REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1773** (CTA Case No. 8726)
	Present:
-*versus*-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
WELLINGTON INVESTMENT & MANUFACTURING CORPORATION, *Respondent.*	Promulgated: OCT 11 2019 3:35 p.m.

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RESOLUTION

MANAHAN, J.:

On April 11, 2019, the Court *En Banc* rendered its Decision which cancelled the assessments issued against Wellington Investment and Manufacturing Corporation (Wellington) for taxable year 2008 covering deficiency income tax, value-added tax, withholding tax on compensation, expanded withholding tax, fringe benefits tax and improperly accumulated earnings tax. The Court *En Banc* reasoned that no new Letter of Authority (LOA) were issued to the replacement revenue officers (ROs) who continued the investigation and examination of Wellington's books of accounts.

On April 30, 2019, petitioner Commissioner of Internal Revenue (CIR) filed his *Motion for Reconsideration (re: Decision* *dated April 11, 2019)* arguing that (1) the Court erred in ruling on an issue never raised by respondent, never joined in the pleadings, never raised during pre-trial, and never defined by the Court in the pre-trial order, thus, violating petitioner's right to due process; (2) the Court erred in ruling that the assessments are void due to lack of a valid LOA issued to the RO who continued the audit; and (3) the Court erred in affirming the Division's Decision which cancelled items from the assessments.

On June 26, 2019, Wellington filed its *Respondent's Opposition (To Petitioner's Motion for Reconsideration dated 30 April 2019) (With Motion to Discharge and/or Release Respondent's Bond on the Suspension or Collection of Tax by Petitioner)* which states that (1) the Court has authority to decide issues not specifically raised by the parties in the proceedings; (2) the subject assessments are void for lack of authority of the examining revenue officers; and (3) the Court correctly held that petitioner CIR failed to raise new matters in the petition which warrants the denial of the same.

With respect to the *Motion to Discharge and/or Release Respondent's Bond on the Suspension or Collection of Tax*, Wellington states that its bond should be released considering that (1) the lifetime of bonds shall be from its approval by the Court until the action is finally decided, resolved or terminated, unless the court concerned directs otherwise; (2) Wellington has already paid and manifested to the Court its payment of Php19,582,024.17 pursuant to the Division's Decision dated September 14, 2017; and (3) the Court *En Banc* has cancelled the assessments.

On August 1, 2019, the CIR filed his *Opposition (Re: Respondent's Urgent Motion to Discharge and/or Release Respondent's Bond on the Suspension of Collection of Tax by Petitioner)* which states considering the pending motion for reconsideration, the judgment has yet to attain finality. As such, the purpose for which the surety bond has been posted still exists.

CIR's Motion for Reconsideration

In the instant case, LOA No. 2008-00033724 dated July 1, 2009 was issued authorizing ROs Allan Maniego, Joel Aguila, Jose Ma. Hernandez, Myrna Ramirez and Cleotefel

Parungao to examine Wellington's books of accounts and other accounting records for taxable year 2008. The investigation was subsequently continued by RO Reynoso C. Bravo, and later, by RO Carolyn V. Mendoza.

In Revenue Memorandum Order (RMO) No. 069-2010[1], a manual serially-numbered Memorandum of Assignment (MOA) shall be issued for "[r]assignment for the continuation of the audit/investigation of a case to another RO due to resignation/retirement/transfer of the original RO." Under this RMO, there is no requirement for the issuance of a new LOA for reassignment or transfer of cases. Neither is there a specified signatory for MOAs.

RO Carolyn V. Mendoza was authorized under MOA No. LOA-116-2013-0492[2] dated February 28, 2013, which states that it is pursuant to LOA-2008-00033724, and that it is for the "continuation of the audit/investigation to replace the previously assigned Revenue Officer(s) who resigned/retired/transferred to another district office." On the other hand, the authority of RO Reynoso C. Bravo, which was allegedly for reinvestigation after Wellington's protest, was not proven.

Given the foregoing, the audit and investigation of Wellington's books of account for taxable year 2008 by RO Reynoso C. Bravo was without the requisite authority. Hence, the investigation and the corresponding assessments are void.

Wellington's Motion to Discharge/Release Bond

Despite Wellington's payment of the Php19,582,024.17 pursuant to the September 14, 2017 Decision of the Court in Division, the Court *En Banc* cannot grant the release of Wellington's Bond. The instant case has not yet become final and executory.

WHEREFORE, the Commissioner of Internal Revenue's *Motion for Reconsideration (re: Decision dated April 11, 2019)* is **DENIED** for lack of merit.

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[1] Guidelines on the Issuance of Electronic Letters of Authority, Tax Verification Notices, and Memoranda of Assignment, August 11, 2010.
[2] BIR Records, Folder 4, Exhibit "R-13", p. 1509.

Respondent Wellington Investment and Manufacturing Corporation's *Motion to Discharge and/or Release Respondent's Bond on the Suspension or Collection of Tax* is likewise **DENIED**.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice