REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

EXECUTIVE INTERNATIONAL MOVERS, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9953

Members:

BACORRO-VILLENA, *Acting Chairperson,*
CUI-DAVID, *JJ.*

Promulgated:

JUL 19 2022 10:39 am

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RESOLUTION

For this Court's resolution is respondent's **Motion for Reconsideration [Decision dated March 14, 2022]** (Motion) filed on April 1, 2022,[1] without petitioner's comment as per Records Verification Report dated May 31, 2022.

In his Motion, respondent submits that the Court erred in granting the Petition for Review citing Sections 6(A),[2] 7,[3] 10(c)

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[1] The Motion is filed via registered mail and received by the Court on April 19, 2022.

[2] SEC. 6. *Power of the Commissioner to Make assessments and Prescribe additional Requirements for Tax Administration and Enforcement.* -

> (A) *Examination of Returns and Determination of Tax Due.* - After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: Provided, however; That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer. …

[3] SEC. 7. *Authority of the Commissioner to Delegate Power.* - The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with the rank equivalent to a division chief or higher, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of finance, upon recommendation of the Commissioner: Provided, However, That the following powers of the Commissioner shall not be delegated:

> (a) The power to recommend the promulgation of rules and regulations by the Secretary of Finance;
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> (b) The power to issue rulings of first impression or to reverse, revoke or modify any existing ruling of the Bureau;
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> (c) The power to compromise or abate, under Sec. 204 (A) and (B) of this Code, any tax liability: Provided, however, That assessments issued by the regional offices involving basic deficiency taxes of Five hundred thousand pesos (P500,000) or less, and minor criminal violations, as may be determined by rules and regulations to be promulgated by the Secretary of finance, upon recommendation of the Commissioner, discovered by regional and district officials, may be compromised by a regional evaluation board which shall be composed of the Regional Director as Chairman, the Assistant Regional Director, the heads of the Legal, Assessment and Collection Divisions and the Revenue District Officer having jurisdiction over the taxpayer, as members; and

and (h),[4] and 13[5] of the National Internal Revenue Code (NIRC) of 1997, as amended. Respondent argues that the issuance of a Letter of Authority (LOA) is a delegable power that the Commissioner may pass on to his authorized representatives, such as the Revenue Regional Director (RRD). Respondent adds that based on the afore-cited provisions of the NIRC, a duly authorized revenue officer (RO) may conduct the audit assessment not "because of" but "pursuant to" an LOA. Hence, respondent avers that the reliance on (1) *Medicard*[6] and (2) Revenue Memorandum Order (RMO) No. 43-90 is untenable as the former involves a total absence of an LOA, while in this case, there is a validly issued LOA albeit reassignment to another ROs occurred; and that RMO No. 43-90 is an old RMO replaced by RMO No. 69-2010[7] providing for the issuance of a Memorandum of Assignment (MOA) in case of reassignment for the continuation of the audit/investigation of a case to another RO due to transfer of the original RO.

Respondent stresses that the ROs who continued the audit investigation are still under the supervision and control of the RRD, as evidenced by the PAN and FAN, which he both signed.

Lastly, respondent avers that the taxes are the lifeblood of the government and must be collected without unnecessary hindrance; and so, the RO's assessment should be given full weight and credit, and the government cannot be barred from collecting petitioner's tax deficiencies.

After a careful evaluation of respondent's Motion without petitioner's comment, it is noted that the arguments raised therein are mere reiterations of matters which have already

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(d) The power to assign or reassign internal revenue officers to establishments where articles subject to excise tax are produced or kept.

[4] SEC. 10. *Revenue Regional Director*. - Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional director shall, within the region and district offices under his jurisdiction, among others:

...

(c) Issue Letters of authority for the examination of taxpayers within the region;

...

(h) Perform such other functions as may be provided by law and as may be delegated by the Commissioner.

[5] SEC. 13. *Authority of a Revenue Offices*. - subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.

[6] G.R. No. 222743, April 5, 2017.

[7] Prescribes the guidelines on the issuance of electronic Letters of Authority, Tax Verification Notices and Memoranda of Assignment, August 11, 2010.

been considered and resolved by the Court in the assailed Decision.

Contrary to respondent's allegation, an LOA serves as a notice to the taxpayer that it is under investigation for possible deficiency tax assessment. It authorizes or empowers a designated revenue officer to examine, verify, and scrutinize a taxpayer's books and records, in relation to internal revenue tax liabilities for a particular period.[8] Hence, an RO must be authorized, through a duly issued LOA, to examine the books of accounts and other accounting records of a taxpayer.[9] Without an LOA, the tax assessments issued against such taxpayer shall be void.[10]

Anent the applicability of the *Medicard* since the absence of an LOA was the subject in that case, while in this case, there is an LOA and a MOA, We quote the pertinent portion of our ruling in the assailed Decision,[11] viz.:

> In *Commissioner of Internal Revenue vs. Composite Materials, Inc. (Composite)*, the Supreme Court emphasized that an RO may only examine the taxpayer's books of accounts pursuant to a LOA; and that a Referral Memorandum issued by the RDO is not equivalent to a LOA and, therefore, does not cure the RO's lack of authority, *viz.*:
>
>> "... **a Revenue Officer may only examine the taxpayer's books pursuant to a Letter of Authority (LOA)** issued by the Regional Director. This was reiterated by the court in ***Medicard Philippines, Inc. v. Commissioner of Internal Revenue***, ruling that in the absence of an LOA, the assessment or examination is a nullity.
>>
>> Here, the CTA *en banc* found that **the LOA issued in relation to the examination of CMI's book of accounts does not specifically mention the name of RO Cruz. Thus, the examination conducted by RO Cruz and the assessment issued against CMI was correctly declared null and void.**

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[8] *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017; *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.
[9] *Commissioner of Internal Revenue v. Watsons Personal Care Stores (Philippines), Inc.*, CTA EB Case No. 2391, May 13, 2022; *Commissioner of Internal Revenue v. Sunnyphil, Inc.*, CTA EB Case No. 2278, April 8, 2022; *Commissioner of Internal Revenue v. Montalban Methane Power Corp.*, CTA *EB* Case No. 2170, March 30, 2022; *Commissioner of Internal Revenue v. PGA Sompo Insurance Corp.*, CTA *EB* Case No. 2203, March 17, 2022; *Commissioner of Internal Revenue v. Hobbies of Asia, Inc.*, CTA *EB* Case No. 2302, March 9, 2022.
[10] *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021.
[11] Pages 19 to 20

> Moreover, the Court agrees with the CTA *en banc* that the **Referral Memorandum** issued by a Revenue District Officer **directing RO Cruz to continue with the examination of CMI's records is not equivalent to an LOA nor does it cure RO Cruz's lack of authority**. ..." (*Emphasis on the original*)

Indeed, the CIR himself, through the issuance of Revenue Memorandum Circular (RMC) No. 75-2018, [12] recognized the ruling in *Medicard, viz.:*

> 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. Any tax assessment issued without an LOA is a violation of the taxpayer's right to due process and is, therefore, 'inescapably void.' ... (*Emphasis supplied*)

It is clear from the foregoing that any tax assessment issued without an LOA violates the taxpayer's right to due process and is, therefore, void.

To reiterate, the issues raised herein are not new. Thus, the Court shall not belabor to discuss respondent's other arguments. Accordingly, the Court finds no cogent reason to disturb its Decision promulgated on March 14, 2022.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration** filed on April 1, 2022, is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[12] The Mandatory Statutory Requirement and Function of a Letter of Authority, September 5, 2018.