CTA Form No. 8 (For DCC)

22-000259-0075

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10873

PRODUCTIVITY TECHNOLOGIES SERVICES INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

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

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI HUSSIN
ATTY. JOEL VINCENT D. SALAZAR
Bureau of Internal Revenue-Revenue Region 8A-Makati City
36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Avenue corner Chino Roces Avenue
Makati City

DJCP LAW OFFICE
Unit 1003, President Tower
No. 81 Timog Avenue, South Triangle
Diliman, Quezon City 1103

GREETINGS:

You are hereby notified by these presents that on **July 11, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 14, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PRODUCTIVITY TECHNOLOGIES SERVICES, INC., *Petitioner,*	**CTA CASE NO. 10873**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 11 2025, 11:20AM

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RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration* filed on April 3, 2025, without petitioner's comment, as confirmed by the Records Verification dated May 27, 2025.

Respondent prays that the Court reinstate his Decision dated January 19, 2022, and order petitioner to pay deficiency income tax and value-added tax for taxable year (TY) 2013 in the amount of ₱143,339,041.19.

To recall, the Court promulgated its Decision dated March 7, 2025 (assailed *Decision*), which disposed of the case as follows:

> **WHEREFORE**, premises considered, the present *Petition for Review* is **GRANTED**.
>
> Accordingly, the Formal Letter of Demand with Assessment Notices dated January 10, 2017, the Warrants of Distraint and/or Levy dated February 14, 2020, and May 12, 2022, and the Warrant of Garnishment dated May 12, 2022, are **CANCELLED** and **SET ASIDE**. Further, the Decision of respondent Commissioner of Internal Revenue dated January 19, 2022, finding petitioner Productivity Technologies

Services, Inc. liable for deficiency income tax and value-added tax in the amount of ₱143,339,041.19 for taxable year 2013, is **REVERSED** and **SET ASIDE**.

Consequently, respondent or any person acting on his behalf is **ENJOINED** and **PROHIBITED** from collecting the said amount from petitioner.

SO ORDERED.

In his *Motion for Reconsideration*, respondent contends that Revenue Officer (RO) Gilbert M. Bercasio (Bercasio) and Group Supervisor (GS) Melecio F. Cantara (Cantara) were authorized to examine petitioner's books of account for TY 2013 pursuant to a Letter of Authority (LOA) dated February 19, 2019. It further argues that their authority was ratified by the Bureau of Internal Revenue (BIR) Regional Director through the issuance of the Preliminary Assessment Notice (PAN) and the Final Assessment Notice/Formal Letter of Demand (FAN/FLD).

Respondent's argument in his *Motion for Reconsideration* fails to persuade.

As discussed in the assailed *Decision*, the issuance of a valid LOA is a jurisdictional requirement for the lawful conduct of a tax audit and the issuance of any resulting assessment. This requirement is firmly grounded in the Tax Code, as clarified by jurisprudence.[1]

In this case, no valid LOA existed at the time RO Bercasio and GS Cantara conducted the audit of petitioner's books for TY 2013. The earliest LOA on record, dated April 7, 2015, authorized RO Villareal and GS San Juan, not Bercasio and Cantara. The latter officials proceeded with the audit without an LOA issued in their names. Instead, they relied on Memorandum of Assignment (MOA) No. 2016-43B-00000289,[2] an internal reassignment document signed by the Revenue District Officer, a subordinate official. The MOA does not satisfy the legal requirement for a valid LOA.

The subsequent issuance of an LOA on February 19, 2019, more than two years after the issuance of the PAN and the FAN/FLD, only confirms the absence of valid authority at the

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1 *Republic v. Robiegie Corporation*, G.R. No. 260261, October 3, 2022 [Per J. Gaerlan, Third Division]; *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021 [Per J. J. Lopez, Third Division].

2 Docket – Vol. I, p. 331, Exhibit "P-6"; BIR Records, p. 119, Exhibit "R-6"; Docket – Vol. II, p. 606, JSFI, Stipulated Facts, par. 4.

time of the audit and assessment. This LOA cannot retroactively validate the actions of RO Bercasio and GS Cantara.

Respondent's claim that the issuance of the PAN and FAN/FLD ratified the authority of the ROs involved is untenable. As the Supreme Court categorically held in *McDonald's*:

> The practice of reassigning or transferring revenue officers ... 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.

The doctrine of ratification has no place in this context. Tax assessments, being administrative actions with potential penal consequences, must strictly comply with procedural due process requirements. The BIR's internal practice of relying on memoranda undermines the taxpayer's right to due process and violates BIR regulations, particularly Revenue Memorandum Order No. 43-90.

Accordingly, the Court finds no merit in respondent's argument. The assessment is void, having been issued without authority. A void assessment bears no legal consequence and cannot be ratified or cured by subsequent acts.

WHEREFORE, the *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON OFFICIAL BUSINESS

JEAN MARIE A. BACORRO-VILLENA
Associate Justice