REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

CENTRAL LUZON DRUG CORPORATION,
Respondent.

CTA *EB* NO. 2038
(CTA Case No. 8952)

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

Promulgated:

SEP 1 8 2020
1:15 p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a Petition for Review ("Petition") filed by petitioner, Commissioner of Internal Revenue, on 10 April 2019,[1] with respondent, Central Luzon Drug Corporation's Comment [To: Petition for Review dated 5 April 2019] ("Comment") filed on 6 June 2019.[2] This Petition seeks the reversal of the Decision of this Court's Special Third Division ("Court in Division"), dated 14 November 2018, which cancelled and set aside the assessment against respondent for lack of authority of the revenue officer who conducted the examination of respondent, and the Resolution, dated 6 March 2019, which affirmed the Decision.[3]

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[1] Records, Vol. 1, pp. 7-73.
[2] *Id.*, pp. 84-100.
[3] See Memorandum for Respondent Central Luzon Drug Corporation, Records, Vol. 1, p. 116.

The Parties

Petitioner, **COMMISSIONER OF INTERNAL REVENUE ("CIR")**, is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR"), who has the power to decide disputed assessments, refunds of internal revenue taxes, fees, or other charges, penalties imposed in relation thereto, or other matters arising under the ***National Internal Revenue Code ("NIRC")*** or other laws enforced by the BIR.

Respondent, **CENTRAL LUZON DRUG CORPORATION,** is a corporation duly organized and existing under the laws of the Philippines, with principal office at No. 28 Shaw Boulevard, Pasig City, Metro Manila.

The Facts

Respondent operated fifty-two (52) drug stores under the name "Mercury Drug." Each store is covered by a Franchise Agreement between respondent and Mercury Drug Corporation ("MDC").[4]

On 4 May 2010, petitioner issued Letter of Authority ("LOA") No. LOA-116-2010-0000100, authorizing the examination of respondent's books of accounts and other accounting records for taxable year 2009, pursuant to the Conglomerate Audit Program under ***Revenue Memorandum Order No. 26-2010***.[5]

The said LOA authorized six (6) revenue officers to examine respondent but it was Mr. Josa Gomez ("RO Gomez"), a person not named in the LOA, who actually conducted the audit of respondent.[6]

On 25 June 2013, petitioner issued a Notice of Informal Conference ("NIC") finding respondent liable for deficiency income tax, value added tax ("VAT"), expanded withholding tax ("EWT"), withholding tax on compensation ("WTC"), and documentary stamp tax ("DST") in the aggregate amount of Php1,033,544,165.43 for taxable year 2009.[7]

On 27 August 2013, respondent filed a Reply to the NIC with supporting documents.[8]

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[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7] *Ibid.*
[8] *Id.*, at p. 118.

On 10 March 2014, respondent received a Preliminary Assessment Notice ("PAN") dated 10 March 2004, which, except for the finding on deficiency WTC, merely reiterated the audit findings in the NIC.[9]

On 27 March 2014, respondent filed its Protest to the PAN, after requesting an extension of time to file the same. Petitioner, however, did not consider the Protest to the PAN as it was filed beyond fifteen (15) days from receipt of the PAN.[10]

On 5 May 2014, petitioner issued a Formal Letter of Demand ("FLD") and its corresponding Assessment Notices, reiterating the assessment in the PAN which assessed respondent for deficiency income tax, VAT, EWT, and DST in the aggregate amount of Php 1,111,072,693.79 for taxable year 2009. The FLD and Assessment Notices were received by respondent on 6 May 2014.[11]

On 4 June 2014, respondent filed a Request for Reinvestigation of the FLD and submitted supporting documents in support thereof.[12]

On 21 November 2014, respondent received the Final Decision on Disputed Assessment, which found it liable for deficiency taxes in the aggregate amount of Php1,146,686,052.85, as follows:[13]

KIND OF TAX	BASIC TAX	SURCHARGE	INTEREST	COMPROMISE PENALTY	TOTAL
INCOME TAX	258,535,510.54		235,161,067.12	50,000.00	493,746,577.66
VAT	331,668,541.69		316,220,965.77	50,000.00	647,939,507.46
EWT	2,512,094.54		2,415,740.23	25,000.00	4,952,834.77
DST	17,865.00	4,466.25	20,801.71	4,000.00	47,132.96
TOTAL	592,734,011.77	4,466.25	553,818,574.83	129,000.00	1,146,686,052.85

On 19 December 2014, respondent filed its Petition for Review before the Court in Division.[14]

On 14 November 2018, the Court in Division promulgated the assailed Decision,[15] ruling as follows:

> "**WHEREFORE,** the instant Petition for Review filed on December 19, 2014 by petitioner Central Luzon Drug Corporation, is hereby **GRANTED.**

[9] *Ibid.*
[10] *Ibid.*
[11] *Ibid.*
[12] *Id.*, at p. 119.
[13] *Ibid.*
[14] *Ibid.*
[15] See Petition, Records, Vol. 1, p. 7.

> Accordingly, the Final Decision on Disputed Assessment issued by respondent Commissioner of Internal Revenue dated November 20, 2014, affirming the Formal Letter of Demand and Final Assessment Notice issued against petitioner, for alleged deficiency Income Tax, Value-Added Tax, Expanded Withholding Tax and Documentary Stamp Tax, in the aggregate amount of Php1,146,686,052.85 for TY 2009, is hereby **CANCELLED** and **SET ASIDE.**
>
> **SO ORDERED.**"

On 6 December 2018, petitioner filed a Motion for Reconsideration of the assailed Decision.[16]

On 6 March 2019, the Court in Division issued the assailed Resolution denying petitioner's Motion for Reconsideration.[17]

On 27 March 2019, petitioner filed a Motion for Extension of Time to File Petition for Review,[18] which this Court subsequently granted.[19]

Following the filing of the instant Petition on 10 April 2019,[20] this Court issued a Resolution, dated 10 May 2019, ordering respondent to file a Comment.[21]

On 27 May 2019, respondent filed a Motion for Extension of Time (To File Comment),[22] which this Court granted.[23] On 6 June 2019, respondent filed its Comment.[24]

In a Resolution, dated 18 June 2019, this Court noted respondent's filing of the Comment and referred the case to mediation before the Philippine Mediation Center – Court of Tax Appeals ("PMC-CTA").[25]

On 9 July 2019, the parties entered into a No Agreement to Mediate,[26] which resulted in this Court giving due course to the Petition and ordering the parties to file their respective Memoranda.[27]

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[16] *Id.*, at p. 8.
[17] *Ibid.*
[18] See Motion for Extension of Time to File Petition for Review, Records, Vol. 1, pp. 1-5.
[19] See Resolution, dated 28 March 2019, Records, Vol. 1, p. 6.
[20] Records, Vol. 1, pp. 7-73.
[21] See Resolution, dated 10 May 2019, Records, Vol. 1, pp.74-76.
[22] See Motion for Extension of Time (To File Comment), Vol. 1, pp. 77-82.
[23] See Resolution, dated 29 May 2019, Records, Vol. 1, p. 83.
[24] Records, Vol. 1, pp. 84-100.
[25] See Resolution, dated 18 June 2019, Records, Vol. 1, pp. 101-103.
[26] See No Agreement to Mediate, Records, Vol. 1, pp. 104-107.
[27] See Resolution, dated 26 July 2019, Records, Vol. 1, pp. 108-110.

On 20 August 2019, petitioner filed a Manifestation, stating that he is adopting the Petition as his Memoranda,[28] which was noted by this Court.[29]

With the filing of respondent's Memorandum on 2 September 2019,[30] this Court *En Banc* issued a Resolution, dated 25 September 2019, submitting the case for Decision.[31]

Hence, this Decision.

The Assigned Errors

The issues to be resolved in the Petition are as follows:[32]

1. Whether or not the instant Petition should be dismissed for being frivolous, dilatory, and *pro forma;*

2. Whether or not the Court in Division erred when it ruled on the validity of the assessment *vis-à-vis* the lack of authority of the revenue officers who conducted the audit of respondent's books of accounts, a matter which allegedly was not raised by respondent in the proceedings before the Court in Division; and

3. Whether or not the Court in Division erred in ruling that the revenue officer who examined respondent's books had no authority to do so.

Arguments of the Parties

Petitioner alleged the following in his Petition:[33]

1. The Court in Division erred in granting a relief that was not prayed for by respondent. Petitioner's basic right to fair play and due process was violated; and

2. The Court in Division erred when it cancelled the assessment issued against respondent solely on the ground that the Memorandum of Assignment was signed by a Division Chief.

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[28] See Manifestation, Records, Vol. 1, pp. 111-114.
[29] See Resolution, dated 27 August 2019, Records, Vol. 1, p. 115.
[30] See Memorandum for Respondent Central Luzon Drug Corporation, Records, Vol. 1, pp. 116-143.
[31] See Resolution, dated 25 September 2019, Records, Vol. 1, pp. 144-146.
[32] See Memorandum for Respondent Central Luzon Drug Corporation, Records, Vol. 1, p. 122.
[33] See Petition, Records, Vol. 1, pp. 10-17.

In response, respondent argued, as follows:[34]

1. The Petition should be dismissed for being frivolous, dilatory, and *pro forma;*

2. The Court in Division correctly ruled on the validity of the assessment issued by petitioner against respondent for taxable year 2009; and

3. The Court in Division correctly ruled that there was no valid LOA authorizing RO Gomez to conduct the examination of respondent.

<u>The Ruling of the Court En Banc</u>

This Court resolves to **DENY** the **Petition** for lack of merit.

The arguments raised in the Petition are mere reiterations of those alleged by the petitioner (then respondent) in his Motion for Reconsideration before the Court in Division. Thus, these have already been extensively and exhaustively passed upon in the assailed Resolution, dated 6 March 2019, which affirmed the Court in Division's Decision.[35] As such, there is no reason for this Court to disturb the Court in Division's ruling in both the assailed Resolution and Decision. Nonetheless, this Court shall tackle once more petitioner's arguments to foreclose any doubt in his mind as to soundness of the Court's in Division's rulings.

<u>This Court may rule on issues not specifically raised by the parties in their pleadings.</u>

Section 1, Rule 14 of the RRCTA provides:

> "RULE 14
> JUDGMENT, ITS ENTRY AND EXECUTION
>
> SECTION. 1. Rendition of judgment.-The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its assignment to a Member for the writing of the decision. The presiding justice or chairman of the Division shall include the case in an agenda for a meeting of the Court *en banc* or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court *en banc* or in Division agree on the draft

[34] See Comment, Records, Vol. 1, pp. 84-95.
[35] See Annex "B" of the Petition, Records. Vol. 1. pp. 43-47.

> decision, the *ponente* shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court *en banc* or in Division may submit a separate written concurring or dissenting opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the rollo.
>
> **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.** *(2002 Internal Rules of the Court of Appeals, Rule VI, secs. 9 and 10a; and Rules of Court, Rule 51, sec. 2a)"*
>
> (Emphasis, Ours)

That this Court, in deciding a case, is not limited by the issues raised or agreed upon by the parties in their respective pleadings is not just clear from the above Rule, but has also been stressed in ***Commissioner of Internal Revenue vs. Eastern Telecommunications Philippines, Inc.***,[36] where the Supreme Court ruled, *to wit:*

> "The general rule is that appeals can only raised questions of law or fact that (a) were raised in the court below, and (b) are within the issues framed by the parties therein. An issue which was neither averred in the pleadings nor raised during trial in the court below cannot be raised for the first time on appeal. The rule was made for the benefit of the adverse party and the trial court as well. Raising new issues at the appeal level is offensive to the basic rules of fair play and justice and is violative of a party's constitutional right to due process of law. Moreover, the trial court should be given a meaningful opportunity to consider and pass upon all the issues, and to avoid or correct any alleged errors before those issues or errors become the basis for an appeal.
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> xxx xxx xxx
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> The rule against raising new issues on appeal is not without exceptions; it is a procedural rule that the Court may relax when compelling reasons so warrant or when justice requires it. What constitutes good and sufficient cause that would merit suspension of the rules is discretionary upon the courts. Former Senator Vicente Francisco, a noted authority in procedural law, cites an instance when the appellate court may take up an issue for the first time:
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>> **The appellate court may, in the interest of justice, properly take into consideration in deciding the case matters of record having some bearing on the issue submitted which the parties failed to raise or the lower**

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[36] G.R. No. 163835, 7 July 2010.

> **court ignored, although they have not been specifically raised as issues by the pleadings. This is in consonance with the liberal spirits that pervades the Rules of Court, and the modern trend of procedure which accord the courts broad discretionary power, consistent with the orderly administration of justice, in the decision of cases brought before them.**
>
> xxx xxx xxx
>
> Another exemption from the rule against raising new issues on appeal is when the question involves matters of public importance."
>
> (Emphasis, Ours)

Furthermore, in the recent case of ***Commissioner of Internal Revenue v. Lancaster Philippines, Inc.***,[37] the Supreme Court categorically declared that this Court can resolve an issue not raised by the parties, *viz:*

> "On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
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> 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."

From these pronouncements, it cannot be denied that this Court may rule on issues in the present case which neither respondent nor petitioner raised in their respective pleadings. Hence, the Court in Division properly resolved the issue on whether the revenue officer who examined respondent was authorized to do so although this issue was not raised by either parties.

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[37] G.R. No. 183408, 12 July 2017.

Indeed, as in ***Lancaster***, above, the authority of the RO may be considered by the Court even if the parties had not raised the same in their pleadings.

Even if this Court will be strict in considering only the issues stated in the Pre-Trial Order, this Court's act of ruling on RO Gomez's authority to examine respondent is still compliant therewith. The issue for resolution by the Court in Division, as stated in the Pre-Trial Order, is: "[w]hether or not [respondent] is liable to pay the assessed amount of [Php] 1,146,686,052.85, representing deficiency income tax, value-added tax, expanded withholding tax and documentary stamp tax for taxable year 2009."[38] To determine whether respondent is liable for the said deficiency taxes, it is necessary to look into the validity of the assessment against respondent, which, in turn, necessitates ascertaining petitioner's compliance with the requirement that the examining revenue officer has been issued an LOA. Stated differently, the issue on whether the examining revenue officer has been properly issued an LOA is subsumed within the issue of whether respondent is liable to pay the assessed deficiency taxes.

<u>Deficiency tax assessments issued without a valid LOA are void.</u>

The Supreme Court explained the importance of an LOA in ***Medicard Philippines, Inc. vs. Commissioner of Internal Revenue ("Medicard Case")***, *viz:*[39]

> **"An LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. An LOA is premised on the fact that the examination of a taxpayer who has already filed his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives.** Section 6 of the NIRC clearly provides as follows:
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> > **SEC. 6.** *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
> >
> > (A) **Examination of Return and Determination of Tax Due**.- After a return has been filed as required under the provisions of this Code, **<u>the Commissioner or his duly authorized representative</u> may authorize the examination of any taxpayer** and the assessment of the correct amount of tax: Provided, however, That failure to file a return shall not

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[38] See Memorandum for Respondent Central Luzon Drug Corporation, Records, Vol. 1, p. 122.
[39] G.R. No. 222743, 5 April 2017.

> prevent the Commissioner from authorizing the examination of any taxpayer.
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> x x x x

> 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.**
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> In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, the Court said that:
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>> 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. **<u>In the absence of such an authority, the assessment or examination is a nullity</u>**.
>
> (Emphasis and underscoring, Ours)

As stated in the ***Medicard Case***, an LOA is a grant of authority to a revenue officer/s to conduct an examination of a taxpayer's books of accounts and other accounting records for purposes of determining the correct amount of taxes due. This grant of authority is necessary as the power to examine a taxpayer has been confined by ***Section 6 of the NIRC*** only to petitioner or his duly authorized representatives.

The importance of an LOA cannot be over-emphasized. It is a guarantee that tax agents will act only within the authority given them in auditing a taxpayer. It is an instrument of due process for the protection of taxpayers. Consequently, deficiency tax assessments issued without a valid LOA are void.

In fact, even petitioner is aware of the necessity of an LOA before a revenue officer can conduct an audit of a taxpayer as shown by his revenue issuances on the matter. ***Revenue Memorandum Order No. 43-90 ("RMO 43-90")***[40] provides:

> "**Any reassignment/ 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, Ours)

A cardinal rule in statutory construction is that, where the law speaks in clear and categorical language, or the terms of the statute are clear and unambiguous and free from doubt, there is no room for interpretation or construction and no interpretation or construction is called for; there is only room for application. The use of the word "shall" connotes a mandatory order and denotes an imperative obligation and is inconsistent with the idea of discretion.[41] Hence, the use of the word "shall" in ***RMO 43-90*** can only mean that the issuance of a new LOA in cases of transfer of audits to another set of revenue officers is mandatory. Therefore, it is clear that before an assessment can be made, the revenue officer conducting the same must first be authorized to do so.

Moreover, ***Revenue Memorandum Circular No. 75-2018***,[42] which was issued by petitioner in light of the Supreme Court's ruling on the ***Medicard Case***, provides as follows:

> "The judicial ruling, invoking a specific statutory mandate, states that no assessments can be issued or no assessment functions or proceedings can be done without the prior approval and authorization of the Commissioner of Internal Revenue (CIR) or his duly authorized representative, through an LOA. **<u>The concept of an LOA is therefore clear and unequivocal. Any tax assessment issued without an LOA is a violation of the taxpayer's right to due process and is therefore 'inescapably void.'</u>**
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> xxx xxx xxx
>
> **To help forestall any unnecessary controversy and to encourage due observance of the judicial pronouncements, any examiner or revenue officer initiating tax assessments or performing assessment functions without an LOA shall be subject to appropriate administrative sanctions."**
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> (Emphasis and Underscoring, Ours)

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[40] Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit, 20 September 1990.

[41] ***Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue***, G.R. Nos. 175707, 180035, 181092, 19 November 2014.

[42] SUBJECT: The Mandatory Statutory Requirement and Function of a Letter of Authority.

Hence, following these pronouncements and issuances, it cannot be denied that an LOA is a primordial requirement that is necessary to give effect to a deficiency tax assessment, a principle which petitioner is estopped from denying.

A Memorandum of Assignment may authorize the examination of a taxpayer provided it was issued by petitioner or any of his duly authorized representatives.

To be effective, an LOA must be issued either by petitioner himself or by his duly authorized representative, who under ***Section 13 of the NIRC***, is the Revenue Regional 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 and underscoring, Ours)

Moreover, under ***Section D (4) of RMO 43-90,*** petitioner expanded his list of duly authorized representatives who may issue LOAs that will authorize the examination of taxpayers for deficiency taxes, *viz:*

> 1. Regional Directors;
> 2. Deputy Commissioners;
> 3. Commissioner; and
> 4. Other officials that may be authorized by the Commissioner for the exigencies of service.[43]

Consequently, a Memorandum of Assignment or a Referral Memorandum, or any other letter emanating from the BIR which seeks to

[43] ***Commissioner of Internal Revenue v. Sugar Crafts, Inc.***, CTA EB No. 1757, CTA Case No. 8738, Resolution, dated 10 September 2019.

authorize the audit/tax investigation of a taxpayer may be considered a valid LOA provided that it was issued by any of the persons listed above.

The Memorandum of Assignment authorizing RO Gomez was merely issued by the Chief of the LT-RAD 1, who is not a duly authorized representative by petitioner for purposes of issuing an LOA. Hence, the assessment against respondent is void.

As duly found by the Court in Division, LOA No. 116-2010-00000100, issued on 14 May 2010, authorized revenue officers Maribel Serafica, Olivia Sison, Walter Batoon, Reynoso Bravo, Daniella Gabaon, Julietta Tubilla, and group supervisor Erlinda Ulgado of LT Regular Audit Division 1 ("LT-RAD 1") to examine respondent's books of accounts and other accounting records for all internal revenue taxes for taxable year 2009. It did not, however, authorize RO Gomez to perform an audit/tax investigation on respondent. Rather, it was Memorandum of Assignment No. LOA-116-2013-1421 issued on 25 February 2013 by the Chief of the LT-RAD 1 which authorized RO Gomez to continue the tax audit/investigation of respondent for all internal revenue taxes for taxable year 2009 as the previously assigned revenue officers named in LOA No. 116-2010-00000100 have already been transferred to other district offices.[44]

As these facts show, RO Gomez, the revenue officer who examined respondent's books of accounts and other accounting records, was not properly authorized to conduct said audit/tax investigation. *First,* he was not one of the revenue officers named in LOA No. 116-2010-00000100, issued on 14 May 2010, authorizing the audit/tax investigation of respondent for all internal revenue taxes for taxable year 2010. Thus, he may not acquire the authority to examine respondent therefrom. *Second,* Memorandum of Assignment No. LOA-116-2013-1421, issued on 25 February 2013 and which authorized RO Gomez to continue the examination of respondent, cannot be considered a valid LOA as it was merely issued by the Chief of the LT-RAD 1, who is neither the petitioner nor any of his duly authorized representatives allowed to issue LOAs to conduct audit/tax investigations on taxpayers to assess the correct amount of taxes due, as stated in ***Section 13 of the NIRC and Section D (4) of RMO 43-90.***

Considering that RO Gomez proceeded with the examination of respondent's books of accounts and other accounting records without any

[44] See Exhibit "A" of the Petition, Records, Vol. I, pp. 49-50.

authority, the deficiency tax assessments issued against respondent based on his examination are void. And as the familiar adage goes, a void assessment bears no valid fruit.[45]

WHEREFORE, the Petition for Review filed by petitioner, Commissioner of Internal Revenue, is hereby **DENIED** for lack of merit. Accordingly, the Decision dated 14 November 2018 and Resolution dated 6 March 2019 promulgated by the Court in Division are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

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

[45] ***Commissioner of Internal Revenue v. Azucena T. Reyes, Azucena T. Reyes v. Commissioner of Internal Revenue***, G.R. Nos. 159694 and 163581, respectively, 27 January 2006, 480 SCRA 382.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
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.

ROMAN G. DEL ROSARIO
Presiding Justice