

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SET AND STAGE RESOURCES
MANAGEMENT, INC.,

Petitioner,

CTA CASE NO. 10703

Members:

- versus -

RINGPIS-LIBAN, P.J. Chairperson,
MODESTO-SAN PEDRO, and
FERRER-FLORES, JJ.

COMMISSIONER OF INTERNAL
REVENUE,

Promulgated:

Respondent.

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RESOLUTION

RINGPIS-LIBAN, P.J.:

Before the Court is petitioner's *Motion for Partial Reconsideration (Re: Decision dated 13 February 2026) with Notice of Change of Address and Consent to Receive [sic] Electronic Mail* filed on March 31, 2026, without respondent's comment per *Records Verification* dated May 13, 2026.

On February 13, 2026, the Court promulgated a Decision partially granting the *Amended Petition for Review* by cancelling respondent's compromise penalty, while upholding in part the deficiency value-added tax (VAT) assessment against petitioner for the period from January 1, 2019 to June 30, 2019, the dispositive portion of which reads as follows:

“**ACCORDINGLY**, considering the foregoing, the present *Amended Petition for Review* is **PARTIALLY GRANTED**. ”

The assessments issued by respondent against petitioner covering deficiency VAT for the period from January 1, 2019 to June 30, 2019 is **UPHELD IN PART**. Accordingly, petitioner is **ORDERED TO PAY** respondent the aggregate amount of **₱7,550,901.81**, inclusive of 25% surcharge and 12% deficiency interest imposed under Section 248(A) (3) and Section 249(B) and (C) of the NIRC of 1997, as amended by Republic Act

(RA) No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018, computed until April 1, 2021, as follows:

[...]

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 as of April 1, 2021, in the amount of **₱7,550,901.81** or equivalent to **₱2,482.49** per day, computed from April 2, 2021 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963, and as implemented by RR No. 21-2018.

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 with any increment thereto incident to delinquency.

SO ORDERED.”

In its motion, petitioner argues that the deficiency VAT assessment should be entirely set aside, contending that the *Letter of Authority* (LOA) upon which the assessment is anchored warrants nullity. Petitioner explains that a valid LOA is a jurisdictional prerequisite to any examination of a taxpayer's books, without it, the examination and all resulting assessments are void. In this regard, petitioner reiterates its position that the issuance of three (3) LOAs that pertain to the same taxpayer, same tax type, and same taxable period, triggers the mandatory duty of respondent Commissioner of Internal Revenue (CIR) to determine which LOA prevails. Failure to do so, violates the rule on the issuance of multiple LOAs under Section IV(D)(2) of Revenue Memorandum Order (RMO) No. 8-2006.¹

Petitioner asserts that the issuance of multiple LOAs without determining which LOA prevails, resulted in an overlapping and indeterminate audit authority. As such, petitioner submits that the existence of multiple LOAs without prior and complete cancellation of proper authorities, renders the audit unauthorized, and the resulting assessment *void ab initio*.

Petitioner further avers that assuming *arguendo* the merits may be considered, respondent's assessment remains unsustainable as the items upheld rest on sequencing gaps, database/reconciliation variances, and incomplete Accounts Receivable (AR) schedules – none of which establish actual taxable sales or receipts. Petitioner submits that tax liability must be grounded on clear and competent evidence, not on conjectures, assumptions, or speculative inferences drawn from incomplete or inconclusive records.

¹ SUBJECT: Prescribing Guidelines and Procedures in the Implementation of the Letter of Authority Monitoring System (LAMS).

Lastly, petitioner also informs the Court of the change of address of its counsels to 4F Citystate Center, 709 Shaw Blvd., Pasig City, and, thus, prays that all notices, pleadings, motions, orders, resolutions, decisions, judgment and other writs and process be sent to the aforementioned address. Petitioner likewise prefers, and give consent, to cause the said notices to be served upon them through their official electronic mail address.

After consideration, the Court finds petitioner's motion bereft of merit. Moreover, petitioner's *Notice of Change of Address and Consent to Receive Electronic Mail* is hereby **NOTED**.

At the outset, petitioner's principal argument is the alleged nullity of the LOAs which the Court has already discussed thoroughly in the assailed Decision. The Court reiterates the ruling in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,² that Section D(5) of RMO No. 43-90 dated September 20, 1990,³ expressly and specifically requires the issuance of a new LOA if revenue officers stated therein are reassigned or transferred to other cases. The issuance of a new LOA for the same taxable period is not prohibited if such new LOA is necessitated by the reassignment, retirement, or other inability of the incumbent RO to continue an investigation. In this case, respondent merely complied with the said requirement.

With regard to petitioner's argument that the CIR should have made a determination of which among the LOAs issued should govern, the Supreme Court had the occasion to rule in *Republic of the Philippines v. Robiegie Corporation*,⁴ that when a taxpayer investigation is transferred from one revenue officer to another, the responsible BIR official with authority to issue LOAs shall issue a new LOA to the new revenue officer assigned to the investigation. **The old LOA in favor of the reassigned revenue officer shall be *deemed* cancelled**, and the new LOA issued to the subsequently designated revenue officer shall prevail, in accordance with the provisions of RMO No. 8-2006, issued on February 1, 2006. Correspondingly, the absence of a separate *written determination* by respondent is not a defect where the new LOA itself is already considered as the determination.

In this case, the first (1st) LOA with SN: eLA201700004376 was issued on January 3, 2020, authorizing Revenue Officer (RO) Angeli Malana and Group Supervisor (GS) Dante Tan to examine petitioner's books.⁵ According to the testimony of respondent's witness,⁶ since GS Dante Tan was promoted, a second

² G.R. No. 242670, May 10, 2021.

³ 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

⁴ G.R. No. 260261, October 3, 2022.

⁵ Exhibit "P-24", Formal Offer of Evidence (FOE) Binder – Vol. 1.

⁶ Transcript of Stenographic Notes for the hearing held on August 15, 2024, pp. 52 to 53, and 60 to 62.

(2nd) LOA with SN: eLA201700004684 was issued on July 30, 2020 authorizing RO Malana and a new group supervisor, GS Pauline Lydia Reyes.⁷

Subsequently, the audit of petitioner's books of accounts continued under this 2nd LOA, up until the time of the issuance of the *Final Assessment Notice/Formal Letter of Demand* (FAN/FLD) on March 2, 2021. It is worth noting that the FAN/FLD states that it was issued under the 2nd LOA, and RO Malana was the same revenue officer who conducted the investigation of petitioner's books of accounts as properly authorized to do so under the 1st and 2nd LOAs.

Again, due process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and the assessment, and this requires that the LOAs must contain the names of the authorized revenue officers.⁸ Correspondingly, petitioner cannot be said to have been deprived of due process when it was always aware that it was RO Malana who had the authority to examine its books of accounts.

Furthermore, it was only after petitioner filed its *Request for Reinvestigation* on the 2nd LOA on May 11, 2021,⁹ that the third (3rd) LOA with SN: eLA201700062883 was issued on July 28, 2021, but to a different audit team, RO Rodolfo III Cabalona and GS Abdulhalim Usman, due to reassignment of case under Revenue Travel Assignment Order No. 100-2021 dated March 1, 2021.¹⁰ Considering that petitioner posted its *Petition for Review* on December 6, 2021 due to respondent's inaction, no act of RO Cabalona or GS Usman under the 3rd LOA forms part of the assessment under review. Stated simply, the 3rd LOA, which was issued after the FAN/FLD and after the filing of petitioner's protest, cannot affect the validity of an assessment already issued under the authority of the officer named in the first two.

Petitioner also contends that the Court expanded the scope of the audit beyond the coverage of the LOAs when it considered the official receipts (ORs) bearing dates in 2018, which is in direct violation of the Supreme Court rulings in *Commissioner of Internal Revenue v. De La Salle University, Inc.*,¹¹ *Commissioner of Internal Revenue v. Sony Philippines, Inc.*,¹² and *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*¹³

The Court finds petitioner's contention misplaced.

⁷ Exhibit "P-25", FOE Binder – Vol. 1.

⁸ *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021.

⁹ Exhibit "P-2", FOE Binder – Vol. 1.

¹⁰ Exhibit "P-26", FOE Binder – Vol. 1.

¹¹ G.R. No. 196596, November 9, 2016.

¹² G.R. No. 178697, November 17, 2010.

¹³ G.R. No. 183408, July 12, 2017.

First, the above-cited cases are not in point. In the *De La Salle* case, a LOA for “fiscal year ending 2003 and unverified prior years” was upheld as to 2003 and struck down only as to the unspecified prior years. In the *Sony* case, the LOA covered “1997 and unverified prior years,” and in the *Lancaster* case, the LOA covered taxable year 1998 to an unspecified date in the LOA, and the disallowance related to expenses of a fiscal year ending in 1999. In each of the cited cases, the assessment covered period outside the LOA. Nothing of the kind occurred in the present case.

Second, the Court did not assess any transaction for taxable year 2018. It merely examined the ORs that petitioner itself issued from its series for January to June 2019, and found that four (4) of them bear 2018 dates although numbered between ORs dated February to April 2019. And, in the absence of any proof that the said receipts were reported in 2018, the Court treated them as receipts of the covered period. Simply put, the ORs were treated as they were offered, which are included in the January to June 2019 —the very period the LOAs authorized the revenue officer to examine.

Third, while a LOA limits the taxable period for which a deficiency may be assessed; it does not limit the documents this Court may review in determining the correct amount of receipts for that taxable period. Whether a receipt evidenced by an OR dated 2018 was in fact received in 2019 is precisely the question that is being asked to draw an answer.

As to petitioner’s argument that respondent’s assessment remains unsustainable since none are grounded on clear and competent evidence, the Court is not swayed.

In *Commissioner of Internal Revenue v. Spouses Remigio P. Magaan et al.*,¹⁴ the Supreme Court had occasion to clarify that the presumption that tax assessments by tax examiners are presumed correct and made in good faith. The Supreme Court elaborated on this doctrine and stated that assessments “must be based on facts and not mere presumptions.” In failing to provide the taxpayers with material information, the CIR denied them the opportunity to effectively protest. This renders the assessments void, for which the taxpayers cannot be held liable.

As applied in this case, if a taxpayer files a petition for review in the CTA and assails the assessment, the *prima facie* presumption is that the assessment made by the BIR is correct, and that in preparing the same, the BIR personnel regularly performed their duties. However, the *prima facie* correctness of a tax assessment does *not* apply upon proof that an assessment is utterly without foundation, meaning it is arbitrary and capricious. Where the BIR has come out with a “naked assessment,” i.e., without any foundation, the determination of the tax due is without rational basis.

¹⁴ G.R. No. 232663, May 3, 2021.

The presumption of regularity yields when the assessment is shown to be a naked assessment, or the taxpayer proves that the assessment is erroneous and without basis. Here, the Court's evaluation of the assessment rests on petitioner's own Income Tax Return sales, AR balances, and VAT returns. Thus, the burden of proof is on petitioner to show that the assessment was made without sufficient foundation.

A. Undeclared Receipts from missing or unaccounted official receipts – ₱18,891,253.52.

Again, respondent found petitioner liable for undeclared receipts from the missing ORs in the amount of ₱57,923,593.19. Petitioner argues that out of the submitted ORs, four (4) were transactions are dated, reported, and remitted in 2018, namely: OR No. 65 dated December 28, 2018, OR Nos. 68 and 69 dated April 12 and May 30, 2018, and OR No. 70 dated May 30, 2018.¹⁵

However, the Court found that the four (4) ORs in question belong to the series of ORs petitioner issued for the covered period, *i.e.*, OR No. 65 is numbered between OR No. 64 dated February 25, 2019, and OR No. 66 dated March 22, 2019; and OR Nos. 68, 69, and 70 are numbered between OR No. 66 and OR No. 72 dated April 25, 2019. Since the ORs were not issued in chronological order, the Court concluded that their place in the sequence indicates that they were issued sometime between March to April 2019.

Accordingly, the date on the face of an OR is thus, by itself, insufficient to establish that the corresponding receipts were duly recorded, reported, and the applicable taxes were properly accounted for and remitted within taxable year 2018. Petitioner failed to discharge its burden of substantiating that these transactions were indeed recognized in its books and reported in the appropriate taxable period. Petitioner could have presented its general ledger, books of accounts, bank statements, or a reconciliation schedule showing that the amounts were taken up in 2018. However, it presented none of these. In the absence of such supporting documents, the claim that these transactions were duly reported and the corresponding taxes remitted in taxable year 2018 remains unsubstantiated.

Hence, the assessment on undeclared receipts from missing ORs, as reduced to ₱18,891,253.52, is sustained by the Court.

¹⁵ Exhibits "P-27-3" (OR No. 65), "P-27-6" (OR No. 68), "P-27-7" (OR No. 69), "P-27-8" (OR No. 70), FOE Binder – Vol. 1.

B. Undeclared income from unaccounted purchase of services – ₱1,606,082.73.

Petitioner argues that the expanded withholding tax (EWT) attaches to payments subject to withholding, whereas VAT on services is imposed on gross receipts supported by VAT ORs; the two are neither co-extensive in timing nor identical in coverage.

Verily, petitioner cannot simply dismiss this difference by asserting that EWT and VAT are distinct taxes. While it is recognized that EWT and VAT are governed by different rules as to their taxable bases, timing, and coverage, the EWT records show that petitioner made payments for services subject to withholding. The substantial discrepancy between the services subjected to EWT and the services declared in the VAT returns therefore requires satisfactory explanation and competent supporting evidence. Unfortunately, petitioner failed to present the documents necessary to substantiate its defense and overcome the findings of the assessment.

Hence, the Court finds no compelling basis to depart from the findings.

C. Undeclared income from unaccounted purchases per Third-Party Information – ₱71,031.12.

Petitioner argues that the retention of ₱71,031.12, based on an alleged admission in petitioner's protest or reconciliation, does *not* cure the evidentiary defect. Petitioner insists that having rejected the assessment based on Third-Party Information (TPI) for lack of sworn confirmation, the Court should not retain any portion of an item resting on the same TPI data, and that its statement in the protest that two transactions tally with its records is not an admission of VAT liability.

Section 27 of Rule 130 of the Rules of Court of 1997, as amended, provides that the declaration of a party as to a relevant fact may be given in evidence against him. In this case, petitioner offered its *Request for Reinvestigation on LOA-V08-2020-2018-00000275 / SN eLA20170004684*,¹⁶ coincidentally, petitioner stated in paragraph 4 of page 4, that two (2) of the transactions claimed in the assessment finding correspond with its own records pertaining to 2 of its suppliers, *Coolcreater Aircon Trading and Services, Inc.* and *Savemoney Trading, Inc.* Such admission constitutes competent evidence that confirms the existence and accuracy of the subject transactions. Indeed, the TPI-based items were cancelled because the data was unverified, however, petitioner's own admission supplies the verification for the said two transactions, removing the very defect that led to cancellation of the rest.

¹⁶ Exhibit "P-2", FOE Binder – Vol. 1.

Hence, the assessment on unaccounted purchases in the amount of ₱71,031.12 shall remain.

D. Receipts not subjected to VAT – ₱8,605,955.35.

Petitioner argues that it submitted invoices, ORs, and reconciliation schedules to demonstrate that the alleged discrepancies arose from prior-period adjustments, and timing differences in collections and proper classification of receivables. According to petitioner, the Court's Decision itself acknowledges that certain amounts may have been recorded in earlier periods and that reconciliation issues attended the account. Notwithstanding, petitioner assails the Court in sustaining the assessment on the ground of perceived insufficiency of petitioner's submissions.

With emphasis, the Court did not acknowledge or concede that amounts may have been recorded in earlier periods and that reconciliation issues attended the account. The Court only compared petitioner's submitted evidence, stating that it was "*unable to ascertain whether this amount remained receivable as of June 30, 2019*" and found the documents "*insufficient.*"

To again reiterate, the documents submitted by petitioner are insufficient to establish that the subject accounts receivable remained uncollected as of June 30, 2019. While the invoices, and reconciliation schedule may explain the alleged discrepancies, they do not, by themselves, constitute competent and sufficient evidence of the outstanding status of the receivables as of the relevant date. Petitioner failed to present adequate supporting documents demonstrating that the amounts remained unpaid and collectible as of June 30, 2019.

Accordingly, petitioner's submission fails to overcome the factual basis of the assessment. The alleged explanations for the discrepancies cannot substitute for competent proof of the actual status of the receivables as of June 30, 2019. For the said reason, the Court finds no sufficient basis to disturb the findings in the Decision.

E. Undeclared Extraneous Income – ₱6,485,460.43.

To recall, respondent assessed petitioner for an understatement of its revenues in the amount of ₱6,485,460.43. According to the ICPA, these revenues were booked in 2019 and remained uncollected as of June 30, 2019. Petitioner insists that it submitted invoices, official receipts, and reconciliation schedules to demonstrate that the alleged discrepancies arose from prior-period adjustments, and timing of collections.

However, a mere assertion that revenues remained uncollected as of a particular period does not, by itself, establish the existence of an outstanding receivable. Such claim must be substantiated by contemporaneous accounting and transaction records, including the accounts receivable subsidiary ledger, aging of receivable, general ledger, invoices, ORs, collection records and other relevant documents. In the absence of such corroborating evidence, the alleged uncollected revenue remains unsubstantiated. Hence, the Court shall retain the assessment item.

F.1. Disallowed input tax on local purchases – ₱424,869.05.

In the assailed Decision, the Court set forth the details of the disallowed input VAT amounting to ₱424,869.05, which was disallowed for failure to comply with the invoicing and accounting requirements under Section 113 of the National Internal Revenue Code (NIRC), as amended. The Court arrived at its findings after conducting a document-by-document examination of the supporting documents and determining that the subject documents failed to satisfy the applicable statutory requirements.

Petitioner now argues that a proper evaluation necessarily requires per document analysis: first, to identify the exact statutory requirement omitted; second, to determine whether such requirement is applicable to transaction involved; and third, to ascertain whether the document indeed fails to comply.

However, the vital issue in this case is whether petitioner was able to present substantial, competent, and valid documentary evidence sufficient to overturn respondent's assessment. It was not. The documents submitted by petitioner, particularly those supporting the amount of ₱424,869.05, were found to be invalid and therefore incapable of establishing the transactions they purported to substantiate. Time and again, the Court reminds that the invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.¹⁷ It must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.¹⁸

Consequently, petitioner failed to discharge the burden of proving that respondent's assessment was erroneous, and the assessment corresponding to ₱424,869.05 must stand.

F.2. Disallowed input tax carried over from previous quarter – ₱494,438.88.

¹⁷ *Kepeco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 181858, November 24, 2010.

¹⁸ *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 168856, August 29, 2012.

Petitioner requests the Court to recompute or reduce this finding in accordance with the extent of proven statutory defects, if any. However, petitioner did not specify what was wrong with the Court's findings or even offered to present its own computation.

It bears emphasis that the burden rests upon petitioner to substantiate its dispute on respondent's assessment through competent and sufficient evidence. He who alleges a fact has the burden of proving it by a preponderance of evidence. It is incumbent upon the party claiming affirmative relief from the Court to convincingly prove its claim. Bare allegations unsubstantiated by evidence are not equivalent to proof under our Rules. In short, mere allegations are not evidence.¹⁹ And, in the absence of such evidence, there is no sufficient basis to disturb respondent's finding and disallowance.

Hence, the assessed amount of ₱494,438.88 shall remain.

In view of the foregoing discussions and there being *no* new *n* substantial issue raised by petitioner in its motion that would warrant modification, the Court finds no compelling reason to reverse or modify conclusions reached in the Decision promulgated on February 13, 2026.

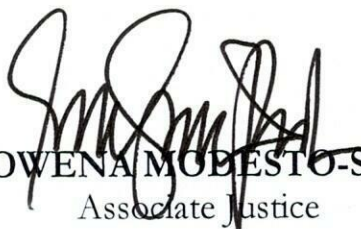
ACCORDINGLY, petitioner's *Motion for Partial Reconsideration (Re: Decision dated 13 February 2026)* is **DENIED** for lack of merit.

SO ORDERED.

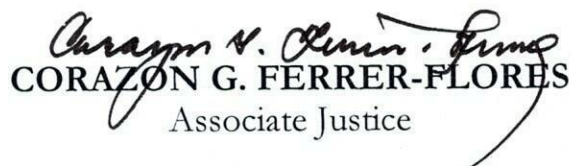


MA. BELEN M. RINGPIS-LIBA
Presiding Justice

We Concur:



MARIA ROWENA MOLESTO-SAN PEDRO
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice

¹⁹ *Emerlinda C. Manaloto, at al. v. Ismael Veloso III*, G.R. No. 171365, October 6, 2010.