REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

MANILA MEDICAL SERVICES, INC., (MANILA DOCTORS HOSPITAL), *Petitioners,*	**CTA Case No. 8907**
-versus-	Members: **CASTAÑEDA, JR.,** *Chairperson and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 30 2019 3:45 pm

x- x

RESOLUTION

MANAHAN, *J.:*

To be resolved is respondent's **Motion for Reconsideration**[1] which prays that this Court reconsiders its *Decision* dated November 6, 2018 and issues a new one instead. The dispositive portion of the assailed decision reads as follows:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the subject Final Assessment Notice and Warrant of Distraint or Levy are hereby **CANCELLED** for being **NULL AND VOID**.
>
> **SO ORDERED**.

Respondent insists that he was able to establish that the letters dated April 26, 2013 and July 1, 2013 were properly served and petitioner indeed received the same as evidenced by the Certifications dated November 19, 2014 and November 20, 2014 marked as Exhibits "R-36" and "R-37" and duly testified by Ms. Brenda Zantua, Chief of the Administrative Unit of Manila Central Post Office.

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[1] Docket, CTA Case No. 8907, Vol. II, pp. 992-998.

Respondent also insists that petitioner admitted in its supplemental letter dated September 5, 2014 marked as Exhibit "P-16" that the audit/investigation of taxable year 2008 was covered by a Letter of Authority (LOA) and petitioner likewise admitted that it received two Letters of Notice (LNs) with Nos. 033-RLF-0800-00013 and 033-TRS-0800-00013. Respondent argues that said LNs are considered notice of audit or investigation insofar as amendment of any tax return is concerned pursuant to Revenue Memorandum Circular (RMC) No. 40-2003.

On the other hand, petitioner insists that said assessment notices were not validly served to its registered office as proven during the cross-examination of Ms. Zantua who admitted that it had no personal knowledge of the registry return receipt and that she has no record of acceptance but the certification was based only on the delivery receipt of their letter carrier. Petitioner also insists that this Court did not err in ruling that the absence of the LOA rendered the conduct of investigation invalid. [2]

We deny said motion.

Respondent should be aware that the registry return card or receipt is the best evidence that he can offer to counter petitioner's position that it did not receive the alleged letters in the instant case.

If indeed the statement in the certification is true that the letter carrier was able to serve the alleged letters on the stated dates therein and properly received by petitioner's authorized representative, then the registry return cards or receipts of said alleged letters should have been in the possession of the respondent. However, respondent failed to explain the absence of such registry return cards or receipts which are supposed to be in his possession.

It is true that the certifications issued by the Central Post Office enjoy the presumption of regularity of official duty. However, in *Jaime O. Sevilla v. Carmelita N. Cardenas*[3], such presumption of regularity of performance of official duty is disputable and can be overcome by other evidence. As in this case, the absence of the registry return cards or receipts and

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[2] Docket, Comment (To Respondent's Motion for Reconsideration), pp. 1012-1019.
[3] G.R. No. 167684, July 31, 2006.

the failure of the certification to refer to the same had negated the facts of such service.

Further, Ms. Zantua had only testified as to the authenticity and execution of the said certifications and not on the factual circumstances of the service of those alleged letters. In the absence of said registry return cards or receipts and the continued denial of the petitioner, respondent should have presented the witness who had personal knowledge of such service, the letter carrier, alluded to by Ms. Zantua. However, still respondent failed to do so.

As to the ruling of this Court on the absence of the required LOA, we reiterate our factual findings in the assailed decision, to wit:

> The factual antecedents of this case reveal that the tax examination was preceded by the issuance of a Letter of Notice (LN) No. 033-TRS-0800-00013 dated February 15, 2010. Nowhere in respondent's Answer was it mentioned that an LOA was issued nor was it offered as evidence in his FOE. Thus, petitioner's allegation that there was no LOA issued for the instant case is true as borne out by its glaring absence from the case records.
>
> In petitioner's supplemental letter dated September 5, 2014, it admitted that they had received two (2) LOAs for the examination of its book of accounts for taxable year 2008, particularly, LOA No. 2008-00002264 dated July 6, 2009 and LOA No. 2007-00037491 dated July 14, 2009 where the respondent's Regional Director clarified that the second LOA merely superseded the former. However, petitioner argued that it had already settled the deficiency assessments assessed under the said examination through its payment of the deficiency taxes on February 15, 2010.
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> Thus, petitioner was surprised to receive two (2) LNs with Nos. 033-RLF-0800-00013 and 033-TRS-0800-00013 also on February 15, 2010.

There being no new issues or matters raised by the respondent in the instant motion, this Court finds no compelling reason to reverse the ruling in the assailed decision.

WHEREFORE, premises considered, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit and the assailed DECISION is hereby **AFFIRMED.**

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

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