REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB No. 2936** (CTA Case No. 9862)
	Present:
-versus-	**RINGPIS-LIBAN,** *P.J.* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
STEPAN PHILIPPINES QUATERNARIES, INC., *Respondent.*	Promulgated: JAN 08 2026 3:15

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DECISION

ANGELES, *J.*:

THE CASE

Before the Court *En Banc* is a *Petition for Review*[1] filed by petitioner assailing the Decision dated February 28, 2024 (assailed Decision),[2] which ordered the cancellation of the *Formal Letter of Demand/Final Assessment Notice* (FLD/FAN) dated October 13, 2017, issued by petitioner against respondent. Petitioner likewise assails the Resolution dated May 29, 2024 (assailed Resolution),[3] denying petitioner's *Motion for Reconsideration*, promulgated by this Court's Special Third Division (Court in Division) in CTA Case No. 9862.

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[1] *Petition for Review*, EB Docket, pp. 7 to 19.
[2] Decision dated February 28, 2024, EB Docket, pp. 25 to 36; Docket (CTA Case No. 9862), pp. 702 to 713.
[3] Resolution dated May 29, 2024, EB Docket, pp. 38 to 41; Docket (CTA Case No. 9862), pp. 753 to 756.

THE PARTIES

Petitioner is the Commissioner of the Bureau of Internal Revenue (BIR), the government agency in charge of, among others, the assessment and collection of all national internal revenue taxes, fees, and charges, with office address at the Bureau of Internal Revenue (BIR), National Office Building, Agham Road, Diliman, Quezon City.[4]

Respondent Stepan Philippines Quaternaries, Inc., is a corporation duly organized and existing under Philippine laws, with principal office address at Cocochem Agro-Industrial Park San Antonio, San Pascual, Batangas.[5] It is engaged in the manufacture of primary active ingredients in fabric softeners, other quaternaries and tertiary amine derivatives, and similar or related products, and of alcohol sulfates and other surfactants, and in the wholesale, marketing, and distribution of such products in the Philippines and anywhere in the world.[6]

ANTECEDENT FACTS

The relevant facts as found by the Court in Division are as follows:[7]

> Regional Director Gerardo R. Florendo issued eLA No. 201100063382/LOA No. 058-2016-00000045 dated March 23, 2016, authorizing Revenue Officer (RO) Shena Bicaldo (Bicaldo) and Group Supervisor (GS) Elenita Pamplona (Pamplona) of Revenue District Office (RDO) No. 058-Batangas City, Batangas, to examine petitioner's [herein respondent's] books of accounts and other accounting records covering the period January 1, 2014 to December 31, 2014.
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> Subsequently, in the Memorandum of Assignment (MOA) No. MOA0582016LOA16316 dated August 24, 2016 issued by then Head, Investigating Office [later Revenue District Officer (RDO)], Mr. Joseph M. Catapia (Catapia), the case of petitioner for TY 2014 was referred to RO Arlene C. Gutierrez (Sic) and GS Ma. Josefina O. Sosa (Sosa) for the "[c]ontinuation of the audit/investigation to replace the previously assigned Revenue Officer(s) who resigned/retired/transferred to another district office." RDO Catapia then sent to petitioner [herein respondent] the letter dated October 28, 2016, informing the latter that its case was reassigned to RO Arlene G. Tenorio under GS Sosa, for continuation of audit due to the transfer of assignment of RO Bicaldo and GS Pamplona.

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4 Petition for Review, EB Docket, p. 8; Decision dated February 28, 2024, EB Docket, p. 26.
5 Petition for Review, EB Docket, p. 8; Decision dated February 28, 2024, EB Docket, p. 25.
6 Decision dated February 28, 2024, EB Docket, p. 25.
7 EB Docket, pp. 26 to 29; Docket (CTA Case No. 9862), pp. 703 to 706.

Thus, on April 12, 2017, RO Arlene G. Tenorio under GS Sosa wrote a Memorandum addressed to Revenue District Officer of RDO No. 58, presenting her audit findings, and recommending the issuance of a PAN against petitioner [herein respondent]. On the basis of the Memorandum, the Preliminary Assessment Notice (PAN) dated July 25, 2017 was issued against petitioner [herein respondent] accordingly.

On August 31, 2017, petitioner [herein respondent] received the PAN, which assessed petitioner [herein respondent] of deficiency income tax, EWT, FWT, VAT, and compromise penalty, in the aggregate amount of ₱29,070,851.54. 10 The PAN was issued under electronic Letter of Authority (eLA) No. 201100063382/Letter of Authority (LOA) No. 058-2016-00000045 dated March 23, 2016 as authority for the examination of the books of accounts and accounting records of petitioner [herein respondent] for TY 2014.

On October 30, 2017, petitioner [herein respondent] received the Formal Letter of Demand and Assessment Notice Nos. RR9A-58-eLA-2014-IT-044, RR9A-58-eLA-2014-WE-044, RR9A-58-eLA-2014-WF-044, RR9A-58-eLA-2014-VT-044, and RR9A-58-eLA-2014-MC-044 of even date (FLD/FANs), which assessed it for deficiency income tax, EWT, FWT, VAT, and compromise penalty, for taxable year 2014, in the aggregate amount of ₱29,613,954.71, inclusive of surcharges and interest as of October 31, 2017, broken down as follows:

	Basic Tax	Surcharge	Interest	Total
Income tax	₱2,854,354.35		₱1,452,983.67	₱4,307,338.02
EWT	721,067.62		402,612.22	1,123,679.94
FWT	9,497,083.88	₱2,374,270.84	5,302,755.05	17,174,109.27
VAT	3,798,833.35	949,708.34	2,100,286.49	6,848,828.18
Compromise penalty	160,000.00			160,000.00
	₱17,031,338.10	₱3,323,979.18	₱9,258,637.43	₱29,613,944.71

The FLD was signed by the Regional Director of Revenue Region No. 9A-CaBaMiRo, Mr. Romulo L. Aguila, Jr., on behalf of respondent [herein petitioner].

On November 28, 2017, petitioner [herein respondent] filed its protest (via Request for Reinvestigation) on said FLD/FANs.

Thereafter, on January 18, 2018, petitioner [herein respondent] received the letter from respondent [herein petitioner], signed by the Assistant Revenue District Officer of Revenue District Office No. 58 dated January 11, 2018, erroneously referring to petitioner's [herein respondent's] protest as a request for reconsideration. In the same letter, petitioner [herein respondent] was informed that it is required to submit relevant documents in support of its contention within thirty (30) days from the filing of the protest letter; otherwise, the assessment shall become final and executory.

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Petitioner [herein respondent] filed the present Petition for Review on June 26, 2018.

On September 10, 2018, respondent [herein petitioner] filed his Answer, interposing the following special and affirmative defenses, to wit: (1) petitioner [herein respondent] is liable for: (i) deficiency income tax in the aggregate amount of ₱4,307,338.02, (ii) deficiency EWT in the aggregate amount of ₱1,123,679.24, (iii) deficiency FWT in the aggregate amount of ₱17,174,109.27, (iv) deficiency VAT in the aggregate amount of ₱6,848,828.18, and (v) compromise penalties, all for TY 2014; and (2) the assessment issued against petitioner [herein respondent] is valid and lawful.

On October 17, 2018, respondent [herein petitioner] transmitted the entire BIR Records of this case, consisting of 790 pages, contained in one (1) folder.

The Pre-Trial Conference was initially set on December 4, 2018. Prior thereto, on November 29, 2018, petitioner's [herein respondent's] Pre-Trial Brief and Respondent's [herein Petitioner's] Pre-Trial Brief were separately filed.

However, in the Resolution dated December 4, 2018, upon respondent's [herein petitioner's] motion, the Pre-Trial Conference was reset to April 2, 2019.

In the Resolution dated March 25, 2019, this case was referred by this Court to mediation in the Philippine Mediation Center-Court of Tax Appeals, pursuant to Section II of the Interim Guidelines for Implementing Mediation in the Court of Tax Appeals as approved by the Supreme Court on January 18, 2011. Consequently, the Pre-Trial Conference scheduled on April 2, 2019 was cancelled until further notice. However, the mediation was unsuccessful. Thus, in the Resolution dated February 5, 2020, the Pre-Trial Conference was set anew on March 19, 2020.

Meanwhile, petitioner [herein respondent] filed a Motion to Admit Amended Pre-trial Brief, with attached Amended Pre-Trial Brief, on March 28, 2019, praying that the attached Amended Pre-Trial Brief be admitted.

The Pre-Trial Conference was again reset to June 30, 2020. However, per the Resolution dated July 1, 2020, upon petitioner's [herein respondent's] motion, the said Conference was again moved to, and held on, July 2, 2020.

On July 20, 2020, the parties filed their Joint Stipulation of Facts and Issues, which was admitted and approved by the Court in its Resolution dated July 27, 2020, which terminated the Pre-Trial. The Pre-Trial Order dated August 26, 2020 was then issued.

Trial then ensued, with both parties presenting and offering their respective documentary and testimonial evidence.[8]

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[8] *Supra* note 7.

On February 28, 2024, the Court in Division promulgated the assailed Decision,[9] the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**.
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> Accordingly, the assailed FLD/FANs dated October 13, 2017, requesting petitioner [herein respondent] to pay deficiency income tax, EWT, FWT, and VAT, including increments, in the aggregate amount of ₱29,613,944.71, for TY 2014, are all **CANCELLED and SET ASIDE**.

The Court in Division ruled in favor of respondent upon finding that Revenue Officer (RO) Arlene Tenorio, the RO who continued the audit and examination of respondent's books and subsequently prepared the Memorandum recommending the issuance of the Preliminary Assessment Notice (PAN) and FLD/FAN, was not authorized by a Letter of Authority (LOA).

The Court in Division cited *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,[10] where the Supreme Court categorically held that a new LOA must be issued when the ROs originally named therein are completely replaced by different ROs who thereafter continued the audit.

On March 19, 2024, petitioner filed a *Motion for Reconsideration*[11] seeking for a reversal of the assailed Decision. Respondent, in turn, posted its *Comment* on April 8, 2024.[12]

On May 29, 2024, the Court in Division rendered the assailed Resolution,[13] which denied petitioner's *Motion for Reconsideration*.

Hence, this Petition.

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[9] *Supra* note 2.
[10] G.R. No. 242670, May 10, 2021.
[11] Docket (CTA Case No. 9862), pp. 715 to 725.
[12] *Id.*, pp. 728 to 748.
[13] *Supra* note 3.

PROCEEDINGS BEFORE THE COURT *EN BANC*

On June 19, 2024 petitioner filed a *Motion for Extension of Time to File Petition for Review*,[14] which the Court granted in the Resolution dated June 24, 2024.[15]

Thereafter, on July 4, 2024, petitioner filed his *Petition for Review*.[16]

In the Resolution dated July 26, 2024,[17] the Court directed respondent to file its Comment to the Petition for Review.

On August 9, 2024, respondent filed its *Comment (to the Petition for Review dated 04 July 2024)*.[18]

Subsequently, on September 17, 2024, the Court issued a Resolution noting respondent's *Comment* and referring the case to the Philippine Mediation Center - Court of Tax Appeals (PMC-CTA).[19]

On October 28, 2024, the PMC-CTA informed the Court that the parties decided to not have their case mediated by the PMC-CTA.

Accordingly, on December 12, 2024, the Court issued a Resolution noting the parties' decision not to undergo mediation and submitting the case for decision.

ASSIGNMENT OF ERRORS

Petitioner assigns the following error allegedly committed by the Court in Division, to wit:

> "THE HONORABLE COURT IN DIVISION ERRED IN RULING THAT THE ASSESSMENTS ARE VOID BECAUSE THE REVENUE OFFICERS WHO CONTINUED THE CONDUCT OF THE AUDIT WERE ALLEGEDLY NOT AUTHORIZED THROUGH A LETTER OF AUTHORITY"[20]

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[14] EB Docket, pp. 1 to 5.
[15] *Id.*, p. 6.
[16] *Supra* note 1.
[17] EB Docket, p. 42.
[18] *Id.* pp. 43 to 64.
[19] *Id.*, p. 67.
[20] Assignment of Errors, *Petition for Review*, EB Docket, p. 10.

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ARGUMENTS OF THE PARTIES

Petitioners' arguments

Petitioner avers that once an LOA is served upon the taxpayer, any duly authorized RO may validly continue the audit pursuant to a Memorandum of Assignment (MOA), even if such RO was not specifically named in the LOA.[21] Thus, petitioner argues that since an LOA was issued authorizing the audit of respondent's books of accounts and other accounting records for taxable year 2014, the RO who continued the audit pursuant to the MOA acted with authority and the assessment issued as a result of such audit is not void.[22]

Furthermore, petitioner contends that respondent's right to due process was not violated. He maintains that respondent was given the opportunity to participate in the proceedings before the BIR. Petitioner argues that since respondent was notified of the assessment and was given the opportunity to be heard, respondent's right to due process was not violated.[23]

Petitioner likewise asserts that respondent never questioned the authority of the RO during the administrative proceedings nor in its Petition for Review. Thus, petitioner claims that it was deprived of due process when the Court in Division ruled on an issue which was not raised during the BIR proceedings and in the Petition for Review.[24]

Respondent's counter-arguments

Respondent maintains that the Court in Division correctly held that the assessment for deficiency taxes issued by petitioner is void as the audit was conducted in violation of respondent's right to due process.[25] Respondent argues that a new LOA must be issued to authorize ROs to continue the audit in cases where the officers originally named in the LOA are replaced, transferred, or reassigned.[26] Since the RO who continued the audit in the present case was not duly authorized under a valid LOA, respondent posits that the resulting assessment is void.[27]

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[21] *Petition for Review*, EB Docket, pp. 10 to 14.
[22] *Id.*
[23] *Id.*, p. 14.
[24] *Id.*, pp. 14 to 15.
[25] *Comment*, EB Docket, p. 46.
[26] *Comment*, EB Docket, pp. 47 to 58.
[27] *Id.*

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In addition, respondent contends that petitioner was not deprived of due process when the Court in Division ruled on the lack of the authority of the RO who continued the audit, despite the fact that said issue was not raised in the administrative proceedings or in the petition.[28] Respondent asserts that the Court of Tax Appeals (CTA) is not limited to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.[29]

RULING OF THE COURT

The Court denies the Petition for Review.

The instant Petition for Review was filed on time.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> **RULE 8**
> **PROCEDURE IN CIVIL CASES**
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> xxx xxx xxx
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> SEC. 3. Who may appeal; period to file petition. –
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> xxx xxx xxx
>
> (b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, **the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review**. (Emphasis supplied)

In *National Power Corporation v. National Labor Relations Commission*,[30] the Supreme Court emphasized that the period to appeal an adverse decision must be reckoned from the date the Office

[28] *Comment*, EB Docket, pp. 60 to 61.
[29] *Id.*
[30] G.R. No. 90933-61, May 29, 1997.

of the Solicitor General (OSG) receives a copy of the decision, explaining:

> Although jurisprudence regarding mandatory service of orders and decision on the OSG and not merely to its deputized special attorneys, pertain to court cases involving land registration and naturalization, the same rule should be observed in cases before the Labor Arbiter and the NLRC. **The underlying justification for compelling service of pleadings, orders, notices and decisions on the OSG as principal counsel is one and the same.** As the lawyer for the government or the government corporation involved, the OSG is entitled to the service of said pleadings and decisions, whether the case is before the courts or before a quasi-judicial agency such as respondent commission. Needless to say, a uniform rule for all cases handled by the OSG simplifies procedure, prevents confusion and thus facilitates the orderly administration of justice.
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> From the foregoing, we conclude that service of the Labor Arbiter's decision on the deputized special attorney is insufficient and not valid and binding on the Solicitor General, who was himself entitled to such service. **The period to appeal an adverse decision should be reckoned from the date the OSG, and not the deputized lawyer, received a copy of the decision.** Since service was not made on the OSG, the period to file an appeal was suspended and did not commence to run. The appeal memorandum, having been filed on July 17, 1989, it was filed on time and should have been entertained by the NLRC. Consequently, respondent Commission committed grave abuse of discretion when it promulgated its decision on October 6, 1989 dismissing petitioner's appeal for having been filed late. (Emphasis supplied)

Based on the foregoing, the period to appeal an adverse decision or resolution of the CTA must be reckoned from the date of receipt of the OSG. Here, the records show that the OSG received the assailed Resolution on June 5, 2024.[31] Petitioner therefore had fifteen (15) days, or until June 20, 2024, within which to file his Petition for Review.

On June 19, 2024 petitioner filed a *Motion for Extension of Time to File Petition for Review*, praying for an additional fifteen (15) days from June 19, 2024, or until July 4, 2024, within which to file his petition for review.[32] The Court granted the motion in the Resolution dated June 24, 2024.[33] Thereafter, on July 4, 2024, petitioner filed his *Petition for Review*.[34]

Accordingly, the instant Petition for Review was timely filed.

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[31] Docket – Vol. 2, p. 752.
[32] EB Docket, pp. 1 to 5.
[33] *Id.*, p. 6.
[34] *Supra* note 1.

The CTA in Division correctly held that petitioner violated respondent's right to due process by not issuing a new LOA.

Petitioner argues that respondent's right to due process was not violated because an LOA was validly issued and a subsequent MOA was issued to authorize the RO who continued the audit.

Petitioner's contention is without merit.

Section 13 of the National Internal Revenue Code, as amended (Tax Code), provides that an RO may examine taxpayers within the jurisdiction of their district only pursuant to an LOA issued by the Regional Revenue Director, *viz*:

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

An LOA commences the audit process and informs the taxpayer that it is under audit for possible deficiency tax assessment.[35] An LOA addressed to a revenue officer is specifically required under the NIRC before an examination of a taxpayer may be had.[36]

Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment.[37] Equally important is that the revenue officer so authorized must not go beyond the authority given.[38] In the absence of such an authority, the assessment or examination is a nullity.[39]

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[35] *Commissioner of Internal Revenue vs. De La Salle University, Inc., et seq.*, G.R. Nos. 196596, 198841, and 198941, November 9, 2016.
[36] *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017.
[37] *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.
[38] *Id.*
[39] *Id.*

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The Supreme Court has consistently ruled that a new LOA must be issued when the ROs originally named therein are completely replaced.[40] Absent such authority, the audit is void, and any resulting assessment is likewise void.[41]

In *Commissioner of Internal Revenue v. Mcdonald's Philippines Realty Corp.*,[42] where the ROs who conducted the audit pursuant to a MOA were entirely different from those designated in the LOA, the Supreme Court ruled:

> **The practice of reassigning or transferring revenue officers, who are the original authorized officers named in the LOA and subsequently substituting them with new revenue officers who do not have a separate LOA issued in their name, is in effect a usurpation of the statutory power of the CIR or his duly authorized representative.** The memorandum of assignment, referral memorandum, or such other equivalent internal document of the BIR directing the reassignment or transfer of revenue officers, is typically signed by the revenue district officer or other subordinate official and not signed or issued by the CIR or his duly authorized representative under Sections 6, 10(c) and 13 of the NIRC. Hence, the issuance of such memorandum of assignment, and its subsequent use as a proof of authority to continue the audit or investigation, is in effect supplanting the functions of the LOA, since it seeks to exercise a power that belongs exclusively to the CIR himself or his duly authorized representatives. (Emphasis supplied)

Similarly, in *Commissioner of Internal Revenue v. Manila Medical Services Inc.*,[43] the Supreme Court reiterated:

> Evidently, contrary to the CIR's argument, **if the revenue officers that were previously indicated in a LOA were reassigned or transferred to another case and as such, a new revenue officer will handle the case that was previously assigned to them, the issuance of a new LOA in favor of the new handling revenue officer is required**. Therefore, without the new LOA, RO Evangelista was not authorized to conduct the examination and assessment of the tax liabilities of MMS because LOA No. 2007-0034491, dated July 14, 2009, was issued to "RO E. Demadura/J. Macuha and Group Supervisor J. Tabor of the Special Investigation and Division," and not to her.
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> To emphasize, the Court has consistently held that in cases where the BIR conducts an audit without a valid LOA, or in excess of the authority duly provided therefor, the resulting assessment shall be void

[40] *Commissioner of Internal Revenue v. Mcdonald's Philippines Realty Corp.* G.R. No. 242670, May 10, 2021; *Republic of the Philippines v. Robiegie Corporation*, G.R. No. 260261, October 3, 2022; *Commissioner of Internal Revenue v. Manila Medical Services Inc.*, G.R. No. 255473, February 13, 2023.
[41] *Id.*
[42] G.R. No. 242670, May 10, 2021.
[43] G.R. No. 255473, February 13, 2023.

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> and ineffectual. Hence, as a result of RO Evangelista's lack of authority, the assessment against MMS was therefore void. (Emphasis supplied)

Based on the foregoing, a new LOA must be issued in instances when the ROs originally named in the LOA are completely replaced by new ROs. Stated differently, an MOA is insufficient to authorize ROs to continue the audit of the taxpayer's books and accounting records.

In this case, Letter of Authority with eLA No. 201100063382/LOA No. 058-2016-00000045 dated March 23, 2016,[44] authorized **RO Shena Bicaldo** and **Group Supervisor (GS) Elenita Pamplona** to examine respondent's books of accounts and other accounting records covering the period January 1, 2014 to December 31, 2014.

Subsequently, Memorandum of Assignment (MOA) No. MOA0582016LOA16316 dated August 24, 2016[45] was issued designating **RO Arlene G. Tenorio** and **GS Ma. Josefina O. Sosa** to continue the audit due to the transfer and reassignment of **RO Bicaldo** and **GS Pamplona**. Pursuant thereto, **RO Tenorio** continued the audit of respondent's books and prepared the memorandum recommending the issuance of the PAN and FLD/FAN.

Petitioner's own witness, **RO Tenorio**, admitted in her Judicial Affidavit[46] that no new LOA was issued authorizing her to continue the audit, to wit:

> 9Q: Why are you familiar with the case?
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> 9A: **The case was assigned to me by way of Memorandum of Assignment with MOA No. MOA0582016LOA16316 dated 24 August 2016 for the continuation of the audit/investigation due to the referral of the case due to the transfer of [sic] previously assigned Revenue Officer.** (Emphasis supplied)
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> xxx xxx xxx
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> 12Q: After being assigned for the continuance of investigation, what happened next if any?
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> 12A: I evaluated the pertinent documents contained in the case docket that was assigned to me and reviewed the same.
>
> xxx xxx xxx

[44] Exhibit "R-2," BIR Records, p. 1.
[45] Exhibit "R-1," BIR Records, p. 347.
[46] Docket – Vol. 1, pp. 237 to 239.

> 26Q: After you recommended the issuance of PAN, what happened next if any?
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> 26A: A Preliminary Assessment Notice (PAN) dated 25 July 2017 with Details of Discrepancies was issued assessing petitioner of deficiency Income Tax, Expanded Withholding Tax, Final Withholding Tax, Value-Added Tax (VAT) and Compromise Penalty. The PAN was served by registered mail and received by petitioner on 31 August 2017.
>
> xxx xxx xxx
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> 29Q: After the Preliminary Assessment Notice (PAN) was issued, what happened next if any?
>
> 29A: A Formal Letter of Demand (FLD) dated 13 October 2017 with Details of Discrepancies and Final Assessment Notice (FAN) were issued and served by registered mail to petitioner. Petitioner received the FLD and FAN on 30 October 2017.

During cross- examination, **RO Tenorio** likewise reiterated that no new LOA was issued authorizing her to continue the audit, thus:[47]

> Atty. Garchitorena: Yes, Your Honors. Good morning, Ms. Witness. It was mentioned in your Judicial Affidavit that you continued the investigation related to this case, is that correct?
>
> Witness: Yes, attorney.
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> Atty. Garchitorena: It was also mentioned that a Memorandum of Assignment was issued in your favor, is it correct?
>
> Witness: Yes, attorney.
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> Atty. Garchitorena: **Is it correct that there was [sic] a different Revenue Officer and Group Supervisor assigned in the...**
>
> Witness: **Yes, attorney.**
>
> Atty. Garchitorena: So you were not issued a new Letter of Authority?
>
> Witness: No.
>
> Atty. Garchitorena: It was mentioned in the Judicial Affidavit that you conducted the audit, so you made or you conducted the audit procedures personally?
>
> Witness: Yes, attorney.

[47] Transcript of Stenographic Notes, September 29, 2022, pp. 5 to 6.

These admissions establish that **RO Tenorio** conducted the audit which subsequently led to the issuance of the PAN and FLD/FAN without a valid LOA authorizing her to do so.

Since **RO Bicaldo** and **GS Pamplona**, the RO and GS originally named in the LOA, were completely replaced by **RO Tenorio** and **GS Sosa**, it was imperative that a new LOA was issued to authorize **RO Tenorio** and **GS Sosa** to continue the audit and investigation of respondent's books and accounting records. A perusal of the records of the case, coupled with **RO Tenorio's** admissions, reveals that no new LOA was issued authorizing her to continue the audit of respondent's books and accounting records.

In cases where the BIR conducts an audit without a valid LOA, or in excess of the authority duly provided therefor, the resulting assessment shall be void and ineffectual.[48] Accordingly, the resulting assessment issued by petitioner against respondent is void for violating respondent's right to due process.

Thus, the Court in Division correctly ruled that the assessment is void having been issued in violation of respondent's right to due process.

The CTA in Division did not err in ruling on the RO's lack of authority.

Petitioner asserts that since respondent did not question **RO Tenorio's** lack of authority during the administrative proceedings or in its petition for review, the Court in Division should not have ruled on the issue.

Petitioner's argument is untenable.

Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals is clear:

RULE 14
JUDGMENT, ITS ENTRY AND EXECUTION

SECTION 1. *Rendition of judgment.* -xxx

[48] *Commissioner of Internal Revenue v. Manila Medical Services, Inc. (Manila Doctors Hospital)*, G.R. No. 255473, February 13, 2023.

> 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.

In *Commissioner of Internal Revenue v. Lancaster Philippines Inc.*,[49] where the taxpayer did not raise the issue on the scope of the authority of the ROs at any stage of the proceedings before the CTA, yet the CTA still ruled upon it, the Supreme Court explained that:

> On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
>
> 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:
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> > SECTION 1. Rendition of judgment. - 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.

Similarly, in *Commissioner of Internal Revenue v. Yumex Philippines Corporation*,[50] the Supreme Court affirmed the CTA's authority to resolve the issue on due process even though the taxpayer did not expressly raise the issue in its petition:

> As the CTA En Banc held, the CTA Division was justified in ruling on the issue that respondent was denied due process even though it was not expressly raised by respondent in its petition for review. Sec. 1, Rule 14 of the RRCTA provides that "[i]n 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." **Herein, the issue of the validity of the assessment against respondent also necessarily requires the determination of the matter of the proper issuance of said assessment in accordance with the requirements of due process.** In addition, there were sufficient

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[49] G.R. No. 183408, July 12, 2017.
[50] G.R. No. 222476, May 5, 2021.

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> allegations in respondent's petition for review on the dates of issuance by the BIR and receipt by respondent of the PAN and FLD/FAN, as well as documentary and testimonial evidence to establish the essential facts for resolution of the issue which were presented during the trial without any objection from petitioner. This could be deemed as petitioner's implied consent to try the issue, recognized under Sec. 5, Rule 10 of the Revised Rules of Court, which applies suppletorily to the RRCTA. (Emphasis supplied)

Based on the foregoing, the Court is not confined to the issues stipulated by the parties. It may pass upon related matters necessary to the orderly disposition of the case, even if such matters were neither raised nor stipulated by the parties.

In the present case, the sole issue posed by the parties is whether respondent is liable for alleged deficiency taxes for taxable year 2014. However, before the Court can resolve respondent's alleged tax liability, it must first determine whether the assessment itself is valid. The question of the authority of the revenue officer who continued the audit is inextricably linked to the validity of the assessment, and therefore necessary to the resolution of the case.

Accordingly, the Court in Division correctly ruled on the lack of authority of RO Tenorio, even though the issue was not raised by respondent during the administrative proceedings and in its petition for review, as it was a related issue necessary for the orderly and proper disposition of the case.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for lack of merit. Accordingly, the Decision and Resolution, dated February 28, 2024 and May 29, 2024, respectively, in CTA Case No. 9862 are **AFFIRMED**.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Leave)
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

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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice