REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2047** *(CTA Case No. 9168)*
-versus-	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
TRAVELLERS INTERNATIONAL HOTEL GROUP, INC. *Respondent.*	Promulgated: FEB 03 2021 3:17p.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For resolution is petitioner's **Motion for Reconsideration Re: Decision dated 17 July 2020** (hereinafter referred to as "Motion"), posted on 1 September 2020,[1] with respondent's **Comment (Re: Motion for Reconsideration Dated 28 August 2020)** (hereinafter referred to as "Comment"), filed on 26 October 2020.

In his Motion, petitioner moves for the reconsideration of the Court *En Banc*'s Decision, promulgated on 17 July 2020, denying his Petition for Review for lack of merit. The dispositive portion provides:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Court in Division's Decision promulgated on 8 November 2018 and the Resolution dated 2 April 2019 are hereby **AFFIRMED**.
>
> **SO ORDERED.**"

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[1] 29 August 2020 fell on a Saturday, while 31 August 2020 is a holiday.

In this case, petitioner argues that the Court *En Banc* erred in affirming the Decision of the Court in Division granting a relief that was not prayed for by respondent. He alleges that the act of both courts violated his basic right to fair play and due process.

Moreover, he avers that the Court *En Banc* was erroneous in cancelling the assessment issued against respondent on the sole ground that there was no new Letter of Authority ("LOA") reassigning the audit investigation to the new handling revenue officer. He asserts that the Memorandum of Assignment ("MOA") validly conferred authority to Revenue Officer Larah Vito.

Lastly, petitioner posits that the Court *En Banc* is mistaken in ruling that respondent is exempt from income tax on its gaming operations on the ground that it is a licensee of the Philippine Amusement and Gaming Corporation ("PAGCOR").

Meanwhile, in its Comment, respondent counters that petitioner's arguments are a rehash of his assertions in his Petition for Review which have already been carefully considered and passed upon by the Court *En Banc*. On this basis, it argues that the Motion should be dismissed outright.

Respondent also contends that the Court *En Banc* did not violate petitioner's right to due process when it ruled on the revenue officer's lack of authority to conduct the tax audit. It explains that this Court is well within authority to resolve related issues even if the same were not raised by the parties, as ruled in the cases of ***Commissioner of Internal Revenue v. Lancaster Philippines, Inc. (hereinafter referred to as the "Lancaster Case")***[2] and ***San Miguel Foods, Inc. v. Commissioner of Internal Revenue***.[3]

Respondent also reiterates the ruling of the Court *En Banc* finding the assessment void for want of a valid LOA and that it is exempt from income tax on its gaming revenues.

After a thorough review of the foregoing arguments, the Court *En Banc* finds petitioner's Motion unmeritorious.

Contrary to the arguments of petitioner, the CTA is empowered to rule on related issues although the same were not raised in any of the parties' respective pleadings. This is the clear import of ***Section 1, Rule 14 of the***

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

[3] CTA Case No. 9046, 12 February 2018.

Revised Rules of the Court of Tax Appeals ("RRCTA")[4] as reiterated in the ***Lancaster Case***, to wit:

> "**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 xx
>
> **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**."[5]

In this case, the issue as to the lack of authority of the revenue officer to conduct respondent's audit and assessment is not only related to the issues raised by the respondent, specifically, on whether it is liable to pay deficiency income tax, but is also vital in the orderly disposition of the case since failure to resolve the said issue will lead to the possibility of the Court validating an already void assessment.

The Court cannot ascribe with petitioner's contention that he was deprived of due process when the Court in Division ruled on the aforestated issue. As found by this Court, petitioner was given ample opportunity to present his evidence and witnesses. Furthermore, the Decision and Resolution were rendered by the Court in Division after a full-blown trial. Hence, petitioner's allegation has no leg to stand on.

Likewise, the Court *En Banc* finds no merit on the second issue raised by petitioner. His insistence that the MOA validly conferred authority to Revenue Officer Larah Vito to continue the audit and assessment of respondent is without basis.

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

[5] Emphasis supplied.

In this case, petitioner failed to cite any specific provision of law or BIR Regulation to support his view that the OIC-Chief of RLTAD II is one of the authorized representatives of the petitioner who can authorize the assessment and audit of a taxpayer. The RMOs cited by petitioner did not specifically identify the OIC-Chief of RLTAD II as one of the officers contemplated under ***Section 6(A) of the Tax Code.***

To reiterate, to the point of being repetitive, the only BIR officials recognized by the Tax Code, BIR Regulations, and jurisprudence who has the authority to sign LOAs are the respondent, Revenue Regional Director, and the Assistant Commissioner/Head Revenue Executive Assistant.

Considering that the OIC-Chief of RLTAD II is not an authorized representative of the petitioner, the MOA cannot be considered an equivalent of an LOA. Consequently, Revenue Officer Larah Vito has no authority to continue respondent's audit, which is in all fours with this Court's decision in ***Commissioner of Internal Revenue v. San Miguel Foods, Inc.***,[6] to wit:

> "In the instant case, the Memorandum of Assignment was only signed by Cesar D. Escalada, Chief, Regular LT Audit Division 1. Therefore, RO Maria Gracielle Cecilia F. San Pedro and GS Juvy S. De la Pefia were without authority to continue the audit."

Likewise, the Court *En Banc* does not agree with the third point raised by petitioner. As discussed in the assailed Decision, the issue as to the exemption of PAGCOR licensees from income tax on its gaming operations had already been resolved by the Supreme Court in the case of ***Bloomberry Resorts and Hotels, Inc. v. Bureau of Internal Revenue***,[7] to wit:

> "Bearing in mind the parties involved and the similarities of the issues submitted in the present case, we are now presented with the prospect of finally resolving the confusion caused by the amendments introduced by RA No. 9337 to the NIRC of 1997, and the subsequent issuance of RMC No. 33-2013, **affecting the tax regime not only of PAGCOR but also its contractees and licensees under the existing laws and prevailing jurisprudence.**
>
> Section 13 of PD No. 1869 evidently states that payment of the 5% franchise tax by PAGCOR and its contractees and licensees exempts them from payment of any other taxes, including corporate income tax, quoted hereunder for ready reference:
>
> xxx xxx xxx
>
> As previously recognized, the above-quoted provision providing for the said exemption was neither amended nor repealed by any subsequent laws (i.e., Section 1 of R.A. No. 9337 which amended Section 27 (C) of the NIRC of 1997); thus, it is still in effect. **Guided by the doctrinal teachings**

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[6] CTA EB No. 1880, 6 August 2019.

[7] G.R. No. 212530, 10 August 2016.

> **in resolving the case at bench, it is without a doubt that, like PAGCOR, its contractees and licensees remain exempted from the payment of corporate income tax and other taxes since the law is clear that said exemption inures to their benefit.**
>
> We adhere to the cardinal rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. As has been our consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.
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> As the PAGCOR Charter states in unequivocal terms that exemptions granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the PAGCOR or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise, **so it must be that all contractees and licensees of PAGCOR, upon payment of the 5% franchise tax, shall likewise be exempted from all other taxes, including corporate income tax realized from the operation of casinos.**
>
> xxx xxx xxx
>
> **Plainly, too, upon payment of the 5% franchise tax, petitioner's income from its gaming operations of gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools, defined within the purview of the aforesaid section, is not subject to corporate income tax."**[8]

Considering that respondent is a PAGCOR licensee, it follows that it is exempt from income tax on its gaming revenues.

In view of the foregoing disquisitions, the Court finds no justifiable reason to reverse or modify the conclusions reached in the assailed Decision.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration Re: Decision dated 17 July 2020 is **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[8] Emphasis supplied.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice