REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

R.A. TAGALA & CO. VENTURES, INC. (now RATC VENTURES, INC.),
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10217

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:
JUL 19 2024
3:11 p.m.

x- x

DECISION

MANAHAN, *J.*:

This is a Petition for Review filed by petitioner on November 27, 2019 praying that a judgment be rendered ordering the nullification of the Final Decision dated October 18, 2019 issued by Regional Director, Bureau of Internal Revenue (BIR), Revenue Region No. 9A – CaBaMiRo, and declaring that petitioner is not liable for any internal revenue tax deficiency for taxable year (TY) 2014.[1]

THE PARTIES

Petitioner R.A. Tagala & Co. Ventures, Inc. (now RATC Ventures, Inc.), is a corporation duly organized and licensed to do business in the Philippines.[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR), who is vested with the authority to administer and enforce national internal revenue laws. He may be served with summons and other legal processes at his

---

[1] Statement of the Case, Pre-Trial Order dated July 22, 2021, Docket – Vol. I, p. 294.
[2] Par. 1, Admitted/Stipulated Facts, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, p. 212.

principal place of business in the Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.

THE FACTS

On April 8, 2016, Officer-in-Charge (OIC) – Regional Director Eduardo L. Pagulayan of Revenue Region No. 1 – Calasiao, Pangasinan, issued a Letter of Authority (LOA) No. LOA-001-2016-00000126,[3] authorizing Revenue Officer (RO) Agnes Rosal and Group Supervisor (GS) Mary Faye Quinto of Revenue District Office (RDO) No. 1 – Laoag City, Ilocos Norte, to examine petitioner's books of account and other accounting records for all internal revenue taxes for the period covering January 1, 2014 to December 31, 2014. Attached to the LOA is a Checklist of Requirements specifying the documents that must be submitted by petitioner to the BIR.[4]

The BIR later sent its First and Second Requests for Presentation of Records, which were received by petitioner on May 23, 2016 and June 9, 2016, respectively.[5]

Through the 2nd Indorsement dated October 24, 2016 of OIC Regional Director Marina C. De Guzman, Revenue Region No. 1, Calasiao, Pangasinan, the tax case docket of petitioner was forwarded to the Regional Director, Revenue Region No. 9 – San Pablo City, for the continuance of audit for TY 2014.[6]

On November 21, 2017, the Memorandum of Assignment (MOA) No. MOA-17-058 was then issued by the Head, Investigation Office, Mr. Benjamin B. Virtucio, Jr., of the RDO No. 54B – Rosario, North Cavite, Revenue Region No. 9 – San Pablo City, addressed to RO Jimmy Belen, Jr. and GS Liza Lozada,[7] stating that the case/docket of petitioner for taxable year 2014 is referred to them, for the continuation of the audit/investigation.

---

[3] Exhibit "P-6", Docket – Vol. II, p. 525; and Exhibit "R-1", BIR Records (Exhibit "R-6"), p. 2.
[4] Exhibit "P-6-a", Docket – Vol. II, p. 526; and Exhibit "R-2", BIR Records (Exhibit "R-6"), p. 1.
[5] Par. 3, Admitted/Stipulated Facts, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, p. 212; Exhibits "P-7" and "P-8", Docket – Vol. II, pp. 527 to 528.
[6] BIR Records (Exhibit "R-6"), p. 294.
[7] Exhibit "R-7", BIR Records (Exhibit "R-6"), p. 301.

Subsequently, Regional Director Maridur V. Rosario of Revenue Region No. 9A – CaBaMiRo, Sto. Tomas, Batangas, issued the Preliminary Assessment Notice (PAN) dated February 14, 2018,[8] finding due from petitioner deficiency income tax, value-added tax (VAT), and improperly accumulated earnings tax (IAET), with surcharge, interests, and compromise penalties, for TY 2014, in the aggregate amount of ₱18,462,483.05.

Thereafter, Regional Director Rosario issued the Formal Letter of Demand (FLD), with attached Details of Discrepancies, and the Assessment Notices, both dated March 27, 2018,[9] upholding the deficiency tax assessment in the PAN, the details of which are as follows:

Type	Basic	Interest	Surcharge	Total
Income tax	₱4,706,749.38	₱2,862,735.24	₱2,353,374.69	₱9,922,859.31
VAT	3,430,964.28	2,237,176.71	1,715,482.14	7,383,623.13
IAET	703,445.44	462,539.47	175,861.36	1,341,846.27
Compromise penalties				37,000.00
			TOTAL	**₱18,685,328.71**

On April 30, 2018, petitioner filed its Protest/Request for Reinvestigation against the said FLD.[10]

LOA No. LOA-54B-2018-00000212 dated August 6, 2018 was issued by Regional Director Rosario, authorizing GS Jimmy Belen, Jr. and ROs Ronna Marrie Macatangay and Victoria Banawa, to examine petitioner's books of accounts and accounting records for all internal revenue taxes for the period from January 1, 2014 to December 31, 2014.[11] The said LOA also states that it is a replacement of LOA No. LOA-001-2016-00000126 dated April 8, 2016 for the continuation of the audit of petitioner's tax liabilities for the said period because of

[8] Exhibit "P-14", Docket – Vol. II, pp. 543 to 548; and Exhibits "R-12", "R-12-1" to "R-12-3", BIR Records (Exhibit "R-6"), pp. 513 to 518.

[9] Exhibits "P-15", P-16", P-16-a" to P-16-c", Docket – Vol. II, pp. 549 to 556; and Exhibits "R-13", "R-13-1" to "R-13-3", "R-14", and "R-14-1" to "R-14-3", BIR Records (Exhibit "R-6"), pp. 519 to 526.

[10] Exhibit "P-17", Docket – Vol. II, pp. 558 to 566; and BIR Records (Exhibit "R-6"), pp. 527 to 532.

[11] Par. 4, Admitted/Stipulated Facts, *Joint Submission (of the admitted/ stipulated facts and issues to be resolved)*, Docket – Vol. I, pp. 212 to 213; Exhibit "P-18", Docket – Vol. II, p. 567.

reassignment of the case due to transfer of petitioner to RDO No. 54B – West Cavite.

On August 6, 2018, Revenue District Officer Emmanuel S. Ferrer, Jr. of RDO No. 54B – West Cavite, issued the letter of even date, informing petitioner that its tax case was referred to RO Ronna Marie Macatangay for reinvestigation, and requesting its President or authorized representative to come to the BIR office.[12]

Through its letter dated October 8, 2018, petitioner offered, without admitting guilt on its part but just wanting to do away with all the hassles accompanying the examination process, the amount of ₱600,000.00 as settlement in lieu of assessment.[13]

Revenue District Officer Ferrer, Jr. then issued the letter dated April 2, 2019, demanding payment of the reduced amount of the subject tax assessments.[14]

Thereafter, the assailed Final Decision on Disputed Assessment (FDDA) dated October 18, 2019 was issued by Regional Director Gerry Dumayas of Revenue Region No. 9A – CaBaMiRo, Sto. Tomas, Batangas,[15] reducing the total tax assessments to ₱8,573,074.02, for TY 2014, broken down as follows:

Type	Basic tax due	Interests	Surcharge	Total
Income tax	₱1,652,014.90	₱1,242,134.17		₱2,894,149.07
VAT	2,283,645.28	1,817,155.99		4,100,801.26
IAET	703,445.44	661,816.89	₱175,861.36	1,541,123.69
Compromise Penalties				37,000.00
			TOTAL	**₱8,573,074.02**

---

[12] Par. 5, Admitted/Stipulated Facts, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, p. 213; Exhibit "P-19", Docket – Vol. II, p. 568.

[13] Par. 7, Admitted/Stipulated Facts, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, p. 213; Exhibit "P-24", Docket – Vol. II, pp. 577 to 580.

[14] Par. 7, Admitted/Stipulated Facts, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, p. 213; Exhibit "P-24", Docket – Vol. II, pp. 577 to 580.

[15] Par. 8, Admitted/Stipulated Facts, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, p. 213; BIR Records (Exhibit "R-6"), pp. 634 to 640.

Petitioner filed the present Petition for Review on November 27, 2019.[16] The case was raffled to this Court's Third Division.

Subsequently, on December 23, 2019, respondent posted a Motion for Extension of Time to File Answer,[17] which the Court granted in its Resolution dated January 9, 2020,[18] giving respondent another period of thirty (30) days from December 24, 2019, or until January 23, 2020, within which to file his Answer.

On January 23, 2020, respondent filed an Urgent Motion for Extension of Time to File Answer,[19] which the Court granted in the Resolution dated January 30, 2020,[20] granting respondent another period of thirty (30) days from January 30, 2020, or until February 22, 2020, within which to file his Answer.

Thereafter, respondent filed on February 21, 2020 a Final Motion of Additional Time to File Answer.[21] In the Resolution dated February 27, 2020,[22] the Court granted the said Final Motion, granting another extension of fifteen (15) days from February 22, 2020, or until March 8, 2020, within which to file his Answer.

On March 6, 2020, respondent posted his Answer,[23] to the Petition for Review.

On June 11, 2020, petitioner filed its Reply to respondent's Answer.[24]

Thereafter, respondent transmitted the BIR Records of the instant case on July 28, 2020.[25]

---

[16] Docket – Vol. I, pp. 6 to 21.
[17] Docket – Vol. I, pp. 98 to 101.
[18] Docket – Vol. I, p. 104.
[19] Docket – Vol. I, pp. 106 to 109.
[20] Docket – Vol. I, p. 112.
[21] Docket – Vol. I, pp. 113 to 116.
[22] Docket – Vol. I, p. 119.
[23] Docket – Vol. I, pp. 120 to 132.
[24] Docket – Vol. I, pp. 176 to 177.
[25] Compliance dated July 27, 2020, Docket – Vol. I, pp. 188 to 189.

The Pre-Trial Conference was initially scheduled for June 11, 2020,[26] but was finally reset to,[27] and held on, May 6, 2021.[28] Prior thereto, the Pre-Trial Brief (for the Petitioner RATC Ventures, Inc.) was submitted on June 3, 2020,[29] while Respondent's Pre-Trial Brief was then filed on May 27, 2021.[30]

In the meantime, on May 25, 2021, the parties filed their Joint Submission (of the admitted/stipulated facts and issues to be resolved),[31] which was admitted and approved by the Court in the Resolution dated June 28, 2021,[32] deeming the Pre-Trial terminated. The Pre-Trial Order dated July 22, 2021 was then issued by the Court.[33]

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

Petitioner offered the testimony of its lone witness, Mr. Roland S. Conte,[34] petitioner's Tax Agent/Consultant.

The Formal Offer of Exhibits of Petitioner was filed on May 19, 2022.[35] Respondent's Comment (Re: Petitioner's Formal Offer of Exhibits) was filed on June 1, 2022.[36]

In the Order dated June 30, 2022,[37] the present case was transferred to this Court's Second Division.

In the Resolution dated July 7, 2022,[38] the Court admitted petitioner's offered exhibits, *except* for the following:

1. Exhibits "P-2", "P-3", "P-4", "P-6", "P-6-a", "P-9", "P-10", "P-11", "P-14", "P-15", "P-16, P-16-a to P-

---

[26] Notice of Pre-Trial Conference dated March 16, 2020, Docket – Vol. I, pp. 142 to 143.
[27] Refer to the Resolutions dated September 15, 2020 and December 16, 2020, Docket – Vol. I, pp. 198 and 205, respectively.
[28] Minutes of the hearing held on, and Order dated, May 6, 2021, Docket – Vol. I, pp. 208 to 211.
[29] Docket – Vol. I, pp. 149 to 153.
[30] Docket – Vol. I, pp. 261 to 265.
[31] Docket – Vol. I, pp. 212 to 215.
[32] Docket – Vol. I, pp. 276 to 277.
[33] Docket – Vol. I, pp. 294 to 302.
[34] Exhibit "P-26", Docket – Vol. II, pp. 408 to 419; Minutes of hearing held on May 11, 2022, Docket – Vol. II, p. 498.
[35] Docket – Vol. II, pp. 501 to 506.
[36] Docket – Vol. II, pp. 597 to 600.
[37] Docket – Vol. II, p. 604.
[38] Docket – Vol. II, pp. 606 to 607. cm

16-c", "P-17", "P-20", "P-21", "P-23", "P-23-a", and "P-25", for failure to submit the duly marked exhibits; and

2. Exhibits "P-5", "P-5-a", "P-12" and "P-13", for failure to present the originals for comparison.

Petitioner then filed on July 25, 2022 its Motion for Reconsideration.[39] Respondent failed to file comment thereon.[40] In the Resolution dated September 29, 2022,[41] the Court partially granted petitioner's Motion for Reconsideration, thereby admitting Exhibits "P-6", "P-6-a", "P-12", "P-14", "P-15", "P-16, P-16-a to P-16-c", and "P-25", but still denying admission to Exhibits "P-2", "P-3", "P-4", "P-5", "P-5-a", "P-9", "P-10", "P-11", "P-13", "P-17", "P-20", "P-21", "P-23", and "P-23-a".

Respondent offered the testimonies of Revenue Officers Mary Faye D. Quinto,[42] Jimmy E. Belen, Jr.,[43] William Landicho,[44] and Ronna Marrie Macatangay.[45]

On April 4, 2023, respondent's Formal Offer of Evidence was filed.[46] Petitioner filed its Comments on Respondent's Formal Offer of Evidence on April 19, 2023.[47] In the Resolution dated May 18, 2023,[48] the Court admitted all of respondent's offered exhibits.

Subsequently, in the Resolution dated May 29, 2023,[49] the present case was transferred to this Court's Third Division.

---

[39] Docket – Vol. II, pp. 608 to 611.
[40] Records Verification dated August 31, 2022 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 632.
[41] Docket – Vol. II, pp. 636 to 640.
[42] Exhibit "R-15", Docket – Vol. I, pp. 242 to 248; Minutes of hearing held on, and Order dated, November 3, 2022, Docket – Vol. II, pp. 641 to 643.
[43] Exhibit "R-16", Docket – Vol. I, pp. 222 to 227; Minutes of hearing held on, and Order dated, November 3, 2022, Docket – Vol. II, pp. 641 to 643.
[44] Exhibit "R-20", Docket – Vol. I, pp. 233 to 237; Minutes of hearing held on, and Order dated, March 15, 2023, Docket – Vol. II, pp. 644 to 646.
[45] Exhibit "R-21", Docket – Vol. I, pp. 254 to 258; Minutes of hearing held on, and Order dated, March 15, 2023, Docket – Vol. II, pp. 644 to 646.
[46] Docket – Vol. II, pp. 647 to 653.
[47] Docket – Vol. II, pp. 655 to 657.
[48] Docket – Vol. II, pp. 663 to 664.
[49] Notice, Docket – Vol. II, p. 665. *cm*

On June 22, 2023, respondent filed a Manifestation,[50] stating that he is adopting the arguments he raised in his Answer as his Memorandum.

On July 4, 2023, the Memorandum for the Petitioner was posted.[51]

The present case was deemed submitted for decision on July 21, 2023.[52]

THE ISSUES

As stipulated by the parties, the following issues are to be resolved by the Court, to wit:

> "1. WHETHER OR NOT PETITIONER WAS ACCORDED DUE PROCESS AS REQUIRED UNDER THE LAW; and
>
> 2. WHETHER OR NOT PETITIONER IS LIABLE FOR DEFICIENCY INCOME TAX, DEFICIENCY VALUE-ADDED TAX, IMPROPERLY ACCUMULATED EARNINGS TAX, AND COMPROMISE PENALTY IN THE AMOUNT OF P8,573,074.02, FOR TY 2014."[53]

Petitioner's arguments:

Petitioner argues that respondent violated its right to due process by arbitrarily issuing deficiency tax assessments based on mere estimates and suppositions disregarding the documents and records it presented during its meetings with the revenue officers. It challenges the validity of the LOA on the ground that it was not validly served, hence, it is as if no LOA was ever served casting serious doubts on the validity of the audit and investigation conducted. Even assuming that there was valid service of the LOA, petitioner contends that the ensuing audit and examination is still null and void because when the new assignment was made on November 29, 2017, a total of 597 days had already elapsed since the alleged service,

---

[50] Docket – Vol. II, pp. 666 to 668.
[51] Docket – Vol. II, pp. 671 to 685.
[52] Minute Resolution dated July 21, 2023, Docket – Vol. II, p. 687.
[53] Agreed Issues to be Resolved, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, p. 213.

yet the examination was not yet terminated nor was there any progress report submitted and no LOA was surrendered.

Petitioner further assails the issuance of a Memorandum of Assignment (MOA) without the issuance of a new LOA to designate a new set of officers, hence, rendering the audit and investigation of the books of account and other accounting records, null and void.

Respondent's counter-arguments:

In his Answer, respondent contends that the LOA was validly served and petitioner was accorded due process. He asserts that he complied with the procedure outlined in Revenue Memorandum Order (RMO) No. 69-2010 in issuing MOA No. 17-058 dated November 21, 2017 and that said issuance was triggered by petitioner's request to be transferred to Revenue District Office No. 001 resulting in the assignment of a new set of officers to continue the audit investigation. Respondent would like to draw attention to petitioner's keen and active participation in the audit and investigation conducted by the new set of officers and states that if it truly believed that the assessment proceedings were void for lack of an LOA, it should not have entertained nor cooperated with said revenue officers.

As regards the substantive merits of the assessment, respondent maintains that petitioner is liable for the assessed deficiency taxes, VAT, IAET and compromise penalty for TY 2014.

THE RULING OF THE COURT

We find merit in petitioner's Petition for Review.

The subject tax assessments are void because the RO who conducted the original investigation of petitioner was not duly authorized to do so.

The facts show that LOA No. 001-2016-00000126 dated April 8, 2016 was issued by OIC-Regional Director Eduardo L.

Pagulayan,[54] authorizing RO Agnes Rosal and GS Mary Faye Quinto of Revenue District No. 001 – Laoag City, Ilocos Norte, to examine the books of accounts and other accounting records of petitioner for all internal revenue taxes for the period covering January 1, 2014 to December 31, 2014.

After petitioner's case/docket was indorsed by Regional Director Marina C. De Guzman, Revenue Region No. 1, Calasiao, Pangasinan, to the Regional Director, Revenue Region No. 9 – San Pablo City, for the continuance of audit for TY 2014,[55] the Head of Investigation Office, Mr. Benjamin B. Virtucio, Jr., of RDO No. 54B – Rosario, North Cavite, issued MOA No. 17-058 dated November 21, 2017,[56] referring the case/docket of petitioner for TY 2014 to RO Jimmy Belen, Jr. and GS Liza Lozada, for the continuation of the audit/investigation of petitioner.

By virtue of the said MOA, RO Jimmy Belen, Jr. and GS Liza Lozada came up with the Memorandum dated January 8, 2018 addressed to the Revenue District Officer of RDO No. 54B,[57] presenting their audit findings, and recommending that the report be approved, and forwarded to the Office of the Regional Director for review and issuance of an assessment notice against petitioner. On the basis of the said Memorandum, the PAN dated February 14, 2018, was issued by OIC-Regional Director, Maridur V. Rosario, of Revenue Region No. 9A – CaBaMiRo, against petitioner.[58]

That his authority came from MOA No. 17-058 dated November 21, 2017 was confirmed by RO Belen himself, when he was presented to this Court to testify on direct examination by way of judicial affidavit,[59] as to how why he was familiar with the case, thus:

> "8. Q: Why are you familiar with the case?
>
> A: I was the examiner who conducted the examination of R.A. Tagala & Co., Ventures, Inc., the petitioner in this case, for the period from January 1 to December 31, 2014.

---

[54] Exhibits "P-6", Docket – Vol. II, p. 525; and Exhibit "R-1", BIR Records (Exhibit "R-6"), p. 2.
[55] BIR Records (Exhibit "R-6"), p. 294.
[56] Exhibit "R-7", BIR Records (Exhibit "R-6"), p. 301.
[57] Exhibits "R-9" to "R-9-1", BIR Records (Exhibit "R-6"), pp. 509 to 510.
[58] Exhibit "P-14", Docket – Vol. II, pp. 543 to 548; and Exhibits "R-12", "R-12-1" to "R-12-3", BIR Records (Exhibit "R-6"), pp. 513 to 518.
[59] Exhibit "R-16," Docket – Vol. I, pp. 223 to 224.

9. Q: What was your authority to conduct the investigation on petitioner?

   A: Our authority was pursuant to the Memorandum of Assignment No. 17-058 dated November 21, 2017.

10. Q: Why was a Memorandum of Assignment issued to you instead of a Letter of Authority?

    A: R.A. Tagala & Co. Ventures, Inc. requested to be transferred from RDO 001-Laoag City, Ilocos Norte to RDO 54B – Cavite. Considering that there was already an original Letter of Authority issued for the audit investigation, a Memorandum of Assignment~~,~~ [No.] 17-058 dated November 21, 2017~~,~~ [was issued to me.]

xxx xxx xxx

13. Q: After acquiring the authority to continue the audit investigation, what step did you take to inform R.A. Tagala & Co. Ventures, Inc. that you are the new revenue officers who will continue the audit investigation pursuant to the Memorandum of Assignment?

    A: We sent a notice to R.A. Tagala & Co. Ventures, Inc. through letter dated November 29, 2017 informing them that we are the authorized revenue officers to examine the books and other accounting records for the taxable year 2014."

Furthermore, during his cross-examination, RO Belen was questioned by petitioner's counsel, Atty. Ramel A. Aguinaldo, about his authority to conduct the continuance of petitioner's investigation, to wit:

"ATTY. AGUINALDO:
According to your Judicial Affidavit, you proceeded to conduct a reinvestigation or continuance of investigation?

WITNESS:
Continuance of investigation, Attorney.

ATTY. AGUINALDO:
From the earlier Letter of Authority. Is that what you mean?

WITNESS:
From Memorandum of Assignment.

ATTY. AGUINALDO:
Can you show us that Memorandum of Assignment, the basis of your examination to continue the examination of the taxpayer books? This is signed by one Benjamin, Jr. What is his position?

WITNESS:
He is our Revenue District Officer, Attorney.

xxx xxx xxx

ATTY. AGUINALDO:
Ok. And were you the one who came up with the preliminary assessment notice?

WITNESS:
Yes, Attorney.

xxx xxx xxx

JUSTICE DAVID:
So, the question is what was your recommendation? The witness may answer.

WITNESS:
My recommendation is to issue a preliminary assessment notice for deficiency income tax, VAT, and improperly accumulated earnings, your honor as well as a compromise penalty."[60]

From the testimony of RO Belen, his authority to continue petitioner's audit was based **only** on the MOA No. 17-058 dated November 21, 2017, issued and signed by the Head, Investigation Office, Mr. Benjamin B. Virtucio, Jr.,[61] of RDO No. 54B – Rosario, North Cavite. Unfortunately, however, a MOA is not equivalent to an LOA, and, therefore, does not cure RO Belen's lack of authority.

Hence, in view of the finding that the RO who conducted the examination of petitioner's books of accounts and other accounting records for taxable year 2014, and who also recommended the issuance of the said PAN for the same taxable year, does not have the necessary authority to do so, through an LOA, in the first place, the subject tax assessments issued against petitioner are inescapably void and without effect.

---

[60] Transcript of Stenographic Notes for the hearing held on November 3, 2022, pp. 27 to 32.
[61] Exhibit "R-7", BIR Records, p. 301.

The second LOA, *i.e.*, LOA No. LOA-54B-2018-00000212 dated August 6, 2018, which was issued by Regional Director Rosario, authorizing Mr. Jimmy Belen, Jr., for the continuation of the audit of petitioner's tax liabilities, as GS,[62] did not cure the defect, since the original investigation had already ceased. Notably, when the said second LOA was issued, the subject PAN,[63] and FLD, as well as the corresponding Assessment Notices,[64] have already been issued to petitioner, and the latter had already submitted its Protest/Request for Reinvestigation against the said FLD. Thus, if at all, the second LOA merely authorized the reinvestigation of petitioner, but not the original investigation.

Correspondingly, the legal effect of the absence of an LOA is the nullity of the examination and assessments for violation of the petitioner's right to due process.

It is well-established that the reassignment or transfer of an RO requires the issuance of a new or amended LOA for the substitute or replacement of an RO to continue the audit or investigation.[65] In the same case of *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corp.*,[66] (*McDonald's* case) the Supreme Court highlighted the necessity of a new or amended LOA for the substitute or replacement RO to continue the audit or investigation. We quote the pertinent portions of the *McDonald's* case, to wit:

> "The petitioner wants the Court to believe that once an LOA has been issued in the names of certain revenue officers, a subordinate official of the BIR can then, through a mere memorandum of assignment, referral memorandum or such equivalent document, rotate the work assignments of revenue officers who may then act under the general authority of a validly issued LOA. **But an LOA is not a general authority to any revenue officer. It is a special authority granted to a particular revenue officer**.

---

[62] Par. 4, Admitted/Stipulated Facts, *Joint Submission (of the admitted/stipulated facts and issues to be resolved)*, Docket – Vol. I, pp. 212 to 213; Exhibit "P-18", Docket – Vol. II, p. 567.
[63] Exhibit "P-14", Docket – Vol. II, pp. 543 to 548; and Exhibits "R-12", "R-12-1" to "R-12-3", BIR Records (Exhibit "R-6"), pp. 513 to 518.
[64] Exhibits "P-15", P-16", P-16-a" to P-16-c", Docket – Vol. II, pp. 549 to 557; and Exhibits "R-13", "R-13-1" to "R-13-3", "R-14", and "R-14-1" to "R-14-3", BIR Records (Exhibit "R-6"), pp. 519 to 526.
[65] *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corporation*, G.R. No. 242670, May 10, 2021.
[66] *Ibid.*

> The practice of reassigning or transferring revenue officers, who are the original authorized officers named in the LOA, and subsequently substituting them with new revenue officers who do not have a separate LOA issued in their name, is in effect a usurpation of the statutory power of the CIR or his duly authorized representative. **The memorandum of assignment, referral memorandum, or such other equivalent internal documents of the BIR directing the reassignment or transfer of revenue officers, is typically signed by the revenue district officer or other subordinate official, and not signed or issued by the CIR or his duly authorized representative under Sections 6, 10(c) and 13 of the NIRC. Hence, the issuance of such memorandum of assignment, and its subsequent use as a proof of authority to continue the audit or investigation, is in effect supplanting the functions of the LOA, since it seeks to exercise a power that belongs exclusively to the CIR himself or his duly authorized representatives**." (*Emphases supplied*)

The *McDonald's* case concluded its discourse by equating the lack of an LOA to a violation of the taxpayer's right to due process, and we quote:

> "In summary, 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 RMO No,. 43-90 dated September 20, 1990." (*Emphasis supplied*)

Tax assessments issued in violation of the due process rights of a taxpayer are null and void.[67] Furthermore, a void assessment bears no valid fruit.[68] Such being the case, the subject tax assessments cannot be enforced against petitioner, and respondent has no right to collect the same.

In view of the foregoing findings, it is no longer necessary to address the other respective arguments raised by the parties.

---

[67] *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., etseq.*, supra.
[68] *Samar-I Electric Cooperative vs. Commissioner of Internal Revenue*, G.R. No. 193100, December 10, 2014.

WHEREFORE, in light of the foregoing considerations, the present Petition for Review is **GRANTED**.

Accordingly, the FLD and the Assessment Notices, both dated March 27, 2018 and the FDDA dated October 18, 2019 declaring petitioner liable for internal revenue tax deficiencies for TY 2014 are **CANCELLED** and **SET ASIDE**, for being **VOID**.

Respondent or any person duly acting on his behalf is hereby **ENJOINED** from collecting or taking further action on the subject deficiency taxes against petitioner for TY 2014.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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

an