REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

GLOVAX BIOTECH CORP. Petitioner,	**CTA CASE NO. 10602**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: 4:22 pm

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RESOLUTION

FERRER-FLORES, J.:

Before this Court is respondent's **Motion for Reconsideration** filed on June 25, 2025, with petitioner's **Opposition/Comment (To Respondent's Motion for Reconsideration dated 25 June 2025)** filed via accredited courier on August 20, 2025, and received by the Court on August 22, 2025.

On May 21, 2025, the Court promulgated a Decision cancelling respondent's deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), fringe benefits tax (FBT), and compromise penalty assessments for taxable year (TY) 2017 and, setting aside the Warrant of Garnishment dated July 28, 2021, for failure to timely and properly serve the Letter of Authority (LOA) in violation of petitioner's right to due process of law, the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the instant **Petition for Review** is **GRANTED**.
>
> Accordingly, the *Formal Letter of Demand* and *Assessment Notices* both dated January 5, 2021, assessing petitioner for deficiency income tax, VAT, EWT, FBT, and compromise penalty, in the aggregate amount of

> **₱50,583,904.90**, for taxable year 2017, and the *Warrant of Garnishment* dated July 28, 2021 are **CANCELLED** and **SET ASIDE**.
>
> Correspondingly, respondent is **ENJOINED** from collecting the said amount from petitioner.
>
> **SO ORDERED.**

In his *Motion*, respondent asserts that the Court erred in ruling that the LOA is invalid for having been served beyond 30 days from the date of issuance, and the revenue officers (ROs) failed to properly effect a valid substituted service of the said LOA. He argues that failure of the ROs to request for the revalidation of the subject LOA upon the expiration of the "Revalidation Period" does not nullify the LOA or affect the rules on reglementary period within which an assessment may be validly issued, as stated in Revenue Memorandum Circular (RMC) No. 23-09.[1] At any rate, the State can never be held in estoppel, particularly in matters involving taxation. As such, the errors of certain administrative officers should never be allowed to jeopardize the government's financial position.

In refutation, petitioner points out that the cited RMC No. 23-09 is related solely to revalidation of LOA on the submission of report of investigation, not to the proper service thereof. Moreover, it submits that estoppel cannot cure defects that the law treats as a condition of validity. As the issuance of the LOA is jurisdictional, any defects therefrom are not waivable or curable by equitable doctrines.

The Court finds respondent's *Motion for Reconsideration* bereft of merit.

Again, the Court reiterates that, at the time LOA No. eLA201600017497 (LOA-039-2018-00000902) was issued on August 29, 2018,[2] Item VIII(C)(2)(2.3) of Revenue Audit Memorandum Order (RAMO) No. 1-2000[3],[4] mandating that an LOA must be served within 30 days from the time it was issued, otherwise, it becomes null and void, was still in effect, as follows:

> VIII. Preliminary Approach to Examination

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1 SUBJECT: Reiteration of Policies and Procedures Relative to Revalidation of Letters of Authority, Issuance of Subpoena *Duces Tecum*, and Review of Cases by the Assessment Division," dated April 6, 2009

2 Exhibit "R-1", BIR Records (Exhibit "R-12"), p. 1.

3 SUBJECT: Updated Handbook on Audit Procedures and Techniques Volume I (Revision – Year 2000)," dated March 17, 2000.

4 Cf: Refer to RMC No. 82-2022 dated June 28, 2022 (SUBJECT: Clarification on the Service of Letter of Authority pursuant to RAMO No. 1-2000).

x x x

C. Contact with Taxpayer

x x x

2. Serving of Letter of Authority

x x x

2.3 **A Letter of Authority must be served or presented to the taxpayer within 30 days from its date of issue; otherwise, it becomes null and void unless revalidated.** xxx." *(Emphasis and underscoring added)*

Perforce, the above provision commands that an audit, conducted under an LOA, **must** be served on the subject taxpayer within 30 days from date of issue lest the authority becomes null and void. The term "must" was couched in a way that clearly imposes a duty that is imperative and mandatory in nature. A deviation from these obviously renders the result of the audit and examination defective.

Moreover, in *AFP General Insurance Corporation v. Commissioner of Internal Revenue*,[5] the Supreme Court held that an LOA, which has remained unserved for more than 30 days past its issuance date, is deemed unenforceable unless the same is revalidated, to wit:

> 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)*

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

Here, the LOA is invalid for it was clearly not served within 30 days from its issuance, and more so it was improperly served on an unauthorized person. Inevitably, the LOA is a nullity, thereby stripping the ROs of authority to conduct the audit investigation.

Respondent's reliance on RMC No. 23-09[6] is misplaced.

As aptly pointed out by petitioner, RMC No. 23-09 applies solely to revalidation of an LOA on the extension of submission of the ROs report and not to service of an LOA. The relevant portion of said RMC provides:

> I. Revalidation of Las
>
> The revalidation of LA shall give rise to the extension of the period within which the Revenue Officer (RO) assigned to the case shall submit the report of investigation to higher authorities for review and approval, without the imposition of applicable administrative sanctions. Depending on the classification of the pending tax case, said extension period shall be equivalent to the original prescribed number of days within which to report the case under existing revenue issuances. Failure on the part of the RO to request for the revalidation of LA or the expiration of the 'revalidation period' does not nullify the LA nor will it affect or modify the rules on the reglementary period within which an assessment may be validly issued. However, this shall be considered as a ground for the imposition of disciplinary action and demerit in the performance rating of the concerned RO, including the reassignment of the case to another RO if the Regional Director, upon the recommendation of the Revenue District Officer, deems it necessary.

The above refers to the act of administrative revalidation taken by the concerned RO solely for the purpose of extending the period within which the RO may submit its report. Nowhere does it mention about service of an LOA beyond 30 days from its issuance.

Respondent's argument that errors of certain administrative officers should not estop the government is specious.

Enshrined in the 1987 Constitution is the mandate that no person shall be deprived of property without due process of law. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution. The persuasiveness of the right to due process reaches both substantial and

6 *Supra* at note 1.

procedural rights and the failure of the Commissioner of Internal Revenue to strictly comply with the requirements laid down by law and its own rules is a denial of a taxpayer's right to due process.[7]

Relevantly, in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., et al.,*[8] the Supreme Court pronounced that tax assessments issued in violation of the due process rights of a taxpayer are null and void. While the government has an interest in the swift collection of taxes, the Bureau of Internal Revenue and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process.

Estoppel does not exist in this case. It bears stressing that the ROs were remiss in their duty to comply with the due process requirement by timely and properly serving the subject LOA to petitioner.

Finally, even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure. If it is not, then the taxpayer has a right to complain and the courts will then come to his succor. For all the awesome power of the tax collector, he may still be stopped in his tracks if the taxpayer can demonstrate, as it has here, that the law has not been observed.[9]

There being no new matter or substantial issue raised by respondent in his *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the Decision promulgated on May 21, 2025.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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7 *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010.
8 G.R. Nos. 201398-99 and 201418-19, October 03, 2018.
9 *Commissioner of Internal Revenue v. Algue, Inc.,* G.R. No. L-28896, February 17, 1988.

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice