REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA *EB* NO. 2243
(CTA Case No. 9067)

Present:

DEL ROSARIO, *P.J.*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, *JJ.*

-versus-

FIRST PHILIPPPINE POWER SYSTEMS, INC,
Respondent.

Promulgated:
JUN 23 2022 2:46 pm

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RESOLUTION

MANAHAN, *J.:*

For this Court's resolution is petitioner's *Motion for Reconsideration (Re: Decision dated 03 February 2022)* filed on February 23, 2022 with respondent's *Comment/Opposition (to the Motion for Reconsideration dated February 23, 2022)* filed on March 15, 2022.

Petitioner prays for the reversal of the Court's Decision dated February, 3, 2022, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed by the CIR is **DENIED.**

> Accordingly, the Decision dated September 9, 2019 and Resolution dated February 14, 2020 of the Special Third Division of this Court are AFFIRMED.
>
> Consequently, petitioner is **ENJOINED** and **PROHIBITED** from collecting against respondent the amounts representing the assessed deficiency taxes for TY 2009 in the total amount of Php17,236,413.95.

Petitioner submits the following grounds for his motion:

"I

THE HONORABLE COURT EN BANC ERRED IN GRANTING A RELIEF THAT WAS NOT PRAYED FOR BY RESPONDENT. THE ISSUE ON THE ALLEGED WANT OF AUTHORITY OF THE REVENUE OFFICER WAS NEVER PART OF THE ISSUES RAISED DURING TRIAL AND EVEN ON APPEAL. PETITIONER'S BASIC RIGHT TO FAIR PLAY AND DUE PROCESS WAS VIOLATED.

II.

ASSUMING FOR THE SAKE OF ARGUMENT THAT THE HONORABLE COURT MAY RULE ON AN ISSUE THAT WAS NOT PART OF THE TRIAL NOR FOUND IN THE PLEADINGS, THE HONORABLE COURT IN DIVISION ERRED IN RULING THAT THE ASSESSMENTS ARE VOID BECAUSE THE REVENUE OFFICERS WHO CONDUCTED THE AUDIT WERE ALLEGEDLY NOT AUTHORIZED THROUGH A LETTER OF AUTHORITY (LOA)."

In its *Comment/Opposition (to the Motion for Reconsideration dated February 23, 2022)*, respondent maintains that there are no new matters raised in petitioner's Motion for Reconsideration that would merit a reversal of the assailed Decision but would like to emphasize the following points:

1. The Honorable Court is duly empowered and mandated to dispose of cases fully, which may include issues which may not have been raised by a party in its petition, and are duly borne by the records and evidence;

2. Due process is not limited to merely being granted the opportunity to present one's side. Substantive due process requires that a taxpayer is also given proof that the persons who are facing (i.e., the revenue officers) the taxpayer are clothed with proper authority in the form of a Letter of Authority (LOA);

3. The issuance of a referral memoranda for the purpose of the conduct of examinations of taxpayers has been repeatedly established as a prohibited act;

4. The list of persons who may issue LOAs to conduct assessments is finite and exclusive; and

5. Securing an LOA in cases of reassignment or retirement of the handling examiners is mandatory and does not violate the restriction on issuing a single LOA to a taxpayer for a single taxable year.

RULING OF THE COURT

We shall first resolve the timeliness of the filing of petitioner's *Motion for Reconsideration* with the Court.

On February 3, 2022, the Court *En Banc* issued a Decision in the above-captioned case, affirming the decision of the Court in Division cancelling the Final Letter of Demand and Final Assessment Notice for 2009.

A copy of the assailed Decision was received by petitioner on February 8, 2022.[1] Pursuant to Section 1 of Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), a party dissatisfied with a decision of the Court must file a motion for reconsideration or new trial within fifteen (15) days from receipt thereof, and we quote:

> **"Rule 15**
> **Motion for Reconsideration or New Trial**
>
> **Section 1.** *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision , resolution or order of the Court by filing a motion for reconsideration or new trial for fifteen days from the date of receipt of notice of the

[1] Eb Docket, page 125. *om*

> decision, resolution or order of the Court in question."

Counted from petitioner's receipt of the decision, petitioner had until February 23, 2022 to file his Motion for Reconsideration. Records show that he filed his Motion for Reconsideration on February 23, 2022, hence, the instant motion was timely filed.

On the main grounds raised in the instant Motion for Reconsideration, we agree with respondent that petitioner raised the very same issues that have already been considered, passed upon and resolved by the Court in the assailed Decision, hence there is no compelling reason for us to modify much less reverse the same.

In fact, the allegation of petitioner that the issue on the alleged want of authority of the revenue officers was never part of the issues raised during trial is not accurate. The Court in the assailed Decision refuted petitioner's claim and made the following observations and we quote:

> "In the Petition for Review filed by respondent with the Court in Division, respondent actually raised the invalidity of the subject deficiency assessments for TY 2009 due to the alleged lack of due process as seen from the "Statement of Issues" embodied therein, and we quote:
>
> **"ISSUES**
>
> xxx xxx xxx
>
> B.
>
> "Whether or not petitioner was afforded due process in the issuance of the Formal Letter of Demand and Final Assessment Notice."
>
> Further, in the parties' JSFI dated February 17, 2016, one of the issues stipulated by the parties for resolution of the Court is whether or not petitioner was afforded due process in the issuance of the disputed deficiency tax assessments, which goes into the heart of the validity of the subject FLD/FANs.
>
> Thus, the validity of the subject FLD/FANs was directly put in issue during trial which contradicts petitioner's contention that the Court ruled on an issue which was never raised during trial and granted a relief that was never prayed for by respondent. Even if not raised, the validity of such deficiency assessments for TY 2009 is also a matter of public importance because, taxpayers cannot be held liable under invalid or void tax assessments following the doctrine that a void assessment bears no valid fruit.

> Given the above premises, the Court is not prohibited from resolving the issue of lack of authority of the ROs to conduct an audit of respondent's books of accounts and other accounting records prior to the determination of the merits of the deficiency assessments."

Notwithstanding the above statement, the Court has, time and again, ruled that it is not bound by the issues raised by the parties, but may also rule on related issues necessary to achieve an orderly disposition of the case.

Section 1, Rule 14 of the 2005 Revised Rules of the Court of Tax Appeals, is quoted as follows:

"Rule 14
Judgement, its Entry and Execution

Section 1. – *Rendition of Judgment.-*

In deciding a 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." (Emphasis supplied)

This has been recognized by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*,[2] and we quote:

> "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.**" (emphasis supplied)

The second ground adduced by petitioner is a mere rehash of the arguments which have already been extensively analyzed and disposed of by Court in the assailed Decision, hence, we do not see the need to repeat the detailed disquisitions outlined in the assailed Decision.

WHEREFORE, in light of the foregoing considerations, the *Motion for Reconsideration (Re: Decision dated 03 February 2022)* filed by petitioner on February 23, 2022 is **DENIED** for lack of merit.

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

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice