REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2281** (CTA Case No. 9280)
	Present:
-*versus*-	**DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
MARKET STRATEGIC FIRM, INC., *Respondent.*	Promulgated: MAR 06 2024 11:40 am

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is petitioner's "Motion for Reconsideration [re: Amended Decision dated 04 November 2022]" ("Motion"), filed on 25 November 2022, with respondent's "Comment (On CIR's Motion for Reconsideration on the Amended Decision)" ("Comment"), filed on 3 January 2023.

Petitioner's Motion expresses his disagreement with this Court's Amended Decision, dated 4 November 2022 ("Assailed Decision"). He claims that (a) the case of ***Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.***[1] ("***McDonald's***") cannot be retroactively applied to this case; (b) Letters of Authority ("LOAs") are not required for Revenue Officers ("ROs") of the Large Taxpayers Service ("LTS"); and (c) ***Revenue***

[1] G.R. No. 242670, 10 May 2021.

Memorandum Order ("***RMO***") ***Nos. 19-2009 and 44-2010*** already withdrew the requirement that LOAs be revalidated.

Respondent replies by arguing that (a) even jurisprudence prior to ***McDonald's*** emphasized the importance of properly issuing LOAs; (b) such earlier jurisprudence also shows that ROs from the LTS are mandated to be armed with a LOA; and (c) ***RMO No. 43-90*** clearly requires the revalidation of LOAs

The Motion fails to persuade.

First, the Supreme Court has already demonstrated that ***McDonald's*** is applicable retroactively. This can be seen in the High Court's use of said doctrine in ***Commissioner of Internal Revenue v. Wellington Investment & Manufacturing Corporation***[2] and ***Republic of the Philippines v. Robigie Corporation***,[3] both of which involve LOAs issued before the promulgation of ***McDonald's***. Indeed, the general rule regarding doctrines drawn from the decisions of the Supreme Court is that these establish the "contemporaneous legislative intent" of laws and are thus effective from the date of enactment of said laws, as held in ***Roque Senarillos v. Epifanio Hermosisima, et al.***[4] and ***Columbia Pictures, Inc., et al. v. Court of Appeals, et al.***[5] Only jurisprudence that institutes a *new* doctrine, one that replaces an *old* doctrine, cannot be retroactively applied.[6]

In short, the Court *En Banc*'s retroactive application of ***McDonald's*** was not in error.

Given that ***McDonald's*** is perfectly applicable to this case, petitioner's further contention that Ros from the LTS do not have to obey the LOA requirement is also untenable. The LOA in ***McDonald's*** itself was also issued by the LTS, after all, but this did not prevent the Supreme Court from voiding the assessment there. The Court sees no reason to treat the LOA in the present case any differently.

Finally, petitioner's reliance on ***RMO Nos. 19-2009 and 44-2010*** is misplaced. Said issuances notwithstanding, the Court in Division already found that the offending Memorandum of Assignment ("MOA") was issued for the "continuation of the audit/investigation **to replace** the previously assigned Revenue Officer(s) who resigned/retired/transferred to another district office" (emphasis supplied).[7] This same finding was echoed in the

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[2] G.R. No. 249795, 29 November 2022.
[3] G.R. No. 260261, 3 October 2022.
[4] G.R. No. L-10662, 14 December 1956.
[5] G.R. No. 110318, 28 August 1996.
[6] *See* San Miguel Corporation v. Commissioner of Internal Revenue, G.R. No. 257697, 12 April 2023.
[7] *See* Decision, dated 10 February 2020, pp. 31-32, *EB* Records, pp. 54-55.

Assailed Decision.[8] Both the tenor of the MOA and the fact that petitioner issued the MOA in the first place led to the Court in Division and the Court *En Banc* finding that petitioner attempted to *replace* the Ros with a mere memorandum and not a LOA. That RO Allan Maniego was also named in the LOA and that the cited ***RMOs*** supposedly withdraw the revalidation requirement does not change these facts of the MOA's tenor and issuance. They furthermore do not explain *why* petitioner issued the MOA utilizing such tenor in the first place if he truly believed that RO Maniego still had the authority to audit respondent's records.

Given that respondent issued a MOA to, in its own words, "replace" the ROs assigned to the case, the Court *En Banc* retains its stance that respondent violated petitioner's right to due process. We thus uphold that assailed ruling.

WHEREFORE, petitioner's Motion for Reconsideration [re: Amended Decision dated 04 November 2022], filed on 25 November 2022, is hereby **DENIED** for lack of merit. The Amended Decision, dated 4 November 2022, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

With due respect, I maintain my Dissenting Opinion.
CATHERINE T. MANAHAN
Associate Justice

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[8] *See* Amended Decision, dated 4 November 2022, p. 6, *id.*, p. 192.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

With due respect, I join the Dissenting Opinion of Justice Manahan dated Nov. 4, 2022
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice