REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2048** (CTA Case No. 8933)
- versus -	Present: Del Rosario, *PJ*, Castañeda, Jr., Uy, Ringpis-Liban, Manahan, Bacorro-Villena, and Modesto-San Pedro, *JJ.*
LANCASTER COLORS, INTERNATIONAL, INC., Respondent.	Promulgated: MAY 2 4 2021 4:05 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution of the Court is petitioner's Motion for Reconsideration (Re: Decision promulgated 28 October 2020) filed on November 18, 2020, with respondent's Comment [To Petitioner's Motion for Reconsideration (Re: Decision promulgated 28 October 2020)] filed through registered mail on January 28, 2021.

For easy reference, the dispositive portion of the assailed Decision reads as follows:

> "**WHEREFORE,** the instant Petition for Review is **DENIED**, for lack of merit. Accordingly, the Decision dated October 1, 2018 and the Resolution dated March 28, 2019, respectively, of the CTA Special First (1^{st}) Division are **AFFIRMED**.

SO ORDERED."[1]

Here, petitioner asserts that respondent belatedly filed its petition and that the assessment is valid. On the other hand, respondent counters that it timely filed its judicial action and that Revenue Officer (RO) Garin lacked the authority to conduct the audit and examination of petitioner's books of accounts.

After considering the arguments of both parties, the Court *En Banc* resolves to deny the instant motion.

The judicial action was timely filed

Petitioner asserts that:

> "Since respondent received the FDDA on 28 March 2014, it had only until 27 April 2014 within which to file a petition for review before the Honorable Court or an administrative appeal to the CIR. But in appealing to the CIR, the observance of the 30-day period within which to file a petition for review before the CTA is mandatory. However, it was only on 24 November 2014 when it filed the instant petition for review, hence, the same was filed out of time. xxx"[2]

Petitioner's assertion is incoherent and misplaced. Petitioner failed to take into account the date when to reckon the 30-day period to file the judicial action, *i.e.*, from the date of denial of the protest or after the lapse of 180 days due to petitioner's inaction. Hence, the Court finds no error when it ruled that:

> "Records show that respondent received the FDDA on March 28, 2014. Considering that the 30th day to file respondent's request for reconsideration fell on a Sunday, April 27, 2014, the same was timely filed on April 28, 2014. Further review of the records reveals that petitioner failed to act on the said request for reconsideration within the 180-day period. Thus, counting 30 days from the lapse of the 180-day period, petitioner's judicial action was indeed timely filed on November 24, 2014."[3]

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[1] Decision, Court *En Banc* Docket, p. 183.
[2] Court *En Banc* Docket, p. 187.
[3] See Note 1, p. 177.

RO Garin had no authority to examine respondent's books of accounts

Finally, petitioner argues that there is nothing in Revenue Memorandum Order (RMO) 43-90 which states that failure to issue a new Letter of Authority (LOA) renders the assessment void.

Again, petitioner's argument is untenable. The authority to make assessment emanates not from a mere RMO, but from the law itself. As exhaustively discussed in the assailed Decision:

> "Here, after the subject LOAs were issued by Regional Director Mendoza in favor of RO Avila to conduct tax investigation against respondent, the BIR, through RDO Ramos-Lafuente subsequently issued a Memorandum of Assignment to RO Garfin and GS Aguinaldo. As a mere RDO, RDO Ramos-Lafuente does not have any power to authorize audit examination of taxpayers or to effect any modification or amendment to a previously-issued LOA because, as mentioned earlier, only the CIR or his duly authorized representatives are granted such power.
>
> In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, the Supreme Court held that absent any prior authority on the part of the revenue officers who conducted the audit examination of taxpayer's books of accounts and other accounting records, the deficiency tax assessment arising therefrom is a nullity.
>
> It must be emphasized that a void assessment bears no valid fruit. Such being the case, the subject tax assessments cannot be enforced against petitioner."[4]

To conclude, petitioner failed to present any justifiable argument to merit the reconsideration of the assailed Decision. Hence, the denial thereof is in order.

WHEREFORE, petitioner's Motion for Reconsideration (Re: Decision promulgated 28 October 2020) is **DENIED**, for lack of merit.

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[4] See Note 1, pp. 182-183.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate 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