REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

HOBBIES OF ASIA, INC.,
Respondent.

CTA EB NO. 2302
(CTA Case No. 9476)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, JJ.

Promulgated:
JUN 23 2022

x---x

RESOLUTION

UY, J.:

For resolution is petitioner's ***MOTION FOR RECONSIDERATION (On the Decision promulgated on March 9, 2022)***[1] filed on March 29, 2022 through registered mail and received by the Court on April 6, 2022, seeking the reconsideration of this Court's Decision[2] dated March 9, 2022, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Decision dated November 12, 2019 and Resolution dated July 7, 2020,

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[1] EB Docket, pp. 160 to 170.
[2] EB Docket, pp. 119 to 138.

both rendered by the Court in Division in CTA Case No. 9476 are **AFFIRMED**.

Petitioner Commissioner of Internal Revenue or any person acting on his behalf is hereby **ENJOINED** from proceeding with the collection of the said deficiency taxes against respondent during the pendency of the instant case.

SO ORDERED."

Respondent filed its ***COMMENT/OPPOSITION (To Petitioner's Motion for Reconsideration Re: Decision promulgated on March 09, 2022)***[3] on May 2, 2022.

Hence, this resolution.

Petitioner's arguments:

In support of his *Motion*, petitioner argues that the revenue officers were duly authorized to conduct the audit investigation, pursuant to a valid *Letter of Authority* (LOA) and subsequently a *Memorandum of Assignment* (MOA).

Further, petitioner reiterates its position that the case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*[4] (or *"Medicard case"*) is not applicable in the instant case for having different facts and circumstances.

Respondent's counter-arguments:

Respondent counter-argues that the allegations in the instant *Motion* are mere reiterations of arguments raised by petitioner in his *Petition for Review*.

Allegedly, the subject assessment is void for lack of authority of the revenue officers to conduct the audit investigation.

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[3] EB Docket, pp. 181 to 191.
[4] G.R. No. 222743, April 5, 2017.

Contrary to petitioner's view, respondent avers that the *Medicard* case is on all fours with the instant case

THE COURT'S RULING

After careful examination and consideration of the instant *Motion*, it is noted that the arguments raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision.

The revenue officers were <u>not</u> duly authorized to conduct the audit investigation; hence, the resulting tax assessments are void.

As held in the assailed Decision, the authority of Revenue Officers (ROs) Guerzon, Sabile and GS Dimaya to conduct the audit investigation of respondent for taxable year 2011 were based merely on an MOA. There is no showing that a new LOA was issued specifically authorizing the said revenue officers to continue the audit investigation of respondent's books of accounts and other records for taxable year 2011, and to replace the previously assigned RO and GS.

Accordingly, there being no new LOA issued, ROs Guerzon and Sabile and GS Dimaya were not duly authorized to continue the audit investigation of respondent for taxable year 2011.

Further, it must be stressed that the MOA authorizing RO Sabile and GS Dimaya was issued by a BIR officer who is not authorized to issue an LOA. Correspondingly, the said MOA is not sufficient to authorize RO Sabile and GS Dimaya to continue the audit investigation of respondent for taxable year 2011.

Medicard case is applicable in the case at bar.

As for petitioner's claim that the *Medicard* case is not applicable in the instant case, the same deserves no credence.

It must be noted that in the *Medicard* case, the Supreme Court ruled on the issue pertaining to the importance of the authority granted to revenue officers to conduct audit and assessment of a specific taxpayer. It is well-settled that courts must be cognizant of the decisions of the Supreme Court because of the doctrine of *stare decisis*. The said doctrine is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.[5]

Further, it bears reiterating that the CIR himself, through the issuance of Revenue Memorandum Circular (RMC) No. 75-2018[6], recognized the ruling in the *Medicard* case, in this wise:

> "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, <u>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.'**
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> xxx xxx xxx
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> 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." *(Emphasis and underscoring supplied)*

It is clear from the foregoing, that any tax assessment issued without an LOA is a violation of the taxpayer's right to due process and therefore void.

Accordingly, considering that the issue in the instant case involves the lack of a valid LOA authorizing the revenue officers to conduct the audit investigation of respondent, We see no reason not to apply the ruling in the *Medicard* case to the instant case.

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[5] *Amelia D. De Mesa, et al. vs. Pepsi Cola Products, Inc., et al.*, G.R. Nos. 153063-70, August 19, 2005.

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

In fine, the Court *En Banc* finds no compelling reason to reconsider, modify or reverse the assailed Decision.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

ON LEAVE
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(I maintain my position in the assailed Decision dated March 9, 2022)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice