

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**COMMISSIONER OF
INTERNAL REVENUE,**
Petitioner,

CTA EB NO. 2837
(CTA CASE NO. 10049)

Present:

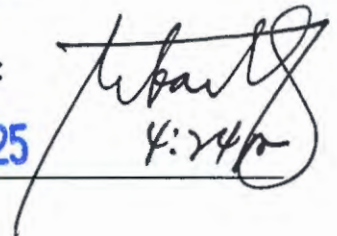
- versus -

**DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, JJ.**

**SELLERY PHILS.
ENTERPRISES, INC.,**
Respondent.

Promulgated:

MAY 20 2025


4:24p

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DECISION

ANGELES, J.:

The present *Petition for Review*¹ before the Court of Tax Appeals *En Banc* (CTA En Banc) is filed by the Commissioner of Internal Revenue (Petitioner) on December 5, 2023 seeking to set aside the September 6, 2023 *Decision*² (Assailed Decision) and November 13, 2023 *Resolution*³ (Assailed Resolution) of the Court of Tax Appeals Special Second Division (CTA Division) in CTA Case No. 10049 entitled, *Sellery Phils. Enterprises Inc., v. Commissioner of Internal Revenue*. The CTA Division cancelled and set aside the Warrant of Distrainment and/or Levy (WDL) and the assessments issued against herein respondent for being null and void.

¹ EB Docket, pp. 1 to 12.

² EB Docket, pp. 15 to 38, Penned by Associate Justice Lanee S. Cui-David, and concurred by Associate Justice Jean Marie A. Bacorro-Villena.

³ EB Docket, pp. 40 to 42.

THE PARTIES⁴

Petitioner is the Commissioner of the Bureau of Internal Revenue (BIR), duly appointed with the power to administer and enforce national internal revenue laws, as well as to act on claims for tax refund or tax credit as provided by law, among others.

Respondent, on the other hand, is a domestic corporation duly registered with the Securities and Exchange Commission (SEC), primarily engaged in the business of buying, selling, distributing, and marketing plumbing, fixtures, architectural hardware and household accessories, among others.

THE FACTS

The following are the relevant facts as found by the CTA Division in the Assailed Decision⁵:

On April 8, 2015, petitioner [herein respondent] filed an Annual Income Tax Return (BIR Form No. 1702-RT) for TY 2014 with Revenue District Office (RDO) No. 25A-Plaridel, Bulacan, declaring zero income tax due with "No Operation" annotation.

On May 20, 2015, petitioner [herein respondent] filed an Application for Registration Information Update (BIR Form No. 1905) with RDO No. 25A-Plaridel, Bulacan, stating that its effective date of cessation of business is May 5, 2015.

On August 25, 2015, two (2) separate Letters of Authority (LOAs) for TYs 2013 and 2014 authorizing Revenue Officer (RO) Jayson Baello (RO Baello) and Group Supervisor (GS) Marita Panteriori (GS Panteriori) of RDO No. 25A-Plaridel, Bulacan, were issued to petitioner [herein respondent] in connection with the mandatory audit on cessation of business.

On May 8, 2016, and September 22, 2016, Revenue District Officer Carlos S. Salazar (RDO Salazar) of RDO No. 25A-Plaridel, Bulacan, issued two (2) separate Memorandum of Assignment (MOA) to RO Cristina C. Yu (RO Yu) and GS Rodolfo M. Roldan, Jr. (GS Roldan, Jr.) for the "continuation of the audit/ investigation to replace the previously assigned ROs who resigned/retired/transferred to another district office."

On June 2, 2016, RDO Salazar issued two (2) separate Notice of Continuance of Investigation, informing petitioner [herein respondent] that RO Yu and GS Roldan, Jr. shall continue the

⁴ Petition for Review, EB Docket, p. 2.

⁵ Division Docket, pp. 901 to 902.

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audit/investigation of its books of accounts and other accounting records covering TYs 2012 and 2014.

Both notices were received by petitioner's [herein respondent's] liaison officer Ms. Raides Umayam (Ms. Umayam).

On June 30, 2017, RDO No. 25A-Plaridel, Bulacan, received a Memorandum, prepared by RO Yu, recommending that a Preliminary Assessment Notice (PAN) for TY 2014 be sent to petitioner [herein respondent].

On October 13, 2017, the PAN with attached Details of Discrepancy for TY 2014 was issued and served through registered mail to petitioner's [herein respondent's] address at 78 C. Jose Street, Malibay, Pasay City, on November 3, 2017, under Registry Receipt No. RD 770 400 959 ZZ.

On December 6, 2017, a Formal Letter of Demand with Assessment Notice (FLD/FAN) relating to compromise penalty amounting to P50,000.00 and another FLD/FAN for deficiency VAT in the amount of P1,676,905.88, both for TY 2014, were issued and served through registered mail to petitioner's [herein respondent's] address at 78 C. Jose Street, Malibay, Pasay City, on December 14, 2017, both under Registry Receipt No. RD 770 391 903 ZZ.

On December 18, 2018, a WDL for the collection of deficiency VAT for TY 2014 was issued to petitioner [herein respondent] and received by Ms. Umayam on February 19, 2019.

On March 20, 2019, or twenty-nine (29) days from the receipt of the WDL, respondent filed a *Petition for Review With Urgent Motion to Suspend Tax Collection and to Quash/Lift Warrant of Distrainment and/or Levy*⁶ before the CTA Division praying for the cancellation and withdrawal of the WDL due to non-compliance with due process requirements, prescription of the right to assess, and that the assessment is without factual and legal bases.⁷

Thereafter, trial proceeded, and the parties presented their respective pieces of evidence. On September 12, 2022⁸, the case was then submitted for decision.

On September 6, 2023, the Assailed Decision was promulgated. The dispositive portion⁹ of which is reproduced below:

Assailed Decision (September 6, 2023)

⁶ Division Docket, p. 10

⁷ Grounds, Petition for Review, Division Docket, p. 17.

⁸ Resolution, Division Docket, p. 897.

⁹ Division Docket, p. 921.

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WHEREFORE, premises considered, the instant *Petition for Review* is **GRANTED**. Accordingly, the Warrant of Distrainment and/or Levy dated December 18, 2018, the Formal Letter of Demand and the Assessment Notice both issued on December 6, 2017, assessing petitioner for deficiency Value-Added Tax in the amount of ₱1,676,905.88 for taxable year 2014, are **CANCELLED** and **SET ASIDE** for being null and void.

Further, respondent Commissioner of Internal Revenue, his authorized representatives, agents, or any person acting on his behalf are **ENJOINED** from taking any further action against petitioner Sellery Phils. Enterprises Inc. and from enforcing the collection of the foregoing assessment. This Order of suspension is **IMMEDIATELY EXECUTORY** consistent with Section 4, Rule 39 of the Rules of Court, as amended.

SO ORDERED.

The Court in Division ruled in favor of herein respondent as it found that the revenue officer who *continued* the audit on which the assessments were based is not armed with an LOA. It enunciated the ruling in the case of *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*¹⁰ where the Supreme Court pronounced that a revenue officer assigned to continue a tax audit or investigation must be authorized in a proper LOA anew. As part of the requirements of due process to produce a valid assessment, an LOA is necessary to properly apprise the concerned taxpayer that only certain revenue officers are authorized to conduct the examination of its books and records. Furthermore, the CTA Division also found that the BIR failed to prove that respondent actually received the PAN and FLD/FAN.

Petitioner, through the Office of the Solicitor General (OSG) and the BIR, received a copy of the Assailed Decision on September 14, 2023¹¹ and September 8, 2023¹², respectively. Thereafter, he filed a *Motion for Reconsideration*¹³ (MR) on September 21, 2023. The CTA Division eventually denied the same in the Assailed Resolution. The dispositive portion of which provides:

Assailed Resolution (November 13, 2023)

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Notice of Decision promulgated on May 24, 2022)*, [sic] is **DENIED** for lack of merit.

SO ORDERED.

¹⁰ G.R. No. 242670, May 10, 2021.

¹¹ Notice of Decision, Division Docket, p. 898.

¹² Notice of Decision, Division Docket, p. 899.

¹³ Motion for Reconsideration, Division Docket, pp. 924 to 929.

The OSG received a copy of the Assailed Resolution on November 29, 2023, while the BIR received the same on November 21, 2023¹⁴.

THE PROCEEDINGS BEFORE THE CTA EN BANC

On December 5, 2023, the present *Petition for Review*¹⁵ was filed. In a *Resolution* dated January 11, 2024, which respondent received on January 12, 2024, the CTA En Banc directed the latter to file its comment within ten (10) days from notice. On January 22, 2024, respondent timely filed the *Comment/Opposition (To Petitioner's Petition for Review dated 04 December 2023)*¹⁶.

Subsequently, in a *Resolution* dated January 29, 2024, the Court took note of the comment filed and thereafter referred the case for mediation. However, the parties decided not to have their case mediated pursuant to the *No Agreement to Mediate*¹⁷. Thus, in a *Minute Resolution*¹⁸ dated April 11, 2024, the case was submitted for Decision.

THE GROUND¹⁹

The sole reason of petitioner to elevate the matter before this Court is to challenge the finding of the CTA Division that no LOA was issued for the examination of the Books of Accounts of the Respondent.

THE ARGUMENTS

*Petitioner's arguments*²⁰

Petitioner insists that an LOA was previously issued for the purpose of investigating the tax compliance of respondent for taxable year 2014. Additionally, the audit was not a regular audit, but is mandatory pursuant to an application for retirement of business. It is necessary to be conducted in order to determine if there are existing deficiency taxes which must be settled first before respondent may proceed to retire its business.

Petitioner raised that there were no allegations nor evidence presented which would show that the assigned revenue officers who

¹⁴ Notice of Resolution, Division Docket, p. 940.

¹⁵ Petition for Review, EB Docket, pp. 1 to 12.

¹⁶ EB Docket, pp. 45 to 52.

¹⁷ EB Docket, p. 45.

¹⁸ EB Docket, p. 46.

¹⁹ Petition for Review, The Ground, EB Docket, p. 3.

²⁰ Discussion, EB Docket, pp. 3 to 7.

audited respondent failed to perform their duties. He then highlighted the importance of taxes being the lifeblood of the government, the presumption of regularity in the performance of his duties, and that the government already suffered losses and may incur more should the imposition and collection of taxes be hindered.

Moreover, petitioner justifies the assessments made against the respondent by stating that:

*Likewise, we must bear in mind that **whatever errors committed by its Officials should not have a tragic effect on the coffer of the government** and the same should not be beneficial to the taxpayer who is obliged to pay their contribution in the form of taxes to the government. Instead, they cannot be found in their registered address. [Italics added]*²¹

Petitioner is likewise firm in its position that if respondent is certainly willing to pay what is due, it should have exhibited good faith and informed the BIR of its whereabouts after the cessation of its business. The BIR was not remiss in its efforts to serve the assessments not only to respondent's registered address, but also to its other known addresses. Failing to do so, the BIR was constrained to resort to serve the assessments by registered mail.

Lastly, petitioner finds support in the 1988 case of *Commissioner of Internal Revenue v. Procter and Gamble Philippine Manufacturing Corporation & the Court of Tax Appeals*²², where the Supreme Court ruled that **the errors of certain administrative officers should never be allowed to jeopardize the government's financial position.**

Respondent's counter-arguments

In its *Comment*²³, respondent argues that in the conduct of *any tax assessment*, due process requires an LOA to ensure that the tax agents are authorized to carry out the audit. Thus, *any tax assessment issued without a valid LOA is a violation of the taxpayer's right to due process and is therefore void.*

Respondent stresses that the RO who examined its books and accounting records is not equipped with a valid LOA, but only a mere MOA. It then cited Revenue Memorandum Order No. 43-90 (RMO 43-90), which provides that any continuation of an audit in the event of

²¹ EB Docket, p. 6.

²² G.R. No. 66838, April 15, 1988.

²³ Comment/Opposition (To Petitioner's Petition for Review dated 04 December 2023), EB Docket, pp. 45 to 52.

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reassignment or transfer to a Revenue Office by an RO who is not included in a previous LOA, must be subsequently authorized in a newly issued LOA. Thus, a MOA issued in favor of the revenue officers who actually assessed respondent is not sufficient to produce a valid and binding assessment.

Respondent strongly refutes petitioner's general claim of presumption of regularity in the act of RO Yu, who was a holder of a mere MOA, of continuing the audit that was supposedly conducted by RO Baello and GS Panteriori – the proper officers named in the LOA. It cited the *Mcdonald's* case, where the Supreme Court ruled on the requirement of a new LOA in order for the substitute or replacement revenue officers to continue existing audits in cases of reassignments or transfers.

Lastly, respondent adds that in view of the failure of petitioner to prove that the PAN, FAN/FLD, and Assessment Notices were indeed received by respondent, it cannot attain finality. As a consequence, the subsequent issuance of a WDL is also invalid.

TIMELINESS OF FILING THE PETITION

The present Petition for Review was timely filed

Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA)²⁴ provides:

SEC. 3. *Who may appeal; period to file petition.* —
xxx

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition**

²⁴ Rules of the Court of Tax Appeals - approved by the Supreme Court on November 22, 2005 (A.M. No. 05-11-07-CTA); Amendments to the 2005 Rules of Court of the Court of Tax Appeals - approved by the Supreme Court on September 16, 2008 (A.M. No. 05-11-07-CTA); and Additional Amendments to the 2005 Revised Rules of the Court of Tax Appeals – approved by the Supreme Court on February 10, 2009 (A.M. No. 05-11-07-CTA).

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for review. (*Rules of Court, Rule 42, sec. 1a*) (*Emphasis supplied*)

According to the RRCTA, the timely filing of a motion for reconsideration or new trial before the CTA Division is a prerequisite before an appeal to the CTA En Banc may be made. Moreover, jurisprudence dictates that the failure to do so may be a ground for dismissal²⁵.

As previously stated, when petitioner received a copy of the Assailed Decision, it timely filed an MR which was eventually denied in the Assailed Resolution dated November 13, 2023. This was received by the OSG on November 29, 2023, while the BIR received the same on November 21, 2023²⁶.

On December 5, 2023, or six (6) days from the OSG's receipt of the Assailed Resolution, and fourteen (14) days from the BIR's receipt of the same, the present *Petition for Review*²⁷ before the CTA En Banc was filed.

Following the 15-day period to make an appeal to the CTA En Banc as required by the RRCTA, the present *Petition* was timely filed.

We now proceed to address the merits of the appeal.

THE RULING OF THE COURT

The Petition for Review must be denied.

At the outset, this Court cannot discount the fact that the *Petition* is a complete restatement of petitioner's *MR*²⁸ before the CTA Division. In connection thereto, respondent's *Comment*²⁹ to the present *Petition* is also a reiteration of its *Comment*³⁰ to such an MR – both of which, the Court in Division has already ruled.

Nonetheless, this Court will still afford petitioner the opportunity to review its case and address the arguments raised herein.

²⁵ *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 201530 & 201680-81, April 19, 2017.

²⁶ Notice of Decision, Division Docket, p. 898.

²⁷ Petition for Review, EB Docket, pp. 1 to 12.

²⁸ Motion for Reconsideration, Division Docket, pp. 924 to 929.

²⁹ EB Docket, pp. 45 to 52.

³⁰ Division Docket pp. 932 to 938.

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***The CTA Division correctly
found that a proper LOA
was not present in this case***

Petitioner mainly argues in the instant *Petition* that the CTA Division erred in ruling that no LOA was issued for the examination of the books of accounts of the respondent, and insists that an LOA dated August 25, 2015 was issued for the investigation of respondent's tax compliance for taxable year 2014.

While petitioner is correct as to the existence of an LOA previously authorizing the examination of the books of account of respondent, such LOA, did not however, authorize the revenue officer who *actually* conducted the audit.

The very *Judicial Affidavit*³¹ of RO Yu, the revenue officer who actually examined the books of accounts of respondent, and subsequently recommended³² the issuance of a PAN and other assessment notices against the latter, declared that the investigation of respondent's case was on the basis of a LOA:

8. Q: As a Revenue Officer what are your duties and responsibilities?

A: Among my duties in said Office is to **examine taxpayers** within the jurisdiction of the district in order to collect the correct amount of tax or recommend the assessment of any deficiency tax due **pursuant to a Letter of Authority** issued by the Revenue Regional Director. (Section 13, of the National Internal Revenue Code (NIRC) of 1997, as amended.);

9. Q: Are you familiar with the Petitioner of this case? Why?

A: **I was assigned to conduct an investigation on the Petitioner's all internal revenue taxes for taxable year 2014.**

10. Q: Do you have any record of this investigation?

A: Yes, there is tax docket.

11. Q: I am showing to you tax case docket of **SELLERY PHILS ENTERPRISES INC.** for taxable year 2014 marked as Exhibit "R-1", does this have any relation with what you have just mentioned?

A: This is the tax docket of the Petitioner.

³¹ Exhibit "R-14", Division Docket, p. 721.

³² Exhibit "R-5", BIR Records, pp. 167-168.

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12. Q: **Do you have any proof of that assignment** which you just have mentioned?

A: Yes.

13. Q: **What is that proof?**

A: A **Letter of Authority** with No. **LOA-25A-2015-00000051** dated August 25, 2015 **was issued assigning the case to me.**

14. Q: I am showing to you this Letter of Authority marked as Exhibit "R-2", what relation does this document have with what you mentioned earlier?

A: This is the Letter of Authority I was referring to.
[Emphases Supplied]

Upon scrutiny by this Court of the LOA³³ mentioned by RO Yu, it shows that the revenue officer and group supervisor who were expressly named and authorized to conduct the audit of respondent's books and accounting records are "*RO – Jayson Baello/GS – Marita Panteriori*". Nowhere in such LOA, can the name of RO Yu be found.

Thus, this Court confirms that the CTA Division is correct in ruling that RO Yu together with GS Roldan, Jr., were not armed with a proper LOA to conduct the audit. They cannot conveniently rely on an existing LOA which apparently authorized a different revenue officer or group supervisor. Additionally, it is not enough that RO Yu and GS Roldan, Jr., aside from the subject LOA, rely on a mere MOA to continue the audit of the revenue officers originally named in the LOA.

Indeed, the Court in Division, as supported by jurisprudence, is correct in pointing out that a new LOA is required in the event that the audit and investigation process is undertaken by a revenue officer not otherwise named in an existing LOA; and that the issuance of a subsequent MOA does not in any way cure the lack of a proper authority:

Further, the reassignment or transfer of an RO requires the issuance of a new or amended LOA in favor of the substitute or replacement RO. An MOA issued by the RDO is not proof of the existence of authority of the substitute or replacement revenue officer; it is not equivalent to an LOA and does not cure the RO's lack of authority.

Without a new or amended LOA, the substitute or replacement RO has no valid authority to continue the audit, and the resulting assessments would be void.

³³ Exhibit "R-2", Division Docket, p. 724.

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Similarly, in this case, RO Yu and GS Roldan, Jr. continued the audit examination of petitioner for TY 2014 without a new or amended LOA. Their authority was based on the two MOA issued and signed by RDO Salazar, a subordinate official who is not authorized to issue a LOA

Undeniably, RO Yu and GS Roldan, Jr. had no valid authority to continue the examination of petitioner; hence, the resulting deficiency VAT assessment issued against petitioner is void.³⁴

In relation thereto, the Supreme Court pronouncement in the case of *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*³⁵ is key in resolving matters involving the critical role of a valid LOA:

Sec. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. —

- (A) Examination of Return and Examination 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: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

Based on the afore-quoted provision, it is clear that **unless authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken.** [*Emphasis Supplied*]

From the foregoing, it can be gleaned that the *Medicard* case provides clarity and instruction that a valid tax assessment can only stem from a valid and proper LOA. Otherwise stated, without an LOA, no revenue officer can undertake to proceed and audit a taxpayer and its affairs. The High Court then further ruled the same in the later case of *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*³⁶ to wit:

The audit process normally commences with the issuance by the CIR of a Letter of Authority. The LOA gives notice to the taxpayer that it is under investigation for possible deficiency tax assessment; at the same time it authorizes or empowers a designated revenue officer to examine, verify, and scrutinize a taxpayer's books and

³⁴ Decision, EB Docket, p. 29.

³⁵ G.R. No. 222743, April 5, 2017.

³⁶ G.R. No. 183408, July 12, 2017.

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records, in relation to internal revenue tax liabilities for a particular period.

Additionally, in the recent case of *Commissioner of Internal Revenue v. Manila Medical Services, Inc.*³⁷, it was likewise ruled:

To emphasize, a 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.

From the foregoing jurisprudential precepts, it is to be emphasized that unless and until a revenue officer is armed with a proper LOA, an assessment can never commence and any assessment already issued, can never be valid and produce valid results.

Hence, in view of this Court's consideration of the testimonial and documentary evidence presented before the CTA Division, We rule that the latter did not err in cancelling and setting aside the assessments and the resulting WDL made against respondent for being null and void.

***A proper LOA is still
necessary in mandatory
audit cases***

Petitioner also endeavors to explain that the audit on which the assessments were made is not in the nature of a regular assessment, but a mandatory audit in relation to an application for retirement of business.

Such argument must fail.

To reiterate, unless and until a revenue officer is properly authorized, an assessment can never commence and any assessment already issued without authority, can never be valid and produce valid results.

Aside from the jurisprudence already discussed, Section 13 of the NIRC is the instructive key provision as regards the matter of authority of a revenue officer to examine the books of accounts of a taxpayer:

Section 13. Authority of a Revenue Officer. — Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, **a Revenue Officer**

³⁷G.R. No. 255473, February 13, 2023.

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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 supplied*]

From the plain and unequivocal language of the provision, an LOA is required in the *performance of the assessment functions of a revenue officer*. The law did not distinguish as to what kind of assessment it should be. Basic is the rule in statutory construction that when law does not distinguish, the courts must not also distinguish - *ubi lex non distinguit nec nos distinguere debemus*.

Thus, as long as a revenue officer performs assessment functions, be it a regular assessment or in this case, a mandatory audit as regards an application for closure of business, an LOA is necessary. An assessment made pursuant to a mandatory audit is no different from a regular assessment that would dispense with the requirement of a LOA; or worse, allow taxpayers to be deprived of its right to due process. The taxpayers in this case still have the right to be made aware of the revenue officers who are rightfully authorized to investigate its business.

***Lack of a proper LOA
is not a "mere error" that
excuses revenue officers for
their non-compliance with the
requirements of the law***

In further support of the instant *Petition*, the BIR attempts to justify the assessments by stating that *whatever errors committed by its Officials should not have a tragic effect on the coffer of the government*, and so as not to affect the latter's financial position.

The Court is not convinced.

Time and again, the CTA has observed the BIR's heavy reliance on important concepts such as the lifeblood doctrine and presumption of regularity in its imposition and collection of taxes; and further points out the losses which the government already incurred or will incur should the administration and collection of the same be hampered.

While these are central to the government's power to tax, it cannot be used as a license to disregard rules and regulations and affect the right of taxpayers to due process.

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In connection with the present case, the absence of a proper LOA is not a “mere error or irregularity” on the part of BIR revenue officers that can be excused to justify imposition and collection of taxes.

Consequently, the presumption of regularity remains as it is – a mere presumption. Once a taxpayer presents evidence to defeat such presumption, it ceases to be one – as in this case.

On a final note, the Court finds it crucial to stress the pronouncement of the Supreme Court in the recent case of *Commissioner of Internal Revenue v. Manila Medical Services, Inc.*³⁸:

While it is true that taxation is the lifeblood of the government, the power of the State to collect tax must be balanced with the taxpayer's right to substantial and procedural due process. **The Court has recognized that, between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.** *[Emphasis supplied]*

All told, the absence of a LOA is one that affects the rights of the taxpayer and the legality of the entire tax assessment process. It is not a mere technicality that can be set aside and ignored. Therefore, We find no error in the CTA Division’s act of cancelling and setting aside the WDL and the assessments on which it is based, for being null and void.

WHEREFORE, premises considered, the *Petition for Review* is **DENIED** for lack of merit. Consequently, the Assailed Decision dated September 6, 2023 and Resolution dated November 13, 2023 of the CTA Division are hereby **AFFIRMED**.


SO ORDERED.


HENRY S. ANGELES
Associate Justice

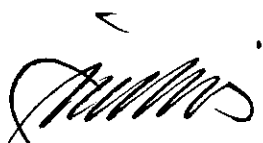
³⁸ G.R. No. 255473, 13 February 2023.


WE CONCUR:

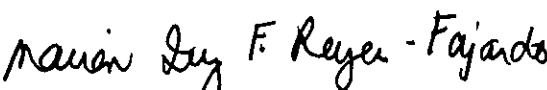

ROMAN G. DEL ROSARIO
Presiding Justice



MA. BELEN M. RINGPIS-LIBAN
Associate Justice



CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice

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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.

A handwritten signature in black ink, appearing to read 'Roman G. Del Rosario', written in a cursive style.

ROMAN G. DEL ROSARIO

Presiding Justice