REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

MA. ERLINDA T. ONG,
Respondent.

CTA *EB* NO. 2785
(CTA Case No. 10100)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
FEB 12 2025 4:45pm

x - x

RESOLUTION

MANAHAN, *J.*:

For resolution of the Court *En Banc* is petitioner's *Motion for Reconsideration (Re: Decision dated 05 August 2024)* filed on August 22, 2024, without respondent's comment.

For easy reference, the dispositive portion of the August 5, 2024 Decision[1] reads:

> "**WHEREFORE**, the instant Petition for Review is **DENIED**, for lack of merit.
>
> **SO ORDERED.**"[2]

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[1] Court *En Banc* Docket, pp. 60-75.
[2] *Id.*, p. 73.

In his motion, petitioner raises the sole issue that: "[T]he Honorable Court *En Banc* erred in ruling that the assessments are void because the Revenue Officers (ROs) who conducted the audit were allegedly not authorized through a Letter of Authority (LOA)."

In support of his argument, petitioner asserts that an LOA is unnecessary in this case because there was no physical examination of respondent's books of accounts and other accounting records. The subject of the case merely involves the declarations made by respondent in her Income Tax Return as against the transactions declared by her suppliers. Further, respondent was afforded ample opportunity to be heard during the proceedings in the Bureau of Internal Revenue.

After careful consideration, the Court *En Banc* finds petitioner's argument bereft of merit.

The Court *En Banc* notes that petitioner's argument, particularly on the significance of an LOA, had already been exhaustively discussed in the assailed Decision, particularly on pages 8 to 13.

Hence, the Court *En Banc* finds no reason to deviate from its earlier ruling, as follows:

> "Clearly, as early as the *Sony Philippines* case in 2010, the Supreme Court had already emphasized the importance of an LOA as a grant of authority before any RO can conduct an examination or assessment. Then, the *Medicard* case in 2017 also echoed the importance of an LOA, where the Supreme Court stated that the issuance of a Letter Notice to a taxpayer was not sufficient if no corresponding LOA was issued. This same doctrine was revisited in *Opulent* case in 2020. Finally, in the *Mcdonald's* case and the subsequent *Wellington* case in 2021 and 2022, respectively, the Supreme Court already recognized the said practice of the BIR, *i.e.*, reassigning or transferring ROs originally named in the LOA and substituting or replacing them with new ROs to continue the audit or investigation without a separate or amended LOA, as in this case. Thus, the Supreme Court categorically stated that the reassignment or transfer of an RO requires the issuance of a new or amended LOA for the substitute or replacement of an RO to continue the audit or investigation.

> Consequently, '[i]n cases where the BIR conducts an audit without a valid LOA, or in excess of authority duly provided therefor, the resulting assessment shall be void and ineffectual.'
>
> Considering that the factual issues in the present petition were already addressed by the above-cited cases decided by the Supreme Court, the Court *En Banc* finds no compelling reason to reverse or modify the findings of the Court in Division in cancelling the subject disputed assessment."

As regards the argument of petitioner that the LOA is only required when the tax audit involves actual examination of the books of account and related financial records of the taxpayer, the same is devoid of basis in law and jurisprudence.

In this case, the Letter-Notice (LN) that gave rise to the alleged discrepancy in the tax payments of respondent, cannot replace the requirement for an LOA to conduct a full audit of the taxpayer.

ACCORDINGLY, petitioner's *Motion for Reconsideration (Re: Decision dated 05 August 2024)* is **DENIED**, for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I reiterate my Separate Concurring Opinion)
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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice