REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

LAPANDAY HOLDINGS CORPORATION, Petitioner,	**CTA CASE NO. 8932**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 05 2018 8:50 am

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RESOLUTION

CASANOVA, *J.*:

For the Court's resolution is respondent's **Motion for Reconsideration**, filed through registered mail on February 8, 2018 without petitioner's comment as per Records Verification dated April 3, 2018.

Respondent moves for reconsideration of the Decision promulgated on January 24, 2018, the dispositive portion of which is as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. Accordingly, the Final Decision on Disputed Assessment dated October 24, 2014 for deficiency Value Added Tax in the total amount of ₱9,028,751.01 inclusive of surcharges and interests for taxable year 2008 is **CANCELLED**.

SO ORDERED."

Respondent contends that the tax audit or investigation of petitioner's deficiency taxes for taxable year 2008, subject of Letter Notice (LN) No. 048-TRS-08-00-00027 issued by the Commissioner of Internal Revenue (CIR) himself, is authorized under Section 6(A) of the National of Internal Revenue Code (NIRC) of 1997, as amended, in relation to Revenue Memorandum Order (RMO) 40-03 and RMO 55-10. He claims that the issuance of a Letter of Authority (LOA) is no longer necessary under the RELIEF System of the Bureau of Internal Revenue (BIR). Thus, respondent argues that the doctrine enunciated by the Supreme Court in the cases of *CIR vs. Sony Philippines, Inc.* and *Medicard Philippines, Inc. vs. CIR*, is not applicable to the issues in the instant case.

At the outset, it must be noted that the foregoing issues and arguments had already been exhaustively discussed and passed upon by the Court in the assailed Decision.

It must be stressed that the audit normally commences with the issuance by the BIR of an LOA which is the authority given to the appropriate Revenue Officer (RO) assigned to perform assessment functions. The purpose of the LOA is to give notice to the taxpayer that it is under investigation for possible deficiency tax assessment, as well as to empower or enable the designated RO to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax.

An LN is entirely different and serves a different purpose from that of an LOA.

The following differences between an LOA and LN are crucial. First, an LOA addressed to RO is specifically required under the NIRC of 1997, as amended, before an examination of a taxpayer may be had, while an LN is not found in the NIRC and is only for the purpose of notifying the taxpayer that a discrepancy is found based on the BIR's RELIEF System. Second, an LOA is valid only for thirty (30) days from date of issue while an LN has no such limitation. Third, an LOA gives the RO only a period of ten (10) days from receipt of LOA to conduct his examination of the taxpayer whereas an LN does not contain such a limitation.[1]

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

Revenue Memorandum Circular (RMC) No. 40-03 considers a LN as a notice of audit or investigation only for the purpose of disqualifying the taxpayer from amending his returns.[2]

For these reasons, the issuance of a mere LN instead of LOA would not suffice.

Due process demands that after an LN was served, the RO should have properly secured an LOA before proceeding with the examination and assessment of a taxpayer. Unfortunately, this was not done in this case. Thus, the resulting assessment is a nullity.

Respondent further asserts that petitioner cannot raise for the first time the issue of lack of LOA before the Court since it failed to raise the same during the administrative proceedings.

It is settled that the Court can take cognizance of the issue concerning the lack of LOA even though it was not raised in the pleadings filed by the parties. The Court 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, pursuant to Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals (CTA).

It is said that taxes are what we pay for civilized society. Without taxes, the government would be paralyzed for lack of the motive power to activate and operate it. Hence, despite the natural reluctance to surrender part of one's hard-earned income to the taxing authorities, every person who is able to must contribute his share in the running of the government. The government for its part, is expected to respond in the form of tangible and intangible benefits intended to improve the lives of the people and enhance their moral and material values. This symbiotic relationship is the rationale of taxation and should dispel the erroneous notion that it is an arbitrary method of exaction by those in the seat of power. But even as we concede the inevitability and indispensability of taxation, it is a requirement, in all democratic regimes, that it be exercised reasonably and in accordance with the prescribed procedure. If it is not, then the taxpayer has a right to complain and the courts will then come to his succor. For all the awesome power of the tax

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[2] *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue,* supra.

collector, he may still be stopped in his tracks if the taxpayer can demonstrate, as it has here, that the law has not been observed.[3]

Accordingly, the Court finds no compelling reason to justify the reversal of the assailed Decision.

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

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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[3] *Commissioner of Internal Revenue vs. San Miguel Corporation,* G.R. No. 205045 and G.R. No. 205723, January 25, 2017, citing the case of *Commissioner of Internal Revenue vs. Algue, Inc., et al.,* G.R. No. L-28896, February 17, 1988.