Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SPECIAL FIRST DIVISION

PENTA TECHNOLOGY, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9258
For: Assessment

Members:
DEL ROSARIO, *P.J., Chairperson*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:
NOV 14 2018 3:49pm

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review filed by petitioner Penta Technology, Inc. (PTI) against respondent Commissioner of Internal Revenue (CIR) on February 15, 2016, pursuant to Section 7(a)(1)[1] of Republic Act (RA) No. 1125,[2] as amended, as well as Section 3(a)(1)[3] of Rule 4 and Section

[1] 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;

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[2] Act Creating the Court of Tax Appeals.
[3] Sec. 3. Cases within the jurisdiction of the Court in Division.- The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

(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

4(a)[4] of Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended.

Petitioner PTI seeks for the reversal and setting aside of the CIR's Decision dated January 7, 2016 and Final Decision on Disputed Assessment issued on August 17, 2012 ordering PTI to pay the total amount of Php7,885,187.67 representing assessment for deficiency income tax, value added tax, expanded withholding tax, withholding tax on compensation, fringe benefit tax and compromise penalty for taxable year 2007.

Petitioner PTI assails both the aforesaid Decisions, the dispositive portions of which, respectively read as follows:

<u>Decision dated January 7, 2016 of respondent CIR:</u>

*"**WHEREFORE**, this Office hereby orders PENTA TECHNOLOGY, INC. to pay the amounts of P5,919,565.74, P812,766.59, P76,056.49, P88,199.36, P956,599.49 and P32,000.00 representing deficiency Income Tax, VAT, EWT, Withholding Tax on Compensation, FBT, and Compromise Penalty, respectively, plus increments that may have accrued thereon until actual payment thereof, to the Collection Service, BIR National Office Building, Diliman, Quezon City, within thirty (30) days from receipt hereof, otherwise, the collection thereof shall be effected through summary remedies provided by law."*

<u>Final Decision on Disputed Assessment issued on August 17, 2012:</u>

Revenue Code or other laws administered by the Bureau of Internal Revenue.

[4] Sec. 4. Where to appeal; mode of appeal.-

(a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.

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> *"In view thereof, it is requested that you pay the abovementioned deficiency taxes through the duly authorized agent bank in which you are enrolled using the BIR Payment Form (BIR Form 0605) attached herewith.xxx.*
>
> *This is our final decision. If you disagree, you or your authorized representative may appeal with the Commissioner of Internal Revenue (CIR) or with the Court of Tax Appeals (CTA) within thirty (30) days from the date of receipt hereof otherwise,* ***the assessment shall become final, executory and demandable****."*

The antecedent facts are follows:

Petitioner PTI is a corporation duly organized and existing under and by virtue of the Philippine laws, with office address at No. 22 El Rico Suites, 1048 Metropolitan Avenue, Makati City. On the other hand, the Bureau of Internal Revenue, through the respondent Commissioner of Internal Revenue (CIR), is the agency of the government tasked with the enforcement of revenue laws and the collection of taxes and duties.[5]

RDO Manuel V. Mapoy issued Tax Verification Number 00088511 dated July 17, 2008, authorizing Revenue Officer Wilhelfortes Asprer of Revenue District Office No. 49, to examine/audit petitioner's internal revenue taxes for taxable year 2007.[6]

On August 5, 2008, petitioner PTI questioned respondent regarding the selection criteria for the 2007 TVN (Tax Verification Number 00088511 dated July 17, 2008).[7]

On October 23, 2008, petitioner PTI received a Re-Assignment Notice, informing them that the previously assigned Revenue Officers was being replaced by RO Elma V. Delluta and GS Rodel Buenaobra.[8]

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[5] Joint Stipulation of Facts and Issues, CTA Docket pp. 256- 258.
[6] Ibid.
[7] Ibid
[8] Ibid

On June 4, 2009, petitioner received BIR Letter dated May 18, 2009 informing them that RO May F. Quiambao and GS Arnel B. Magbag shall continue the investigation for calendar year 2007 previously assigned to RO Delluta and GS Buenaobra.[9]

On March 17, 2010, petitioner received BIR Letter dated March 8, 2010 informing them that RO May F. Quiambao has been transferred to the NID and the case was re-assigned to Janet Q. Soretta under the supervision of GS Adolf M. Viacrusis.[10]

On October 17, 2010, Notice of Informal Conference was served by RO Soretta to petitioner PTI.

On December 3, 2010, petitioner received the Preliminary Assessment Notice dated November 25, 2010.[11]

On December 17, 2010, petitioner filed their protest against the PAN.

On January 13, 2011, petitioner received a Final Assessment Notice (FAN) dated January 07, 2011.[12] (which, according to petitioner, was served to an unauthorized person on January 11, 2011.)

On February 11, 2011, petitioner sent a protest against the FAN through LBC addressed to the Respondent CIR and Regional Director, Revenue Region No.8 Makati City.[13]

On September 5, 2012, petitioner received the *Final Decision on Disputed Assessment* (FDDA) dated August 17, 2012.[14]

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[9] Ibid
[10] Ibid.
[11] Ibid.
[12] Petition p. 3.
[13] Ibid.
[14] Ibid. at p. 4.

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On October 4, 2012, petitioner elevated its protest on the FDDA to the CIR.[15]

On April 23, 2013, the BIR served the Preliminary Collection Letter (PCL) dated April 4, 2013.[16]

Respondent issued a Final Notice Before Seizure (FNBS) dated June 26, 2013.[17]

On January 20, 2016, petitioner's authorized representative Ria A. Sablon received the Decision of the respondent CIR denying the protest.

Hence, on February 15, 2016, petitioner filed this petition.

Petitioner claims that respondent CIR erred (1) in concluding that alleged deficiency assessments for taxable year 2007 had become final and executory, (2) in declaring that the assessment made by the revenue officers who had no Letter of Authority (LOA), is valid and binding, and (3) in declaring that petitioner had an obligation to file a protest on the assessment made by an unauthorized person.

On April 15, 2016, respondent CIR filed a Motion to Dismiss which was denied in the Resolution[18] dated July 26, 2016.

Thereafter, respondent CIR filed an Answer[19] on August 8, 2016 and alleged by way of special and affirmative defenses the following:

> "6. ***The protest against the Final Assessment Notice was filed beyond the 30-day period. Consequently, the assessment became final, executory and unappealable.***
>
> *The facts admitted by Petitioner are as follows:*

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[15] Ibid.
[16] Ibid. at p. 5
[17] Ibid.
[18] CTA Docket pp.140-144.
[19] CTA Docket pp.145-153.

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1.) On January 13, 2011, petitioner received a Final Assessment Notice (FAN) dated January 07, 2011 which was served to an unauthorized person on January 11, 2011. (paragraph 12 of the Petition for Review)

2.) On February 11, 2011, petitioner sent its protest to the FAN through LBC addressed to the following: (paragraph 13 of the Petition for Review)

Considering the circumstances in the case at bar, upon receiving the FAN on January 11, 2011, petitioner should have filed its protest on or before February 10, 2011. It is clear that petitioner failed to file a valid protest within the thirty (30) day period as required by Section 228 of the 1997 Tax Code when they filed their protest on February 11, 2011. Consequently, the assessment became final executory and appealable.

xxx xxx xxx.

In fine, petitioner only had until February 10, 2011 within which to file its protest against the FAN. When the protest was filed by petitioner on February 11, 2011, it was clearly beyond the period allowed by law. Accordingly, the subject deficiency taxes of petitioner for taxable 2007 had already become final, executory, demandable and unappealable. Hence, the Honorable Court has no jurisdiction to take cognizance of the case.

Petitioner also argues that Marissa Marquez, Secretary-Admin of petitioner, was an unauthorized person to receive the FAN. However, records will show that petitioner has impliedly admitted its receipt of the Tax Verification Notice, PAN, FAN, and FDDA, by instituting its respective protest against the PAN, FAN and FDDA, thus recognizing the validity of the services of the notices.

7. ***The protest against the Final Decision on Disputed Assessment (FDDA) was filed beyond the 30-day period AND with the wrong Office, accordingly, the assessment became final executory and unappealable.***

The facts admitted by Petitioner are as follows:

1.) On September 5, 2012, petitioner received the Final Decision on Disputed Assessment ("FDDA") dated August 17, 2012 issued by RD Nestor Valeroso. (paragraph 16 of the Petition for Review)

2.) On October 4, 2012, petitioner elevated its protest to the FDDA to the CIR. (paragraph 13 of the Petition for Review)

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Assuming for the sake of argument that the FAN was filed within the 30-day period provided under Section 228 of the 1997 Tax Code, circumstances in the case at bar will show that the protest against the FDDA was filed beyond the 30-day period AND with the wrong Office, accordingly, the assessment became final executory and unappealable.

Based on the protest filed against the FDDA which was attached to the Petition for Review (Annex "G"), petitioner admitted that the FDDA was received by an unauthorized person on August 28, 2012. <u>Counting 30 days from August 28, 2012, petitioner should have filed its protest against the FDDA on or before September 27, 2012</u>. It is clear that petitioner failed to file a valid protest within the thirty (30) day period as required by Section 228 of the 1997 Tax Code when they filed the protest on October 4, 2012. Consequently, the assessment became final executory and unappealable.

Petitioner argues again that Marissa Marquez, Secretary-Admin of petitioner was an unauthorized person to receive the FDDA. As explained above, records will show that petitioner has impliedly admitted its receipt of the Tax Verification Notice, PAN, FAN and FDDA, by instituting its respective protest against the PAN, FAN and FDDA, thus recognizing the validity of the services of the notices.

Assuming again for the sake of argument that petitioner received the FDDA on September 05, 2012 (paragraph 16 of the Petition for Review), the Protest against the FDDA (Annex "G") will show that the same was filed on October 4, 2012 with the Office of the Regional Director, BIR Region No. 8-Makati <u>and not with the Commissioner of Internal Revenue</u> as claimed by petitioner.

xxx xxx xxx."

On December 21, 2016, a Pre-trial Order[20] was issued and setting the date for the presentation of evidence by the parties. During trial, petitioner presented the only witness Ms. Melissa B. Cordero, who identified her Judicial Affidavit duly marked as Exhibit "P-4". Petitioner's witness testified that she was the one who received the Tax Verification Notice (TVN) and that she is not an authorized representative of petitioner.[21]

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[20] CTA Docket pp. 262-268.
[21] CTA Docket pp. 269-272.

On March 17, 2017, petitioner filed its Formal Offer of Evidence presenting Exhibits "'P-1" to "P-4"[22] (inclusive of sub-exhibits). In the Resolution dated May 22, 2017, the Court admitted Exhibits "'P-3" , "P-3-a", "P-3-b", P-3-c", "P-4", "P-4-a" and "P-4-b" denied Exhibits "P-1" for failure to submit the original and identify the same, and Exhibits "P-2" for failure to identify the same.

Petitioner's admitted documentary exhibits are as follows:

Exhibit:	Description:
P-3	Tax Verification Notice (TVN) No. 00088511 dated July 17, 2008
P-3-a	Signature of RDO Manuel V. Mapoy
P-3-b	Signature of Mel Cordero
P-3-c	Note indicating the name and time of the messenger who served the TVN
P-4	Judicial Affidavit (JA) of witness Ms. Melissa B. Cordero executed on November 7, 2016
P-4-a	Signed corrected information of the JA of Ms. Melissa B. Cordero consisting of four (4) pages
P-4-b	Signature of Ms. Melissa B. Cordero in her JA

On the other hand, respondent presented the only witness Revenue Officer Janet Q. Sorreta, who identified her Judicial Affidavit. Thereafter, on July 26, 2017 respondent filed the Formal Offer of Evidence presenting Exhibits "'R-1" to "R-9" (inclusive of sub-exhibits). In the Resolution dated December 1, 2017, the Court admitted all of respondent's exhibits and required the parties to file their respective Memoranda within thirty (30) days from receipt thereof.

Respondent's documentary exhibits are the following:

Exhibit:	Description:
R-1	Notice of Informal Conference with attached Report of Investigation dated October 6, 2010
R-1-a	Handwriting and signature of Marissa Marquez
R-2	Memorandum Report dated October 27, 2010
R-2-a	Signature of Janet Q. Sorreta
R-3	Preliminary Assessment Notice with attached Details of Discrepancies dated November 25, 2010

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[22] CTA Docket pp. 276-278.

R-3-a	Handwriting and signature of Marissa Marquez
R-4	Assessment Notices dated January 7, 2011 together with the Formal Assessment Notice also dated January 7, 2011 with its corresponding Details of Discrepancies
R-4-a	Handwriting and signature of Marissa Marquez
R-5	Final Decision on Disputed Assessment (FDDA) with Details of Discrepancies dated August 17, 2012
R-5-a	Handwriting and signature of Marissa Marquez
R-6	Protest filed against the FDDA with the Regional Director's Office of the BIR Revenue Region 8 Makati on October 4, 2012
R-6-a	Rubber stamp receipt dated October 4, 2012
R-7	Preliminary Collection Letter dated April 4, 2013
R-7-a	Handwriting and signature of Marissa Marquez
R-8	Decision promulgated by Commissioner Kim S. Jacinto-Henares on January 7, 2016
R-8-a	Signature of Commissioner of Internal Revenue Kim S. Jacinto-Henares
R-9	Judicial Affidavit of Janet Q. Sorreta executed on October 19, 2016
R-9-a	Signature of Janet Q. Sorreta

On January 3, 2018, petitioner filed its memorandum while respondent filed his memorandum on January 5, 2018. Thus, in the Resolution dated January 18, 2018, the case was considered submitted for decision.[23]

As jointly stipulated by the parties, the main issue is:

> "WHETHER OR NOT PETITIONER IS LIABLE TO PAY DEFICIENCY INCOME TAX, VALUE-ADDED TAX, EXPANDED WITHHOLDING TAX, WITHHOLDING TAX ON COMPENSATION, FRINGE BENEFIT TAX AND COMPROMISE PENALTY FOR TAXABLE YEAR 2007".[24]

We resolve.

Section 6 of the National Internal Revenue Code (NIRC) of 1997, as amended, reads as follows:

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[23] CTA Docket p.332.
[24] CTA Docket p.257.

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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.

Pursuant to said provision, an authorization from the CIR or from his duly authorized representative is needed in order to examine any taxpayer. In relation to Sections 10 and 13 of the NIRC of 1997, as amended, the authorization needed to examine any taxpayer is the "Letter of Authority" (LOA) and the duly authorized representative referred is the Revenue Regional Director, to wit:

*"SEC. 10. **Revenue Regional Director**. - Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional Director shall, within the region and district offices under his jurisdiction, among others: xxx*

xxx xxx xxx.

*(c) **Issue Letters of Authority for the examination of taxpayer within the region**;*

xxx xxx xxx.

*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 ours)*

Evidently, an LOA from the Revenue Regional Director is needed before a Revenue Officer can examine taxpayers'

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records, 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. Otherwise stated, a Revenue Officer cannot examine a taxpayer or recommend the assessment of any deficiency tax due in the absence of an LOA.

In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[25], the Supreme Court categorically ruled as follows:

> *"Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment. Equally important is that the revenue officer so authorized must not go beyond the authority given. In the absence of such an authority, the assessment or examination is a nullity."*

The absence of authorization or an LOA of a Revenue Officer, to examine taxpayers in order to collect the correct amount of tax or to recommend the assessment of any deficiency tax due cannot be overly emphasized. In the case of *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*[26], the Supreme Court ruled that the absence of an LOA violated a taxpayer's right to due process and the assessment thereon is inescapably void, to wit:

> ***"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. An LOA is premised on the fact that the examination of a taxpayer who has already filed his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives. xxx.*
>
> *xxx xxx xxx.*
>
> *xxx, [I]t is clear that* ***unless authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken.*** *The circumstances contemplated under Section 6 where the taxpayer may be assessed through best-evidence obtainable, inventory-taking, or surveillance*

[25] G.R. No. 178697, November 17, 2010.
[26] G.R. No. 222743, April 5, 2017.

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> *among others has nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority.*
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> *xxx xxx xxx.*
>
> *That the BIR officials herein were not shown to have acted unreasonably is beside the point because the issue of their lack of authority was only brought up during the trial of the case. What is crucial is whether the proceedings that led to the issuance of VAT deficiency assessment against MEDICARD had the prior approval and authorization from the CIR or her duly authorized representatives.* ***Not having authority to examine MEDICARD in the first place, the assessment issued by the CIR is inescapably void."*** *(Emphasis Supplied)*

In the case at bar, it is undisputed that examination of petitioner PTI's records emanates not from a Letter of Authority but from a Tax Verification Notice (TVN) and that the persons who conducted the examination of petitioner PTI's records, initially to Revenue Officer (RO) Wilhelfortes Asprer who was replaced by RO Elma V. Delluta and Group Supervisor (GS) Rodel Buenaobra, who were replaced by RO May F. Quiambao and GS Arnel B. Magbag, and eventually re-assigned to Janet Q. Soretta under the supervision of GS Adolf M. Viacrusis, were not authorized as there is no Letter of Authority issued by a Regional Director to them.

The Joint Stipulation of Facts are as follows:

> *"RDO Manuel V. Mapoy issued Tax Verification Number 00088511 dated July 17, 2008, authorizing Revenue Officer Wilhelfortes Asprer of Revenue District Office No. 49, to examine/audit petitioner's internal revenue taxes for taxable year 2007.*
>
> *On August 5, 2008 petitioner questioned the respondent regarding the selection criteria for the 2007 TVN (Tax Verification Number 00088511 dated July 17, 2008).*
>
> *On October 23, 2008 petitioner received a Re-Assignment Notice, informing them that the previously*

assigned Revenue Officers was[sic] being replaced by RO Elma V. Delluta and GS Rodel Buenaobra.

xxx xxx xxx

On June 4, 2009 petitioner received BIR Letter dated May 18, 2009 informing them that RO May F. Quaimbao and GS Arnel B. Magbag shall continue the investigation for calendar year 2007 previously assigned to RO Delluta and GS Buenaobra.

On March 17, 2010 petitioner received BIR Letter dated March 8, 2010 informing them that RO May F. Quiambao has been transferred to the NID and the case was re-assigned to Janet Q. Soretta under the supervision of GS Adolf M. Viacrusis."

It bears noting that CIR's witness, Revenue Officer Janet Q. Soretta, in her testimony[27], has no Letter of Authority. Upon clarification from the Court, it was found out that the revenue officers' authority to conduct examination arose from a Tax Verification Notice (TVN) and not from a Letter of Authority (LOA). Pertinent portions of her testimony are herein quoted below:

"PRESIDING JUSTICE DEL ROSARIO:
Now, do you have the copy of the Letter of Authority now? You have been searching for that earlier.

MS. SORRETA:
A. Actually, what I have now is the, because, this is, your Honors, a re-assigned case, this is not an original case that was assigned to me. It was just assigned to me after the original Revenue Officers transfer to another district office.

JUSTICE DEL ROSARIO:
Would you remember if there is specific Letter of Authority authorizing you to examine the records of the petitioner?

MS. SORRETA:
A. Actually, I think this is the Tax Verification Notice, your Honors, that I continue the examination.

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[27] Transcript of Stenographic Notes, July 11, 2017, pp. 5-24 .

JUSTICE DEL ROSARIO:
You just continued, but you cannot remember whether there's a new Letter of Authority issued in your favor?

xxx xxx xxx.

MS. SORRETA:
A. There was no new Letter of Authority, your Honors.

xxx xxx xxx.

JUSTICE GRULLA:
All right.
Just a follow-up, Ms. Witness.

You said that you continued the investigation or the examination, what is your basis on continuing the examination?

MS. SORRETA:
A. There was a referral memo, your Honors. There was a Memorandum, (interrupted)

JUSTICE GRULLA:
Can you show it under the documentator?

MS. SORRETA:
A. There's a reassignment memo that was signed by our then Revenue District Officer Teodoro Galicia.

xxx xxx xxx."[28]

Evidently, Revenue Officer Janet Q. Soretta is not authorized, under a valid and existing Letter of Authority to examine petitioner PTI's records. Based on the Judicial Affidavit[29] and upon clarification, Revenue Officer Janet Q. Soretta, took over the case after the same was re-assigned to her by Revenue District Officer Teodoro Galicia thru a referral memorandum. However, the abovementioned Referral Memorandum for the re-assignment and continuance of audit signed by a Revenue District Officer is not equivalent to an LOA, neither is the Tax Verification Notice (TVN).

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[28] Transcript of Stenographic Note, July 11, 2017, pp. 12-15.
[29] Exhibit "R-9" Division Docket, pp.172-230.

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The Referral Memorandum signed by the Revenue District Officer does not give authority to Revenue Officer Janet Q. Soretta to conduct examination of petitioner PTI's records. On the contrary, pursuant to Sections 10 and 13 of the NIRC of 1997, as amended, it is the Revenue Regional Director who may issue an LOA.

In the case of *Medicard*, the Supreme Court ruled that an assessment is inescapably void due to the absence of an LOA and that a Letter Notice, even if signed by the CIR, does not convert it to an LOA. Moreover, in the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[30], even if there was a valid LOA, it is equally important that the revenue officer so authorized, must not go beyond the authority given, otherwise, the assessment or examination is a nullity. In the instant case, the conclusions are inevitable.

In sum, the Court cannot treat the Referral Memorandum nor the Tax Verification Notice into a Letter of Authority required under the law. Revenue Officer Janet Q. Soretta is not authorized under a valid and existing Letter of Authority to examine petitioner PTI's records. The examination of petitioner PTI's records by Revenue Officer Janet Q. Soretta was made without authority, thus, the examinations and the assessments thereon are void.

Having discussed that the examinations and the assessments are void, the Court will not belabor on the other issues raised for it is well-settled that a void assessment bears no fruit[31].

WHEREFORE, premises considered, the Petition for Review is hereby **GRANTED**. The Decision dated January 7, 2016 of respondent Commissioner of Internal Revenue (CIR) and Final Decision on Disputed Assessment issued on August 17, 2012, are hereby **REVERSED** and **SET ASIDE**.

Accordingly, the assessments for deficiency income tax in the amount of Php5,919,565.74, for value added tax in the

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[30] G.R. No. 178697, November 17,2010.
[31] Commissioner of Internal Revenue vs. Metro Star Superama, Inc., G.R. No. 185371, December 8, 2010.

amount of Php812,766.59, for expanded withholding tax in the amount of Php76,056.49, for withholding tax on compensation in the amount of Php88,199.36, for fringe benefit tax in the amount of Php956,599.49, and for compromise penalty in the amount of Php32,000.00 for taxable year 2007 plus the increment that may have accrued thereon are **CANCELLED** and **SET ASIDE.**

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, Special 1st Division