REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

ZENOREX MARKETING CORPORATION,
Respondent.

CTA EB No. 2865
(CTA Case No. 10175)

Present:

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

Promulgated:

NOV 28 2025 11:19 a.m.

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D E C I S I O N

REYES-FAJARDO, J.:

THE CASE

This is a Petition for Review filed by petitioner Commissioner of Internal Revenue ("CIR") appealing the Decision dated July 10, 2023[1] (the "assailed Decision") and the Resolution dated January 24, 2024[2] (the "assailed Resolution"), both rendered by the Special Second Division of this Court (the "Court in Division") in the case

1 Decision, Docket – pp. 20 to 46.
2 Resolution, Docket – pp. 47 to 52.

entitled *Zenorex Marketing Corporation v. Commissioner of Internal Revenue*, docketed as CTA Case No. 10175.[3]

The assailed Decision granted respondent Zenorex Marketing Corporation's Petition for Review and set aside petitioner's Final Decision dated August 15, 2019 upholding the deficiency Expanded Withholding Tax ("EWT") and Withholding Tax on Compensation ("WTC") assessments against respondent for taxable year ("TY") 2007 in the aggregate amount of ₱5,366,351.19

The assailed Resolution, on the other hand, denied the CIR's Motion for Reconsideration for lack of merit.

THE PARTIES

Petitioner is the chief of the Bureau of Internal Revenue ("BIR") and is vested with the authority to carry out the functions, duties, and responsibilities of said Office pursuant to the provisions of the National Internal Revenue Code ("NIRC") of 1997, as amended, and other tax laws, rules, and regulations.[4]

Respondent is a corporation organized and existing under the laws of the Philippines with principal business address at 2510 Cityland 10 Tower 1, Ayala Avenue corner H.V. de la Costa Street, Salcedo Village, Makati City, Philippines.[5]

THE FACTS

The facts, as found by the Court in Division, are as follows:[6]

On December 3, 2010, respondent received a Preliminary Assessment Notice ("PAN") with Details of Discrepancies, both dated November 26, 2010, assessing respondent with deficiency EWT and WTC for TY 2007 in the aggregate amount of ₱3,145,567.50.

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3 Petition for Review, Docket — pp. 7 to 17.
4 Petition, Docket — p. 7.
5 Decision, Docket — p. 21.
6 Decision, Docket — pp. 21 to 26.

On January 4, 2011, respondent filed a reply to the PAN dated December 29, 2010, contesting the assessment on account of prescription. In the same letter, petitioner manifested its refusal to execute a Waiver of the Defense of Prescription under the Statute of Limitations of the NIRC ("Waiver of Defense of Prescription").

On January 14, 2011, respondent received the Final Assessment Notice ("FAN"). On February 14, 2011, or within thirty (30) days from the date of receipt of the FAN, respondent filed a Protest in the form of a request for reconsideration, reiterating that the BIR's authority to assess had already prescribed. On October 14, 2014, respondent submitted another letter maintaining that the government's right to assess had already prescribed.

On June 13, 2016, respondent received the FDDA dated June 7, 2016 issued by Regional Director ("RD") Jonas DP. Amora denying its protest. On June 20, 2016, respondent administratively appealed RD Amora's FDDA to petitioner. On August 30, 2019, respondent received petitioner's Final Decision denying its administrative appeal.

On October 1, 2019,[7] respondent filed its Petition for Review with the Court in Division.

On November 28, 2019, petitioner filed an Answer (with Special and Affirmative Defenses). Thereafter, on December 9, 2019, petitioner transmitted to the Court in Division the BIR Records of the case.[8]

Upon agreement of the parties, the case was referred to mediation. However, on September 15, 2020, the parties decided to forego the conciliation proceedings before the Philippine Mediation Center - Court of Tax Appeals ("PMC-CTA"). Thus, the case was set for pre-trial conference.

On December 7, 2020, the pre-trial conference was held. On January 6, 2021, in compliance with the Court in Division's Order, the parties submitted their Joint Stipulation of Facts and Issues ("JSFI").

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7 The next working day following the end of the 30-day period to appeal.

8 With one (1) folder consisting of 400 pages.

Subsequently, on January 13, 2021, the Court in Division issued the Pre-Trial Order.

Trial ensued.

On February 15, 2021, respondent presented its Accounting Manager, Ms. Cheryl R. Samonte. Ms. Samonte testified that: (1) respondent filed and paid its "Monthly Remittance Return of Income Taxes on Compensation" (BIR Form No. 1601-C) and "Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded)" (BIR Form No. 1601-E) every month during the TY 2007; (2) respondent received the PAN on December 3, 2010; (3) respondent filed a response to the PAN on January 4, 2011; (4) respondent was requested to execute and submit a Waiver of Defense of Prescription before December 29, 2010, which respondent refused through a letter dated December 29, 2010; (5) respondent received the FAN on January 14, 2011; (6) respondent protested the FAN by filing a request for reconsideration on February 14, 2011; (7) on June 13, 2016, respondent received the FDDA denying its Protest; (8) respondent thereafter filed an administrative appeal with petitioner; and (9) respondent received on August 30, 2019 petitioner's Final Decision denying its administrative appeal.

On cross-examination, Ms. Samonte further testified that: (1) respondent was able to submit the required documents in support of its reconciliation; (2) the period of assessment being claimed to have already prescribed is from January to November of TY 2007; and, (3) respondent was able to submit documents to the BIR to substantiate the assessment for December 2007.

On March 10, 2021, respondent filed its [Formal] Offer of Evidence ("FOE"), to which petitioner filed a Comment (To Petitioner's Offer of Evidence) on March 24, 2021. In its Resolution dated June 28, 2021, the Court in Division admitted all of respondent's documentary evidence, except Exhibit "P-4."

On October 4, 2021, petitioner presented Revenue Officer ("RO") Raul M. Aquino who testified through his Judicial Affidavit, that: (1) he came to know of respondent pursuant to Letter of Authority ("LOA") No. 200700048222 dated July 25 2008 issued to it as well as through Memorandum of Assignment ("MOA") No. 050-

0201-TO-033 dated February 1, 2010; (2) after the service of said LOA to respondent on August 1, 2008, he proceeded with the conduct of the examination on respondent's internal revenue taxes for TY 2007; (3) he prepared a Memorandum Report detailing his findings and recommendation for a PAN to be issued for deficiency EWT and WTC; (4) verification of the Financial Statements and Income Tax Returns vis-à-vis the Alphalist disclosed that respondent failed to pay EWT on rents and purchases of goods; (5) in addition, respondent also failed to withhold and remit the correct withholding tax due on compensation; (6) the PAN was issued on November 26, 2010; (7) the basis of the deficiency tax assessments are contained in the Details of Discrepancies attached as Annex A to the PAN; (8) after the service of the PAN, the FAN with Details of Discrepancies and Assessment Notices, all dated January 14, 2011, were issued; (9) respondent filed a Protest against the FAN; (10) thereafter, the FDDA with Details of Discrepancies dated June 7, 2016 were issued; (11) subsequently, respondent filed a request for reconsideration (through an administrative appeal) disputing the FDDA; (12) however, the Final Decision was issued by then CIR Caesar R. Dulay denying the said request for reconsideration and affirming in all aspects the FDDA; and, (13) a letter dated September 16, 2019 was issued by RD Maridur V. Rosario informing respondent of the denial of its request for reconsideration.

On cross-examination, RO Aquino further testified, among others, that: (1) he computed the deficiency EWT and WTC on an annual basis and not on specific monthly transactions; (2) he was the one who supplied Schedules 1 and 2 of the Details of Discrepancies; and the FAN did not address the issue of prescription that respondent stated in its reply nor explained the reason for which it found the reconciliation of the tax assessment unsatisfactory.

During the continuation of RO Aquino's cross-examination on December 13, 2021, aside from stipulating on the existence of the Reply dated December 29, 2010, Protest dated February 14, 2011, and Letter dated October 14, 2014, which were all culled from the BIR Records, he further testified that: (1) the FDDA did not address the issue of prescription as well as the reconciliation of the assessments items that respondent offered; and, (2) Schedules 1 and 2 of the Details of Discrepancies did not state the specific monthly transactions or the specific month from which the deficiency EWT and WTC assessments were derived.

On re-direct examination, RO Aquino further testified that respondent was not able to substantiate its allegation on the specific portion of the assessments which has already prescribed.

On April 8, 2022, petitioner filed an FOE, to which respondent filed its Comment on April 25, 2022. In its May 19, 2022 Resolution, the Court in Division admitted all of petitioner's documentary evidence.

Thereafter, petitioner and respondent each filed their Memorandum on June 21, 2022 and June 24, 2022, respectively.

On July 10, 2023, the Court in Division promulgated the assailed Decision granting respondent's Petition for Review.[9]

On July 25, 2023, petitioner filed a Motion for Reconsideration.[10] On August 11, 2023, respondent then filed an Opposition (Re: Respondent CIR's Motion for Reconsideration dated July 25,2023).[11]

On January 24, 2024, the Court promulgated the assailed Resolution denying the petitioner's Motion for Reconsideration for lack of merit.[12]

On February 13, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review.[13] On February 14, 2024, the Court, through a Minute Resolution, granted the Motion.[14]

On February 28, 2024, petitioner filed, via registered mail, the present Petition for Review.[15] Then on May 23, 2024, respondent filed a Comment/Opposition (Re: Commissioner of Internal Revenue's Petition for Review dated 27 February 2024).[16]

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9 Decision, Docket — pp. 20 to 46.
10 CTA Case No. 10175, Docket — Volume II, pp. 719 to 727.
11 CTA Case No. 10175, Docket — Volume II, pp. 732 to 744.
12 Resolution, Docket — pp. 47 to 52.
13 Docket — pp. 1 to 3.
14 Docket — p. 6.
15 Petition for Review, Docket — pp. 7 to 17.
16 Comment, Docket — pp. 55 to 64.

On July 2, 2024, the Court issued a Minute Resolution referring this case to the PMC-CTA for mediation pursuant to Section II of the Interim Guidelines for Implementing Mediation in the CTA.[17] Then on October 31, 2024, there being no agreement to mediate between the parties, the case was submitted for decision.[18]

THE ISSUES

The issues are as follows:

I. Whether the Court in Division erred in ruling on an issue concerning the absence of an LOA which was neither raised by respondent in its administrative nor judicial protests; and

II. Whether the Court in Division erred in ruling that the subject assessments are void for lack of authority.

Petitioner's arguments:

Petitioner argues that: 1) respondent is estopped and that the Court in Division is precluded to rule on the invalidity of the tax assessment for lack of authority due to absence of an LOA since the same was not raised as an issue in respondent's administrative and judicial protests; 2) the LOA issued by the RD creates a principal-agent relationship between the RD and the ROs named therein; and 3) that the findings of RO Aquino and Group Supervisor (GS) Celestino Viernes were ratified by the RD who issued the LOA.

Respondent's arguments:

Respondent counters that: 1) the Court in Division correctly ruled on the invalidity of the assessment due to the absence of an LOA; 2) the issuance of a new LOA in the name of the new handling ROs is required; and 3) petitioner's position that the issuance of an LOA creates a principal-agent relationship is untenable.

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[17] Docket – p. 67.

[18] Docket – p. 69.

THE COURT'S RULING

The Petition for Review lacks merit.

First. The Court has ample authority to determine compliance by the taxing authority of the due process requirements under the tax laws even though not expressly raised as an issue in the petition filed before them.[19] Section 1, Rule 14 of the 2005 Revised Rules of the CTA clearly provides:

> RULE 14
> JUDGMENT, ITS ENTRY AND EXECUTION
>
> SECTION 1. - *Rendition of judgment* - . . .
>
> **In deciding a 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.**[20]

Aptly, jurisprudence have long affirmed the CTA's authority to rule upon related issues necessary to achieve the orderly disposition of the case.[21]

In fact, in the recent case of *Commissioner of Internal Revenue v. Marily Development Corp.*,[22] the Supreme Court, citing *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*,[23] reiterated two (2) conditions by which the CTA *En Banc*, or even a Division thereof, may consider arguments raised for the first time on appeal or on motion for reconsideration — **one**, the issue is necessary to achieve an orderly disposition of the case, and **two**, its resolution would not require the presentation of additional evidence and must rely solely on factual bases that are already matters of record in the case.

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19 *Commissioner of Internal Revenue v. Marily Development Corp.*, G.R. No. 263794, April 2, 2025; *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022; *National Power Corp. v. Province of Pampanga*, G.R. No. 230648, October 6, 2021; *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, G.R. No. 222476, May 5, 2021,

20 Emphasis supplied.

21 *Commissioner of Internal Revenue v. Marily Development Corp.*, G.R. No. 263794, April 2, 2025.

22 G.R. No. 263794, April 2, 2025.

23 *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022.

Both conditions are present here. *First,* the issue on the violation of respondent's right to due process on the ground of absence of an LOA is inextricably linked to the validity of the assessment. A resolution on this apparent violation of respondent's right to due process is indispensable for an orderly and comprehensive disposition of this case.[24] *Second,* the Court in Division' ruling on the lack of authority of RO Aquino and Group GS Viernes was based on the LOA No. 200700048222 dated July 25, 2008,[25] which is found in the records of this case. Thus, the Court in Division's exercise of its authority to pass upon this issue is justified.

Besides, *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*[26] categorically held that failure of taxpayer to raise the issue of an RO's lack of authority does not preclude the Court from considering the same as said issue goes into the intrinsic validity of the assessment itself. Since the validity of the tax assessments herein are anchored on the legality of the examination conducted by the BIR against it, the Court may address the propriety thereof, despite the parties' failure to raise the same in their pleadings and pre-trial.

Second. The Court finds that the ROs who conducted the investigation of respondent were not duly authorized to do so, and thus, the subject tax assessments are void.

Section 6(A) of the NIRC of 1997, as amended, restricts the authority to examine any taxpayer for correct determination of tax liabilities to the CIR or his duly authorized representatives. By way of exception, the CIR or his duly authorized representatives may authorize the examination of any taxpayer for the correct determination of tax liability:

> SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. —
>
> > (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**

[24] G.R. No. 249153, September 12, 2022.
[25] CTA Case No. 10175, BIR Records, p. 1.
[26] G.R. No. 241848, May 14, 2021.

> **correct amount of tax**: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.[27]
>
> . . .

Sections 10(c) and 13 of the NIRC of 1997, as amended, specifically allows the Revenue Regional Directors ("RDDs") to issue LOAs in favor of ROs performing assessment functions in their respective region and district offices for the examination of any taxpayer within such region:

> 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:
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> . . .
>
> (c) **Issue Letters of authority for the examination of taxpayers within the region;** [28]
>
> . . .
>
> 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.[29]

Section D(4) of Revenue Memorandum Order ("RMO") No. 43-90[30] additionally provides that the CIR, the RRDs, and the Deputy Commissioners are the only BIR officials authorized to issue and sign LOAs. Further, Section C(5) of the same RMO requires that any reassignment of the examination of a taxpayer's books of accounts, pursuant to an LOA, from one RO to another necessitates the issuance of a new LOA:[31]

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27 Emphasis supplied.

28 *Id.*

29 *Id.*

30 Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit, September 20, 1990.

31 *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*, G.R. No. 241848, May 14, 2021.

> C. Other policies for issuance of L/As.
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> . . .
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> 5. **Any re-assignment/transfer of cases to another RO(s),** and revalidation of L/As which have already expired, **shall require the issuance of a new L/A,** with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As.[32]

Indeed, the LOA is the concrete manifestation of the grant of authority bestowed by the CIR or his authorized representatives to the ROs pursuant to Sections 6, 10(c) and 13 of the NIRC of 1997, as amended.[33] Jurisprudence holds that the practice of reassigning or transferring ROs, via a MOA, referral memorandum, or such other equivalent internal document of the BIR, without the issuance of a new LOA, is in effect a usurpation of the statutory power of the CIR or his duly authorized representatives.[34]

Here, the LOA No. 200700048222 dated July 25, 2008,[35] was issued authorizing **RO Corazon Levardo** and **GS Elizabeth Santos** to examine respondent's books of accounts and other accounting records. However, due to the reassignment of the aforementioned ROs, **RO Aquino** and **GS Viernes** took over the audit by virtue of a referral letter dated February 1, 2010[36] and a MOA dated November 4, 2010,[37] both issued by Revenue District Officer Ricardo Espiritu.

As confirmed by RO Aquino during his cross-examination,[38] he conducted an audit examination of the respondent's internal revenue taxes for the TY 2007 and thereafter, issued an undated Memorandum Report[39] detailing his findings of deficiency EWT and WTC and recommending the issuance of a PAN. After the service of the PAN, the FAN with Details of Discrepancies and Assessment Notices, all dated January 14, 2011, were subsequently issued.

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32 Emphasis supplied.

33 *People v. E & D Parts Supply, Inc,* G.R. No. 259284, January 24, 2024; *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.,* G.R. No. 242670, May 10, 2021.

34 *Id.*

35 CTA Case No. 10175, BIR Records, p. 1.

36 CTA Case No. 10175, BIR Records, p. 3.

37 CTA Case No. 10175, BIR Records, p. 129.

38 CTA Case No. 10175, TSN dated October 4, 2021, p. 11.

39 Noted by GS Viernes and addressed to the RDD. CTA Case No. 10175, BIR Records, p. 115 - 116.

Clearly, despite the conduct of audit and examination of respondent's books by RO Aquino and GS Viernes for the TY 2007, **no new LOA was issued in their names.** Moreover, there is no indication that the LOA No. 200700048222 dated July 25, 2008 was modified to include the names of said ROs.

Absent a new or separate LOA issued by the CIR or his duly authorized representative, RO Aquino and GS Viernes are without authority to conduct the audit and recommend the issuance of the deficiency tax assessments. The resulting tax assessments are thus void and produce no valid fruit.[40]

Third. Petitioner's invocation of implied agency based on Articles 1868 and 1869 of the Civil Code cannot stand against the clear requirement of Sections 6, 10(c), and 13 of the NIRC of 1997, as amended, and related jurisprudence. It is a canon of statutory construction that a special law prevails over a general law.[41] Hence, the Civil Code provisions invoked by petitioner must give way to the specific provisions under the NIRC of 1997, as amended, governing the relationship between the CIR or his duly-authorized representative *vis-à-vis* the ROs.

Overall, the Court finds no reversible error committed by the Court in Division when it annulled petitioner's Final Decision dated August 15, 2019 upholding the deficiency EWT and WTC assessments against respondent for taxable year TY 2007 in the aggregate amount of ₱5,366,351.19.

WHEREFORE, in light of the foregoing considerations, the Petition for Review is **DENIED** for lack of merit. Accordingly, the Decision dated July 10, 2023 and the Resolution dated January 24, 2024 of the Special Second Division of this Court in CTA Case No. 10175 are **AFFIRMED**.

SO ORDERED.

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40 *Commissioner of Internal Revenue v. Marily Development Corp.*, G.R. No. 263794, April 2, 2025; *People v. E & D Parts Supply, Inc.*, G.R. No. 259284, January 24, 2024; *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., et seq.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

41 *De Lima v. Guerrero*, G.R. No. 229781, October 10, 2017; *Phil. Amusement and Gaming Corp. v. Bureau of Internal Revenue*, G.R. No. 215427, December 10, 2014; *Leveriza v. Intermediate Appellate Court*, G.R. No. 66614, January 25, 1988.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

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

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 cases were assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice