REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PGA SOMPO INSURANCE CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9394

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:

NOV 27 2019 9:33a

x -x

RESOLUTION

***MINDARO-GRULLA, J.*:**

Submitted before this Court is respondent's **Motion for Reconsideration (Decision dated August 8, 2019)**, filed on August 30, 2019, with petitioner's **Comment and Opposition (to the Motion for Reconsideration dated August 30, 2019)**, filed on October 9, 2019.

In his Motion, respondent seeks reconsideration of the Decision dated August 8, 2019, which cancelled his tax deficiency assessments based on the ground that his revenue officers were not authorized, *via* a valid Letter of Authority (LOA), to examine petitioner's books of accounts. The dispositive portion of the assailed Decision reads as follows:

> "**WHEREFORE**, the present Petition for Review is **GRANTED**. Accordingly, the assessment for deficiency income tax, documentary stamp tax, value-added tax and administrative penalties as found in respondent's Final

> Decision dated June 30, 2016, in the aggregate amount of One Hundred One Million Twenty Nine Thousand Seven Hundred Seventy Two Pesos and 87/100 (₱101,029,772.87) are **CANCELLED and SET ASIDE.**
>
> **SO ORDERED.**"

Undaunted, respondent claims that this Court erred in ruling on an issue that was never raised by petitioner, never joined by the pleadings, never raised during pre-trial, and never defined by this court in the Pre-Trial Order. Respondent likewise insists that the issue on the lack of LOA was also not raised in the present Petition for Review or questioned in petitioner's protest with the Bureau of Internal Revenue. Considering, therefore, that the cancellation of the subject assessments was made on a ground which was never raised nor prayed for, this Court erroneously granted a relief that was not sought after. Accordingly, respondent claims that his basic right to fair play was violated as he was not given the opportunity to be heard on the particular issue of the lack of LOA.

Furthermore, respondent argues that in the conduct of an audit investigation and, subsequently, continuation thereof by another revenue officer not named in the LOA do not automatically invalidate the assessment. Citing Revenue Memorandum Order (RMO) No. 8-2006, respondent asserts that where both the revenue officer and the Group Supervisor (GS) have resigned/retired or transferred to another Revenue Region, the case shall be reassigned to another revenue officer under the supervision of another GS within the same Revenue District Office (RDO). The reassignment may be effected through a memorandum issued by the head of the investigating office.

On the other hand, in its comment, petitioner claims that the arguments raised in the respondent's Motion were already ruled upon by the court. The instant motion failed to establish any of the allowed grounds for Motion for Reconsideration under Section 1, Rule 37 of the Rules of Court. Neither did the respondent raise any new matters or arguments sufficiently persuasive to warrant the reversal of the assailed Decision.

After careful scrutiny of the arguments raised by respondent in his Motion, this Court finds the same without merit.

l

Under Section 1[1], Rule 14 of the Revised Rules of the Court of Tax Appeals[2], this 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. Simply stated, this Court may touch upon the validity, or invalidity, of an assessment before proceeding to delve on the merits of a taxpayer's liability on the said assessment.

In fact, the Supreme Court already settled the issue in case of Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.[3], stating that:

> "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. The text of the provision reads:
>
> 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**

---

[1] "**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)*

[2] A.M. No. 05-11-07-CTA, November 22, 2005.

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

L

> **in sustaining the CTA Division's view concerning such matter.**" (Emphasis supplied)

Again, this Court reiterates that revenue officers must be authorized by an LOA in order for them to validly examine the books of accounts and other accounting records of a taxpayer. While, this Court understands the situation where a revenue officer, previously authorized through an LOA, may not be able to complete the examination of the books of accounts of a taxpayer, by reason of retirement or reassignment, still, there is nothing in the law which would justify non-issuance of a subsequent LOA to authorize another revenue officer, or new set of revenue officers, to continue the examination of the books of accounts and other accounting records of the concerned taxpayer.

Perforce, Section C (5) of RMO No. 43-90[4], explicitly requires issuance of an LOA in case of re-assignments, thus:

> "C. Other policies for issuance of L/As.
>
> x x x
>
> 5. **Any re-assignment/transfer of cases to another RO(s)**, and revalidation of L/A 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/A." *(Emphases supplied)*

Apparently, it is mandatory that a new LOA be issued in case of re-assignment or transfer of cases to another revenue officer.

With regard to the cited RMO No. 8-2006, which respondent heavily relies on, to the effect that in the event of reassignment/transfer of a case to another RO, the issuance of an LOA can be dispensed with, the same is of no moment.

This is simply because it would run counter to Sections 6(A)[5] and 13[6] of the National Internal Revenue Code (NIRC) of 1997, as

---

[4] Amendment of Revenue Memorandum Order No. 37-90, prescribing revised policy guidelines for Examination of Returns and Issuance of Letters of Authority to Audit.

L

amended, and the corresponding pronouncement of the Supreme Court in the case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*[7]. Consequently, the provisions of RMO No. 8-2006 cannot be considered as valid, and must not be adhered to, as it is not legally binding. A mere administrative issuance cannot amend the law; the former cannot purport to do any more than implement the latter.

As part of due process, the purpose of the LOA is not only to give the subject taxpayer notice on the coverage of the tax investigation, but also to prevent the examiner from claiming blanket authority to conduct the audit and investigation. Indeed, procedural standards must be observed to ensure that such authority is not arbitrarily exercised.

In view of the foregoing, this Court finds no compelling reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, respondent's Motion for Reconsideration hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

---

[5] "**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."

[6] "**SEC. 13.** *Authority of a Revenue Offices.* – 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."

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