REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MARKET STRATEGIC FIRM, INC., *Petitioner,*	**CTA CASE No. 9280**
-versus-	**Members:** **CASTAÑEDA, JR., Chairperson, MINDARO-GRULLA, and BACORRO-VILLENA, *JJ.***
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** JUN 16 2020 3:10 PM

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RESOLUTION

MINDARO-GRULLA, J.:

For resolution is the Commissioner of Internal Revenue (CIR)'s "Motion for Reconsideration (Re: Decision dated February 10, 2020)"[1] filed on February 24, 2020, with Market Strategic Firm, Inc. (MSFI)'s "Comment"[2] filed on October 7, 2019.

In his Motion for Reconsideration, the CIR posits that the authority of the Revenue Officer (RO) was never raised in the Petition for Review nor in the course of trial, thus, the Court cannot rule upon the said issue. Moreover, even on the assumption that the Court could do such, the continuation of the conduct of audit through a Memorandum of Assignment (MOA) signed by Chief of RLTAD I is proper.

The Court resolves to deny the CIR's Motion for Reconsideration.

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[1] *Dockets,* Vol. II.
[2] *Ibid.*

Records reveal that the issues raised by the CIR have been exhaustively passed upon and resolved by this Court in in the assailed Decision.

In this case, although a Letter of Authority (LOA) was issued, the examination was reassigned to ROs pursuant only to a MOA signed by the Chief of RLTAD I.

To reiterate, in *Commissioner of Internal Revenue vs. Composite Materials, Inc. (the "Composite Case")*,[3] the Supreme Court categorically held that an RO may only examine the taxpayer's books pursuant to an LOA issued by the Regional Director in accordance with section 13[4] of the National Internal Revenue Code (NIRC) of 1997.

The Supreme Court in the *Composite Case* further emphasized that the Referral Memorandum issued by the Revenue District Officer directing another RO to continue with the examination of the taxpayer records is not equivalent to an LOA nor does it cure the RO's lack of authority, *viz:*

> "As regards the issue on Revenue Officer Mary Anne P. Cruz's (RO Cruz) authority to examine CMI's records, the provisions of the National Internal Revenue Code of 1997, as amended, are clear that a Revenue Officer may only examine the taxpayer's books pursuant to a Letter of Authority (LOA) issued by the Regional Director. This was reiterated by the Court in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, ruling that in the absence of an LOA, the assessment or examination is a nullity.

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[3] G.R. No. 238352, September 12, 2018.

[4] SEC. 13. *Authority of a Revenue Officer*.- Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, <u>pursuant to a Letter of Authority issued by the Revenue Regional Director</u>, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself. (Underlining supplied.)

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> Moreover, the Court agrees with the CTA *en banc* that the Referral Memorandum issued by a Revenue District Officer directing RO Cruz to continue with the examination of CMI's records is not equivalent to an LOA nor does it cure RO Cruz's lack of authority. To be sure, Revenue Memorandum Order No. 43-90, which specified the guidelines in the issuance of LOAs states that any reassignment or transfer of cases to another RO or revalidation of an expired LOA shall require the issuance of a new LOA." (Underlining supplied)

With the foregoing pronouncement of the Supreme Court, the fact remains that there is non-compliance in the issuance of a new LOA signed by authorized signatories in case of reassignment. It must be reiterated that the Chief of RLTAD I is not included under those authorized signatories of an LOA and only the CIR or his duly authorized representatives may issue a new LOA in case of reassignments for investigation and audit.

As to the contention that this Court cannot resolve the issue on the authority of the RO in the continuation of conducting an audit, the ruling of the Supreme Court in the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*[5] could not be any clearer, to wit:

> "On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
>
> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA 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. The text of the provision reads:
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> SECTION 1. Rendition of judgment. -
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[5] G.R. No. 183408, July 12, 2017

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> 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.

The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda. The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter."

All told, the Court finds no compelling reason or substantial justification to modify its findings much more reverse the assailed Decision.

WHEREFORE, the Commissioner of Internal Revenue's Motion for Reconsideration (Re: Decision dated February 10, 2020) is hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice