REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ROBBIE STYLOGRAPHIC AND DEVELOPMENT CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9774

Members:

UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAR 0 2 2021
12:30 p.m.

x - x

RESOLUTION

UY, J.:

For resolution is respondent's "***Motion for Reconsideration (Decision dated 17 November 2020)***" filed on December 17, 2020, with petitioner's "***Comment To Motion for Reconsideration (to the Decision promulgated on November 17, 2020)***" filed on February 1, 2021.

In the said Motion, respondent prays for the reconsideration of the Court's Decision dated November 17, 2020, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is hereby **GRANTED.** Accordingly, the Final Decision promulgated on January 18, 2018 assessing petitioner for deficiency income tax, value added tax, expanded withholding tax, documentary stamp tax, and compromise penalty in the total amount of ₱17,746,889.91 for Taxable Year 2009,

including interests that may have accrued thereon until actual payment thereof, is hereby **CANCELLED** and **SET ASIDE.**

SO ORDERED."

In support of his Motion, respondent argues that:

1. The Court erred in holding that respondent conducted the audit without authority.

2. The Court erred in holding that the assessment made by respondent is void for failing to set and fix the tax due, as required by law.

In its Comment, petitioner counters that:

1. The ruling of the Court in holding that respondent conducted audit without authority is well entrenched in law and procedure.

2. The Court did not err when it held that the assessment made by law is void for failing to set and fix the tax due as required by law.

THE COURT'S RULING

Respondent's Motion lacks merit.

After a careful examination and consideration of the respondent's Motion for Reconsideration, it is noted that the main arguments raised in the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

Nevertheless, this Court finds it necessary to stress that respondent failed to refute the finding that respondent conducted the audit without the requisite authority.

As a rule, revenue officers are required to be specifically authorized by a valid Letter of Authority (LOA), prior to the exercise of its assessment functions, such as the examination of books of accounts and accounting records of the taxpayer. In the absence of a valid LOA, issued *specifically* in favor of a revenue officer, the tax assessments issued by the BIR against such taxpayer shall be void.[1]

In this case, RO Susan S. Ferrer was tasked to conduct the investigation of respondent's tax liabilities for TY 2009, solely on the basis of Memorandum of Assignment (MOA) No. 040-0030 dated March 11, 2013, instead of a valid LOA, as required by Section 13 of the NIRC of 1997, as amended. Considering that RO Ferrer acted on respondent's case, despite not being properly clothed with authority through a requisite LOA, the tax assessments resulting therefrom are void and of no effect.

While the lack of a valid LOA issued in favor of RO Ferrer is already fatal to respondent's case, this Court finds that the subject assessment also suffers from another infirmity which renders it void.

In this case, the subject Formal Letter of Demand (FLD) contains the statement that the "*interest and total amount due will have to be adjusted if paid beyond x x x*," which renders the amount of tax due therein indefinite, as it is subject to modification, depending on the date of payment. Pursuant to the case of *Commissioner of Internal vs. Fitness by Design, Inc.*,[2] a Final Assessment Notice that lacks the definite amount of tax liability for which the taxpayer is accountable, is not a valid assessment.

In view of the foregoing incurable infirmities of the subject tax assessment, this Court is bound to its duty to declare the same as void and of no effect, as a void assessment bears no fruit.[3]

WHEREFORE, premises considered, the instant "***Motion for Reconsideration (Decision dated 17 November 2020)***" is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

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[1] *See: Medicard Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 222743, April 5, 2017.
[2] G.R. No. 215957, November 9, 2016.
[3] *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.,* G.R. No. 185371, December 8, 2010.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I reiterate my Concurring and Dissenting Opinion)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice