REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2619** (CTA Case No. 9982)
	Present:
-versus-	**DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
ABS-CBN FILM PRODUCTIONS, INC. [Surviving Entity of the Merger Among Star Songs, Inc., Star Recording, Inc., and ABS-CBN Film Productions, Inc.], *Respondent.*	Promulgated: JAN 30 2024 11:55 am

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is petitioner's "Motion for Reconsideration (Re: Decision dated 28 September 2023)" ("Motion"), filed on 20 October 2023, with respondent's "Comment/Opposition (Re: Motion for Reconsideration dated October 20, 2023)" ("Comment"), filed on 14 November 2023.

Petitioner, through his Motion, assails this Court's 28 September 2023 Decision ("Assailed Decision") on the following grounds:

(a) The Court in Division cannot rule on an issue raised for the first time on appeal; and
(b) The conduct of the audit of petitioner's records complied with the relevant laws and rules.

Respondent counters these in its Comment, claiming that (a) the Motion merely rehashes arguments already addressed in the Assailed Decision; and (b) the Revenue Officers ("RO") who examined respondent's books of account lacked the requisite authority to do so.

The Motion lacks merit.

Anent petitioner's contention that respondent should be estopped from raising issues before the Court in Division that it did not raise at the administrative level, the same holds no water. We first note that the two (2) Supreme Court Decisions cited by petitioner are inapplicable here: ***Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.***[1] covers an issue belatedly raised at the *administrative* level, while ***Commissioner of Internal Revenue v. Hon. Gonzales and L.M. Camus***[2] addresses an issue raised for the first time before the *Supreme Court*, not the Court of Tax Appeals ("CTA"). Thus, without necessarily endorsing petitioner's interpretation of these rulings, this Court deems the application of said interpretations to the case at bar improper.

A more appropriate High Court ruling to apply to this case would be ***Republic of the Philippines v. First Gas Power Corporation***.[3] There, the Supreme Court, drawing from the earlier landmark cases of ***Bank of the Philippine Islands v. Commissioner of Internal Revenue***[4] and ***Commissioner of Internal Revenue v. Lancaster Philippines, Inc.***,[5] declared that the CTA may rule on issues raised for the first time before it, going so far as to note that the issue "has long been settled". And as said issue has been settled in favor of the Court in Division, this Court *En Banc* sees no need to entertain petitioner's protestations on the matter any further.

As to petitioner's contentions regarding the authority of the ROs who audited respondent's books of account, the same is lacking as well. Petitioner is tellingly silent on the dicta of ***Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.***[6] ("***McDonald's***"), which was the main basis for Our ruling on the lack of the ROs' authority and which unequivocally stated that a Memorandum of Assignment ("MOA") cannot act as a substitute for a Letter of Authority ("LOA") when it comes to reassigning new ROs to a case. As respondent failed to refute Our use of ***McDonald's*** in the Assailed Decision, he concomitantly failed to prove that the offending MOA in this case was sufficient to clothe the ROs with the proper authority to examine respondent's records.

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1 G.R. No. 225809, 17 March 2021.
2 G.R. No. 177279, 13 October 2010.
3 G.R. No. 214933, 15 February 2022.
4 G.R. No. 181836, 9 July 2014.
5 G.R. No. 183408, 12 July 2017.
6 G.R. No. 242670, 10 May 2021.

The above is not changed by the claim that the audit was conducted by the Large Taxpayers Service ("LTS"), as the LTS also issued the LOA in ***McDonald's***. Neither is it challenged by the dictionary definition of the phrase "pursuant to" not requiring ROs to be listed in a LOA, as (a) the dictionary definition of an English phrase is necessarily *general*, having to be applicable across all uses of the phrase in the English-speaking world, and would understandably not address the *specific* requirements included in the *specific* use of the phrase in *specific* Philippine laws, rules, and regulations; and (b) to exclusively rely on such a definition would be to willfully ignore the actual use of the phrase by relevant jurisprudence and even the law itself.

In short, the Motion reveals no error in the Assailed Decision and must be denied.

WHEREFORE, petitioner's Motion for Reconsideration (Re: Decision dated 28 September 2023), filed on 20 October 2023, is hereby **DENIED** for lack of merit. The Decision, dated 28 September 2023, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice