REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, ALFREDO V. MISAJON and NESTOR S. VALEROSO, in their capacity as OIC-Assistant Commissioner Large Taxpayer Service, Bureau of Internal Revenue,
Petitioners,

- versus -

BUILDERS STEEL CORPORATION,
Respondent.

CTA EB NO. 2080
(CTA Case No. 9050)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
SEP 2 9 2020 3:45 p.m.

x - x

RESOLUTION

BACORRO-VILLENA, J.:

Before the Court is a Motion for Reconsideration[1] filed by petitioners Commissioner of Internal Revenue (**petitioner/CIR**), Alfredo V. Misajon (**Misajon**) and Nestor S. Valeroso (**Valeroso**), in their capacity as OIC-Assistant Commissioner Large Taxpayer Service, Bureau of Internal Revenue (**BIR**). They seek the reversal of the Decision dated 28 January 2020.[2] The dispositive portion of which reads:

[1] Filed on 12 February 2020, *Rollo*, pp. 92-108.
[2] Id., pp. 74-85.

> ...
>
> **WHEREFORE,** the foregoing considered, the Petition for Review filed by petitioners Commissioner of Internal Revenue, Alfredo V. Misajon and Nestor S. Valeroso, in their capacity as OIC-Assistant Commissioner Large Taxpayer Service, Bureau of Internal Revenue on 28 June 2019, is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 17 December 2018 and Resolution dated 27 May 2019, respectively, of the Court's Special Third Division in CTA Case No. 9050, entitled *Builders Steel Corporation v. Hon. Kim S. Jacinto-Henares, in her capacity as Commissioner of Internal Revenue, Alfredo V. Misajon and Nestor S. Valeroso, in their capacity as OIC-Assistant Commissioner Large Taxpayer Service, Bureau of Internal Revenue,* are both **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

A perusal of the present motion shows that the Court, in its assailed Decision, already settled and discussed petitioners' arguments. Essentially, petitioners argue that the Court erred when it considered issues not administratively raised before it nor raised at trial. Particularly, petitioners put in question the Court's authority to consider the validity of a Letter of Authority (**LOA**) in deciding a case of disputed assessment which respondent itself did not raise. It deems the consideration of the same a violation of its right to due process.

As previously discussed, contrary to petitioners' claim, respondent raised aforestated issue in its Memorandum on its original Petition for Review (CTA Case No. 9050) while the matter of the assessment's validity was properly put in issue in the parties' Joint Stipulations of Facts and Issues (JSFI).

Moreover, assuming *arguendo* that specific issues are not raised, the Court's power to rule on said matters are specifically provided under Rule 14, Section 1 of the Revised Rules of the Court of Tax Appeals[3] (RRCTA), to wit:

> ...
>
> **SEC. 1**. *Rendition of judgment.* –
>
> ...
>
> 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.

---

[3] A.M. No. 05-11-07-CTA.

...

Such authority was also affirmed in *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*[4] (**Lancaster**), where the Supreme Court, in interpreting the foregoing provision, held that:

> ...
> 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.
> ...

Given the foregoing principle, it could not be said that the Court violated petitioners' right to due process.[5] As we again explain, procedural due process requires the following:

> ...
> (1) There must be a court or tribunal clothed with judicial power to hear and determine the matter before it; (2) jurisdiction must be lawfully acquired over the person of the defendant or over the property which is the subject of the proceeding; (3) the defendant must be given an opportunity to be heard; and[,] (4) judgment must be rendered upon lawful hearing.
> ...

We find all these requirements to have been met:

> ...
> **(1)** respondent's Petition for Review in CTA Case No. 9050 was filed within the reglementary period and its subject matter was within the CTA's jurisdiction; **(2)** jurisdiction was duly acquired over petitioners after they were served with summons; **(3)** petitioners were likewise given ample opportunity to present their evidence and witnesses; and, **(4)** judgment in the case was rendered only after a full-blown trial.[6]
> ...

---

[4] G.R. No. 183408, 12 July 2017.
[5] *El Banco Español-Filipino v. Vicente-Palanca*, G.R. No. L-11390, 26 March 1918.
[6] *Rollo*, p. 83.

As regards the correctness of the assessment's cancellation on the LOA's absence, the applicability of the cases of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[7], *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*[8] has already been exhaustively discussed in the Special Third Division's 17 December 2018[9] Decision. We find no reason to elaborate further.

WHEREFORE, the foregoing considered, petitioners' Motion for Reconsideration dated 12 February 2020 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 28 January 2020 is hereby **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

---

7 G.R. No. 178697, 17 November 2010.

...

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

...

8 G.R. No. 222743, 05 April 2017.

...

Based on the afore-quoted provision, it is clear that unless authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken. The circumstances contemplated under Section 6 where the taxpayer may be assessed through best-evidence obtainable, inventory-taking, or surveillance among others has nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority.

...

9 Division Docket, Volume II, pp. 951-968.

x - x

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice