxpayer" may be made. The requirement of authorization is therefore not dependent on whether the taxpayer may be required to physically open his books and financial records but only on whether a taxpayer is being subject to examination.

The BIR's RELIEF System has admittedly made the BIR's assessment and collection efforts much easier and faster. The ease by which the BIR's revenue generating objectives is achieved is no excuse however for its non-compliance with the statutory requirement under Section 6 and with its own administrative issuance. In fact, apart from being a statutory requirement, an LOA is equally needed even under the BIR's RELIEF System because the rationale of requirement is the same whether or not the CIR conducts a physical examination of the taxpayer's

> records: to prevent undue harassment of a taxpayer and level the playing field between the government's vast resources for tax assessment, collection and enforcement, on one hand, and the solitary taxpayer's dual need to prosecute its business while at the same time respondent to the BIR exercise of its statutory powers. The balance between these is achieved by ensuring that any examination of the taxpayer by the BIR's revenue officers is properly authorized in the first place by those to whom the discretion to exercise the power of examination is given by the statute.
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> That the BIR officials herein were not shown to have acted unreasonably is beside the point because the issue of their lack of authority was only brought up during the trial of the case. What is crucial is whether the proceedings that led to the issuance of VAT deficiency assessment against MEDICARD had the prior approval and authorization from the CIR or her duly authorized representatives. Not having authority to examine MEDICARD in the first place, the assessment issued by the CIR is inescapably void. (*Citations omitted*)

Thus, applying the ruling in the *Medicard case*, the CTA *En Banc* recently stated:

> Based on the foregoing jurisprudential pronouncements, before an examination of the taxpayer may be validly done, it is a legal requirement that there must first be an LOA issued to the concerned revenue examiners, unless the petitioner (the Commissioner of Internal Revenue) himself or his duly authorized representative will conduct such an examination; and an LN does not suffice, simply because an LN is entirely different and serves a different purpose than an LOA. Without such an LOA, the resulting assessment or examination is a nullity.
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> In this case there is no indication that an LOA was issued against respondent. The BIR came up with the subject tax assessments only on the basis or pursuant to an LN, particularly, LN No. 039-TRS-07-00-00120 dated March 15, 2010. Thus, for lack of an LOA, the said tax assessments are void.[39]

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[39] *Commissioner of Internal Revenue v. Mid-Land QC Realty Corporation*, CTA EB No. 1463, December 15, 2017.

Similar to the above-quoted case, the instant case arose from tax assessments for deficiency income tax and VAT only on the basis of or pursuant to a mere LN, specifically the undated LN No. 051-RLF-11-00-00158[40], without a subsequent LOA having been issued. Thus, for lack of an LOA, the tax assessments for deficiency income tax and VAT for taxable year 2011 are void.

WHEREFORE, the instant Petition for Review is **GRANTED**. Accordingly, assessments for deficiency income tax and VAT under Assessment Notice Nos. IT-LN0158-11-15-342 and VT-LN0158-11-15-342 for taxable year 2011 are **CANCELLED** and **WITHDRAWN**.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

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's Division.

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

[40] BIR Records, Exhibit "R-1", p. 2.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice