**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***SPECIAL FIRST DIVISION***

| | |
|---|---|
| **EXPEDITORS PHILIPPINES, INC.,** *Petitioner,* | **CTA Case No. 9257** Members: |
| *-versus-* | **DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.* |
| **HON. KIM S. JACINTO-HENARES – IN HER CAPACITY AS THE COMMISSIONER OF INTERNAL REVENUE,** *Respondent.* | Promulgated: NOV 03 2023 ; 3:40PM |

x- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -x

# RESOLUTION

**MANAHAN, *J.:***

This resolves the *Motion for Reconsideration (Decision of 29 June 2023)*[1] by respondent Commissioner of Internal Revenue (CIR), posted on July 26, 2023 and received by the Court on August 1, 2023, with petitioner's *Comment (to Respondent's Motion for Reconsideration)*,[2] filed on September 12, 2023.

Respondent assails the Decision, dated June 29, 2023, which cancelled the assessments against petitioner due to lack of a valid Letter of Authority (LOA) authorizing different revenue officers (ROs) to continue the examination and audit of petitioner's books of accounts and other accounting records for taxable year (TY) 2009. The assailed Decision discussed as follows:

> To recall, petitioner received from the Bureau of Internal Revenue (BIR) the *Letter of Authority* (LOA) No. LOA-122-2010-00000107 dated September 20, 2010,[3] authorizing ROs Ricardo Calma and Ma. Teresa Espino, and GS Monica Zamora, of the LT District Office-Makati, to conduct an

[1] Docket, Vol. 3, pp. 1342-1347.
[2] Docket, Vol. 3, pp. 1354-1359.
[3] Annex A, *Petition for Review,* Docket – Vol. 1, p. 29.

examination of the books of accounts and other accounting records of petitioner for all internal revenue taxes for the period January 1, 2009 to December 31, 2009.[4] The said LOA was signed by Zenaida G. Garcia, Assistant Commissioner, Large Taxpayers Service Excise.

Respondent presented in evidence a Memorandum Report,[5] dated April 15, 2014, to prove the factual and legal bases of the assessment. Said Memorandum Report contained the recommendation for the issuance of the PAN, submitted by ROs Jesus DS. Reyes, Ma. Theresa V. Carillo, and Daisy C. Dajao. It also stated:

> This docket previously referred to Revenue Officer Ricardo B. Calma was reassigned to the herein Revenue Officer pursuant to Memorandum of Assignment No. 122-REA-13-00290 dated March 7, 2013.

Based on the foregoing, it is apparent that the investigation of petitioner's books of accounts was reassigned pursuant to a mere Memorandum of Assignment (MOA).[6] However, there is nothing in the records which show that a new LOA was issued authorizing ROs Jesus DS. Reyes, Ma. Theresa V. Carillo, and Daisy C. Dajao, to continue the audit and investigation of petitioner's books of accounts.

Pursuant to the *McDonald's case*, quoted above, the MOA No. 122-REA-13-00290, dated March 7, 2013, **did not clothe** ROs Jesus DS. Reyes, Ma. Theresa V. Carillo, and Daisy C. Dajao, with the requisite authority to continue the examination of petitioner's books of accounts and other accounting records for taxable year 2009. If the ROs who conducted the examination of the taxpayer are not duly authorized to do so, the assessment is inescapably void. A void assessment bears no fruit.

**WHEREFORE**, the Petition for Review is **GRANTED**. The FLD with Details of Discrepancies and Audit Results/ Assessment Notices, all dated May 30, 2014, for deficiency income tax, IAET, WTC, EWT, VAT, FWT, FWVAT and DST; and, the FDDA dated January 12, 2016, all for taxable year 2009, are **CANCELLED** and **SET ASIDE**.

The Commissioner of Internal Revenue, his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of the foregoing assessments. This order of suspension is

[4] Par. 4, Stipulated Facts, JSFI, Docket – Vol. 1, pp. 461 to 462.
[5] Exhibit "R-1", BIR Records, pp. 751-764.
[6] See BIR Records, p. 700.

**IMMEDIATELY EXECUTORY** consistent with Section 4, Rule 39 of the Rules of Court, as amended.

**SO ORDERED.**[7]

In his *Motion*, respondent states that petitioner is estopped from raising the issue of the authority of the ROs who conducted the audit for TY 2009, since it failed to raise the same in the protest and in the proceedings before this Court.

On the other hand, petitioner states that the Court of Tax Appeals (CTA) was well within its authority when it ruled that an RO needs to be authorized through a validly issued LOA before examination of a taxpayer's books of accounts and other accounting records, even if it was not specifically raised by the parties.

Respondent's *Motion* is denied.

It is settled that under the Revised Rules of the CTA, the CTA is not limited to the issues stipulated by the parties but it may also rule upon related issues necessary to achieve an orderly disposition of the case.[8]

The determination of the RO's authority is necessary in the achievement of an orderly disposition of the instant case, since the validity of the assessment emanates from the valid authority of the said RO. In the absence of an LOA, the assessment or examination is a nullity.[9]

In the instant case, LOA No. LOA-122-2010-00000107 dated September 20, 2010 authorized ROs Ricardo Calma and Ma. Teresa Espino, and Group Supervisor Monica Zamora to conduct the examination of petitioner's books of accounts and other accounting records for TY 2009. Subsequently, the case was reassigned to different ROs through a memorandum of assignment. There was no showing that a new LOA was issued to authorize the new ROs who continued the audit and investigation of petitioner's books of accounts and other accounting records for TY 2009. If the ROs who conducted the

[7] Docket, pp. 1339-1340.
[8] Section 1, Rule 14, RRCTA, see also *Commissioner of internal Revenue v. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017.
[9] *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021.

examination of the taxpayer are not duly authorized to do so, the assessment is inescapably void. A void assessment bears no fruit.[10]

**WHEREFORE**, the *Motion for Reconsideration (Decision of 29 June 2023)*, filed by the respondent, is **DENIED** for lack of merit.

**SO ORDERED**.

**CATHERINE T. MANAHAN**
Associate Justice

**WE CONCUR**:

**ROMAN G. DEL ROSARIO**
Presiding Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

[10] *Samar-I Electric Cooperative v. Commissioner of Internal Revenue*, G.R. No. 193100, December 10, 2014.