REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

BUILDERS STEEL CORPORATION
Petitioner,

- versus -

HON. KIM S. JACINTO-HENARES, in her capacity as Commissioner of Internal Revenue, ALFREDO V. MISAJON and NESTOR S. VALEROSO, in their capacity as OIC-Assistant Commissioner Large Taxpayer Service, Bureau of Internal Revenue,
Respondents.

CTA Case No. 9050

Members:

FABON-VICTORINO, and
RINGPIS-LIBAN, JJ.

Promulgated:

DEC 17 2018
3:16 p.m.

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DECISION

Fabon-Victorino, J.:

In this *Petition for Review*[1] filed on May 15, 2015, petitioner Builders Steel Corporation seeks to reverse and set aside the Final Decision[2] of respondent Commissioner of Internal Revenue (CIR) dated March 12, 2015, which affirmed the Final Decision on Disputed Assessment[3] (FDDA) issued for its alleged deficiency Income Tax (IT) and Value-Added Tax (VAT) in the aggregate amount of ₱1,775,626,235.57, inclusive of interest and penalties, for taxable year (TY) 2012.

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[1] Docket, pp. 10-31.
[2] Exhibit P-15, docket, p. 771.
[3] Exhibit P-13, pp. 699-702.

Petitioner is a domestic corporation with principal office at 19 Daang Bato, Lawang Bato, Valenzuela City.[4] It is a registered taxpayer with Certificate of Registration No. OCN 4RC0000251372 and Taxpayer's Identification No. (TIN) 000-278-874-000.[5]

On the other hand, respondent Kim S. Jacinto-Henares, during the relevant period, was the Commissioner of the Bureau of Internal Revenue (BIR); while respondents Alfredo V. Misajon and Nestor S. Valeroso were the Officers-in-Charge (OICs)/Assistant Commissioners of the Large Taxpayers Service of the BIR.[6]

On March 11, 2013, respondent Misajon issued Mission Order No. MSO2001 00105952[7] directing revenue officers (ROs) R. Arriola, R. Martinez, C. Mendoza, S. Samaniego, T. Monforte, A. Ancheta, R. Budaño, and G. San Pedro to conduct an immediate inventory of petitioner's goods on hand and reconcile it with its inventory lists as of December 31, 2012.

The day after, or on March 12, 2013, respondent Misajon issued another Mission Order No. MSO2001 00105962[8] directing the same ROs to require petitioner to submit sales invoices and official receipts, purchase book, sales book, cost of production report and other accounting records affecting inventory of stock trade issued and used from January 1 to March 11, 2013.

On various dates, respondent Misajon issued to petitioner Checklist of Records/Documents[9], First Notice[10], Second and Final Notice[11], and Subpoena Duces Tecum[12] for its submission and presentation of the required documents and other accounting records for evaluation and preparation of report in connection with the inventory taking.

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[4] Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), docket, p. 305.
[5] Exhibit P-22.
[6] Par. 2, Stipulation of Facts, JSFI, docket, p. 305.
[7] Exhibit P-1, docket, p. 592.
[8] Exhibit P-2, docket, p. 594.
[9] Exhibit R-3, BIR records, p. 2.
[10] Exhibit R-4, BIR records, p. 5.
[11] Exhibit R-5, BIR records, p. 7.
[12] Exhibit R-6, BIR records, p. 12.

On April 29, 2013, petitioner filed its Annual Income Tax Return (AITR)[13] for TY 2012.

On May 10, 2013, petitioner transmitted[14] several pertinent documents in compliance with Mission Order No. MSO2001 00105962.

On May 5, 2014, respondent Misajon issued Preliminary Assessment Notice[15] (PAN), assessing petitioner of deficiency IT and VAT in the sum of ₱1,678,225,984.67, inclusive of interests and penalties for TY 2012, to which petitioner protested via Letter Reply[16] dated May 20, 2014.

Respondent Misajon reiterated in the subsequently issued Formal Letter of Demand[17] (FLD) and Final Assessment Notices[18] (FAN), both dated May 30, 2014, which petitioner received on June 4, 2014[19], the assessment for deficiency IT and VAT in the total amount of ₱1,694,635,809.55, inclusive of interests and penalties, for TY 2012.

Petitioner protested[20] the said FLD/FAN on July 4, 2014. The same was however denied in the assailed FDDA with a total assessment of ₱1,775,626,235.57, inclusive of interests and penalties, for TY 2012.[21] It was received by petitioner on November 27, 2014.

On December 29, 2014, petitioner requested respondent CIR for a reconsideration[22], but the same was denied in the similarly assailed Final Decision dated March 12, 2015, which petitioner received on April 16, 2015.

Hence, the instant Petition for Review filed on May 15, 2015.

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[13] Exhibit P-24.
[14] Exhibit P-26.
[15] Exhibit P-3, docket, pp. 595-596; Exhibit R-8, BIR records, pp. 270-273.
[16] Par. 4, JSFI, docket, p. 306; Exhibit P-4, docket, pp. 601-609.
[17] Exhibit P-5, docket, pp. 616-623; Exhibit R-9, BIR records, pp. 313-316.
[18] Exhibit R-10, BIR records, pp. 311-312.
[19] Par. 5, JSFI, docket, p. 306.
[20] Par. 6, JSFI, docket, p. 306; Exhibit P-6, docket, pp. 624-634.
[21] Par. 7, JSFI, docket, p. 306.
[22] Par. 8, JSFI, docket, p. 306; Exhibit P-14, docket, pp. 705-718.

In his *Answer*[23], respondent CIR asserts that the procedures for inventory-taking and computation of deficiency taxes spelled out in Revenue Memorandum Order (RMO) No. 3-2003 was dutifully followed. Petitioner's allegation of irregularity in the computation of the tax liability is a mere attempt to refute the assessment, saying that it is without any legal basis. Contrary to petitioner's claim, the ROs were not remiss in their duty as they considered all protests and documents filed by petitioner who failed to comply with the Subpoena Duces Tecum he issued.

Respondent CIR also asserts that the 50% surcharge he imposed was in order given the substantial under-declaration of sales made by petitioner as manifested by its unaccounted inventory.

In its *Reply*[24], petitioner insists that: (1) respondent did not follow the procedure for proper computation of deficiency taxes prescribed under RMO No. 3-2003; (2) respondent improperly treated the unaccounted inventory entirely as undeclared sales, thereby completely disregarding the cost of goods; (3) the computation of the unaccounted inventory is doubtful due to disregard of several factors; (4) assuming that petitioner is liable for deficiency taxes as computed, respondent CIR failed to take into account the excess input tax in the final computation of its supposed tax liability; and (5) the imposition of penalties and surcharges is without basis as petitioner is not liable for any deficiency taxes.

After the pre-trial conference, the parties filed their Joint Stipulation of Facts and Issues[25] on the basis of which a Pre-Trial Order[26] was issued on November 27, 2015.

To prove its case, petitioner presented (1) its Production Manager, Edward Uy Goh To Kong; (2) its Warehouse Supervisor Erwin Uy; (3) its Sales Manager, Barbara Chan Tiu; and (4) the Court-commissioned Independent Certified Public Accountant (ICPA), Glenn Ian D. Villanueva.

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[23] Docket, pp. 126-131.
[24] Docket, pp. 135-145.
[25] Docket, pp. 305-311
[26] Docket, pp. 321-328

By way of Judicial Affidavit[27], **Edward Uy Goh To Kang** testified that he was petitioner's Production Manager from 1994 to 2015, hence, he was able to personally see the inventory-taking conducted by the ROs for TY 2012.

Sometime in March 2013, ROs, armed with a Mission Order, conducted an inventory of petitioner's product inside its plant. He accompanied and showed them the items they wanted to inventory. The ROs asked that a sample bundle of scrap bar ends for every size be weighed. After weighing, the Ros counted the other bundles of scrap bar ends and multiply them by the weight of the sample bundles on hand.

For the witness, the manner by which ROs conducted the inventory would give inaccurate result since the number and weight of scrap bar ends in a bundle differ from the other bundle. That being the case, the ROs could not simply multiply the weight per bundle with the number of bundles found in the plant.

Petitioner's Warehouse Supervisor **Erwin Uy** declared[28] that he also witnessed the subject inventory of scrap bar ends. He pointed to the ROs the location of the product indicated in their list. He corroborated the testimony of witness Edward Uy Goh To Kang and described the inventory procedure as just counting the bundles per product and multiply them by the number of scrap bar ends in each bundle instead of counting them one-by-one. After the inventory, the ROs prepared an inventory sheet which he signed following their instruction.

The procedure allegedly adopted by the ROs would give an inaccurate result given that the number of scrap bar ends in each bundle varies most of the time. He opined that laborers tend to do their job carelessly and in haste because the area where they bundle the finished products, while they are still very hot, is full of dust and stream.

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[27] Docket, pp. 172-176.
[28] Docket, pp. 281-285.

Petitioner's Sales Manager, **Barbara Chan Tiu,** on the other hand, declared[29] that petitioner filed the instant case to dispute the assessment issued against it for TY 2012 which arose from the inventory conducted by ROs pursuant to the two (2) Mission Orders issued by respondent Misajon.

She believes that the computation of the alleged deficiency taxes was erroneous given that the ROs did not religiously follow the computation prescribed under RMO No. 3-2003. She also suspects that the inventory conducted by the ROs could not possibly yield an accurate result as it was done in haste in just two days, while it usually takes them two (2) weeks to finish the job. The ROs did not as well count the products by piece and merely estimated their number in each bundle. Given that the products were randomly bundled, they could not possibly be uniform in weight.

According to the witness, the ROs were not familiar with the way petitioner conducts its business or at least the way it treats its products for inventory purposes. The ROs simply made assumptions on the prices of petitioner's products by assigning a particular price for each of item. However, prices of petitioner's products are constantly changing. Retail and wholesale transactions also change the price of petitioner's products which the ROs failed to take into consideration.

ICPA **Glenn Ian D. Villanueva**, testified[30] that based on the procedures he performed and using the applicable pro-forma computation under RMO No. 3-2003, petitioner still has an income tax deficiency of ₱95,073,178.71, using an estimated gross mark-up of ₱173,604,033.34; and VAT deficiency in the amount of ₱555,420,941.21.

After formal offer of evidence[31] on March 17, 2017, petitioner rested by Resolution[32] dated May 30, 2017.

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[29] Docket, pp. 186-195.
[30] Docket, pp. 585-590.
[31] Docket, pp. 531-541.
[32] Docket, pp. 906-907.

To prove its defense, respondent CIR presented his lone witness RO Maria Gracielle Cecilia F. San Jose.

RO **Maria Gracielle Cecilia F. San Jose** testified[33] that she was one of the ROs assigned to conduct an inventory of petitioner's goods on hand pursuant to Mission Order Nos. MSO2001 00105952 dated March 11, 2013 and MSO2001 00105962 dated March 12, 2013.

On March 13, 2013, the Mission Orders together with a Checklist of Records for the submission of accountable forms relative to inventory covering taxable year 2012, were duly served to petitioner. Petitioner, however, failed to submit the required documents. Hence, on April 11, 2013, they issued a First Notice requiring petitioner to submit the enumerated documents needed in the evaluation and preparation of the report relative to the inventory-taking. But petitioner still failed to submit any.

A Second Final Notice was subsequently issued on April 21, 2013, to give petitioner the last opportunity to submit the required documents, with warning that non-compliance would result in the issuance of a Subpoena Duces Tecum in accordance with RMO No. 45-2010. Again, petitioner did not heed this process.

Thus, on August 15, 2013, they issued a Subpoena Duces Tecum which petitioner received on August 16, 2013. Petitioner opted to remain non-complaint prompting them to proceed with the actual counting and reconciliation of petitioner's products based on available documents which revealed that petitioner has deficiency taxes. Thus, in a Memorandum dated March 17, 2014, they recommended that a Preliminary Assessment Notice (PAN) be issued.

On May 5, 2014, a PAN with attached Details of Discrepancies was issued and received by petitioner on even date. Thereafter, or on June 4, 2014, an FLD with attached

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[33] Docket, pp. 163-171.

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Details of Discrepancies and FAN were issued and received by petitioner also on the same date.

According to the witness, petitioner protested the FLD/FAN but failed to submit documents to substantiate it. Hence, in a Memorandum dated November 7, 2014, they recommended for the issuance of the FDDA. On November 27, 2014, the assailed FDDA with attached Details of Discrepancies was issued and received by petitioner.

Petitioner filed a *Motion for Reconsideration* with respondent CIR but since petitioner merely mimic its arguments in its protest, they recommended its denial through a Memorandum dated February 27, 2015. A corresponding Letter to that effect was issued on March 12, 2015 and received by petitioner on April 16, 2015.

On November 10, 2017, respondent was deemed to have rested his case upon the admission of all his documentary exhibits.

With petitioner's filing of its Memorandum[34] on December 13, 2017 and that of respondent on December 19, 2017, this case was deemed submitted for decision on December 22, 2017.

THE ISSUES

The issues submitted by the parties for the Court's determination are as follows:

1. Whether respondents erred in not following the proper computation as provided under Revenue Memorandum Order (RMO) No. 03-2003, which prescribes the guidelines and procedures in the conduct of inventory-taking or stock-taking;

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[34] Docket, pp. 925-939.

2. Whether respondents erred in not deducting the cost of goods and treating the entire unaccounted inventory as undeclared sales, and thereafter imposing thereon the income tax and VAT rates;

3. Whether respondents erred in not taking into account several factors, which could affect the correctness and accuracy of the inventory taking or stock taking;

4. Whether respondents erred in not considering petitioner's excess input taxes which should have been sufficient to cover the alleged deficiency VAT, and therefore, there should have been no liability for deficiency VAT;

5. Whether respondents erred in imposing penalties of surcharge and interest; and

6. Whether petitioner is liable for deficiency income tax and VAT, inclusive of penalties, in the aggregate amount of ₱1,775,626,235.57.

THE COURT'S RULING

As an assessment case, the timeliness of the filing of the instant Petition for Review must first be ascertained.

Section 228[35] of the National Internal Revenue Code (NIRC) of 1997, as amended, provides that a taxpayer

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[35] SEC. 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: xxx xxx xxx

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.

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.

adversely affected by the decision of the Commissioner of Internal Revenue may appeal to the Court of Tax Appeals (CTA) within thirty (30) days from receipt of the said decision, otherwise, the decision shall become final, executory and demandable.

Undisputedly, petitioner received respondent's Final Decision dated March 12, 2015 denying its *Motion for Reconsideration* and sustaining the questioned deficiency tax assessments on April 16, 2015. Thus, petitioner had thirty (30) days from April 16, 2015, or until May 16, 2015, within which to appeal respondent's adverse decision. Evidently, the instant Petition for Review was seasonably filed on May 15, 2015 vesting the Court with jurisdiction to hear and determine the same pursuant to Section 7(a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282.[36]

On the merits of petitioner's complaint.

In its *Memorandum*[37] filed on December 13, 2017, petitioner contends that no LOA was issued by respondent CIR against it authorizing any of RO, or the ROs named in the two Mission Orders issued by respondent Misajon, to examine its books of accounts and other accounting records for all internal revenue taxes for TY 2012. This is evident in petitioner's Formal Offer of Evidence dated September 22, 2017 showing that it was not among the exhibits he formally offered. Neither was there any evidence showing that it was ever issued by respondent CIR or any or his authorized representative for the purpose of conducting tax audit against it for the same taxable year. Offer of evidence, according to petitioner, is warranted as the judge is bound to render

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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. (*Emphasis supplied*)

[36] 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, 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; xxx.

[37] See Note 34, *supra*.

judgment based on evidence formally offered by the parties. Thus, without the required LOA, there was blatant lack of authority on any ROs to conduct a tax investigation against it.

Petitioner further argues that even if the issue on the authority of the ROs to conduct the audit was not raised during the trial, the Court still has the power to resolve the same, citing the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*[38]

The Court finds for petitioner.

Indeed, notwithstanding the failure of the parties to raise the issue of the authority of the named examining ROs, the Court may still determine and rule upon the same if it is necessary to achieve an orderly disposition of the case. This is very clear in Section 1 of Rule 14 of the Revised Rules of the Court of Tax Appeal (RRCTA) which reads as follows:

> SECTION 1. *Rendition of judgment.* - The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. xxx.
>
> 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**. (*Emphasis supplied*)

The pronouncement of the Supreme Court on the matter in the *Lancaster case,* is instructive, to wit:

> <u>On whether the CTA can resolve an issue which was not raised by the parties,</u> <u>**we rule in the affirmative**</u>.

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[38] G.R. No. 183408, July 12, 2017.

> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, **the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case**. The text of the provision reads:
>
>> SECTION 1. *Rendition of judgment.* - xxx
>>
>> 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 above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda. The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter. (*Emphases supplied*)

Evidently, the legal authority of the ROs to conduct a valid tax audit for the issuance of a valid assessment is a related issue for determination in achieving an orderly disposition of the case. Thus, it is imperative for the Court to rule first on the validity of the assessment.

The assessment issued by respondent against petitioner is null and void in the absence of a valid grant of authority to the examining ROs.

It must be emphasized that before any revenue officer may conduct an examination and issue an assessment, there must be a valid grant of authority in his or her favor.

Under Section 6(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, the Commissioner of Internal Revenue or his duly authorized representative has the power to authorize the examination of any taxpayer and the assessment of the correct amount of tax due, thus:

> SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
>
> (A) *Examination of Returns and Determination of Tax Due.* – After a return has been filed as required under the provisions of this Code, **the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax**: *Provided, however,* That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer." (*Emphasis supplied*)

This grant of authority is embodied in a Letter of Authority or LOA defined as the authority given to the appropriate revenue officer assigned to perform the audit and issue the corresponding assessment against the subject taxpayer. This is expressly provided under Section 13 of the NIRC of 1997, as amended, to wit:

> SEC. 13. *Authority of a Revenue Officer.* – Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, **a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the**

> **Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due** in the same manner that the said acts could have been performed by the Revenue Regional Director himself. (*Emphasis supplied*)

In the case of *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*,[39] the Supreme Court held:

> Based on Section 13 of the Tax Code, a Letter of Authority or 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. The very provision of the Tax Code that the CIR relies on is unequivocal with regard to its power to grant authority to examine and assess a taxpayer.
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> xxx xxx xxx
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> **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**. (*Boldfacing supplied*)

The above pronouncement was echoed in the more recent case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue,*[40] where the Supreme Court discussed the

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[39] G.R. No. 178697, November 17, 2010.
[40] G.R. No. 222743, April 5, 2017.

importance of the issuance of LOA and the absence thereof violates the taxpayer's right to due process, *viz*,:

> ***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 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:
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> xxx xxx xxx
>
> **Based on the afore-quoted provision, it is clear that unless authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of the 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.**
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> xxx xxx xxx

> 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.
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> xxx xxx xxx
>
> The Court cannot convert the LN into the LOA required under the law even if the same was issued by the CIR himself. *(Emphasis supplied)*

Clearly, a revenue officer must be clothed with authority before he or she may proceed with the examination of the subject taxpayer and subsequently issue an assessment. Note that the said authority must be embodied in a Letter of Authority and not in any other form.

In the case at bar, the examination and assessment against petitioner for its internal revenue taxes for TY 2012 was made on the basis of the two Mission Orders issued by respondent Misajon and not a validly issued LOA. The FLD[41] and FAN[42] issued against petitioner suggest this much, thus:

> Please be informed that **after investigation, pursuant to Mission Order Nos. 00105952 and 00105962, dated March 11, 2013 and March 12, 2013, respectively; there has been found deficiency Income Tax and Value-Added Tax for the year 2012, as shown hereunder**: (*Boldfacing supplied*)

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[41] Exhibit P-5, docket, pp. 616 to 617; Exhibit R-9, BIR records, pp. 313 to 316.
[42] Exhibit R-10, BIR records, pp. 311 to 312.

The ruling of the Supreme Court in *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[43] is worth a repeat: ***a Letter of Authority or LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions***.

Thus, considering that the ROs who conducted the examination were not validly authorized to do so, the assessments for income tax and value added tax deficiency issued against petitioner is void. And a void assessment bears no valid fruit.

With the foregoing finding, discussion on the other issues raised by the parties is not warranted.

WHEREFORE, the instant *Petition for Review* is hereby **GRANTED**. Accordingly, the Final Decision dated March 12, 2015 issued by respondent Commissioner of Internal Revenue, affirming the Final Decision on Disputed Assessment dated November 25, 2014, the Formal Letter of Demand dated May 30, 2014, and the Assessment Notices attached thereto are hereby **CANCELLED AND SET ASIDE**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[43] See Note 40, *supra*.

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.

ESPERANZA R. FABON-VICTORINO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the Acting 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