REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

OT-012-2020
JAN 21 2020

MR. MELVIN H. CALATA
Calata Corporation
Banga 1st, Plaridel, Bulacan

Sir:

This refers to your Legal Petition Notice received by this Office on February 1, 2019 regarding your assertion, among others, that the failure to comply with Sec. 267[1] of the National Internal Revenue Code (NIRC) of 1997, as amended, shall result to the invalidation of the issued Letter of Authority, and among other issues you have raised.

In reply, please be informed that Revenue Memorandum Circular (RMC) No. 38-2013 provides the following, *to wit*:

> *"It has been observed that there is a proliferation of Legal Petition Notices (LPNs)/Declarations and similar documents coming from taxpayers and practitioners questioning the validity of the electronic Letters of Authority (eLAs) issued. Even as we repeatedly reply to these LPNs reiterating the validity of the eLAs pursuant to Sections 6(A) and 10(c) of the National Internal Revenue Code of 1997 (Tax Code), as amended, these taxpayers/practitioners persist on sending LPNs, thinking that LPNs, will stop or defer the investigation process. However, it is evident that they misconstrue the consequences of these LPNs and are ignoring the long established procedures for audit, assessment and protesting deficiency assessment."*

This Office is of the opinion that the issues you raised have already been addressed by RMC No. 6-2013 which *"clarifies taxpayers' concerns on the audit program and their responsibility in engaging tax agents/practitioners"* and RMC No. 38-2013 which *"clarifies the implication of Legal Petition Notices/Declarations and similar documents on the audit/assessment process."*

Mr. Calata is reminded of the doctrine of presumption of regularity which the Revenue Officers enjoy in the performance of official duties. It is worth mentioning that RMC No. 38-2013 insists on the following:

> *"[T]he normal process and/or procedures related to audit/investigation arising from eLA issued will not be suspended notwithstanding the receipt of LPN pertaining to the case. Moreover, the National Office shall no longer entertain any*

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[1] Sec. 267. Declaration under Penalties of Perjury

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LPN questioning the validity and enforceability of the eLA duly issued by the concerned Regional Director for the audit of taxpayer within the region inasmuch as the issue has already been clarified under RMC No. 6-2013." *(Emphasis supplied.)*

It bears stressing that in case the taxpayer does not agree on the assessment issued by the BIR, said taxpayer may, in accordance with law and established rules and procedures, lodge a protest against the assessment and raise all his defenses thereon, including the validity of the Letter of Authority issued therefor pursuant to Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and its implementing regulations.

To emphasize once more, this Office shall no longer entertain any Legal Petition Notice questioning the validity and enforceability of the Letter of Authority which have already been settled by RMC No. 6-2013, and as directed by RMC No. 38-2013.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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K1-FR-19-0204

Copy furnished:

MANUEL V. MAPOY
Regional Director, RR No. 5-Caloocan City
BUREAU OF INTERNAL REVENUE