REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2391** (CTA Case No. 9303)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO,** and **CUI-DAVID,** JJ.
WATSONS PERSONAL CARE STORES (PHILIPPINES), INC., Respondent.	***Promulgated:*** MAY 13 2022 11:45 a.m.

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DECISION

UY, J.:

Before the Court *En Banc* is a *Petition for Review*[1] filed on December 28, 2020 by petitioner Commissioner of Internal Revenue against respondent, Watsons Personal Care Stores (Philippines) Inc., praying that the Decision dated June 11, 2020[2] and Resolution dated November 19, 2020,[3] both rendered by the First Division of this Court

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[1] EB Docket, pp. 7 to 25.

[2] Penned by Associate Justice Catherine T. Manahan and concurred by Presiding Justice Roman G. Del Rosario, while Associate Justice Esperanza R. Fabon-Victorino was on leave, EB Docket, pp. 30 to 56; Division Docket (CTA Case No. 9303) – Vol. 4, pp. 1618 to 1644.

[3] Penned by Associate Justice Catherine T. Manahan and concurred by Presiding Justice Roman G. Del Rosario; EB Docket, pp. 57 to 64; Division Docket (CTA Case No. 9303) – Vol. 4, pp. 1683 to 1690.

(Court in Division), in CTA Case No. 9303 entitled, *"Watsons Personal Care Store (Philippines), Inc. vs. Commissioner of Internal Revenue, Respondent,"* be reversed and set aside. The dispositive portions thereof respectively read as follows:

Decision dated June 11, 2020:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. Accordingly, the FLD and the tax assessments dated December 17, 2014 assessing petitioner of deficiency income tax, VAT, EWT, WTC, FWT, FWVAT, and DST, for TY 2010, inclusive of penalties and interest, are **WITHDRAWN and SET ASIDE**.
>
> **SO ORDERED."**

Resolution dated November 19, 2020:

> "**WHEREFORE,** premises considered, respondent's *Motion for Reconsideration (re: Decision dated June 11, 2020)* posted on July 3, 2020 is **DENIED** for lack of merit.
>
> **SO ORDERED."**

THE FACTS

Petitioner Commissioner of Internal Revenue (or CIR) is being sued in his official capacity, having been duly appointed to exercise the power and perform the duties of his office, including, *inter alia,* the power to decide disputed assessments, refunds of internal revenue taxes, fees and other charges, penalties imposed in relation thereto, or other matters arising under the Tax Code, with office address at Room 703, 7th Floor, Bureau of Internal Revenue (BIR) National Office Bldg., BIR Road, Diliman, Quezon City.

Respondent Watsons Personal Care (Philippines) Inc. (or Watsons) is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines. It is primarily engaged in the business of trading goods on wholesale and retail basis, such as, but not limited to, all kinds of drugs, medicines, chemicals, hospital equipment, physician's supplies, cosmetics,

beauty and health products, perfumes, toilet articles, and other related products, and for this purpose, to operate drugstores and health and beauty stores; to import, acquire, hold, own, sell, assign, transfer, invest, trade, deal in or deal with any and all kinds of products or merchandise. It is a registered taxpayer with the BIR under Certificate of Registration No. OCN RC0000018109 dated November 28, 2001.

On September 23, 2011, Watsons received a *Letter of Authority* (LOA) (No. LOA-116-2011-00000089) (SN: eLA 201100002910) dated September 19, 2011 issued by Alfredo Misajon, OIC-Assistant Commissioner for the Large Taxpayers (LT) Service of the BIR, authorizing revenue officers (RO), namely, Meliza Wepee, Reynoso Bravo, William Sundiam, Miguel Sulit, Maribel Serafica, and Wilfredo Reyes, group supervisor (GS), to examine Watsons' books of accounts and other accounting records for all internal revenue taxes for the period January 1, 2010 to December 31, 2010.

On February 25, 2013, Cesar D. Escalada, Chief of the Regular LT Audit Division 1 of the BIR, issued a *Memorandum of Assignment* (MOA) No. LOA-116-2013-0404, referring Watsons' case/docket to RO Jennifer L. Almedilla and GS Marivic P. Bautista for the continuation of the audit/investigation to replace the previously assigned ROs who resigned/retired/transferred to another district office.

Watsons executed a *Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue code (Waiver)* on April 1, 2013, which was accepted by the BIR on August 13, 2013. Thereafter, several subsequent waivers were executed by Watsons and the same were accepted by the BIR.

On October 3, 2014, Watsons received a *Preliminary Assessment Notice (PAN) with Details of Discrepancies* issued by the BIR, finding respondent liable for deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT), withholding tax on compensation (WTC), fringe benefits tax (FBT), final withholding tax (FWT), final withholding value-added tax (FWVAT), and documentary stamp tax (DST), in the total amount of ₱1,853,098,467.87.

Upon the recommendation of RO Almedilla, together with ROs Ferly Ann B. Paez and Vivien C. Guillermo, the BIR subsequently issued the *Formal Letter of Demand with Details of Discrepancies*

and Audit Result/Assessment Notices (FLD-FAN), all dated December 17, 2014, assessing respondent for deficiency IT, VAT, EWT, WTC, FBT, FWT, FWVAT, and DST for TY 2010 in the aggregate amount of ₱1,458,397,439.46. Watsons received the FLD-FAN on December 22, 2014 and filed a protest against said FLD-FAN on January 21, 2015.

On November 3, 2015, Watsons received the *Final Decision on Disputed Assessment* (FDDA) *with Details of Discrepancies and Audit Result/Assessment Notice*, all dated November 2, 2015, issued by the BIR, reducing the aggregate amount of the assessments to ₱430,178,268.13.

Thereafter, Watsons filed a request for reconsideration on the said FDDA which was denied by the CIR in the *letter* dated February 16, 2016.

From said denial, Watsons filed a *Petition for Review* on March 18, 2016 docketed as CTA Case No. 9303. Said case was initially raffled to the Second Division of this Court.

On June 15, 2016, the CIR filed his *Answer* alleging the following special and affirmative defenses:

1) Watsons is liable for deficiency Income Tax:

   a) The deduction of Watsons' bad debts in the amount of ₱19,045,368 were properly disallowed for failure to prove the essential requisites under Revenue Regulations No. 25-2002.

   b) Watsons' claim for shrinkage and losses of inventories in the amount of ₱25,731,086.99 were properly disallowed for failure to prove with competent evidence that the losses it sustained are within the ambit of Section 34(D) of the Tax Code.

   c) The disallowed expenses claimed as deductions per Income Tax Return (ITR) in the amount of ₱131,896,338 was properly disallowed for Watsons' failure to present proof to substantiate its claim.

d) Disallowed expenses for non-withholding of tax in the amount of ₱355,523,729.85 was also proper for failure of Watsons to offer an iota of proof during the audit and investigation that show that the EWT was (a) paid in a different taxable year and (b) inadvertently not paid but was paid on 17 March 2016.

2) Watsons is liable for deficiency VAT; the vendor support income allocated to Marionnaud Philippines, Inc. (MPI) in the amount of ₱87,386,991.00 was improper since there were no inventories sold to MPI per SAWT and per respondent's financial statements. Allegedly, it should be added back to compute the proper amount of vendor support income subject to VAT pursuant to Sections 106 and 108 of the Tax Code;

3) Watsons is liable for deficiency EWT on the ground that it failed to prove the alleged timing difference;

4) Watsons is liable for deficiency WTC; that failed to explain why its Income Tax Return with attached Financial Statement and its Alphalist submitted the Bureau of Internal Revenue has not matched;

5) Watsons is liable for deficiency FWT and FWVAT; that Watsons' contention that is not liable for FWT and FWVAT since the services provided by Watsons–HK to Watsons Philippines were rendered outside the Philippines, are mere allegations without proof; and

6) Watsons is liable for deficiency Documentary Stamp Tax; that Watsons provided bare assertions without proof, thus, are bereft of merit; that the audit and investigation revealed that there were non-payment of DST on Watsons' rentals; that Watsons has not submitted the Lease Contracts to prove its assertion that it was agreed between the lessor and lessee that it was the lessor who shall shoulder the DST.

After the pre-trial conference held on September 15, 2016, the parties filed their *Joint Stipulation of Facts and Issues (JSFI)* on September 30, 2016. The Court in Division issued a Pre-Trial Order on October 10, 2016, approving the JSFI and terminating the pre-trial.

During trial, Watsons presented the following witnesses:

1) Marryann A. Roxas, respondent's Senior Accounting Manager;
2) Christian Aldrin F. Bibat, respondent's Audit Supervisor;
3) Shirley U. Rubia, respondent's Senior Operations Manager;
4) Elrey T. Ramos, the Court-commissioned Independent Certified Public Accountant (ICPA);
5) Analou M. Romero, respondent's Senior Accounting Manager;
6) Rosemarie A. Alcaraz, respondent's Accounting Manager; and
7) Marites R. Detera, respondent's Senior Accounting Manager.

Thereafter, Watsons filed its *Formal Offer of Evidence* in CTA Case No. 9303 on March 8, 2017 with the CIR's *Comment (Re: Petitioner's Formal Offer of Exhibits)* filed on March 13, 2017.

In the Resolution dated May 9, 2017, the Court in Division admitted most of Watsons' documentary evidence, except for the following:

1) Exhibits "P-36", "P-38", "P-38-1" to "P-38-3", "P-39", and "P-53.1.1", for failure to identify the exhibits; and

2) Exhibits "P-54-3.145", "P-54-5.12", "P-54-5.14", "P-54-5.15", "P-54-5.21", "P-54-5.22", "P-54-5.23", "P-55-4", "P-55-9", "P-55-11", "P-55-18", "P-55-23", "P-55-31", "P-55-45", "P-55-48", "P-55-51", "P-55-55", "P-55-57", "P-55-66", "P-55-72", "P-55-77", "P-55-81", "P-55-85", "P-55-91", "P-55-95", "P-55-102", "P-55-110", "P-55-113", "P-55-160", "P-55-165", "P-55-174", "P-55-176", "P-55-182", "P-55-187", "P-55-192", "P-55-198", "P-55-204", "P-55-208", "P-55-213", "P-55-220", "P-55-227", "P-55-230", "P-55-235", and "P-55-239" to "P-55-243", for not being found in the records of the case.

On May 12, 2017, the BIR Records for CTA Case No. 9303 was forwarded to the Court in Division.

Thereafter, Watsons filed an *Omnibus Motion (a) For Partial Reconsideration of the Honorable Court's Resolution dated May 9, 2017; (b) To Allow the Re-submission of documents which were denied admission, and (c) To Recall the ICPA as Witness* on May 25, 2017.

In the Resolution dated September 25, 2017, the Court in Division admitted Watsons' denied exhibits, except for "P-36", "P-38", "P-38-1" to "P-38-3", "P-39", and "P-53.1.1". Thus Watsons' was deemed to have rested its case.

For his part, the CIR presented his lone witness, Revenue Officer Jennifer A. Potot.

Thereafter, the CIR filed a *Motion to Admit Attached Formal Offer of Evidence* on November 9, 2017, with Watsons' *Comment [To the Respondent's Motion to Admit Attached Formal of Evidence]* filed on December 1, 2017. The Court in Division granted the said motion and the CIR's *Formal Offer of Evidence* was admitted.

In the Resolution dated May 30, 2018, the Court in division admitted most of the CIR's documentary evidence, except for Exhibit "R-8", for failure to present the original for comparison.

Consequently, the CIR filed an *Omnibus Motion for 1. Partial Reconsideration Re: Resolution dated 30 May 2018; and to 2. Defer Submission of Memoranda on June 20, 2018* with Watsons' *Comment [on Respondent's Omnibus Motion dated June 20, 2018]* filed on July 13, 2018.

On August 7, 2018, the Court in Division allowed the CIR to recall his witness, RO Jennifer A. Potot and resolution of the CIR's Motion for Partial Reconsideration was held in abeyance.

Meanwhile, in the Order dated September 24, 2018, CTA Case No. 9303 was transferred to the Second Division pursuant to CTA Administrative Circular No. 02-2018.[4]

On March 1, 2019, the CIR filed a *Supplemental Formal Offer of Evidence* with respondent's *Comment [On the Respondent's Supplemental Formal Offer of Evidence]* filed on March 6, 2019.

Thereafter, on April 22, 2019, the Court in Division granted the CIR's Motion for Partial Reconsideration and admitted Exhibit "R-8-A" in evidence.

[4] "Reorganizing the Three (3) Divisions of the Court".

On May 31, 2019, the CIR filed a Manifestation stating that he is adopting the arguments raised in his Answer as his Memorandum, while Watsons filed its Memorandum on June 6, 2019. On June 13, 2019, the Court in Division submitted CTA Case No. 9303 for decision.

On January 24, 2020, Watsons filed a *Motion for Suspension of Proceedings* praying for the suspension of the proceedings and grant the parties reasonable period of time within which to negotiate the possible settlement of the case.

In the Resolution dated February 3, 2020, the Court in Division directed the CIR to file its comment on the said motion within ten (10) days from notice. Petitioner filed its Comment on February 14, 2020.

The Court in Division denied Watsons' Motion for failure to support or show proof of its allegations of entering into a possible settlement with the CIR.

Subsequently, on June 11, 2020, the Court in Division rendered the assailed Decision[5], granting the Petition for Review in CTA Case No. 9303.

The CIR filed a *Motion for Reconsideration [re: Decision dated June 11, 2020]* on July 3, 2020 with Watsons' *Comment (On CIR's Motion for Reconsideration)* filed on September 2, 2020.

In the assailed Resolution[6] dated November 19, 2020, the Court in Division denied the *Motion for Reconsideration* for lack of merit.

On December 14, 2020, the CIR filed a *Motion for Extension of Time To File Petition for Review*[7] praying for an additional period of fifteen (15) days from December 12, 2020 or until December 17, 2020, within which to file his Petition for Review before the Court *En Banc.* Said motion was granted and the CIR was given a final and non-extendible period of fifteen (15) days from December 17, 2020, or until December 27, 2020 (not December 17, 2020, as prayed for), within which to file his Petition for Review.[8]

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[5] EB Docket, pp. 30 to 56; Division Docket (CTA Case No. 9303) – Vol. 4, pp. 1618 to 1644.
[6] EB Docket, pp. 57 to 64; Division Docket (CTA Case No. 9303) – Vol. 4, pp. 1683 to 1690.
[7] EB Docket, pp. 1 to 5.
[8] Minute Resolution dated December 16, 2020, EB Docket, p. 6.

On December 28, 2020,[9] the CIR filed the instant *Petition for Review.*[10] Subsequently on February 15, 2021, Watsons filed its *Comment (On CIR's Petition for Review).*[11] Thereafter, the Court *En Banc* referred the present case for mediation at the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) for initial appearance, pursuant to Section II of the Interim Guidelines for Implementing Mediation in the Court of Tax Appeals.[12]

Thereafter on June 10, 2021, PMC-CTA filed *PMC-CTA Form 6 – No Agreement to Mediate*[13] indicating that the parties decided not to have their case mediated by the PMC-CTA.

In the Resolution dated June 23, 2021, the instant case was submitted for decision.[14]

Hence, this Decision.

ASSIGNMENT OF ERRORS

The CIR raises the following assignment of errors, to wit:

I.

THE HONORABLE COURT IN DIVISION ERRED IN RULING ON AN ISSUE NEVER RAISED BY RESPONDENT, NEVER JOINED BY THE PLEADINGS, NEVER RAISED DURING THE PRE-TRIAL AND NEVER DEFINED BY THE COURT IN THE PRE-TRIAL ORDER. THUS, PETITIONER'S (CIR'S) BASIC RIGHT TO FAIR PLAY AND DUE PROCESS WAS VIOLATED WHEN THE COURT RULED TO GRANT THE PETITION ON THE GROUND OF WANT OF AUTHORITY OF REVENUE OFFICERS.

[9] December 27, 2020 fell on a Sunday.
[10] EB Docket, pp. 7 to 25.
[11] EB Docket, pp. 68 to 83.
[12] EB Docket, pp. 85 to 86.
[13] EB Docket, p. 87.
[14] EB Docket, pp. 90 to 91.

II.

ASSUMING THE COURT MAY SUDDENLY DECIDE THE CASE BASED ON AN ISSUE THAT WAS NEVER RAISED BY RESPONDENT (WATSONS), NEVER JOINED BY THE PLEADINGS, NEVER RAISED AT THE PRE-TRIAL ORDER, NEVER DEFINED BY THE COURT IN THE PRE-TRIAL ORDER AND NEVER TRIED BY THE PARTIES – STILL THE HONORABLE COURT IN DIVISION ERRED IN RULING THAT THE ASSESSMENT IS VOID FOR LACK OF AUTHORITY OF THE REVENUE OFFICERS WHO CONDUCTED THE AUDIT.

Petitioner CIR's arguments:

The CIR argues that his basic right to fair play and due process was violated when the Court in Division ruled on a matter not raised in its Petition for Review or Pre-Trial Brief, not joined by the parties, nor defined by the Court in the Pre-Trial Order.

According to the CIR, the issue on lack of authority of revenue officers was never raised nor questioned by Watsons. Hence, it was erroneous for the Court to rule on such issue.

Allegedly, Section 1, Rule 14 of A.M. No. 05-11-07-CTA or the Revised Rules of the Court of Tax Appeals (RRCTA) was intended to allow the Court to resolve the main issue under the proper prospective, that is, by allowing it to resolve key issues related to the main, thus, providing a complete, orderly disposition of the case. However, it is not a license to resolve as a main issue a matter not derived from the pleadings and not tried by the parties.

Achieving an orderly disposition of the cases the RRCTA is not allegedly synonymous with violating litigant's basic right to fair play and due process; that orderly disposition of cases does not mean disregarding rules of procedure and rules of pre-trial. Additionally, the Pre-Trial Order binds all parties, including the Court. Thus, the issues as defined and limited in the pre-trial order should be the only issues to be resolved by the Court. Pre-trial being an essential device for the speedy disposition of disputes cannot be brushed aside as a mere technicality.

Moreover, the CIR claims that Watsons had every opportunity as provided for by Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Revenue Regulation No. 18-2013 to raise whatever defenses it may deem necessary to contest the deficiency tax assessment issued against it. However, Watsons allegedly failed to raise the issue on the lack of authority of revenue officers.

Nevertheless, the CIR submits that there is nothing infirm with the authority of the revenue officers who conducted the audit; that the conduct of the audit investigation and the resulting assessments are valid as the same were made in accordance with law and rules.

Allegedly, a LOA is not a requirement when the audit investigation is conducted by the Office of the Commissioner of Internal Revenue (OCIR); that the LOA in Section 13 of the NIRC of 1997, as amended, applies to ROs in Revenue District Offices (RDO); and that the issuance of LOA is not necessary when the audit investigation is conducted under the OCIR as it is the organic function of the Commissioner to assess as provided under Section 6 of the NIRC of 1997, as amended.

As admitted by Watsons, the LOA was issued by the OIC-Assistant Commissioner for Large Taxpayers Service (LTS); that in the organizational chart of the BIR, the LTS is under the Office of the CIR; that since the audit investigation was conducted by LTS under the OCIR, the issuance of the LOA is not a statutory requirement; and that the LOA issued by the LTS is merely for administrative purposes to allow keeping track of ongoing assessments. Thus, it is irrelevant, with or without LOA, under OCIR, as Section 6(A) of the NIRC of 1997, as amended, provides for inherent function to CIR and his authorized representative to authorize the examination of all taxpayers.

Assuming arguendo that a LOA is required, the CIR contends that the examination of Watsons' books of account and other accounting records was still conducted pursuant to a valid LOA.

The CIR points out that Revenue Memorandum Order (RMO) No. 8-2006 authorizes the Division Chief of Regular Large Taxpayers Audit Division I (RLTAD), as head of the investigating office, to effect modifications to a validly issued LOA by issuing a Memorandum of Assignment.

Further, RMO No. 62-2010 provides that in case of reassignment for continuation of the audit examination a memorandum of assignment shall be issued.

In this case, the Chief of RLTAD I as head of the investigating office may validly reassign the case to another revenue officer through the issuance of a Memorandum of Assignment. Hence, the revenue officers to whom the case was reassigned was properly clothed with authority to continue the conduct of audit examination. Accordingly, the assessment made by the revenue officers were valid.

Lastly, the CIR submits that the Court in Division erred in relying on the cases of *CIR vs. Composite Materials, Inc.*,[15] (*Composite Materials* case) *and CIR vs. Opulent Landowners, Inc.*[16] (*Opulent Landowners* case) to rule that the assessments are void for lack of authority of the ROs. According to the CIR, the cited "decisions" are unsigned resolutions. Pursuant to AM No. 10-4-20-SC, an unsigned resolution is one where the Court disposes of the case on the merits, but its ruling is essentially meaningful only to the parties; has no significant doctrinal value; or is of minimal interest to the law profession, the academe, or the public.

Respondent Watsons' counter-arguments:

Watsons' counter-argues that it is the CIR's own doing that caused the defect in the deficiency assessment, and that in the natural course of things, the same has to be declared invalid; and that to allow the BIR to collect on the basis of an invalid assessment would be a greater injustice.

Allegedly, the Court in Division was correct in finding that the authority of the examining revenue officers is an issue which goes into the validity of the deficiency assessment, hence related and necessary to achieve an orderly disposition of the case. Thus, the Court in Division acted well within its authority pursuant to Section 1, Rule 14 of the RRCTA.

Moreover, Watsons affirms the application of the Court in Division of the doctrine in the case of *Medicard Philippines, Inc. vs.*

[15] G.R. No. 238532, September 12, 2018.
[16] G.R. No. 249883-84, January 27, 2020.

Commissioner of Internal Revenue.[17]; that the said case is applicable to the present since the basic facts in both cases are essentially the same; and that the examining officers in both cases were not armed with the proper authority as embodied in a LOA.

Watsons also counter-argues that Sec. 10 and 13 of the NIRC of 1997, as amended, that the power to issue a LOA is placed upon the Regional Director and that the RO may only conduct their audit on the basis of a LOA issued by the Regional Director.

The Memorandum of Assignment signed by the Chief of the RLTAD allegedly has no basis in law because a chief of the RLTAD is not equivalent to a Regional Director.

Furthermore, Watsons points out that RO Jeniffer L. Almedilla who recommended the assessment for deficiency taxes was joined by ROs Ferly Ann B. Paez and Vivien C. Guillermo. However, the latter two were not included in the Memorandum of Assignment, thus, they acted without authority.

THE COURT *EN BANC*'S RULING

The instant *Petition for Review* lacks merit.

The Court in Division committed no error in resolving an issue which has not been raised by the parties.

Petitioner maintains its argument that the issue of lack of authority of revenue officers was not joined by the parties, nor defined by the Court in the Pre-Trial Order. Hence, it was erroneous for the Court to rule on such issue.

Petitioner is mistaken.

Pursuant to Section 1, Rule 14 of the RRCTA, the Court is not limited to the issues stipulated by the parties and may rule on related issues, to wit:

[17] G.R. No. 222743, April 5, 2017.

"RULE 14
JUDGMENT, ITS ENRY AND EXECUTION

SECTION 1: *Rendition of Judgment.* – xxx

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." (Emphasis supplied)

Furthermore, the Court is guided by the ruling in the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*[18] The pertinent ruling reads as follows:

"On whether the CTA can resolve an issue which was not raised by the parties, **we rule in the affirmative**.

Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. x x x

x x x

The above section is clearly worded. On the basis thereof, the CTA Division was therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda. The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter." (*Emphasis and underscoring supplied*)

Based on the foregoing rule and jurisprudence, this Court is not precluded from considering other related issues, not otherwise stipulated by the parties, which may be necessary to achieve a just and orderly disposition of the case; but also specifically states that this Court may consider the question on the scope of authority of revenue officers who were named in the LOA, which impliedly covers

[18] G.R. No. 183408, July 12, 2017.

the issue of whether an RO is authorized through an LOA in the first place.

Thus, whether or not the issue on the lack of authority of an RO was never raised nor questioned by respondent in its pleadings nor defined in the Pre-Trial Order, is of no moment. The Court in Division is justified in resolving, in the assailed Decision, the issue of whether or not the RO who examined Watsons was authorized by CIR or his duly authorized representative, through an LOA.

The revenue officers who conducted the audit investigation against respondent were not duly authorized through an LOA. Thus, the resulting tax assessments are void.

In the assailed Decision, the Court in Division ruled that the revenue officers who conducted the audit investigation against respondent for TY 2010 were not duly authorized with a LOA. Not having a valid authority, the subject tax assessments were declared void.

We agree with the findings of the Court in Division.

Section 6(A) and 13 of the NIRC of 1997, as amended, lay down the rules relative to the authority of the revenue officers in the examination of any taxpayer and the assessment of the correct amount of tax, to wit:

> "SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
>
> *(A) Examination and Returns 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:** *Provided, however*, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

xxx xxx xxx

> 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 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 underscoring supplied)*

It is clear from the foregoing provisions that an authority emanating from the CIR or his duly authorized representative is necessary before an examination and an assessment may be issued. The authority of the revenue officer to examine or to recommend the assessment of any deficiency tax due must be exercised pursuant to an LOA.

In other words, a grant of authority, through an LOA, must be issued assigning a revenue officer to perform tax assessment functions, in order that such officer may examine taxpayers and collect the correct amount of tax, or to recommend the assessment of any deficiency tax due.

In this case, one of petitioner's argument is that a LOA is not a requirement when the audit investigation is conducted by the OCIR; that the issuance of LOA is not necessary when the audit investigation is conducted under the OCIR as it is the organic function of the Commissioner to assess as provided under Section 6 of the NIRC of 1997, as amended.

We do not agree.

It is clear under Section 6(A) of the NIRC of 1997, as amended, that unless authorized by the CIR himself or his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily undertaken.[19] In the case of *Commissioner of*

[19] *Medicard Philippines, Inc., vs. Commissioner of Internal Revenue,* G.R. No. 222743, April 5, 2017.

Internal Revenue vs. Sony Philippines, Inc.,[20] the Supreme Court held 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**."

Thus, petitioner's claim that the issuance of an LOA issued by the OIC-Assistant Commissioner for Large Taxpayers Service (LTS) under the Office of the CIR, is not a statutory requirement and merely for administrative purposes to allow keeping track of ongoing assessments, has no leg to stand on.

A Memorandum of Assignment (MOA) is not sufficient to grant revenue officers the authority to conduct audit investigations.

Petitioner argues that there is nothing infirm with the authority of the revenue officers who conducted the audit. Petitioner claims that pursuant to RMO No. 8-2006, the Division Chief of RLTAD I, as head of the investigating office, is authorized to effect modifications to a validly issued LOA by issuing a MOA. Petitioner adds that RMO No. 62-2010 provides that in case of reassignment for continuation of the audit examination a MOA shall be issued. According to petitioner, the Chief of RLTAD I as head of the investigating office may validly reassign the case to another revenue officer through the issuance of a MOA. Thus, the revenue officers to whom the case was reassigned was properly clothed with authority to continue the conduct of audit examination. Accordingly, the assessment made by the revenue officers were valid.

We are not swayed.

Indeed, a reading of RMO No. 8-2006 provides the requirement of the issuance of a mere memorandum to inform the concerned taxpayer and the concerned RO and/or GS in cases of reassignment. However, it must be pointed out that nowhere in the above-quoted

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

provision is stated that the issuance of a new LOA could be dispensed with, in case of reassignment.

Likewise, the Court finds no merit in petitioner's reliance in RMC No. 62-2010 since nowhere in the said RMC that explicitly dispense with the requirement for the issuance of a new LOA in cases of reassignment of ROs.

Thus, a reassignment memorandum, as established under RMO No. 8-2006 and RMC 62-2010, cannot be the source of authority for an RO to examine the books of accounts and other accounting records of taxpayers.

It bears stressing the importance of an LOA and the corresponding authority it confers is highlighted by RMO no. 43-90 dated September 20, 1990,[21] which lays down the guidelines for the audit/investigation and issuance of LOA, to wit:

> "C. Other policies for issuance of L/As.
>
> 1. **All audits/investigations, whether field or office audit, should be conducted under a Letter of Authority**.
>
> xxx xxx xxx
>
> 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." (*Emphases and underscoring supplied)*

Based on the foregoing, all audit investigations must be conducted by a duly designated RO authorized to perform audit and examination of a taxpayer's books and accounting records, pursuant to an LOA. In case of re-assignment or transfer of cases to another RO, it is mandatory that a new LOA be issued with the corresponding notation thereto.

[21] 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.

In the recent case of *Commissioner of Internal Revenue vs. Mcdonald's Philippines Realty Corp.*,[22] the Supreme Court stressed that a MOA or any equivalent document is not a proof of the existence of authority of the substitute or replacement revenue officer; and that the use of such document by an unauthorized revenue officer usurps the functions of the LOA. Further, the Supreme Court admonished the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit or investigation **without a separate or amended LOA** as the same: (i) violates the taxpayer's right to due process in tax audit or investigation; (ii) usurps the statutory power of the CIR or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and (iii) does not comply with existing BIR rules and regulations, particularly RMO No.43-90 dated September 20, 1990.

Clearly, a MOA is insufficient to grant the revenue officers the authority to conduct the audit investigation.

In this case, LOA No. LOA-116-2011-00000089[23] (SN eLA201100002910) dated September 19, 2011 was issued authorizing ROs Meliza Wepee, Reynoso Bravo, William Sundiam, Miguel Sulit, and Maribel Serafica and GS Wilfredo Reyes of LT Regular Audit Division 1 to examine respondent's books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2010 to December 31, 2010.

Thereafter, Cesar D. Escalada, Chief of the Regular LT Audit Division 1 of the BIR Large Taxpayers Service issued MOA No. LOA-116-2013-0404[24] dated February 25, 2013 addressed to RO Jennifer L. Almedilla and GS Marivic P. Bautista for the continuation of the audit/investigation to replace the previously assigned ROs who resigned/retired/transferred to another district office.

Upon perusal of the records, it shows that it was ROs Jennifer L. Almedilla, Ferly Ann B. Paez and Vivien C. Guillermo and GS Marivic P. Bautista who performed the audit investigation and recommended the issuance of the FLD-FAN[25] against respondent.

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[22] G.R. No. 242670, May 10, 2021.
[23] Exhibit "R-1", BIR Records – Vol. 2, p. 425;
[24] Exhibit "R-3", BIR Records – Vol. 2, p. 426.
[25] Exhibit "R-11", BIR Records – Vol. 2, pp. 649 to 653

From the foregoing, it is apparent that the supposed authority of the said ROs to conduct the audit investigation of respondent for TY 2010 stems from MOA No. LOA-116-2013-0404 dated February 25, 2013. However, there is no showing that a new LOA was issued specifically authorizing the said ROs to continue the audit investigation of respondent's books of account and other records for TY 2010, and to replace the previously assigned RO.

Considering there being no new LOA issued, the ROs were not duly authorized to continue the audit investigation of respondent for TY 2010. Hence, the subject tax assessment that arose from the investigation, audit and recommendation of ROs Jennifer L. Almedilla, Ferly Ann B. Paez and Vivien C. Guillermo and GS Marivic P. Bautista is void. For being void, the same bears no valid fruit.[26]

Even assuming *arguendo* that MOA No. LOA-116-2013-0404 dated February 25, 2013 may be considered as an LOA, the same is still insufficient to authorize the revenue officer to continue the audit investigation in this case.

Under RMO No. 29-07[27] dated September 26, 2007, the BIR officers who are authorized to issue and approve LOAs for the conduct of audit investigation of taxpayers under the Large Taxpayers Services are enumerated as follows:

> "II. AUDIT POLICIES AND GUIDELINES
>
> 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.

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[26] *Commissioner of Internal Revenue vs. Metro Star Suprema, Inc.*, G.R. No. 185371, December 8, 2010.

[27] SUBJECT: Prescribing the Audit Policies, Guidelines and Standards at the Large Taxpayers Service.

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

Based on the foregoing, the LOA shall be issued and approved by the Assistant Commissioner/Head Revenue Executive Assistants (HREA).

In the instant case, however, the MOA No. LOA-116-2013-0404 addressed to RO Almedilla and GS Bautista for the continuation of the audit investigation of respondent for TY 2010 was signed and issued not by the Assistant Commissioner/HREA, but by Chief, Regular LT Audit Division 1, Cesar D. Escalada. Clearly, the said MOA was signed by a BIR officer not authorized to issue an LOA.

The Composite Materials and Opulent Landowners cases relied upon by the Court in Division merely reiterated the doctrine laid down in the Medicard case.

The CIR argues that the *Composite Materials* and *Opulent Landowners* cases relied upon by the Court in Division as legal bases in the assailed Decision and Resolution are treated as unsigned resolutions, wherein its ruling is meaningful only to the parties, has no significant doctrinal value, or is of minimal interest to the law profession, the academe, or the public, pursuant to AM No. 10-4-20-SC.

Again, We are not persuaded.

Even assuming that the *Composite Materials* and *Opulent Landowners* cases cited by the Court in Division were unsigned resolutions issued by the Supreme Court, it bears pointing out that the ruling in the above-mentioned cases emphasized the doctrine laid down in the case of *Medicard Philippines, Inv. vs. Commissioner of Internal Revenue,*[28] (*Medicard* case), which is a decision rendered by the Supreme Court. Indeed, only decisions of the Supreme Court constitute binding precedents and form part of the Philippine Legal System.[29]

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[28] G.R. No. 222743, April 5, 2017.
[29] *Visayas Geothermal Power Company v. Commissioner of Internal Revenue,* G.R. No. 197525, June 4, 2014.

In the *Medicard* case, the Supreme Court highlighted the importance and significance of a LOA to examine taxpayers in order to collect the correct amount of tax or to recommend the assessment of any deficiency tax due and that the absence thereof results to the nullity of the examination or the tax assessment itself, to wit:

> "An 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. An LOA is premised on the fact that the examination of a taxpayer who has already filed his tax return is a power that statutorily belongs only to the CIR himself or his duly authorized representatives. x x x
>
> xxx xxx xxx
>
> xxx [I]t 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**. The circumstances contemplated under Section 6 where the taxpayer may be assessed through best-evidence obtainable, inventory-taking, or surveillance among others has nothing to do with LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. **Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any & these kinds of examinations without prior authority**.
>
> xxx xxx xxx
>
> That the BIR officials herein were not shown to have acted unreasonable 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**." (*Emphases supplied*)

Furthermore, the CIR, through the issuance of Revenue Memorandum Circular (RMC) No. 75-2018,[30] recognized the said *Medicard* case, in this wise:

> "This Circular is being issued to highlight the doctrinal rule enunciated by the Supreme Court in the case of "Medicard Philippines, Inc. vs. Commisisoner of Internal Revenue" (G.R. No. 222743, 05 April 2017) on the mandatory statutory requirement of a Letter of Authority (LOA), for the guidance of all concerned, particularly internal revenue officers tasked with assessment and collection functions and review of disputed assessments.
>
> The judicial ruling, invoking a specific statutory mandate, states that no assessments can be issued or no assessment functions or proceedings can be done without prior approval and authorization of the Commissioner of Internal Revenue (CIR) or his duly authorized representative, through an LOA. **The concept of an LOA is therefore clear and equivocal. Any tax assessment issued without an LOA is a violation of the taxpayer's right to due process and is there 'inescapably void.'**
>
> xxx xxx xxx
>
> To help forestall an unnecessary controversy and to encourage due observance of the judicial pronouncements, any examiner or revenue officer initiating tax assessments or performing assessment functions without an LOA shall be subject to appropriate administrative sanctions." (*Emphasis supplied*)

In view of the foregoing discussions, this Court upholds the factual findings and ruling of the Court in Division in the assailed Decision and Resolution.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The Decision dated June 11, 2020 and the Resolution dated November 19, 2020 rendered by the Second Division of this Court in CTA Case No. 9303 are **AFFIRMED**.

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[30] SUBJECT: The Mandatory Statutory Requirement and Function of a Letter of Authority.

Consequently, petitioner CIR or any person acting on his behalf is hereby **ENJOINED** from proceeding with the collection of the said deficiency taxes against respondent during the pendency of the instant case.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(With Separate Concurring Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(I join the Separate Concurring Opinion of Justice Liban)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(I join the Separate Concurring Opinion of Justice Liban)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, **Petitioner,**	**CTA EB NO. 2391** **(CTA CASE NO. 9303)**
-versus-	**Present:** **Del Rosario,** *P.J.,* **Castañeda, Jr.,** **Uy,** **Ringpis-Liban,** **Manahan,** **Bacorro-Villena,** **Modesto-San Pedro,** *and* **Reyes-Fajardo,** **Cui-David,** *JJ.*
WATSONS PERSONAL CARE STORES (PHILIPPINES), INC., **Respondent.**	**Promulgated:** MAY 13 2022 11:45 a.m.

x----------x

SEPARATE CONCURRING OPINION

RINGPIS-LIBAN, J.:

I concur with the Decision which denied the Petition for Review filed by the Commissioner of Internal Revenue (CIR) on the ground that the revenue officers who continued the audit of respondent's tax records was not validly authorized, thus the assessment notices are void.

I am of the firm belief that notwithstanding the absence of a new Letter of Authority ("LOA") issued in their favor, Revenue Officers (RO) Jennifer L. Almedilla, Ferly Ann B. Paez and Vivien C. Guillermo and Group Supervisor (GS) Marivic P. Bautista may be given the authority to continue the audit and examination of respondent Watsons Personal Care Stores (Philippines), Inc.'s books of account and other accounting records by way Memorandum of Assignment (MOA), issued by the Regional Director, Deputy Commissioner, Assistant Commissioner or any subordinate official, with the rank equivalent to a division chief or higher.

I submit that this could be validly done under the National Internal Revenue Code ("NIRC") of 1997, as amended and the laws on agency under the Civil Code.

The power of the Commissioner of Internal Revenue ("CIR") to conduct assessments is granted to him by virtue of Section 6 of the NIRC of 1997, as amended:

> "SEC. 6. **Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. –**
>
> (A) *Examination of Returns 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**: *Provided, however,* That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer."[1]

Section 7 of the NIRC of 1997, as amended, likewise sets limits on which powers of the CIR may be delegated by him and which powers are to be exercised exclusively by him. The issuance of an LOA is not one of the non-delegable powers of the CIR, *viz:*

> "SEC. 7. **Authority of the Commissioner to Delegate Power.** – The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with the rank equivalent to a division chief or higher, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner: Provided, however, That the following powers of the Commissioner shall not be delegated:
>
> (a) The power to recommend the promulgation of rules and regulations by the Secretary of Finance;
>
> (b) The power to issue rulings of first impression or to reverse, revoke or modify any existing ruling of the Bureau;

[1] *Emphasis ond underscoring supplied.*

> (c) The power to compromise or abate, under Sec. 204 (A) and (B) of this Code, any tax liability: Provided, however, That assessments issued by the regional offices involving basic deficiency taxes of Five hundred thousand pesos (P500,000) or less, and minor criminal violations, as may be determined by rules and regulations to be promulgated by the Secretary of finance, upon recommendation of the Commissioner, discovered by regional and district officials, may be compromised by a regional evaluation board which shall be composed of the Regional Director as Chairman, the Assistant Regional Director, the heads of the Legal, Assessment and Collection Divisions and the Revenue District Officer having jurisdiction over the taxpayer, as members; and
>
> (d) The power to assign or reassign internal revenue officers to establishments where articles subject to excise tax are produced or kept."

On the contrary, issuing LOAs is a delegable power which the CIR may devolve to Revenue Regional Directors, as expounded on in Section 10 of the NIRC of 1997, as amended:

> "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:
>
> xxx
>
> (c) **Issue Letters of Authority for the examination of taxpayers within the region;**
>
> xxx
>
> (h) **Perform such other functions as may be provided by law and as may be delegated by the Commissioner.**"[2]

An LOA is, in essence, a contract of agency. Article 1868 of the Civil Code defines agency as a contract where "a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter."

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[2] *Emphasis and underscoring supplied.*

In the case of *Spouses Fernando and Lourdes Viloria v. Continental Airlines, Inc.*[3], the Supreme Court had the occasion to expound on the elements of agency, to wit:

> "The elements of agency are: (1) consent, express or implied, of the parties to establish the relationship; (2) the object is the execution of a juridical act in relation to a third person; (3) the agent acts as a representative and not for him/herself; and (4) the agent acts within the scope of his/her authority. **As the basis of agency is representation, there must be, on the part of the principal, an actual intention to appoint, an intention naturally inferable from the principal's words or actions. In the same manner, there must be an intention on the part of the agent to accept the appointment and act upon it.** Absent such mutual intent, there is generally no agency. It is likewise a settled rule that persons dealing with an assumed agent are bound at their peril, if they would hold the principal liable, to ascertain not only the fact of agency but also the nature and extent of authority, and in case either is controverted, the burden of proof is upon them to establish it."[4]

In an LOA, the CIR is the principal - as he is the one mandated by the law to make assessments - and the Regional Director, his agent.

May the Regional Director, the CIR's agent, appoint a sub-agent, in this case, the Revenue Officer named in the LOA? Article 1892 of the Civil Code says that he can. The said provision states:

> "Art. 1892. **The agent may appoint a substitute if the principal has not prohibited him from doing so**; but he shall be responsible for the acts of the substitute:
>
> (1) When he was not given the power to appoint one;
> (2) When he was given such power, but without designating the person, and the person appointed was notoriously incompetent or insolvent.
>
> All acts of the substitute appointed against the prohibition of the principal shall be void. (1721)"[5]

This power to appoint a sub-agent necessarily includes the power to revoke the same. Thus, the authority given to ROs Meliza Wepee, Reynoso Bravo, William Sundiam, Miguel Sulit, and Maribel Serafica and GS Wilfredo

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[3] G.R. No. 188288, January 16, 2012.
[4] *Emphasis supplied.*
[5] *Emphasis supplied.*

Reyes who were originally named in the LOA may be revoked, transferred and reassigned to ROs Jennifer L. Almedilla, Ferly Ann B. Paez, Vivien C. Guillermo and GS Marivic P. Bautista for continuance of audit.

Said document where such authority is transferred may be equivalent to an LOA. Several reasons support this. *First*, the only directive under Section 13 of the NIRC of 1997, as amended,[6] which requires that assessment be done by ROs pursuant to an LOA, is that the grant of authority be done ***in writing***. In fact, an "[a]gency may be oral, unless the law requires a specific form."[7]

Second, although the document may not be entitled "Letter of Authority" but otherwise, it can contain all the elements necessary to establish a contract of agency between the CIR and the new Revenue Officer. The primary consideration in determining the true nature of a contract is the intention of the parties. If the words of a contract appear to contravene the evident intention of the parties, the latter shall prevail. Such intention is determined not only from the express terms of their agreement, but also from the contemporaneous and subsequent acts of the parties.[8] The title of the contract does not necessarily determine its true nature.[9] In fact, this Court has, time and again, declared certain documents emanating from the CIR as his "Final Decision" on a Disputed Assessment based on the tenor of the words therein despite the absence of the words "Final Decision" in the title of the document.

In interpreting what a "Letter of Authority" is, as mentioned in Section 13 of the NIRC of 1997, as amended, the laws on contracts and agency embodied in the Civil Code simply cannot be ignored. Every effort must be exerted to avoid a conflict between statutes; so that if reasonable construction is possible, the laws must be reconciled in that manner.[10] Similarly, every new statute should be construed in connection with those already existing and all should be made to harmonize and stand together, if they can be done by any

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6 SEC. 13. Authority of a Revenue Officers. - 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 supplied).*

7 Civil Code of the Philippines, Article 1869.

8 Heirs of Dr. Mario S. Intac and Angelina Mendoza Intac v. Court of Appeals and Spouses Marcelo Roy, Jr. and Josefina Mendoza-Roy and Spouses Dominador Lozada and Martina Mendoza-Lozada, G.R. No. 173211, October 11, 2012 *citing* Spouses Villaceran v. De Guzman, G.R. No. 169055, February 22, 2012; Ramos v. Heirs of Honorio Ramos, Sr., G.R. No. 140848, April 25, 2002, 381 SCRA 594, 601; Heirs of Policronio M. Ureta, Sr. vs. Heris of Liberato M. Ureta, G.R. Nos. 165748 & 165930, September 14, 2011 *citing* Lopez v. Lopez, G.R. No. 161925, November 25, 2009, 605 SCRA 358, 36.

9 Adelfa Properties, Inc. v. Court of Appeals, G.R. No. 111238, January 25, 1995.

10 Philippine Amusement and Gaming Corporation (PAGCOR) v. The Bureau of Internal Revenue, represented by Jose Mario Bunag, in his capacity as Commissioner of the Bureau of Internal Revenue, and John Doe and Jane Doe, who are persons acting for, in behalf or under the authority of Respondent, G.R. No. 215427, December 10, 2014, *citing* Lopez v. The Civil Service Commission, 273 Phil. 147, 152 (1991).

fair and reasonable interpretation. *Interpretare et concordare leges legibus, est optimus interpretandi modus*, which means that the best method of interpretation is that which makes laws consistent with other laws. Tax laws do not exist in a vacuum, and must be appreciated and applied with other laws such as the Civil Code.[11]

I am not unaware of Revenue Memorandum Order ("RMO") No. 43-90[12] which states that "[a]ny re-assignment/transfer of cases to another RO(s)...shall require the issuance of a new L/A" However, I humbly stress and emphasize that an administrative issuance must conform, not contradict, the provisions of the enabling law. Any rule that is not consistent with the law is null and void.[13]

It is for the reasons above that, in my opinion, **ROs Jennifer L. Almedilla, Ferly Ann B. Paez, Vivien C. Guillermo and GS Marivic P. Bautista who conducted the examination of respondent's records may be deemed authorized to do so without need for a new LOA, only if said MOA was signed by the Regional Directors, Deputy Commissioners, Assistant Commissioner/Head Revenue Executive Assistants (for Large Taxpayers), or any subordinate officials, with the rank equivalent to a division chief or higher.**

In the instant case, the MOA No. LOA-116-2013-0404 dated February 25, 2013 was addressed only to RO Jennifer L. Almedilla and GS Marivic P. Bautista. Said MOA was signed by Chief, Regular LT Audit Division 1, Cesar D. Escalada. Considering that the names of ROs Ferly Ann B. Paez and Vivien C. Guillermo were not named in the MOA and since it was signed only by the Chief of Regular LT Audit Division, thus, the ROs who audited the books of account of respondent are without any valid authority to do so.

From all the foregoing, I vote that the Petition for Review be DENIED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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11 Philippine International Trading Corporation v. Commission on Audit, G.R. No. 183517, June 22, 2010.
12 Issued September 20, 1990.
13 Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, G.R. Nos. 175707, 180035 & 181092, November 19, 2014.