Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMPOSITE MATERIALS, INC., Petitioner,	**CTA EB NO. 1314** (CTA Case No. 8306)
-versus-	Present: DEL ROSARIO, *P.J.*, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 21 2018 3:38 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

This resolves respondent's "Motion for Reconsideration (of the Decision dated August 15, 2017)" of this Court *En Banc*, the dispositive portion of which states:

> *"**WHEREFORE**, premises considered, the Petition for Review docketed as CTA EB No. 1314 is **GRANTED**. The Decision dated October 10, 2014, rendered by the Third Division of this Court in CTA Case No. 8306, and its Amended Decision dated May 11, 2015 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the deficiency Income Tax and Expanded Withholding Tax assessments for taxable year 2007 are hereby **CANCELLED** and **WITHDRAWN**.*
>
> ***SO ORDERED."***

In assailing this Court's Decision, respondent argued that the authority of a subsequent assigned revenue officer to audit and examine a taxpayer's books of accounts and other accounting records does not originate from the memorandum referral or memorandum of assignment, but rather from the previously issued Letter of Authority (LOA) and the memorandum is merely for the continuation of the audit of the taxpayer's books for that particular taxable year. Thus, respondent insist that Revenue Officer Mary Anne P. Cruz is authorized to examine petitioner's book of accounts.

We are not persuaded.

To reiterate, pursuant to Section 10 and 13 of the NIRC of 1997[1], as amended, it is the Revenue Regional Director who may issue an LOA. A revenue officer cannot examine a taxpayer or recommend the assessment of any deficiency tax due in the absence of an LOA.

The Revenue Regional Director has the power to issue an LOA. A Revenue District Officer has no authority to issue an LOA much less to reassign them to other revenue officer. The Referral Memorandum signed by the Revenue District Officer does not give authority to Revenue Officer Mary Anne P. Cruz to conduct examination of petitioner's records neither is the re-assignment and continuance of audit signed by a Revenue District Officer equivalent to an LOA. Furthermore, respondent's own policy guidelines- RMO No. 43-90[2], mandates that reassignment or transfer of cases to

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[1] SEC. 10. **Revenue Regional Director**.- Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional Director shall, within the region and district offices under his jurisdiction, among others: xxx

xxx xxx xxx.

(c) **Issue Letters of authority for the examination of taxpayer within the region**;

xxx xxx xxx.

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 ours)

[2] Amendment of revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Exammination of Returns and Issuance of Letters of Authority to Audit, Dated Seprember 20, 1990

another Revenue Officer shall require the issuance of a new LOA[3].

In sum, We found no substantial argument was raised to merit reconsideration of our Decision promulgated on August 15, 2017.

WHEREFORE, premises considered, respondent's "Motion for Reconsideration (of the Decision dated August 15, 2017)" is hereby **DENIED** for lack of merit.

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

I maintain my Dissenting Opinion
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

I reiterate my Dissenting Opinion
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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3 **C. Other policies for issuance of L/As**

1. All audits/investigations, whether field or office audit, should be conducted under a Letter of Authority.

xxx xxx xxx.

5. Any re-assignment/ transfer of cases to another RO(s), and revalidation of L/As which have already expired, shall require the issuance of a new L/A, with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As. (Emphasis Supplied)