REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2138** (CTA Case No. 9291)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** JJ.
	Promulgated:
ERMILO TAN NG HUA, Respondent.	NOV 27 2020 11:58 a.m.

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DECISION

UY, J.:

The instant *Petition for Review*[1] filed on October 14, 2019 by the Commissioner of Internal Revenue against Ermilo Tan Ng Hua, prays that the Decision dated February 21, 2019 and Resolution dated September 9, 2019, promulgated by the Special Third Division of this Court, in CTA Case No. 9291, entitled, *"Ermilo Tan Ng Hua, Petitioner vs. Commissioner of Internal Revenue, represented by Regional Director Alberto S. Olasiman, Bureau of Internal Revenue, Revenue Region No. 10, Legazpi City, Respondent,"* be reversed and set aside. The dispositive portions thereof respectively read as follows:

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[1] EB Docket, pp. 6 to 19.

<u>Decision dated February 21, 2019</u>:

> "**WHEREFORE,** the instant Petition for Review is hereby **GRANTED.** Accordingly, the Final Decision Disputed Assessment and Assessment Notice No. 065-11-114-096-192-000, both dated January 20, 2016, are hereby **CANCELLED AND SET ASIDE**.
>
> **SO ORDERED."**

<u>Resolution dated September 9, 2019</u>:

> "**WHEREFORE,** the instant *Motion for Reconsideration (Re: Decision dated 21 February 2019)* filed by respondent Commissioner of Internal Revenue on March 18, 2019 is hereby **DENIED,** for lack of merit.
>
> **SO ORDERED.**"

THE FACTS

Petitioner, the Commissioner of Internal Revenue (CIR), is the head of the Bureau of Internal Revenue (BIR), authorized to enforce revenue laws and collection of taxes and duties and is represented by Regional Director Alberto S. Olasiman of BIR Revenue Region No. 10, Legazpi City. Petitioner holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Respondent, Ermilo Tan Ng Hua (Hua), is a registered taxpayer with Tax Identification Number (TIN) 114-096-192-000. He is doing business under the tradenames: (1) Ragay Shell Service Station, a gas station, and (2) Ragay Trading, a dealer of San Miguel Beer products, both located in Ragay, Camarines Sur.

On October 25, 2013, Hua received an undated Letter Notice (LN) No. 065-RLF-11-00-00069, inviting him to appear at the BIR office to reconcile the discrepancies noted based on the computerized matching on the information/data provided by third-party sources as against his declarations per VAT returns for TY 2011. With the LN was a Checklist of Documents that he was requested to submit.

Thereafter, Hua received a Follow-up Letter dated February 4, 2014, advising him that his failure to respond to the LN would result in the review of his case and the issuance of a Letter of Authority (LOA)/Notice of Informal Conference, Preliminary Assessment Notice or Final Assessment Notice, as the case may be.

On March 31, 2014, Hua received a Notice of Informal Conference (NIC) with enclosed Computation Sheet, showing Income Tax (IT) and Value-Added Tax (VAT) deficiencies in the total amount of ₱49,880,042.71.

To reconcile the alleged noted discrepancies indicated in the LN, Hua filed a Letter dated March 17, 2014 attaching thereto the following documents: (1) photocopy of 2011 Income Tax Return with audited Financial Statements and official receipts; (2) photocopy of Quarterly Income Tax Returns and VAT Returns; (3) Photocopies of Purchases for 2011; and (4) a flash disk containing the summary list of purchases.

On July 1, 2015, Hua received a Preliminary Assessment Notice (PAN) dated May 26, 2015, finding him liable for deficiency IT and VAT for TY 2011 amounting to ₱4,506,206.04, inclusive of legal increments.

Hua protested the PAN on July 6, 2015.

On August 14, 2015, Hua received the Formal Letter of Demand (FLD) and Final Assessment Notices (FAN) dated August 3, 2015, reiterating the CIR's findings in the PAN.

Hua likewise protested the FAN but it was denied in the Final Decision on Disputed Assessment (FDDA), which he received on February 16, 2016.

On March 14, 2016, Hua filed his *Petition for* Review before the Court in Division, praying that the subject assessments be declared null and void. In his Petition, Hua claimed that the subject assessment was invalid as it was issued (a) without conducting a complete and thorough audit; (b) without observing the prescribed procedure in the assessment of tax; (c) with arbitrariness and without legal, factual and competent bases; and (d) with utter disregard of the rudiments of fair play and administrative due process.

In his *Answer*, the CIR countered that Hua was not denied due process as he was accorded with the opportunity to refute the audit findings; that he was informed of the factual and legal bases of the assessment from the commencement of the initial audit to the issuance of the FDDA; and that the assessment against Hua for deficiency IT and VAT has factual and legal bases. Moreover, Section 5 of the NIRC of 1997, as amended, grants him the authority to obtain information from other sources other than those obtained from the taxpayer.

After the pre-trial conference, the parties filed their *Joint Stipulation of Facts and Issues* on the basis of which a *Pre-Trial Order* was issued on December 21, 2016.

During trial, Hua testified on his own behalf by way of Judicial Affidavit, and filed his *Formal Offer* on July 4, 2017, as well as an *Offer of Proof* on September 14, 2017. In the Resolutions dated August 7, 2017 and January 10, 2018, the Court in Division resolved to deny admission to some of the exhibits, due to his failure to identify the same.

For his part, the CIR presented his lone witness, Group Supervisor (GS) Josephine G. Gomez, and filed his *Formal Offer of Evidence* on October 10, 2017. In the Resolution dated December 11, 2017, all of the documentary exhibits offered by the CIR were admitted.

With the filing of Hua's *Memorandum* on February 26, 2018, and the CIR's *Memorandum* on February 28, 2018, CTA Case No. 9291 was deemed submitted for decision on March 13, 2018.

In the assailed *Decision*[2] dated February 21, 2019, the Court in Division granted Hua's Petition for Review. Thus, the Final Decision Disputed on Assessment and Assessment Notice No. 065-11-114-096-192-000 were cancelled and set aside.

The CIR filed his *Motion for Reconsideration (Re: Decision dated 21 February 2019)* on March 18, 2019, to which Hua filed his *Comment (to Respondent's Motion for Reconsideration)* on May 9, 2019.

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[2] EB Docket, pp. 20 to 34.

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In the assailed *Resolution*[3] dated September 9, 2019, the Court in Division denied the CIR's Motion for Reconsideration for lack of merit.

Undaunted, the CIR filed a *Motion for Extension of Time to File Petition for Review*[4] on September 23, 2019. In the *Minute Resolution*[5] dated September 26, 2019, the subject Motion was granted and the CIR was given a final and non-extendible period of fifteen (15) days from September 27, 2019, or until October 12, 2019, within which to file his Petition for Review.

Thereafter, the CIR filed the instant *Petition for Review*[6] on October 14, 2019. In the *Resolution*[7] dated November 7, 2019, respondent was ordered to file his Comment to the Petition for Review, within ten (10) days from notice. On November 29, 2019, Hua, through counsel, filed his *Comment with Manifestation.*[8]

On January 9, 2020, the instant case was referred to mediation in the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA), pursuant to Section II of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals.*[9]

On January 29, 2020, the parties decided not to have their case mediated.[10] Thus, the Petition for Review was deemed submitted for Decision on February 12, 2020.[11] Hence, this Decision.

ISSUE

The sole ground raised by the CIR in his Petition for Review reads as follows:

> "WITH ALL DUE RESPECT, THE THIRD DIVISION ERRED WHEN IT HELD THAT THE ABSENCE OF A LOA RENDERS THE ASSESSMENT VOID."[12]

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[3] EB Docket, pp. 35 to 42.
[4] EB Docket, pp. 1 to 4.
[5] EB Docket, p. 5.
[6] EB Docket, pp. 6 to 19.
[7] EB Docket, pp. 44 to 45.
[8] EB Docket, pp. 46 to 52.
[9] EB Docket, pp. 55 to 56.
[10] EB Docket, p. 57.
[11] EB Docket, pp. 59 to 60.
[12] EB Docket, p. 8.

Petitioner's arguments:

The CIR contends that under Section 6 (A) of the NIRC of 1997, all returns are subject to examination, and in case of discrepancy, the law merely requires that notice be given to the taxpayer.

According to the CIR, an LOA is not indispensable, especially when it is the Commissioner who authorizes the examination of the returns of taxpayers. The only requirement in Section 6 (A) is that notice be given to the taxpayer.

Corollary thereto, the CIR argues that an LOA is irrelevant in this case, and is only indispensable when it is the Regional Director who authorizes the audit of the taxpayer. However, no such provision exists when it is the CIR who authorizes the audit of a taxpayer.

Respondent's counter-arguments:

Hua counters that the notice referred to in Section 6 (A) of the NIRC of 1997, as amended, refers to a demand for the payment of assessed deficiency tax, not to an LN issued under the RELIEF system.

The subject LN did not authorize RO Fely Pasiona to examine and audit his VAT and IT liabilities and to recommend the assessment of deficiency taxes. RO Fely Pasiona was merely designated as the CIR's representative to whom Hua may submit proof of payment in case he already paid the taxes due, pursuant to an LOA/TVN before the receipt of such LN. Thus, RO Fely Pasiona was never authorized by the CIR, through such LN, to examine Hua and assess the correct amount of tax.

Moreover, Hua avers that Section 6 (A) of the NIRC of 1997, as amended should be read in conjunction with Section 13 thereof, which requires the issuance of an LOA by the Regional Director, so that an RO may examine a taxpayer and recommend the assessment of deficiency tax. Thus, without any LOA duly issued by either the Regional Director or by the CIR, the examination and assessment made by the RO is deemed unauthorized and a complete nullity.

THE COURT *EN BANC'S* RULING

After careful and thorough consideration of the assailed Decision dated February 21, 2019, and Resolution dated September 9, 2019, promulgated by the Special Third Division of this Court in CTA Case No. 9291, the Court *En Banc* finds no reversible error committed by the Court *a quo* that would merit a reversal of the same.

Revenue Officers Fely B. Pasiona and Josephine G. Gomez were <u>not</u> duly authorized to conduct the audit investigation, hence, the resulting tax assessments are void.

Section 6(A) of the NIRC of 1997 lays down the power of the CIR or his duly authorized representative to authorize the examination of any taxpayer and the assessment of the correct amount of tax, to wit:

> "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, **<u>the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax</u>**: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer." *(Emphasis and underscoring supplied.)*

Based on the foregoing, an authority emanating from the CIR or his duly authorized representative is required before an examination and an assessment may be made.

Relative thereto, Section 13 of the NIRC of 1997 provides that the authority of a Revenue Officer to examine or to recommend the assessment of any deficiency tax due must be exercised pursuant to a LOA, to wit:

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

Evidently, a grant of authority, through an LOA, must be issued assigning an RO to perform tax assessment functions, in order that such officer may examine taxpayers and collect the correct amount of tax, or to recommend the assessment of any deficiency tax due.

The objective and significance of an LOA, and the authority it confers upon a revenue officer, relative to the performance of assessment functions, was discussed at length in the case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue,*[13] to wit:

> "**An LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. An LOA is premised on the fact that the examination of a taxpayer who has already filed his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives**. Section 6 of the NIRC clearly provides as follows:
>
> > **SEC. 6.** *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. —*
> >
> > (A) **Examination of Return and Determination of Tax Due.** — After a return

[13] G.R. No. 222743, April 5, 2017.

> has been filed as required under the provisions of this Code, **<u>the Commissioner or his duly authorized representative</u> may authorize the examination of any taxpayer** and the assessment of the correct amount of tax: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
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> xxx xxx xxx

Based on the afore-quoted provision, it is clear that **unless authorized by the CIR himself or by his duly authorized representative, <u>through an LOA</u>**, an examination of the taxpayer cannot ordinarily be undertaken. The circumstances contemplated under Section 6 where the taxpayer may be assessed through best-evidence obtainable, inventory-taking, or surveillance among others has nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. **Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations <u>without prior authority</u>**.

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In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, the Court said that:

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

The foregoing jurisprudential pronouncements are categorical, in its requirement that revenue officers be authorized by a valid LOA, prior to the exercise of its assessment functions, such as the examination of books of accounts and accounting records of the taxpayer. Without such LOA, the tax assessments issued by the BIR against such taxpayer shall be void.

In this case, RO Josephine G. Gomez testified[14] that she is currently a Group Supervisor assigned at Revenue District Office No. 65 – Naga City; and that the audit of petitioner's tax liabilities was originally assigned to RO Fely B. Pasiona, pursuant to LN No. 065-RLF-11-00-00069.[15] By authority of the subject LN, RO Pasiona exercised assessment functions, and she issued the following:

1) Memorandum[16] dated February 27, 2014, which recommended that the case be forwarded to the Assessment Division, and after review and approval, a PAN be issued to the taxpayer, if the latter failed to pay;
2) Revenue Officer's Audit Reports for IT[17] and VAT;[18] and
3) Computation Sheet.[19]

A perusal of the records however shows that RO Pasiona was not validly authorized by an LOA when she exercised assessment functions against Hua. In fact, the PAN[20] and FLD[21] does not refer to any LOA, but refers merely to LN No. 065-RLF-11-00-00069 as its basis for authority.

To be clear, RO Gomez herself was categorical in stating that there was, in fact, no LOA issued to authorize the examination of Hua's tax liabilities.[22]

Considering that RO Pasiona who acted on Hua's case were not properly clothed with authority, through a valid LOA, the subject tax assessments, resulting from the investigation, audit, and recommendation of RO Pasiona are void. For being void, the same bears no valid fruit.[23]

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[14] Exhibit "R-12," Division Docket (CTA Case No. 9291), pp. 216 to 225, at 217; TSN dated September 25, 2017, p. 7.
[15] Exhibit "R-1," BIR Records, pp. 1 to 3.
[16] Exhibit "R-6," BIR Records, p. 340.
[17] Exhibit "R-6-a," BIR Records, p. 338.
[18] Exhibit "R-6-b," BIR Records, p. 336.
[19] Exhibit "R-6-c," BIR Records, p. 334.
[20] Exhibit "R-7," BIR Records, pp. 360 to 362.
[21] Exhibit "R-8," BIR Records, pp. 363 to 365.
[22] TSN dated September 25, 2017, p. 8.
[23] *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010.

An LN is not a valid substitute in lieu of an LOA, even when it is issued by the CIR himself.

The CIR, however, contends that under Section 6 (A) of the NIRC of 1997, all returns are subject to examination, and in case of discrepancy, the law merely requires that notice be given to the taxpayer. Citing RMO Nos. 42-2003[24] and 30-2003,[25] the CIR argues that the assessment of taxes based on the examination of returns is allowed, without the necessity of an LOA. Thus, an LOA is not indispensable, especially when it is the Commissioner who authorizes the examination of the returns of taxpayers.

We are not swayed.

The foregoing contentions were already squarely rejected by the Supreme Court in the aforequoted case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue,*[26] to wit:

> "With the advances in information and communication technology, the Bureau of Internal Revenue (BIR) promulgated RMO No. 30-2003 to lay down the policies and guidelines once its then incipient centralized Data Warehouse (DW) becomes fully operational in conjunction with its Reconciliation of Listing for Enforcement System (RELIEF System). This system can detect tax leaks by matching the data available under the BIR's Integrated Tax System (ITS) with data gathered from third-party sources. Through the consolidation and cross-referencing of third-party information, discrepancy reports on sales and purchases can be generated to uncover under declared income and over claimed purchases of goods and services.
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[24] SUBJECT : Prescribing Additional Guidelines Governing the Rules on Assessment of National Internal Revenue Taxes covered by a Letter Notice (LN) issued under the RELIEF System as defined in Revenue Memorandum Order (RMO) No. 30-2003 and other data matching processes.

[25] SUBJECT : Guidelines and Procedures in the Extraction, Analysis, Disclosure/Dissemination, Utilization, and Monitoring of RELIEF data for Audit and Enforcement Purposes.

[26] *Supra.*

RMO No. 30-2003 was supplemented by RMO No. 42-2003, which laid down the '***no-contact-audit approach***' in the CIR's exercise of its power to authorize any examination of taxpayer and the assessment of the correct amount of tax. x x x x

Under this policy, even without conducting a detailed examination of taxpayer's books and records, if the computerized/manual matching of sales and purchases/expenses appears to reveal discrepancies, the same shall be communicated to the concerned taxpayer through the issuance of LN. The LN shall serve as a discrepancy notice to taxpayer similar to a Notice for Informal Conference to the concerned taxpayer. Thus, under the RELIEF System, a revenue officer may begin an examination of the taxpayer even prior to the issuance of an LN or even in the absence of an LOA with the aid of a computerized/manual matching of taxpayers' documents/records. Accordingly, under the RELIEF System, the presumption that the tax returns are in accordance with law and are presumed correct since these are filed under the penalty of perjury are easily rebutted and the taxpayer becomes instantly burdened to explain a purported discrepancy.

Noticeably, both RMO No. 30-2003 and RMO No. 42-2003 are silent on the statutory requirement of an LOA before any investigation or examination of the taxpayer may be conducted. As provided in the RMO No. 42-2003, the LN is merely similar to a Notice for Informal Conference. However, for a Notice of Informal Conference, which generally precedes the issuance of an assessment notice to be valid, the same presupposes that the revenue officer who issued the same is properly authorized in the first place.

With this apparent lacuna in the RMOs, in November 2005, RMO No. 30-2003, as supplemented by RMO No. 42-2003, was amended by RMO No. 32-2005 to fine tune existing procedures in handing assessments against taxpayers' issued LNs by reconciling various revenue issuances which conflict with the NIRC. Among the objectives in the issuance of RMO No. 32-2005 is to prescribe procedure in the resolution of LN discrepancies, conversion of LNs to LOAs and assessment and collection of deficiency taxes.

'IV. POLICIES AND GUIDELINES

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8. **In the event a taxpayer who has been issued an LN refutes the discrepancy shown in the LN**, the concerned taxpayer will be given an opportunity to reconcile its records with those of the BIR within One Hundred and Twenty (120) days from the date of the issuance of the LN. However, the subject taxpayer shall no longer be entitled to the abatement of interest and penalties after the lapse of the sixty (60)-day period from the LN issuance.

9. **In case the above discrepancies remained unresolved at the end of the One Hundred and Twenty (120)-day period, the revenue officer (RO) assigned to handle the LN shall recommend the issuance of [LOA] to replace the LN**. The head of the concerned investigating office shall submit a summary list of LNs for conversion to LAs (using the herein prescribed format in Annex "E" hereof) to the OACIR-LTS/ORD for the preparation of the corresponding LAs with the notation "This LA cancels LN No.________"

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V. PROCEDURES

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B. At the Regional Office/Large Taxpayers Service

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7. Evaluate the Summary List of LNs for Conversion to LAs submitted by the RDO x x x prior to approval.

8. Upon approval of the above list, prepare/accomplish and sign the corresponding LAs.

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10. Transmit the approved/signed LAs, together with the duly accomplished/ approved Summary List of LNs for conversion to LAs, to the concerned investigating offices for the encoding of the required information x x x and for service to the concerned taxpayers.

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C. At the RDO x x x

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11. If the LN discrepancies remained unresolved within One Hundred and Twenty (120) days from issuance thereof, prepare a summary list of said LNs for conversion to LAs x x x.

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16. Effect the service of the above LAs to the concerned taxpayers.'

In this case, there is no dispute that no LOA was issued prior to the issuance of a PAN and FAN against MEDICARD. Therefore no LOA was also served on MEDICARD. The LN that was issued earlier was also not converted into an LOA contrary to the above quoted provision.

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The Court cannot convert the LN into the LOA required under the law even if the same was issued by the CIR himself. x x x **Since the law specifically requires an LOA and RMO No. 32-2005 requires the conversion of the previously issued LN to an LOA, the absence thereof cannot be simply swept under the rug, as the CIR would have it**. In fact Revenue Memorandum Circular No. 40-2003 considers an LN as a notice of audit or investigation only for the purpose of disqualifying the taxpayer from amending his returns.

The following differences between an LOA and LN are crucial. First, an LOA addressed to a revenue officer is specifically required under the NIRC before an examination of a taxpayer may be had while an LN is not found in the NIRC and is only for the purpose of notifying the taxpayer that a discrepancy is found based on the BIR's RELIEF System. Second, an LOA is valid only for 30 days from date of issue while an LN has no such limitation. Third, an LOA gives the revenue officer only a period of 120 days from receipt of LOA to conduct his examination of the taxpayer whereas an LN does not contain such a limitation. Simply put, **LN is entirely different and serves a different purpose than an LOA**. **Due process demands, as recognized under RMO No. 32-2005, that after an LN has serve its purpose, the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of the petitioner**. Unfortunately, this was not done in this case.

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The BIR's RELIEF System has admittedly made the BIR's assessment and collection efforts much easier and faster. The ease by which the BIR's revenue generating objectives is achieved is no excuse however for its non-compliance with the statutory requirement under Section 6 and with its own administrative issuance. In fact, apart from being a statutory requirement, **an LOA is equally needed even under the BIR's RELIEF System because the rationale of requirement is the same whether or not the CIR conducts a physical examination of the taxpayer's records: to prevent undue harassment of a taxpayer and level the playing field between the government's vast resources for tax assessment, collection and enforcement, on one hand, and the solitary taxpayer's dual need to prosecute its business while at the same time responding to the BIR exercise of its statutory powers**. The balance between these is achieved by ensuring that any examination of the taxpayer by the BIR's revenue officers is properly authorized in the first place by those to whom the discretion to exercise the power of examination is given by the statute." *(Emphasis supplied.)*

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From the foregoing discussion, it can be gleaned that the CIR himself, through RMO No. 32-2005,[27] recognizes the statutory requirement that necessitates the issuance of a valid LOA, prior to the exercise of assessment functions.

In other words, in issuing RMO No. 32-2005, the CIR himself acknowledged that an LN cannot be converted into the LOA required under the law, *even if* the same was issued by the CIR himself. Conversely, a valid LOA cannot be equated to, or substituted by, a mere LN.

It bears stressing that administrative issuances, such as the subject RMO, have the force and effect of law, and they benefit from the same presumption of validity and constitutionality enjoyed by statutes.[28] Thus, as due process demands, and as directed by the subject RMO, after an LN has served its purpose, an RO is required to secure a valid LOA, prior to the further examination and assessment of the taxpayer concerned.

In this case, the LN issued in favor of RO Pasiona cannot be validly equated with, or converted into, the requisite LOA. In the absence of such LOA, RO Pasiona is deemed to have no authority to perform assessment functions against taxpayer Hua and the subject tax assessments resulting from the said unauthorized investigation and/or audit are considered void and of no effect.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The Decision dated February 21, 2019 and the Resolution dated September 9, 2019 rendered by the Special Third Division of this Court in CTA Case No. 9291 are hereby **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

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[27] SUBJECT : Prescribing Guidelines and Procedures in Handling Letter Notices for Deployment via the Information Delivery Portal in the Years 2005 Onwards for Audit and Enforcement Purposes.
[28] *Chevron Philippines, Inc. vs. Bases Conversion and Development Authority, et al.*, G.R. No. 173863, September 15, 2010.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
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.

ROMAN G. DEL ROSARIO
Presiding Justice