REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

JOSELITO RANADA LARAYA,
Petitioner,

-versus-

THE COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE, THROUGH JOSE A. TAN, REVENUE REGIONAL DIRECTOR REGION 9, SAN PABLO CITY,
Respondent.

CTA Case No. 8890

Members:
UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
OCT 01 2020
10:48 a.m.

X---X

DECISION

RINGPIS-LIBAN, *J.*:

The instant Petition for Review prays that the Court recall the Final Decision on Disputed Assessment (FDDA) dated July 2, 2014, and render judgment as follows: (a) declare the disputed assessment of deficiency income tax in the amount of ₱5,627,105.72, as without legal and factual basis; and (b) declare the disputed assessment of deficiency value-added tax (VAT) in the amount of ₱2,225,595.39, as likewise without legal and factual basis.[1]

THE PARTIES

Petitioner Joselito Ranada Laraya is of legal age, Filipino, and can be served with summons and other court processes at No. 51 Codera Road, Sta. Clara Sur, Pila, Laguna.[2]

[1] Summary of the Case, Pre-Trial Order dated April 23, 2015, Docket – Vol. 1, p. 329.
[2] Par. 2, Circumstances of the Parties, Joint Stipulation of Facts and Issues (JSFI), Docket – Vol. 1, p. 317.

Respondent is the Commissioner of the Bureau of Internal Revenue (BIR), the government agency tasked to, among others, collect national internal revenue taxes. He may be served with summons and other court processes at the BIR National Office Building, Agham Road, Diliman, Quezon City.[3]

THE FACTS

On June 20, 2008, Respondent issued to Petitioner Letter Notice (LN) No. 057-WE-I-06-00-00022,[4] stating that a computerized matching conducted by the BIR on information/data provided by Withholding Agents/Payors and Payees/Income Recipients against Petitioner's declarations per income tax return disclosed a total discrepancy of ₱11,740,723.77, for the calendar/fiscal year ended 2006, and inviting Petitioner to the BIR in San Pedro, Laguna on July 19, 2008, to present any documentary evidence in connection therewith.

Subsequently, on May 15, 2009, the Letter of Authority (LOA) 2008 00015304 was issued by the Regional Director Nestor Valeroso of Revenue Region No. 9, San Pablo City, authorizing Revenue Officer (RO) Teodora Reyes and Group Supervisor (GS) Thelma Omalin, to examine Petitioner's books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2006 to December 31, 2006.[5]

Subsequently a Notice of Informal Conference dated November 25, 2009 was issued by Revenue District Officer Alcasabas to Petitioner.[6]

On February 8, 2012, Respondent through Regional Director Jose A. Tan of Revenue Region No. 9, San Pablo City issued to Petitioner a Preliminary Assessment Notice (PAN),[7] finding due from him deficiency income tax, VAT, and expanded withholding tax (EWT), including increments, for taxable year 2006, in the total amount of ₱40,382,305.92, broken down as follows:

Income tax	₱29,151,630.06
VAT	11,229,214.28
EWT	1,461.58
Grand Total	**₱40,382,305.92**

[3] Par. 2, Circumstances of the Parties, JSFI, Docket – Vol. 1, p. 317.
[4] Exhibit "P-1-a", Docket – Vol. 2, p. 870; Exhibit "R-1", BIR Records, p. 4.
[5] Exhibit "R-2", BIR Records, p. 20.
[6] Exhibit "R-5", BIR Records, p. 51.
[7] Exhibit "R-8", BIR Records, pp. 66 to 67.

Thereafter, Respondent through Regional Director Tan then issued the Formal Letter of Demand (FLD) dated March 2, 2012, with attached Audit Results/Assessment Notice evenly dated and Details of Discrepancies,[8] assessing Petitioner deficiency income tax, VAT, and EWT, including increments, for taxable year 2006, in the total amount of ₱40,614,312.11, computed as follows:

Income tax	₱29,319,930.80
VAT	11,292,912.23
EWT	1,469.08
Grand Total	**₱40,614,312.11**

Petitioner then filed his protest letter to the said FLD with request for reinvestigation on March 26, 2012.[9]

Thereafter, Memorandum of Assignment (MOA) No. 057-LA-0080-5/29/2012 dated May 29, 2012 was issued by Revenue District Officer Julio G. Alcasabas of Revenue District No. 57, Biñan, Laguna, to RO Thelma Omalin and GS Sion Catelo, referring the Petitioner's case for reinvestigation per protest letter/request for reinvestigation.[10]

On June 4, 2012, Revenue District Officer Alcasabas issued to Petitioner a letter informing him that his case was returned by the Regional Director, Revenue Region No. 9, San Pablo City, for reinvestigation and referred to RO Omalin under GS Catelo since the previously assigned RO was transferred to another district office.[11]

Thereafter, Respondent though Regional Director Tan issued to Petitioner the letter dated September 9, 2013,[12] informing the latter that after reinvestigation, deficiency taxes amounting to ₱19,947,627.52, inclusive of increments, remain due and demandable, as follows:

Income tax	₱14,653,786.74
VAT	5,292,316.61
EWT	1,524.17
Grand Total	**₱19,947,627.52**

On October 3, 2013, a letter addressed to Regional Director Tan and signed by Petitioner's sister Ms. Lovella R. Laraya (for Petitioner) was filed with

[8] Exhibits "R-9", "R-9-a", "R-9-b", and "R-9-c", BIR Records, pp. 69 to 73; Exhibit "P-2-a", Docket – Vol. 2, pp. 873 to 874.
[9] Exhibit "R-10", BIR Records, pp. 77 to 76.
[10] Exhibit "R-11", BIR Records, p. 89.
[11] Exhibit "P-2", Docket – Vol. 2, p. 872; Exhibit "R-12", BIR Records, p. 90.
[12] Exhibit "P-4", Docket – Vol. 2, p. 877; Exhibit "R-15", BIR Records, p. 107.

the BIR,[13] stating that she visited Regional Director Tan's office on even date to clarify Petitioner's case, and asked for his benevolent understanding, as Petitioner is only a simple Filipino citizen who wants to earn a living in his own country by being fair to everyone.

Ms. Laraya then filed the letter dated October 21, 2013, stating that they are directly protesting and categorically not accepting the result of the investigation of Petitioner's case.[14]

Subsequently, Respondent through Regional Director Tan issued to Ms. Laraya the letter dated October 30, 2013, stating that Petitioner may visit his office to submit a valid protest together with the supporting documents within fifteen (15) days from receipt thereof; otherwise, they will forward his case to the Collection Division for enforcement of collection; and asking for an authorization letter from Petitioner allowing her to transact/communicate with the BIR.[15]

In the letter dated November 4, 2013 to RO James Geoffrey H. Rivarez,[16] Petitioner's sister requested for another fifteen (15) days for them to submit a valid protest letter.

In reply, Regional Director Tan stated in his letter dated November 20, 2013 to Petitioner's sister that a 15-day grace period to submit a valid protest letter was already given to Petitioner as stated in his letter dated October 30, 2013, and that should they fail to furnish the said protest letter within the prescribed period, Petitioner's case will be forwarded to the Collection Division for enforcement of collection.[17]

Thereafter, Respondent through Regional Director Tan issued to Petitioner the assailed FDDA dated July 2, 2014,[18] stating that the deficiency tax assessments were adjusted to reflect a total liability of ₱21,106,853.22, inclusive of increments.

On September 5, 2014, Petitioner filed the instant Petition for Review.[19]

Respondent filed his Answer on November 3, 2014,[20] interposing the following special and affirmative defenses, to wit:

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[13] Exhibit "P-5", Docket – Vol. 2, p. 878.
[14] Exhibit "P-6", Docket – Vol. 2, p. 879.
[15] Exhibit "R-16", BIR Records, p. 112.
[16] Exhibit "R-17", BIR Records, p. 114.
[17] Exhibit "R-18", BIR Records, p. 115.
[18] Exhibit "P-7", Docket – Vol. 2, pp. 880 to 881; Exhibit "R-21", BIR Records, pp. 121 to 122.
[19] Docket – Vol. 1, pp. 14 to 23.
[20] Docket – Vol. 2, pp. 67 to 80.

"**SPECIAL AND AFFIRMATIVE DEFENSES**

4. Records reveal that [P]etitioner is a single proprietor duly registered with DTI with business trade name as S7S Manpower Contracting Services. However, due to bankruptcy, he was forced to close said business effective on September 2008.

The assessment issued against [P]etitioner has long become final, executory, and unappealable.

5. Pertinent provisions of Section 228 of the National Internal Revenue Code states that:

> '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 one hundred eighty (180) day period; **otherwise, the decision shall become final, executory and demandable."** *(Emphasis suppl[i]ed)*

6. In relation thereto, Section 3 of Revenue Regulations (RR) No. 12-99 provides, the relevant portion of which reads:

> The taxpayer shall submit the required documents in support of his protest within sixty (60) days from the date of filing of his letter of protest, otherwise, the assessment shall become final, executory and demandable. The phrase, 'submit the required documents' included submission or presentation of the pertinent documents for scrutiny and evaluation by the Revenue Officer conducting the audit. The said Revenue Office shall state this fact in his report of investigation.

If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory, and demandable.

If the protest is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the Court of Tax Appeal within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable.

In general, if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable: **Provided, however, that if the taxpayer elevates his protest to the Commissioner within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative, the latter's decision shall not be considered final, executory and demandable, in which case, the protest shall be decided by the Commissioner.**

If the Commissioner or his duly authorized representative fails to act on the taxpayer's protest within one hundred eighty (180) days from date of submission, by the taxpayer, of the required documents in support of his protest, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from the lapse of the said 180-day period, otherwise, the assessment shall become final, executory and demandable.' *(Emphasis supplied)*

7. Thus, in *Basa vs. Republic, et al.*, the Supreme Court held that even if a taxpayer filed an administrative protest, once an adverse decision thereon is rendered by the Commissioner *(or by his duly authorized representative, as the case may be),* the same must be appealed to the Court of Tax Appeals *(or file a motion for reconsideration to the Commissioner of Internal Revenue as the case may be)* within the reglementary period of thirty (30) days from receipt of the Commissioner's decision or her representative; otherwise, the assessment becomes final, executory and demandable.

8. In this case, [P]etitioner did not receive such adverse decision earlier than that declared in its petition. The records show that on 30 September 2013, [P]etitioner received the decision on his protest apprising him of the results of the reinvestigation.

9. The contents of the decision showing the results of the reinvestigation, in part, states that:

> In view, thereof, you are hereby requested to pay the outstanding deficiency taxes within fifteen (15) days from receipt hereof and furnish a copy of proof of payment made to our Collection Division, this Region, where we will be forwarding your case.

A copy of the said decision, dated 9 September 2013, is attached herein as **Annex 'R-1.'**

10. As can be gleaned from the tenor thereof, it partakes of the nature as a final decision. In effect, his administrative protest was denied. Thus, [P]etitioner should have filed this appeal on or before 30 October 2013.

11. However, the records are bereft of any indication that a motion for reconsideration was filed with the Office of the Commissioner of Internal Revenue or an appeal was filed with the Court of Tax Appeals. Hence, by operation of law, the deficiency assessment against [P]etitioner had already become final, executory and demandable.

12. The above conclusion finds support in *Oceanic Wireless Network, Inc. vs. Commissioner of Internal Revenue*, where it was held:

> 'Here, respondent failed to avail of its right to bring the matter before the Court of Tax Appeals within the reglementary period upon the receipt of the demand letter reiterating the assessed delinquency taxes and denying its request for reconsideration which constituted the final determination by the Bureau of Internal Revenue on respondent's protest. Being a final disposition by said agency, the same would have been a proper subject for appeal to the Court of Tax Appeals.
>
> **The rule is that for the Court of Tax Appeals to acquire jurisdiction, an assessment must first be disputed by the taxpayer and ruled upon by the Commissioner of Internal Revenue to warrant a decision from which a petition for review may be taken to the Court of Tax Appeals. Where an adverse ruling has been rendered by the Commissioner of Internal Revenue with reference to a disputed assessment or a claim for**

> **refund or credit, the taxpayer may appeal the same within thirty (30) days after receipt thereof.**
>
> We agree with the factual findings of the Court of Tax Appeals that the demand letter may be presumed to have been duly directed, mailed and was received by respondent in the regular course of the mail in the absence of evidence to the contrary. This is in accordance with Section 2(v), Rule 131 of the Rules of Court, and in this case, since the period to appeal has been commenced to run from the time the letter of demand was presumably received by respondent within a reasonable time after January 24, 1991, the period of thirty (30) days to appeal the adverse decision on the request for reconsideration had already lapsed when the petition was filed with the Court of Tax Appeals on November 8, 1991. Hence, the Court of Tax Appeals properly dismissed the petition as the tax delinquency assessment had long become final and executory.

13. The jurisdiction of the Honorable Court of Tax Appeals is succinctly stated under Section 7 of RA 9282, thus:

> '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;
>
> (2) Inaction by 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, where the National Internal Revenue Code provides a specific

> period for action, in which case the inaction shall be deemed a denial.

14. The Final Decision on Disputed Assessment (FDDA) relied upon by [P]etitioner in support of the timeliness of its Petition for Review cannot be deemed to be a decision of the [R]espondent in cases involving the disputed assessment.

15. ***First***, there was no motion for reconsideration on the denial of the reinvestigation conducted. Any foundation for the issuance of a FDDA is non-existent. Notably, a FDDA is issued only as a reply to a valid protest filed by a taxpayer. Therefore, the supposed issuance and receipt thereof is predominantly for the collection of the deficiency taxes.

16. ***Secondly***, the afore-said FDDA should not and cannot be treated as a decision. It is merely a collection letter addressed to the [P]etitioner for the immediate settlement of the assessed tax deficiencies. It bears stressing that the Government can never be held in estoppel by error of its agents, particularly in matters involving taxes. It is a well-known rule that erroneous application and enforcement of the law by public officers do not preclude subsequent correct application of the statute, and that the Government is never estopped by mistake or error on the part of its agents.

17. Verily, Section 1 (b) of Rule 16 of the 1999 Rules of Civil Procedure provides that:

'MOTION TO DISMISS'

> *Section 1. Grounds. – Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:*
>
> *xxx*
>
> *(f) That the court has no jurisdiction over the subject-matter of the claim.*

18. Settled is the rule that jurisdiction over the subject matter in a judicial proceeding is conferred by the sovereign authority, which organizes the court; it is given only by law and in the manner prescribed by law.

19. Jurisdiction is the court's authority to hear and determine a case. The conferment of jurisdiction upon courts or judicial tribunals is derived exclusively from the constitution and

statutes of the forum. In this jurisdiction, it is a power granted by the Constitution to the Supreme Court and conferred by law to other lower courts to hear and decide cases involving a justiciable controversy. A primary example of jurisdiction conferred by statute is that of the Honorable Court of Tax Appeals. It is therefore not possible and proper to rectify the situation at this time.

Assessment is well supported by facts and laws

20. In the alternative that the Honorable Court will find that it has jurisdiction over the instant petition, [R]espondent posit *(sic)* that, assessments are presumed correct and made in good faith. The taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. Even an assessment based on estimates is *prima facie* valid and lawful where it does not appear to have been arrived at arbitrarily or capriciously.

21. The assessment notice was issued to the [P]etitioner due to deficiency Income Tax, VAT, and Expanded Withholding Taxes resulting from violations of several provisions of the NIRC and existing rules and regulations, more specifically in Section 32, 34 (K), 57, as implemented by Section 2.57.2(c) of RR 2-1998, and 108 of the 1997 NIRC, and Section 9.236.1 (b) of RR 16-2005;

22. Gross income is defined under Section 32 of the 1997 NIRC as:

> SEC. 32. Gross Income. –
>
> (A) *General Definition* – Except when otherwise provided in this Title, gross income means all income derived from whatever sources, including (but not limited to) the following items.
>
> (1) Compensation for services in whatever form paid, including but not limited to fees, salaries, wages, commissions, and similar items;
>
> (2) Gross income derived from the conduct of trade or business or the exercise of a profession;
>
> (3) Gains derived from dealings in property;

(4) Interest;

(5) Rents;

(6) Royalties;

(7) Dividends;

(8) Annuities;

(9) Prizes and winnings;

(10) Pensions; and

(11) Partner's distributive share from the net income of the general professional partnership.

23. VAT on services, on the other hand, is based on Section 108 of the 1997 NIRC which states in part that:

> SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –
>
> (B) Rate and Base of Tax – There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (12%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties; xxx
>
> xxx
>
> The phrase *'sale or exchange of services'* means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, xxx
>
> xxx
>
> The term *`gross receipts'* means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax.
>
> xxx

24. The Revenue Officers performed a comprehensive audit procedure taking into account all the relevant documents. Consequently, petitioner is liable to pay for deficiency tax assessments for taxable year 2006 in the aggregate amount of Php 7,852,701.11 exclusive of interest and surcharge. The following is a summary of the findings of the revenue examiner as a result of the investigation conducted, to wit:

I.	**INCOME TAX**		
	Taxable Income per ITR		6,889.99
	Add: Adjustments		18,852,088.18
	Taxable Income per audit		18,858,898.17
	Tax due thereon		5,99,847.91
	Less: Tax Credits	372,392.19	
	Payments	349.50	372,741.69
	Deficiency Tax Due		**5,627,105.72**
	Add: 25% Surcharge	1,406,776.43	
	20% Interest (4/16/2007-5/30/2014)	8,019,781.91	9,426,558.34
	Total Amount Due		**15,053,664.06**
II.	**VALUE ADDED TAX**		
	Sales per VAT returns		18,629,609.86
	Add: Adjustments		-
	Total Vatable sales per audit		18,629,609.86
	Multiply by 12% VAT rate		12%
	Output tax per audit		2,235,553.18
	Less: Payments per VAT returns		9,957.79
	Deficiency Tax		**2,225,595.39**
	Add: 25% Surcharge	556,398.85	
	20% Interest (1/26/07-5/30/2014)	3,269,491.09	3,825,889.94
	Total amount payable		6,051,485.33
III.	**EXPANDED WITHHOLDING TAX**		
	Rent Expense		10,526.32
	Multiply by Tax Rate		5%
	Tax Due		526.32
	Less: Payments		-
	Total Amount Due		**526.32**
	Add 20% Interest (1/11/07)	771.51	
	Compromise Penalty	400.00	1,177.51
	Total Amount Due		**1,703.83**

25. Upon review and evaluation of the report of reinvestigation, it was disclosed that [P]etitioner has undeclared revenues of P18,858,898.17 that were not subjected to Income Tax per computerized matching conducted by the Bureau on the information/data provided by [P]etitioner's Withholding Agents/Payors and Payees/Income Recipients against [P]etitioner's declaration per Income Tax returns pursuant to

Revenue Memorandum Order No. 32-2007 per Letter Notice No. 057-WE-I-06-00-00022 dated 20 June 2008.

Details of Additional Gross Income

Total Sales per Letter Notice	P	37,259,219.72
Less: Sales per Audit		18,629,609.86
Undeclared Sales	**P**	**18,629,609.86**
% of underdeclaration		***100%***

26. In addition, verification disclosed that [P]etitioner has rentals and salaries, wages, bonuses, and allowances that were not subjected to withholding taxes hence disallowed as deductions pursuant to Section 34(K) of the NIRC, as amended.

Disallowed Expenses

Rentals	P	10,526.32
Salaries, Wages, Bonuses & Allowances		221,872.00
Total	**P**	**222,398.32**
TOTAL ADJUSTMENT TO INCOME TAX	**P**	**18,852,008.18**

27. Verification disclosed that [P]etitioner failed to register as a VAT taxpayer considering that its gross income for the year exceeded the threshold of P1,500,000.00 pursuant to Section 9.236.1 (b) of Revenue Regulation No. 2-98, as amended. Section 9.236.1 (b) of RR 16-2005 states in part that:

> (b) Mandatory:
>
> Any person who, in the course of trade or business, sells, barters or exchanges goods or properties or engages in the sale or exchange of services shall be liable to register if:
>
> i. **His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Sec. 109 (1)(A) to (U) of the Tax Code, have exceeded One million five hundred thousand pesos (P1,500,000.00); or**
>
> ii. There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Sec. 109 (1)(A) to (U) of the Tax Code, will exceed One million five hundred thousand pesos (P1,500,000.00).
>
> Every person who becomes liable to be registered under paragraph (1) of this subsection shall register with

the RDO which has jurisdiction over the head office or branch of that person, and shall pay the annual registration fee prescribed in subsection 9.236-1(a) hereof. **If he fails to register, he shall be liable to pay the output tax under Secs. 106 and/or 108 of the Tax Code as if her were a VAT-registered person, but without the benefit of input tax credits for the period in which he was not properly registered.**

Moreover, franchise grantees of radio and television broadcasting, whose gross annual receipt for the preceding calendar year exceeded P10,000,000.00, shall register within thirty (30) days from the end of the calendar year. (Emphasis supplied)

28. Audit revealed that rental expenses were not subjected to withholding taxes hence assessed pursuant to Section 57 of the 1997 NIRC as implemented by 2.57.2 of Revenue Regulation No. 2-98, as amended. Section 57 of the 1997 NIRC as implemented by Section 2.57.2(c) of RR 2-1998 states that:

SEC. 57. Withholding of Tax at Source. –

(A) *Withholding Final Tax on Certain Incomes.* – Subject to rules and regulations of the Secretary of Finance may promulgate, upon the recommendation of the commissioner, requiring the filing of income tax return by certain income payees, the tax imposed or prescribed by Sections 24(B)(1), 24 (B)(2), 24(C), 24(D)(1); 25(A)(2), 25(A)(3), 25(B), 25(C), 25(D), 25(E), 27(D)(1), 27(D)(2), 27(D)(3), 27(D)(5), 28(A)(4), 28(A)(5), 28(A)(7)(a), 28(A)(7)(b), 28(A)(7)(c), 28(B)(1), 28(B)(2), 28(B)(3), 28(B)(4), 28(B)(5)(a), 28(B)(5)(b), 28(B)(5)(c); 33; and 282 of this Code on specified items of income shall be withheld by payor-corporation and/or person and paid in the same manner and subject to the same conditions as provide in Section 58 of this Code.

(B) *Withholding of Creditable Tax at Source* – The Secretary of Finance may, upon the recommendation of the Commissioner, require the withholding of a tax on the items of income payable to natural or juridical persons, residing in the Philippines, by payor-corporation/persons as provided for by law, at the rate of not less than one percent (1%) but not more than thirty-two percent (32%) thereof, which shall be credited against the income tax liability of the taxpayer for the taxable year.

(C) *Tax-Free Covenant Bonds* – In any case where bonds, mortgages, deeds of trust or other similar obligations of domestic or resident foreign corporations, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed in this Title upon the oblige or to reimburse the oblige for any portion of the tax or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the Philippines, or any state or country, the obligor shall deduct and withhold a tax equal to thirty percent (30%) of the interest or other payments are payable annually or at shorter or longer periods, and whether the bonds, securities or obligations had been or will be issued or marketed, and the interest or other payment thereon paid, within or without the Philippines, if the interest or other payment is payable to anon-resident alien or to a citizen or resident of the Philippines.

Revenue Regulation 2-98

SECTION 2.57.2. Income Payment Subject to Creditable Withholding Tax and Rates Prescribed Thereon. – Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates specified herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:

xxx

(C) Rentals – On gross rental for the continued use or possession of real property used in business which the payor or obligor has not taken or is not taking title, or in which he has no equity – Five percent (5%).

xxx

29. The records of this case disclosed that [P]etitioner has not completely submitted documents as additional evidence to overthrow the validity of said findings.

<u>The right to assess has not prescribed</u>

30. Letter Notice No. 057-WE-I-06-00-00022 dated 20 June 2008 issued by [R]espondent to [P]etitioner shows that the discrepancy for undeclared sales from the amount filed by [P]etitioner on its return to that of the LN is 100%.

31. Such substantial under-declaration rendered [P]etitioner's tax return filed for calendar year 2007 as **a false or fraudulent return** prescribed by Section 248 (B) of the National Internal Revenue Code of 1997, as amended, thus creating prima facie evidence of a false of fraudulent return.

32. Section 248 (B) of the NIRC states constitutes what a false or fraudulent assessment, thus:

> (B) In case of willful neglect to file the return within the prescribed period by this code or by rules and regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be fifty percent (50%) of the tax or of the deficiency tax, in case any payment has been made on the basis of such return before the discovery of the falsity or fraud: *Provided,* That **a substantial under declaration** of taxable sales, receipts or income, or a substantial overstatement of deductions, as determined by the Commissioner pursuant to the rules and regulations to be promulgated by the Secretary of Finance, **shall constitute *prima facie* evidence of a false or fraudulent return:** *Provided, further,* That **failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return,** and a claim of deductions in an amount exceeding thirty (30%) percent of actual deductions, **shall render the taxpayer liable for substantial underdeclaration of sales, receipts or income or for overstatement of deductions, as mentioned herein. (emphasis supplied)**

33. As the discrepancy between the ITR filed and the assessment is more than 30%, there is clearly a substantial under-declaration which is *prima facie* evidence of fraud. Thus, the right to assess does not prescribe until 10 years thereafter.

34. Similarly, the above-stated under-declaration of VAT sales exceeds the amount of thirty percent (30%) of that declared

per return. Such substantial under-declaration rendered [P]etitioner's tax return filed for calendar year 2006 as a false or fraudulent return

35. Section 222 of the NIRC provides for a ten (10) year period to assess in case of a false or fraudulent return, thus:

> (a) In the case of a false or fraudulent return with intent to evade tax or failure to file a return, the tax may be assessed, or a proceeding in court of the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: *Provided*, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

36. Clearly, the right to assess has not prescribed.

Final discussions

37. Assessments are presumed correct and made in good faith. The taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. Even an assessment based on estimates is *prima facie* valid and lawful where it does not appear to have been arrived at arbitrarily or capriciously.

38. The burden of proof is on the taxpayer contesting the validity or correctness of an assessment prove not only that the Commissioner of Internal Revenue is wrong but the taxpayer is right. Otherwise the presumption of correctness of tax assessment stands. The presumption in favor of the correctness of tax assessment stands where to the contrary is wanting. Hence, the assessment issued against petitioner is imbued with factual and legal bases.

39. All presumptions are in favor of the correctness of tax assessments. Dereliction on the part of petitioner to satisfactorily overcome the presumption of regularity and correctness of the assessment will justify the judicial upholding of said assessment notice."

Respondent transmitted the BIR Records for the instant case on December 5, 2014.[21]

[21] Respondent's Transmittal Letter dated December 3, 2014, Docket – Vol. 1, p. 86.

The Pre-Trial Conference was initially set on February 5, 2014.[22] However, upon filing of the motions of Respondent and Petitioner,[23] the Pre-Trial Conference was reset to, and held on, March 17, 2015.[24]

In the meantime, the Pre-Trial Brief for Petitioner was filed on January 30, 2015.[25] The Respondent's Pre-Trial Brief was submitted on March 12, 2015.[26] On March 20, 2015, Petitioner filed a Submission, attaching therewith his Amended.Corrected Pre-Trial Brief for Petitioner.[27] In the Resolution dated March 27, 2015,[28] the Court noted Petitioner's Submission and admitted the said Amended.Corrected Pre-Trial Brief for Petitioner.

The parties submitted their Joint Stipulation of Facts and Issues (JSFI) on April 7, 2015.[29] Thereafter, the Court issued the Pre-Trial Order dated April 23, 2015,[30] deeming the termination of the Pre-Trial Conference.

On May 13, 2015, Petitioner filed a Manifestation/Motion,[31] praying that the Court note the same, effect the corrections on the Pre-Trial Order stated therein, and grant its request for issuance of *subpoena duces tecum* and *ad testificandum*. Respondent failed to file his comment on Petitioner's Manifestation/Motion.[32] In the Resolution dated July 6, 2015,[33] the Court noted Petitioner's manifestations; amended the Pre-Trial Order to reflect the witnesses to be presented at the hearing dates previously granted by the Court in the Schedule of Petitioner's Presentation of Evidence; partially grated Petitioner's motion for the issuance of *Subpoena Duces Tecum and Ad Testificandum;* and ordered that a *Subpoena Duces Tecum and Ad Testificandum* be issued to the representatives of Sanritsu Great Intl. Inc, Diethelm (Phils.) Inc., Inventory Mgmt. Service, Inc., Nissin Precision Phils. Corp., and SK Industry, Inc.

Trial ensued.

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[22] *Notice of Pre-Trial Conference* dated November 17, 2014, Docket – Vol. 1, p. 83.
[23] Respondent's *Urgent Motion to Defer Pre-Trial Conference*, Docket – Vol. 1, pp. 94 to 97; Order dated February 3, 2015, Docket – Vol. 1, p. 178; Petitioner's *Very Urgent Motion to Reset Pre-Trial*, Docket – Vol. 1, pp. 262 to 263; Resolution dated February 24, 2015, Docket – Vol. 1, p. 266.
[24] Minutes of the hearing held on March 17, 2017, and Resolution dated March 23, 2015, Docket – Vol. 1, pp. 294, and 308 to 309, respectively.
[25] Docket – Vol. 1, pp. 100 to 105.
[26] Docket – Vol. 1, pp. 274 to 279.
[27] Docket – Vol. 1, pp. 297 to 305.
[28] Docket – Vol. 1, p. 311.
[29] Docket – Vol. 1, pp. 317 to 319.
[30] Docket – Vol. 1, pp. 329 to 336.
[31] Docket – Vol. 1, pp. 354 to 357.
[32] Records Verification dated June 18, 2015 issued by the Judicial Records Division of this Court, Docket – Vol. 1, p. 360.
[33] Docket – Vol. 1, pp. 362 to 367.

Petitioner presented his documentary and testimonial evidence. As for his testimonial evidence, Petitioner offered the testimonies of the following individuals, to wit: (1) Ms. Lovella R. Laraya,[34] Petitioner's sister; (2) Ms. Rea G. Alcoriza,[35] Accounting Supervisor of Nissin Precision Philippines Corporation; (3) Ms. Criseta V. Cañete,[36] PEZA representative; (4) Ms. Analiza Viñas,[37] HR Head of KJSPT; and (5) Petitioner himself.[38]

On August 18, 2017, Petitioner filed his Formal Offer of Evidence With Motion to Remark,[39] praying that the requested remarking be allowed after which the exhibits mentioned therein be admitted for the purpose for which they were offered. Thus, in the Resolution dated October 19, 2017,[40] the Court ordered the setting of a Commissioner's Hearing on November 14, 2017, for the marking of the VAT Exemption for Nissin Precision for the year 2006 as Exhibit "P-18", and the Tax Exemption Certificate as Exhibit "P-19-a", as well as held in abeyance the resolution of Petitioner's *Formal Offer of Evidence.* Thereafter, in the Resolution dated January 31, 2018,[41] the Court admitted Petitioner's Exhibits, but denied the admission of the following:

1. Exhibits "P-9", "P-10", "P-11", "P-12", "P-15-c", "P-15-c-1", "P-15-e", "P-15-e-1", "P-15-f", "P-15-f-1", "P-15-g", "P-15-g-1", "P-15-h", "P-15-h-1", "P-15-i", and "P-15-i-1", for failure to present the originals for comparison; and

2. Exhibits "P-17-b-1", for failure of the exhibit formally offered to correspond with the document actually marked.

Respondent likewise presented documentary and testimonial evidence. His lone witness was Mr. James Geoffrey H. Rivarez,[42] a Revenue Officer of the BIR. At the hearing held on, and in the Order dated, July 10, 2018,[43] the Court deemed Petitioner's right to cross-examine Mr. Rivarez to have been waived due to the absence of Petitioner's counsel despite due notice. Thereafter, Petitioner filed on July 16, 2018, a *Very Urgent Motion for Reconsideration (Of The Order Dated July 10, 2018)*,[44] praying that the Order of July 10, 2018 be reconsidered and the Petitioner be given the opportunity to cross-examine the witness for Respondent.

[34] Exhibit "P-14", Docket – Vol. 1, pp. 156 to 161; Minutes of the hearing held on May 4, 2015, Docket – Vol. 1, p. 349.

[35] Exhibit "P-17", Docket – Vol. 1, pp. 381 to 384; Minutes of the hearing held on December 7, 2015, and Order dated December 18, 2015, Docket – Vol. 2, pp. 575 and 578, respectively.

[36] Minutes of the hearing held on, and Order dated, September 26, 2016, Docket – Vol. 2, pp. 781 to 783.

[37] Minutes of the hearing held on, and Order dated, July 24, 2017, Docket – Vol. 2, pp. 838 to 839.

[38] Exhibit "P-13", Docket – Vol. 1, pp. 132 to 139; Exhibit "P-13-b", Docket – Vol. 2, pp. 581 to 584; Minutes of the hearing held on March 7, 2016, and February 6, 2017, Docket – Vol. 2, pp. 740 and 818, respectively.

[39] Docket – Vol. 2, pp. 845 to 867.

[40] Docket – Vol. 3, pp. 1322 to 1323.

[41] Docket – Vol. 3, pp. 1330 to 1332.

[42] Exhibit "R-22", Docket – Vol. 1, pp. 285 to 293, Minutes of the hearing held on, and Order dated, July 10, 2018, Docket – Vol. 3, pp. 1339 to 1341.

[43] Minutes of the hearing held on, and Order dated, July 10, 2018, Docket – Vol. 3, pp. 1339 to 1341.

[44] Docket – Vol. 3, pp. 1342 to 1344.

Respondent filed his Formal Offer of Documentary Evidence on July 30, 2018.[45] Subsequently, Petitioner filed his Comments/Objections (To the Respondent's Formal Offer of Documentary Evidence) on August 14, 2018.[46]

On August 23, 2018, Respondent filed his Opposition (Re: Petitioner's Very Urgent Motion for Reconsideration dated 10 July 2018).[47]

Acting on Petitioner's Very Urgent Motion and Respondent's Formal Offer of Documentary Evidence, the Court, in the Resolution dated October 22, 2018,[48] granted Petitioner's Very Urgent Motion and set this case for the cross-examination of Respondent's witness, Mr. Rivarez, on February 19, 2019, and held in abeyance the resolution of Respondent's Formal Offer of Documentary Evidence.

At the hearing held on February 19, 2019,[49] Respondent's counsel recalled Mr. Rivarez to the witness stand for his cross-examination by Petitioner's counsel. Thereafter, he underwent re-direct examination and identified the Assignment Slip marked as Exhibit "P-23". His re-cross examination followed. Thereafter, his testimony was considered terminated. The Court then gave Respondent seven (7) days or until February 26, 2019 to file his Supplemental Formal Offer of Evidence and copy furnish Petitioner's counsel via courier; and Petitioner, the same period, to file his Comment or Opposition thereto.

Subsequently, Respondent filed his Supplemental Formal Offer of Documentary Evidence on February 22, 2019.[50] On April 2, 2019, Petitioner filed his Comment (On the Supplemental Formal Offer of Documentary Evidence Dated 22 February, 2019 Received).[51] In the Resolution dated July 22, 2019,[52] the Court admitted Respondent's Exhibits, and gave the parties thirty (30) days from notice within which to file their memoranda.

On September 5, 2019, Respondent filed his Memorandum;[53] while on October 7, 2019, the Memorandum for the Petitioner was filed.[54]

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[45] Docket – Vol. 3, pp. 1357 to 1363.
[46] Docket – Vol. 3, pp. 1375 to 1377.
[47] Docket – Vol. 3, pp. 1379 to 1384.
[48] Docket – Vol. 3, pp. 1387 to 1389.
[49] Minutes of the hearing held on, and Order dated, February 19, 2019, Docket – Vol. 3, pp. 1393 to 1395.
[50] Docket – Vol. 3, pp. 1399 to 1401.
[51] Docket – Vol. 3, pp. 1406 to 1407.
[52] Docket – Vol. 3, pp. 1410 to 1411.
[53] Docket – Vol. 3, pp. 1420 to 1436.
[54] Docket – Vol. 3, pp. 1447 to 1453.

The instant case was deemed submitted for decision on October 15, 2019.[55]

THE ISSUES

The parties submitted the following issues for the Court's resolution,[56] to wit:

> "1. Whether the Honorable Court has jurisdiction to entertain the instant petition.
>
> 2. Whether or not the disputed assessment is correct, valid and legal."

THE ARGUMENTS OF THE PARTIES

Petitioner argues that this Court has jurisdiction; that the disputed assessment is incorrect; and that the disputed assessment is invalid and illegal.

On the other hand, Respondent counters that the assessment issued against Petitioner has long become final, executory, and unappealable; that Court has no jurisdiction over the instant petition; that the assessment is well supported by facts and laws; and that the right to assess has not prescribed.

THE RULING OF THE COURT

The instant Petition for Review has merit.

The Court has jurisdiction over the instant petition.

Respondent argues that the assessment issued against Petitioner has become final, executory and unappealable in the absence of a motion for reconsideration filed with his office or an appeal filed with the Court by Petitioner within thirty (30) days from his receipt of the decision on his protest on September 30, 2013 or until October 30, 2013. According to Respondent, the FDDA relied upon by Petitioner in support of the timeliness of his Petition for Review cannot be deemed to be a decision of Respondent in cases involving the disputed assessment.

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[55] Resolution dated October 15, 2019, Docket – Vol. 3, p. 1456.
[56] Issues, JSFI, Docket – Vol. 1, p. 318.

The Court disagrees with Respondent, for its jurisdiction is not limited only to decisions of Respondent in cases involving disputed assessments.

Section 7(a)(1) of Republic Act (RA) No. 1125,[57] as amended by RA No. 9282,[58] is instructive on the matter, thus:

> "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 **<u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**;" *(Emphasis and underscoring added)*

Thus, the exclusive appellate jurisdiction of this Court is not limited to cases involving decisions of Respondent on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the National Internal Revenue Code (NIRC) or related laws administered by the BIR. The wording of the provision is clear and simple.[59]

To be sure, the instant case arose out of the NIRC of 1997, since it involves the collection of taxes imposed thereunder. Accordingly, this Court has jurisdiction over the instant case under the term "other matters", referred and pursuant to Section 7(a)(1) of RA No. 1125, as amended by RA No. 9282.

We shall then determine the validity of the subject tax assessments.

The subject tax assessments are invalid because the revenue officer who examined Petitioner's books of accounts and other accounting records for taxable year 2016 did not have the authority to do so.

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[57] AN CREATING THE COURT OF TAX APPEALS.

[58] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

[59] *Philippine Journalist, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.

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.

Sections 6(A) and 13 of the NIRC of 1997 provide as follows:

> "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 added)*
>
> "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 and underscoring added)*

Based on the foregoing provisions, it is clear that unless authorized by Respondent himself or by his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken.[60]

In *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*,[61] the Supreme Court ruled that 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.[62] The Supreme Court, in *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*,[63] also held that an LOA is premised on the fact that the examination of a

[60] *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017.
[61] G.R. No. 178697, November 17, 2010.
[62] *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.
[63] G.R. No. 222743, April 5, 2017.

taxpayer who has already filed his tax returns is a power that statutorily belongs only to Respondent himself or his duly authorized representatives.

Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment.[64] In the absence of such an authority, the assessment or examination is a nullity.[65]

Relative thereto, Revenue Memorandum Order (RMO) No. 43-90[66] directs that audits conducted by BIR revenue officers must be conducted under an LOA, to wit:

> "C. Other policies for issuance of L/As.
>
> 1. **All audits/investigations**, whether field audit or office audit, **should be conducted under a Letter of Authority**.
>
> xxx xxx xxx" *(Emphasis added)*

Moreover, Revenue Audit Memorandum Order (RAMO) No. 1-00[67] mandates that an LOA must be served within thirty (30) days from the time it is issued, *viz*:

> "VIII. *Preliminary Approach to Examination*
>
> xxx xxx xxx
>
> C. *Contact With Taxpayer*
>
> xxx xxx xxx
>
> 2. *Serving of Letter of Authority*
>
> xxx xxx xxx
>
> 2.2 A Letter of Authority authorizes or empowers a designated Revenue Officer to examine, verify and scrutinize a taxpayer's books and records in relation to his internal revenue tax liabilities for a particular period.
>
> 2.3 A Letter of Authority **must be served** or presented to the taxpayer **within 30 days from its date of issue;**

[64] *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.
[65] *Id.*
[66] SUBJECT: Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit.
[67] SUBJECT: Updated Handbook on Audit Procedures and Techniques Volume I (Revision — Year 2000).

> **otherwise it becomes null and void**, unless revalidated. The taxpayer has the right to refuse its service if presented beyond the 30-day period depending on the policy set up by 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 added)*

Clearly, an LOA must be served or presented to the concerned taxpayer within thirty (30) days from its date of issuance; otherwise, it becomes null and void, unless revalidated. In other words, an LOA is valid only for thirty (30) days from date of issue,[68] unless served to the concerned taxpayer within the said thirty (30) days, or even after the lapse of the said 30-day period, the same has been revalidated.

It is well-settled that where the language of the law is clear and unequivocal, it must be given its literal application and applied without interpretation. The general rule of requiring adherence to the letter in construing statutes applies with particular strictness to tax laws and provisions of a taxing act are not to be extended by implication.[69] A plain reading of the above-stated BIR issuances shows that the service of the LOA within the said 30-day period is mandatory.

In this case, the LOA No. 2008 00015304 was issued on May 15, 2009.[70] Thus, the same should have been served to Petitioner by **June 14, 2009**, the last day of the 30-day validity period of the LOA, unless the same is revalidated thereafter.

In his *Memorandum* dated February 19, 2014,[71] the Regional Director of Revenue Region No. 9 stated, *inter alia*, that while LOA No. 200800015304 was issued on May 15, 2009, the same was served to Petitioner only on **June 30, 2009,** or forty-six (46) days after the date of its issuance.

Correspondingly, since there is no showing that the subject LOA has been revalidated, the same has already become void, and was already without force and effect when it was served to Petitioner, for the BIR's failure to observe the 30-day mandatory period.

To emphasize, a void LOA logically characterizes the authority of the revenue officer named therein as non-existent and not legally binding. Such being the case, the said revenue officer is deemed to have no authority at all to carry out the examination of the books of accounts and other accounting

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[68] *Medicord Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017.
[69] *Commissioner of Internal Revenue vs. Julieto Ariete*, G.R. No. 164152, January 21, 2010.
[70] Exhibit "R-2", BIR Records, p. 20.
[71] Exhibit "R-20", BIR Records, p. 120.

records of Petitioner for all internal revenue taxes for the period covering the year 2006.

Considering that the revenue officer who conducted the examination of Petitioner's books of accounts and other accounting records for taxable year 2006 did not have the valid authority to do so in the first place, the resulting tax assessments issued by Respondent against Petitioner is inescapably void.

It is doctrinal that a void assessment bears no valid fruit.[72] Thus, the subject tax assessments cannot be enforced against Petitioner. Correspondingly, it is no longer necessary to address the other arguments raised by the parties.

WHEREFORE, in light of the foregoing considerations, the instant Petition for Review is **GRANTED**. Accordingly, the FDDA dated July 2, 2014, and the deficiency income tax, VAT, and EWT assessments stated therein, in the aggregate amount of ₱21,106,853.22, inclusive of increments, issued against Petitioner for taxable year 2006, are **CANCELLED and SET ASIDE**.

SO ORDERED.

Ma. Belen SL

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO- SAN PEDRO
Associate Justice

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

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.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice