REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2989** *(CTA Case No. 10575)*
	Present: **RINGPIS-LIBAN,** *PJ,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
-versus-	
BOHOL JSL ENTERPRISES, INCORPORATED, *Respondent.*	Promulgated: MAR 17 2026 11:30am

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a *Petition for Review* ("Petition"), filed on September 19, 2024,[1] with respondent's Comment, filed on November 14, 2024.[2] The Petition assails: a) the March 21, 2024 Decision[3] of the Court's Special Second Division which nullified, cancelled and set aside the assessment issued against respondent composing of deficiency income tax, value added tax ("VAT"), expanded withholding tax ("EWT") and compromise penalty in the total amount of Php188,171,929.09, for taxable year ("TY") 2010; and b) August 9, 2024 Resolution which affirmed the March 21, 2024 Decision.[4]

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1 *Rollo*, pp. 9-72.
2 *Id.*, at 76-92.
3 *Id.*, at 29-66.
4 *Id.*, at 67-72.

The following are the facts as stated in the Petition:[5]

1. On September 8, 2011, a Letter of Authority was issued against respondent informing it that an audit will be conducted against it for TY 2010.

2. On June 3, 2013, a Notice for Informal Conference was issued against to respondent inviting its representatives to attend an Informal Conference. This was sent to respondent's registered address in CPG North Avenue, Tagbilaran City, Bohol.

3. On February 20, 2014, a Preliminary Assessment Notice ("PAN") was issued to respondent. Again, this was sent to respondent's registered address, CPG North Avenue, Tagbilaran City, Bohol.

4. On April 14, 2014, a Formal Letter of Demand ("FLD") was issued to respondent.

5. On June 11, 2014, respondent executed a Waiver of the Defense of Prescription.

6. On June 23, 2014, a Letter was issued to respondent acknowledging the filing of its Protest and requiring the submission of documents within 60 days from the filing thereof.

7. On April 29, 2015, an Amended PAN was issued to respondent taking into consideration the issues raised in its Protest.

8. Respondent filed a Reply to the Amended PAN. As such an Amended FLD was issued to respondent on July 2, 2015.

9. Thereafter, respondent filed a "Supplemental Protest" on the Amended FLD.

10. On June 25, 2015, a Letter was sent to respondent informing it that it may be subjected to the Run Against Tax Evaders ("RATE") Program of the BIR considering the extent of the findings of the revenue officers.

11. On March 23, 2017, a Letter was sent to the taxpayers denying its Protest.

12. Petitioner insists that all of the above communications and assessment notices were sent and received by respondent in its registered address at CPG North Avenue, Tagbilaran City, Bohol.

13. Respondent then filed an Appeal to the denial of its Protest, and on May 21, 2021, a Decision was rendered denying respondent's Appeal.

14. Accordingly, on July 8, 2021, respondent filed a Petition for Review before the Court in Division. Trial thereafter ensued.

15. On March 25, 2024, petitioner received the Assailed Decision, dated March 21, 2024, granting respondent's Petition for Review. The dispositive portion of which reads:

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[5] *Rollo*, pp. 10-12.

> "**WHEREFORE,** premises considered, the present Petition for Review filed on 08 July 2021 by petitioner Bohol JSL Enterprises, Incorporated is hereby **GRANTED.** Accordingly, the assailed Decision dated 21 May 2021, holding petitioner liable for deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT) and compromise penalty in the aggregate amount of Php188,171,929.09, for taxable year (TY) 2010, is **CANCELLED** and **SET ASIDE.**
>
> Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his behalf is hereby **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.
>
> **SO ORDERED.**"[6]

16. On April 11, 2024, petitioner filed his Motion for Reconsideration on the Assailed Decision.

17. On August 20, 2024, petitioner received a copy of the Resolution, dated August 9, 2024, denying his Motion for Reconsideration for lack of merit.

Thus, petitioner filed the present Petition on September 19, 2024.[7]

Subsequently, this Court issued a Resolution, dated September 21, 2024, requiring respondent to file a Comment on the Petition.[8]

Thereafter, on November 14, 2024, respondent filed its Comment.[9]

In a Resolution, dated December 13, 2024, the instant case was referred to Mediation.[10] However, on March 3, 2025, the parties decided to end the Mediation proceedings.[11]

Accordingly, in a Resolution, dated March 20, 2025, the instant case was submitted for Decision.[12]

Hence, this Decision.

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6 *Rollo,* p. 65.
7 *Id.*, at. 9-72.
8 *Id.*, at 74.
9 *Id.*, at. 76-92.
10 *Id.*, at 93-100.
11 *Id.*, at 102.
12 *Rollo.*

The Issue

The issue to be resolved by this Court is whether or not the Court in Division erred in cancelling the assessments issued against respondent.[13]

Arguments of the Parties

Petitioner's Arguments

Petitioner interposed the following arguments in support of its Petition:[14]

a) The PAN was validly served. Petitioner was able to serve the PAN via registered mail as evidenced by the registry receipt issued by the postmaster. The address to which the PAN was mailed was the registered address of petitioner and that other communications were also sent to the same address. Considering that petitioner has proved that the PAN was validly served, the burden of proof has already shifted to the respondent to prove otherwise;

b) The assessment has not prescribed. An examination of the assessments issued against respondent would show that there is substantial under declaration of income and sales for income tax and VAT purposes. Thus, this triggers the presumption of false or fraudulent returns. Accordingly, the applicable period is the 10-year prescriptive period. The computer matching performed in the audit against respondent cannot be said to be unverified and unvalidated as the validation required under *Revenue Memorandum Order No. ("RMO") 13-2012* was complied with; and

c) Respondent was not denied due process because it was clearly informed of the identity of the revenue officers ("RO") who will continue the investigation/audit.

Respondents' Arguments

Respondents countered petitioner's arguments, as follows:[15]

a) Petitioner failed miserably in proving that respondent actually received the PAN;

b) The assessment has already prescribed; and

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[13] *Rollo*, p. 13.
[14] *Id.*, at 13-20.
[15] *Rollo*, pp. 41-45.

c) Respondent's right to due process was violated when Group Supervisor ("GS") Glovasa was not duly authorized to conduct the assessment of respondent's books for TY 2010.

The Ruling of the Court

The Petition lacks merit.

A PAN must be actually received by a taxpayer. Once receipt of the PAN is denied by the taxpayer, it becomes incumbent upon respondent to prove by preponderance of evidence that the PAN was actually received by the taxpayer.

It is undeniable that a PAN is a mandatory requirement of due process in tax assessment proceedings. It offers an opportunity for a taxpayer to contest a pre-assessment before the BIR issues a final assessment. Thus, a PAN must be actually received by a taxpayer. Further, the taxpayer must be given a right to respond (*i.e.*, a reasonable period to respond) to a PAN before a final assessment is issued against him or her.

In *Commissioner of Internal Revenue v. Yumex Philippines Corporation*,[16] the Supreme Court reiterated the importance of a PAN as part and parcel of due process in tax assessment proceedings, *viz.*:

> Proceeding to the issue of violation of respondent's due process, Sec. 228 of the NIRC mandates petitioner to inform the taxpayer in writing of the law and the facts on which the assessment is made; otherwise, the assessment is void. . . .
>
> . . .
>
> Clearly from the aforequoted provisions, the taxpayer has fifteen (15) days from date of receipt of the PAN to respond to the said notice. Only after receiving the taxpayer's response or in case of the taxpayer's default can respondent issue the FLD/FAN.
>
> . . .
>
> In Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc. (Avon case), the Court enjoined strict observance by the BIR of the prescribed procedure for issuance of the assessment notices with due regard for the taxpayers' constitutional rights. It is mandatory that the BIR not only inform the taxpayer through the PAN, FLD, and FAN of the facts, law and regulations, and jurisprudence on which the assessment

16 G.R. No. 222476, May 5, 2021.

> against it is based, but it must also accord the taxpayer the opportunity to be heard through the entire process, i.e., from tax investigation until tax assessment. . . .
>
> . . .
>
> That respondent was able to file a protest to the FLD/FAN is of no moment. In Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue, the BIR ignored RR No. 12-99 and did not issue to the taxpayer, Pilipinas Shell Petroleum Corporation (PSPC), a notice for informal conference and a PAN as required; and as a result, deprived PSPC of due process in contesting the formal assessment levied against it. The Court pronounced therein that '[w]hile PSPC indeed protested the formal assessment, such does not denigrate the fact that it was deprived of statutory and procedural due process to contest the assessment before it was issued.' The Court once more reminded the BIR to be more circumspect in the exercise of its functions as the power of taxation is also sometimes called the power to destroy and, therefore, should be exercised with caution to minimize injury to the proprietary rights of the taxpayer.

Thus, it is of paramount importance that a taxpayer must first receive a PAN before a formal assessment is issued against it. Otherwise, its right to due process is severely violated, leading to the deficiency tax assessment issued against such taxpayer being declared as null and void.

Given the importance of a PAN, the same must actually be received by a taxpayer. Once receipt of the assessment notices, such as a PAN, is denied and controverted by the taxpayer, the burden of proof is shifted to the Commissioner of Internal Revenue ("CIR") to prove through a preponderance of evidence that the taxpayer, or its authorized representative, indeed received the subject assessment notices. This was categorically declared by the Supreme Court in *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*,[17] to wit:

> As can be gleaned from the above provisions, *service of the PAN or the FAN to the taxpayer may be made by registered mail. Under Section 3(v), Rule 131 of the Rules of Court, there is a disputable presumption that 'a letter duly directed and mailed was received in the regular course of the mail.' However, the presumption is subject to controversion and direct denial, in which case the burden is shifted to the party favored by the presumption to establish that the subject mailed letter was actually received by the addressee.*
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> *In view of respondent's categorical denial of due receipt of the PAN and the FAN, the burden was shifted to the CIR to prove that the mailed assessment notices were indeed received by respondent or by its authorized representative.*"
> (Italics, Ours.)

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17 Resolution, G.R. No. 240729, 24 August 2020.

Further, the Supreme Court, in *Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue ("Barcelon case")*,[18] held that while a mailed letter is presumed or deemed received by the addressee in the ordinary course of mail, the same is merely a disputable presumption that may be controverted. A direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the addressee has indeed received the mailed letter.

Following these, when respondent denied the PAN's receipt, petitioner should have disputed the denial with evidence. However, petitioner merely alleged that he validly served the notice through registered mail at petitioner's registered address at CPG North Avenue, Tagbilaran City, Bohol. It must be emphasized that mere allegation is not evidence and is not equivalent to proof.[19]

This Court *En Banc* agrees with the Court in Division's findings that while the Bureau of Internal Revenue ("BIR") records provide the photocopy of the registry receipt[20] showing the mailing of the PAN, the same does not conclusively prove that the addressee actually received the mail which contained the PAN. Following petitioner's denial, respondent could not rely on the photocopy of the registry receipt alone as evidence of actual service of the PAN to respondent because it is not in itself proof of such without being accompanied by the authenticating affidavit (or an affidavit under oath) of the person who actually mailed the PAN. The authentication through an affidavit of the mailer is necessary for the service by registered mail to be regarded as clear proof of the PAN's service to the taxpayer.[21]

More importantly, the registry receipt must contain sufficiently identifiable details of the transaction which will constitute adequate proof of mailing. However, the photocopy of the registry receipt presented in this case only indicates the letter/package number "14-204". It does not show other details like the exact date of the alleged mailing to petitioner. Nor does it reflect any other information which would aid the Court in determining the details of mailing transaction. *Most* importantly, there is nothing to show exactly who received the document and when.

Consequently, petitioner failed to discharge the burden of proof that petitioner indeed received the PAN which was shifted to him when respondent denied receipt of such notice. Failure to prove that the PAN was indeed received by respondent renders the instant assessment null and void. Without proof of receipt, the PAN is deemed not received by respondent. Hence, respondent's right to be informed of the assessments issued against it has been violated.

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18 G.R. No. 157064, August 7, 2006.
19 Pedro M. Banusing v. Atty. Pepin Joye Q. Marfil, A.C. No. 13456 (Notice), March 6, 2023.
20 BIR Records, p. 543.
21 Resterio v. People, G.R. No. 177438, September 24, 2012.

Even if the PAN was actually received by respondent, it remains that the instant deficiency tax assessments are still void considering that certain ROs participated in the audit/examination of respondent without being properly authorized to do so.

The present assessment is void because an RO not authorized by a Letter of Authority ("LOA") participated in the audit of petitioner's books of accounts and other accounting records.

Section 13 of the National Internal Revenue Code, as amended, ("NIRC") provides that an RO must be duly authorized by the CIR or his authorized representative pursuant to a valid LOA as a prerequisite for such RO to conduct a valid audit and examination of a taxpayer:

> Section 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.

A taxpayer cannot ordinarily be examined unless the CIR himself, or his duly authorized representative, authorizes the RO to do so through an LOA.[22] There must be a grant of authority before any RO can conduct an examination or assessment, otherwise the assessment or examination is a nullity.[23]

A LOA gives notice to the taxpayer that it is under investigation for possible deficiency tax assessment. At the same time, the LOA authorizes or empowers a designated RO to examine, verify, and scrutinize a taxpayer's books and records, in relation to internal revenue tax liabilities for a particular period.[24]

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22 Medicard Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 222743, April 5, 2017, 808 PHIL 528-556.

23 Commissioner of Internal Revenue v. Sony Philippines, Inc., G.R. No. 178697, November 17, 2010, 649 PHIL 519-537; Commissioner of Internal Revenue v. Lancaster Philippines, Inc., G.R. No. 183408, July 12, 2017, 813 PHIL 622-654.

24 Commissioner of Internal Revenue v. Lancasrer Philippines, Inc., G.R. No. 183408, July 12, 2017.

Thus, a LOA is undoubtedly necessary to the validity of an audit. In *Commissioner of Internal Revenue v. Royal Class Trading and Transport Corp.*,[25] the RO who recommended the PAN was not one of the ROs named in the LOA. The authority of the new examiner emanated only from a 3rd Indorsement issued by the Revenue District Officer—not an LOA.

In *Commissioner of Internal Revenue v. Manila Medical Services, Inc.*,[26] the Court cited *RMO No. 43-90* and ruled that "if the revenue officers that were previously indicated in a LOA were reassigned or transferred to another case and as such, a new RO will handle the case that was previously assigned to them, the issuance of a new LOA in favor of the new handling RO is required." In the same case, the assessment was declared void due to the lack of authority of the RO who conducted the audit.

Likewise, in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,[27] the Court held that the assessment is void when there is no separate or amended LOA issued for the new RO who will continue the audit or investigations.

> We rule that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting 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 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 BIR rules and regulations, particularly R.MO No. 43-90 dated September 20, 1990.

As duly found by the Court in Division,[28] LOA No. LOA-084-2011-00000048/ eLA201000020910 explicitly authorized RO De Guzman and GS Yahya to conduct the examination/audit of respondent. However, as early as the Issuance of the Post Reporting Notice ("PRN"), GS Glovasa was already designated as the GS, as follows:

> POST-REPORTING NOTICE
>
> Sir/Madam:
>
> This is to inform you that the audit/investigation of your internal revenue tax liabilities for taxable year ending 31 December 2010 covering All Internal Revenue Taxes pursuant to eLA 201000020910 dated September 8, 2010 and Letter Notice No (s). o84- RLF-10-oo-ooo15 dated July 02, 2012 as

[25] CTA EB Case no. 1832 (CTA Case No. 8844), November 21, 2019.

[26] Commissioner of Internal Revenue v. Manila Medical Services, Inc., G.R. No. 25547, February 13, 2023.

[27] Commissioner of Internal Revenue v. Mcdonald's Philippines Realty Corp., G.R. No. 242670, May 10, 2021.

[28] See Assailed Decision.

> conducted by Revenue Officer JAIME H. DE GUZMAN and supervised by Group Supervisor ALGRECITA A. GLOVASA has already been completed/submitted for review.

The same is equally true with the Amended PRN. Likewise, GS Glovasa also signed as the group supervisor in the RO's Activity Report, Checklist of Audit Procedures Undertaken in the Verification of VAT Returns and ROs' Audit Report on Expanded Withholding Taxes.[29]

Moreover, GS Glovasa signed the Memorandum dated November 5, 2013 to the Revenue District Office which recommended the issuance of PAN, *viz*:[30]

> MEMORANDUM FOR:
> The Revenue District Officer
> Revenue District No. 84
> City of Tagbilaran
>
> This report refers to the original investigation conducted by the undersigned Revenue Officer relative to the 2010 all internal Revenue Tax liabilities of BOHOL JSL ENTERPRISES, INC. of E. Jacinto Street, 2nd District, Tagbilaran City pursuant to eLA 201000020910 dated September 8, 2010 and Letter Notice No(s). 084- RLF-10-00-00015 dated July 02, 2012.
>
> (SGD.)
> JAIME H. DE GUZMAN
> Revenue Officer I
>
> Noted by:
>
> (SGD.)
> ALGRECITA A. GLOVASA
> Group Supervisor

Equally important is that petitioner's only witness, Atty. Casison-Dung, admitted that no new LOA was issued in favor of GS Glovasa when she became part of the team that conducted an audit of respondent's books of accounts and other accounting records.

Consequently, the present tax assessments against respondent were issued through the audit efforts of an RO not properly armed with a LOA. Accordingly, the instant assessments are void.

With respect to petitioner's contention that since the audit of petitioner's books of accounts and other accounting records were still performed by the main RO named in the LOA, RO De Guzman, the resulting assessment should

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[29] *Ibid.*
[30] *Ibid.*

still stand as valid, the same deserves no credence. Although GS Glovasa participated in the audit as a group supervisor who oversees and supervises the work done by RO De Guzman, it is inappropriate to conclude that she did not perform actual audit on respondent's books of accounts and other accounting records. As a group supervisor, GS Glovasa is tasked to review the documents collated and eventual findings by RO De Guzman, and decide whether to support a recommendation of issuing a deficiency tax assessment against respondent. Thus, her work is still a vital part of the process of audit and examination of respondent since, without her, no deficiency tax assessment can be issued against respondent. Thus, GS Glovasa should have been first issued a valid LOA before proceeding with the audit and examination of respondent's books of accounts and other accounting records.

In fact, if a GS is indeed an RO who does not actually conduct an audit/examination of a taxpayer (and, as such, any replacement of a GS does not necessitate the issuance of a new LOA in his or her favor), then there is no reason to include a GS in the list of persons named in an LOA authorized to audit/examine a taxpayer. Why would a Regional Director painstakingly name a GS in an LOA if a GS can be replaced at will without a need for a new LOA?

Given the fact that a person conducted an audit of respondent's books of accounts and other accounting records which resulted in the present deficiency tax assessment against respondent without a valid LOA authorizing her to do so, the instant deficiency income tax, VAT and EWT assessments are null and void.

Following these, the Court *En Banc* finds no reason to tackle and discuss the other issues raised in the Petition.

ACCORDINGLY, the Petition, filed on September 19, 2024, is hereby **DENIED** for lack of merit. The assailed Decision, dated March 21, 2024, and the assailed Resolution, dated August 9, 2024, of the Court in Division are hereby **AFFIRMED.**

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

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