REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

CONCEPCION INDUSTRIES, INC.,
Respondent.

CTA EB No. 2920
(CTA Case No. 10584)

Present:

RINGPIS-LIBAN, Acting *PJ*
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and,
ANGELES, *JJ.*

Promulgated:
OCT 20 2025 4:20 pm

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DECISION

REYES-FAJARDO, *J.*:

This Petition for Review dated June 5, 2024,[1] filed by the Commissioner of Internal Revenue, assails the Resolutions dated January 10, 2024[2] and April 26, 2024,[3] issued by the Court of Tax Appeals - Second Division in CTA Case No. 10584. The assailed Resolutions granted Concepcion Industries, Inc.'s Motion for Summary Judgment, and consequently, nullified the deficiency internal revenue tax assessments for Taxable Year (TY) 2014, issued against the latter.

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1 *Rollo,* pp. 7-47.
2 *Id.* at pp. 54-60.
3 *Id.* at pp. 62-65.

First, the antecedents.

On July 9, 2021, respondent filed its Original Petition for Review of even date,[4] docketed as CTA Case No. 10584, to which petitioner filed an Answer[5] on February 21, 2022. Said case was initially raffled to the CTA – Third Division.

On April 5, 2022, respondent moved,[6] and the CTA – Third Division granted,[7] its prayer to amend its Petition for Review. Accordingly, the Amended Petition for Review[8] was admitted.

On July 18, 2022, petitioner moved,[9] and the CTA – Third Division granted,[10] his prayer to admit its Amended Answer.[11]

On August 9, 2022, respondent filed its Motion for Summary Judgment,[12] to which petitioner filed his Comment/Opposition (Re: Petitioner's Motion for Summary Judgment)[13] on September 5, 2022, followed by respondent's Reply[14] thereon filed on September 16, 2022.

On June 13, 2023, a Resolution[15] was issued, transferring CTA Case No. 10584 from the Third Division, to the CTA – Second Division (CTA in Division).

Under Resolution[16] dated January 10, 2024, the CTA in Division said that weighing the Judicial Affidavit and Supplementary Judicial Affidavit of Leila S. Daguman, together with paragraph 2 of petitioner's Amended Answer and accompanying Judicial Affidavit, generated the following undisputed facts: (1) the relevant Letter of Authority (LOA), authorized Group Supervisor Olivia F. Aviles (GS Aviles), and Revenue Officers Aurora Pelayo (RO Pelayo) and Felina

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4 Docket (CTA Case No. 10584), pp. 6-41.
5 *Id.* at pp. 220-241.
6 *Id.* at pp. 265-268.
7 Resolution dated June 30, 2022. *Id.* at p. 559.
8 *Id.* at pp. 269-310.
9 *Id.* at pp. 560-562.
10 Resolution dated July 22, 2022. *Id.* at p. 590.
11 *Id.* at pp. 564-589.
12 *Id.* at pp. 603-631.
13 *Id.* at pp. 906-929.
14 *Id.* at pp. 938-946. Admitted in the Resolution dated January 10, 2024, *supra* note 1.
15 *Id.* at p. 905.
16 *Supra* note 1.

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Guimbao (RO Guimbao) to examine respondent's records; (2) Revenue Officers Olivia Sison (RO Sison), Josa Gomez (RO Gomez), and Neriza Manuel (RO Manuel) signed the Memoranda, recommending issuance of the Preliminary Assessment Notice (PAN) and Final Decision on Disputed Assessment (FDDA); and (3) petitioner issued the relevant Formal Letter of Demand (FLD).

It was then observed that GS Aviles, RO Pelayo, RO Guimbao, RO Sison, RO Gomez, and RO Manuel participated in respondent's audit, as well as signed the memoranda recommending issuance of the PAN, FLD, and FDDA. Of these six individuals, only GS Aviles, RO Pelayo, and RO Guimbao were named in the LOA. RO Sison, RO Gomez, and RO Manuel were not named in said LOA. Such absence taints the examination and resultant tax assessments with invalidity. For this reason, the CTA in Division disposed CTA Case No. 10584 in the following fashion:

> **WHEREFORE,** [respondent]'s Motion for Summary Judgment is hereby **GRANTED**. The assessment for [respondent]'s income tax, value-added tax, expanded withholding tax, improperly accumulated earnings tax, and compromise penalties for taxable year 2014 is hereby **CANCELLED** and **SET ASIDE**. [Petitioner] is hereby **ENJOINED** and **PROHIBITED** from collecting said taxes.
>
> **SO ORDERED.**

Petitioner moved,[17] but failed[18] to overturn the Resolution dated January 10, 2024; hence, this Petition.[19]

Petitioner ascribes fault on the CTA in Division's finding that: (1) the 2014 deficiency tax assessments issued against respondent is void, for being a product of an illegal examination by his tax agents; and (2) the collection of said taxes should be suspended or enjoined. Petitioner posed the following justifications in support thereof:

> *One.* An LOA is *not* a requirement when the audit or investigation was conducted by the Office of the Commissioner of Internal Revenue (OCIR);

[17] Respondent (now petitioner)'s Motion for Reconsideration [of the Resolution dated January 10, 2024].

[18] *Supra* note 3.

[19] *Supra* note 1.

Two. Granting, an LOA is indeed a requirement for the validity of the audit or investigation by his tax agents, the examination of respondent's books of account and other accounting record was made pursuant to a valid LOA;

Three. The CTA in Division's reliance on *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp. (McDonald's),*[20] *Commissioner of Internal Revenue v. Sony Philippines, Inc. (SPI),*[21] *Medicard Philippines, Inc. v. Commissioner of Internal Revenue (Medicard),*[22] and *Commissioner of Internal Revenue v. Opulent Landowner's Inc. (Opulent),*[23] is misplaced by reason of difference in factual milieu between the present case vis-à-vis said cases.

Four. Respondent's right to due process on examination and audit was not offended because other authorized ROs assisted in the conduct of audit and examination on respondent.

Five. The CTA in Division likewise erred in suspending the collection of taxes covered by the deficiency tax assessments because respondent failed to show that the conditions for the issuance of a preliminary injunction were met.

Taking a differing[24] view, respondent mainly retorts that the CTA in Division correctly invalidated the deficiency internal revenue tax assessments for TY 2014 for being a product of unauthorized examination and audit by the BIR.

RULING

We deny the Petition.

Section 6(A) of the 1997 National Internal Revenue Code (NIRC), as amended, confines the authority to examine any taxpayer for the correct determination of tax liabilities to petitioner or his duly authorized representatives. By way of exception, petitioner or his

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20 G.R. No. 242670, May 10, 2021.
21 G.R. No. 178697, November 17, 2010.
22 G.R. No. 222743, April 5, 2017.
23 G.R. Nos. 249883-84, January 27, 2020.
24 Respondent's Comment (to the Petition for Review dated 5 June 2024). *Rollo*, pp. 68-82.

duly authorized representatives may authorize the examination of any taxpayer for the correct determination of tax liabilities:

> 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: ...
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> ...

Sections 10(c) and 13 of the NIRC, as amended, permit the Revenue Regional Directors to issue Letters of Authority (LOAs) in favor of revenue officers (ROs) performing assessment functions in their respective region and district offices for the examination of any taxpayer within such region:

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

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In addition, Section D(4) of Revenue Memorandum Order (RMO) No. 43-90[25] provides that deputy commissioners, and other BIR officials authorized by the CIR himself are permitted to issue an LOA.[26] Among the BIR officials expressly authorized[27] by the CIR to issue an LOA are the Assistant Commissioners (ACIRs) and Head Revenue Executive Assistants (HREAs).

Indeed, the LOA is the concrete manifestation of the grant of authority bestowed by the CIR or his authorized representatives to the revenue officers pursuant to Sections 6, 10(c) and 13 of the NIRC, as amended. Naturally, this grant of authority is issued or bestowed upon an agent of the BIR, *i.e.*, a revenue officer.[28] It gives notice to the taxpayer that it is under investigation for possible deficiency tax assessment; at the same time it authorizes or empowers a designated revenue officer to examine, verify, and scrutinize a taxpayer's books and records, in relation to internal revenue tax liabilities for a *particular period*.[29] Conversely, the absence of such an authority renders the assessment or examination a patent nullity.[30]

There is no more quibble on two matters, namely: (1) the LOA named RO Pelayo, RO Guimbao, and GS Aviles as the individuals allowed to examine and audit respondent for TY 2014; and (2) the persons who participated in said examination and audit for TY 2014 were RO Pelayo, RO Guimbao, GS Aviles, *along with ROs Sison, Gomez, and Manuel.* Given that ROs Sison, Gomez, and Manuel were *not* named in said LOA, it taints the *whole* audit or examination with illegality. *Ergo,* the CTA in Division is correct in eradicating the 2014 deficiency internal revenue tax assessments resulting therefrom.

We are mindful of the argumentations posed by petitioner in his Petition. Yet, the arguments posed cannot cure the nullity of the

25 SUBJECT: *Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revise Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit.*

26 For 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 exigencies of service, other officials may be authorized to issue and sign Letters of Authority but only upon prior authorization by the Commissioner himself.

27 No. 2, Roman Number II of RMO No. 29-2007 permits assistant commissioners and head revenue executive assistant to issue LOAs.

28 See *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corporation,* G.R. No. 242670, May 10, 2021.

29 *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.,* G.R. No. 183408, July 12, 2017.

30 See *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue,* G.R. No. 241848, May 14, 2021.

BIR's deficiency internal revenue tax assessments issued against respondent for TY 2014. Bear in mind:

First. We can, but concur with petitioner's insistence that an LOA is *not* a requirement, when the audit or investigation was conducted by the OCIR. This was previously advanced, and found wanting in *Commissioner of Internal Revenue v. Tann Philippines, Inc. (Tann)*,[31] with the following rationalization:

> Wanting in cogency is petitioner's contention that since the ROs who audited respondent are allegedly part of OCIR, they may conduct examination of respondent without any valid LOA pursuant to Section 13 of the NIRC, as amended. The issuance by petitioner or his duly authorized representatives of an LOA to ROs doing assessment functions as a precondition for the validity of examination and assessment is *not* based on the office *where* the ROs are stationed or detailed. Rather, the need for the issuance thereof is prefaced on the persons *who* would perform the audit and examination of the taxpayer. To be precise, if petitioner himself, or the BIR officials duly authorized by law or petitioner are the ones who would personally conduct the examination of the taxpayer, the issuance of a valid LOA may be dispensed with....

ROs Sison, Gomez, and Manuel are neither petitioner, nor the BIR officials duly authorized by law or petitioner, *i.e.*, RDs, ACIRs, DCIRs, HREAs. Consistent with *Tann*, a valid LOA is indispensable for the legality of their examination and audit.

Second. Neither do We agree with petitioner's claim that the examination of respondent's books of account and other accounting record was made pursuant to a valid LOA. As aptly ruled by the CTA in Division, there are six (6) individuals who audited, examined, and recommended deficiency internal revenue taxes against respondent for TY 2014. Of these six (6) individuals, three (3), *i.e.*, ROs Sison, Gomez, and Manuel were not named in the LOA. *Ergo,* the absence of their names in the LOA taints said examination and audit process with invalidity.

Third. Nor do We subscribe with petitioner's contention that the CTA in Division erred in using *McDonald's, SPI, Medicard,* and *Opulent* as bases of its ruling that the examination and audit performed upon respondent for TY 2014 is illicit. Specifically, this

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31 CTA EB No. 2675, April 19, 2024.

case, and *McDonald's, SPI, Medicard,* and *Opulent* have one thing in common—the RO/s who performed the audit, and recommended deficiency taxes on therein taxpayers in *McDonald's, SPI, Medicard,* and *Opulent,* and some[32] of the ROs who audited, examined, and found deficiency taxes against respondent for TY 2014 here, acted contrary to law because: (1) the RO/s had no valid LOA under their names; or (2) the RO exceeded their authority under the given LOAs.

Fourth. We, too, hold that since the names of ROs Sison, Gomez, and Manuel failed to appear in the LOA, respondent was *not* informed that they would be performing audit and examination on it for TY 2014, thereby offending respondent's right to due process. As eloquently elucidated in *McDonald's*:

> **To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA.** ... Due process requires that the taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the revenue officers. In other words, identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment.[33]

Fifth. We also find that the CTA in Division is correct in enjoining the BIR from collecting the 2014 internal revenue taxes from respondent.

Section 13 of RA No. 9282 states that if the CTA renders a decision, order, or ruling *favorable to the national government,* it shall order the BIR to proceed with the collection of the pertinent internal revenue taxes.[34] In reverse, if the CTA renders a decision, order, or

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32 ROs Sison, Gomez, and Manuel.

33 Boldfacing ours.

34 **Section 13.** Distraint of Personal Property and/or Levy on Real Property. - Upon the issuance of any ruling, order or decision by the CTA favorable to the national government, the CTA shall issue an order authorizing the Bureau of Internal Revenue, through the Commissioner to seize and distraint any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts,

ruling *unfavorable to the national government*, then it shall order the BIR to halt the collection of the pertinent internal revenue taxes.

The CTA in Division handed down a ruling unfavorable to the national government. To be precise, the deficiency internal revenue taxes covering TY 2014 issued by the BIR against respondent was nullified for being a product of illegal examination and audit by petitioner's tax agents. Following the immediately preceding observation, the CTA in Division properly forbade the BIR from collecting said taxes on respondent.

WHEREFORE, the Petition for Review dated June 5, 2024, filed by the Commissioner of Internal Revenue in CTA EB No. 2920 is **DENIED**, for lack of merit. The Resolutions dated January 10, 2024 and April 26, 2024, issued by the Court of Tax Appeals – Second Division in CTA Case No. 10584 are **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice

With Dissenting Opinion.
CATHERINE T. MANAHAN
Associate Justice

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and interests in and rights to personal property and/or levy the real property of such persons in sufficient quantity to satisfy the tax or charge together with any increment thereto incident to delinquency. This remedy shall not be exclusive and shall not preclude the Court from availing of other means under the Rules of Court.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

With due respect, I join the DO of Justice CTM.
HENRY S. ANGELES
Associate Justice

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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

CONCEPCION INDUSTIES, INC.,
Respondent,

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(CTA CASE NO. 15084)

Present:

RINGPIS-LIBAN, *Acting P.J.,*
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
OCT 20 2025 4:27

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DISSENTING OPINION

MANAHAN, *J.*:

With due respect to my esteemed colleague, Justice Marian Ivy F. Reyes-Fajardo, it is my opinion that the assessment is valid because there was a valid Letter of Authority (LOA) issued to the original Revenue Officers (ROs) who conducted the tax investigation, notwithstanding the participation of additional ROs who were merely clothed with a Memorandum of Assignment.

In the LOA with serial number SNeLA201200042220 dated January 8, 2016,[1] **RO Aurora Pelayo, RO Felina Guimbao, and Group Supervisor (GS) Olivia Aviles** of Revenue District Office No. 116-Regular LT Audit Division I were authorized to examine the books of account and other accounting records of herein respondent.

In Memorandum dated September 11, 2017, it appears that the abovementioned ROs and GS, with the addition of RO

[1] BIR Records, p. 137.

Olivia Sison, RO Josa Gomez, and Neriza Manuel, conducted the tax investigation and recommended the issuance of the Preliminary Assessment Notice (PAN).

In Memorandum dated October 16, 2017, the same set of ROs recommended the issuance of Formal Letter of Demand (FLD). The presence of other ROs extraneous to the LOA should not invalidate and render inutile the audit and investigation conducted by the authorized ROs designated in the LOA, as concluding that it could have been done by the ROs not named in the LOA is merely speculative. Team audit is the normal protocol of the Bureau of Internal Revenue in the conduct of tax investigation.

As emphasized in my Dissenting Opinion dated November 4, 2022 in the case of *Commission of Internal Revenue v. Market Strategic Firm, Inc.*[2] and partly, I quote below:

> I concur with the majority that a Referral Memorandum or a MOA is not equivalent to an LOA when such will refer to the continuance of the audit/investigation to a *new set* of ROs but I reiterate my firm position that such does not refer to a situation where the <u>RO named in the original LOA will just continue the audit/investigation</u> without the other ROs named in <u>the original LOA under an MOA</u>. *(Underline ours)*

The possibility of undue harassment or so-called "unauthorized inspection" is miniscule or nil.

The addition of ROs Sison, Gomez, and Manuel under a Memorandum of Assignment has no bearing on the authority given to RO Pelayo, RO Guimbao, and GS Aviles who were able to conduct, continue and complete the tax investigation of respondent. It does not invalidate the effectivity of the LOA as long as the original ROs were part of the team that conducted the investigation.

WHEREFORE, I vote to **GRANT** the Petition for Review in the instant case.

CATHERINE T. MANAHAN
Associate Justice

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[2] CTA EB No. 2281, November 4, 2022.