REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 3079** *(CTA Case No. 10486)*
	Present: **RINGPIS-LIBAN, P.J., BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
-versus-	
FIRST TELECOM PHILIPPINES, INC., *Respondent.*	Promulgated: MAR 13 2026 11:41

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a *Petition for Review* ("Petition"), filed on February 20, 2025,[1] with respondent's Comment (on Petition for Review dated February 19, 2025) ("Comment"), filed on March 27, 2025.[2] The Petition assails: a) the August 14, 2024 Decision[3] of the Court's Third Division which nullified the deficiency tax assessments issued against respondent, withdrew the Final Decision on Disputed Assessment ("FDDA") and cancelled the Formal Letter of Demand ("FLD") and Audit Result/Assessment Notices ("ARAN"); and b) January 21, 2025 Resolution[4] which affirmed the August 14, 2024 Decision.

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[1] *Rollo*, pp. 9-69.
[2] *Id.*, at 73-89.
[3] Annex "A", Petition, *Id.*, at 50-63.
[4] Annex "B", Petition, *Id.*, at 64-69.

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

1. On February 4, 2015, petitioner issued Letter of Authority ("LOA") No. LOA-116-2015-00000010/SN:eLA201100087021 authorizing the audit and examination of respondent's books of accounts and other accounting records covering the taxable year ("TY") 2013 by revenue officers ("RO") Jan Andre Abellera and Johnro Galicia as well as Group Supervisor ("GS") Gilquin Tolentino.

2. A "Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code" was executed by respondent on May 22, 2017.

3. Thereafter, petitioner issued and respondent received the Letter, dated February 6, 2015, signed by the Chief of the Regular Large Taxpayers Audit Division-I ("RLTAD-1"), Cesar D. Escalada. The said Letter authorized RO Ruby Ann Oradia and Aurelio Agustin to assist in the examination of respondent's books of accounts and other accounting records for all internal revenue tax liabilities for TY 2013.

4. On April 18, 2017, petitioner issued the Preliminary Assessment Notice ("PAN") assessing respondent for alleged deficiency taxes, penalties and interests for TY 2013 in the total amount of Php1,035,519,313.09, as follows:

Income Tax	Php121,159,188.82
Value Added Tax ("VAT")	913,671,805.26
Expanded Withholding Tax ("EWT")	34,724.58
Improperly Accumulated Earnings Tax ("IAET")	460,116.35
Documentary Stamp Tax ("DST")	20,478.08
Compromise Penalties	173,000.00
Total	Php1,035,519,313.09

5. Then respondent received the FLD signed by Teresita M. Angeles, the Assistant Commissioner of the Large Taxpayers Service of the BIR. In the FLD, petitioner assessed respondent for alleged deficiency taxes, penalties and interests for TY 2013 in the total amount of Php1,035,519,313.09 broken down, as follows:

Income Tax	Php121,159,188.82
VAT	913,671,805.26
EWT	34,724.58
IAET	460,116.35
DST	20,478.08

5 *Rollo*, pp. 11-13.

Compromise Penalties	173,000.00
Total	Php1,035,519,313.09

6. After, on February 9, 2021, petitioner issued the FDDA assessing respondent for alleged deficiency taxes, penalties and interests for TY 2013 in the total amount of Php1,239,819,960.29 broken down, as follows:

Income Tax	Php141,175,879.67
VAT	1,096,855,330.50
EWT	41,694.94
IAET	549,973.81
DST	24,081.37
Compromise Penalties	173,000.00
Total	Php1,239,819,960.29

7. On May 17, 2021, respondent filed a Petition for Review before the Court in Division. Trial then ensued.

14. On August 14, 2024, the Court in Division issued the Assailed Decision, which granted respondent's Petition for Review. The dispositive portion of which reads:

> **ACCORDINGLY,** the instant *Petition for Review (With Urgent Motion to Suspend Collection of tax and Dispense with Payment of Bond)* is **GRANTED.** Consequently, the Final Decision on Disputed Assessment received by petitioner on February 16, 2021 is **WITHDRAWN** and the Formal Letter of Demand and Audit Result/Assessment Notices received by petitioner on December 28, 2017 are **CANCELLED** and **SET ASIDE.** Respondent Commissioner of Internal Revenue or any person duly acting on his behalf is **ENJOINED** from proceeding with the collection of the taxes arising therefrom.
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> **SO ORDERED.**[6]

16. On September 12, 2024, petitioner filed his Motion for Reconsideration.

17. In a Resolution, dated January 21, 2025, the Court in Division denied his Motion for Reconsideration for lack of merit.

Thus, petitioner filed the present Petition on February 20, 2025.[7]

Subsequently, this Court issued a Resolution, dated March 11, 2025, requiring respondent to file a Comment on the Petition.[8]

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6 *Id.*, at 62.
7 *Id.*, at 9-69.
8 *Id.*, at 71.

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

In a Resolution, dated April 22, 2025, the instant case was referred to Mediation.[10] However, on May 23, 2025, the parties have decided to end the Mediation proceedings.[11]

Accordingly, in a Resolution, dated June 11, 2025, the instant case was submitted for Decision.[12]

Hence, this Decision.

The Issue

The issue to be resolved by this Court is whether or not the Court in Division erred in ruling: a) on matters that were never substantiated in the administrative level; b) that the subject assessments are void due to lack of authority of the ROs; and c) to enjoin the collection of taxes.[13]

Arguments of the Parties

Petitioner's Arguments

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

a) The Court in Division erred in ruling on matters that were never substantiated in the administrative level. Petitioner rendered an FDDA. Hence, the Court's jurisdiction becomes strictly appellate in nature;

b) The Court in Division erred in ruling that the subject assessments are void due to the lack of authority of the ROs. The examination of respondent's books of accounts and other accounting records was pursuant to a valid LOA. There was no violation of respondent's right to due process when other ROs assisted in the conduct of the audit; and

c) The Court in Division erred in enjoining the collection of taxes.

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[9] *Id.*, at. 73-89.
[10] *Id.*, at 90.
[11] *Id.*, at 91.
[12] *Rollo.*
[13] *Rollo*, p. 14.
[14] *Id.*, at 14-41.

Respondents' Arguments

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

a) Cases brought to the Court of Tax Appeals ("CTA") are litigated de novo;

b) Respondent was not estopped from raising the issue of the ROs who assisted in the assessment were not authorized under a valid LOA. The assessment is void for lack of authority of the ROs; and

c) The Court was correct in enjoining the collection of taxes against petitioner.

The Ruling of the Court

The Petition lacks merit.

Cases before the CTA are litigated *de novo.*

In petitioner's first contention, he argues that since he issued an FDDA against respondent, the Court's jurisdiction is merely appellate. This is terribly misplaced.

Time and time again, this Court has emphasized that all cases tried before Us are litigated *de novo.* A failure to raise issues or offer evidence in the administrative level is not fatal to a taxpayer's case in the judicial level considering that cases in the judicial level are litigated *de novo.* A case before this Court is decided based upon the pieces of evidence actually offered before this Court during trial. The Court may receive evidence, summon witnesses, and give both parties, the government and the taxpayer, the opportunity to present and argue their sides, so that the true and correct amount of the tax to be collected, may be determined and decided.[16]

In *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*,[17] the Supreme Court held that cases held before the CTA are indeed litigated *de novo, viz.*:

15 *Id.*, at. 74-85.
16 Commissioner of Internal Revenue v. Vestas Services Philippines, Inc., CTA *EB* Case No. 2255, CTA Case No. 9480, January 25, 2022.
17 G.R. No. 231581, April 10, 2019.

> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.
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> Cases filed in the CTA are litigated *de novo* as such, respondent 'should prove every minute aspect of its case by presenting, formally offering and submitting. . . to the Court of Tax Appeals all evidence. . . required for the successful prosecution of its administrative claim.' Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.

Given this, petitioner's contention that the Court in Division erred in ruling on matters never raised nor substantiated in the administrative level is thus without legal basis. The Court in Division properly considered the issue of the lack of authority of the ROs who conducted an audit and examination of respondent's books of accounts and other accounting records.

The present income tax assessment is void because ROs not authorized by a valid LOA participated in the audit of respondent's books of accounts and other accounting records.

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

> Section 13. Authority of a Revenue Officer. — Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.

A taxpayer cannot ordinarily be examined unless the CIR himself, or his duly authorized representative, authorizes the RO to do so through an LOA.[18] There must be a grant of authority before any RO can conduct an

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

examination or assessment, otherwise the assessment or examination is a nullity.[19]

An LOA gives notice to the taxpayer that it is under investigation for possible deficiency tax assessment. At the same time, the LOA authorizes or empowers a designated RO to examine, verify, and scrutinize a taxpayer's books and records, in relation to internal revenue tax liabilities for a particular period.[20]

Thus, an LOA is undoubtedly necessary to the validity of an audit. This was stressed inn *Commissioner of Internal Revenue v. Royal Class Trading and Transport Corp.*,[21] where the RO who recommended the PAN was not one of the ROs named in the LOA. The authority of the new examiner emanated only from a 3rd Indorsement issued by the Revenue District Officer—not an LOA.

In *Commissioner of Internal Revenue v. Manila Medical Services, Inc.*,[22] the Court cited *RMO No. 43-90* and ruled that "if the revenue officers that were previously indicated in a LOA were reassigned or transferred to another case and as such, a new revenue officer will handle the case that was previously assigned to them, the issuance of a new LOA in favor of the new handling revenue officer is required." In the same case, the assessment was declared void due to the lack of authority of the RO who conducted the audit.

Likewise, in *Commissioner of Internal Revenue v. Mcdonald's Philippines Realty Corp.*,[23] the Court held that an assessment is void when there is no separate or amended LOA issued for the new revenue officers who will continue the audit or investigations.

> We rule that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit or investigation without a separate or amended LOA (i) violates the taxpayer's right to due process in tax audit or investigation; (ii) usurps the statutory power of the CIR or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and (iii) does not comply with existing BIR rules and regulations, particularly R.MO No. 43-90 dated September 20, 1990.

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

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

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

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

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

As duly found by the Court in Division,[24] LOA No. LOA-116-2015-00000010/SN:eLA201100087021 authorized ROs Jan Andre Abellera and Johnro Galicia to audit and examine respondent's books of accounts and other accounting records to determine any tax liability covering TY 2013. However, the Chief of the RLTAD-1, Cesar D. Escalada, subsequently issued a Letter, dated February 6, 2015, to respondent informing the latter that ROs Oradia and Zamora were authorized to assist in the audit and examination of its books of accounts and other accounting records, *viz.*:

> The bearer hereof, Revenue Officers, Ruby Ann B. Oradia and Aurelio Agustin T. Zamora are authorized to assist in the examination of your books of accounts and other accounting records for All Internal Revenue tax liabilities for the taxable year 2013, pursuant to Letter of Authority No. 0116-2015-00000010 dated February 4, 2015. They are provided with the necessary identification cards which shall be presented to you upon request.
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> It is requested that all facilities be extended to the Revenue Officers as supervised by Group Supervisor Gilquin B. Tolentino.[25]

Through the audit and examination efforts conducted by ROs Oradia and Zamora, the present deficiency tax assessments were issued against respondent. This occurred despite the fact that the said two ROs were merely armed with a Letter, dated February 6, 2015, emanating from an RLTAD-1 Chief supposedly authorizing them to perform such audit/examination. No new or amended LOA was issued specifically naming these two ROs as duly authorized to audit/examine respondent's books of accounts and other accounting records. Accordingly, the present deficiency tax assessments issued against respondent are void since these were issued through the audit efforts of ROs not properly armed with an LOA.

Regardless if ROs Oradia and Zamora simply assisted in the audit/examination of respondent's books of accounts and other accounting records, the fact remains that they participated in the audit/examination that resulted in the present deficiency tax assessments being issued against respondent. Thus, it is required that said ROs should have been properly armed with a valid LOA authorizing them to perform such procedures.

As provided in the cited jurisprudence, an LOA's function is not merely to inform a taxpayer that certain ROs are authorized to audit or examine its books of accounts and other accounting records for the purpose of ascertaining the correct amount of taxes due. An LOA also bounds the named ROs therein to simply perform audit or examination of a taxpayer's books of accounts and other accounting records within the bounds stated in the LOA. Thus, an LOA binds ROs to act within the authority given to them. As such, whenever new

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[24] See Assailed Decision.
[25] Exhibit "P-5", Division Docket.

ROs are to be assigned to continue the audit/examination of a taxpayer, he or she should be authorized by an LOA, and no other document.

As a void assessment bears no fruit,[26] petitioner cannot proceed with any collection effort emanating from present deficiency tax assessment. Considering the invalidity of the present assessment, the Court *En Banc* finds it unnecessary to belabor on the other issues raised in the Petition.

ACCORDINGLY, the Petition, filed on February 20, 2025, is hereby **DENIED** for lack of merit. The assailed Amended Decision, dated August 14, 2024, and the assailed Resolution, dated January 21, 2025, of the Court in Division are hereby **AFFIRMED.**

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

[26] Commissioner of Internal Revenue v. Unioil Corporation, G.R. No. 204405, August 4, 2021.

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice