REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

EDS MANUFACTURING, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8830

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:

DEC 1 2 2017 1:10 pm

x - x

RESOLUTION

CASTAÑEDA, JR., *J.*:

Before this Court is respondent's **Motion for Reconsideration Re: Decision dated August 3, 2017**, filed on August 22, 2017, with petitioner's **Comment/Opposition (To Respondent's Motion for Reconsideration dated 18 August 2017)**, filed on September 20, 2017.

Respondent seeks reconsideration of the Court's Decision dated August 3, 2017, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Consequently, the Final Decision on Disputed Assessment dated May 9, 2014 and the Assessment Notices are declared **NULL and VOID**.
>
> **SO ORDERED**."

In assailing the aforesaid Decision, respondent anchors its arguments on the sole ground that the Commissioner of Internal Revenue or his duly authorized representative may authorize the examination of any taxpayer not only by virtue of a letter of authority but also by other means such as Memorandum of Assignment.

Respondent contends that the authority of Ms. Edralin M. Silario, OIC-Chief of LY Regular Audit Division I, to sign the Memorandum of Assignment was never questioned by petitioner; thus, it can allegedly be presumed that she is duly authorized to issue or delegate the authority to conduct examination of any taxpayer. Allegedly, this Court has acknowledged the fact that the Memorandum of Assignment was issued by respondent. As such, it can be gleaned that it is within the ambit of respondent's power to issue an assessment.

It is further claimed by respondent that petitioner voluntarily submitted its audited financial statement and income tax return for the application to avail income tax incentive granted to PEZA-registered business. As such, respondent allegedly conducted an examination on petitioner's internal revenue tax compliance. Respondent insists that he discovered then that some expenses incurred by petitioner should not be deducted from its gross income, which such discovery led to the issuance of the Memorandum of Assignment, Formal Letter of Demand, and Final Assessment Notice. Thus, respondent posits that petitioner voluntarily submitted itself to the jurisdiction and necessary investigation of the Bureau of Internal Revenue when it submitted its application for the enjoyment of the preferential tax rate.

On the other hand, petitioner opposes the instant motion on the grounds that the said motion is *pro forma* and merits no consideration from the Court, and that the latter correctly nullified the assessments which were issued without a Letter of Authority (LOA).

Petitioner avers that without an LOA, a Revenue Officer has no power at all to examine taxpayers or assess taxes. Allegedly, respondent fails to cite any legal basis on his allegation that the authority granted to revenue officers may be in a form other than an LOA, such as a Memorandum of Assignment.

After a thorough evaluation of respondent's arguments, the Court finds that the same are mere rehash of the same facts and issues which have already been passed upon extensively in the assailed Decision.

To reiterate this Court's ruling that is in accordance with the Supreme Court's pronouncement in the recent case of *Medicard Philipines, Inc. vs. Commissioner of Internal Revenue*[1], the Memorandum of Assignment issued to Revenue Officer Bravo cannot be converted into the LOA required under the law even if the same was issued by respondent. Thus, without the LOA required by law and jurisprudence, the investigation conducted and assessment issued by respondent were correctly declared void by the Court.

Considering that no new matters were raised by petitioner in the instant motion for reconsideration that will warrant the reversal it prayed for, the Court finds the motion bereft of merit.

WHEREFORE, finding no cogent reason to reverse the ruling in the assailed Decision, respondent's **Motion for Reconsideration Re: Decision dated August 3, 2017** is **DENIED** for lack of merit.

SO ORDERED.

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

We concur:

CAESAR A. CASANOVA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

[1] G.R. No. 222743, April 5, 2017.