REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,

Petitioner,

- versus -

ABUNDANCE PROVIDERS AND ENTREPRENEURS CORPORATION,

Respondent.

CTA EB NO. 2854
(CTA Case No. 9407)

Present:

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

Promulgated:

NOV 27 2025 3:43 p.m.

x- -x

RESOLUTION

FERRER-FLORES, J.:

For resolution is petitioner's **Motion for Reconsideration [re: Decision dated 30 June 2025]** filed on July 18, 2025 (*Motion*),[1] with respondent's **Comment/Opposition [To: Motion for Reconsideration (re: Decision dated 30 June 2025) dated 18 July 2025]** filed through registered mail on August 11, 2025.[2]

Petitioner seeks the reversal of the Court *En Banc*'s Decision promulgated on June 30, 2025, the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the

[1] *Rollo*, pp. 152 to 163.
[2] *Id.* at 167 to 198.

> assailed Decision dated July 14, 2023 and Resolution dated December 7, 2023, both rendered by the Court in Division in CTA Case No. 9407 are hereby **AFFIRMED**.
>
> Consequently, petitioner Commissioner of Internal Revenue or any person acting on his behalf is **ENJOINED** from enforcing the collection of deficiency taxes assessed against respondent for calendar year 2008.
>
> **SO ORDERED.**

In his *Motion*, petitioner reiterates his argument that the subject tax assessments are valid, as he has fully complied with the requirements of administrative due process. He asserts that respondent was given the opportunity to refute the assessments and that its replies and protest were judiciously evaluated by petitioner, however, the same lacked merit. As a result, the Preliminary Assessment Notice (PAN) was reiterated in the Final Letter of Demand (FLD).

Moreover, petitioner argues that he is not required to evaluate respondent's reply to the PAN based on the National Internal Revenue Code (NIRC) of 1997, as amended, but only to hear respondent's protest to the FLD or Formal Assessment Notice (FAN). Furthermore, he points out that the mandatory nature of filing a reply to the PAN was removed in Revenue Memorandum Order (RMO) No. 026-16. Hence, even if the PAN was reiterated in the FLD, there was no violation of respondent's right to due process, as the FLD shall be issued notwithstanding the reply as a matter of procedure.

Petitioner further argues that the Court erred when it ruled on the issue on the authority of the revenue officers (ROs) who conducted the audit, as this issue was never raised by respondent in its *Petition for Review* nor stated in the Pre-Trial Order. Nonetheless, petitioner asserts that even if the ROs who conducted the audit were not issued a Letter of Authority (LOA), the assessments are still valid since the LOA requirement applies only to ROs in Revenue District Offices (RDOs) and not to the Commissioner of Internal Revenue (CIR) or the ROs under his direct supervision, such as those in the Large Taxpayer Service (LTS).

Finally, petitioner contends that the Court erred in relying on RMO No. 43-90.[3] He adds that a new LOA is not required and a Memorandum of Assignment (MOA) issued by the head of the investigating office is sufficient

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[3] Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit; September 20, 1990.

to vest authority to the ROs named in the MOA pursuant to RMO No. 69-10[4] and RMO No. 08-06,[5] which are issuances much later than RMO No. 43-90.

Meanwhile, in its *Comment*, respondent counters that petitioner's *Motion* should be denied outright for being *pro forma* since the arguments raised therein consist of a mere rehash of the arguments raised in petitioner's previous pleadings which were already ruled upon by the Court.

Nonetheless, respondent asserts that the assessment notices were issued in blatant violation of its right to due process because it failed to state therein the facts and law upon which its findings were based. Furthermore, respondent claims that petitioner completely ignored the exhaustive explanations, clarifications, reconciliation schedules and supporting documents in its reply to the PAN and other submissions. Even assuming that the response to the PAN is unmeritorious as claimed by petitioner, it must nevertheless explain why the same was rejected as held by the Supreme Court in *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc.* (*Avon case)*.[6] Additionally, respondent argues that petitioner's interpretation regarding the removal of the mandatory nature of filing a reply to PAN is contrary to existing law and jurisprudence, which requires that the evidence presented by respondent be evaluated and considered by petitioner.

Respondent maintains that the Court may properly resolve the issue concerning the lack of authority of the ROs to conduct an audit because 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, even more so when it appears that the authority of the ROs were raised in the course of trial. Respondent asserts that the issue on the RO's authority is necessary to determine whether a taxpayer is liable for deficiency taxes, which was the singular issue agreed upon by both parties. Furthermore, respondent argues that under the Revised Rules of the Court of Tax Appeals (RRCTA), the Court may rule on related issues necessary for the orderly disposition of the case.

Finally, respondent points out that it is undisputed, and is in fact admitted by petitioner, that they failed to obtain a new or amended LOA authorizing the re-assigned ROs and Group Supervisor (GS) to conduct the investigation of respondent. Thus, the assessment notices issued by the ROs are null and void.

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4 Guidelines on the Issuance of Electronic Letters of Authority, Tax Verification Notices, and Memoranda of Assignment; August 11, 2010.

5 Prescribing Guidelines and Procedures in the Implementation of the Letter of Authority Monitoring System (LAMS); February 1, 2006.

6 G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

Petitioner's *Motion* is bereft of merit.

At the outset, the Court notes that petitioner's *Motion* substantially raises the same arguments as those raised in his *Petition for Review* which have already been considered, weighed and resolved in the assailed Decision.

Nonetheless, for clarity and emphasis, the Court deems it proper to discuss and reiterate the reasons which impelled the denial of petitioner's *Petition for Review*.

The Court cannot subscribe to petitioner's contention that respondent was afforded due process simply because he was given an opportunity to refute the assessments. The reiteration of the PAN in the FLD cannot, by itself, be taken to mean that respondent's reply was without merit, in the absence of any showing that such reply or protest was duly considered and evaluated by petitioner.

In the assailed Decision, the Court emphasized that while petitioner remains to have the sole discretion whether or not to act favorably on the response/protest, it is nonetheless duty-bound to, at least, consider the taxpayer's defenses and to provide clear reasons for its decision. Thus, even assuming that the reply is unmeritorious, petitioner must nonetheless explain why the same was rejected.

At the risk of being repetitive, we reiterate the ruling in *Commissioner of Internal Revenue vs. Maxicare Healthcare Corporation*,[7] where the Supreme Court held that the CIR's issuance of essentially identical assessment notices which made no reference to or rebuttal of the taxpayer's submissions indicates that the CIR failed to consider or appreciate the evidence submitted by the taxpayer and this omission deprived that taxpayer of due process which necessarily rendered the assessments against it null and void.

It is likewise erroneous for petitioner to conclude that he has no obligation to evaluate respondent's reply to the PAN since the NIRC of 1997, as amended, do not require the taxpayer to respond to the PAN, nor does it mandate petitioner to evaluate such response to the PAN.

In the *Avon case*, the Supreme Court emphasized that the PAN is part of due process. It provides both the taxpayer and the Commissioner the opportunity to settle the case at the earliest possible time without the need for the issuance of a FAN. This purpose, however, is not served if the BIR fails to consider the taxpayer's explanations.

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[7] G.R. No. 261065, July 10, 2023.

Thus, while filing a reply to the PAN is optional for the taxpayer under RMO No. 026-16,[8] if the taxpayer chooses to file a protest against the PAN, jurisprudence require that the CIR consider or evaluate that response. Failure to do so would render the exercise meaningless and infringe upon the taxpayer's right to due process. The right to be heard, which includes the right to present evidence, is meaningless if the CIR can simply ignore the evidence without reason.[9]

Moreover, as to petitioner's contention that the Court erred when it ruled on the authority of the ROs, Section 1, Rule 14 of the RRCTA[10] is clear that 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.

In line with this provision, the Supreme Court in *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*[11] ruled that this Court was well within its authority to consider in its decision the question on the scope of authority of the ROs who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda.

In this case, the issue regarding the lack of authority of the ROs to conduct petitioner's audit and assessment is not only related to the singular issue stipulated upon by the parties, specifically, on whether or not respondent is liable for deficiency income tax, value added tax, expanded withholding tax and documentary stamp tax for taxable year 2008, but is also vital in the orderly disposition of the case since an assessment as a result of an examination conducted without valid authority is void, and a void assessment bears no fruit.

The Court likewise finds no merit in petitioner's contention that a new LOA is not required and that a MOA is sufficient to vest authority to the ROs named in the MOA. Petitioner argues that the Court erroneously relied on RMO No. 43-90 and only ROs from RDOs are required to secure a LOA while ROs from the LTS are exempt from this requirement.

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

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8 Policies and Guidelines in Handling Disputed Assessments; June 13, 2016.

9 *Commissioner of Internal Revenue vs. Unioil Corporation*, G.R. No. 204405, August 4, 2021.

10 Section 1, Rule 14 of the RRCTA:
Section 1. *Rendition of judgment.* — xxx 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.

11 G.R. No. 183408, July 12, 2017.

of authority, in the form of a LOA, before any RO can conduct an examination or assessment.[12]

Additionally, Section 291 of the NIRC of 1997, as amended,[13] states that only laws and regulations which are contrary or inconsistent with its provisions, are repealed. Thus, the Supreme Court has already ruled with finality in *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corporation (McDonald's case)*[14] that RMO No. 43-90 remains effective and applicable despite being issued before the NIRC of 1997, as amended, because it is not contrary or inconsistent with the law.

Notably, the *McDonald's case* involves the LTS and squarely addresses the practice of the BIR of reassigning or transferring ROs originally named in the LOA and substituting them with new ROs to continue the audit or investigation without a separate or amended LOA. The Court deemed this practice to be a violation of the taxpayer's right to due process during a tax audit or investigation. Furthermore, it undermines the statutory authority of the CIR or his duly authorized representative to examine the books of account of a taxpayer, and it does not comply with existing BIR rules and regulations, particularly RMO No. 43-90.

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

WHEREFORE, petitioner's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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[12] *Commissioner of Internal Revenue vs. Mcdonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021.

[13] SECTION 291. In General. – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Code are hereby repealed, amended, or modified accordingly.

[14] G.R. No. 242670, May 10, 2021.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice