REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

JOSELITO RANADA LARAYA,
Petitioner,

- versus -

THE COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE, THROUGH JOSE A. TAN, REVENUE REGIONAL DIRECTOR REGION 9, SAN PABLO CITY,
Respondents.

CTA CASE NO. 8890

Members:

UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

JUN 01 2021
2:01 p.m.

x - x

RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before this Court are Respondents' **Motion for Reconsideration** filed through registered mail on October 30, 2020 and received by the Court on November 11, 2020, with Petitioner's **Comment/Opposition (To the Respondent's Motion for Reconsideration)** filed through registered mail on December 16, 2020 and received by the Court on January 12, 2021.

On October 1, 2020, the Court promulgated a Decision cancelling Respondents' Final Decision on Disputed Assessment (FDDA) dated July 2, 2014 for failing to serve the Letter of Authority (LOA) within the mandatory thirty-day period, the dispositive portion of which reads as follows:

> "**WHEREFORE,** in light of the foregoing considerations, the instant Petition for Review is **GRANTED**. Accordingly, the FDDA dated July 2, 2014, and the deficiency income tax, VAT, and EWT assessments stated therein, in the aggregate amount of P21,106,853.22, inclusive of increments, issued against Petitioner for taxable year 2006, are **CANCELLED and SET ASIDE**.

SO ORDERED."

In their Motion, Respondents acknowledge that while it is clear under Revenue Memorandum Order (RMO) No. 43-90[1] and Revenue Audit Memorandum Order (RAMO) No. 1-00[2] that a LOA must be served to the taxpayer within thirty (30) days from the date of its issuance, it is also however provided therein that the taxpayer has the right to refuse service of the LOA if presented beyond the 30-day period. In the present case, Respondents point out that while the LOA was presented to Petitioner beyond the 30-day period, it was nonetheless Petitioner's acceptance of the same that precludes any question regarding the validity of the service of the LOA. Simply stated, instead of refusing the service of the LOA, Petitioner knowingly accepted the same despite being served beyond 30 days from its issuance. Thus, Respondents assert that Petitioner is estopped from questioning the late service of the LOA due to its own action.

On the other hand, in its Comment, Petitioner argues that Respondents' argument is misleading. Accordingly, RMO No. 43-90 and RAMO No. 01-00 clearly, unambiguously, and specifically requires that audit investigations of Respondents be conducted under an LOA, and that if the LOA be presented to the taxpayer after thirty (30) days from the date of its issuance, the same is considered null and void, unless revalidated – nothing more, nothing less. Petitioner continues that nowhere in the said RMO and RAMO was it stated in any manner that should an LOA be served to the taxpayer after 30 days from the date of its issuance, the same shall be considered valid if the taxpayer failed to refuse its belated service. Petitioner cites the legal maxim *verba legis non-est recedendum* – from the words of the law, there must be no departure.

The Court finds the instant Motion for Reconsideration bereft of merit.

As correctly pointed out by Petitioner, the BIR issuances are clear and unambiguous. RMO No. 43-90 and RAMO No. 01-00 evidently state that the LOA must be served or presented to the taxpayer within thirty (30) days from its date of issuance, otherwise it becomes null and void, **unless revalidated**. RAMO No. 01-00 further provides that the taxpayer has the right to refuse its service if presented beyond the 30-day period. To emphasize, the condition for an LOA to remain valid even after the 30-day period is its subsequent revalidation, and not the taxpayer's acceptance thereof.

In the present case, the LOA was served to Petitioner beyond the 30-day period. Considering that it was not revalidated, the LOA is deemed null and

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[1] "SUBJECT: Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit," dated September 20, 1990.

[2] "SUBJECT: Updated Handbook on Audit Procedures and Techniques Volume I (Revision – Year 2000)," dated March 17, 2000.

void, even if it was subsequently accepted by the taxpayer, the same did not cure the LOA's defect. Consequently, the revenue officer who conducted examination of Petitioner's books of accounts and other accounting records for the period covering the year 2006 is deemed to have no authority, thereby negating respondents' tax assessments against Petitioner.

To reiterate, it is well-settled that where the language of the law is clear and unequivocal, it must be given its literal application and applied without interpretation. The general rule of requiring adherence to the letter in construing statutes applies with particular strictness to tax laws and provisions of a taxing act are not to be extended by implication.[3]

In view of the foregoing discussions, this Court finds that no new or substantial matter was raised in the present Motion to justify the reversal, or any modification, of the Decision assailed by Respondents.

WHEREFORE, in light of the foregoing considerations, Respondents' Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO- SAN PEDRO
Associate Justice

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[3] *Commissioner of Internal Revenue v. Julieta Ariete*, G.R. No. 164152, January 21, 2010; citing *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, G.R. No. 159610, June 12, 2008.