REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CASAS + ARCHITECTS,
Petitioner,

CTA CASE NO. 9960

Members:

\- **versus** -

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
FEB 24 2022 2:35 pm

x- -x

RESOLUTION

DEL ROSARIO, P.J.:

For resolution is respondent's "**Motion for Reconsideration**" posted on October 5, 2021 through registered mail, with petitioner's "**Comment/Opposition (Re: Respondent's Motion for Reconsideration dated October 5, 2021)**" filed on November 8, 2021.

Respondent prays that the Court reconsider, reverse and set aside its Decision dated August 23, 2021 cancelling the Formal Letter of Demand with Details of Discrepancies and Assessment Notices, all dated January 13, 2017, the Final Decision on Disputed Assessment with attached Details of Discrepancy, and Assessment Notices, all dated September 18, 2018.

The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed by petitioner Casas + Architects is hereby **GRANTED**. Accordingly, the Formal Letter of Demand with Details of Discrepancies and Assessment Notices, all dated January 13,

2017, are **CANCELLED** and **WITHDRAWN**. The Final Decision on Disputed Assessment with attached Details of Discrepancies and Amended Assessment Notices, all dated September 18, 2018, which demanded from petitioner the payment of the alleged value-added tax, expanded withholding tax, withholding tax on compensation, documentary stamp tax, and compromise penalty for taxable year 2013 in the total amount of Twenty-Eight Million Four Hundred Three Thousand Four Hundred Thirty-Three Pesos and 97/100 (₱28,403,433.97), inclusive of interest and surcharge, are **SET ASIDE**.

Respondent Commissioner of Internal Revenue, his authorized representatives or any other person acting on his behalf are hereby **ENJOINED** from enforcing the collection of aforesaid taxes covered by the Formal Letter of Demand with Details of Discrepancies and Assessment Notices, all dated January 13, 2017 and Final Decision on Disputed Assessment with attached Details of Discrepancies and Amended Assessment Notices, all dated September 18, 2018.

SO ORDERED."

In support thereof, respondent claims that:

1. The Letter of Authority (LOA) issued by the Regional Director creates a principal-agent relationship between the Regional Director and the Revenue Officers named therein;

2. The authority of Revenue Officer (RO) Angeline S. Ifurung and Group Supervisor (GS) Ma. Carmen V. Sy to examine petitioner's books of accounts and accounting records for taxable year 2013 was pursuant to an LOA and their findings were ratified by the Regional Director who issued the LOA;

3. The Court cannot grant a relief that was never prayed for by the taxpayer; and,

4. Petitioner was afforded of reasonable time and opportunity to assail the assessment.

Petitioner, on the other hand, points out that respondent's Motion for Reconsideration does not advance any persuasive arguments and should be disregarded by the Court.

Petitioner counter-argues that:

1. The assessment against petitioner is void for lack of authority of the ROs who conducted the audit;

2. The Memorandum of Assignment (MOA) dated June 17, 2016 did not validly reassign the conduct of the audit of the books of accounts and other accounting records of petitioner; and,

3. The assessment is void because respondent violated petitioner's right to due process of law when it issued the Final Assessment Notice (FAN) four (4) days after petitioner received the Preliminary Assessment Notice (PAN).

THE COURT'S RULING

After careful evaluation of the parties' respective arguments, the Court resolves to deny respondent's Motion for Reconsideration.

The Court notes that generally, the grounds relied upon by respondent in his Motion for Reconsideration are mere rehash of arguments pleaded in his Answer which have been adequately and exhaustively passed upon by the Court in the assailed Decision. The Court shall, nonetheless, address the issues anent the ratification by the Regional Director of the actions of RO Ifurung and GS Sy as well as the authority of this Court to resolve an issue not raised by the parties.

An LOA signed by at least a Regional Director is essential to confer authority to an RO and GS to continue the audit; the Regional Director has no authority to ratify an act which is void ab initio

Respondent maintains that the authority of RO Ifurung and GS Sy came from the same LOA since their findings were ratified by the Regional Director who issued the LOA.

Respondent cites Articles 1868 and 1869 of the Civil Code and contends that despite not being named in the LOA, the results of the examination conducted by RO Ifurung and GS Sy have been subjected for review and approval by the Regional Director.

Since the Regional Director ratified the examination made by RO Ifurung and GS Sy through the issuance of the PAN and the FAN to petitioner, the assessment against petitioner is valid. The examination conducted by RO Ifurung and GS Sy became an authorized act of the Regional Director pursuant to his authority to conduct assessment and determination of the correct taxes of the taxpayer as expressly granted to him by law.

The Court finds respondent's arguments specious.

To reiterate, Section 13 of the NIRC of 1997, as amended, and Revenue Memorandum Order (RMO) No. 43-90, as well as the doctrine laid down by the Supreme Court in *Medicard Philippines Inc. vs. Commissioner of Internal Revenue*,[1] have been crystal clear. An LOA is needed **before** any RO may examine the books of accounts of a taxpayer. The mandatory nature of an LOA was further emphasized in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,[2] where the Supreme Court categorically held that the use of a MOA, Referral Memorandum, or any such equivalent document, directing the continuation of audit or investigation by an unauthorized RO does not have the same authority provided under an LOA, *viz.*:

> "In summary, We rule that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit or investigation without a separate or amended LOA (i) violates the taxpayer's right to due process in tax audit or investigation; (ii) usurps the statutory power of the CIR or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and (iii) does not comply with existing BIR rules and regulations, particularly RMO No. 43-90 dated September 20, 1990."

Anent respondent's argument that the Regional Director ratified the actions of RO Ifurung and GS Sy when the Regional Director issued the PAN and FAN, the Court finds the same untenable.

Ratification cannot validate an act void *ab initio* done absolutely without authority. An act done without authority has to be done anew by the person or entity duly endowed with authority to do so.[3]

---

[1] G.R. No. 222743, April 5, 2017.
[2] G.R. No. 242670, May 10, 2021.
[3] *Mison v. Commission on Audit*, G.R. No. 91429, July 13, 1990.

Similarly, the Regional Director cannot ratify the findings of RO Ifurung and GS Sy by issuing a PAN and FAN since his failure to issue a new LOA renders the assessment void *ab initio*.

The Court may rule upon related issues necessary to achieve an orderly disposition of the case

Respondent contends that petitioner never raised the issue of the absence of an LOA in its protest to the FAN and even in its Petition for Review; hence, the Court should not have ruled upon this issue and cancelled the assessment based on the lack of authority of the ROs to conduct the audit.

The Court finds respondent's contention bereft of merit.

The CTA, as a court of justice, has jurisdiction to decide the issue on the lack of authority of RO Ifurung and GS Sy to continue the audit and examination of petitioner, albeit the same was not raised by petitioner in its protest letter to the FAN and in the Petition for Review.

Parenthetically, Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals provides:

> "Rule 14
> JUDGMENT, ITS ENTRY AND EXECUTION
>
> SECTION 1. Rendition of judgment – Xxx xxx xxx.
>
> xxx xxx xxx
>
> In deciding cases, 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."

There is no denying that the resolution of the issue on the authority of RO Ifurung and GS Sy to continue the audit of petitioner is relevant in determining the validity of the disputed assessments. The necessity of a valid LOA in audit investigations is not merely an administrative requirement but a statutory requirement which is vital to the validity of an audit of a taxpayer, and necessarily, to the validity of the assessment, that may be issued after said audit.

Truth to tell, in *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*,[4] the Supreme Court affirmed the authority of the CTA to resolve the issue involving the authority of the ROs to conduct the audit, albeit the same was not raised by the parties in their pleadings or memoranda, *viz.*:

> "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:
>
> > SECTION 1. *Rendition of judgment.*- x x x
> >
> > 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.
>
> 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."

All told, the Court finds no cogent reason to warrant a reconsideration or modification of the assailed Decision.

WHEREFORE, premises considered, respondent's "**Motion for Reconsideration**" posted on October 5, 2021 is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

---

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

WE CONCUR:

	(took no part)
CATHERINE T. MANAHAN	**MARIAN IVY F. REYES-FAJARDO**
Associate Justice	Associate Justice