CTA Form No. 8

23-000434-0051

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11269

JOYLAND INDUSTRIES CORPORATION, Duly Represented herein by its Authorized Representatives, Ms. Ria A. Sablon and Mr. James O. Yu,
Petitioner,

- versus -

NOTICE OF DECISION

THE COMMISSIONER OF INTERNAL REVENUE (CIR), BUREAU OF INTERNAL REVENUE (BIR),
Respondent.

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, Philippines

ATTY. ERIC R. CORTES
Unit 103, AIC Burgundy Empire Tower
Sapphire Road, Ortigas Center, Brgy. San Antonio
1605 Pasig City

GREETINGS:

You are hereby notified by these presents that on **April 15, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 17, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

JOYLAND INDUSTRIES CORPORATION, Duly Represented herein by its Authorized Representatives, Ms. Ria A. Sablon and Mr. James O. Yu, *Petitioner,*	**CTA CASE NO. 11269**
	Members:
	BACORRO-VILLENA, *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
- versus -	
THE COMMISSIONER OF INTERNAL REVENUE (CIR), BUREAU OF INTERNAL REVENUE (BIR), *Respondent.*	Promulgated: APR 15 2026; 4:05PM

x - x

DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review*,[1] assailing the deficiency Value-Added Tax (**VAT**) assessment for taxable year (**TY**) 2019 in the aggregate amount of ₱64,524,390.47, inclusive of penalty and interest.

THE PARTIES

Petitioner Joyland Industries Corporation (**petitioner**) is a corporate taxpayer duly organized and existing under Philippine laws with business address at Lot 1-E-4-L-2 United Nations Avenue, Opao, Mandaue City, Province of Cebu.[2]

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[1] Docket – Vol. I, pp. 6–44.
[2] *Id.* at 544, *Joint Stipulation of Facts and Issues* (JSFI), Admitted Facts, par. 1.

Respondent Commissioner of Internal Revenue (**CIR**) is the Commissioner of the Bureau of Internal Revenue (**BIR**), vested by law with the authority to enforce and implement the provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, as well as related statutes and their implementing rules and regulations.[3]

THE FACTS AND THE PROCEEDINGS

On July 6, 2020, a Letter of Authority (**LOA**) No. SN: eLA201700056238 (LOA-LTV-2020-00000484) was issued by OIC-Assistant Commissioner (**OIC-ACIR**) Manuel V. Mapoy (**Mapoy**) of the Large Taxpayers Service (**LTS**), authorizing Revenue Officers (**ROs**) Roselainie Magandia and Ailyn Ongoco, together with Group Supervisor (**GS**) Fatima Sarrosa (**Sarrosa**), to examine petitioner's books of accounts and other accounting records for VAT for TY 2019 (**First LOA**).[4] The First LOA was received through electronic mail (**e-mail**) by James O. Yu on July 15, 2020.[5]

On July 19, 2021, another LOA, LOA No. eLA201900015978 (LOA-LTV-2021-00000259) was issued by OIC-ACIR Mapoy, authorizing ROs Ma. Catalina Benedicto (**Benedicto**) and Ma. Cecilia Tan (**Tan**), together with GS Sarrosa, to examine petitioner's books of accounts and other accounting records for VAT for TY 2019 (**Second LOA**).[6] The Second LOA was received through e-mail by Marlon P. Bastrillo on July 27, 2021.[7]

On May 4, 2022, OIC-ACIR Mapoy issued a Notice of Discrepancy (**NOD**),[8] which was received by petitioner on even date.[9]

On September 5, 2022, a Preliminary Assessment Notice (**PAN**)[10] was issued, which was received by petitioner on September 13, 2022.[11]

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[3] *Id.* at 544, JSFI, Admitted Facts, par. 2.
[4] BIR Records (Exhibit "R-17"), Folder 1, p. 5, Exhibit "R-1".
[5] *Id.* at 403.
[6] *Id.* at 124-A, Exhibit "R-5".
[7] *Id.* at 124.
[8] *Id.* at 250–251, Exhibit "R-10".
[9] *Id.* at 250.
[10] *Id.* at 333–337, Exhibit "R-12".
[11] *Id.* at 332, Acknowledgement of Receipt.

On January 20, 2023, a Formal Letter of Demand[12] and Final Assessment Notice[13] (**FLD/FAN**) were issued and served upon petitioner on January 23, 2023.[14]

On February 22, 2023, petitioner filed a Protest and Request for Reconsideration on the FLD/FAN.[15]

On August 1, 2023, respondent issued a Final Decision on Disputed Assessment (**FDDA**),[16] which was received by petitioner on August 15, 2023.[17]

On September 14, 2023, petitioner filed the instant *Petition for Review*.[18]

On September 22, 2023, the Court required petitioner to submit, within ten (10) days from notice, the names of its intended witnesses, summaries of their testimonies, their Judicial Affidavits, and the list of exhibits to be presented, pursuant to Section 6, Rule 7 of the Rules of Court.[19]

On October 5, 2023, petitioner filed a *Non-Litigious Motion for Extension of Time to Comply with 22 September 2023 Resolution*.[20] The Court granted the motion and gave petitioner an additional period of ten (10) days from October 5, 2023, or until October 15, 2023 to comply.[21]

On October 16, 2023, petitioner filed its *Compliance In Re 22 September 2023 Resolution*,[22] which the Court noted as sufficient compliance.[23]

Summons was issued on October 25, 2023,[24] which was received by respondent on November 3, 2023, and by the Office of the Solicitor General on October 27, 2023.[25]

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12 *Id.* at 364–368, Exhibit "R-14".
13 *Id.* at 362–363, Exhibit "R-14-1".
14 *Id.* at 369.
15 *Id.* at 441–455.
16 *Id.* at 500–503, Exhibit "R-16".
17 *Id.*; Docket – Vol. I, p. 8, *Petition for Review*, Timeliness of the Petition.
18 *Supra* note 1.
19 Docket – Vol. I, p. 414, Notice of Resolution.
20 *Id.* at 415–417.
21 *Id.* at 418, Notice of Resolution dated October 13, 2023.
22 *Id.* at 419–422.
23 *Id.* at 442, Notice of Resolution dated October 24, 2023.
24 *Id.* at 443.
25 *Id.* at 444–445, Return of Summons and Notification.

Respondent filed a *Motion for Extension of Time to File Answer*,[26] which the Court granted on January 5, 2024, giving respondent a non-extendible period of thirty (30) days from December 3, 2023, or until January 2, 2024, to file an Answer.[27]

On January 2, 2024, respondent filed an *Answer*.[28]

On January 9, 2024, respondent filed a *Motion to Defer Transmittal of BIR Records*.[29] The Court granted the motion and gave respondent a non-extendible period of 30 days from notice to transmit the BIR records and to file the Judicial Affidavit of witnesses. The Court also referred this case for mediation before the Philippine Mediation Center – Court of Tax Appeals (**PMC-CTA**).[30]

On February 21, 2024, the Court received PMC-CTA Form 6 – No Agreement to Mediate dated February 20, 2024, stating that the parties decided not to have their case mediated.[31]

On March 19, 2024, the Court set the case for Pre-Trial Conference on May 2, 2024, and ordered respondent's counsel to show cause why he should not be cited for indirect contempt, and to comply with the Resolution dated January 18, 2024, directing him to elevate the BIR Records, both within ten (10) days from notice.[32]

A Notice of Pre-Trial Conference was issued on March 20, 2024, setting the pre-trial conference on May 2, 2024.[33]

On April 12, 2024, respondent filed a *Compliance with Manifestation*,[34] manifesting his apology and explanation for the delay in elevating the BIR Records. The BIR Records were thereafter transmitted to the Court, consisting of two folders pre-numbered from pages 1 to 527 (Folder 1) and pages 1 to 693 (Folder 2).

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[26] *Id.* at 446–449.
[27] *Id.* at 466, Notice of Resolution.
[28] *Id.* at 451–464.
[29] *Id.* at 468–471.
[30] *Id.* at 473, Notice of Resolution dated January 18, 2024.
[31] *Id.* at 476.
[32] *Id.* at 480–481, Resolution.
[33] *Id.* at 482–484.
[34] *Id.* at 486–488.

On April 26, 2024, petitioner filed its *Pre-Trial Brief*,[35] while *Respondent's Pre-Trial Brief*[36] was filed on April 29, 2024.

During the Pre-Trial Conference on May 2, 2024, the Court ordered the parties to submit their *Joint Stipulation of Facts and Issues* (**JSFI**) within 30 days.[37]

On May 30, 2024, the parties filed their JSFI.[38]

On July 2, 2024, the Pre-Trial Order[39] was issued.

Petitioner thereafter presented the testimony of its lone witness, Ms. Ria A. Sablon.[40]

On July 12, 2024, petitioner filed its *Formal Offer of Evidence* (**FOE**).[41] On July 18, 2024, the parties filed a *Joint Manifestation Re Originals of Exhibits "P-6" up to "P-10"*.[42]

On August 5, 2024, respondent belatedly filed a *Comment (to Petitioner's Formal Offer of Evidence)*.[43]

On October 7, 2024, the Court issued a Resolution admitting in evidence petitioner's exhibits, except Exhibits "P-2" and "P-4" for being mere photocopies; directing the Clerk of Court to mark Exhibits "P-6" to "P-10" as originals; and setting respondent's presentation of evidence on October 8, 2024.[44]

On October 8, 2024, respondent presented the testimony of his lone witness, GS Sarrosa.[45] On October 18, 2024, respondent filed an *Omnibus Motion [(a) Motion to Set Commissioner's Hearing and (b) Motion for Extension of Time to File Formal Offer of Evidence]*,[46] which the Court granted.[47]

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35 *Id.* at 493–497.
36 *Id.* at 498–502.
37 *Id.* at 522–524 & 526–528, Minutes of the Hearing and Order, respectively.
38 *Id.* at 544–550.
39 *Id.* at 557–572.
40 *Id.* at 573–575 & 576–577, Minutes of the Hearing and Order dated July 2, 2024, respectively; 423–441, Judicial Affidavit of Ria A. Sablon, Exhibit "P-24".
41 Docket – Vol. II, pp. 581–586.
42 *Id.* at 852–854.
43 *Id.* at 856–858.
44 *Id.* at 868–869.
45 *Id.* at 870-871 & 872–874, Minutes of the Hearing and Order October 8, 2024, respectively; 423–441, Judicial Affidavit of Ria A. Sablon, Exhibit "P-24".
46 *Id.* at 879–883.
47 *Id.* at 887–888, Notice of Resolution dated November 15, 2024.

Respondent's Formal Offer of Evidence[48] was filed on November 27, 2024, to which petitioner filed a *Comment to Respondent's Formal Offer of Evidence*[49] on December 9, 2024. The Court admitted respondent's exhibits and gave the parties 30 days to submit their respective memoranda.[50]

On April 4, 2025, respondent filed a *Memorandum*[51] while a *Memorandum for Petitioner With Motion to Admit*[52] was filed on April 8, 2025.

On April 21, 2025, the Court noted respondent's *Memorandum*; noted and granted the *Memorandum for Petitioner With Motion to Admit*; and submitted the case for decision.[53]

THE ISSUE

The sole issue for resolution, as stipulated by the parties, is:

> Whether petitioner is liable to pay the assessed deficiency VAT for taxable year 2019, plus penalties and interest, in the aggregate amount of ₱64,524,390.47.[54]

Petitioner's arguments:

Petitioner contends that the BIR committed fatal procedural defects in its audit and assessment process for TY 2019.

Petitioner argues that the LOAs issued to the ROs became unenforceable upon the lapse of the 120-day or 240-day periods prescribed under BIR audit procedures, without the required revalidation. Petitioner emphasizes that any investigation or assessment conducted beyond these periods was void for lack of authority.

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48 *Id.* at 896–904.
49 *Id.* at 908–913.
50 *Id.* at 921–923, Resolution dated February 27, 2025.
51 *Id.* at 924–939.
52 *Id.* at 943–949.
53 *Id.* at 952, Notice of Resolution.
54 Docket – Vol. I, p. 545, JSFI, The Issue for Trial; 567, Pre-Trial Order, IV. Issue to be Tried or Resolved.

Petitioner further asserts that both LOAs failed to state the valid selection criteria required under Revenue Memorandum Order (**RMO**) Nos. 67-99, 13-2002, and 44-2010, rendering the audit arbitrary and violative of its right to due process.

Petitioner also contends that the FDDA was issued beyond the three-year prescriptive period counted from the filing of its VAT return, thereby rendering the assessment time-barred. These lapses, according to petitioner, invalidate the deficiency VAT assessment in the amount of ₱64,474,390.47.

Respondent's counter-arguments:

Respondent maintains that the LOAs were valid and sufficient to authorize the audit, even if the prescribed audit period was exceeded without revalidation. Citing RMO Nos. 19-2009 and 44-2010, respondent argues that the failure to revalidate an LOA does not invalidate the LOA, the audit or the resulting assessment but merely subjects the concerned revenue officers to administrative sanctions.

Respondent further asserts that the assessment was based on factual findings showing petitioner's non-compliance with invoicing requirements under Sections 113 and 237 of the Tax Code, as well as discrepancies in its claimed input taxes.

Respondent emphasizes that tax assessments are presumed correct and made in good faith, and that petitioner failed to present adequate evidence to overturn this presumption. Thus, respondent prays that the deficiency VAT assessment, inclusive of penalties and interest, be affirmed.

THE COURT'S RULING

The Petition for Review was timely filed.

Section 7(a)(1) of Republic Act (**RA**) No. 1125,[55] as amended by RA No. 9282,[56] vests this Court with exclusive appellate jurisdiction over decisions of the CIR, to wit:

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55 An Act Creating the Court of Tax Appeals, June 16, 1954.

56 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

Section 7(a)(1) of Republic Act (**RA**) No. 1125,[57] as amended by RA No. 9282,[58] vests this Court with exclusive appellate jurisdiction over decisions of the CIR, to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the [CIR] 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; (Emphasis supplied)

Likewise, Section 11 of RA No. 1125, as amended by RA No. 9282, provides the period for filing an appeal before the Court of Tax Appeals (CTA), *viz.*:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling**, or inaction **of the [CIR] ... may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein. (Emphasis supplied)

The above provisions are reiterated in Section 3(a)(1), Rule 4,[59] and Section 3(a), Rule 8[60] of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

Based on the foregoing, this Court acquires jurisdiction over decisions of the CIR, provided that the appeal is filed within 30 days from the taxpayer's receipt of such decision.

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[57] An Act Creating the Court of Tax Appeals, June 16, 1954.

[58] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

[59] 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 Revenue Code or other laws administered by the Bureau of Internal Revenue. (Emphasis supplied)

[60] SEC. 3. *Who may appeal; period to file petition.* –
(a) **A party adversely affected by a decision, ruling** or the inaction **of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. (Emphasis supplied)

In this case, the CIR issued the FDDA[61] affirming petitioner's VAT deficiency[62] on August 1, 2023, which was received by petitioner on August 15, 2023. On September 14, 2023, petitioner filed the instant *Petition for Review*,[63] which is well within the prescribed 30-day period. Hence, the *Petition for Review* was timely filed, and this Court properly acquired jurisdiction over the case.

Non-revalidation of the LOA does not render the LOA or the assessment void.

Petitioner argues that the LOAs became unenforceable upon the lapse of the prescribed audit period without revalidation, rendering subsequent acts void. Such contention is misplaced.

RMO No. 44-2010[64] explicitly states that failure to revalidate does not nullify the LOA nor invalidate the audit or resulting assessment, *viz.*:

> IV. POLICIES AND GUIDELINES
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> . . . .
>
> 8. Beginning June 1, 2010, **the rule on the need for revalidation of LAs for failure of the revenue officials to complete the audit within the prescribed period shall be withdrawn**. Accordingly, **there is no need for revalidation of the LA even if the prescribed audit period has been exceeded.** However, the failure of the RO to complete the audit within the prescribed period shall be subject to the applicable administrative sanctions. (Emphasis supplied)

The consequence of non-revalidation is purely administrative, subjecting the concerned ROs to disciplinary action, but leaving the LOA effective for purposes of investigation.

[61] BIR Records (Exhibit "R-17"), Folder 1, pp. 481–503, Exhibit "R-16".
[62] *Id.* at 362–369, Exhibits "R-14" and "R-14-1".
[63] *Supra* note 1.
[64] SUBJECT: Electronic Issuance of Letters of Authority.

Furthermore, RMO No. 19-2015[65] reiterated the above provision and also clarified that an LOA is still enforceable even if it remains outstanding beyond the time frame for submission of the report of investigation/verification by the RO assigned to the case, to wit:

> III. POLICIES AND PROCEDURES
>
> . . . .
>
> 28. **Failure on the part of the RO to render a report of investigation/verification within the time frame prescribed above shall not nullify the eLA. <u>The eLA is enforceable even if it remains outstanding beyond the time frame for submission of report of investigation/verification by the RO assigned to the case, subject to the period of limitation under Sections 203 and 222 of the Tax Code of 1997, as amended</u>. However, the RO who fails to submit the report investigation/verification shall be subject to any applicable administrative sanction.**
>
> 29. **As stated in Item Number IV.8 of RMO No. 44-2010, it is reiterated that pending eLAs as of the effectivity of the said Order shall no longer be revalidated.** In case the report of investigation cannot be rendered within the prescribed period, the concerned RO shall prepare a monthly progress report starting from the time such audit report should have been rendered stating therein the reason for the delay in the submission of the report of investigation duly noted by his GS and approved by the RDO/LTD/LTAD. The said progress report/s shall be attached to the docket of the case. (Emphasis supplied)

Thus, petitioner's claim that the assessments are void due to non-revalidation of the LOAs lacks legal basis.

The selection criteria need not be stated in the LOA; what is required is the basis of the audit.

Petitioner insists that the LOAs violated due process for failure to indicate the selection criteria under RMO Nos. 67-99, 13-2002, and 44-2010. The contention fails.

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[65] SUBJECT: BIR Audit Program.

Under Item III.5 of RMO No. 44-2010, what must be indicated in the LOA is the *basis of the audit* (*i.e.*, regular audit program, special audit, etc.), not the selection criteria. In the present case, the subject LOAs[66] state that the audit was for "VALUE ADDED TAX(VT)" pursuant to "SEC. 6(A) & SEC. 10(C) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED." Hence, the required basis of the audit was sufficiently indicated.

Further, the records show that in a letter dated February 22, 2022,[67] the BIR, through ACIR Mapoy, replied to petitioner's letter dated January 28, 2022, explaining that the Large Taxpayers VAT Audit Unit has a separate audit program per RMO No. 19-2012,[68] and that petitioner was classified as high risk based on the following selection criteria:

a. With history of declaring excess input tax carry over (Selection Code: EIH).
b. With substantial input taxes such as when the total input taxes claimed exceed 75% of the total output tax (Selection Code: EIL).
c. With significant increase in zero-rated sales.

The foregoing selection criteria classify an LTS taxpayer, such as petitioner, as a "High Risk Taxpayer" under Items II.A.1.1, 1.2, and 1.3 of RMO No. 19-2012. Thus, such classification justifies the recommendation of the taxpayer for audit.

Even assuming *arguendo* that petitioner was improperly selected for audit, such irregularity does not invalidate the LOA. At most, it would subject the concerned revenue officers to administrative sanctions, pursuant to Item III.1 of RMO No. 19-2015.[69] Also, Item 2.14 of RMO No. 19-2012 provides for the imposition of administrative sanctions in cases of non-compliance with the selection criteria.[70]

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66 BIR Records (Exhibit "R-17"), Folder 1, p. 5, Exhibit "R-1"; 124-A, Exhibit "R-5".

67 Docket – Vol. I, p. 618, Exhibit "P-11"; BIR Records (Exhibit "R-17"), Folder 1, p. 163, Exhibit "R-6".

68 SUBJECT: Value Added Tax Audit Program for Large Taxpayers Service.

69 Item III.1 of RMO No. 19-2015 provides:

1. The RDO and RD/LTD, LTAD and ACIR-LTS are equally responsible in ensuring that only returns of taxpayers registered within their jurisdiction and **those that match the selection criteria of this Order are selected for issuance of eLAs. Otherwise, they shall be subject to administrative sanctions.** (Emphasis supplied)

70 Item 2.14 of RMO No. 19-2012 provides that "[a]ny violation of this Order shall be a ground for the imposition of appropriate administrative sanctions /penalties."

Accordingly, no irregularity attended the issuance of the subject LOAs. While the BIR has established criteria for selecting taxpayers for audit, such criteria need not be stated on the face of the LOA.

In addition, petitioner's argument fails considering that the LOAs were issued pursuant to Sections 6(A) and 10(C) of the NIRC of 1997, as amended, and RMO No. 19-2012, which authorize the CIR to examine taxpayers' books to determine the correct tax liability.

The absence of explicit selection criteria does not invalidate the LOA or the audit, as the authority to investigate emanates from the law itself. Courts have consistently held that the CIR's power to audit is broad and discretionary, provided it is exercised within statutory limits. Petitioner's reliance on the said RMOs as mandatory requisites for validity is misplaced; these issuances are merely internal guidelines, not jurisdictional requirements.

Successive audits for consecutive taxable years are not, per se, violative of due process.

Petitioner argues that being subjected to multiple audits for TYs 2014 to 2019 infringes its right to due process.

Aside from being subjected to audit for TY 2019, which is the taxable period covered in the present case, petitioner presented in evidence various LOAs issued to it for TYs 2014, 2015, 2017, and 2018,[71] to prove that it was subjected to audit almost every year since 2014.

Petitioner's contention is untenable.

As a rule, a taxpayer's books of accounts may be subjected to examination and inspection by internal revenue officers, at least once a year.[72]

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[71] Docket – Vol. II, pp. 608–617, Exhibits "P-6" to "P-10".

[72] **Section 235.** ***Preservation of Books and Accounts and Other Accounting Records.*** – All the books of accounts, including the subsidiary books and other accounting records of corporations, partnerships, or persons, shall be preserved by them for a period beginning from the last entry in each book until the last day prescribed by Section 203 within which the Commissioner is authorized to make an assessment. The said books and records shall be subject to examination and inspection by internal revenue officers: *Provided,* **That for income tax purposes, such examination and inspection shall be made only once in a taxable year, except in the following cases: ....** (Emphasis supplied)

Each taxable year is a separate and distinct period for tax purposes, and the CIR is empowered under Section 6 (A) of the NIRC of 1997, as amended, to verify compliance for any year within the prescriptive period, thus:

> 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**, notwithstanding any law requiring the prior authorization of any government agency or instrumentality: *Provided, however,* That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer. (Emphasis supplied)

There is no prohibition against conducting audits for consecutive years, especially where risk indicators under RMO No. 19-2012 justify such action. Petitioner's assertion commingles inconvenience with illegality; the audits were conducted under valid LOAs and within the scope of the CIR's authority.

Moreover, it must also be pointed out that, in general, all taxpayers are considered as possible candidates for audit,[73] and may be subjected to audit once every taxable year, and even in consecutive years, pursuant to RMO No. 19-2015, as amended by RMO No. 64-2016,[74] which provides as follows:

> III. POLICIES AND PROCEDURES
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> 4. If the taxpayer has been audited for the last two (2) years and has been selected for audit on the current or third (3rd) year, the RDO/LTD/LTAD shall encode right away the requested audit of the subject taxpayer in eLAMS/eTIS-CMS which shall be approved by the Regional Director/Assistant Commissioner who heads the investigating office. The Selection Code shall depend on the reason why the taxpayer has been selected.
>
> . . . .

[73] Item II, RMO No. 19-2015.
[74] SUBJECT: Amending Certain Provision of RMO No. 19-2015 Pertaining to Audit Policies.

> 8. As a general policy, the simultaneous investigation of all liabilities of the taxpayer shall be followed. **One (1) eLA shall be issued for each taxable year or period to include all internal revenue tax liabilities of the taxpayer, except when a specific tax type had been previously examined (*e.g.*, audit of VAT under VAT Audit Program and VAT arising from claim of tax refund/credit)**. (Emphasis supplied)

Accordingly, the conduct of audits covering consecutive taxable years does not, by itself, constitute a violation of due process.

Petitioner failed to establish its defense of prescription.

Petitioner contends that the FDDA was issued beyond the three-year prescriptive period under Section 203 of the NIRC of 1997, as amended.

The contention is misplaced.

At the outset, the Court emphasizes that the three-year prescriptive period for assessment is reckoned from the issuance of the FLD/FAN, not the FDDA.[75] The FDDA merely resolves the taxpayer's protest and does not affect the validity or timeliness of the assessment.

More fundamentally, petitioner failed to present in evidence its *Quarterly Value-Added Tax Returns* for TY 2019. Consequently, its claim of prescription lacks a factual basis. Prescription is a matter of defense, and the burden rests on the taxpayer to prove that the prescriptive period has lapsed, including positively identifying when the prescriptive period began to run and exactly when it expired.[76] Absent competent proof of the actual filing of its VAT returns, petitioner cannot validly invoke prescription.

Accordingly, petitioner's defense of prescription fails.

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75 *McDonald's Philippines Realty Corporation v. Commissioner of Internal Revenue*, G.R. No. 247737, August 8, 2023 [Per J. Inting, *En Banc*].

76 *AFP General Insurance Corporation v. Commissioner of Internal Revenue*, G.R. No. 222133, November 4, 2020 [Per J. Inting, Third Division].

Petitioner's right to due process was observed.

Petitioner claims that its constitutional right to due process was violated. The records, however, show that the BIR complied with the procedural requirements under Section 228 of the NIRC of 1997, as amended. These steps included the issuance of the NOD, PAN, and FLD/FAN, and resolution of the protest through the FDDA.

Due process in tax assessments requires that the taxpayer be given notice and a reasonable opportunity to be heard. It does not demand endless dialogue or acquiescence to the taxpayer's demands.

Here, the BIR served an NOD inviting petitioner to a discussion. Thereafter, it issued a PAN and, subsequently, an FLD/FAN. While petitioner did not file any reply to the PAN, it timely protested the FLD/FAN. In turn, the CIR issued an FDDA resolving the protest. Petitioner's generic allegation of "blatant violation of due process" is unsubstantiated.

Thus, the Court finds that the subject assessments were validly issued and now proceeds to address their merits.

Petitioner is liable for deficiency VAT, but with modifications.

In the FDDA[77] dated August 1, 2023, which petitioner received on August 15, 2023, respondent assessed petitioner for deficiency VAT of ₱64,474,390.47, inclusive of increments, and imposed a compromise penalty of ₱50,000.00 for failure to file and/or pay VAT at the time required by law or regulation.

The assessment was computed as follows:

1. Value Added Tax		
Vatable Sales		₱ 3,469,522,433.00
Output tax due per audit		₱ 416,342,692.10
Less:		
Allowable Input Tax per VAT Return	₱780,468,268.62	
Input Tax Carried Over to Preceding Period	364,125,576.52	
Total Input Tax Claimed on VAT Returns	₱416,342,692.10	

[77] Docket – Vol. II, pp. 788–810, Exhibit "P-22"; BIR Records (Exhibit "R-17"), Folder 1, pp. 481–503, Exhibit "R-16".

Less Disallowances:		
1. Unsupported Input Tax (Schedule 1)	₱1,353,935.79	
2. Disallowed Input Tax (Invoicing Requirements (Schedule 2)	13,645,629.44	
3. Overclaimed Input Tax on Global Sources of Input Tax (GSIT) (Schedule 3)	28,290,494.67	
4. Additional IT to be amortized on purchases of CG>1M (Schedule 4)	1,122,170.26	
	₱44,412,230.17[78]	371,930,461.93
VAT Payable		₱ 44,412,230.17
Less: VAT Credits/Payments		-
Basic Deficiency Tax		₱ 44,412,230.17
Interest 12% (01-26-20 to 10-31-23)		20,062,160.30
Total Amount Still Due		**₱ 64,474,390.47**
2. Compromise Penalty		**₱ 50,000.00**
Total Deficiency Taxes		**₱ 64,524,390.47**

From the foregoing, the deficiency VAT assessment arose from the following disallowances:

A. Unsupported Input Tax	₱ 1,353,935.79
B. Disallowed Input Tax (Invoicing Requirements)	₱ 13,645,629.44
C. Overclaimed Input Tax on Global Sources of Input Tax (GSIT)	₱ 28,290,494.67
D. Additional Input Tax to be amortized on purchases of CG>1M	₱ 1,122,170.26

The Court now resolves the propriety of each item.

A. Unsupported Input Tax[79]

Upon review of petitioner's official receipts (**ORs**) and sales invoices (**SIs**) submitted and comparing the same with the *Summary List of Purchases,* respondent found that certain receipts and invoices of the input tax claimed amounting to ₱1,353,935.79 were either missing or issued by non-VAT suppliers. Accordingly, respondent disallowed the input tax claim pursuant to Section 113 of the NIRC of 1997, as amended.[80]

Respondent further noted that petitioner merely asserted in its *Protest* letter[81] that all ORs and SIs were duly supported, but failed to submit and/or present the missing documents

[78] With ₱0.01 difference; Actual footing is ₱44,412,230.16.
[79] BIR Records (Exhibit "R-17"), Folder 1, p. 494, Exhibit "R-16", Schedule 1.
[80] BIR Records (Exhibit "R-17"), Folder 1, p. 502, Exhibit "R-16", Item I. a.
[81] Docket – Vol. II, p. 709, Exhibit "P-21".

during the actual audit, and did not address the non-VAT invoices issued by its supplier. Thus, respondent reiterated the assessment.[82]

On the other hand, petitioner avers that respondent's findings have no legal basis. It maintains that its claimed input VAT were duly supported by VAT ORs and SIs. It also argues that it did not claim input VAT from invalid source but instead it was claimed as expense wherein disallowed input VAT became part of cost of sales (**COS**) and/or expenses.[83]

Petitioner further contends that it submitted all documents in an orderly manner wherein all claimed expenses were placed in every folder with corresponding attachments.[84]

Furthermore, petitioner argues that it actually incurred and paid the expenses, all of which are necessary to the ordinary course of its operations.[85]

Petitioner's contention fails to persuade.

In the present case, petitioner failed to formally offer in evidence the alleged ORs and SIs purportedly supporting the claimed input VAT amounting to ₱1,353,935.79.

Pursuant to Section 8 of RA No. 1125, as amended, this Court is described as a court of record. As cases filed before it are litigated *de novo*, party litigants should prove every minute aspect of their cases. As such, no evidentiary value can be given to the purchase invoices or receipts submitted to the BIR, as the rules on documentary evidence require that these documents must be formally offered before the Court.[86]

Also, it is well settled that allegations are not evidence; without evidence, bare allegations do not prove facts.[87] The burden rests upon the party asserting the claim to substantiate the same with the evidence required by law.[88] Incidentally, petitioner herein has the burden of proof to show clearly that

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[82] BIR Records (Exhibit "R-17"), Folder 1, p. 502, Exhibit "R-16", Item I. a.
[83] Docket – Vol. I, p. 32, *Petition for Review*, Item a.
[84] *Id.*
[85] *Id.* at 32-34.
[86] *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].
[87] *Sabellina v. Buray*, G.R. No. 187727, September 2, 2015 [Per J. Brion, Second Division].
[88] Section 1, Rule 131 of Revised Rules on Evidence.

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the assessment is erroneous. Such failure to present proof of error in the assessment will justify the judicial affirmance of said assessment.[89]

Accordingly, in the absence of competent evidence to support the claimed input VAT, petitioner's assertion remains unsubstantiated. Consequently, the Court sustains the disallowance of unsupported input tax in the amount of ₱1,353,935.79.

B. Disallowed Input Tax (Invoicing Requirements)

Upon verification, respondent found that some ORs and SIs issued by petitioner's suppliers failed to comply with the invoicing requirements under the law. Consequently, respondent disallowed the corresponding input tax pursuant to Section 113 of the NIRC of 1997, as amended,[90] summarized as follows:[91]

Reason for Disallowance	Input Tax
No Nature of Payment	₱ 1,174,169.62
No TIN and/or Address	9,117,650.44
Out of Period	3,124,530.70
No VAT Breakdown	2,858.57
Invalid/No Supporting Documents	226,420.11
Total	**₱13,645,629.44**

Petitioner, however, argues that the disallowances lack legal basis.

As to the disallowance of input VAT on the ground of "**no nature of payment,**" petitioner points out that it indicated in the SIs, ORs, or other documents either the check payment details or cash payment. It further explains that in its *Cash Flow Statement*, the cash in bank and cash on hand balances tallied after all the spending made by it; therefore, the nature of payment was justified by the said *Cash Flow Statement.*[92]

With respect to invoices or receipts with **no TIN and/or Address**, petitioner asserts that a VAT invoice or receipt constitutes valid proof of an input VAT claim, provided it is

[89] *Marcos II v. Court of Appeals,* G.R. No. 120880, June 5, 1997 [Per J. Torres, Jr., Second Division].
[90] Docket – Vol. II, p. 683, Exhibit "P-18", Details of Discrepancies, Item 1.b; BIR Records (Exhibit "R-17"), Folder I, p. 365, Exhibit "R-14".
[91] BIR Records (Exhibit "R-17"), Folder 1, pp. 483–493, Exhibit "R-16", Schedule 2.
[92] Docket – Vol. I, p. 34, *Petition for Review*, Item b.

issued by a VAT-registered entity and in the name of the buyer, herein petitioner. It contends that the seller's failure to comply with invoicing requirements should not be attributed to the buyer. Thus, the buyer of goods or services, as evidenced by sales invoices or receipts, should still be entitled to claim input tax.[93]

Petitioner further avers that nothing in Sections 113 and 237 of the NIRC of 1997, as amended, provides that input tax shall be disallowed due to the supplier's non-compliance with the invoicing requirements.[94]

With respect to the disallowance of input VAT on the ground that the supplier's SIs or ORs were dated 2018, or "**out-of-period,**" petitioner explains that the method of accounting it applies recognizes expenses either upon payment or accrual. It asserts that it claimed its input tax upon receipt of valid SIs and/or ORs. It further argues that the disallowed input taxes dated 2018 were actually paid in 2019.[95]

The Court disagrees.

Section 113 of the NIRC of 1997, as amended by RA No. 9337,[96] provides the invoicing requirements for VAT-registered persons, including the information that must be reflected in VAT invoices and official receipts:

> **SEC. 113.** ***Invoicing and Accounting Requirements for VAT-registered Persons. –***
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> (1) A **VAT invoice** for every sale, barter or exchange of goods or properties; and
>
> (2) A **VAT official receipt** for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> **(B)** ***Information Contained in the VAT Invoice or VAT Official Receipt.*** – The following information shall be indicated in the VAT invoice or VAT official receipt:

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[93] *Id.* at 34–35.
[94] *Id.* at 35.
[95] *Id.* at 38.
[96] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided,* That:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

(c) If the sale is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided,* That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) The date of transaction, quantity, unit cost and **description of the goods or properties or nature of the service**; and

(4) In the case of sales in the amount of one thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, **the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client**. (Emphasis supplied)

Implementing the above provision, Section 4.113-1 of Revenue Regulations (**RR**) No. 16-2005[97] provides as follows:

SEC. 4.113-1. *Invoicing Requirements.* —

(A) *A VAT-registered person shall issue:* —

(1) A **VAT invoice** for every sale, barter or exchange of goods or properties; and

[97] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

(2) A **VAT official receipt** for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or "VAT official receipt". All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) *Information contained in VAT invoice or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;

(c) If the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, **the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt.** The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) In the case of sales in the amount of one thousand peso (₱1,000.00) or more where the sale or transfer is made to a VAT-registered person, **the name, business style, if any,**

> **address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section**. (Emphasis supplied)

In addition to the above requirements, Sections 237 and 238 of the NIRC of 1997, as amended by Republic Act No. 10963, require that SIs or ORs be duly registered with the BIR and printed only upon securing the proper authority to print,[98] to wit:

> SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* —
>
> (A) *Issuance.* - All persons subject to an internal revenue tax shall, at the point of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100.00) or more, **issue duly registered receipts or sale or commercial invoices, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service**: *Provided, however,* That where the receipt is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further,* That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.
>
> . . . .
>
> SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner. (Emphasis supplied)

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98 Tax Reform for Acceleration and Inclusion (TRAIN) Law.

Clearly, Section 113(B)(3) and (4) of the NIRC of 1997, as amended, provides that the nature of payment, as well as the TIN, and address of petitioner, among others, should be indicated in the SI or OR issued by suppliers. While VAT invoices or official receipts may serve as valid proof of input tax claims, it is incumbent upon the taxpayer to establish full compliance with the invoicing requirements prescribed by law.

Petitioner cannot shift the burden to its suppliers or sellers. It is incumbent upon petitioner, as claimant of the input tax, to exercise due diligence and ensure that the sales invoices or official receipts properly reflect the information required by law. Non-compliance by the seller redounds to the prejudice of the buyer insofar as the claim for input tax is concerned.

Likewise, petitioner's assertion that its cash in bank and cash on hand balances tallied after all its expenditures, and thus justify the nature of its payments, is unavailing. Section 113(B)(3) clearly requires that the nature of the service be explicitly indicated in the invoice or official receipt. The mere tally of its cash balances does not cure the absence of this statutory requirement.

However, upon further verification, the Court finds that the disallowance in the amount of ₱84,270.00 must be cancelled. Although respondent disallowed the same on the ground that petitioner's TIN was not indicated, the records show that petitioner's TIN was, in fact, properly reflected in the supporting document, as follows:

Supplier Name	Inv. No.	Date of Invoice	Gross Purchases	Tax Base	Input Tax	BIR Records[99] (page no.)
FEDERAL NORTH HARDWARE, INC.	281062	August 22, 2019	₱786,520.00	₱702,250.00	₱84,270.00	358
Total			**₱786,520.00**	**₱702,250.00**	**₱84,270.00**	

Accordingly, this amount must be allowed.

Anent petitioner's contention that the remaining disallowed input taxes were merely "out-of-period", Section 110(A) of the NIRC of 1997, as amended, and as implemented by Section 4.110-2 of RR No. 16-2005, as amended, provides

[99] BIR Records (Exhibit "R-17-1"), Folder 2.

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that input tax credit on the importation of goods, or local purchase of goods, properties or services by a VAT-registered person shall be creditable as follows: (a) in the case of importation, to the importer upon payment of VAT prior to the release of goods from customs custody; (b) in the case of local purchases of goods or properties, to the purchaser of domestic goods or properties **upon consummation of the sale**; and (c) in the case of services, to the purchaser of service or the lessee or licensee upon payment of compensation, rental, royalty or fee.

An examination of the supporting documents for the disallowed input taxes[100] shows that the amounts classified as "out-of-period" totaling ₱3,124,530.70, pertain to purchases of goods. As discussed earlier, under Section 110 of the NIRC of 1997, as amended, input tax on local purchases of goods shall be creditable against output tax upon the consummation of the sale. This occurs upon the issuance by the seller of the VAT invoice evidencing the sale of goods in 2018, and not upon its payment in 2019.

Thus, the disallowance of these "out-of-period" invoices is proper, as the input tax should have been credited in the year the invoice was issued, and not in the year it was paid, as claimed by petitioner.

In sum, the Court upholds the disallowance of petitioner's input taxes for failure to comply with invoicing requirements, but in the reduced amount of ₱13,561,359.44[101] instead of ₱13,645,629.44, as originally determined by the BIR.

C. *Overclaimed Input Tax on Global Sources of Input Tax (GSIT)*[102]

Respondent's comparison of petitioner's GSIT, as reflected in its Audited Financial Statements (**AFS**) and/or Annual Income Tax Return (**AITR**), with the Sources of Input Tax reflected in its VAT returns allegedly resulted in an overclaimed input tax of ₱28,290,494.67, broken down as follows:[103]

[100] *Id.*
[101] ₱13,645,629.44 less ₱84,270.00.
[102] BIR Records (Exhibit "R-17"), Folder 1, p. 482, Exhibit "R-16", Schedule 3.
[103] BIR Records (Exhibit "R-17"), Folder 1, p. 501, Exhibit "R-16", Item I. c.

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ADDITIONS TO PROPERTY, PLANT, AND EQUIPMENT (PPE): (NOTE 7)	**AFS**	**NOT QUALIFIED FOR INPUT TAX**	**SOURCES OF INPUT TAX**
MACHINERIES & EQUIPMENT	₱ 11,808,420.25		₱ 11,808,420.25
OFFICE EQUIPMENT	2,178,936.60		2,178,936.60
FURNITURE & FIXTURES	2,805,937.55		2,805,937.55
FACTORY TOOLS AND EQUIPMENT	8,225,335.48		8,225,335.48
TOTAL			
OTHER NON-CURRENT ASSETS (NOTE 8)			
CONSTRUCTION IN PROGRESS	16,947,855.88		16,947,855.88
RAW MATERIALS & CONSUMABLE USED			
RAW MATERIALS			
INVENTORY, JAN. 1	2,991,765,007.00		
PURCHASES - IMPORTED	2,045,109,368.16		2,045,109,368.16
PURCHASES - LOCAL	275,779,311.53		275,779,311.53
FREIGHT AND HANDLING	21,469,114.21		21,469,114.21
TOTAL	5,334,122,800.90		
TRANSFERRED TO GENERAL MERCHANDISE	(102,650,000.00)		
TOTAL MATERIALS AVAILABLE	5,231,472,800.90		
INVENTORY, DEC. 31	(2,236,989,981.45)		
RAW MATERIALS USED	2,994,482,819.45		
DIRECT LABOR	6,329,633.00		6,329,633.00
MANUFACTURING OVERHEAD			
LIGHT AND WATER	14,425,378.96		14,425,378.96
FACTORY SUPPLIES	70,191,449.93		70,191,449.93
DEPRECIATION EXPENSE	21,120,894.53	₱21,120,894.53	
FUEL AND LUBRICANTS	18,399,976.62		18,399,976.62
MANPOWER SERVICE	25,105,491.17		25,105,491.17
TOTAL	149,243,191.21		
ADVERTISING COST	645,464.29		645,464.29
OPERATING EXPENSES (NOTE 15)			
TAXES, LICENSES AND FEES	20,861,093.01	20,861,093.01	
REPAIRS AND MAINTENANCE	2,876,085.50		2,876,085.50
LIGHT POWER AND WATER	1,673,249.73		1,673,249.73
RETIREMENT EXPENSE	1,202,175.00	1,202,175.00	
TELECOMMUNICATION EXPENSE	279,348.78		279,348.78
SECURITY SERVICE - AGENCY FEE	450,045.54		450,045.54
TRANSFER TAX (LOT)	180,905.93	180,905.93	
STATIONERIES AND OFFICE SUPPLIES	560,887.28		560,887.28
ROOMS AND ACCOMMODATION	381,588.40		381,588.40
INSURANCE EXPENSE	328,887.90		328,887.90
SUPPLIES: MEDICAL	523,162.75		523,162.75
BANK SERVICE CHARGES	3,050.15	3,050.15	
SOFTWARE EXPENSE	314,852.68		314,852.68
SECURITY SERVICES - GUARD SALARIES	3,367,539.65	2,694,031.72	673,507.93
TRAINING AND SEMINARS	333,732.24		333,732.24
EQUIPMENT RENTAL	422,800.00		422,800.00
OFFICE MAINTENANCE	76,220.21		76,220.21
REPRESENTATION EXPENSE	1,135,097.50		1,135,097.50
ARRASTRE CHARGES	77,399.72	77,399.72	
MISCELLANEOUS TAXES	151,950.00	151,950.00	
JANITORIAL SERVICES	120,480.14		120,480.14
LEGAL FEES	90,000.00	90,000.00	
RETAINERS FEES	39,000.00	39,000.00	
DUES AND CONTRIBUTIONS	3,700.00	3,700.00	
CUSTOM CHARGES	11,405.00	11,405.00	
SSS CONTRIBUTION	35,139.10	35,139.10	
FREIGHT OUT	967,462.18		967,462.18
VEHICLE REGISTRATION	4,001.18	4,001.18	
TOTAL OPERATING EXPENSES	**36,471,259.57**		
TOTAL PURCHASES QUALIFIED FOR INPUT TAX			₱2,530,539,082.39
LESS: PURCHASES NOT QUALIFIED FOR INPUT TAX PER VATR			24,166,062.53
PURCHASES SUBJECT TO VAT			2,506,373,019.86
MULTIPLY: VAT RATE			12%
AVAILABLE INPUT TAX PER RECOMPUTATION			300,764,762.38

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INPUT TAX CLAIMED PER VAT RETURNS	329,055,257.06
VARIANCE - (FAVORABLE)/DISALLOWED	**₱28,290,494.67**[104]

Petitioner disagrees with the foregoing findings. According to petitioner, respondent's comparison of the amounts reflected in the AFS and/or AITR with the sources of input tax reported in the VAT returns is not a proper method of determining petitioner's input tax claim.

Moreover, petitioner argues that respondent had already examined the actual documents it submitted and did not find any lack of supporting documents for its input tax claims, except for the amounts allegedly classified as unsupported input tax or non-VAT receipts (Schedule 1) amounting to ₱1,353,935.79 and the disallowed input tax (Schedule 2) amounting to ₱13,645,629.44.

In addition, petitioner claims that the computation of input taxes reflected in the VAT returns were based on landed cost while the purchases reflected in the AFS/AITR were based on seller's invoice plus direct charges. Petitioner explains that the landed cost comprises of estimated expenses that are not yet considered as expense but just a basis of computation of VAT on importation.[105]

In this regard, petitioner presented reconciliations of its input VAT on importations and local purchases/expenses, as follows:[106]

1. Input VAT Reconciliation – on importation		
	Gross Amount	**Input VAT**
Importation based on landed cost as reflected in the VAT returns for TY 2019	₱ 2,051,945,078.78	₱ 276,019,872.00
Importation per AFS/AITR for TY 2019	2,045,109,368.16	245,413,124.18
Difference/Variance	**₱ 6,835,710.62**	**₱ 30,606,747.82**
2. Input VAT Reconciliation – on local purchases/expenses		
Total Purchases qualified for input tax per respondent's computation (Schedule 3)		₱2,530,539,082.39
Less: Importation Purchases		(2,045,109,368.16)
Purchases not qualified for input tax		(24,166,062.53)
Total Local Purchases/Expenses subject to VAT		₱ 461,263,651.70
Multiplied by: VAT Rate		12%

[104] With ₱0.01 difference; Actual footing is ₱28,290,494.68.
[105] Docket – Vol. I, pp. 38–40, *Petition for Review*, Item c.
[106] *Id.* at 40–41.

Input taxes from Local Purchases/Expenses per respondent's computation		₱ 55,351,638.20
Input Tax claimed per filed VAT returns		53,035,385.08
Difference/Variance		**₱ 2,316,253.12**

Petitioner asserts that its input VAT claim on importation, amounting to ₱276,019,872.00, was duly supported by 664 pages of importation documents, which contain *Import Declarations* and proof of actual VAT payments, such as bank settlement advices. It further maintains that respondent did not raise any findings or objections regarding the VAT payments made in relation to its importations.[107]

In addition, petitioner contends that it did not claim input VAT on documents that did not conform to the requirements for the allowability of input taxes; instead, petitioner claimed them as allowable deductions.[108]

The Court finds petitioner's arguments unavailing.

It is worth noting that assessments are *prima facie* presumed correct and made in good faith. The taxpayer has the duty of proving otherwise, and in the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed.[109]

In the present case, petitioner alleges that its input tax on importation amounting to ₱276,019,872.00 was duly supported by 664 pages of importation documents. However, petitioner failed to present the said documents for examination. As a result, the Court has no means to verify whether the input tax reported in the VAT returns was computed based on the landed cost of the imported goods.

Petitioner likewise failed to submit supporting documents to establish its allegation that the purchases reflected in the AFS/AITR were determined based on the seller's invoice plus direct charges.

Conversely, while petitioner submitted an input VAT reconciliation for its importations and local purchases, it failed to explain the variances reflected therein. Moreover, in the

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107 *Id.* at 40.
108 *Id.* at 41.
109 *Sy Po v. Honorable Court of Tax Appeals*, G.R. No. 81446, August 18, 1988 [Per J. Sarmiento, Second Division].

absence of the relevant supporting source documents, the Court cannot simply rely on the reconciliation prepared by petitioner. Without such documents to substantiate the items indicated in the reconciliation, independent verification is not possible. Consequently, the Court is constrained to reject the same.

It bears stressing that the Court cannot consider evidence that has not been formally offered.[110] Section 8 of RA No. 1125 provides categorically that the Court of Tax Appeals shall be a court of record and as such it is required to conduct a formal trial (*trial de novo*) where the parties must present their evidence accordingly if they desire the Court to take such evidence into consideration. [111]

In fine, petitioner failed to discharge its burden of proving that the assessment is erroneous. Accordingly, the disallowance of overclaimed input tax on GSIT in the amount of ₱28,290,494.67 is hereby sustained.

D. Additional Input Tax to be amortized on purchases of Capital Goods exceeding ₱1 million

Respondent's comparison of petitioner's capital goods per AFS with those declared in its VAT returns revealed that petitioner failed to amortize input VAT on capital goods exceeding ₱1 million. Consequently, respondent disallowed the corresponding input tax pursuant to Section 110(A)(2) of the NIRC of 1997, as amended. The said disallowance is computed as follows:[112]

ACCOUNT TITLES	AMOUNT	OUTRIGHT CLAIM OF INPUT TAX	SUBJECT TO AMORTIZATION
MACHINERIES & EQUIPMENT	₱11,808,420.25		₱11,808,420.25
OFFICE EQUIPMENT	2,178,936.60		2,178,936.60
FURNITURE AND FIXTURES	2,805,937.55		2,805,937.55
FACTORY TOOLS AND EQUIPMENT	8,225,335.48		8,225,335.48
TOTAL ADDITIONS			₱25,018,629.88
LESS:			
CAPITAL GOODS NOT EXCEEDING 1M			-
CAPITAL GOODS EXCEEDING 1M ALREADY DECLARED IN THE VAT RETURN			13,329,356.39
TOTAL ADDITIONS TO BE AMORTIZED			₱11,689,273.49
VAT RATE			12%
AGGREGATE INPUT TAX			₱ 1,402,712.82
DIVIDED BY NO. OF MONTHS			60

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110 Section 34, Rule 132 of the Revised Rules of Court.
111 *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].
112 BIR Records (Exhibit "R-17"), Folder 1, pp. 501; 481, Exhibit "R-16", Part I., Item d, and Schedule 2.

MONTHLY AMORTIZATION	₱ 23,378.55
NO. OF MONTHS USED (ALLOWED)	12
ALLOWED AMORTIZED INPUT TAX	₱ 280,542.56[113]
AGGREGATE INPUT TAX	₱ 1,402,712.82
LESS: ALLOWED AMORTIZED INPUT TAX	(280,542.56)
UNAMORTIZED INPUT TAX	**₱1,122,170.26**

Petitioner claims that all input VAT on capital goods above ₱1 million was duly amortized, while input VAT on assets below ₱1 million was applied outright. It further avers that nothing can be found in the details of discrepancy identifying what particular asset petitioner failed to amortize when all related documents were duly submitted, as evidenced by a transmittal of documents.[114]

Petitioner's claim is unfounded.

As discussed earlier, it is a basic rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof. Simply put, mere allegations are not evidence.[115] It bears stressing that all presumptions favor the correctness of a tax assessment. The burden of proof is on the taxpayer to show the contrary.[116] In this case, petitioner failed to discharge such burden.

Notably, petitioner did not formally offer or present the necessary supporting documents to substantiate its claim that the input VAT on capital goods was properly amortized. In the absence of competent and credible evidence, the Court cannot verify petitioner's assertions nor overturn respondent's findings.

Accordingly, the disallowance of unamortized input VAT in the amount of ₱1,122,170.26 is sustained.

In light of the foregoing modifications, petitioner's deficiency VAT liability is recomputed as follows:

Vatable Sales		₱ 3,469,522,433.00
Output tax due per audit		₱ 416,342,692.10
Less:		
Allowable Input Tax per VAT Return	₱780,468,268.62	
Input Tax Carried Over to Preceding Period	364,125,576.52	

[113] With ₱0.04 difference; Should be 280,542.**60**.
[114] Docket – Vol. I, pp. 41–43, *Petition for Review*, Item d.
[115] *Toyo Seat Philippines Corporation v. Velasco*, G.R. No. 240774, March 3, 2021 [Per J. Gaerlan, First Division].
[116] *Collector of Internal Revenue v. Bohol Land Transportation Co.*, G.R. Nos. 13099 & 13462, April 29, 1960 [Per J. Bautista Angelo, *En Banc*].

Total Input Tax Claimed on VAT Returns	₱416,342,692.10	
Less: Disallowances		
1. Unsupported Input Tax (Schedule 1)	₱1,353,935.79	
2. Disallowed Input Tax (Invoicing Requirements) (Schedule 2)	13,561,359.44	
3. Overclaimed Input Tax on Global Sources of Input Tax (GSIT) (Schedule 3)	28,290,494.67	
4. Additional IT to be amortized on purchases of CG>1M (Schedule 4)	1,122,170.26	
	₱44,327,960.16	372,014,731.94
VAT Payable		₱ 44,327,960.16
Less: VAT Credits/Payments		-
Basic Deficiency Tax		**₱ 44,327,960.16**

The compromise penalty must be cancelled.

Respondent imposed a compromise penalty of ₱50,000.00[117] for petitioner's alleged failure to pay any internal revenue taxes at the time required by law or regulation, pursuant to RMO No. 07-2015.[118]

Petitioner contends that there is no legal basis for the imposition of ₱50,000.00 compromise penalty, as petitioner and respondent did not come to terms with any compromise agreement or settlement.[119]

The Court agrees.

A compromise penalty is imposed to avoid prosecution for violation of the provisions of the Tax Code.[120] By its nature, a compromise is mutual in essence.[121] It implies agreement. One party cannot impose it upon the other.[122] Compromise penalties are only amounts suggested in settlement of criminal liability and may not be imposed or exacted on the taxpayer in the event of refusal to pay the suggested amount.[123] Absent the taxpayer's

[117] BIR Records (Exhibit "R-17"), Folder 1, p. 501, Exhibit "R-16", Part II.

[118] Subject: The Revised Consolidated Schedule of Compromise Penalties for the Violations of the National Internal Revenue Code.

[119] Docket – Vol. I, p. 43, *Petition for Review*, Part II.

[120] *The Philippines International Fair, Inc. v. The Collector of Internal Revenue, et al.*, G.R. Nos. L-12928 & L-12932, March 31, 1962 [Per J. Dizon, *En Banc*].

[121] *Vda. De San Agustin v. Commissioner of Internal Revenue*, G.R. No. 138485, September 10, 2001 [Per J. Vitug, Third Division].

[122] *Commissioner of Internal Revenue v. Abad*, G.R. No. L-19627, June 27, 1968 [Per J. Castro, *En Banc*].

[123] Part III.4, RMO No. 7-2015 provides:

4. Although all amounts of compromise penalties incident to violations shall be itemized in the assessment notice and/or demand letter, the same should not form part of assessment notice that reflects deficiency basic tax, surcharge and interest but should appear in a separate assessment notice/demand letter as the amount suggested to the taxpayer to pay in lieu of criminal prosecution. If paid, the compromise penalties shall be collected and accounted for under the usual procedures, as internal revenue collection.

express conformity, it cannot be unilaterally imposed by the BIR.

In this case, there is no showing that petitioner agreed to the imposition of the compromise penalty. Consequently, the same must be deleted for being without legal basis.

WHEREFORE, the instant *Petition for Review* is **PARTIALLY GRANTED**.

Respondent's assessment for compromise penalty for taxable year 2019 is **CANCELLED AND SET ASIDE** for lack of merit. However, the assessment for deficiency VAT for the same taxable year is **UPHELD WITH MODIFICATIONS**.

Accordingly, petitioner is **ORDERED TO PAY** respondent the aggregate amount of **₱74,749,085.48**, inclusive of 25% surcharge and 12% deficiency interest imposed under Sections 248(A)(3) and 249(B) of the NIRC of 1997, as amended by RA No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law", and as implemented through Revenue Regulations (RR) No. 21-2018, computed as follows:

Basic Deficiency Tax Due	₱44,327,960.16
25% Surcharge	11,081,990.04
12% Deficiency Interest	
From January 28, 2020[124] to September 15, 2023 *(₱44,327,960.16 x 12% x 1,327/365 days)*	19,339,135.28
Total Amount Due as of September 15, 2023	**₱74,749,085.48**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) *per annum* on the total unpaid deficiency taxes due of ₱74,749,085.48 as of September 15, 2023, as determined above, an amount of ₱24,575.04[125] per day, computed from March 1, 2023 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by the TRAIN Law and as implemented by RR No. 21-2018.

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[124] January 25, 2020, fell on a Saturday.
[125] ₱74,749,085.48 x 12% divided by 365 days.

Lastly, pursuant to Section 13 of RA No. 9282, considering that this Decision is partly favorable to the national government, the BIR, through respondent, is hereby authorized to seize and distraint any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property, and/or levy the real property of petitioner in sufficient quantity to satisfy the tax or charge, together with any increments thereto incident to delinquency.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special First Division Acting 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.

Ma. Belen)—

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice