REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PHILPLANS FIRST, INC.,
Petitioner,

CTA Case No. 9404

Members:

CASTAÑEDA, JR., *Chairperson,*
and
BACORRO-VILLENA, *JJ.*

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

SEP 15 2020 9:48 AM

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RESOLUTION

CASTAÑEDA, JR., ***J.:***

For resolution of this Court is respondent Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration (Re: Decision dated 17 June 2020)* filed via registered mail on July 14, 2020.

Respondent assails the Decision dated June 17, 2020, (the "Assailed Decision") of this Court granting petitioner's Petition for Review based on the following grounds:

1. The Honorable Court erred in granting a relief that was not prayed for by petitioner. Respondent's right to fair play and due process was violated; and

2. Assuming without conceding that the Court can rule on matters raised only on appeal, the Second Division erred when it held that the Referral Memorandum is not sufficient to grant the revenue officer the authority to continue the conduct of the audit investigation.

Petitioner Philplans First, Inc. failed to file its required Comment on the above Motion for Reconsideration as per the Records Verification issued by this Court's Judicial Records Division dated September 2, 2020.

After judicious review of the records as well as the relevant rules and jurisprudence on the matter, this Court finds no substantial matter much less any compelling reason that would warrant the modification let alone the reversal of the Assailed Decision. Respondent's *Motion for Reconsideration* is utterly devoid of any merit and thus, should be denied.

This Court already stressed in the Assailed Decision that while the lack of authority of the revenue officers to conduct the audit was not specifically raised as an issue, this Court is not precluded from taking cognizance of and rendering a ruling on the same. The decision of the Supreme Court in *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*[1] squarely serves as the legal basis on this particular matter.

This Court also maintains its position that the tax assessments issued by respondent against petitioner are intrinsically void because of absence of authority on the part of the revenue officers who conducted the examination of petitioner's books of accounts and other accounting records for the period from January 1, 2009 to December 31, 2009.

Based on the documentary evidence duly presented, the revenue officers named under LOA No. 124-2010-00000102 dated May 28,

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

2010 were different from those who actually examined petitioner's books of accounts and other accounting records for the period from January 1, 2009 to December 31, 2009. As the revenue officers who actually conducted the audit were not named in the said LOA, they cannot derive their authority therefrom. It was also established that these revenue officers conducted the audit on the basis of the Memorandum of Assignment No. ELTAD II-2013-MOA-0159 issued by Lindagrace B. Sagun, OIC-Chief of ELTAD II. As previously explained in the Assailed Decision, such Memorandum of Assignment cannot clothe these revenue officers with the requisite authority to conduct the audit of petitioner's books of accounts and other accounting records. This is due to the fact that the revenue official who issued such Memorandum of Assignment has no power whatsoever to authorize examination of taxpayers for assessment purposes or to effect any modification or amendment to a previously issued LOA. Only the CIR himself or his duly authorized representatives have that power as mandated by Sections 6, 7, 10 and 13 of the National Internal Revenue Code of 1997, as amended. An OIC-Chief of ELTAD II is not one of the CIR's duly authorized representatives.

WHEREFORE, respondent's *Motion for Reconsideration (Re: Decision dated 17 June 2020)* is **DENIED** for lack of merit.

SO ORDERED.

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

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice