REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

LANCASTER COLORS, INTERNATIONAL, INC.,
Respondent.

CTA EB NO. 2048
(CTA Case No. 8933)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

Promulgated:

OCT 28 2020
2:49 p.m.

x---x

D E C I S I O N

CASTAÑEDA, JR., *J.*:

This Petition for Review seeks to reverse and set aside the Decision[1] dated October 1, 2018 and the Resolution[2] dated March 28, 2019, respectively, of the CTA Special First Division.

For easy reference, the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, the FDDA dated March 14, 2014, holding petitioner liable for deficiency

1 Penned by Retired Associate Justice Cielito N. Mindaro-Grulla, with Presiding Justice Roman G. Del Rosario separately concurring Opinion and Associate Justice Erlinda P. Uy concurring, Court *En Banc* Docket, pp. 36-73.
2 Court *En Banc* Docket, pp.79-88.

income tax, VAT, and compromise penalty for taxable year 2009 in the total amount of ₱5,001,080.23, is **CANCELLED** for lack of merit.

SO ORDERED."[3]

On the other hand, the dispositive portion of the assailed Resolution reads:

"**WHEREFORE**, premises considered, respondent's **Motion for Reconsideration (Re: Decision promulgated 1 October 2018)** is **DENIED** for lack of merit.

SO ORDERED."[4]

THE FACTS

The following are the facts as found by the Court in Division:

"Petitioner [now respondent] Lancaster Colors International, Inc. is a corporation duly organized and existing under Philippine laws, with principal office address at No. 732, Biak-na-Bato Street, Tabuco, Naga City. Petitioner's primary purpose is to engage in the manufacture, buying, selling and exporting of garments and other articles of general merchandise.

On the other hand, respondent [now petitioner] is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

A Memorandum of Assignment No. 065-2011-00001921 dated November 24, 2011 was issued to Revenue Officer (RO) Jane M. Garfin and Group Supervisor (GS) Domingo L. Aguinaldo for the continuation of the audit/investigation of petitioner for taxable year 2009 to replace the previously assigned revenue officer who transferred to another district office.

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3 See Note 1, p. 73.
4 See Note 2, p. 88.

On December 5, 2011, a Second Request for Presentation of Records was issued by RO Garfin requesting petitioner to present the accounting records listed in the First Request.

Subsequently, Revenue District Officer Socorro O. Ramos-Lafuente issued a Final Notice dated January 10, 2012, reiterating the request to access petitioner's accounting records.

On September 26, 2012, Revenue District Officer Ramos-Lafuente issued a Notice of Informal Conference enumerating petitioner's alleged deficiency taxes and inviting it to an informal conference.

In a Memorandum dated October 17, 2012, RO Garfin recommended the issuance of a Preliminary Assessment Notice (PAN) against petitioner, and in the 4th Indorsement dated February 4, 2013, she recommended that corresponding penalties be added to the assessment for non-attachment of Summary List of Sales and BIR Form Nos. 1604E and 1604CF.

Petitioner received the PAN dated March 6, 2013 assessing it for deficiency income tax, VAT, expanded withholding tax (EWT), documentary stamp tax (DST), improperly accumulated earnings tax (IAET), and compromise penalties in the aggregate amount of ₱14,058,539.11.

In response to the PAN, petitioner wrote a letter dated March 14, 2013 to RO D'Joanna M. Diamante outlining its justifications/explanations against the issued assessment and re-computing its alleged tax deficiency.

On March 27, 2013, respondent issued the Formal Letter of Demand (FLD), reiterating the assessment against petitioner for deficiency income tax, VAT, EWT, IAET, DST, and compromise penalties in the total amount of ₱14,058,539.11.

A transmittal letter was prepared by petitioner submitting various documents to RO Diamante.

In a letter dated July 3, 2013, Regional Director Esmeralda M. Tabule informed petitioner that in order for them to act on the protest, petitioner should submit a duly accomplished and notarized waiver of the defense of prescription. *[initials]*

Hence, on July 15, 2013, petitioner executed a waiver extending the period to assess until December 31, 2014.

A Memorandum dated September 4, 2013 was issued by RO Diamante addressed to Regional Director Tabule, recommending that petitioner's request for reinvestigation of the FLD under Assessment Notice No. 065-09-005-770-039 be granted and remanded to Revenue District Office (RDO) No. 65, Naga City. Thus, in the 1st Indorsement dated September 4, 2013, Regional Director Tabule returned the docket to RDO No. 65.

Subsequently, a Revised PAN was issued by the BIR dated January 20, 2014, stating that deficiency income tax, deficiency VAT, and compromise penalties were found due from petitioner in the aggregate amount of ₱8,515,048.03. This was received by Maricar Saballegue on February 6, 2014.

In response to the Revised PAN, petitioner sent a letter dated February 21, 2014 explaining its position against the issued assessment.

In the 7th Indorsement dated February 24, 2014, RO Garfin recommended the issuance of a Final Assessment Notice (FAN).

In the Final Decision on Disputed Assessment (FDDA), respondent found petitioner liable for payment of deficiency income tax, deficiency VAT, and compromise penalties for taxable year 2009 in the aggregate amount of ₱5,001,080.23, inclusive of interest.

On March 21, 2014, Regional Director Tabule approved RO Diamante's recommendation for the inclusion of the deficiency income tax, VAT, and compromise penalty in the BIR Form No. 40 for collection, considering that petitioner's letter of protest dated February 21, 2014 is void and that a FDDA has already been issued.

In the letter dated March 28, 2014, signed by petitioner's Corporate Treasurer Elaine T. Hao Chin, petitioner requested for time to review and respond to the FDDA.

On April 8, 2014, Regional Director Tabule responded to the said letter and advised that any protest against such assessment should be addressed as an administrative appeal to the Commissioner of Internal Revenue (CIR) or elevated to this Court.

Petitioner again sent a letter dated April 8, 2014 to Regional Director Tabule detailing its response to the FDDA.

On April 28, 2014, petitioner filed its request for reconsideration of the FDDA with respondent.

In a letter dated April 29, 2014, respondent replied to petitioner, citing Section II(1) of Revenue Memorandum Circular (RMC) No. 39-2013 as reiterated in item 1 of RMC No. 11-2014.

On May 12, 2014, petitioner replied to respondent's letter, arguing that it has properly filed its request for reconsideration with respondent.

On November 24, 2014, petitioner filed the instant Petition for Review before this Court.

In his Answer filed on February 23, 2015 and received by this Court on March 2, 2015, respondent interposed the following Special and Affirmative Defenses:

xxx xxx xxx

On March 9, 2015, petitioner filed a Motion to Admit Attached Reply, which the Court granted on March 16, 2015. Hence, petitioner's Reply attached to its motion was admitted by the Court.

On March 9, 2015, the Court set the case for pre-trial conference on May 7, 2015. Accordingly, petitioner filed its Pre-Trial Brief on April 30, 2015. On the other hand, respondent filed an Urgent Motion to Defer Pre-Trial Conference on the same date, contending that his witness has not yet conferred with his counsel, and has not yet prepared and executed her judicial affidavit. The Court granted respondent's motion on May 6, 2015, and the pre-trial conference was reset to July 9, 2015. Respondent's Pre-Trial Brief was filed on June 23, 2015.

The pre-trial conference ensued. The parties submitted their Joint Stipulation of Facts and Issues on July 23, 2015.

On September 2, 2015, the Court issued the Pre-Trial Order. However, petitioner subsequently filed a Motion to Amend Pre-Trial Order and a Supplemental Motion to Amend Pre-Trial Order, manifesting that the Pre-Trial order reflects erroneous dates of the receipts to be marked as Exhibits xxx. Petitioner prayed that the Pre-Trial Order be amended to reflect the correct details. The Court granted both motions on December 7, 2015. Accordingly, an Amended Pre-Trial Order was issued by the Court on January 25, 2016.

During trial, petitioner presented (1) Ma. Suzeth B. Cuarto and (2) Elaine T. Hao Chin as its witnesses, and filed its Formal Offer of Documentary Exhibits on June 22, 2016. In the Resolution dated August 11, 2016, the Court admitted all of petitioner's evidence.

xxx xxx xxx

On the other hand, respondent presented (1) RO Jane M. Garfin and (2) RO D'Joanna M. Diamante as his witnesses, and filed his Formal Offer of Evidence on February 15, 2017. In the Resolution dated April 10, 2017, the Court admitted all of respondent's evidence, except for Exhibit 'R-1', for failure of the exhibit formally offered and identified to correspond with the document actually marked, and Exhibit 'R-13', for failure to properly identify the exhibit.

xxx xxx xxx

On August 1, 2017, respondent filed a Tender of Excluded Evidence.

The case was initially submitted for decision on August 2, 2017, considering petitioner's Memorandum filed on May 24, 2017 sans respondent's memorandum per Records Verification dated July 10, 2017.

Respondent filed a Motion to Admit Attached Memorandum on August 22, 2017, which the Court granted in the Resolution dated November 3, 2017. Thus, respondent's Memorandum was admitted. In the same Resolution, the Court noted respondent's Tender of Excluded Evidence, and submitted the instant case anew for decision."[5]

On October 1, 2018 and March 28, 2019, the Court in Division issued the assailed Decision and Resolution, respectively.

[5] See Note 1, pp. 37-50.

On May 2, 2019,[6] petitioner filed the instant Petition for Review.

On June 17, 2019, respondent filed through registered mail its Comment (Re: Petition for Review dated 30 April 2019).[7]

On July 19, 2019, the Court *En Banc* issued a Resolution[8] submitting the case for mediation proceedings. On August 16, 2019, the Philippine Mediation Center Unit issued a "No Agreement To Mediate".[9]

On September 6, 2019, the Court *En Banc* issued a Resolution[10] requiring the parties to submit their memoranda. On September 25, 2019, petitioner filed a Manifestation[11] stating that he is adopting his arguments in his Petition for Review as his memorandum. On the other hand, respondent filed through registered mail its Memorandum[12] on October 14, 2019.

On November 6, 2019, the Court *En Banc* issued a Resolution[13] submitting the case for decision. Hence, this Decision.

THE ISSUES

The following issues shall be resolved by the Court *En Banc*: (1) Whether the judicial action was timely filed; and (2) Whether the assessment is valid and correct.

THE RULING

The Court *En Banc* denies the instant Petition.

The judicial action was timely filed

Petitioner asserts that since respondent received the FDDA on March 28, 2014, it only has until April 27, 2014 to file its motion for reconsideration before the CIR or to file an appeal before this Court. As such, petitioner posits that the Petition for Review before the Court in Division was filed out of time.

Ruling against petitioner, the Court in Division pertinently ruled that: 9r

[6] Court *En Banc* Docket, pp. 7-21.
[7] Court *En Banc* Docket, pp. 93-114.
[8] Court *En Banc* Docket, pp. 119-120.
[9] Court *En Banc* Docket, p. 121.
[10] Court *En Banc* Docket, pp. 126-127.
[11] Court *En Banc* Docket, pp. 128-130.
[12] Court *En Banc* Docket, pp. 133-161.
[13] Court *En Banc* Docket, pp. 166-167.

"Section 3.1.4 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-2013, is clear that if the protest is denied by the Commissioner's duly authorized representative, the taxpayer may appeal to the Commissioner, and the Commissioner is given one hundred eighty days from filing of the protest to decide the same. The taxpayer may then either appeal to the CTA within thirty days after the expiration of the one hundred eighty-day period, or await the final decision of the Commissioner and appeal such final decision to the CTA within thirty days after the receipt of a copy of such decision. Section 3 of the said regulation provides:

'SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment* –

3.1 Mode of procedure in the issuance of a deficiency tax assessment:

xxx xxx xxx

3.1.4 *Disputed Assessment* -xxx

<u>If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may</u> either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) <u>elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision</u>. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

xxx xxx xxx

If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. <u>A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA</u>. *gc*

If the protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may either: (i) appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.'

To recapitulate the facts in the present case, petitioner received the FDDA signed by Regional Director Tabule on March 28, 2014. It filed its request for reconsideration with respondent on April 28, 2014.

Based on the above-quoted provision, it is clear that petitioner still has the remedy of appealing the FDDA to the Commissioner. It is the motion for reconsideration of the Commissioner's denial of the protest or administrative appeal which will not toll the thirty (30)-day period to appeal to the CTA.

The case of *Philippine Electric Corporation vs. CIR* is not applicable to this case. In the said case, Philippine Electric appealed the FDDA to OIC-Assistant Commissioner Misajon, the person who issued the same, and not to the CIR. Hence, the Court's Third Division ruled that Philippine Electric's appeal to the OIC-Assistant Commissioner is not within the realm of, or sanctioned under Section 228 of the Tax Code, as implemented by RR No. 12-99.

The case of *Fishwealth* is likewise not applicable because in the said case, the FDDA was issued by respondent. Consequently, petitioner only has one remedy - to appeal respondent's denial of its protest to the CTA."[14]

The Court *En Banc* finds petitioner's assertion untenable.

Records show that respondent received the FDDA on March 28, 2014. Considering that the 30^{th} day to file respondent's request for reconsideration fell on a Sunday, April 27, 2014, the same was timely filed on April 28, 2014. Further review of the records reveals that petitioner failed to act on the said request for reconsideration within the 180-day period. Thus, counting 30 days from the lapse of the 180-day period, petitioner's judicial action was indeed timely filed on November 24, 2014. *ge*

[14] Resolution, Court in Division Docket, pp. 983-985.

Considering the foregoing, the Court *En Banc* sees no reason to deviate from the findings of the Court in Division.

The assessment is invalid for lack of the requisite Letter of Authority (LOA)

The Court *En Banc* shall now proceed to first determine whether the subject assessment is valid before examining its correctness.

In his Separate Concurring Opinion, the Honorable Presiding Justice Roman G. Del Rosario observed that:

> "Records disclose that the disputed assessment emanated from two (2) LOAs issued by respondent through **Regional Director** Diosdado R. Mendoza, as follows: (1) LOA No. 2009 00037517 dated June 25, 2010, authorizing RO Jayser I. Avila to examine petitioner's books of accounts and other accounting records covering the taxable period 2009, relative to its 'ALL INTERNAL REVENUE TAXES'; and (2) LOA No. 065-2010-00000010 SN: eLA20100002171 dated January 17, 2011, authorizing RO Avila and Group Supervisor (GS) Domingo Aguinaldo to examine petitioner's books of accounts and other accounting records covering the taxable period 2009, relative to its 'ALL INTERNAL REVENUE TAXES', with a stamp indicating that it is a converted eLA from the previously issued LOA No. 2009 0037517 dated June 25, 2010, pursuant to RMO 69-2010.
>
> On November 24, 2011, **Revenue District Officer (RDO)** Soccorro O. Ramos-Lafuente issued a Memorandum of Assignment, re-assigning the continuation of the audit or investigation of petitioner's records for all internal revenue taxes to RO Garfin and GS Aguinaldo.
>
> It is apparent that the authority of the RO Garfin to audit petitioner's supporting documents and pertinent records for the taxable year 2009 emanated, **not from a Letter of Authority issued by respondent or the concerned Revenue Regional Director**, but from the Memorandum of Assignment issued by an RDO."[15]

After revisiting the records of the case, the Court *En Banc* finds the observation of the Presiding Justice to be on point. *gr*

[15] Decision, Separate Concurring Opinion, Court in Division Docket, pp. 932-933.

One of the powers granted to the Commissioner of Internal Revenue (CIR) under the National Internal Revenue Code of 1997, as amended (1997 NIRC) is the power to make assessment of any deficiency tax. Section 6(A) of the 1997 NIRC is explicit on the matter, to wit:

> "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.
>
> The tax or any deficiency tax so assessed shall be paid upon notice and demand from the Commissioner or from his duly authorized representative. x x x" *(Emphasis supplied)*

In the exercise of his assessment powers, the CIR is also empowered to conduct by himself the examination of any taxpayer, or he may authorize other tax officers to conduct such examination. Section 6(A) of the 1997 NIRC likewise vested the CIR's duly authorized representatives the power to authorize the examination of any taxpayer for the purpose of collecting the correct amount of tax. The term "duly authorized representative" under Section 6(A) of the 1997 NIRC which may authorize examination of taxpayers refers to a Revenue Regional Director, in accordance with Sections 10 and 13 of the 1997 NIRC. The term likewise refers to other tax officials with the rank equivalent to a division chief or higher, pursuant to the CIR's authority to delegate powers vested in him under Section 7 of the 1997 NIRC. Notably, the issuance of LOAs for the examination of taxpayers is not one of those enumerated powers which the CIR cannot delegate. Section 7 of the 1997 NIRC reads as follows:

> "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;

(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." *(Emphasis supplied)*

As to the powers of a Revenue Regional Director, Section 10 of the 1997 NIRC pertinently provides:

"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**:

x x x x x x x x x

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

x x x x x x x x x

(h) Perform such other functions as may be provided by law and as may be delegated by the Commissioner." *(Emphasis supplied)* ℊ𝓃

On the other hand, as to the authority of an RO, Section 13 of the 1997 NIRC pertinently provides:

> "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 supplied)*

In relation to the foregoing provisions, Revenue Memorandum Order (RMO) No. 43-90 issued by the CIR identifies those officials who are authorized to issue and sign LOA. It may be noted that an OIC-Chief of the Regular Large Taxpayers Audit Division II is not included therein. The relevant portion of the said issuance reads:

"D. Preparation and issuance of L/As.

x x x x x x x x x

> 4. For the proper monitoring and coordination of the issuance of Letter of Authority, **the only BIR officials authorized to issue and sign Letters of Authority are the Regional Directors, the Deputy Commissioners and the Commissioner**. For the exigencies of the service, **other officials may be authorized to issue and sign Letters of Authority <u>but only upon prior authorization by the Commissioner himself</u>**." *(Emphasis and underscoring supplied)*

To reiterate, only the CIR or his duly authorized representatives can authorize the audit examination of taxpayers for purposes of assessment of any deficiency taxes. Stated otherwise, unless duly authorized by the CIR himself or by his duly authorized representatives, an examination of the taxpayer by a revenue officer cannot be validly made.[16]

Considering that **only** the above officials are given the power to authorize examination of taxpayers for assessment purposes through the

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

issuance of an LOA, it is only them who can effect any modification or amendment to a previously-issued LOA, should the need therefor arises.

Parenthetically, RMO No. 43-90 provides that any reassignment or transfer of cases to another revenue officers shall require the issuance of a new LOA. In any event, the same does not negate the authority of the CIR and its duly authorized representatives to effect amendment or modification of a previously-issued LOA instead of issuing a new one in order for the assessment of a taxpayer to validly proceed. Note that RMO No. 43-90 itself does not state the legal effect in the event that the named revenue officers under the previously-issued LOA are transferred or reassigned and a new or replacement LOA is not issued. A duly issued LOA, valid in all other respects, does not become invalid just because the revenue officers named therein happened to be reassigned or transferred. Indeed, to construe it otherwise would be tantamount to the curtailment of the statutorily granted authority of the CIR and its duly authorized representatives to authorize the audit examination of taxpayers by a mere RMO provision. It must be emphasized that an RMO is just an internal issuance containing directives or instructions outlining procedures, techniques, methods, processes, operations, activities, work flow and the like which are necessary to carry out programs or to achieve policy goals and objectives.[17] As such, they do not grant any vested right to any taxpayer over any particular work procedure, which procedure is internal to the BIR and may change from time to time as the exigencies of service may require, or as may be allowed given particular factual contexts, provided only that due process or statutory rights are not subverted.[18]

Here, after the subject LOAs were issued by Regional Director Mendoza in favor of RO Avila to conduct tax investigation against respondent, the BIR, through RDO Ramos-Lafuente subsequently issued a Memorandum of Assignment to RO Garfin and GS Aguinaldo. As a mere RDO, RDO Ramos-Lafuente does not have any power to authorize audit examination of taxpayers or to effect any modification or amendment to a previously-issued LOA because, as mentioned earlier, only the CIR or his duly authorized representatives are granted such power.

In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*,[19] the Supreme Court held that absent any prior authority on the part of the revenue officers who conducted the audit examination of taxpayer's books of accounts and other accounting records, the deficiency tax assessment arising therefrom is a nullity.

[17] Revenue Administrative Order No. 001-12 dated April 2, 2012.
[18] *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 7948, June 5, 2014, penned by Associate Justice Ma. Belen M. Ringpis-Liban, concurred in by Associate Justice Lovell R. Bautista and Associate Justice Esperanza R. Fabon-Victorino.
[19] G.R. No. 178697, November 17, 2010, 649 Phil. 519.

It must be emphasized that a void assessment bears no valid fruit.[20] Such being the case, the subject tax assessments cannot be enforced against petitioner.

In view of the finding that the subject tax assessments are invalid, it becomes unnecessary to examine the correctness thereof.

WHEREFORE, the instant Petition for Review is **DENIED**, for lack of merit. Accordingly, the Decision dated October 1, 2018 and the Resolution dated March 28, 2019, respectively, of the CTA Special First (1st) Division are **AFFIRMED.**

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
ERLINDA P. UY
Associate Justice

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

[20] *Commissioner of Internal Revenue v. Azucena T. Reyes, etseq.*, G.R. Nos. 159694 and 163581, January 27, 2006.

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