REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

METRO RAIL TRANSIT CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9016

Members:

CASTAÑEDA, JR., *Chairperson, and*
MANAHAN, *JJ.*

Promulgated:
DEC 04 2019 11:50 Am

x - x

RESOLUTION

MANAHAN, J.:

Before this Court is respondent's **Motion for Reconsideration Re: Decision dated 02 October 2019**, filed on October 23, 2019, with petitioner's **Opposition (to Respondent's Motion for Reconsideration dated October 9, 2019)** filed on November 8, 2019.

In his Motion, respondent moves that the Amended Decision promulgated on October 2, 2019, be reconsidered in cancelling his revenue officers' (ROs) assessments due to a void Letter of Authority (LOA), the dispositive portion of which is quoted hereafter as follows:

> "**WHEREFORE**, premises considered, respondent's **Motion for Partial Reconsideration Re: Decision dated 8 January 2019**, is **DENIED** for lack of merit. On the other hand, petitioner's **Motion for Partial Reconsideration (of the Decision dated January 8, 2019)** and **Supplemental Motion for Partial Reconsideration (of the Decision dated January 8, 2019)**, are **GRANTED**. Accordingly, the dispositive portion of the Court's Decision dated January 8, 2019, is amended to read as follows:

> '**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, respondent's Decision dated February 5, 2015, finding petitioner liable for deficiency taxes for taxable year 2007 in the aggregate amount of ₱1,631,807,856.98, is **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED**.'
>
> **SO ORDERED**."

Respondent argues that the issue of his ROs' lack of authority was raised only for the first time by petitioner in its Supplemental Motion for Partial Reconsideration. He continues that it is a primordial rule in remedial law that defenses and objections not pleaded are deemed waived. Thus, respondent insists that petitioner should not be allowed to raise an issue, on appeal, that which has not been raised at the administrative forum, nor during trial of the present case.

More so, respondent also asserts that a referral memorandum is sufficient in vesting the concerned ROs with authority to continue an audit investigation of a taxpayer.

On the other hand, in its Opposition, petitioner primarily claims that the Court of Tax Appeals is not bound by the issues raised by the parties but may rule upon related issues necessary to achieve an orderly disposition of cases.

After due consideration, this Court finds respondent's arguments untenable. Section 1[1], Rule 14 of the Revised Rules of the Court of Tax Appeals[2], as amended, provides that this Court may not limit itself to the

---

[1] "**SECTION 1.** *Rendition of judgment.* – The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its assignment to a Member for the writing of the decision. The presiding justice or chairman of the Division shall include the case in an agenda for a meeting of the Court *en banc* or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court en banc or in Division agree on the draft decision, the *ponente* shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court *en banc* or in Division may submit a separate written concurring or dissenting opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the rollo.

In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case." *(Emphasis supplied)*

[2] A.M. No. 05-11-07-CTA, November 22, 2005.

issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

In fact, in the case of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.,*[3] the Supreme Court confirmed the authority of this Court to resolve questions pertaining to the scope of authority of the ROs in conducting the audit of the taxpayer-litigant, even though the parties had not raised the same in their pleadings or memoranda, thus:

> "On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
>
> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. The text of the provision reads:
>
> > SECTION 1. *Rendition of judgment.* - x x x
> >
> > In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.
>
> The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda. The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter."

It must be emphasized that the lack of authority of the concerned RO to make an examination, pursuant to a valid LOA goes into the issue of the validity of the assessment itself. Be it noted that in the absence of such an authority, the assessment or examination is a nullity. An invalid assessment bears no valid fruit. The law imposes a substantive, not merely a formal requirement. To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal

---

[3] G.R. No. 183408, July 12, 2017.

principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence.[4]

Simply stated, it is of no moment that the issue was raised only in petitioner's supplemental motion, since this Court has the power to take cognizance of any related issues, whether or not the parties raised the same in their pleadings or memoranda, in order to achieve an orderly disposition of the case.

Respondent also asserts that a referral memorandum is sufficient in vesting the concerned ROs with authority to continue an audit investigation of a taxpayer.

However, this Court does not completely agree.

Pursuant to Revenue Memorandum Order (RMO) No. 29-07[5] dated September 26, 2007, there must be a valid grant of authority, through an LOA, issued by the Regional Director or in this case, by the Assistant Commissioner/Head Revenue Executive Assistants, before any RO can conduct a tax audit or examination. However, in case of re-assignment or transfer of cases to another RO at the Large Taxpayers Service, the said RO may be authorized to continue the audit without need for a new LOA, *provided*, the letter or notice or memorandum re-assigning the case to the said RO was signed by the Assistant Commissioner/Head Revenue Executive Assistants of the Large Taxpayers Service.

In the present case, the referral memorandum was only signed by the Chief of the LT Audit and Investigation Division I. Accordingly, from the above discussion, the same is not sufficient to grant a RO the authority to continue the conduct of the audit investigation.

Indeed, taxes are the lifeblood of government and should be collected without hindrance. Yet, the collection of taxes should be exercised reasonably and in accordance with the prescribed procedure. In our tax system, taxpayers are guaranteed their fundamental right to due process of law, as articulated in various ways in the process of tax assessment. After all, the State's purpose is to ensure the well-being of its citizens, not simply to deprive them of their fundamental rights.[6]

---

[4] *Commissioner of Internal Revenue vs, Basf Coating + Inks Phils., Inc.,* G.R. No. 198677, November 26, 2014.
[5] Prescribing Audit Policies, Guidelines and Standards at the Large Taxpayers Service.
[6] *Commissioner of Internal Revenue vs. Fitness By Design, Inc.,* G.R. No. 215957, November 9, 2016.

WHEREFORE, premises considered, respondent's Motion for Reconsideration Re: Decision dated 02 October 2019 is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I Concur:

JUANITO C. CASTAÑEDA, JR.
Associate Justice