REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE *Petitioner,*	**CTA *EB* NO. 3111** (CTA Case No. 10045)
	Present: **RINGPIS-LIBAN, P.J., BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
-versus-	
CENTRAL LUZON DRUG CORPORATION, *Respondent.*	Promulgated: MAY 08 2026 2:10

x -- x

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a Petition for Review,[1] filed on April 8, 2025, seeking the setting aside and cancellation of the Amended Decision[2] ("Assailed Decision"), promulgated on September 10, 2024, and the Resolution[3] ("Assailed Resolution"), dated February 19, 2025, both issued by the Court's Special Second Division ("Court in Division"); and praying for the issuance of a new decision denying respondent's petition for review and ordering it to pay deficiency tax liabilities, pursuant to *Sections 248 and 249 of the National Internal Revenue Code of 1997 ("Tax Code")*, as amended by *Tax Reform for Acceleration and Inclusion ("TRAIN")*.[4]

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[1] Petition for Review, *Rollo*, pp. 9-25.
[2] Amended Decision, dated September 10, 2024 ("Assailed Decision"), *id.* at 33-39.
[3] Resolution, dated February 19, 2025 (Assailed Resolution"), *id.* at 41-44.
[4] See Prayer, Petition for Review, *id.*, p. 56.

The Parties

Petitioner Commissioner of Internal Revenue ("CIR" or "petitioner") is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") who is charged with, among others, the duty of assessing and collecting internal revenue taxes, fees, or other charges and penalties imposed under the Tax Code. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[5]

On the other hand, respondent Central Luzon Drug Corporation ("CLDC" or respondent") is a corporation duly organized and existing under the laws of the Philippines, with principal office at No. 7, Richmond Avenue, Bagumbayan, Quezon City. It operates the drug stores bearing the name Mercury Drug located in Central Luzon under a Franchise Agreement with Mercury Drug Corporation.[6]

The Facts

On September 22, 2011, respondent received Letter of Authority ("LOA") No. LOA 116-2011-00000028/eLA201100002957 dated September 20, 2011 ("first LOA"),[7] signed by Assistant Commissioner ("ACIR") – Large Taxpayer Service ("LTS"), Alfredo Misajon, authorizing Revenue Officers ("ROs") Zenaida Pax, Myrna Ramirez, Ma. Salud Maddela, Cletofel Parungao, Allan Maniego, Joel Aguila, and Group Supervisor ("GS") Glorializa Samoy of Large Taxpayer Audit Division 1, to examine respondent's books of accounts for all internal revenue taxes for taxable year ("TY") 2010.

Afterwards, respondent received two letters from petitioner, both signed by Chief of Regular LT Audit Division 1 ("RLTAD 1") Cesar D. Escalada, regarding the designation of other ROs for the audit of its books for TY 2010. The first letter dated March 4, 2013[8] was received by respondent on March 7, 2013, informing it of the reassignment of the investigation to RO Rosario A. Arriola and GS Rolando M. Balbido. In the second letter dated April 18, 2013,[9] respondent was informed of the designation of ROs Shella Samaniego, Carolyn Mendoza and Reynante Martirez in the audit team.

The following assessment notices and decision, and corresponding protest and request for reconsideration, were thereafter exchanged between the parties:

[5] See par.1, Parties, Petition for Review, *id.* at 10; see also par. 2, Parties of the Case, Decision, dated May 2, 2024, Division Docket Vol. 6, pp. 2872.

[6] See par. 2, Parties, Petition for Review, *id.* at 10: see also par. 1, Parties of the Case, Decision, dated May 2, 2024, Division Docket Vol. 6, pp. 2872.

[7] Exhibit "P-15", Division Docket Vol. 1, p. 243.

[8] Exhibit "P-16", *id.* at 244.

[9] Exhibit "P-17", *id.* at 245.

1. A Preliminary Assessment Notice ("PAN") with Details of Discrepancies[10] was issued by petitioner on February 9, 2015, finding respondent liable for alleged deficiency income tax, value-added tax ("VAT"), expanded withholding tax ("EWT") and documentary stamp tax ("DST").

2. A Formal Letter of Demand ("FLD") with Details of Discrepancies,[11] together with Assessment Notices ("FAN"),[12] were issued by petitioner on March 2, 2015, demanding the payment of alleged deficiency taxes in the total amount of Php1,379,350,286.34. Respondent filed its protest[13] against the FLD/FANs on March 30, 2015, with additional supporting documents submitted on May 27, 2015.[14]

3. A Final Decision on Disputed Assessment ("FDDA") dated June 29, 2016,[15] was issued by petitioner, alleging deficiency income tax, VAT, EWT, and DST in the aggregate amount of Php1,567,244,729.09 for TY2010. Aggrieved, respondent filed its request for reconsideration[16] on July 29, 2016.

Before ruling on the request for reconsideration, petitioner served another LOA with No. 116-2011-00000028/eLA20160005703, dated January 8, 2019,[17] ("second LOA") signed by OIC-ACIR Teresita M. Dizon, authorizing RO Mendoza and GS Arriola to conduct the audit of petitioner's books and accounting records for TY 2010.

Thereafter, through a letter dated February 4, 2019,[18] petitioner denied respondent's request for reconsideration and maintained the deficiency tax assessments of Php1,565,675,063.68. Treating the same letter as petitioner's final decision on the subject assessments, respondent filed a judicial appeal on March 5, 2019.[19] It was docketed as CTA Case No. 10045 and was initially raffled to the Court's Third Division.

After a full-blown trial, the Court in Division rendered the Decision, dated May 2, 2024,[20] granting the original petition filed by respondent on March 5, 2019, the dispositive portion of which states:

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[10] Exhibit "P-2", *id.* at 296-305.
[11] Exhibit "P-4", *id.* at 349-358.
[12] Exhibit "P-5", *id.* at 372-375.
[13] Exhibit "P-6", *id.* at 376-397.
[14] Exhibit "P-7", *id.* at 398-423.
[15] Exhibit "P-8", *id.* at 424-433.
[16] Exhibit "P-9", *id.* at 449-463.
[17] Exhibit "P-10", Division Docket Vol. 2, p. 545.
[18] Exhibit "P-11", *id.* at 546-548.
[19] See original Petition for Review, Division Docket Vol. 1 pp. 10-47.
[20] Division Docket Vol. 6, pp. 2871-2895.

> **WHEREFORE**, premises considered, the instant Petition for Review filed by petitioner Central Luzon Drug Corporation filed on 05 March 2019 is hereby **GRANTED**. Accordingly, the letter dated 04 February 2019, holding petitioner liable for deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT) and documentary stamp tax (DST) in the aggregate amount of P1,565,675,063.68, for taxable year (TY) 2010, is **CANCELLED** and **SET ASIDE**.
>
> Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his behalf is hereby **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.
>
> **SO ORDERED**.

Unsatisfied, both petitioner and respondent moved for the Court in Division's reconsideration. In its Motion for Partial Reconsideration ("MPR"),[21] respondent mainly avers that the Decision, dated May 2, 2024, failed to rule on the reliefs prayed for in the Supplement to the Petition for Review dated 04 March 2019,[22] particularly: (1) that it is entitled to the refund of the alleged illegally collected taxes of Php7,374,982.48; and, (2) the CIR must be ordered to refund or issue a tax credit certificate (TCC) of the said amount to CLDC. The Supplement to the Petition involves the amounts garnished in respondent's Unionbank account pursuant to the Warrant of Distraint and/or Levy ("WDL") No. 116-2020-044[23] and Warrant of Garnishment ("WOG") No. 116-2020-044.[24]

Meanwhile, in the CIR's Motion for Reconsideration ("MR"),[25] petitioner vehemently argues that the assessments are valid. He insists that *Section 13 of the Tax Code* only required a LOA if the assigned ROs are from revenue district offices ("RDO"), otherwise, if the ROs are from the Office of the CIR ("OCIR"), their authority to conduct the tax audit arises from the CIR's organic function to assess under *Section 6(a) of the Tax Code*. It was further argued by petitioner that in cases of reassignment of ROs, a Memorandum of Assignment ("MOA") is sufficient for purposes of continuing the audit pursuant to *Revenue Memorandum Order ("RMO") No. 62-2010.*

Acting on the foregoing motions, the Court in Division granted respondent's MPR and denied petitioner's MR, thus, issuing the Assailed Decision[26] on September 10, 2024, which states:

> **WHEREFORE**, petitioner Central Luzon Drug Corporation's "Motion for Partial Reconsideration and/or Clarification (of Decision promulgated on May 2, 2024)" filed on 20 May 2024 is hereby **GRANTED**, while respondent Commissioner of Internal Revenue's "Motion for Reconsideration [re: Decision dated 02 May 2024]" filed on 20 May 2024 is **DENIED** for lack of merit. The

21 Division Docket Vol. 6, pp. 2896-2904.
22 Division Docket Vol. 5, pp. 2278-2284.
23 Annex "A", Division Docket Vol. 4, pp. 1840-1873.
24 Annex "F", Division Docket Vol. 5, p. 2139.
25 *Id.* at 2906-2918.
26 *Supra* note 2.

dispositive portion of the Decision dated 02 May 2024 is hereby **AMENDED** to read as follows:

> **WHEREFORE**, premises considered, petitioner Central Luzon Drug Corporation's instant Petition for Review filed on 05 March 2019 and the Supplement to the Petition for Review dated [0]4 March 2019 filed on 24 June 2021 are hereby **GRANTED**. Accordingly, the letter dated 04 February 2019, holding petitioner liable for deficiency income tax, value-added tax, expanded withholding tax (EWT) and documentary stamp tax (DST) in the aggregate amount of P1,565,675,063.68, for taxable year (TY) 2010, is **CANCELLED** and **SET ASIDE**. Consequently, the Warrant of Distraint and/or Levy No. 116-2020- 044 dated 06 October 2020 and the Warrant of Garnishment No. 116-2020-044 are also declared **NULL** and **VOID**.
>
> Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED** to refund or issue a tax credit certificate to petitioner the amount of P7,374,982.48, representing illegally assessed and erroneously collected EWT and DST for TY 2010.
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> Further, respondent Commissioner of Internal Revenue or any person duly acting on his behalf is hereby **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.
>
> **SO ORDERED.**

Undeterred, petitioner again moved for reconsideration[27] of the Assailed Decision. The same was denied through the Assailed Resolution[28] issued on February 19, 2025.

This led to the filing of the current Petition for Review on April 8, 2025.[29] Respondent, on the other hand, posted its Comment on May 26, 2025,[30] which was received by the Court on May 29, 2025.

In view thereof, the Court submitted the instant case for decision on September 17, 2025.[31]

The Issues

The issues, as raised by petitioner, are as follows:

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[27] See Motion for Reconsideration (re: Amended Decision dated 10 September 2024), Division Docket Vol. 6, 2958-2965.
[28] *Supra* note 3.
[29] *Supra* note 1.
[30] Comment (To Commissioner of Internal Revenue's Petition for Review dated 8 April 2025), *Rollo*, pp. 48-61.
[31] See Notice dated September 17, 2025, *id.* at 68.

I.
WHETHER THE COURT IN DIVISION ERRED IN RULING THAT THE ASSESSMENTS ISSUED BY PETITIONER ARE VOID

II.
WHETHER THE COURT IN DIVISION ERRED IN ORDERING PETITIONER TO REFUND RESPONDENT THE AMOUNT OF PHP7,374,492.48.[32]

The Arguments

In its Petition for Review,[33] petitioner argues that respondent should not be allowed to attack for the first time on appeal the validity of the assessment on the ground of lack of authority. He advances that such issue was never raised by respondent, is thus undisputed, and deserves scant consideration from the Court.

Further, petitioner insists that the assessments were made pursuant to a valid LOA, and the continuation of audit by another RO not named in the LOA does not invalidate the assessment. Specifically, petitioner reiterates the arguments already raised in its MR that *Section 13 of the Tax Code* only required a LOA if the assigned ROs are from RDOs. Here, since the audit investigation was conducted by the LTS, the LOA, according to petitioner, is not a statutory requirement. Also, for petitioner, assuming arguendo that a LOA is required, a valid LOA was issued in this case; thus, the assessments are likewise not contrary to law. Petitioner further posits that the reassignment of the ROs indicated in the LOA does not invalidate such assessments.

Finally, petitioner advances that the case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*[34] ("*Medicard case*") finds no application in the present issue since Medicard was assessed pursuant to a Letter Notice only, without a LOA. The case of *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corp.*,[35] ("*McDonald's case*") meanwhile, cannot be applied retroactively, according to petitioner; thus, should not be used as basis for invalidating the relevant assessments.

On the other hand, respondent, in its Comment[36] counters that the Court may rule on the issue of lack of authority even if not raised during the administrative proceedings.

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[32] See Assignment of Errors, Petition for Review, *id.* at 13.
[33] *Supra* note 1.
[34] G.R. No. 222743, April 5, 2017.
[35] G.R. No. 242670, May 10, 2021.
[36] *Supra* note 21.

Moreover, respondent argues that the Court in Division did not err in applying the *Medicard case* in the issue at hand. Here, according to respondent, although a LOA was initially issued, it remains that the ROs who eventually conducted the examination were not the same individuals named in the LOA; thus, such ROs were not validly and specifically authorized to pursue the audit.

Meanwhile, as regards the applicability of the *McDonald's case*, respondent highlights that the Supreme Court neither reversed an old doctrine nor adopted a new one; hence, the ruling therein must equally apply to the case at hand.

The Ruling of the Court

The instant Petition for Review was timely filed before the Court En Banc.

Before delving into the issues, we shall first look into the timeliness of the filing of the Petition for Review before the Court *En Banc*.

Under *Section 3 (b), Rule 8 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*,[37] a party adversely affected by a decision or resolution of a Division of the CTA on a motion for reconsideration or new trial may appeal to the Court *En Banc* by filing a petition for review within 15 days from receipt of the assailed decision or resolution.

Here, a copy of the Assailed Resolution was received by the petitioner on March 10, 2025.[38] Counting 15 days therefrom, petitioner originally had until March 25, 2025 within which to file an appeal. However, after motion,[39] petitioner was granted an extended time of until April 9, 2025.[40] Hence, the instant Petition for Review was timely filed on April 8, 2025.

Now, as regards the merits of the case, We deem it proper to highlight at the outset that it does not escape the Court *En Banc's* attention that petitioner's arguments in its Petition for Review are a mere rehash of the issues already raised before the Court in Division and exhaustively discussed and passed upon in the Decision dated May 2, 2024, the Assailed Decision and the Assailed Resolution. On this ground alone, the Petition for Review should already be dismissed. Nonetheless, for full disposal of the case at hand, We shall pass upon the issues raised.

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[37] A.M. No. 05-11-07-CTA, 22 November 2005.
[38] See Notice of Resolution stamped "Received" by petitioner's counsel on October 21, 2024.
[39] See Motion for Extension to File Petition for Review, *Rollo*, pp. 1-4.
[40] See Notice of Resolution dated March 26, 2025, *id.* at 8.

The Court may rule on the issue of lack of authority of the ROs to conduct the audit investigation even if not raised during administrative proceedings.

Petitioner contends that the Court in Division erred in invalidating the assessment on the ground that no new LOA was issued to the ROs who conducted the audit which led to the issuance of the herein assessment. He emphasizes that such issue on the authority of the ROs was only raised for the first time on judicial appeal; thus, according to petitioner, should not have been passed upon by the Court in Division.

Such contention does not hold water.

The *RRCTA* authorizes the Court to rule on issues necessary for the orderly disposition of the case, not just on those raised by the parties. *Section 1, Rule 14* states:

> SEC. 1. Rendition of judgment. — . . .
>
> . . .
>
> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.
>
> . . .

Moreover, the Supreme Court, in the case of *Commissioner of Internal Revenue vs. Opulent Landowners*[41] has already settled the authority of the CTA to rule upon issues "not raised at any point in the proceedings" particularly if it involves the authority of the ROs to conduct the audit, thus:

> As correctly ruled by the CTA EB, ***the CTA was authorized to rule on the authority of the revenue officers to conduct the audit and recommend the issuance of the deficiency tax assessments against respondent, notwithstanding the fact that this was not raised at any point in the proceedings.*** The Court has already upheld the CTA's authority to do so, pursuant to Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals and Section 7 of Republic Act No. 1125, as amended, given that such issue falls under the jurisdiction of the CTA. Likewise, the CTA EB correctly held that ***the deficiency tax assessments were invalid due to the revenue officers' lack of authority to do so.*** Under prevailing jurisprudence, *a LOA is statutorily required under the National Internal Revenue Code in order to clothe revenue officers with authority to examine taxpayers. It is axiomatic that only the revenue officers actually named under the LOA are authorized to examine the taxpayer.* This is likewise evident under the express provision of Revenue Memorandum Order No. 43-90, which provides that any

[41] G.R. Nos. 249883-84 (Notice), January 27, 2020.

> reassignment/transfer of cases to another revenue officer(s), and revalidation of a LOA which had already expired, shall require the issuance of a new LOA . *In the absence of a new LOA issued in favor of the revenue officers who recommended the issuance of the deficiency tax assessments against respondent, the resulting assessments are void.*
> (Emphasis and italics supplied)

Gleaning from the foregoing, the issue on the lack of authority delves into the intrinsic validity of the assessment itself. Clearly, it is an issue necessary for orderly disposition of the case which can be properly passed upon by the Court regardless of whether raised by the parties before the BIR and/or on appeal.

A valid LOA is required to properly clothe the ROs with the authority to conduct audit investigation; the Medicard and McDonalds cases were properly applied to the case at hand.

Petitioner submits that the issuance of an LOA is not required in the audit of respondent's books of accounts and other accounting records. He insists that under *Section 13 of the Tax Code*, the issuance of LOA applies only to ROs in RDOs, not when the audit is to be conducted by LTS which is an office under the OCIR.

We disagree.

The CIR's power to examine books of accounts of taxpayers, to make assessments and to authorize ROs to do the same are embodied not just in *Section 13 of the Tax Code* but must be read in conjunction with *Section 6 and 10 of the same law.* These provisions state that:

> **SEC. 6.** *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* -
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> (A) Examination of Return and Determination 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,*** notwithstanding any law requiring the prior authorization of any government agency or instrumentality [5]: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
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> . . .
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> **SEC. 10.** *Revenue Regional Director.* - Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional director shall, within the region and district offices under his jurisdiction, among others:
>
> . . .

(c) ***Issue Letters of authority for the examination of taxpayers within the region***;

. . .

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 italics supplied)

It is clear from the foregoing that unless duly authorized by the CIR or his duly authorized representative, an examination of the taxpayer cannot be undertaken. Being an office under the OCIR does not negate the requirement of being duly authorized by the CIR himself or his duly authorized representative pursuant to *Section 6 of the Tax Code*. Thus, We find no merit in petitioner's insistence that a LOA is not needed in this case which involves an audit conducted by the LTS.

For RDOs, it is clear from *Section 10 of the Tax Code* that the LOA may be issued by the Regional Director. For the LTS, however, *RMO No. 29-07* shows that the equivalent of the RD is the Assistant Commissioner/Head Revenue Executive Assistants, for they are the ones authorized to issue the LOA to wit:

1. The Chief, Large Taxpayers Audit & Investigation Divisions/ LTDOs shall draw a list of taxpayers selected for audit under its current selection criteria. The list shall state the name of taxpayer selected for audit, the nature of business, the amount of gross sales/receipts, the selection code, the PSIC code, and the corresponding amount of tax paid for the period. The said list shall be submitted to the Assistant Commissioner/Head Revenue Executive Assistant, Large Taxpayers Service for approval. copy furnished the Commissioner of Internal Revenue.

2. ***All Letters of Authority (LOAs) shall be issued and approved by the Assistant Commissioner/ Head Revenue Executive Assistants.***

(Emphasis and italics supplied)

Moreover, as discussed by the Court in Division, *RMO No. 43-90* provides that the only BIR officials authorized to issue and sign LOAs are the Regional Directors, the Deputy Commissioners and the Commissioner himself.

In this case, the first LOA was duly issued by ACIR Misajon. However, the authority of ROs Arriola, Samaniego, Mendoza, and Martirez, and GS Balbido, all of whom actually conducted the audit examination and recommended the issuance of the assessment notices, sprung from MOA No. LOA-2013-0446 which was signed by Chief Escalada of RLTAD 1. As aptly found by the Court in Division, Chief Escalada is an official who is not among those authorized to issue LOAs pursuant to existing laws and regulations. Thus, the issuance of the MOA to respondent did not properly clothe the supposed substituting ROs to conduct the audit investigation on respondent's books for TY 2010.

The foregoing ruling regarding the indispensability of a valid LOA is consistent with the pronouncement of the Supreme Court in the *Medicard case* which was relied upon by the Court in Division in its decision. However, in his bid to reverse the Assailed Decision and Assailed Resolution, petitioner argues that the *Medicard case* in not applicable herein since a LOA was actually issued herein, albeit authorizing ROs other than those who conducted the actual audit. In the *Medicard case*, only a Letter of Notice, in lieu of a LOA, was issued by the BIR. Petitioner now invokes the difference in the factual circumstances to escape the applicability of the High Court's ruling. We, however, do not share this view.

While it is true that the factual incidents in the *Medicard case* differ from the one at hand, it is indisputable that the Supreme Court has clearly and categorically underscored therein the importance of LOA, to wit:

> Contrary to the ruling of the CTA *en banc*, an LOA cannot be dispensed with just because none of the financial books or records being physically kept by MEDICARD was examined. To begin with, *Section 6 of the NIRC requires an authority from the CIR or from is duly authorized representatives before an examination "of a taxpayer" may be made*. The requirement of authorization is therefore not dependent on whether the taxpayer may be required to physically open his books and financial records but only on whether a taxpayer is being subject to examination.
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> . . .
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> That the BIR officials herein were not shown to have acted unreasonably is beside the point because the issue of their lack of authority was only brought up during the trial of the case. *What is crucial is whether the proceedings that led to the issuance of VAT deficiency assessment against MEDICARD had the prior approval and authorization from the CIR or her duly authorized representatives. Not having authority to examine MEDICARD in the first place, the assessment issued by the CIR is inescapably void.*
> (Italics supplied)

Further, citing *Commissioner of Internal Revenue v. Sony Philippines, Inc.*,[42] ("*Sony case*") the High Court stated in the *Medicard case* 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. In the absence of such an authority, the assessment or examination is a nullity.
> (Emphasis and italics supplied)

[42] G.R. No. 178697, November 17, 2010.

It can thus be inferred from the above that a revenue officer himself or herself must be granted the authority to conduct the examination. The continuation of an assessment by ROs not named in the LOA, although assigned in the same office, would not suffice, as they did not merely act beyond the authority given but were, primarily and more importantly, acting without the required authorization.

The foregoing interpretation of the Tax Code and of the pronouncements laid down by the Supreme Court was made clear in the *McDonalds case*. The High Court had the opportunity to rule therein that the practice of reassigning or transferring ROs originally named in the LOA and substituting them with new ROs to continue the audit without a new or amended LOA violates the taxpayer's right to due process which necessarily invalidates the resulting assessment. Petitioner, however, claims that the *McDonald's case* cannot be applied retroactively to the present issue. This argument, again, holds no merit.

In *Philippine International Trading Corporation vs. Commission on Audit*,[43] the Supreme Court, citing *Columbia Pictures, Inc. v. Court of Appeals*,[44] elucidated that interpretations of a statute by the High Court form part of the law as of the date it was originally passed, and do not amount to the passage of a new law, to wit:

> . . .(J)udicial interpretation of a statute constitutes part of the law as of the date it was originally passed, since the Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect, is all too familiar. Such judicial doctrine does not amount to the passage of a new law but consists merely of a construction or interpretation of a pre-existing one, . . .
>
> It is consequently clear that a judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is a *reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith.* To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication.
> (Italics supplied)

In the *McDonald's case*, what the Supreme Court did is to highlight and concretize the fact that the authority of the RO to conduct the examination of any taxpayer and the assessment of the correct amount of tax only emanates from respondent CIR or his duly authorized representative through the issuance of a LOA, pursuant to *Sections 6, 10(c) and 13 of the Tax Code*. In relation thereto, the reassignment and transfer of ROs and the failure to issue a new LOA specifically naming the new ROs to continue the audit is in effect a usurpation of the statutory power of the CIR or his duly authorized representative. Hence, the issuance of such MOA, and its subsequent use as proof of authority to continue the audit or investigation, in effect supplants the functions of the LOA, since it seeks to exercise

43 G.R. No. 205837, November 21, 2017.
44 G.R. No. 110318, August 28, 1996.

a power that belongs exclusively to the CIR himself or his duly authorized representatives.

Undoubtedly, the promulgation in the *McDonald's case* neither overruled any previous jurisprudence nor established a new legal doctrine. Instead, it merely reaffirmed and clarified long-standing statutory and regulatory requirements under the Tax Code and relevant BIR issuances. Consequently, the interpretation laid down in the said case became part of the Tax Code from the date it was originally passed. As such, it cannot be limited to prospective application.

All told, petitioner failed to impress the Court *En Banc* with cogent arguments to justify the reversal, amendment or modification of the Assailed Decision and Assailed Resolution.

ACCORDINGLY, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Amended Decision, dated September 10 2024, and the Resolution, dated February 19, 2025, of the Court's Special Second Division are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice