REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10296

ORIENT OVERSEAS CONTAINER LINE LTD., represented by OOCL (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. FELIX PAUL R. VELASCO III
ATTY. SYLVIA R. ALMA-JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
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Bureau of Internal Revenue
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Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

CASTILLO LAMAN TAN PANTALEON & SAN JOSE
2nd to 5th & 9th Floors, The Valero Tower
122 Valero Street, Salcedo Village
Makati City

GREETINGS:

You are hereby notified by these presents that on **August 1, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 5, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

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COMMISSIONER OF INTERNAL REVENUE,
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CTA CASE NO. **10296**

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
AUG 01 2025; 2:15PM

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Motion for Reconsideration Re: Decision dated 9 January 2025"[1] (**MR**), filed on 30 January 2025, with petitioner Orient Overseas Container Line Ltd.'s (**petitioner**'s/ **OOCL**'s), represented in this case by OOCL (Philippines) Inc. (**OPI**), "Opposition (to respondent's Motion for Reconsideration dated January 28, 2025)"[2] (**Opposition**) thereto, filed on 10 February 2025.

Respondent seeks the reversal of the Court's Decision dated 09 January 2025[3] (**assailed Decision**), which granted petitioner's Petition for Review[4] filed on 01 July 2020. In doing so, the Court declared the subject deficiency tax assessment void and enjoined respondent

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1 Division Docket, Volume II, pp. 1273-1282.
2 Id., pp. 1286-1291.
3 Id., pp. 1240-1272.
4 Id., Volume I, pp. 6-41.

from taking any further action against petitioner in connection with this case. The dispositive portion of the assailed Decision reads, thus:

> ...
>
> **WHEREFORE**, the foregoing premises considered, the instant Petition for Review filed by petitioner Orient Overseas Container Line Ltd. on 01 July 2020 is hereby **GRANTED**. Accordingly, the Preliminary Assessment Notice dated 28 November 2016, Formal Letter of Demand with Details of Discrepancies and Assessment Notices dated 21 December 2016, and Final Decision on Disputed Assessment dated 17 February 2020 – all issued against petitioner Orient Overseas Container Line Ltd. for assessed deficiency internal revenue taxes in the fiscal year from 01 July 2012 to 30 June 2013, are declared **VOID**.
>
> Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his or her behalf is **ENJOINED** from pursuing any actions against petitioner Orient Overseas Container Line Ltd. relative to herein case.
>
> **SO ORDERED.**
>
> ...

In the instant MR, respondent argues that the Court erred in ruling that the subject deficiency tax assessment is void. Respondent insists that petitioner was accorded with due process because it was: (1) able to participate in the administrative proceedings; and (2) clearly informed of the identity of the revenue officers (**ROs**) who will continue the investigation or audit.

Respondent also claims that the Memorandum of Assignment (**MOA**) directing the RO to continue the audit for fiscal year ending 30 June 2013 (**FY 2013**) is proper. The MOA subsequently issued derived its authority from the original Letter of Authority (**LOA**) initially issued.

Finally, respondent highlights that Revenue Memorandum Order (**RMO**) No. 8-2006 provides that only one LOA *per* taxable year can be issued to a taxpayer. Respondent maintains that if only those ROs would be authorized to continue the audit, collection of taxes would be jeopardized in violation of the lifeblood doctrine.

In its Opposition, petitioner echoes the Court's findings that respondent violated its right to due process due to the latter's failure to issue a new LOA, despite the assignment of a new RO for the continuation of its audit.

We resolve.

At the onset, it is noted that respondent has raised issues that have already been passed upon and discussed exhaustively in the assailed Decision. Nonetheless, to put the issues to rest, We shall indulge respondent with a brief discussion below.

As regards respondent's argument that the MOA issued directing RO Alvin B. Lasquety (**RO Lasquety**) to continue the audit is proper and that there was no violation of petitioner's right to due process. A review of the records of the case reveals that RO Lasquety's authority sprung from an MOA issued by the Division Chief of Regular Large Taxpayers Audit Division 2 (**RLTAD-2**). It is worthy to note that the MOA dated 08 April 2016 and the corresponding change in RO and GS happened prior to the issuance of the Preliminary Assessment Notice (PAN)[5] and Formal Letter of Demand (FLD)[6] on 28 November 2016 and 21 December 2016, respectively.

As We have previously discussed in the assailed Decision, Sections 6(A), 10(c) and 13 of the National Internal Revenue Code (**NIRC**) of 1997[7], as amended, which provide that only the CIR and his or her duly

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[5] Exhibit "R-8", BIR Records, Folder 1, pp. 455-465.

[6] Exhibit "R-10", id., pp. 509-527.

[7] **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, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax, notwithstanding any law requiring the prior authorization of any government agency or instrumentality: *Provided, however,* That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

...

SEC. 10. *Revenue Regional Director.* — Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional director shall, within the region and district offices under his jurisdiction, among others:

authorized representatives (*i.e.*, Deputy Commissioners, Revenue Regional Directors, and such other officials as may be authorized by the CIR) may issue the LOA, **respondent's own rules, specifically, RMO No. 43-90[8] mandates the issuance of a new LOA in cases of reassignment or transfer of examination to another RO.** It reads —

> ...
>
> **Any reassignment/transfer of cases to another RO(s),** and revalidation of [LOAs] which have already expired, **shall require the issuance of a new [LOA]**, with the corresponding notation thereto, including the previous [LOA] number and date of issue of said [LOAs].[9]
>
> ...

Applying the above principles to the case at bar, the MOA signed by the Division Chief of RLTAD-2 does not and cannot confer authority to RO Lasquety to continue the audit or investigation of petitioner's books of accounts for the FY 2013. In the absence of the authority conferred by a valid and duly issued LOA, the investigation and subsequent assessment of petitioner's supposed tax deficiencies could not be sanctioned.

The Supreme Court, citing the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[10], went on to state:

(a) Implement laws, policies, plans, programs, rules and regulations of the department or agencies in the regional area;

(b) Administer and enforce internal revenue laws, and rules and regulations, including the assessment and collection of all internal revenue taxes, charges and fees;

(c) Issue Letters of authority for the examination of taxpayers within the region[.]

...

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.

8 Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit.

9 Emphasis and underscoring supplied.

10 G.R. No. 178697, 17 November 2010; Emphasis and underscoring supplied.

> ...
>
> 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. **In the absence of such an authority, the assessment or examination is a nullity.**
>
> ...

Further, the Supreme Court in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*[11] concluded that:

> ...
>
> In summary, **We rule that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit or investigation without a separate or amended LOA (i) violates the taxpayer's right to due process in tax audit or investigation; (ii) usurps the statutory power of the CIR or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and (iii) does not comply with existing BIR rules and regulations, particularly RMO No. 43-90 dated September 20, 1990**.
>
> ...

In this case, the records indisputably show that RO Lasquety and Group Supervisor Joseph Christian Santos (**GS Santos**) continued the audit and/or investigation of petitioner's books of accounts solely by virtue of an MOA. Furthermore, only the Division Chief of RLTAD-2 [an official who is not among those authorized to issue LOAs pursuant to existing laws and regulations, particularly Section 13[12] in relation Section 10(c)[13] of the NIRC of 1997, as amended, Item D(4) of RMO No. 43-90[14] and Item II(2) of RMO No. 29-07[15]] signed the MOA. It is thus apparent that the lead officer tasked to carry out the investigation had not been validly clothed with the proper authority to continue the audit and recommend the issuance of the assessments against petitioner.

11 G.R. No. 242670, 10 May 2021; Emphasis and underscoring supplied.
12 Supra at note 7.
13 Id.
14 Supra at note 8.
15 Prescribing the Audit Policies, Guidelines and Standards at the Large Taxpayers Service.

Relevantly, in *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[16], the Supreme Court explained, to wit:

> ...
>
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
>
> ...

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[17] ruled:

> ...
>
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or**

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[16] G.R. No. 109645 (Resolution), 04 March 1996.

[17] G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

> **substantial legitimate ground or reason to justify the reconsideration sought.**
>
> ...

Indubitably, it is the movant's duty to convincingly show grounds for a reconsideration of an assailed judgment or order, or at the least give its previous arguments a fresh perspective in such a way that would warrant a re-examination of the case. Unfortunately, in the instant case, respondent had failed to do so.

WHEREFORE, the foregoing premises considered, respondent's "Motion for Reconsideration (Re: Decision dated 9 January 2025)" filed on 30 January 2025 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice