REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

CENTRAL LUZON DRUG CORPORATION, Petitioner,	CTA Case No. **10045**
	Members:
- versus -	**BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 10 2024 9:11 a.m.

x - x

AMENDED DECISION

***BACORRO-VILLENA, J.*:**

For the Court's resolution are:

1. Petitioner Central Luzon Drug Corporation's (**petitioner**'s) "Motion for Partial Reconsideration and/or Clarification (of Decision promulgated on May 2, 2024)"[1] (**MPR**) filed on 20 May 2024, with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment/Opposition (to Petitioner's [MPR] and/or Clarification)"[2] (**Comment to MPR**) filed on 14 June 2024; and,

2. Respondent "Motion for Reconsideration [re: Decision dated 02 May 2024]"[3] (**MR**) filed on 20 May 2024, with petitioner's "Comment (to Respondent's [MR])"[4] (**Comment to MR**) filed on 18 June 2024.

---

1 Division Docket, Volume VI, pp. 2896-2902.
2 Id., pp. 2924-2926.
3 Id., pp. 2906-2918.
4 Id., pp. 2928-2943.

Both motions question the Decision of 02 May 2024[5] (**assailed Decision**) which cancelled and set aside CIR's deficiency tax assessments against petitioner in the aggregate amount of ₱1,565,675,063.68 for taxable year (**TY**) 2010.

In the MPR, petitioner mainly avers that the assailed Decision failed to rule on the reliefs prayed for in the "Supplement to the Petition for Review dated [0]4 March 2019"[6] (**Supplement to the Petition**), particularly: (1) that it is entitled to the refund of the illegally collected taxes of ₱7,374,982.48; and, (2) respondent is ordered to refund or issue a tax credit certificate (**TCC**) of the said amount to petitioner. The Supplement to the Petition involves the amounts garnished in petitioner's Unionbank account due to CIR's implementation of the Warrant of Distraint and/or Levy (**WDL**) No. 116-2020-044[7] and Warrant of Garnishment (**WOG**) No. 116-2020-044.[8]

Opposing the said claim, in his or her Comment to MPR, respondent counters that petitioner is liable to the deficiency taxes as the subject assessments are valid, hence, it is not entitled to the refund of the garnished amount.

As for respondent's MR, he or she vehemently argues that the assessments are valid. According to respondent, Section 13[9] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, only requires a Letter of Authority (**LOA**) if the assigned Revenue Officers (**ROs**) are from Revenue District Offices (**RDOs**), otherwise if the ROs are from the office of the CIR, their authority to conduct the audit and/or investigation arises from the CIR's organic function to assess under Section 6(a)[10] of the NIRC of 1997, as amended. As the assigned ROs (who conducted the audit) were from the Large Taxpayer Services (**LTS**), an office directly under the CIR, the issuance of an LOA is no longer a requirement.

---

5 Id., pp. 2871-2895.
6 Id., Volume V, pp. 2278-2284.
7 Annex "A"/Exhibit "B", id., Volume IV, pp. 1875 and 1890, respectively.
8 Exhibit "F", id., Volume V, p. 2207.
9 **SEC. 13.** *Authority of a Revenue Officer.*
10 **SEC. 6.** *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
(A) Examination of Return and Determination of Tax Due. — ...

Respondent further claims that in cases of reassignment of ROs, a Memorandum of Assignment (**MOA**) is sufficient for purposes of continuing the audit pursuant to Revenue Memorandum Order (**RMO**) No. 62-2010.[11]

In its bid to overturn the jurisprudential pronouncement in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*[12] (**McDonald's**), respondent also posits that the latter case should be applied prospectively as prior to its promulgation, no Supreme Court decision required an LOA (to authorize the ROs) for the investigation of a taxpayer's books.

Respondent further faults the Court in enjoining him or her from collecting the deficiency taxes. The Court's directive is tantamount to a restraining order explicitly prohibited under Section 218[13] of the NIRC of 1997, as amended.

Responding to respondent's arguments, petitioner contends that the former's MR failed to raise any new arguments that would warrant the reversal or modification of the assailed Decision. Banking on the Supreme Court's declaration in several cases[14], petitioner maintains the importance of an LOA to authorize Bureau of Internal Revenue (**BIR**) officers to conduct an audit and/or investigation of a taxpayer's books, and the issuance of an amended or a new LOA in cases of the RO's reassignment. Without the required LOA, any assessment is null and void.

We resolve.

After due consideration and evaluation of the parties' arguments in their respective motions, this Court finds merit only in petitioner's MPR. As for respondent's MR, the Court, unfortunately, fails to see any cogent reason to change its conclusions in the assailed Decision.

---

[11] Supplemental Guidelines on the Electronic Issuance of Letters of Authority and Related Audit Policies and Procedures.

[12] G.R. No. 242670, 10 May 2021.

[13] **SEC. 218.** *Injunction not Available to Restrain Collection of Tax.*

[14] *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.* supra at note 12, *Republic of the Philippines v. Robiegie Corporation*, G.R. No. 260261, 03 October 2022, *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, 05 April 2017, and *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*, G.R. No. 241848, 14 May 2021.

PETITIONER'S MOTION FOR PARTIAL RECONSIDERATION AND/OR CLARIFICATION

To recall, on 24 June 2021, petitioner filed a "Motion for Leave to File and Admit the Attached Supplement to the Petition for Review and Allow the Presentation of witness Cyre M. Clores [**Clores**]".[15] Without respondent's comment[16], the Court granted the said motion, and admitted the Supplement to the Petition[17] and recalled Clores as witness.[18] Based on Clores's Judicial Affidavit[19], petitioner's Unionbank account was debited with ₱7,374,982.48 (for WOG No. 116-2020-044); and the said amount was already remitted to the BIR Large Taxpayers – Collection Enforcement Division.[20]

As ruled in the assailed Decision, the subject assessments (which prompted the issuance of WDL No. 116-2020-044 and WOG No. 116-2020-044) are deemed to be null and void for lack of a valid LOA duly authorizing the BIR officers to conduct an audit and/or investigation on petitioner's books of account and accounting records for TY 2010 –

> ...
>
> In the case at bar, the records indisputably show that ROs Arriola, Samaniego, Martirez, Mendoza and GS Balbido continued the audit and/or investigation of petitioner's books of account solely by virtue of an MOA and a mere letter. Furthermore, only Chief Escalada (an official who is _not_ among those authorized to issue LOAs pursuant to existing laws and regulations, particularly Section 13 in relation to Section 10(c) of the NIRC of 1997, as amended, Item D(4) of RMO No. 43-90 and Item II(2) of RMO No. 29-07) signed the said MOA and the letter.
>
> ...
>
> As earlier stated, ROs Arriola, Samaniego, Martirez, Mendoza and GS Balbido could not be deemed to have been validly clothed with the proper authority to continue the audit and recommend the

15 Division Docket, Volume V, pp. 2267-2274.
16 See Records Verification dated 17 March 2022, id., p. 2537.
17 Supra at note 6.
18 See Resolution dated 06 April 2022, id., pp. 2541-2544.
19 Exhibit "P-32", Judicial Affidavit of Cyre M. Clores, id., pp. 2285-2291.
20 See Letter dated 02 February 2021 addressed to Unionbank's Senior Branch Manager Bon Christian G. Belleza, id., p. 2292; Unionbank Manager's Check No. 302905 dated 22 February 2021 with the amount of ₱4,551,294.08 payable to the Bureau of Internal Revenue, Unionbank Manager's Check No. 302904 dated 22 February 2021 with the amount of ₱2,823,688.40 payable to the Bureau of Internal Revenue, and Acknowledgment Receipt of the Manager's checks signed by Revenue Officer Carlo Manuel A. Narboneta, id., p. 2293; BIR Tax Payment Deposit Slips, id., p. 2294; and Payment Forms (BIR Form No. 0605), id., pp. 2295-2296.

> issuance of the assessments against petitioner. Considering the absence of a new and valid LOA authorizing said officers to examine petitioner's books of accounts and other accounting records (as a result of the reassignment/transfer of the case to them), the deficiency tax assessments issued against respondent are inescapably void.[21]
>
> ...

It is a settled rule that tax assessments issued in violation of the taxpayer's right to due process are null and void and bears no fruit.[22] Without any legal effect, WDL No. 116-2020-044 and WOG No. 116-2020-044 are also null and void. Thus, petitioner is entitled to the refund of the garnished amount of ₱7,374,982.48 (from its' Unionbank account) as the same is not legally due to the government.

RESPONDENT'S MOTION FOR RECONSIDERATION

As for respondent's MR, We agree with petitioner that the arguments raised therein are a mere rehash of the basic issues that were exhaustively discussed and already passed upon in the assailed Decision. It would then be futile on Our part to address them anew. In *Licomcen Incorporated v. Foundation Specialists, Inc.*[23], the Supreme Court, citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[24], held that:

> ...
>
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, ... deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic

---

21 Supra at note 5; Citations omitted, italics and underscoring in the original.
22 *Commissioner of Internal Revenue v. Next Mobile, Inc.*, G.R. No. 232055 (Notice), 27 April 2022.
23 G.R. No. 167022, 31 August 2007.
24 G.R. No. 109645, 04 March 1996.

> issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
>
> ...

WHEREFORE, petitioner Central Luzon Drug Corporation's "Motion for Partial Reconsideration and/or Clarification (of Decision promulgated on May 2, 2024)" filed on 20 May 2024 is hereby **GRANTED**, while respondent Commissioner of Internal Revenue's "Motion for Reconsideration [re: Decision dated 02 May 2024]" filed on 20 May 2024 is **DENIED** for lack of merit. The dispositive portion of the Decision dated 02 May 2024 is hereby **AMENDED** to read as follows:

> **WHEREFORE**, premises considered, petitioner Central Luzon Drug Corporation's instant Petition for Review filed on 05 March 2019 and the Supplement to the Petition for Review dated [0]4 March 2019 filed on 24 June 2021 are hereby **GRANTED**. Accordingly, the letter dated 04 February 2019, holding petitioner liable for deficiency income tax, value-added tax, expanded withholding tax (EWT) and documentary stamp tax (DST) in the aggregate amount of ₱1,565,675,063.68, for taxable year (TY) 2010, is **CANCELLED** and **SET ASIDE**. Consequently, the Warrant of Distraint and/or Levy No. 116-2020-044 dated 06 October 2020 and the Warrant of Garnishment No. 116-2020-044 are also declared **NULL** and **VOID**.
>
> Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED** to refund or issue a tax credit certificate to petitioner the amount of ₱7,374,982.48, representing illegally assessed and erroneously collected EWT and DST for TY 2010.
>
> Further, respondent Commissioner of Internal Revenue or any person duly acting on his behalf is hereby **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.

SO ORDERED.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Special 2nd Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice