REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB No. 2570** (CTA Case No. 9635)
	Present:
-versus-	**DEL ROSARIO,** *PJ*, **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ*.
DRUGMAKERS BIOTECH RESEARCH LABORATORIES, INC., *Respondent.*	Promulgated: APR 25 2024 2:28 pm

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RESOLUTION

***REYES-FAJARDO, J.*:**

For the Court's resolution is petitioner Commissioner of Internal Revenue (CIR)'s *Motion for Reconsideration (Re: Decision promulgated 17 October 2023)* filed on November 7, 2023,[1] taking into consideration respondent Drugmakers Biotech Research Laboratories, Inc.'s *Comment/Opposition (Re: Petitioner's Motion for Reconsideration dated October 23, 2023)* posted on November 28, 2023.[2]

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1 Motion for Reconsideration, CTA EB No. 2570, Docket, pp. 113 to 121.

2 Comment/Opposition, CTA EB No. 2570, Docket, pp. 137 to 143.

In the Decision promulgated on October 17, 2023 ("assailed Decision"),[3] the Court En Banc denied the Petition for Review and affirmed the earlier Decision dated October 15, 2021 and Resolution dated February 8, 2022 of the Second Division of this Court in CTA Case No. 9635, cancelling petitioner's assessments against respondent for deficiency income tax, deficiency value-added tax ("VAT"), and compromise penalty, in the total amount of ₱26,712,499.01, for calendar year ("CY") 2008, and the Warrant of Distraint and/or Levy dated June 27, 2017.[4]

The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the Petition for Review dated February 22, 2022, filed by the Commissioner of Internal Revenue in CTA EB No. 2570, is **DENIED**. The assailed Decision dated October 15, 2021 and Resolution dated February 8, 2022, rendered by the Court in Division in CTA Case No. 9635, are **AFFIRMED.**
>
> Petitioner, his agents, or other persons acting in his behalf, are **ENJOINED** from collecting on respondent, the deficiency tax assessments for Calendar Year 2008.
>
> **SO ORDERED.**"

In his *Motion for Reconsideration*,[5] petitioner argues that the Court erred in invalidating the deficiency tax assessments issued against respondent for CY 2008. Petitioner proffers that Section 13[6] of the National Internal Revenue Code ("NIRC") of 1997, as amended, does not apply to the present case as there was no actual examination of respondent's books.[7] Relying on Revenue Memorandum Circular ("RMC") No. 40-03,[8] in relation to Revenue Memorandum Order

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3 Decision, CTA EB No. 2570, Docket, pp. 94 to 107.

4 *Id.* at p. 106.

5 Motion for Reconsideration, CTA EB No. 2570, Docket, pp. 113 to 121.

6 Section 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, pursuant to a Letter of Authority issued by the Revenue Regional Director, 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.

7 Motion for Reconsideration, CTA EB No. 2570, Docket, pp. 115.

8 Effect of the Issuance and Receipt of Letter Notice to the Taxpayer's Right to Amend its Tax Returns as Provided under Section 6 of the National Internal Revenue Code, July 3, 2003.

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("RMO") No. 30-03,[9] petitioner suggests that there is no strict requirement for the existence of a Letter of Authority ("LOA") in a "*no contact-audit-approach*" and that a Letter of Notice ("LN") issued in compliance with RMO No. 30-03 is sufficient.[10]

In its *Comment/Opposition*,[11] respondent reiterated that it did not receive any assessment notices or letters from petitioner, including a LOA, as sufficiently established by evidence presented during trial to which petitioner never presented countervailing evidence. Respondent also emphasized the Supreme Court's pronouncement in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue ("Medicard")*,[12] that an LN does not carry with it the same authority and effect as a LOA.

We resolve.

After careful consideration of the arguments of both parties, the Court finds no compelling reason to reverse or modify the assailed Decision dated October 17, 2023.

Petitioner's theories that a LOA is not strictly required in a "*no contact-audit-approach*" and that an LN duly-issued in compliance with RMO No. 30-03 suffices[13] are utterly misplaced.

RMO No. 30-03 lays down the policies and guidelines for the Bureau of Internal Revenues ("BIR")'s centralized Data Warehouse in conjunction with its Reconciliation of Listing for Enforcement (RELIEF) System which can detect tax leaks by matching the data available under the BIR's Integrated Tax System with data gathered from third-party sources. Under RMO No. 30-03, several offices of the BIR were tasked with specific functions relative to the RELIEF System, particularly with regard to LNs.[14]

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[9] Guidelines and Procedures in the Extraction, Analysis, Disclosure/Dissemination, Utilization, and Monitoring of RELIEF data for Audit and Enforcement Purposes, September 18, 2003.

[10] Motion for Reconsideration, CTA EB No. 2570, Docket, pp. 115.

[11] Comment/Opposition, CTA EB No. 2570, Docket, pp. 137 to 143.

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

[13] Motion for Reconsideration, CTA EB No. 2570, Docket, pp. 115.

[14] *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017.

RMO No. 30-03 was later supplemented by RMO No. 42-03, which laid down the *"no-contact-audit approach"* whereby the BIR, even without conducting a detailed examination of taxpayer's books and records, may uncover discrepancies through the computerized matching of sales and purchases data contained in the Schedules of Sales and Domestic Purchases, and Schedule of Importation submitted by taxpayers under the RELIEF System. The discrepancies noted, if any, are communicated to the concerned taxpayer through the issuance of an LN.[15]

As explained by the Supreme Court in *Medicard*,[16] both RMO No. 30-03 and RMO No. 42-03 are silent on the statutory requirement of a LOA before any investigation or examination of a taxpayer may be conducted. However, RMO No. 42-03 provides that an LN merely serves as a discrepancy notice to the taxpayer, similar to a Notice for Informal Conference.[17] Further, RMO No. 32-05,[18] which prescribes guidelines and procedures in handling LNs for deployment, requires the conversion of a previously issued LN to a LOA.

The NIRC of 1997, as amended, requires a LOA and RMO No. 32-05[19] requires the conversion of the previously issued LN to a LOA; thus, non-compliance with these requirements cannot be simply swept under the rug, as petitioner would have it.[20] In fact, RMC No. 40-03, which petitioner also relied upon, considers an LN as a notice of audit or investigation only for the purpose of disqualifying the taxpayer from amending his returns.[21]

The other arguments raised by petitioner have already been passed upon and discussed at length by the Court. Any further discussion will only be unnecessarily repetitive.

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15 *Id.*

16 G.R. No. 222743, April 5, 2017.

17 Revenue Memorandum Order No. 30-2003, Prescribing Additional Guidelines Governing the Rules on Assessment of National Internal Revenue Taxes covered by a Letter Notice issued under the RELIEF System as defined in and other data matching processes, October 23, 2003.

18 Revenue Memorandum Order No. 32-2005, Prescribing Guidelines and Procedures in Handling Letter Notices for Deployment via the Information Delivery Portal in the Years 2005 Onwards for Audit and Enforcement Purposes, November 24, 2005.

19 *Id.*

20 *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017.

21 *Id.*

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WHEREFORE, in light of the foregoing considerations, petitioner's *Motion for Reconsideration (Re: Decision promulgated October 17,2023)* is **DENIED** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice