CTA Form No. 8 (For DCC)

21-000106-0070

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10476

PPI HOLDINGS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE and BIR LARGE TAXPAYERS SERVICES -COLLECTION AND ENFORCEMENT DIVISION,
Respondents.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

BIR LARGE TAXPAYERS SERVICES - COLLECTION AND ENFORCEMENT DIVISION
Room 208, 2nd Floor, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
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ANGARA ABELLO CONCEPCION REGALA & CRUZ
22nd Floor, ACCRALAW Tower
Second Avenue corner 30th Street, Cresent Park
West, Bonifacio Global City
1630 Taguig, Metro Manila

GREETINGS:

You are hereby notified by these presents that on **July 11, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 14, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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PPI HOLDINGS, INC.,
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- versus -

COMMISSIONER OF INTERNAL REVENUE and BIR LARGE TAXPAYER SERVICES – COLLECTION AND ENFORCEMENT DIVISION,
Respondents.

CTA CASE NO. 10476

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

JUL 11 2025; 11:15 AM

x- -x

RESOLUTION

CUI-DAVID, J.:

On February 27, 2025, the Court promulgated a *Decision,*[1] the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* with the *Supplement to the Petition for Review*, filed by petitioner PPI Holdings, Inc. on March 4, 2021, and July 27, 2021, respectively, is hereby **GRANTED**.
>
> Accordingly, the Formal Letter of Demand with Final Assessment Notices dated March 19, 2019, Warrant of Distraint and/or Levy No. 121-2021-022 dated February 01, 2021, and Warrant of Garnishment No. 121-2021-022-01 dated February 16, 2021, are hereby **CANCELLED** and **SET ASIDE**.
>
> Respondents Commissioner of Internal Revenue and the BIR Large Taxpayer Service – Collection and Enforcement Division are **ORDERED to REFUND** in favor of petitioner the amount of ₱25,580,537.87, representing the garnished amount based on a void assessment.

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[1] Docket – Vol. III, pp. 1093–1115.

SO ORDERED.

Aggrieved, respondents filed a *Motion for Reconsideration (Re: Decision dated 27 February 2025)* on March 20, 2025, anchored on the following grounds, to wit:

I. WITH ALL DUE RESPECT, THE HONORABLE COURT FAILED TO DISTINGUISH THE PROCEDURAL RULES GOVERNING REFUND CLAIMS AND ASSESSMENT CASES WHICH HAVE SEPARATE JURISDICTIONAL AND STATUTORY REQUIREMENTS.

II. WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED WHEN IT MISAPPLIED THE CASES OF *MCDONALDS, MEDICARD, SONY,* AND *OPULENT* WHICH WERE BASED ON AN OUTDATED REVENUE MEMORANDUM ORDER NO. 43-90, AN ISSUANCE THAT HAS BEEN SUPERSEDED DUE TO SUBSEQUENT AMENDMENTS IN TAX REGULATIONS AND APPLICABLE LAWS.

III. THE HONORABLE COURT ERRED WHEN IT CANCELLED AND DECLARED VOID *AB INITIO* THE FORMAL LETTER OF DEMAND WITH FINAL ASSESSMENT NOTICES, WARRANT OF DISTRAINT AND/OR LEVY, AND WARRANT OF GARNISHMENT, ORDERING RESPONDENT TO REFUND IN FAVOR OF PETITIONER THE AMOUNT OF ₱25,580,537.87.

In its *Comment/Opposition (To the Motion for Reconsideration dated 20 March 2025)* filed March 31, 2025, petitioner urged the Court to deny respondents' *Motion for Reconsideration*, arguing that:

I. RESPONDENTS REITERATE THE SAME ARGUMENTS WHICH HAVE ALREADY BEEN EXTENSIVELY ADDRESSED BY THIS HONORABLE COURT.

II. THIS HONORABLE COURT CORRECTLY RULED THAT IT HAS JURISDICTION OVER THE PETITION FOR REVIEW DATED 27 JULY 2021. RESOLVING THE DEFICIENCY TAX ASSESSMENT JOINTLY WITH THE REFUND CLAIM IS BOTH LEGALLY APPROPRIATE AND LOGICALLY NECESSARY TO AVOID MULTIPLICITY OF SUITS.

III. THIS HONORABLE COURTCORRECTLY APPLIED THE SUPREME COURT CASES AND REVENUE MEMORANDUM ORDER ("RMO") NO. 43-90. THE GROUP SUPERVISOR ("GS") WHO CONTINUED THE

AUDIT LACKED A VALID LOA, RENDERING THE DEFICIENCY TAX ASSESSMENTS VOID AB INITIO.

IV. THE HONORABLE COURT CORRECTLY RULED THAT IT HAS JURISDICTION OVER THE CASE. THE CANCELLATION OF THE FORMAL LETTER OF DEMAND WITH FINAL ASSESSMENT NOTICES, WARRANT OF DISTRAINT AND/OR LEVY, AND WARRANT OF GRANISHMENT IS PROPER.

Respondents' *Motion for Reconsideration* must fail.

After a careful examination of the records and a meticulous evaluation of the arguments proffered by respondents in their *Motion for Reconsideration*, the Court finds that, except for respondents' contention regarding the alleged misapplication of the *McDonalds*,[2] *Medicard*,[3] *Sony*,[4] and *Opulent*[5] cases, which were allegedly based on an outdated Revenue Memorandum Order (RMO) No. 43-90,[6] all other arguments have already been thoroughly discussed and passed upon by the Court in the assailed *Decision* of February 27, 2025. To restate the discussion is a waste of time and resources of the Court.

As to respondents' claim that the Court erred in applying the aforementioned cases, allegedly relying on an outdated RMO No. 43-90 that had supposedly been superseded by RMO Nos. 8-2006 and 44-2010, suffice it to say that this contention had already been debunked in the *McDonalds* case, where the Supreme Court aptly stated:

> The petitioner claims that RMO No. 43-90 dated September 20, 1990, is not the implementing rule for Section 13 of the NIRC. RMO No. 43-90 was promulgated on September 20, 1990, which is seven years prior to the law it supposedly implemented. Because of this, the petitioner implies that RMO No. 43-90 dated September 20, 1990 is not a valid legal basis in the position that a reassignment and transfer of cases requires the issuance of a new and separate LOA for the substitute revenue officer.

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[2] *Commissioner of Internal Revenue v. McDonalds Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021 [Per J. Lopez, J., Third Division].

[3] *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017 [Per J. Reyes, Third Division].

[4] *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010 [Per J. Mendoza,Second Division].

[5] *Commissioner of Internal Revenue v. Opulent Landowners, Inc.*, G.R. No. 249883–84, January 27, 2020 [Per Resolution, Second Division].

[6] 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.

> **The petitioner is mistaken**. Section 291 of the NIRC states:
>
> > SECTION 291. In General. — All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Code are hereby repealed, amended or modified accordingly.
>
> Section D(5) of RMO No. 43-90 dated September 20, 1990 is not contrary to or inconsistent with the NIRC. In fact, the NIRC codifies the LOA requirement in RMO No. 43-90. While RMO No. 43-90 was issued under the old tax code, nothing in Section D (5) of RMO No. 43-90 is repugnant to Sections 6 (A), 10 and 13 of the NIRC. Hence, pursuant to Section 291 of the NIRC, RMO No. 43-90 remains effective and applicable.
>
> Even the Operations Group of the BIR now recognizes 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 LOA, is no longer tenable. Thus, in Operations Memorandum No. 2018-02-03 dated February 9, 2018, the Operations Group has decided that "the issuance of a MOA for reassignment of cases in the aforementioned instances [i.e., the original revenue officer's transfer to another office, resignation, retirement, etc.] shall be discontinued." (*Emphasis supplied*)

Clearly, RMO No. 43-90 remains effective under the current Tax Code. Besides, a perusal of the cited cases reveals that the Supreme Court relied on Sections 6,[7] 10(c),[8] and 13[9] of the 1997 Tax Code, as amended, in holding that an assessment is void when there is no separate or amended Letter of Authority issued for the new revenue officer/s who continue the audit or investigations.

WHEREFORE, the *Motion for Reconsideration (Re: Decision dated 27 February 2025)* filed by respondents Commissioner of Internal Revenue and the BIR Large Taxpayer Services – Collection and Enforcement Division is **DENIED**, for lack of merit.

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[7] Cited in *McDonald's* and *Sony*.
[8] Cited in *McDonald's*.
[9] Cited in *McDonald's*.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G.DEL ROSARIO
Presiding Justice

ON LEAVE
JEAN MARIE A. BACORRO-VILLENA
Associate Justice