REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

FLOORCOMPANY INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11050

Members:

RINGPIS-LIBAN, *PJ & Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

APR 2 9 2026

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DECISION

RINGPIS-LIBAN, *PJ*.:

THE CASE

The *Petition for Review* filed on December 23, 2022,[1] prays that the assessment issued by respondent against petitioner on its alleged deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), withholding tax on compensation (WC) and miscellaneous charges (MC), in the aggregate amount of ₱61,048,327.18, increments included, per *Final Decision on Disputed Assessment* (FDDA) dated November 18, 2022, for taxable year 2017, be reversed and set aside and declared null and void.[2]

THE PARTIES

Petitioner Floorcompany Inc. is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office

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[1] An *Amended Petition for Review* was subsequently filed and admitted, Docket – Vol. I, pp. 105 to 134; Resolution dated February 20, 2023, Docket – Vol. I, pp. 139 to 140.
[2] Summary of the Case, Pre-Trial Order dated January 25, 2024, Docket – Vol. I, p. 351.

address at 2235 Chino Roces Avenue, Makati City and business address at 1800 Ortigas Avenue, Brgy. Ugong, Pasig City.[3]

Respondent is the Commissioner of Internal Revenue with office address at the Bureau of Internal Revenue (BIR), National Office Building, Agham Road, Diliman, Quezon City.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On March 6, 2019, the BIR issued the *Letter of Authority* (LOA) for taxable year 2017 of petitioner,[5] numbered eLA201600036783/ LOA-048-2019-00000062.[6] Thereafter, on July 13, 2019, a copy of the same Electronic *Letter of Authority* (eLOA) dated March 6, 2019 was served to barangay officials of Barangay Bangkal, Makati City by way of substituted service to petitioner.[7]

Sometime in July 2021, the BIR Letter dated July 12, 2021 was sent to Ms. Kristina Carmela G. So, Treasurer of petitioner, informing the latter that the company can no longer be located in its registered address with the BIR and its whereabouts are unknown, a copy of the eLOA dated March 6, 2019 has been served upon the barangay officials of Barangay Bangkal, Makati City on July 13, 2019.[8]

No other LOA was issued and served to petitioner apart from the BIR Letter dated July 12, 2021 with the attached eLOA dated March 6, 2019.[9]

On October 26, 2021, the *Preliminary Assessment Notice* (PAN) with *Details of Discrepancies* was issued and served upon petitioner on November 3, 2021.[10]

Subsequently, on December 6, 2021, the BIR issued the *Formal Letter of Demand* (FLD) with *Details of Discrepancies* and *Assessment Notices* which were received by petitioner on the same day.[11]

On December 27, 2021, petitioner filed its *Protest by way of Motion for Reinvestigation* dated December 17, 2021.[12]

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[3] Exhibit "P-2", Docket – Vol. II, at p. 387.
[4] Par. 9, *Amended Petition for Review, vis-a-vis* par. 3, *Answer (With Special and Affirmative Defenses),* Docket – Vol. I, pp. 108 and 149, respectively.
[5] Par. 1, *Joint Stipulation of Facts and Issue* (JSFI), Docket – Vol. I, p. 321.
[6] Exhibit "R-1", BIR Records – Folder 1, p. 128.
[7] Par. 2, JSFI, Docket – Vol. I, p. 321; Exhibit "R-1-B", BIR Records – Folder 1, p. 128.
[8] Par. 3, JSFI, Docket – Vol. I, p. 321; Exhibit "P-8", Docket – Vol. II, pp. 427 to 428.
[9] Par. 4, JSFI, Docket – Vol. I, p. 321.
[10] Par. 5, JSFI, Docket – Vol. I, p. 322; Exhibit "P-10", Docket – Vol. II, pp. 436 to 446; Exhibit "R-6", BIR Records – Folder 1, pp. 207 to 214.
[11] Par. 6, JSFI, Docket – Vol. I, p. 322; Exhibit "P-12", Docket – Vol. II, pp. 467 to 480; Exhibits "R-7" and "R-7-D", BIR Records – Folder 1, pp. 252 to 265.
[12] Exhibit "P-13", Docket – Vol. II, pp. 481 to 517.

In response to petitioner's protest to the FLD, the FDDA was issued on November 18, 2022 and the same was served upon petitioner on November 24, 2022,[13] details of which are as follows:

	Basic Tax Due	Interest (until Dec. 19, 2022)	Total
Income tax	₱25,543,491.10	₱14,343,545.03	₱39,887,036.13
VAT	13,270,375.83	7,800,799.55	21,071,175.38
EWT	9,500.00	5,615.67	15,116.67
Compromise penalty	75,000.00		75,000.00
		Total	**₱61,048,327.18**

PROCEEDINGS BEFORE THIS COURT

As earlier stated, petitioner filed the present *Petition for Review* on December 23, 2022.[14]

In the Resolution dated February 6, 2023,[15] the Court noted that petitioner failed to physically attach the *Secretary's Certificate*, and instead, the scanned copy thereof was stored in the USB, submitted together with the *Petition for Review*. Likewise, the Court noted that while petitioner attached the *Judicial Affidavit* of its purported witness to the *Petition*, it failed to state the said fact in the contents of the *Petition*. Hence, petitioner was granted a final and non-extendible period of five (5) days from notice, within which to submit a physical copy of the *Secretary's Certificate* and the amended Petition for Review.

On February 10, 2023, petitioner filed its *Compliance with Motion to Admit Amended Petition for Review*,[16] attaching therewith its *Amended Petition for Review*,[17] and *Secretary's Certificate*.[18]

In the Resolution dated February 20, 2023,[19] the Court noted and granted petitioner's *Compliance with Motion to Admit*, admitting the *Amended Petition for Review*, together with the *Secretary's Certificate*.

Within the period granted by the Court,[20] on May 2, 2023, respondent posted his *Answer (With Special and Affirmative Defenses)*,[21] interposing the

[13] Par. 7, JSFI, Docket – Vol. I, p. 322; Exhibit "P-1", Docket – Vol. I, pp. 39 to 79; Exhibits "R-9" and "R-9-B", BIR Records – Folder 1, pp. 609 to 650.
[14] Docket – Vol. I, pp. 9 to 38 and 80 to 81 (for *Verification and Certification Against Forum Shopping*).
[15] Docket – Vol. I, pp. 99 to 101.
[16] Docket – Vol. I, pp. 102 to 104.
[17] Docket – Vol. I, pp. 105 to 134.
[18] Docket – Vol. I, p. 135.
[19] Docket – Vol. I, pp. 139 to 140.

following special and affirmative defenses, to wit: (1) petitioner was tagged with Cannot Be Located (CBL) status since it cannot be served with LOA as its whereabouts are unknown, hence, the LOA was served by substituted service through a barangay official; (2) as petitioner was given a CBL status, non-revalidation of an unserved LOA after the lapse of thirty (30) days from its issuance date and the failure of the revenue officer (RO) to render an investigation report within the time frame prescribed (180 days for Regional cases) from the LOA's issuance do not nullify the said LOA but only warrant disciplinary action against the concerned RO; (3) the three (3)-year prescriptive period to assess was effectively suspended, hence, the tax assessment issued by the BIR is valid; (4) the assessed deficiency income tax, VAT and EWT assessments issued against petitioner for the taxable year 2017 are valid as the same have factual and legal bases; and (5) petitioner failed to demonstrate that the assessment, which is the subject of this case, is null and void.

On May 12, 2023, respondent submitted the entire *BIR Records* of this case, consisting of three (3) folders: Folder 1 (Main Docket), Folder 2 (Sales Invoices), and Folder 3 (Submitted Documents per Reinvestigation).[22]

Subsequently, petitioner filed its *Reply* on May 22, 2023.[23]

On May 22, 2023,[24] the case was referred to mediation in the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA), pursuant to Section II of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals.* However, on July 17, 2023, the PMC-CTA submitted the *No Agreement to Mediate* dated July 12, 2023, stating that the parties decided not to have their case mediated.[25]

The Pre-Trial Conference was set and held on October 12, 2023.[26] Prior thereto, respondent's *Pre-Trial Brief* was filed on September 28, 2023,[27] while petitioner's *Pre-Trial Brief* was submitted on October 6, 2023.[28]

On November 9, 2023, the parties filed their *Joint Stipulation of Facts and Issue*,[29] which was admitted and approved by the Court in its Resolution dated

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[20] Respondent's *Motion for Extension of Time to File Answer* dated March 23, 2023, Docket – Vol. I, pp. 143 to 145; Minute Resolution dated April 11, 2023, Docket – Vol. I, p. 148.
[21] Docket – Vol. I, pp. 149 to 168.
[22] Respondent's *Compliance* dated May 12, 2023, Docket – Vol. I, p. 283.
[23] Docket – Vol. I, pp. 274 to 280.
[24] Minute Resolution dated May 22, 2023, Docket – Vol. I, p. 273.
[25] Docket – Vol. I, p. 286.
[26] Minute Resolution dated July 31, 2023, Docket – Vol. I, p. 288; Minutes of the hearing held on, and Order dated, October 12, 2023, Docket – Vol. I, pp. 318 to 320.
[27] Docket – Vol. I, pp. 289 to 297.
[28] Docket – Vol. I, pp. 299 to 313.
[29] Docket – Vol. I, pp. 321 to 336.

November 16, 2023,[30] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated January 25, 2024 was then issued.[31]

Trial then ensued, with both parties presenting and offering their respective documentary and testimonial evidence.

Petitioner offered the testimony of its sole witness, Ms. Nina Zarah Rapanan,[32] its Accounting Assistant.

On February 27, 2024, petitioner filed its *Formal Offer of Exhibits*,[33] to which respondent filed his *Comment/Opposition (To Petitioner's Formal Offer of Exhibits)* on February 29, 2024.[34] Thereafter, in the Resolution dated May 29, 2024,[35] the Court admitted petitioner's offered exhibits, *except* Exhibit "P-19", for failure to present original for comparison.

For his part, respondent presented the testimony of RO Demi Ann P. Exiomo.[36]

On October 28, 2024, respondent filed his *Formal Offer of Evidence via* accredited courier,[37] to which petitioner filed its *Comment and Opposition (To Formal Offer of Evidence dated 28 October 2024) via* accredited courier on November 13, 2024.[38] In the Resolution dated February 11, 2025,[39] the Court admitted all of respondent's offered exhibits.

The *Memorandum for Petitioner Floorcompany, Inc.* was filed on March 20, 2025,[40] while respondent's *Memorandum* was posted on March 28, 2025.[41]

This case was considered submitted for decision on April 29, 2025.[42]

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[30] Docket – Vol. I, p. 340.
[31] Docket – Vol. I, pp. 351 to 357.
[32] Exhibit "P-20", Docket – Vol. I, pp. 82 to 94; Minutes of the hearing held on, and Order dated, February 8, 2024, Docket – Vol. I, pp. 358 to 359.
[33] Docket – Vol. II, pp. 375 to 384.
[34] Docket – Vol. II, pp. 551 to 554.
[35] Docket – Vol. II, pp. 557 to 559.
[36] Exhibit "R-10", Docket – Vol. I, pp. 174 to 188; Minutes of the hearings held on, and Orders dated, June 6, 2024 and October 15, 2024, Docket – Vol. II, pp. 560 to 561 and 564 to 566, respectively.
[37] Docket – Vol. II, pp. 568 to 574.
[38] Docket – Vol. II, pp. 580 to 584.
[39] Docket – Vol. II, pp. 609 to 610.
[40] Docket – Vol. II, pp. 612 to 638.
[41] Docket – Vol. II, pp. 642 to 655.
[42] Minute Resolution dated April 29, 2025, Docket – Vol. II, p. 659.

THE STIPULATED ISSUE

The parties submit the issue below for this Court's resolution, *viz.*:

> "8. Whether petitioner is liable for the assessed deficiency IT, VAT, EWT, WC, and MC in the aggregate amount of Php61,048,327.18, increments included, per FDDA dated November 18, 2022, for the taxable year 2017."[43]

Petitioner's arguments:

Petitioner argues that the LOA became null and void as it was only served 860 days after its issuance; that petitioner did not acquiesce to the legal extension of the audit; that the substituted service was not valid; that *Notice of Discrepancy* (NOD) was already issued by the time the LOA was just served; that the BIR's right to assess deficiency taxes has prescribed; and that the BIR incorrectly assessed deficiency taxes.

Respondent's counter-arguments:

Respondent contends that petitioner was tagged with CBL status since it cannot be served with LOA as its whereabouts are unknown and it cannot be found in the address given in its tax returns filed or at the address registered or given by it to the BIR, hence, the LOA was served by substituted service through a barangay official; that as petitioner was given a CBL status, non-revalidation of an unserved LOA after the lapse of thirty (30) days from issuance date and the failure of the RO to render an investigation report within the time frame prescribed (180 days for Regional Cases) from the LOA's issuance do not nullify the said LOA but only warrant a disciplinary action against concerned RO; that the tax assessments issued by the BIR against petitioner for taxable year 2017 are valid as the three (3)-year prescriptive period to assess was effectively suspended in this case; and that the deficiency income tax, VAT, EWT, and MC assessments issued against petitioner for taxable year 2017 are valid as the same have factual and legal bases.

THE COURT'S RULING

The present *Petition for Review* is meritorious.

[43] Issue[s], JSFI, Docket – Vol. I, p. 322.

The subject LOA is invalid for having been served beyond thirty (30) days from its issuance.

Petitioner argues that the LOA dated March 6, 2019 is null and void for having been served 860 days from its issuance. According to petitioner, the substituted service of the LOA was effected only on July 13, 2021.

On the other hand, respondent advances that the BIR should not be faulted that the LOA was *not* served upon petitioner within thirty (30) days from its issuance since the service of the same upon petitioner was impossible, owing to the fact that petitioner was no longer present at its registered address and its whereabouts are unknown despite diligent efforts to locate it, coupled with petitioner's failure to update the BIR of its new address.

The Court agrees with petitioner.

To determine whether an assessment is lawful and valid, it is necessary that the LOA must not be void. As a corollary, for an audit and examination of books to be considered as lawful, the same must be based on, and preceded by, a valid LOA.

The LOA is the authority given to the appropriate RO assigned to perform assessment functions. It empowers or enables said RO to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax.[44] The LOA commences the audit process and informs the taxpayer that it is under audit for possible deficiency tax assessment,[45] consistent with Sections 6(A) and 13 of the National Internal Revenue Code (NIRC) of 1997, as amended, to wit:

> "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, notwithstanding any law requiring the prior authorization of any government agency or instrumentality: *Provided, however,* That failure to file a return shall not prevent the Commissioner form authorizing the examination of any taxpayer.
>
> xxx xxx xxx."

[44] *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 222743, April 5, 2007.

[45] *Commissioner of Internal Revenue vs. De La Salle University, Inc., et seq.,* G.R. Nos. 196596, 198841 and 198941, November 9, 2016.

> "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."

Relative thereto, item VIII(C)(2)(2.3) of Revenue Audit Memorandum Order (RAMO) No. 1-2000 dated March 17, 2000,[46] which was in effect when the subject LOA was issued, mandates that the LOA must be served within thirty (30) days from the time it was issued, to wit:

> "VIII. *Preliminary Approach to Examination*
>
> xxx xxx xxx
>
> C. *Contact With Taxpayer*
>
> xxx xxx xxx
>
> 2. *Serving of Letter of Authority*
>
> xxx xxx xxx
>
> 2.3 **A Letter of Authority <u>must be served or presented to the taxpayer within 30 days from its date of issue</u>; otherwise, it becomes <u>null and void unless revalidated</u>.** The taxpayer has all the right to refuse its service if presented beyond the 30-day period depending on the policy set by top management. Revalidation is done by issuing a new Letter of Authority or by just simply stamping the words 'Revalidated on ______________' on the face of the copy of the Letter of Authority issued." *(Emphasis and underscoring added)*

In *AFP General Insurance Corporation vs. Commissioner of Internal Revenue*,[47] the Supreme Court held as follows:

> "The foregoing rule <u>**invalidates**</u> **a previously issued LOA, which has remained unserved for more than 30 days past its issuance date, unless the same is revalidated.**

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[46] SUBJECT: Updated Handbook on Audit Procedures and Techniques Volume I (Revision – Year 2000)

[47] G.R. No. 222133, November 4, 2020.

In the exercise of the power to assess and collect taxes, the BIR has the commensurate duty to uphold a taxpayer's fundamental right to due process. Thus, **its authority must be understood to take effect only after the CIR or his duly authorized representative *issues an LOA* and the designated revenue officer *serves it* upon the intended taxpayer**. That a LOA remains unserved signifies that the tax authorities have yet to formally apprise the taxpayer and, consequently, have not commenced actual audit.

Read in these lights, **the rules clearly impose a *30-day expiration period for service*. Upon expiration, the LOA becomes *wholly unenforceable*, inasmuch as it cannot be served without revalidation upon the taxpayer** who, in turn, has the right to refuse the same.

The revalidation requirement involving an *unserved LOA* is imposed on the revenue officer because he/she exclusively derives authority therefrom. It is intended to *reconfirm his/her designation* as the BIR personnel duly authorized (by the CIR) to examine the taxpayer's books and *extend the period of service*. **Otherwise, his/her subsequent presence in a taxpayer's premises for a supposed tax audit shall be illegitimate**." *(Emphases and underscoring added)*

The foregoing provides that the LOA must be served or presented to the taxpayer within thirty (30) days from its date of issue; otherwise, it becomes null and void.

In the present case, although the parties stipulated that a copy of the LOA dated March 6, 2019 was served upon the barangay officials of Barangay Bangkal, Makati City *via* substituted service on July 13, **2019**,[48] evidence shows that the same was served to a certain "Gus E. Yoro", with the position of "Barangay Administrator" on July 13, **2021**.[49]

Further, during the cross-examination of respondent's witness RO Demi Ann Exiomo on June 6, 2024,[50] it was clarified and established that the LOA was served to the said barangay official on July 13, **2021**, not in **2019**, to wit:

"ATTY. BRITANICO:
Ok. Let's go to the receipt of this Letter of Authority which is I'm going now to R-1-B. Do you have a copy of R-1-B?

WITNESS:
Yes, Attorney.

xxx xxx xxx

ATTY. BRITANICO:
Do I get it correctly that the date is actually July 13, 2021?

[48] Par. 3, JSFI, Docket – Vol. I, p. 321.
[49] Exhibit "R-1", BIR Records – Folder 1, p. 128.
[50] Transcript of Stenographic Notes dated June 6, 2024, pp. 7 to 11.

JUSTICE LIBAN:
What is the date, the one appearing in?

ATTY. BRITANICO:
In R-1, Your Honors.

JUSTICE LIBAN:
What is that?

ATTY. BRITANICO:
July 13, 2021.

JUSTICE LIBAN:
What is that date?

ATTY. BRITANICO:
The date of receipt, Your Honors.

JUSTICE LIBAN:
Ok. Is it there? Can you just confirm it?

WITNESS:
The date here is not clear, but I believe that it is July 13. The year is not clear, Your Honors.

JUSTICE LIBAN:
Where is the record?

xxx xxx xxx

EXECUTIVE CLERK:
It seems, Your Honors, 2021, July 13, 2021.

xxx xxx xxx

ATTY. BRITANICO:
On the second page of this Letter of Authority or R-1, please look at the date again on top of the signature of Wenciana T. Baguio, do you agree with me that there is no way that the year was received in 2019, but it should be 2021. Do you agree?

JUSTICE LIBAN:
Page 2?

ATTY. BRITANICO:
There is attachment receipt, Your Honors.

WITNESS:
I believe of the receipt of the Letter of Authority in the Acknowledgment Receipt is the same, but the year is not clear.

JUSTICE LIBAN:
In the copy [o]f the Court?

EXECUTIVE CLERK:
Page 199 of the CTA Rollo, Your Honors, provides that it was dated July 13, 2021.

xxx xxx xxx

JUSTICE LIBAN:
You get the BIR Records. Because I am sure it's clear in the BIR Records. *Pakita mo sa* witness, R-1.

EXECUTIVE CLERK:
For the record, Your Honors, the witness is going over the BIR Records.

JUSTICE LIBAN:
Can you answer?

WITNESS:
Yes, Your Honors. The BIR Records of the Letter of Authority, **it was received on July 13, 2021**.

JUSTICE LIBAN:
Ok. Thank you very much for that confirmation. xxx." *(Emphasis added)*

The above clarifications proved that the subject LOA served upon the barangay official of Barangay Bangkal, Makati City *via* substituted service was made on July 13, 2021, or 860 days from the issuance of the LOA, and thus, beyond the thirty (30)-day expiration period for service. Consequently, the LOA dated March 6, 2019 becomes wholly unenforceable because it cannot be served without revalidation upon the taxpayer.

It should be noted that the thirty (30)-day period to serve the LOA under RAMO No. 1-2000 was already deleted under RAMO No. 1-2020 dated September 17, 2020,[51] to wit:

"VIII. PRELIMINARY APPROACH TO EXAMINATION

xxx xxx xxx

C. Contact with Taxpayer

1. Serving of eLA

a. On the first opportunity of the RO to have a personal contact with the taxpayer, he should present the eLA together with the checklist of requirements. The eLA should only be served by the RO assigned to the case. He should have the proper identification card and should be in proper uniform. However, the service of eLA may likewise be done in other manners as prescribed in existing policies.

[51] SUBJECT: Updated Handbook on Audit Procedures and Techniques

> b. An eLA authorizes or empowers a designated RO to examine, verify and scrutinize a taxpayer's books and records in relation to his internal revenue tax liabilities for a particular period."

Relative thereto, Revenue Memorandum Circular (RMC) No. 82-2022 dated June 28, 2022,[52] clarified that the thirty (30)-day period for the BIR to serve an LOA is no longer applicable following the amendment of RAMO No. 1-2000 by RAMO No. 1-2020, to wit:

> "While the timeline for the 'service of eLA' is not explicitly provided therein, it is still for the best interest of the government that the eLA should be served to the taxpayer immediately upon issuance/assignment thereof.
>
> Hence, it should be necessary for all concerned Revenue Officers (RO) as a duty or responsibility to serve the eLA immediately, considering that the entire audit process must be completed within a period of 180 days for RDO cases/240 days for LT cases from the date of issuance of eLA. Non-observance on the aforesaid timeline is gross neglect of duty which is a grave offense subject to appropriate administrative sanctions pursuant to Revenue Memorandum Order No. 53-2010.
>
> Further, the deletion of the 30-day period to serve the eLA shall in no case be an excuse for the concerned RO to delay its service nor for a taxpayer to refuse its service or to question its validity, in case the same is served beyond the 30-day period. **Again, what is crucial is that the entire audit process shall be completed within a period of 180 days for RDO cases/240 days for LT cases from the date of issuance of eLA. Therefore, <u>eLA which remains unserved upon the effectivity of this Circular or have been served beyond the 30-day period from the date of its issuance shall still be considered valid and enforceable, provided that the 180-day/240-day period to complete the audit process has not yet expired</u>**."

Even assuming that the 30-day period to serve the LOA is no longer required, RMC No. 82-2022 itself provides that an LOA or eLA that remains unserved upon the circular's effectivity — or that was served beyond 30 days from issuance — shall nonetheless be considered **valid and enforceable**, but only if the **180-day period to complete the audit process** (for Regional cases) has not yet expired.[53]

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[52] SUBJECT: Clarification on the Service of Letter of Authority Pursuant to Revenue Audit Memorandum Order (RAMO) No. 1-2000.

[53] Item III.25 of Revenue Memorandum Order No. 19-2015 [SUBJECT: BIR Audit Program], provides:

"III. Policies and Procedures

xxx xxx xxx

25. The report of investigation/verification of cases covered by eLAs/TVNs/MOAs pursuant to this Order shall be submitted by the RO within the following prescribed number of calendar days:

This saving clause, however, does not benefit the respondent. The records show that when respondent served the LOA by substituted service, the 180-day audit period had **long expired**. The LOA is therefore void, not merely under the general 30-day rule, but under the very provision of RMC No. 82-2022 on which respondent would rely.

In this connection, in cases where the BIR conducts an audit without a valid LOA, or in excess of the authority duly provided therefor, **the resulting assessment shall be void and ineffectual.**[54]

Respondent failed to establish that petitioner was given a CBL status.

Respondent contends that because petitioner was tagged with a CBL status, *neither* the failure to revalidate the unserved LOA within 30 days from issuance *nor* the Revenue Officer's failure to complete the audit within the prescribed 180-day period operates to nullify the LOA.

Petitioner disputes this, arguing that respondent failed to substantiate the CBL designation. In support, petitioner points to the testimony of RO Exiomo, who admitted that aside from the *Memorandum* dated February 6, 2020, no other document exists to support the tagging of petitioner as CBL.

The Court finds respondent's position unpersuasive.

RMC No. 98-2010,[55] provides for the guidelines and policies to be observed in handling unserved Letter Notices (LNs), LOA, Tax Verification Notices (TVNs), to wit:

> "**II. POLICIES AND GUIDELINES**
>
> 1. Every effort shall be made to serve an LN, LA and TVN to the concerned taxpayer, employing all possible means available. In endeavoring to locate a taxpayer, the Revenue Officer must obtain the **appropriate Certifications from any two (2) of the following offices/organizations**:

Case Classification	No. of Days
Cases covered by eLAs other than claims for VAT refund/credit	180 days for Regional cases and 240 days for LT cases, from the date of the eLA
xxx	xxx

[54] *AFP General Insurance Corporation vs. Commissioner of Internal Revenue,* G.R. No. 222133, November 4, 2020.

[55] SUBJECT: Prescribing the Guidelines and Procedures for the Treatment of Unserved Letter Notices, Letter of Authorities and Tax Verification Notices in Instances Where the Concerned Taxpayers Cannot Be Located

- Barang[g]ay Office
- Municipal/City Government Business Permit/Licensing Office
- Department of Trade and Industry
- Securities and Exchange Commission
- Manila Electric Company (MERALCO)
- Philippines Long Distance Company (PLDT)

2. **In the event that any two (2) of the abovementioned offices/organizations shall certify that the concerned taxpayer does not appear in their official records/archives, said taxpayer shall be given the status of "Cannot Be Located" (CBL) in the Records of the Bureau.**

3. **<u>The names of all the taxpayers with CBL status shall be submitted by the concerned revenue officer thru the LN Task Force Head/Revenue District Office (RDO) to the Audit Information, Tax Exempt and Incentive Division (AITEID) for publication in the BIR Website and in at least two (2) newspapers of general circulation</u>**, to provide such taxpayers with the opportunity to come forward and clarify their CBL status with the Bureau, and settle their outstanding tax obligations. The Task Force Heads/RDO shall submit the list of said taxpayers on a quarterly basis.

xxx xxx xxx." *(Emphases and underscoring added)*

In this case, although respondent secured certifications from three local government units — the Business Permits Office of Makati City dated April 8, 2019,[56] Barangay San Isidro dated May 30, 2019,[57] and Barangay Bangkal dated October 29, 2019[58] — all attesting that petitioner is not registered within their respective jurisdictions, these certifications do not, by themselves, establish that petitioner was subsequently tagged as CBL in the BIR's records.

The only evidence respondent submitted on this point is a *Memorandum* addressed to the Revenue District Officer dated February 6, 2020, which merely recommended that petitioner be included in the District's CBL list and that the matter be referred to the Audit Information, Tax Exempt and Incentives Division (AITEID) for publication on the BIR website.[59] Respondent presented no proof that petitioner was actually accorded CBL status in the BIR's records, nor that petitioner's name was submitted to the AITEID and published on the BIR website and in at least two newspapers of general circulation, as required under the applicable RMC. This evidentiary gap is fatal. Courts may not consider evidence that has not been formally offered.[60]

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[56] Exhibit "R-3-A", BIR Records – Folder 1, p. 124.
[57] Exhibit "R-3-B", BIR Records – Folder 1, p. 94.
[58] Exhibit "R-3-C", BIR Records – Folder 1, p. 123.
[59] Exhibit "R-2", BIR Records – Folder 1, p. 99.
[60] Section 34, Rule 132, Revised Rules on Evidence.

Because respondent failed to establish petitioner's CBL status, the predicate for exempting the LOA from the revalidation and 180-day completion requirements is absent. The subject LOA is therefore void, and the tax assessments issued on its basis cannot be enforced. As this Court has consistently held, a void assessment bears no valid fruit.[61] In light of this conclusion, the remaining issues raised by the parties need not be addressed.

ACCORDINGLY, considering the foregoing, the present *Amended Petition for Review* is **GRANTED**.

Accordingly, having been issued pursuant to an invalid LOA, the FLD with *Details of Discrepancies* and *Assessment Notices* dated December 6, 2021, issued against petitioner for taxable year 2017, are **CANCELLED** and **SET ASIDE**.

Likewise, the assessment issued by respondent against petitioner for deficiency income tax, VAT, EWT, and compromise penalty, in the aggregate amount of ₱61,048,327.18, increments included, per FDDA dated November 18, 2022, for taxable year 2017, is **REVERSED** and **SET ASIDE**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[61] *Commissioner of Internal Revenue vs. Azucena T. Reyes, et seq.*, G.R. Nos. 159694 and 163581, January 27, 2006.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice