REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA Crim. Case No. O-666
(NPS Docket No. XVI-INV-15C-00079)
For: Violation of Section 255 of the NIRC of 1997, as amended

-versus-

VIVETECH CORPORATION/ EDWIN B. LUMAGUE (President), and **ROEDEL R. LUMAGUE** (Treasurer),
Bldg. 2A Sunyu Compound
Veterans Center, Sta. Cruz
Taguig City,
Accused.

x- -x

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Taguig City,
Accused.

Members:

DEL ROSARIO, *P.J., Chairperson,*
FABON-VICTORINO, *and*
MANAHAN, *JJ.*

Promulgated:
JUN 03 2020 ; 1:37 pm

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RESOLUTION

MANAHAN, *J.:*

On December 11, 2019, the Court acquitted accused Vivetech Corporation, Edwin B. Lumague, and Roedel R. Lumague of the charges brought in CTA Case Nos. O-666 and O-667 for failure of the prosecution to establish the accused's guilt beyond reasonable doubt.

The Court found that there was no valid assessment because Revenue Officer (RO) Mohaimin M. Abedin is not named in the Letter of Authority (LOA), thus, absent a valid authority, the assessment is void.

On January 6, 2020, the Court received plaintiff's *Motion for Partial Reconsideration*, which was posted on December 20, 2019. On January 31, 2020, accused filed their *Comment (On the Plaintiff's Motion for Partial Reconsideration).*

Plaintiff argues that the revenue officer assigned to the instant case was given the authority to conduct the tax examination of Vivetech's books of accounts and other accounting records for taxable year 2009 by way of a Revalidation Notice, issued by Revenue Regional Director Nestor S. Valeroso on November 18, 2011. With this proper authority, the assessment is valid.

Accused prays that the motion be denied. Accused states that the case has undergone a full blown trial with full exposure of the documentary evidence of either side. Accused further states the alleged "Revalidation Notice" was not mentioned, identified, testified upon, or offered in evidence. Thus, accused states that they were able to prove the lack of authority of RO Abedin, rendering the assessment void.

The motion has no merit.

It is reiterated that an LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records for the purpose of collecting the correct amount of tax.[1] In the absence of such an authority, the assessment or examination is a nullity.[2]

Again, RO Abedin was not named in the LOA issued to accused, and prosecution did not present any evidence to show that RO Abedin was authorized in a subsequent LOA.

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[1] *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017.
[2] *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.

Due to RO Abedin's lack of authority, the assessments against accused for taxable year 2009 are void, correspondingly, there is no obligation on the part of the accused to pay the assessed deficiency taxes. Considering that the assessment is void for lack of authority of the investigating revenue officer, there can be no civil liability imposed against accused.

WHEREFORE, plaintiff's *Motion for Partial Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice