REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

SELLERY PHILS. ENTERPRISES, INC.,
Respondent.

CTA EB No. 2756
(CTA Case No. 10047)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
MAR 03 2025 4:15 pm

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R E S O L U T I O N

MANAHAN, J.:

For resolution of the Court is petitioner's *Motion for Reconsideration (Notice of Decision promulgated on August 5, 2024)* filed on August 22, 2024, with respondent's *Comment (To Petitioner's Motion for Reconsideration dated 04 December 2023)* filed on September 18, 2024.

For easy reference, the dispositive portion of the August 5, 2024 Decision[1] reads:

> "**WHEREFORE**, the instant Petition for Review is **DENIED**, for lack of merit.
>
> **SO ORDERED**."[2]

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[1] *En Banc* (EB) Docket, pp. 59-77.
[2] *Id.*, p. 76.

In his motion, petitioner asserts that the Court En Banc erred in ruling that no Letter of Authority (LOA) was issued for the examination of respondent's books of account.

Respondent counters that: (1) petitioner's argument that Revenue Memorandum Order (RMO) No. 8-2006 revoked RMO No. 43-90 has no basis; (2) the Revenue Officer is not armed with a valid LOA; (3) petitioner is not correct to insist that the assessment made was accorded with presumption of regularity; (4) the assessment made by petitioner without a valid LOA is not a mere technicality; and (5) petitioner failed to establish that respondent actually received the assessment notice through substituted service.

After careful consideration of the parties' respective assertions, the Court *En Banc* finds the instant motion unmeritorious.

The Court observes that petitioner essentially lifted his arguments and discussion[3] in the instant motion from his Petition for Review, and these matters were already addressed in the subject Decision.

As to the issue concerning the requisite LOA, the Court *En Banc* ruled that:

> "Clearly, as early as the *Sony Philippines* case in 2010, the Supreme Court had already emphasized the importance of an LOA as a grant of authority before any RO can conduct an examination or assessment. Then, the *Medicard* case in 2017 also echoed the importance of an LOA, where the Supreme Court stated that the issuance of a Letter Notice to a taxpayer was not sufficient if no corresponding LOA was issued. This same doctrine was revisited in *Opulent* case in 2020. Finally, in the *McDonald's* case and the subsequent *Wellington* case in 2021 and 2022, respectively, the Supreme Court already recognized the disturbing practice of the BIR, as in this case. Thus, the Supreme Court categorically stated that **the reassignment or transfer of an RO requires the issuance of a new or amended LOA for the substitute or replacement RO to continue the audit or investigation**."[4] *(Emphasis supplied)*

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[3] Petition for Review, pp. 4-7.
[4] See Note 1, p. 74.

As to petitioner's violation of respondent's right to due process, *i.e.*, petitioner did not afford respondent an opportunity to respond to the Preliminary Assessment Notice and Formal Letter of Demand/Final Assessment Notice, the Court *En Banc* found that:

> "As per evidence on record, the PAN, FLD and FANs were all sent by petitioner to respondent through registered mail. However, petitioner failed to present evidence that respondent actually received the said notices and the date of their receipt."[5]

At any rate, the Court *En Banc* need not fully reiterate the discussions in the subject Decision, which already squarely addressed the issues raised in the instant motion. Considering that petitioner failed to raise any substantial ground to warrant the reconsideration of the subject Decision, the denial of the instant motion is in order.

WHEREFORE, the instant *Motion for Reconsideration (Notice of Decision promulgated on August 5, 2024)* is **DENIED**, for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[5] *Id.*

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice