CTA Form No. 8 (For DCC)

19-000078-0083

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10038

MONTALBAN METHANE POWER CORPORATION,
Petitioner,

\- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. PHILIP A. MAYO
ATTY. CARL FITRI A. HUSSIN
ATTY. JOEL VINCENT D. SALAZAR
Bureau of Internal Revenue - Revenue Region 8A
36/F, Legal Division, Export Bank Plaza Bldg.
313 Sen. Gil Puyat Avenue cor. Chino Roces Avenue
Makati City

ZAMORA & POBLADOR
5th Floor, Montepino Building
138 Amorsolo St., Legazpi Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **February 7, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 12, 2024.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

MONTALBAN METHANE POWER CORPORATION, *Petitioner,*	**CTA Case No. 10038**
	Members:
-*versus*-	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 07 2024, 3:00PM

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RESOLUTION

MANAHAN, *J.:*

For this Court's resolution is respondent Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration* posted on October 19, 2023 and received by the Court on October 25, 2023, with petitioner's *Opposition (Re: Motion for Reconsideration dated 19 October 2023)* filed on November 13, 2023.

Respondent seeks reconsideration of the Court's Decision promulgated on September 21, 2023 (Assailed Decision), the dispositive portion of which, reads as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **GRANTED**.
>
> Accordingly, the assailed Decision of the CIR dated January 18, 2019, requesting petitioner to pay deficiency DST, including increments, in the aggregate amount of Php8,041,269.04; the FDDA dated April 25, 2017 and, the FAN dated December 13, 2013, issued against petitioner, for TY 2008, are all **CANCELLED and SET ASIDE.**

> Unless reversed by higher courts, respondent is **ENJOINED** and **PROHIBITED** from collecting against petitioner the deficiency assessment for TY 2008.
>
> **SO ORDERED.**"

Respondent assails this Court's Decision based on the following grounds:

1. The Honorable Court erred in ruling that a new Letter of Authority (LOA) should be issued to the new Revenue Officer (RO) who conducted the reinvestigation; and

2. The Honorable Court erred in ruling on the foregoing despite being raised only for the first time on appeal.

Respondent requests that the cancellation of the documentary stamp tax (DST) assessments against petitioner be re-evaluated by the Court because a reinvestigation of a tax case no longer requires the issuance of a new LOA. Citing the CTA Case entitled *Sabre Travel Network (Philippines) Inc., (Formerly, Abacus Distribution Systems Philippines, Inc.) vs. Commissioner of Internal Revenue,*[1] respondent alleges that the Court already ruled that an LOA is not required prior to the issuance of a Final Decision on Disputed Assessment (FDDA). Respondent contends that this ruling was reiterated in the more recent case of *Commissioner of Internal Revenue vs. Titanium Corporation.*[2]

Lastly, respondent invokes the oft-repeated argument that the principle of *estoppel* should have prevented the Court from ruling on the alleged want of authority of the revenue officers because petitioner neither raised the same during the tax audit in the administrative level, nor mentioned it in the Petition for Review filed in Court, having raised the same for the first time, in its Memorandum.

In its *Opposition* to respondent's Motion for Reconsideration, petitioner finds the arguments of respondent misleading as the CTA cases cited to support his contention refer to statements that are mere *obiter dictum* and not on all fours with the instant case. Petitioner asserts that the Court

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[1] CTA Case No. 9532, October 25, 2019.
[2] CTA EB Case No. 2502, February 13, 2023.

has in fact ruled recently that tax assessments are void when a revenue officer who conducted the "reinvestigation," was not equipped with the requisite LOA.

Petitioner also invokes the ruling of the Supreme Court in the case of *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corporation*,[3] *(McDonald's* case*)* where it was allegedly ruled that a reassignment or transfer of revenue officers originally named in the LOA and substituting them with a new set of officers necessitates the issuance of a new LOA, otherwise, the corresponding assessment notice shall be rendered void.

Petitioner further refutes the second contention of respondent and maintains that it is not precluded from raising for the first time, the issue of the lack of authority of the revenue officer in its Memorandum filed in Court. It argues that it could not have possibly raised it in his protest against the Final Assessment Notice because the reinvestigation had not yet commenced at the time. Neither can it be prohibited from raising this issue for the first time in its Memorandum because the Court is not limited to the issues stipulated by the parties but may properly rule on related issues necessary for the orderly disposition of a case, citing Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals (RRCTA).

RULING OF THE COURT

We deny the motion.

The arguments raised by respondent are not novel to warrant an extensive discussion on the issues raised, such having been already discussed and ruled upon in the assailed Decision.

It is, however, worthy of emphasis that a reinvestigation of a tax case is a continuation of the examination and audit of a taxpayer which necessitates the issuance of a new LOA in case the RO, who would conduct such reinvestigation, is different from the one(s) named in the previously-issued LOA, a new LOA is required.

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[3] G.R. No. 242670, May 10, 2021.

To recall, RO Pamela Tianco who was not one of those named in the original LOA was tasked to reinvestigate petitioner's books of accounts and other accounting records for taxable year 2008 on the basis of a Memorandum which the Court, in the assailed Decision, found to be insufficient to continue the examination of petitioner's books of account, there being no new nor revised LOA issued in her favor. The Court applied the ruling of the *McDonald's case* which emphasizes the necessity and importance of issuing a new or amended LOA for the substitute or replacement revenue officer to continue the audit or investigation of the taxpayer's books of accounts and other accounting records.

As regards the issue of the Court ruling on issues not raised in the administrative level nor in the Petition for Review filed in Court, it is already well-settled that the Court is not bound by the issues raised by the parties, but may also rule on related issues necessary to achieve an orderly disposition of the case.

Section 1, Rule 14 of the RRCTA provides as follows:

> "**Rule 14**
> **Judgement, its Entry and Execution**
>
> Section 1. – *Rendition of Judgment*.- x x x
>
> **In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case**." (*Emphasis supplied*)

This has been recognized by the Supreme Court, in the cases of *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*,[4] and *National Power Corporation vs. Provincial Government of Bulacan, et.al*,[5] which ruled, *viz:*

> "The CTA is not bound by the issues stipulated by the parties but may also **rule on related issues necessary to achieve an orderly disposition of the case**." (emphasis supplied)
>
> "Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals provides that "in deciding the case, the [CTA] may not limit itself to the issues specifically stipulated by the

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[4] G.R. No. 183408, July 12, 2017.
[5] G.R. No. 207140, January 30, 2023.

parties but may also rule upon related issues necessary to achieve an orderly disposition of the case."

In view of the foregoing disquisitions, there being no new matters or substantial issues specifically raised by respondent in his Motion for Reconsideration, the Court finds no compelling reason to reverse, amend, or modify the Decision promulgated on September 21, 2023.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration* posted on October 19, 2023, is **DENIED** for lack of merit.

Accordingly, the Decision of the Court in the above-captioned case dated September 21, 2023, is hereby **AFFIRMED**.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(*I reiterate my Separate Concurring Opinion*)
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
(*I reiterate joining Presiding Justice Del Rosario's Separate Concurring Opinion*)
MARIAN IVY F. REYES-FAJARDO
Associate Justice