REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1832** (CTA Case No. 8844)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** JJ.
ROYAL CLASS TRADING AND TRANSPORT CORPORATION, Respondent.	***Promulgated:*** NOV 21 2019 3:17 p.m.

x - x

RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (Re: Decision dated 29 July 2019)"** filed on August 15, 2019,[1] with respondent's **"COMMENT (on Petitioner's Motion for Reconsideration)"** filed on September 25, 2019,[2] praying for the reversal and setting aside of this Court's Decision dated July 29, 2019, 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 November 16, 2017 and Resolution dated March 28,

[1] EB Docket, pp. 146 to 169.
[2] EB Docket, pp. 174 to 175.

2018, both rendered by the Court in Division in CTA Case No. 8844 are **AFFIRMED**.

SO ORDERED."

In the instant *Motion*, petitioner avers that the Court in Division has no jurisdiction over the original *Petition for Review* filed by respondent; and that the Court erred in ruling that the Revenue Officer (RO) who conducted the audit of respondent's books of accounts was allegedly not authorized, and in further declaring that the subject assessment is void for lack of authority of the said RO.

Furthermore, petitioner posits that this Court erred in applying the ruling of the Supreme Court in the case of *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*[3]; and that the said ruling is not applicable to this case.

On the other hand, in its *Comment*, respondent contends that the Court *En Banc* has exhaustively discussed the same points being raised in the *Motion for Reconsideration*; and that there were no new issues being raised by petitioner.

THE COURT'S RULING

Petitioner's *Motion for Reconsideration* lacks merit.

Except for the invocation of a provision under Revenue Memorandum Order (RMO) No. 8-2006[4] to support his position that there is no more need for the issuance of a new LOA, the arguments raised by petitioner in the instant *Motion* are mere reiteration of matters which have already been extensively considered, weighed and resolved in the assailed Decision. Thus, this Court *En Banc* finds no compelling reason to reconsider, modify or reverse its Decision, and shall no longer belabor, in this Resolution, to repeat the disquisitions made in the said Decision.

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[3] G.R. No. 178697, November 17, 2010.

[4] SUBJECT: Prescribing Guidelines and Procedures in the Implementation of the Letter of Authority Monitoring System (LAMS)

Petitioner specifically invokes the following provision of RMO No. 8-2006, to wit:

> "F. On Disposition of Dockets.
>
> xxx xxx xxx
>
> 2. In case the report of investigation submitted for review was returned to the investigating office for compliance with additional requirements and the original investigating Revenue Officer (RO) and/or Group Supervisor (GS) has been transferred, resigned or retired:
>
> xxx xxx xxx
>
> **<u>In case of reassignment, a memorandum to that effect shall be issued by the head of the investigating office to the concerned taxpayer and the concerned RO and/or GS</u>**."

Petitioner contends that pursuant to RMO NO. 8-2006, it has been a standard operating procedure of revenue officers to issue a memorandum to other revenue officers, who will continue the audit examination, which a former revenue officer could not continue due to reassignment.

We are not convinced.

Indeed, a reading of RMO No. 8-2006 provides the requirement of the issuance of a mere memorandum to inform the concerned taxpayer and the concerned Revenue Officer and/or Group Supervisor in cases of reassignment. However, it must be pointed out that nowhere in the above-quoted provision is it stated that the issuance of a new LOA could be dispensed with, in case of reassignment.

Thus, a reassignment memorandum, as established under RMO No. 8-2006, cannot be the source of authority for an RO to examine the books of accounts and other accounting records of taxpayers.

Moreover, respondent has issued Revenue Memorandum Circular (RMC) No. 75-2018,[5] pertinent portions of which are hereby quoted as follows:

> "This Circular is being issued to highlight **the doctrinal rule enunciated by the Supreme Court in the case of 'Medicard Philippines, Inc. vs. Commissioner of Internal Revenue' (G.R. No. 222743, 05 April 2017) on the mandatory statutory requirement of a Letter of Authority (LOA)**, for the guidance of all concerned, particularly internal revenue officers tasked with assessment and collection functions and review of disputed assessments.
>
> **The judicial ruling, invoking a specific statutory mandate, states that no assessments can be issued or no assessment functions or proceedings can be done without the prior approval and authorization of the Commissioner of Internal Revenue (CIR) or his duly authorized representative, through an LOA. The concept of an LOA is therefore clear and unequivocal. <u>Any tax assessment issued without an LOA is a violation of the taxpayer's right to due process and is therefore 'inescapably void'</u>**.
>
> xxx xxx xxx
>
> To help forestall any unnecessary controversy and to encourage due observance of the judicial pronouncements, any examiner or revenue officer initiating tax assessments or performing assessment functions without an LOA shall be subject to appropriate administrative sanctions." *(Emphases and underscoring supplied)*

Thus, even respondent himself recognizes that without the requisite LOA being issued to the concerned RO, any resulting tax assessment brought about by such RO's examination and audit of the taxpayer's books of accounts and other accounting records is inescapably void.

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[5] SUBJECT: The Mandatory Statutory Requirement and Function of a Letter of Authority.

Considering that in the instant case, no new LOA was issued in favor of the revenue officer who examined respondent's books of accounts and other accounting records, the subject tax assessment is void.

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

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(I reiterate my Separate Concurring Opinion)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

(I concur with the Separate Concurring Opinion of Justice Castañeda)
ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(I join Justice Castañeda's Separate Concurring Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON LEAVE
MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice