REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE Petitioner,	**CTA EB NO. 2503** (CTA Case No. 9616)
	Present:
- versus -	**DEL ROSARIO, *P.J.*, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES, *JJ.***
SCICINDUSTRIAL CORP., Respondent.	Promulgated: MAR 18 2025 1:35 PM

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RESOLUTION

***FERRER-FLORES, J.*:**

For this Court's resolution is the **Motion for Reconsideration (of Decision dated 27 May 2024)** filed by petitioner Commissioner of Internal Revenue (CIR) via accredited courier on June 14, 2024,[1] without comment from respondent SCICIndustrial Corp. (SCIC) despite notice as per Records Verification dated November 8, 2024.[2]

In the instant motion, the CIR prays for the Court *En Banc* to reverse and set aside its *Decision* dated May 27, 2024 (**assailed Decision**),[3] which

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[1] Received by the Court on June 18, 2024; *Rollo*, pp. 176 to 193.
[2] *Rollo*, p. 202.
[3] *Rollo*, pp. 152 to 175.

denied the CIR's *Petition for Review* filed on July 15, 2021 for lack of merit, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the Commissioner of Internal Revenue's *Petition for Review* is **DENIED** for lack of merit. The assailed *Decision* dated August 27, 2020 and assailed *Resolution* dated May 25, 2021 rendered by the Second Division of this Court in CTA Case No. 9616 are **AFFIRMED**.
>
> Accordingly, respondent Commissioner of Internal Revenue, his representatives, agents or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of the deficiency Income Tax and VAT assessed against petitioner SCICIndustrial Corp. arising from *Formal Assessment Notice* dated January 23, 2017 and *Assessment Notice* Nos. IT-ELA78214-13-17-396 and VT- ELA78214-13-17-396.
>
> **SO ORDERED.**

In the CIR's *Motion*, he puts forward the following arguments:

a. The Revenue Officers (RO) who conducted the examination and audit of SCIC's account are validly clothed with authority to conduct said examination and consequently to recommend the assessment of the subject deficiency taxes against SCIC;

b. Revenue District Officers (RDO) are considered duly authorized representatives of the CIR to authorize the examination of a taxpayer for a taxable period;

c. The issue on whether or not the ROs who examined SCIC's books of account were authorized by the CIR, or his duly authorized representative, was never raised by SCIC;

d. Estoppel by laches already sets in in this case;

e. SCIC failed to perfect an appeal by paying docket fee beyond the 30-day reglementary period under Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended;

f. SCIC's remedy is to refile the case, not file a motion for reconsideration, considering that the Court in Division lacks jurisdiction;

g. The CIR was not given the opportunity to comment or oppose SCIC's *Motion for Reconsideration* dated August 4, 2017; and,

h. SCIC's *Petition for Review* has no Board Resolution or Secretary's Certificate.

The CIR's *Motion for Reconsideration* is bereft of merit.

A careful reading of the present *Motion for Reconsideration* would reveal that the arguments of the CIR are mere repetitions of the issues raised in his *Petition for Review* before the Court *En Banc* which have already been considered and exhaustively discussed by the Court *En Banc* in the assailed Decision.

At the outset, the CIR claims that the issue on the lack of the authority of the ROs was never raised by SCIC. Note that, as a rule, the Court is not precluded from ruling on an issue, although not specifically raised by the parties, if the same is a related issue necessary for the orderly disposition of the case. Section 1 of Rule 14 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> SECTION 1. *Rendition of judgment.* – xxx
>
> xxx xxx xxx
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> In deciding the case, the **Court may not limit itself to the issues stipulated by the parties but may also <u>rule upon related issues necessary to achieve an orderly disposition of the case</u>**. *(Emphasis and underscoring supplied)*

In *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc. (Lancaster),*[4] the Supreme Court, citing the above rule, held that the CTA has authority to address issues not specifically raised by the parties.

In the present case, the sole issue stipulated upon by the parties is "[w]hether or not the *Formal Assessment Notice* dated 23 January 2017 under Assessment Nos. IT-ELA78214-13-170396 and VT-ELA78214-13-17-396 is void."

Applying the RRCTA and *Lancaster*, while the lack of authority of the ROs was not specifically raised, this Court is not precluded from considering it given that: *(1)* the validity of the assessment is in issue; *(2)* an assessment as a result of an examination conducted without valid authority is void; and, *(3)* a void assessment bears no fruit. Evidently, the lack of authority of the ROs is a related issue necessary to achieve an orderly disposition of the case; hence, We find no error in addressing such issue although not specifically raised by the parties.

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

Proceeding now to the issue on the lack of authority of the ROs, at the risk of sounding repetitive, the Court emphasizes that the subject assessment is void as the officers who conducted the examination of SCIC's books of account are not properly authorized to do so. Settled is the rule that, unless authorized by the CIR himself or by his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority. There must be a grant of authority, in the form of a *Letter of Authority* (LOA) before any RO can conduct an examination or assessment.[5] Notably, the *Memorandum of Assignment* (MOA) issued by RDO Christina C. Barroga did not give ample authority to RO Danilo Y. Elardo and GS Ma. Christina S. Carsolin to continue with the audit investigation of SCIC's books of accounts and other accounting records. Glaringly, no new or amended LOA was issued authorizing RO Elardo and Group Supervisor (GS) Carsolin to continue with the audit investigation of SCIC's books of accounts and other accounting records.

With regard to the procedural deficiencies alleged by the CIR, the Court reiterates that:

1. the belated payment of docket fees was justified as SCIC's explanation on the circumstances surrounding the belated payment of the docket fees coupled with its willingness and earnest efforts to pay the same on time, was sufficient justification for the Court in Division's application of judicial leniency and the relaxation of the rules of procedure;

2. the belated filing of the Secretary's Certificate is considered substantial compliance with the Sections 4 and 5 of Rule 7 of the Revised Rules of Court, consistent with the Supreme Court's ruling in *Swedish Match Philippines, Inc. vs. Treasurer of the City of Manila*;[6]

3. SCIC sufficiently alleged its legal capacity to sue and be sued; and,

4. the CIR's right to due process was not violated; at the time SCIC's *Motion for Reconsideration* was resolved, he could not have been required to file a comment to SCIC's Motion as the Court had no jurisdiction over the CIR yet.

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[5] G.R. No. 242670, May 10, 2021.
[6] G.R. No. 181277, July 3, 2013.

In *Department of Energy vs. Commissioner of Internal Revenue*,[7] the Supreme Court, citing *Shangri-la International Hotel Management, Ltd. vs. Developer's Group of Companies, Inc.*,[8] held that, while a motion for reconsideration, by its nature, may tend to dwell on issues already resolved in the decision or resolution sought to be reconsidered, a circumstance which should not be an obstacle for a reconsideration, petitioners must still raise matters substantially plausible or compellingly persuasive to warrant a reversal of the Court's previous ruling.

Clearly, the CIR's *Motion* failed to raise matters which are compelling enough to warrant any modification of the assailed Decision.

All told, the Court *En Banc* finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, the Commissioner of Internal Revenue's *Motion for Reconsideration (of Decision dated 27 May 2024)* is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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7 G.R. No. 260912 (Resolution), August 30, 2023.
8 G.R. No. 159938 (Resolution), January 22, 2007.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice