REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

BASF PHILIPPINES, INC., Petitioner,	**CTA CASE NO. 9747**
	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **FABON-VICTORINO**, and **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 15 2020 9:34 am

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RESOLUTION

DEL ROSARIO, P.J.:

Before the Court is respondent's **Motion for Reconsideration** posted on February 12, 2020, with petitioner's **Comment (to Respondent's Motion for Reconsideration dated 12 February 2020)** filed on June 17, 2020, assailing the Decision promulgated on January 21, 2020 which cancelled the assessment against petitioner, *viz.*:

> "**WHEREFORE,** in view of the foregoing disquisitions, the Petition for Review filed by BASF Philippines, Inc. is hereby **GRANTED**. The **Final Assessment Notice Part I and Part II** with **Assessment Notice Nos. IT-ELA35492-13-16-1294, VT-ELA35492-13-16-1294, WC-ELA35492-13-16-1294, WE-ELA35492-13-16-1294, MC-ELA35492-13-16-1294, all dated December 28, 2016**, is **CANCELLED** and **WITHDRAWN** and the **Final Decision on Disputed Assessment** with **Amended Assessment Notice Nos. VT-ELA35492-13-17-1503 and WE-ELA35492-13-17-1503**, all dated December 5, 2017, is **SET ASIDE**.
>
> **SO ORDERED."**

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Respondent prays that the assailed Decision be set aside and another one be rendered ordering petitioner to pay the deficiency value-added tax and expanded withholding tax in the amount of ₱41,727,584.21.

In support of his Motion, respondent maintains that the Revenue Officers (ROs) who conducted the audit/investigation of petitioner and recommended that issuance of the Preliminary Assessment Notice were validly authorized even if they were not named in Letter of Authority (LOA) SN: eLA-201235492 dated December 4, 2015. He claims that the Court erred in applying the ruling in *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*[1] *(Medicard)* because there is an LOA issued in this case.

He explains that the audit conducted by RO Villaflor A. Lagundi and Group Supervisor (GS) Eulogina E. Lacson through a Memorandum of Agreement (MOA) was valid pursuant to the guidelines and procedures under Revenue Memorandum Order (RMO) No. 8-2006. He contends that under the said RMO, only one LOA shall be issued to the same taxpayer, for the same tax type and period. Thus, there is no need for the issuance of a subsequent LOA authorizing RO Lagundi and GS Lacson. Furthermore, the taxpayer was notified of such reassignment as mandated under the same RMO.

In response, petitioner counters that the motion should be denied as it does not raise any new, cogent or substantial ground to warrant a reversal or modification of the assailed Decision. It asserts that *Medicard* clearly applies to the instant case, considering that respondent admits that no LOA was issued for the ROs who conducted the investigation and recommended the issuance of the subject assessment. The Supreme Court in *Medicard* ruled that there must be a grant of authority before any RO can conduct an examination or assessment and in the absence of such an authority, the assessment or examination is a nullity, citing *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*[2]

Petitioner points out that the MOA, issued for the ROs who conducted the investigation and recommended the subject assessment on which the motion is anchored, was signed by a Revenue District Officer. Further, this argument was already addressed in the assailed Decision where the Court cited

[1] G.R. No. 222743, April 5, 2017.
[2] G.R. No. 178697, November 17, 2010.

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Commissioner of Internal Revenue vs. Composite Materials, Inc.[3] *(Composite).* Petitioner notes that respondent did not even attempt to argue against the applicability of *Composite* to the present case.

RULING

The Motion for Reconsideration deserves scant consideration.

It is apparent that the Motion for Reconsideration does not raise new issues or arguments. Respondent merely reiterates his argument that the assessment is valid as the ROs who conducted the audit and recommended the assessment were authorized by a MOA originating from LOA SN: eLA-201235492 dated December 4, 2015, which was considered and rejected in the assailed Decision dated January 21, 2020. Consequently, there is no cogent reason for the Court to modify, much more, to reverse its assailed Decision dated January 21, 2020.

WHEREFORE, in light of the foregoing premises, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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[3] G.R. No. 238352, September 12, 2018.