REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1888** (CTA Case No. 8932)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO,** *and* **CUI-DAVID,** *JJ.*
LAPANDAY HOLDINGS CORPORATION, Respondent.	***Promulgated:*** DEC 0 2 2021 4:12 pm

x---x

RESOLUTION

UY, *J.*:

For resolution is petitioner's ***MOTION FOR RECONSIDERATION***[1] filed on December 9, 2020, without respondent's comment despite notice, as per *Records Verification Report* dated July 28, 2021, seeking the reconsideration this Court's Decision dated November 18, 2020, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Decision dated January 24, 2018 and Resolution dated July 5, 2018, both

[1] EB Docket, pp. 105 to 112.

rendered by the Court in Division in CTA Case No. 8932 are **AFFIRMED**.

SO ORDERED."

In his *Motion*, the Commissioner of Internal Revenue (CIR) argues that the issuance of a Letter Notice is pursuant to established memorandum, orders, rules and regulations of an administrative body. Further, the CIR reiterates that nowhere in Section 6(A) of the National Internal Revenue Code (NIRC) of the 1997, as amended, in relation to Revenue Memorandum Order (RMO) No. 42-2003 and RMO No. 55-2010, is it provided that a Letter of Authority (LOA) is required before an assessment is issued.

Finally, the CIR argues that the subject VAT assessment for calendar year 2008 should be maintained since tax assessments are presumed correct and made in good faith, and all presumptions are in favor of the correctness of a tax assessment unless proven otherwise.

THE COURT'S RULING

We deny the instant *Motion for Reconsideration.*

A perusal of the instant *Motion* shows that the grounds raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision.

The CIR's reliance on RMO No. 42-2003[2] dated October 23, 2003 and RMO No. 55-2010[3] dated June 11, 2010, is without merit. It bears emphasis that the issuance of an LOA cannot be dispensed with as the same would run counter to Sections 6(A) and 13 of the NIRC of 1997, which is the substantive law on the matter.

It is well settled that a mere administrative issuance cannot amend the law; the former cannot purport to do any more than

---

[2] SUBJECT: *Prescribing Additional Guidelines Governing the Rules on Assessment of National Internal Revenue Taxes covered by a Letter Notice (LN) issued under the RELIEF System as defined in Revenue Memorandum Order (RMO) No. 30-2003 and other data matching processes.*

[3] SUBJECT: *Revision in the Procedures on the Issuance of Letters of Authority*

implement the latter.[4] Further, it must be remembered that the Bureau of Internal Revenue (BIR) circulars and rulings cannot prevail over the clear and plain language of the Tax Code.[5] In this connection, Sections 6(A) and 13 of the NIRC of 1997, as amended, is clear that the authority of a revenue officer to conduct an audit investigation must be exercised pursuant to an LOA.

In view thereof, the Court finds no compelling reason to reconsider, modify or reverse the assailed Decision.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

[4] *Secretary of Finance Cesar V. Purisima, et al. vs. Philippine Tobacco Institute, Inc.*, G.R. No. 210251, April 17, 2017.

[5] *Security Bank Corporation (formerly Security Bank and Trust Company) vs. The Commissioner of Internal Revenue*, G.R. No. 130838, August 22, 2006.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

(On Leave)
LANEE S. CUI-DAVID
Associate Justice