REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

ALPHALAND SOUTHGATE TOWER, INC., *Petitioner,*	**CTA CASE NO. 10669**
	Members: **RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: AUG 1 3 2024 4:20 p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review[1] ("Petition"), filed on November 8, 2021, praying that this Court declare the undated Final Decision on Disputed Assessment ("FDDA") and accompanying undated Assessment Notice assessing it for deficiency taxes in the total amount of P3,761,146,901.70 as null and void and awarding it with costs of suit.

The Parties

Petitioner Alphaland South Tower, Inc. is a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at Alphaland Makati Place, 7232 Ayala Avenue corner Malugay Street, Bel Air, Makati City.[2]

Respondent is the duly appointed Commissioner of Internal Revenue who is authorized to examine any taxpayer and to assess the correct amount of tax.[3]

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[1] Rollo, Vols. I and II, pp. 1-767.
[2] *See* Petition for Review, p. 3, *id.* at 3.
[3] *Id.*

The Facts

The case began with the issuance of a Letter of Authority, dated March 3, 2016, authorizing Revenue Officer ("RO") Melinda Lim and Group Supervisor ("GS") Teodore Maroket to examine petitioner's books of accounts and other accounting records for the year 2014.

On December 16, 2019, RO Justin Ben A. Calpo served petitioner with a Notice of Informal Conference. RO Calpo then served petitioner with a Preliminary Assessment Notice ("PAN") on July 9, 2020, which held it liable for deficiency income tax, improperly accumulated earnings tax, value added tax, expanded withholding tax, and documentary stamp tax in the total amount of P3,213,011,197.35. Petitioner filed its Reply to this PAN on July 24, 2020.

On November 5, 2020, RO Calpo served upon petitioner a Formal Letter of Demand ("FLD") with accompanying Assessment Notices for taxable year 2014. The FLD was for the same alleged deficiency taxes, this time in the increased total amount of P3,725,602, 051.14. On November 20, 2020, petitioner filed it Protest/Request for Reconsideration against this FLD.

On May 12, 2021, RO Calpo served a FDDA upon petitioner, but since there was no one at its registered address to receive it, he sent the same via registered mail.

On September 13, 2021, a Warrant of Distraint and/or Levy ("WDL") was issued against petitioner for its alleged failure and refusal to pay delinquent taxes in the amount of P3,761,146,901.79. On September 29, 2021, petitioner filed a Request for Lifting of Warrant of Distraint and/or Levy.

On account of the petitioner's allegation that it had not yet received any FDDA, RO Calpo once again served upon petitioner the FDDA on October 7, 2021. Then, on October 8, 2021, petitioner filed a letter reiterating its earlier request for the lifting of the WDL. On October 26, 2021, petitioner received a letter from the BIR immediately lifting the WDL.

Petitioner filed the instant Petition for Review to assail the FDDA on November 8, 2021. Thereafter, another WDL, dated November 12, 2021, was issued and served upon petitioner.

Following trial and the filing of the parties respective Memoranda, the case was considered submitted for decision on August 23, 2023.[4]

Hence, this Decision.

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4 *Id.*, at 2205.

The Issue

The sole issue in the case at bar is whether petitioner is liable to pay deficiency income tax, improperly accumulated earnings tax, value added tax, expanded withholding tax, withholding tax on compensation, documentary stamp tax and surcharges and interest in the total amount of P3,761,146,901.79.[5]

Arguments of the Parties

Petitioner's Arguments

Petitioner presents the following arguments –

1. RO Calpo was not authorized to conduct any audit on it.
2. The FDDA and Assessment Notices are void for having been issued beyond the three year prescriptive period provided for under Section 203 of the tax code.
3. There is no basis for the assessment of improperly accumulated retained earnings.
4. The FLD was issued in violation of Section 228 of the NIRC which gives taxpayers 30 days within which to file a protest.[6]

Respondent's Arguments

Respondent, meanwhile, raises these arguments against petitioner's case –

1. The Court has no jurisdiction over the Petition, which was belatedly filed.
2. The reassignment of the LOA and the failure of the reassigned RO to secure a new LOA does not result in the invalidity of the assessment.
3. The invalidity of the FDDA does not invalidate the assessments validly issued through the FAN.
4. Section 203 of the tax code does not apply since it had 10 years within which to assess petitioner, which committed substantial under-declaration of its taxable income.
5. Petitioner cannot submit evidence it did not submit at the administrative level and the issue remaining with the Court is whether the finality of the assessment was proper.
6. The 50% surcharge was proper.

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[5] *See* Pre-Trial Order, p. 2, *Rollo*, Vol. IV, p. 1639.

[6] *See* petitioner's Memorandum, pp. 6-24 *id.* at 2108-2126.

7. Petitioner had improperly accumulated retained earnings.[7]

The Ruling of the Court

The Petition for Review must be granted.

The Court has jurisdiction over the Petition

Respondent contends that the Petition was belatedly filed, stripping the Court of jurisdiction over the instant case. In so arguing, respondent holds out that petitioner should have filed its Petition within 30 days from its receipt of the WDL. This, in turn, is anchored on his position that since no FDDA was issued within the 180-day period from the filing of petitioner's protest, and instead, a WDL was issued, it is apparent that the protest was denied and the assessments became final and executory and demandable with the issuance of the WDL.

Respondent's position on this score is wrong.

The recent case of *Mannasoft Technology Corp. v. Commissioner of Internal Revenue*[8] explains in detail why this is so. We reproduce here the learned elucidation of J. Dimaampao on this issue –

> Section 228 of the Tax Code governs the protest of assessments for deficiency taxes:
>
> > 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 preassessment 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.

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[7] *See* respondent's Memorandum, pp. 4-32, *id.* at 2131-2159.
[8] G.R. No. 244202, July 10, 2023.

> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
>
> 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 the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

As may be gleaned from the foregoing, when a taxpayer protests the FAN issued by respondent, the latter has 180 days from receipt of the relevant supporting documents within which to act on the former's request for reconsideration or reinvestigation. After the lapse of the 180-day period, or from the denial of the protest, whichever is earlier, the taxpayer must appeal the same to the CTA. However, jurisprudence has also recognized an alternative recourse in case of respondent's inaction to a protest. In *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue (RCBC)*, as recently reiterated in *Light Rail Transit Authority v. Bureau of Internal Revenue (LRTAcase)*, the taxpayer may either:

> (1) file a petition for review with the Court of Tax Appeals within 30 days after the expiration of the 180-day period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessment; or
> (2) await the final decision of the Commissioner on the disputed assessments and appeal such final decision to the Court of Tax Appeals within 30 days after receipt of a copy of such decision. This is true even if the 180-day period for the Commissioner to act on the disputed assessment had already expired.

The two options are mutually exclusive and resort to one bars the other. This is also consistent with Section 3 (a) (2), Rule 4 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, which states 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."

As adumbrated above, petitioner timely filed its protest to the FAN and submitted its supporting documents thereto on February 20, 2012. From this date, the 180-day period began to run. Undoubtedly, when respondent issued the WDL on October 23, 2012, the 180-day period had already lapsed. Nonetheless, petitioner's immediate letter-protest to the WDL on October 29, 2012 made it perfectly clear that it was awaiting respondent's action on its request for reinvestigation. This is an express indication that petitioner was opting for the second recourse provided in *RCBC* in response to respondent's inaction to its protest. This is again apparent in petitioner's subsequent letter dated November 13, 2012, which reiterated its appeal for reinvestigation.

When respondent finally replied to petitioner in the letter dated November 14, 2013, denying its request for reinvestigation, the response constituted the final decision on the disputed assessment, which was appealable to the CTA in accordance with the remedies espoused in RCBC. It is not amiss to add that in actual fact, the letter-reply explicitly stated that it **"constitutes [the BIR's] final decision on the matter."**

The Court is mindful of certain cases where it held that the issuance of the WDL constitutes constructive and final denial to the taxpayer's protest, which would trigger the running of the 30-day period to elevate the case to the CTA. This is the doctrine laid down in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue* (*PJI case*), which was cited by both the CTA Third Division and *En Banc*. However, as will be explained below, the ruling in the said case rests on different grounds.

The *LRTA case* is particularly instructive:

> *Commissioner of Internal Revenue v. Isabela Cultural Corporation* cannot be made basis to claim that the Final Notice Before Seizure is the Final decision on the protest appealable to the Court of Tax Appeals. **When *Isabela* was promulgated in 2001, Section 7 of Republic Act No. 1125 had yet to be amended by Republic Act No. 9282 to add inactions of the Commissioner as appealable to the Court of Tax Appeals. Moreover, this Court had yet to promulgate *Rizal Commercial Banking Corporation* and *Lascona*, where it was clarified that taxpayers have the option to await the decision of the Commissioner in protests of disputed assessments before they file an appeal with the Court of Tax Appeals.** In other words, in *Isabela*, the taxpayer still had no choice of awaiting the decision of the Commissioner on its protest. This is why in *Isabela*, this Court considered the Final Notice Before Seizure as the Commissioner's decision on the protest. More so because it was the only response Isabela Cultural Corporation received from the Commissioner after it had filed its protest. (Emphasis supplied)

Appositely, the *PJI case* was also promulgated prior to the passage of RA No. 9282, which recognized inactions of the respondent as appealable to the CTA. Thus, the CTA *En Banc* erred in relying on this particular jurisprudence to buttress its dismissal of petitioner's case.

It should also be emphasized that availing of the summary collection remedies under the Tax Code, such as the issuance of a WDL, are premised first and foremost on the existence of "delinquent taxes." This premise is lacking when the matter of the taxpayer's civil liability is subject of a valid request for reinvestigation which is still pending resolution by the respondent and its authorized agents, as in the case at bench.

In synthesis, the CTA properly took cognizance of petitioner's original petition for review.
(Emphasis, in the original; citations omitted)

As in *Mannasoft*, petitioner timely filed its protest and request for reconsideration to the FLD on November 20, 2020. From this date, the 180-day period began to run. Undoubtedly, when respondent issued the WDL on September 21, 2021, the 180-day period had already lapsed. Nonetheless, petitioner's immediate request to lift the WDL on September 29, 2021 made it perfectly clear that it was awaiting respondent's action on its protest and request for reconsideration. This is an express indication that petitioner was opting for the second recourse provided in *RCBC/Mannasoft* in response to respondent's inaction to its protest. This is again apparent in petitioner's subsequent letter dated October 8, 2021, which reiterated its request to lift the WDL.

The undated FDDA[9] issued by respondent and received by petitioner only on October 7, 2021 undoubtedly constituted the final decision of respondent which was appealable to the CTA in accordance with the remedies espoused in *RCBC/Mannasoft*. It is not amiss to add that in actual fact, the FDDA explicitly stated that "*(T)his is our final decision*."

Accordingly, having received the FDDA only on October 7, 2021, petitioner had 30 days from said date or until November 6, 2021 within which to file its Petition for Review. Said date falling on a Saturday, the Petition filed on November 8, 2021, the next succeeding business day, Monday, was certainly timely filed.

The absence of a LOA in the name of the Revenue Officer who conducted the audit renders the audit void

What is fatal to respondent's assessment is that the revenue officer who conducted the audit on petitioner was not armed with the requisite LOA.

Respondent first maintains that since the audit investigation was conducted by the Large Taxpayers Service (LTS) under the Office of the Commissioner of Internal Revenue (OCIR), the issuance of an LOA is not a statutory requirement as it is an inherent function of the CIR and his authorized representatives to authorize the examination of all taxpayers. He also points out that while RO Calpo was named in the Memorandum of Assignment (MOA) as the new RO assigned to the case, he was still under the supervision of GS Maroket who was named in the LOA. Finally, he holds that there is no statutory requirement that the ROs be named in the LOA itself.

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[9] Exhibit P-2, *Rollo*, Vol. IV, pp.1674-1680.

Respondent's arguments fail in light of settled jurisprudence on the matter. Indeed, in *Commissioner of Internal Revenue v. Wellington Investment & Manufacturing Corp.*[10], the Supreme Court once more emphasized as follows –

> We recently ruled in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.* that (1) the reassignment or transfer of an RO requires the issuance of a new or amended LOA for the substitute or replacement RO to continue the audit or investigation; (2) the use of a memorandum of assignment, referral memorandum, or such equivalent document, directing the continuation of audit or investigation by an unauthorized RO usurps the functions of the LOA; and (3) Revenue Memorandum Order (RMO) No. 43-90 expressly and specifically requires the issuance of a new LOA if ROs are reassigned or transferred. We declared:
>
> > The practice of reassigning or transferring revenue officers originally named in the Letter of Authority *(LOA)* and substituting or replacing 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 Commissioner of Internal Revenue *(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 Bureau of Internal Revenue *(BIR)* rules and regulations on the requirement of an LOA in the grant of authority by the CIR or his duly authorized representative to examine the taxpayer's books of accounts. (Italics in the original)
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> In *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*, the examination of the taxpayer's books of accounts was reassigned to another RO sans issuance of a new LOA; the authority of the subsequent RO therein was anchored only upon the MOA signed by the revenue district officer. We thus declared void the assessments against the taxpayer for having been issued without an LOA by the CIR or his duly authorized representative.
>
> The RMOs cited by petitioner, namely RMO Nos. 08-2006 and 69-2010, merely provide additional regulations in case of reassignment of revenue officers and should not be interpreted to remove the requirement of an LOA. Rather, the MOA, referral memorandum, or any equivalent document are issued for the purpose of reassignment and transfer of cases of revenue officers, and not for the purpose of vesting authority on an RO to examine a taxpayer's books of accounts, which is the function of an LOA. As stated in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*:
>
> > It is true that the service of a copy of a memorandum of assignment, referral memorandum, or such other equivalent internal BIR document may notify the taxpayer of the fact of reassignment and transfer of cases of revenue

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[10] G.R. No. 249795 (Notice), November 29, 2022.

officers. However, notice of the fact of reassignment and transfer of cases is one thing; proof of the existence of authority to conduct an examination and assessment is another thing. **The memorandum of assignment, referral memorandum, or any equivalent document is not a proof of the existence of authority of the substitute or replacement revenue officer. The memorandum of assignment, referral memorandum, or any equivalent document is not issued by the CIR or his duly authorized representative for the purpose of vesting upon the revenue officer authority to examine a taxpayer's books of accounts. It is issued by the revenue district officer or other subordinate official for the purpose of reassignment and transfer of cases of revenue officers**.

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**. (Emphases supplied)

We find no reason to depart from these sound rulings, which have similar circumstances as the instant case. We thus affirm the assailed decision and resolution of the CTA *En Banc*, declaring void the subject assessments for having been issued without an LOA by petitioner or his duly authorized representative."
(Emphasis in the original; citations omitted)

Here, the evidence, even that from respondent himself, clearly shows how RO Calpo had no authority to conduct the audit investigation of petitioner's tax records.

To begin with, the LOA issued on March 3, 2016[11] "authorizes RO Melinda Lim and GS Teodore Maroket to examine petitioner's books of accounts and other accounting records for taxable period January 1, 2014 to December 31, 2014." It cannot be denied that RO Calpo was not named therein.

Yet the first action on the case, which was the Notice for Informal Conference[12] sent to petitioner, informed it "that the results of investigation of all your Internal Revenue Tax liabilities for the period January 1 to December 31, 2014 pursuant to Letter of Authority No. 201200042299 dated March 3, 2016 was submitted for review by *Revenue Officer Justin Ben A. Calpo* under Group Supervisor Teodore L. Maroket."

The May 15, 2020 Memorandum[13] recommending issuance of a PAN against petitioner was submitted by RO Calpo with OIC Group Supervisor Arthur C. Ramos. So, too, was the Revenue Officer's Audit Report[14] also submitted by RO Calpo and OIC Group Supervisor Arthur C. Ramos. Neither of them were named in the LOA.

Then, the September 28, 2020 Memorandum[15] recommending the issuance of a FLD against petitioner was submitted by RO Calpo this time with OIC Group Supervisor Albino B. Salenga, Jr. So, too, was the accompanying Revenue Officer's Audit Report[16]. Again, neither of them were named in the LOA.

In his Judicial Affidavit which served as his direct testimony, RO Calpo narrated and admitted that he:

1. continued the conduct of the audit of the petitioner for taxable year 2014;[17]
2. made a Report and submitted the May 15, 2020 Memorandum with attached Revenue Officer's Audit Report recommending issuance of PAN; [18]
3. after revisiting findings vis a vis the arguments raised by petitioner, submitted the September 28, 2020 Memorandum with attached Revenue Officer's Audit Report recommending issuance of FLD;[19] and

[11] Common Exhibit "P-2"/"R-1", BIR Records, p. 3.
[12] Exhibit "R-9", *id.* at 390.
[13] Exhibit "R-10", *id.* at 672-676.
[14] Exhibit "R-10-1", *id.* at 677-688.
[15] Exhibit "R-12", *id.* at 747-751.
[16] Exhibit "R-12-1", *id.* at 752-757.
[17] Exhibit "R-33", Answers to Questions 8, 23, and 29, pp. 2, 4, and 5, *Rollo*, Vol. II, at 788, 790, and 791.
[18] Exhibit "R-33", Answer to Question 32, p. 5, *id.* at 791.
[19] Exhibit "R-33", Answer to Question 38, p. 6, *id.* at 792.

4. after reviewing petitioner's arguments against the FLD, submitted the March 5, 2021 Memorandum with attached Revenue Officer's Audit Report recommending issuance of FDDA.[20]

He also narrated how he was the one who served the BIR issuances to petitioner.[21]

These indubitably demonstrate how RO Calpo went on to conduct an audit investigation against petitioner without the requisite authority.

While there was a Memorandum of Assignment, dated March 12, 2018,[22] addressed to RO Calpo and GS Maroket, referring the case for "[c]ontinuation of the audit/investigation to replace the previously assigned Revenue Officer(s) who resigned/retired/transferred to another district office"; and "[f]or continuation with the investigation of the case, in view of the transfer of RO Melinda Lim to RLTAD 2 Unit under RTAO No. 15-2018," such does not save the day for respondent.

Indeed, in *Republic v. Robiegie Corp.*,[23] the Supreme Court already put an end to the practice of reassigning ROs via a memorandum of assignment, without the issuance of the required LOA, to wit –

> This Court was more emphatic in <u>Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp. (McDonald's)</u>, which opens with this categorical declaration:
>
> > The practice of reassigning or transferring revenue officers originally named in the Letter of Authority (LOA) and substituting or replacing 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 Commissioner of Internal Revenue (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 Bureau of Internal Revenue (BIR) rules and regulations on the requirement of an LOA in the grant of authority by the CIR or his duly authorized representative to examine the taxpayer's books of accounts.
>
> In that case, the RO authorized to investigate the accounts of McDonald's Philippines Realty Corporation through a validly issued LOA was transferred to another assignment; and the investigation was reassigned to another RO through a referral memorandum, without the issuance of a new LOA. We likewise invalidated the resultant assessment and demand:

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20 Exhibit "R-33", Answer to Question 44, p. 7, *id.* at 793.
21 *Id.*
22 Exhibit "R-3", BIR Records, p. 374.
23 G.R. No. 260261, October 3, 2022.

> This case is an occasion for the Court to rule on a disturbing trend of tax audits or investigations conducted by revenue officers who are not specifically named or authorized in the LOA, under the pretext that the original revenue officer authorized to conduct the audit or investigation has been reassigned or transferred to another case or place of assignment, or has retired, resigned or otherwise removed from handling the audit or investigation.
>
> This practice typically occurs as follows: (i) a valid LOA is issued to an authorized revenue officer; (ii) the revenue officer named in the LOA is reassigned or transferred to another office, case or place of assignment, or retires, resigns, or is otherwise removed from handling the case covered by the LOA; (iii) the revenue district officer or a subordinate official issues a memorandum of assignment, referral memorandum, or such equivalent document to a new revenue officer for the continuation of the audit or investigation; and (iv) the new revenue officer continues the audit or investigation, supposedly under the authority of the previously issued LOA. This practice of reassigning or transferring revenue officers, who are the original authorized officers named in the LOA, and subsequently substituting or replacing them with new revenue officers who do not have a new or amended LOA issued in their name, has been the subject of several CTA decisions x x x.
>
> The Court hereby puts an end to this practice.

(Emphasis in the original; citations omitted)

With the assessments having been found to be void in the absence of the authority of RO Calpo to conduct the audit investigation of petitioner's tax records, the Court sees no reason to discuss the other grounds raised by the parties.

As to petitioner's prayer for costs of suit, since no costs shall be allowed against the Republic of the Philippines unless otherwise provided by law,[24] the same must be denied.

WHEREFORE, the instant Petition for Review, filed on November 8, 2021 is hereby **PARTIALLY GRANTED**. The undated FDDA and accompanying undated Assessment Notices are hereby declared **VOID**. Respondent is hereby **ENJOINED AND PROHIBITED** from collecting any amount in relation to said FDDA.

However, the prayer for costs of suit is **DENIED.**

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[24] Sec. 1, Rule 142, Rules of Court.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusion in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

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.

ROMAN G. DEL ROSARIO
Presiding Justice