Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SPECIAL FIRST DIVISION

PGA SOMPO INSURANCE CORPORATION,
Petitioner,

-versus-

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9394
For: Assessment

Members:

DEL ROSARIO, P.J., *Chairperson,*
UY, and
MINDARO-GRULLA, JJ.

Promulgated:

AUG 08 2019 3:58 pm

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision on September 18, 2018 is a Petition for Review filed by petitioner PGA Sompo Insurance Corporation against respondent, the Commissioner of Internal Revenue (CIR) on July 27, 2016, praying that the assessment for deficiency Income Tax (IT), Documentary Stamp Tax (DST) and Value-Added Tax (VAT) for taxable year 2009 inclusive of interests and penalties in the aggregate amount of One Hundred One Million Twenty Nine Thousand Seven Hundred Seventy Two Pesos and 87/100 (₱101,029,772.87) with administrative penalties in the amount of Ninety Thousand Pesos (₱90,000) be declared null and void[1].

Petitioner PGA Sompo Insurance Corporation is a corporation duly organized and existing under Philippine laws, with principal address at 5th Floor, Corinthian Plaza Building, 121 Paseo de Roxas, Legazpi Village, Makati City. Petitioner is likewise registered with the Bureau of Internal Revenue (BIR) under Certificate of Registration (COR) dated 29 June 1994 and issued a Tax Identification Number

[1] I. Statement of the Case, Pre-Trial Order, Docket vol. II, p.621

(TIN) 000-486-759-000 and with the Insurance Commission under Certificate of Authority No. 2016/32-R dated January 1, 2016[2].

On the other hand, respondent the Commissioner of Internal Revenue is the head of the BIR, the government agency tasked to, among others assess and collect all national internal revenue taxes. Respondent has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the Tax Code or other laws or portions thereof administered by the BIR. Respondent may be served with summons and other court processes at the 5th Floor, Bureau of Internal Revenue Building, Agham Road, Diliman, Quezon City[3].

On November 10, 2010, respondent issued Letter of Authority (LOA) No. 125-2010-00000229[4] signed by the Assistant Commissioner, Large Taxpayers Service, Nestor A. Valeroso, for the investigation of all revenue taxes for the period January 1, 2009 to December 31, 2009 (taxable year 2009). The LOA authorized Revenue Officer (RO) Saidamen Marohombsar and Group Supervisor (GS) Adora Alberto to examine petitioner's books of accounts and other accounting records.

During the course of the audit investigation for taxable year 2009, petitioner's Senior Executive Vice President and Chief Financial Officer, Philip K. Rico, executed four (4) successive Waiver of the Statute of Limitation, as follows:

Date of Execution	**Valid until**	**Date of Acceptance**	**Date of Receipt by the taxpayer**
July 30, 2012[5]	March 31, 2013	August 13, 2012	August 13, 2012
January 9, 2013[6]	December 31, 2013	January 15, 2013	January 25, 2013
August 27, 2013[7]	June 30, 2014	September 9, 2013	September 20, 2013
March 24, 2014[8]	December 31, 2014	March 31, 2014	April 3, 2014

[2] Paragraph (Par.) 2.1 Parties, Petition for Review, Docket vol. I, p.11
[3] Par. 1, Facts, Statement of Facts and Issues, Pre-Trial Order, Docket vol. II, p.622
[4] Exhibit "R-3", Folder No. 1, BIR Records, p.1
[5] Exhibit "R-7", *Id.*, p.66
[6] Exhibit "R-8", *Id.*, p.68
[7] Exhibit "R-9", *Id.*, p.69
[8] Exhibit "R-10", *Id.*, p.72

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On April 5, 2013, Mr. Edwin T. Guzman, OIC-Chief of Large Taxpayers Regular Audit Division, issued Memorandum of Assignment No. LOA-125-2013-203[9] and Memorandum of Assignment No. LN-125-2013-32[10], assigning RO Luzviminda A. Pedrosa and GS Fe F. Caling for the continuation of the audit/investigation to replace the previously assigned Revenue Officer.

On May 2, 2014, petitioner received the Preliminary Assessment Notice (PAN)[11], assessing petitioner for deficiency taxes for the taxable year 2009 amounting to ₱216,233,988.25.

On May 19, 2014, petitioner filed with the BIR its position to the PAN dated May 16, 2014[12].

On September 17, 2014, petitioner received the Formal Letter of Demand/Formal Assessment Notice (FLD/FAN)[13] dated September 15, 2014, as well as the Assessment Notices for deficiency IT, DST, VAT, Percentage Tax Expanded Withholding Tax and Final Withholding VAT in the total amount of ₱196,577,968.14, inclusive of interests, penalties and Administrative Penalties in the amount of P140,000.00 for the taxable year 2009.

On October 14, 2014, petitioner filed with the BIR its protest letter[14] to the FLD/FAN dated October 13, 2014.

On December 3, 2014, petitioner filed with the BIR a Supplemental Protest Letter[15] dated December 2, 2014 against the FLD/FAN.

On September 23, 2015, petitioner received the Final Decision on Disputed Assessment (FDDA)[16] dated September 22, 2015 denying petitioner's protest.

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[9] Exhibit "R-1-a", Folder No. 1, BIR Records, p.19
[10] Exhibit "R-1", Id., p.17
[11] Exhibit "P-5", Docket vol. II, p.676
[12] Exhibit "P-7", *Id.*, pp.696-699
[13] Exhibit "P-8", *Id.,* pp.744-754
[14] Exhibit "P-9", Id., pp.781-792
[15] Exhibit "P-10", Id., pp.871-878
[16] Exhibit "P-11", *Id.,* pp.879-883

On October 22, 2015, petitioner filed an Appeal Letter[17] with the CIR.

On July 1, 2016, petitioner received the Final Decision of the CIR[18] dated June 30, 2016, which partially denied the Appeal Letter filed before it by petitioner and demanded the payment of the total amount of ₱101,029,772.87, inclusive of interest and compromise penalties, as deficiency IT, DST and VAT and Administrative Penalties in the total amount of ₱90,000.

Petitioner filed the instant Petition for Review on July 27, 2016. Respondent filed his Answer[19] by registered mail on October 25, 2016, interposing the following special and affirmative defenses:

xxx xxx xxx

> 5. Petitioner alleges that the discrepancy in the computation of the income tax liability stems from the consideration of respondent to include some income which were earned in 2008 and received/collected in December 2008 but were mistakenly included/reported in the VAT return for January 2009.
>
> 6. Respondent, however, found petitioner liable for deficiency income tax as a consequence of several adjustments made to its taxable net income per return in the total amount of P9,648,218.42.
>
> 7. Petitioner concurred mostly with the computation of respondent, except for discrepancy on revenue per ITR/FS vs. VAT return amounting to P7,814,501.88. Consequently, petitioner had paid the sum of P2,244,070.80 on October 30, 2015 representing deficiency income tax and increments corresponding to other adjustments for which petitioner were amenable. However, petitioner is still liable to pay deficiency income tax on the adjustment since your rebuttal on the issue was not given due course because the justification cited was verified to be already taken up in the original computation of deficiency income tax. Hence, there is no basis to reduce or cancel the assessment

[17] Exhibit "P-12", *Id.,* pp.906-916
[18] Exhibit "P-13", *Id.,* pp.917-919
[19] Docket vol. I, pp.217-223

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Value Added Tax Liability

8. Petitioner's VAT liability was found to be as follows:

a.) Reinsurance Premium at P345,115,560.89
b.) Unsupported zero-rated sales at P4,538,524.98
c.) Discrepancy between SAWT and schedule of Premium per Prod Report at P922,641.77; and
d.) Disallowed input tax at P4,991.78

9. From the above items, petitioner was agreeable to the payment of VAT and increments on items numbers c.) and d.), however the same remains unpaid.

10. On the other hand, petitioner protested the issues on reinsurance premium and unsupported zero-rated sales.

11. On the issue on reinsurance premium, petitioner allege that as a reinsurer, it is not subject to VAT since it is the direct insurer, in this case GSIS, who should be subjected to VAT pursuant to Sec. 108 of the tax code. In addition, the fact that the direct insurer is a tax exempt entity does not make petitioner as the one liable to pay VAT. Petitioner cites that in a Contract of Insurance, the parties involved are the Insured and the Direct Insurer (in this case Team energy and GSIS, respectively); while in the Contract of Reinsurance, the parties are the ceding company (GSIS) and the reinsurer is petitioner.

12. This contention is erroneous. Evaluation of petitioner's reinsurance premium resulted to reiteration of deficiency VAT assessment. It is clearly provided under Sec. 4 108-3(i) of Revenue Regulations No. 6-2005 that non-life reinsurance premiums are not subject to VAT for the reason that the same has already been subjected to VAT upon receipt of the insurance premiums by the direct insurer. The fact that no VAT payment was made by GSIS being an exempt entity, deficiency VAT plus increments is therefore imposed and assessed on the reinsurance premium petitioner received from GSIS.

13. On the issue of Unsupported zero-rated sales, it was verified that the zero-rated sales which were originally subjected to VAT should be reduced from P4,538,524.98 to

P599,724.50. The reference used by the respondent in determining the validity of registration of Ecozone enterprises was the master list obtained at the time of investigation and not on the year under audit (2009).

Administrative Penalties

14. The penalties imposed pursuant to Section 255 of the tax code as implemented by RR No. 12-2009 and RMO NO. 7-2015 as amended are reiterated.

15. For failure to pay the correct documentary stamp tax at the times required by law or regulation, petitioner is liable for P20,000.00. For failure to pay the VAT at the times required by law, petitioner (sic) P50,000.00. For failure to file SLS for the 1st and 2nd quarter at the times required by law, petitioner is liable for P20,000.00.

Presumption of Correctness

16. With regard to petitioner's contention on the computation of Documentary Stamp Tax, as well as to the assessment in question, well-settled is the rule that tax assessments are entitled to the presumption of correctness and made in good faith. The taxpayer has the duty to prove otherwise. In the absence of proof of any irregularities in the performance of duties, an assessment duly made by a Bureau of Internal Revenue examiner and approved by his superior officers will not be disturbed. All presumptions are in favor of the correctness of tax assessments.

17. The burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the Commissioner of Internal Revenue is wrong but the taxpayer is right. Otherwise, the presumption of correctness of tax assessment stands. The presumption in favor of the correctness of tax assessment stands where evidence to the contrary is wanting. Hence, the assessment issued against petitioner is imbued with factual and legal bases.

18. All presumptions are in favor of the correctness of tax assessments. Dereliction on the part of petitioner to satisfactorily overcome the presumption of regularity and correctness of the assessment will justify the judicial upholding of said assessment notice.

A Notice of Pre-Trial Conference[20] was issued on November 11, 2016 setting the case for Pre-Trial Conference on February 2, 2017. Accordingly, petitioner filed its Pre-Trial Brief[21] on January 25, 2017.

Respondent filed an Urgent Motion to Defer Pre-Trial Conference on January 30, 2017, which the Court granted and reset the pre-trial conference on March 30, 2017. Respondent again moved for the resetting of the pre-trial conference, which was granted and rescheduled to May 25, 2017. Thus, respondent filed his Pre-Trial Brief[22] on May 22, 2017.

Pre-trial ensued. On June 21, 2017, petitioner filed a Manifestation[23] stating that respondent's counsel was not able to file the Joint Stipulation of Facts and Issues due to the unacceptability of the admissions made in the Answer dated October 25, 2016 by the previous handling lawyer. Thereafter, the Pre-Trial Order[24] was issued on August 18, 2017, and pre-trial was deemed terminated.

Petitioner presented its Assistant Vice President for the Accounting Department as its lone witness, Mr. Erwin V. Toribio[25]. Thereafter, petitioner filed its Formal Offer of Evidence[26] on December 5, 2017. In a Resolution[27] dated January 31, 2018, the Court admitted all of petitioner's exhibits.

The admitted documentary exhibits offered by the petitioner are as follows:

Exhibit:	Document:
P-1	SEC Certificate of Filing of Amended Articles of Incorporation dated January 12, 2015
P-2	Amended Articles of Incorporation of the petitioner
P-2-A	Primary Purpose of the petitioner
P-3	BIR Certificate of Registratiion with TIN 000-486-759-000
P-4	Insurance Commission Certificate of Authority No. 2016/32-R dated January 1, 2016

[20] Docket vol. I, pp.225-226
[21] *Id.,* pp.229-241
[22] Docket vol. II, pp.556-565
[23] *Id.,* pp.604-605
[24] *Id.,* pp.621-634
[25] Judicial Affidavit, Docket vol. I, pp.246-259
[26] Docket vol. II, pp.645-653
[27] *Id.,* pp.1112-1113

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P-5	BIR Letter of Authority No. LOA-125-2010-00000229 dated November 10, 2010
P-6	Preliminary Assessment Notice dated May 2, 2014 from the BIR
P-7	Protest letter dated May 16, 2014 of petitioner against the Preliminary Assessment Notice addressed to Alfredo Misajon, OIC-Assistant Commissioner, Bureau of Internal Revenue, Large Taxpayers Service, which is stamped "Received" by the BIR-Regular LT Audit Division 2 on May 19, 2014
P-8	Formal Letter of Demand dated September 15, 2014 together with the Assessment Notices, assessing petitioner with deficiency income tax, documentary stamp tax, value added tax, expanded withholding tax, final withholding tax and final withholding VAT, inclusive of increments, for taxable year 2009, in the total amount of P196,577,968.14 which was received by the petitioner on September 17, 2014
P-9	Protest Letter dated October 13, 2014 filed with the BIR on October 14, 2014 where the petitioner contested the assessments for various deficiency internal revenue taxes for taxable year 2009
P-10	Supplemental Protest Letter dated December 2, 2014 filed with the BIR on December 3, 2014
P-11	Final Decision on Disputed Assessment dated September 22, 2015 together with the Assessment Notices attached thereto which reiterated the assessments for deficiency income tax, documentary stamp tax, value added tax and expanded withholding tax for the taxable year 2009 in the total amount of P102,505,605.76, inclusive of interest and penalties, which was received by the petitioner on even date
P-12	Appeal letter dated October 22, 2015
P-13	Final Decision and the Assessment Notices all dated June 30, 2016, signed by the Commissioner of Internal Revenue
P-14	Petitioner's VAT Return for the month of January 2009
P-15	Summary List of Reported Gross Receipts in the amount of P23,674,577.18
P-16	Check Voucher dated December 5, 2008 for Marnix Corporation including its attachments
P-17	Check Voucher dated December 9, 2008 for Meritz Insurance Co., Ltd. together with its attachments
P-18	Petitioner's 2009 Income Tax Return
P-19	Petitioner's 2009 Audited Financial Statements
P-20	Payment Order dated July 15, 2016 in the amount of P490,496.32 together with the attachments thereto
P-21	"Industrial All Risk, Sabotage & Terrorism, Comprehensive General Liability" Insurance Policy

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	issued by GSIS on 20 June 2007, together with all the attachments thereto
P-22	Judicial Affidavit of Erwin V. Toribio dated January 24, 2017
P-22-A	Signature of Erwin V. Toribio in the Judicial Affidavit dated January 24, 2017

On the other hand, respondent presented RO Luzviminda A. Pedrosa[28] as his sole witness. Subsequently, respondent filed his Formal Offer of Evidence[29] on May 2, 2018. The Court granted all of respondent's exhibits in a Resolution[30] dated July 10, 2018.

Likewise, respondent's admitted documentary exhibits are as follows:

Exhibit:	Document:
R-1	Memorandum of Assignment No. LN-125-2013-22 dated April 05, 2013
R-1-a	Memorandum of Assignment No. LOA-125-2013-203 dated April 05, 2013
R-2	Letters dated April 16, 2013
R-2-a	Letters dated April 16, 2013
R-3	Letter of Authority (LOA) No. 125-2010-00000229 dated 10 November 2010
R-4	Checklist of Requirements/Presentation of Records/Documents
R-5	First Notice for Presentation of Books of Accounts and Other Accounting Records
R-6	Letter Notice
R-7	Notarized Waiver of the Statute of Limitations under the National Internal Revenue Code dated 30 July 2012, extending the period to assess not later than 31 March 2013
R-8	Notarized Waiver of the Statute of Limitations under the National Internal Revenue Code dated 09 January 2013, extending the period to assess not later than 31 December 2013
R-9	Notarized Waiver of the Statute of Limitations under the National Internal Revenue Code dated 27 August 2013
R-10	Notarized Waiver of the Statute of Limitations under the National Internal Revenue Code dated 24 March 2014
R-11	Memorandum recommending the issuance of the Preliminary Assessment Notice (PAN) dated 21 April

[28] *Id.,* pp.572-586
[29] *Id.,* pp.1121-1135
[30] *Id.,* pp.1144-1145

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	2014 with working papers and Revenue Officer's Report
R-12	Preliminary Assessment Notice (PAN) with Details of Discrepancies, Matrices of Computations and Schedules dated 02 May 2014
R-13	Memorandum recommending the issuance of the Formal Letter of Demand (FLD) with attached Revenue Officer's Report and Matrices of Computations, dated 26 June 2014
R-14	Formal Letter of Demand (FLD) with attached Details of Discrepancies and Schedules, Final Assessment Notice (FAN)/BIR Forms 0401
R-15	Assessment Notice for Deficiency Income Tax
R-15-a	Assessment Notice for Deficiency Documentary Stamp Tax (DST)
R-15-b	Assessment Notice Deficiency Value-Added Tax (VAT)
R-15-c	Assessment Notice Deficiency Percentage Tax (PT)
R-15-d	Assessment Notice for Deficiency Expanded Withholding Tax (EWT)
R-15-e	Assessment Notice for Deficiency Final Withholding Tax (FWT)
R-15-f	Assessment Notice for Deficiency Fringe Benefit Tax
R-16	Memorandum recommending the issuance of the Final Decision on Disputed Assessment (FDDA) dated 09 September 2015
R-17	Final Decision on Disputed Assessment (FDDA) with attached Details of Discrepancies and Schedules, BIR Forms 0401/Assessment Notices
R-18	Assessment Notice for Deficiency Income Tax
R-18-a	Assessment Notice for Deficiency Documentary Stamp Tax (DST)
R-18-b	Assessment Notice for Deficiency Value-Added Tax (VAT)
R-18-b	Assessment Notice for Deficiency Expanded Withholding Tax (EWT)
R-19	Memorandum dated 15 June 2016 recommending the denial of petitioner's request for reconsideration
R-20	Letter dated 30 June 2016 denying petitioner's request for reconsideration; BIR Forms 0401/Audit Result
R-21	Assessment Notice for Deficiency Income Tax
R-21-a	Assessment Notice for Deficiency Documentary Stamp Tax (DST)
R-21-b	Assessment Notice for Deficiency Value-Added Tax (VAT)
	Entire BIR Records

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The Memorandum for the Petitioner[31] was filed on September 13, 2018, whereas respondent filed his Memorandum[32] on August 15, 2018. After such filing, the Court submitted this case for decision in a Resolution[33] dated September 18, 2018.

The issue [34] to be resolved is whether petitioner has no factual and legal bases to refute the deficiency tax assessment and should be ordered to pay the aggregate amount of ₱101,029,772.87 for deficiency IT, DST, VAT and Compromise Penalty for taxable year 2009, plus 20% deficiency and delinquency interest until full payment pursuant to Sections 248 and 249 of the National Internal Revenue Code of 1997, as amended.

After a careful scrutiny of the records of this case and the pieces of evidence proffered, the Court is constrained to rule that the deficiency assessment for taxable year 2009 against petitioner is void for want of authority of the revenue officer who conducted and completed the audit investigation. Considering that a revenue officer must be clothed with authority pursuant to a LOA to effect a valid assessment, it logically follows that the subsequent issuance of an assessment by a revenue officer not armed with a LOA bears no semblance of legality.

While the Court is aware that the authority of the officers who conducted the audit was not raised as an issue by any of the parties, it is well within our jurisdiction to take cognizance of such issue especially since a void assessment bears no fruit[35].

In *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*[36], the Supreme Court opined, *viz*:

> From the foregoing, it is clear that the issue on whether the revenue officers who has conducted the examination on Lancaster exceeded their authority pursuant to LOA No. 00012289 may be considered as covered by the terms "other matters" under Section 7 of

[31] *Id.*, pp.1159-1177
[32] *Id.*, pp.1150-1156
[33] *Id.*, p.1179
[34] Issue, Pre-Trial Order, Docket vol. II, p.624
[35] *Commissioner of Internal Revenue v. Metro Star Superama Inc.*, G.R. No. 185371, December 8, 2010
[36] G.R. No. 183408, July 12, 2017

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> R.A No. 1125 or its amendment, R.A. No. 9282. **The authority to make an examination or assessment, being a matter provided for by the NIRC, is well within the exclusive and appellate jurisdiction of the CTA**. *(Emphasis ours)*

Further, in the afore-cited case, it was ruled that the Court can resolve an issue albeit not raised by the parties, thus:

> 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-*
>
> xxx xxx xxx
>
> 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. *(Emphasis supplied)*

The Court has consistently held the view that a revenue officer conducting the audit investigation, whose name is not otherwise indicated in the LOA issued to the taxpayer subject of the investigation, is devoid of authority to do so. Consequently, the assessment stemming therefrom is void. Stated differently, the revenue officer conducting the audit investigation must be named in the LOA.

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It bears stressing that the LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. The LOA is premised on the fact that the examination of a taxpayer who has already filed his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives. Section 6 of the NIRC clearly provides as follows[37]:

> Sec. 6- *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.-*
>
> (A) *Examination of Return 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 representatives may authorize the examination of any taxpayer and the assessment of the correct amount of tax: Provided, however, That the failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
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> xxx xxx xxx

Congruent with the above, Section 13 of the NIRC mandates that revenue officers tasked to conduct the examination on the taxpayer's books must do so pursuant to a LOA, thus:

> Section 13. *Authority of a Revenue Officer.-*
>
> 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

[37] *Medicard Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 222743, April 5, 2017

performed by the Revenue Regional Director himself. *(Emphasis supplied)*

The LOA gives notice to the taxpayer that it is under investigation for possible deficiency tax assessment; at the same time 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[38].

It is clear beyond cavil that the revenue officer must be equipped with the LOA in performing its assessment functions. It follows then that in case of change in revenue officer named in the LOA, a new LOA must be issued.

In view of the foregoing, a subsequent Memorandum of Assignment (MOA) naming the revenue officer and group supervisor who will be replacing the original revenue officer and group supervisor indicated in the LOA is not sufficient to vest the replacing officers with authority.

In the instant case, the LOA dated November 10, 2010 that was issued to petitioner authorized RO Saidamen Marohombsar and GS Adora Alberto of LT Regular Audit Division 2. The said LOA was signed by Assistant Commissioner Nestor S. Valeroso.

During the course of the audit investigation, on April 5, 2013, a MOA addressed to RO Luzviminda A. Pedrosa and GS Fe. F. Caling was issued and signed by Mr. Edwin T. Guzman, OIC-Chief, RLTAD 2. Notably, the change in revenue officer and group supervisor occurred prior to the issuance of the assessment. Undoubtedly, RO Pedrosa and GS Caling completed the audit and recommended for the issuance of the assessment.

Moreover, with respect to the authority of Mr. Edwin T. Guzman to issue MOA, our Decision in *Orient Overseas Container Line Ltd., represented by OOCL (Philippines), Inc., v. Commissioner of Internal Revenue*[39] finds relevance in this case, thus:

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[38] *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017

[39] CTA Case No. 9179, August 2, 2018

> Guided by the foregoing disquisition, this Court holds that the Memorandum of Assignment No. LOA-125-2013-183 issued by Mr. Edwin T. Guzman, OIC-Chief of LTS-RLTAD II cannot validly grant RO Sison and GS Lingan the authority to conduct the examination pursuant to LOA No. 125-2011-00000150 dated October 10, 2011. **In his capacity as OIC-Chief of LTS-RLTAD II, Mr. Edwin T. Guzman is bereft of any power to authorize the examination of taxpayers or to effect any modification or amendment to a previously issued LOA because, as mentioned earlier, only the CIR or his duly authorized representatives are granted such power.** *(Emphasis supplied)*

In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on the one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution. Thus, while taxes are the lifeblood of the government, the power to tax has its limits, in spite of all its plenitude[40].

All told, considering that there was no LOA authorizing RO Luzviminda A. Pedrosa and GS Fe F. Caling to examine the books of petitioner for taxable year 2009, the assessment for deficiency income tax, documentary stamp tax and VAT is void.

WHEREFORE, the present Petition for Review is **GRANTED**. Accordingly, the assessment for deficiency income tax, documentary stamp tax, value-added tax and administrative penalties as found in respondent's Final Decision dated June 30, 2016, in the aggregate amount of One Hundred One Million Twenty Nine Thousand Seven Hundred Seventy Two Pesos and 87/100 (₱101,029,772.87) are **CANCELLED and SET ASIDE**.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[40] *Supra*, note 35

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, Special First Division