REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

METRO RAIL TRANSIT CORPORATION, Petitioner,	**CTA CASE NO. 9016**
	Members:
- vers' is -	**CASTAÑEDA, JR.,** *Chairperson, and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 0 2 2019 4:00 pm

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AMENDED DECISION

MANAHAN, *J.*:

For the Court's resolution are:

1. petitioner's **Motion for Partial Reconsideration (of the Decision dated January 8, 2019)**, filed on January 24, 2019, with respondent's **Opposition (re: Petitioner's Motion for Partial Reconsideration dated 24 January 2019)**, filed on February 28, 2019;

2. respondent's **Motion for Partial Reconsideration Re: Decision dated 8 January 2019**, filed on January 24, 2019, with petitioner's **Comment (on Respondent's Motion for Partial Reconsideration Re: Decision dated 8 January 2019)**, filed on February 27, 2019; and

3. petitioner's **Supplemental Motion for Partial Reconsideration (of the Decision dated January 8, 2019)**, filed on April 2, 2019, with respondent's **Opposition (re: Petitioner's Supplemental Motion for Partial Reconsideration dated 2 April 2019)**, filed on May 14, 2019 and petitioner's **Reply (to Respondent's Opposition dated May 7, 2019)**, filed on June 28, 2019.

Both parties move for the reconsideration of the Decision promulgated on January 8, 2019, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. The assessments issued by respondent against petitioner for taxable year 2007 covering deficiency VAT (penalties only), FWT, and increments for late payment of IT are **CANCELLED** and **SET ASIDE**. On the other hand, the deficiency IT, EWT and FBT assessments are **AFFIRMED but with MODIFICATION**. Accordingly, petitioner is **ORDERED TO PAY** respondent the amount of **₱1,731,830,990.47**, representing basic deficiency income tax and the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed on the deficiency IT, EWT and FBT under Sections 248(A)(3) and 249(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, as determined below:

	IT	EWT	FBT	TOTAL
Basic	₱ 368,828,806.59	₱ 3,099,479.97	₱ 1,911,703.39	₱ 373,839,989.95
Surcharge (25%)	92,207,201.65	774,869.99	477,925.85	93,459,997.49
Deficiency Interest (20%) until February 24, 2015				
IT - 4/16/08 to 2/24/2015 (₱368,828,806.59 x 20% x 2,506 days/ 365 days)	506,457,528.39			506,457,528.39
EWT - 1/16/08 to 2/24/2015 (₱3,099,444.38 x 20% x 2,597 days/ 365 days)		4,410,602.46		4,410,602.46
FBT - 1/11/08 to 2/24/2015 (₱1,911,703.39 x 20% x 2,602 days/ 365 days)			2,725,617.66	2,725,617.66
Total Amount Due, February 24, 2015	**₱ 967,493,536.63**	**₱ 8,284,952.42**	**₱ 5,115,246.90**	**₱ 980,893,735.95**
Deficiency Interest (20%) from February 25, 2015 until December 31, 2017/March 19, 2015				
IT - 2/25/2015 to 12/31/17 (₱368,828,806.59 x 20% x 1,041 days/	210,383,993.24			210,383,993.24

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365 days)				
EWT - 2/25/15 to 3/19/2015 (₱3,099,444.38 x 20% x 23 days/ 365 days)		39,061.94		39,061.94
FBT - 2/25/15 to 3/19/2015 (₱1,911,703.39 x 20% x 23 days/ 365 days)			24,092.70	24,092.70
Delinquency Interest (20%) from February 24, 2015 until December 31, 2017/March 19, 2015				
IT - 2/25/15 to 12/31/17 (₱967,493,536.63 x 20% x 1,041 days/ 365 days)	551,868,915.96			551,868,915.96
EWT - 2/25/15 to 3/19/15 (₱8,284,952.42 x 20% x 23 days/ 365 days)		104,413.10		104,413.10
FBT - 2/24/15 to 3/19/15 (₱5,115,246.89 x 20% x 23 days/ 365 days)			64,466.13	64,466.13
Delinquency Interest (20%) on Surcharge from March 19, 2015 until December 31, 2017				-
EWT - 3/19/15 to 12/31/17 (₱774,869.99 x 20% x 1,018 days/ 365 days)		432,228.85		432,228.85
FBT - 3/19/15 to 12/31/17 (₱477,925.85 x 20% x 1,018 days/ 365 days)			266,590.97	266,590.97
Total	**₱ 1,729,746,445.83**	**₱ 8,860,656.31**	**₱ 5,470,396.70**	**₱ 1,744,077,498.84**
Less: Payment on March 19, 2015				
Basic Tax		(3,099,479.97)	(1,911,703.39)	(5,011,183.36)
Interest		(4,475,139.57)	(2,760,185.44)	(7,235,325.01)
Total	**₱ 1,729,746,445.83**	**₱ 1,286,036.77**	**₱ 798,507.87**	**₱ 1,731,830,990.47**

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of 12% computed from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018, on the following amounts:

Income Tax	₱ 967,493,536.63
EWT	774,869.99
FBT	477,925.85

SO ORDERED."

Petitioner's Motion for Partial Reconsideration

Petitioner moves for reconsideration of the assailed Decision based on the following arguments:

I. The January 8 Decision erred in upholding respondent's assessment that petitioner had additional lease financing income in the sum of ₱1,012,460,075.32.

II. The January 8 Decision erred in disregarding the documents submitted by petitioner which prove that a portion of the general and administrative expenses amounting to ₱1,261,600.59 were adequately substantiated.

III. The January 8 Decision erred in upholding respondent's disallowance of the deduction of expenses corresponding to the income payments made by petitioner notwithstanding the fact that petitioner paid the Expanded Withholding Tax (EWT) due on these income payments.

IV. The January 8 Decision erred in imposing a surcharge on petitioner's alleged deficiency Income Tax when none was imposed by respondent.

V. Even assuming that the alleged deficiency Income Tax assessment is due, any such deficiency should be collected from the Department of Transportation (DOTr). It is futile and absurd for the Bureau of Internal Revenue (BIR) to collect the foregoing from petitioner because this would merely involve taking out money from the pocket of the Government only to put the money back in the exact, same pocket.

VI. The January 8 Decision erred in imposing, for the first time, surcharge on the EWT and Fringe Benefits Tax (FBT) assessments when none was imposed by respondent and notwithstanding petitioner's payment of these assessments.

VII. Even if petitioner is liable for surcharge on its EWT and FBT payments, the imposition of interest on the surcharge on EWT and FBT payments is improper and must be withdrawn following this Court's decision in *Ace/Saatchi.*

For his part, respondent invokes the following defenses:

a. Petitioner is liable for additional lease financing income in the amount of ₱1,012,460,075.32.

b. Petitioner is liable for unexplained disbursement amounting to ₱14,277,277.95.

c. Petitioner is liable for deficiency Income Tax for income payments not subjected to EWT amounting to ₱35,264,589.61.

d. The imposition of surcharge on petitioner's deficiency Income Tax is proper and with basis.

e. Petitioner is liable for deficiency Income Tax assessment pursuant to Section 9.3 of the Build, Lease, Transfer (BLT) Agreement entered into with DOTr.

f. The imposition of surcharge on petitioner's deficiency EWT and FBT is proper and with basis.

Respondent's Motion for Partial Reconsideration

Respondent moves for the reconsideration of the assailed Decision based on the following grounds:

A. The Court erred in ruling that petitioner is not liable for deficiency Income Tax pertaining to undeclared income resulting from discrepancy in salaries and wages amounting to ₱1,106,130.85.

B. The Court erred in ruling that petitioner is not liable for deficiency Income Tax due to unexplained disbursement in the amount of ₱133,011.25.

C. The Court erred in ruling that petitioner is not liable for deficiency Income Tax for the difference between the 7% Value-Added Tax (VAT) that effectively accounts for the standard input tax and actual input tax amounting to ₱218,145,769.06.

D. The Court erred in ruling that petitioner is not liable for deficiency VAT in the amount of ₱4,195,329.65.

E. The Court erred in ruling that petitioner is not liable for deficiency Final Withholding Tax (FWT) in the amount of ₱122,985,384.04.

F. The Court erred in ruling that petitioner is not liable for increments for late payment of Income Tax in the amount ₱434,122,451.90.

G. The Court erred in ruling that petitioner is not liable for compromise penalties amounting to ₱320,000.00.

On the other hand, petitioner raises the following arguments:

1. The Court correctly ruled that petitioner is not liable for deficiency Income Tax pertaining to undeclared income resulting from discrepancy in salaries and wages.

2. The Court correctly ruled that petitioner is not liable for deficiency Income Tax due to unexplained disbursement in the amount of ₱133,011.25.

3. The Court correctly ruled that petitioner is not liable for deficiency Income Tax for the difference between the 7% VAT that effectively accounts for the standard input tax and actual input tax amounting to ₱218,145,769.06.

4. The Court correctly ruled that petitioner is not liable for deficiency VAT in the amount of ₱4,195,329.65.

5. The Court correctly ruled that petitioner is not liable for deficiency FWT in the amount of ₱122,985,384.04.

6. The Court correctly ruled that petitioner is not liable for increments for late payment of Income Tax.

7. The Court correctly ruled that petitioner is not liable for compromise penalties.

Petitioner's Supplemental Motion for Partial Reconsideration

Petitioner argues that the Letter of Authority (LOA) empowers or enables a revenue officer (RO) to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax, citing the case of *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*[1] Hence, it claims that the LOA is mandatory before any RO can conduct an examination or assessment or continue the tax assessment, pursuant to the cases of *Bonifacio Land Corporation vs. Commissioner of Internal Revenue*[2] and *Central Luzon Drug Corporation vs. Commissioner of Internal Revenue.*[3] Moreover, petitioner asserts that paragraph 17 of Revenue Memorandum Order (RMO) No. 12-2007 provides that the practice of issuing referral memoranda for purpose of audit examination and assessment of internal revenue taxes is strictly prohibited. It further contends that even assuming that a memorandum confers a valid authority to conduct an examination of a taxpayer's books, it must only be so if the memorandum observes the rules governing the validity of a LOA.

On the other hand, respondent states that the ruling of the Supreme Court in the cases of *Commissioner of Internal Revenue vs. Sony Philippines, Inc.* and *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*[4] are not applicable to the instant case since the facts in these cases are entirely different from the instant case. Respondent cited the case of *Oriental Assurance Corporation vs. Commissioner of Internal Revenue*[5], which ruled that the re-assignment of the case through a memorandum is valid under RMO No. 8-2006. He maintains that what the LOA authorizes is the audit of the taxpayer's books of accounts. Hence, in the event that the ROs indicated therein can no longer perform the audit due to

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[1] G.R. No. 178697, November 17, 2010.
[2] CTA Case No. 9068, April 19, 2018.
[3] CTA Case No. 8952, November 14, 2018.
[4] G.R. No. 222743, April 5, 2017.
[5] CTA EB No. 1482 (CTA Case No. 8582), June 21, 2018, but actual case title is *Commissioner of Internal Revenue vs. Oriental Assurance Corporation* and *Oriental Assurance Corporation vs. Commissioner of Internal Revenue*, CTA EB Nos. 1482 & 1487 (CTA Case No. 8582), Resolution dated June 21, 2018.

resignation, transfer or death, such authority remains and the conduct of the audit must necessarily be re-assigned and assumed by another RO. Moreover, he claims that under RMO No. 36-2000, only one LOA per taxable year can be issued to a taxpayer. Thus, there is a need for respondent to issue a Memorandum of Assignment (MOA) to another RO to continue the audit under the previously issued LOA.

In its reply, petitioner contends that the case of *Commissioner of Internal Revenue vs. Oriental Assurance Corporation* (*Oriental* case) does not apply to the present case. It asserts that the pronouncement in the *Oriental* case that the re-assignment of the audit investigation pursuant to a MOA is a mere *obiter dictum*. According to petitioner, the case of *Commissioner of Internal Revenue vs. Herbalife International Philippines, Inc.*[6], a more recent case, reiterated the pronouncements in the cases of *Bonifacio Land Corporation vs. Commissioner of Internal Revenue* and *Central Luzon Drug Corporation vs. Commissioner of Internal Revenue*. It further argues that RMO No. 43-1990 is a valid regulation that has been used time and again by the Court to declare tax assessments void. It claims that the purposes of RMO No. 43-1990 and RMO No. 8-2006 are different. Petitioner alleges that RMO No. 43-1990 provides the guidelines for the actual audit or investigation while RMO No. 8-2006 prescribes the procedures of monitoring encoding and tracking of LOAs. It asserts that the practice of issuing MOAs/Referral is inconsistent with law and cannot defeat due process requirements, even if getting a new LOA is inconvenient. It posits that respondent's invocation of RMO No. 36-2000 to support the alleged need to issue MOAs is misplaced, as there is nothing in that RMO which prohibits the subsequent issuance of a LOA in case the RO named in the original LOA is unable to continue with the audit.

At the outset, it is worthy to note that the authority of BIR examiners to conduct audit goes into the validity of an assessment itself. As such, any assessment arising from the examination of a taxpayer's books of accounts by a BIR examiner who is not duly authorized to do so, is a complete nullity. Following the well-settled principle that, "a void assessment bears no valid fruit" [7], the Court deems it proper to resolve this issue before going into the other issues raised by the parties in their respective motions.

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[6] CTA EB Nos. 1612 & 1631 (CTA Case No. 8478), November 15, 2018.

[7] *Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation,* G.R. Nos. 215534 & 215557, April 18, 2016.

There must be a valid grant of authority, through a LOA, before any RO can conduct a tax audit or examination

Section 6(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, is clear and categorical in requiring an authority from the respondent or his duly authorized representative prior to the conduct of examination of a taxpayer, as follows:

> "SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
>
> (A) *Examination of Returns and Determination of Tax Due.* – After a return has been filed as required under the provisions of this Code, **the Commissioner or his duly authorized representative 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 prevent the Commissioner from authorizing the examination of any taxpayer." (*Emphasis supplied*)

Relative thereto, Section 13 of the NIRC of 1997, as amended, provides that the authority of an RO to examine or to recommend the assessment of any deficiency tax due must be made pursuant to a LOA, as follows:

> "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 supplied*)

In *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*[8], the Supreme Court highlights the importance of a LOA in the examination and assessment of taxpayer's records, as follows:

"The absence of an LOA violated MEDICARD's right to due process

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:

> **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 prevent the Commissioner from authorizing the examination of any taxpayer.
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> x x x x (Emphasis and underlining ours)

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

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[8] G.R. No. 222743, April 5, 2017.

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:

> 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 underlining ours)

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Contrary to the ruling of the CTA *en banc*, an LOA cannot be dispensed with just because none of the financial books or records being physically kept by MEDICARD was examined. To begin with, Section 6 of the NIRC requires an authority from the CIR or from his duly authorized representatives before an examination 'of a taxpayer' may be made. The requirement of authorization is therefore not dependent on whether the taxpayer may be required to physically open his books and financial records but only on whether a taxpayer is being subject to examination.

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That the BIR officials herein were not shown to have acted unreasonably is beside the point because the issue of their lack of authority was only brought up during the trial of the case. What is crucial is whether the proceedings that led to the issuance of VAT deficiency

> assessment against MEDICARD had the prior approval and authorization from the CIR or her duly authorized representatives. Not having authority to examine MEDICARD in the first place, the assessment issued by the CIR is inescapably void."

Clearly, there must be a grant of authority, through a LOA issued in favor of a revenue officer assigned to perform assessment functions, before said officer can conduct a tax audit or examination. In the absence of such an authority, the assessment or examination is a nullity.[9]

Records show that on February 3, 2009, petitioner received LOA No. 2007 00038087[10] dated January 27, 2009 issued by Head Revenue Executive Assistant of Large Taxpayers Service (LTS) - Regular Large Taxpayers, Romulo L. Aguila, Jr., authorizing RO Edison O. Larin under Group Supervisor Roberto P. Castro of Large Taxpayers (LT) Audit and Investigation Division I, to examine its books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2007 to December 31, 2007.

Thereafter, Memorandum Referral No. D-LOA-27-05-09[11] dated May 15, 2009 was issued by the Chief, LT Audit and Investigation Division I, Conrado C. Lee, re-assigning the case to RO Elizabeth U. Cadiz under Group Supervisor Edison O. Larin for the continuation of the audit investigation of petitioner's internal revenue tax liabilities for taxable year 2007. Hence, RO Elizabeth U. Cadiz, by Memorandum Reports dated June 4, 2010[12], August 2, 2010[13] and September 1, 2014[14], recommended the approval of the Preliminary Assessment Notice (PAN), Formal Letter of Demand (FLD) with Details of Discrepancies and Assessment Notice and Final Decision on Disputed Assessment (FDDA) and Details of Discrepancies as well as the approval of the Report on the Letter Request for Reconsideration of the FDDA[15] dated February 5, 2015.

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[9] *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.
[10] Exhibit "R-1", BIR Records, Folder 1, p. 757.
[11] Exhibit "R-3", BIR Records, Folder 1, p. 765.
[12] Exhibit "R-6", BIR Records, Folder 1, pp. 1029-1039.
[13] Exhibit "R-8", BIR Records, Folder 1, p. 1055.
[14] Exhibit "R-11", BIR Records, Folder 2, pp. 489-492.
[15] Exhibit "R-13", BIR Records, Folder 2, pp. 781-783.

Evidently, there was a LOA issued in this case authorizing RO Edison O. Larin to conduct the audit investigation of petitioner's internal revenue tax liabilities for taxable year 2007. However, when the audit investigation of petitioner was reassigned to RO Elizabeth U. Cadiz, her authority to conduct the same was based on a referral memorandum and not from a LOA. There is also no showing that a new LOA was issued specifically authorizing the said RO to continue the audit investigation of petitioner following the reassignment and transfer of the case.

The question now is whether the referral memorandum issued by the Chief, LT Audit and Investigation Division I, Conrado C. Lee, authorizing RO Elizabeth U. Cadiz to continue the audit investigation of petitioner's internal revenue tax liabilities for taxable year 2007, would suffice.

The Court rules in the negative.

The referral memorandum in this case is not sufficient to grant the RO the authority to continue the conduct of the audit investigation

The issue at hand was already addressed in the recent case of *Commissioner of Internal Revenue vs. San Miguel Foods, Inc. (as surviving corporation in a merger involving Monterey Foods Corporation)*[16], where the Court *En Banc* held that:

> "RO Maria Gracielle Cecilia F. San Pedro and GS Juvy S. Dela Peña who conducted the examination of San Miguel's records may be deemed authorized to do so without need for a new LOA, **if said letter or notice or memorandum was signed by the Assistant Commissioner/Head Revenue Executive Assistant of the Large Taxpayers Service**.
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> Under RMO No. 29-07[17], the equivalent of a Regional Director in the Large Taxpayers Service is the Assistant Commissioner/Head Revenue Executive

[16] CTA EB No. 1880 (CTA Case No. 9046), August 6, 2019.

[17] Subject: Prescribing the Audit Policies, Guidelines and Standards at the Large Taxpayers Service, dated September 26, 2007.

Assistants, for they are the ones authorized to issue an LOA, to wit:

'II. AUDIT POLICIES AND GUIDELINES

1. The Chief, Large Taxpayers Audit & Investigation Divisions/LTDOs shall draw a list of taxpayers selected for audit under its current selection criteria. The list shall state the name of taxpayer selected for audit, the nature of business, the amount of gross sales/receipts, the selection code, the PSIC code, and the corresponding amount of tax paid for the period. The said list shall be submitted to the Assistant Commissioner/Head Revenue Executive Assistant, Large Taxpayers Service for approval, copy furnished the Commissioner of Internal Revenue.

2. **All Letters of Authority (LOAs) shall be issued and approved by the <u>Assistant Commissioner/Head Revenue Executive Assistants</u>**.'

In the instant case, the Memorandum of Assignment was only signed by Cesar D. Escalada, Chief, Regular LT Audit Division 1. **Therefore, RO Maria Gracielle Cecilia F. San Pedro and GS Juvy S. De la Peña were without authority to continue the audit.**"

Therefore, all audit investigations must be conducted by a duly designated RO authorized to perform audit and examination of taxpayer's books and accounting records, pursuant to a LOA issued by the Regional Director, or in this case, by the Assistant Commissioner/Head Revenue Executive Assistants. However, in case of re-assignment or transfer of cases to another RO at the Large Taxpayers Service, the said RO may be authorized to continue the audit without need for a new LOA, if the letter or notice or memorandum reassigning the case to the said RO was signed by the Assistant Commissioner/Head Revenue Executive Assistants of the Large Taxpayers Service. *am*

In this case, there is no question that a LOA dated January 27, 2009 authorizing RO Edison O. Larin to examine petitioner's books of accounts and other accounting records for taxable year 2007 was issued by the Head Revenue Executive Assistant, who is an authorized signatory. However, when the audit investigation was reassigned to RO Elizabeth U. Cadiz for the continuation thereof, it was made through a referral memorandum dated May 15, 2009 but was merely issued by the Chief, LT Audit and Investigation Division I, Conrado C. Lee, and not the Assistant Commissioner/Head Revenue Executive Assistant of the Large Taxpayers Service. Thus, RO Elizabeth U. Cadiz was not duly authorized to continue the audit investigation.

Considering that RO Elizabeth U. Cadiz was not duly authorized, the subject tax assessments, which came about as a result of her examination of petitioner's books of accounts and accounting records for taxable year 2007, are void.

Since the subject deficiency tax assessments are clearly void for lack of authority of the examining RO, discussion on the other issues raised by the parties in their respective motions becomes unwarranted.

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration Re: Decision dated 8 January 2019** is **DENIED** for lack of merit. On the other hand, petitioner's **Motion for Partial Reconsideration (of the Decision dated January 8, 2019)** and **Supplemental Motion for Partial Reconsideration (of the Decision dated January 8, 2019)** are **GRANTED**. Accordingly, the dispositive portion of the Court's Decision dated January 8, 2019 is amended to read as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, respondent's Decision dated February 5, 2015, finding petitioner liable for deficiency taxes for taxable year 2007 in the aggregate amount of ₱1,631,807,856.98, is **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**" an

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

JUANITO C. CASTAÑEDA, JR
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Amended 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