REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

THE MERRY COOKS, INC.,
Petitioner,

CTA Case No. 10004

Members:

DEL ROSARIO, *P.J., Chairperson*
MANAHAN *and*
REYES-FAJARDO, *JJ.*

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 18 2022 1:50 p

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RESOLUTION

MANAHAN, *J.:*

This resolves respondent's **Motion for Reconsideration (Decision dated 15 March 2022)**[1] filed on April 4, 2022, without petitioner's comment[2] despite due notice[3], praying for the reversal and setting aside of the Court's *Decision* promulgated on March 15, 2022 (Assailed Decision).

Respondent argues that this Court granted a relief that was not prayed for by petitioner, hence, his right to fair play and due process was violated.

Respondent also argues that the Court erred in holding that the assessments issued against petitioner for taxable year (TY) 2013 are void for want of authority of the Revenue Officer (RO) who conducted and completed the audit. He insists that the RO was duly authorized to conduct the audit.

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[1] Docket, CTA Case No. 10004, pp. 351-365.
[2] *Id.*, Records Verification dated May 16, 2022.
[3] *Id.*, Resolution dated April 12, 2022.

This Court shall determine first whether the instant motion was filed on time. Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.-* **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

In the instant motion, respondent avers that he received the Assailed Decision on March 22, 2022. In accordance with the abovementioned provision of the RRCTA, respondent had fifteen (15) days from receipt of notice on March 22, 2022 or until April 6, 2022 within which to file his motion for reconsideration. Respondent's filing of his *Motion for Reconsideration (Decision dated 15 March 2022)* on April 4, 2022 was on time.

Now upon review and evaluation of the arguments of respondent, We deny the instant motion.

Respondent argues that petitioner did not question the RO's authority to conduct the tax examination neither in its Petition for Review, Pre-Trial Brief, nor defined in the Pre-Trial Order. Thus, the Court erred when it ruled such issue that was never raised by petitioner.

Section 1, Rule 14 of the RRCTA provides that:

> RULE14
> JUDGMENT, ITS ENTRY AND EXECUTION
>
> SECTION. 1. *Rendition of judgment.-* The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its assignment to a Member for the writing of the decision. The presiding justice or chairman of the Division shall include the case in an agenda for a meeting of the Court *en banc* or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court *en banc* or in Division agree on the draft decision, the *ponente* shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court *en banc* or in Division may submit a separate written concurring or dissenting

opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the rollo.

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*)

This provision was emphasized by the Supreme Court in *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*,[4] to wit:

"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....;

xxx xxx xxx

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 supplied*)

The ascertainment of truth is the paramount interest of this Court, hence, it is not bound by technical rules.[5]

It may be true that the issue on the authority of the RO to conduct the tax examination was not raised by the petitioner in its pleadings, however, this Court is not precluded from ruling on such issue under the abovementioned rules and regulations, and the cited jurisprudence.

Further, the determination of the RO's authority is necessary in the achievement of an orderly disposition of the instant case as the validity of the assessment emanates from the valid authority of said RO as pronounced in the case of *Commissioner of Internal Revenue vs. McDonald's Philippines*

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

[5] *BPI-Family Savings Bank, Inc. v. Court of Appeals, et al.*, G.R. No. 122480, April 12, 2000.

Realty Corp.[6] (*Mcdonald's* case) which was cited in the Assailed Decision.

Thus, this Court had legal basis to rule on the absence of such authority in the conduct of tax examination by the concerned RO.

Respondent further argues that a Letter of Authority (LOA) was originally issued to RO Juana Acasio and Group Supervisor Virgilio Tablizo. However, due to subsequent transfer of RO Acasio, the investigation was reassigned to RO Charlie De Leon by virtue of a Memorandum of Assignment (MOA). Thus, the RO De Leon was duly authorized to conduct the tax examination. This issue on the MOA taking the place of an LOA has long been settled in the Supreme Court ruling in *Commissioner of Internal Revenue v. Composite Materials, Inc.*[7], to wit:

> "As regards the issue on Revenue Officer Mary Anne P. Cruz's (RO Cruz) authority to examine CMI's records, the provisions of the National Internal Revenue Code of 1997, as amended, are clear that a Revenue Officer may only examine the taxpayer's books pursuant to a Letter of Authority (LOA) issued by the Regional Director. This was reiterated by the Court in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, ruling that in the absence of a LOA, the assessment or examination is a nullity.
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> xxx xxx xxx
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> Moreover, the Court agrees with the CTA en banc that **Referral Memorandum issued by a Revenue District Officer directing RO Cruz to continue with the examination of CMI's records is not equivalent to an LOA nor does it cure RO Cruz's lack of authority**. To be sure, Revenue Memorandum Order No. 43-90, which specified the guidelines in the issuance of LOAs states that **any reassignment or transfer of cases to another RO or revalidation of an expired LOA shall require the issuance of a new LOA**" (*Emphasis supplied*)

In the same vein, the LOA is the document that will satisfy the valid delegation of authority by respondent to his representatives of his power to make assessment under the 1997 NIRC, as amended.[8]

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[6] G.R. No. 242670, May 10, 2021.
[7] G.R. No. 238352, September 12, 2018.
[8] *Commissioner of Internal Revenue v. Opulent Landowners, Inc.*, G.R. Nos. 249883-84, January 27, 2020.

Verily, since no new and substantial arguments have been propounded by respondent in his Motion for Reconsideration, the Court finds no compelling reason to reverse the Assailed Decision.

WHEREFORE, respondent's *Motion for Reconsideration (Decision dated 15 March 2022)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice