REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2681** (CTA Case No. 10004)
	Present:
- versus -	**DEL ROSARIO, *P.J.*, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES, *JJ.***
THE MERRY COOKS, INC., Respondent.	Promulgated: NOV 19 2024 4:28 pm

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RESOLUTION

FERRER-FLORES, J.:

For resolution is the **Motion for Reconsideration (Re: Decision dated October 23, 2023)** (*Motion for Reconsideration*) filed by the **Commissioner of Internal Revenue (petitioner/CIR)** on November 22, 2023,[1] without respondent's comment.[2]

The instant *Motion for Reconsideration* assails the Decision of this Court promulgated on October 23, 2023 (assailed Decision), the dispositive portion of which reads:

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1 *Rollo*, pp. 81 to 86.

2 Respondent's *Motion to Admit Comment and Opposition to the Motion for Reconsideration of Petitioner* was denied in the Resolution dated August 30, 2024.

> **WHEREFORE**, in view of the foregoing, the instant Petition for Review filed on September 27, 2022 by the Commissioner of Internal Revenue is **DENIED** for lack of merit. The Decision dated March 15, 2022 and the Resolution dated August 18, 2022 of the Court in Division in CTA Case No. 10004 are **AFFIRMED**.
>
> **SO ORDERED.**

In the assailed Decision, the Court held that Revenue Officer (RO) Charlie C. De Leon and Group Supervisor (GS) Maricar Favis were not duly authorized to continue with the audit investigation of respondent's books of accounts and other accounting records. The Court ruled that the issuance of a new Letter of Authority (LOA) is required in the reassignment or transfer of RO. Moreover, the Court emphasized that an LOA may be issued only by the CIR and the duly authorized Bureau of Internal Revenue (BIR) officials, i.e., the Regional Directors and the Deputy Commissioners.

In his *Motion for Reconsideration*, petitioner contends that the assessments issued against respondent are valid. According to petitioner, a duly authorized RO may conduct the audit assessment not because of but pursuant to an LOA. Petitioner likewise submits that the case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*,[3] (*Medicard case*) is not applicable to the instant case as it involves a total absence of an LOA which could not be supplanted by a mere Letter Notice, whereas here, there is a validly issued LOA, but the conduct of audit assessment of respondent's books of accounts was later reassigned to another RO. Petitioner also reiterates that Revenue Memorandum Order (RMO) No. 62-2010 is applicable to the instant case instead of RMO No. 43-90. Petitioner insists that under RMO No. 62-2010, the Memorandum of Assignment (MOA) is sufficient in case of reassignment for the continuation of the audit/reinvestigation to another RO due to resignation/reassignment/transfer of the original RO. Finally, petitioner claims that the Preliminary Assessment Notice (PAN), Formal Letter of Demand (FLD) and the Final Decision on Disputed Assessment (FDDA) were still signed by the Revenue Regional Director (RRD) and the audit investigation was merely carried out by the RRD's agents.

The Court denies the instant *Motion for Reconsideration*.

A careful perusal of the instant *Motion for Reconsideration* shows that most of the arguments raised therein are a duplication of its arguments in its *Petition for Review*, which have been determined and passed upon by this Court in the assailed Decision.

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[3] G.R. No. 272743, April 5, 2017.

Petitioner's contention that the original LOA issued by the RRD is sufficient authority in order for RO De Leon and GS Favis to continue the audit assessment is utterly baseless.

The Supreme Court, in the case of *Commissioner of Internal Revenue vs. McDonalds Philippines Realty Corp.*[4] (*McDonalds case*), clearly and categorically ruled that the reassignment or transfer of an RO requires the issuance of a new or amended LOA for the substitute or replacement RO to continue the audit or investigation, viz:

> Unless authorized by the CIR himself or by his duly authorized representative, an examination of the taxpayer cannot be undertaken. Unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority. There must be a grant of authority, in the form of a LOA, before any revenue officer can conduct an examination or assessment. The revenue officer so authorized must not go beyond the authority given. In the absence of such an authority, the assessment or examination is a nullity.

Clearly, unless authorized by the CIR himself or by his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority. There must be a grant of authority, in the form of an LOA, before any RO can conduct an examination or assessment.

Also in the McDonalds case, the Supreme Court firmly ruled that the use of MOA, Referral Memorandum or any other equivalent document directing the continuation of audit or investigation by an unauthorized RO is a usurpation of the functions of an LOA.

Finally, at the risk of being repetitive, the assailed Decision already discussed that the LOA is the authority of the RO wherein the name of such RO and all other necessary details of the audit investigation are identified. If any RO other than those named in the LOA conducts the audit examination and assessment, taxpayers would be unable to verify the existence of the authority of the RO. Apparently, the LOA particularly names the RO who will conduct the investigation and may not be used by *any* RO. The fact that the RRD remains to be the authorized signatory of the PAN, FLD and FDDA is immaterial as the assessment should be the result of a valid audit investigation conducted by ROs equipped with ample authority.

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4 G.R. No. 242670, May 10, 2021.

Clearly, the arguments raised by petitioner in the instant *Motion for Reconsideration* are insufficient for this Court to modify the assailed Decision.

WHEREFORE, petitioner's **Motion for Reconsideration (Re: Decision dated October 23, 2023)** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

(On Official Business)
ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(On Official Business)
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

HENRY S. ANGELES
Associate Justice