

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

**COMMISSIONER OF INTERNAL
REVENUE,**

Petitioner,

-versus-

**ABS-CBN FILM PRODUCTIONS,
INC., [Surviving Entity of the Merger
Among Star Songs, Inc., Star
Recording, Inc., and ABS-CBN Film
Productions, Inc.],**

Respondent.

CTA EB NO. 2619
(CTA Case No. 9982)

Present:

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

Promulgated:

SEP 2 8 2023

[Signature] 1:01 p.m.

X ----- X

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a **PETITION FOR REVIEW** (“**Petition**”), filed on 26 May 2022,¹ with respondent’s **COMMENT/OPPOSITION (Re: Petition for Review dated May 26, 2022)** (“**Comment**”), filed on 4 July 2022.²

¹ Records, pp. 8-60.

² *Id.*, pp. 64-73.

The Parties

Petitioner is the head of the Bureau of Internal Revenue (“BIR”), the government agency tasked to, among others, assess and collect all national internal revenue taxes. He has the power to decide disputed assessments, refunds of internal revenue taxes, fees, or other charges, penalties imposed in relation thereto, or other matters arising under the *National Internal Revenue Code of 1997, as amended* (“NIRC”). He may be served with pleadings, notices, and other processes at BIR National Office Bldg., BIR Road, Diliman, Quezon City.³

Respondent, **ABS-CBN FILM PRODUCTIONS, INC.** is a corporation duly organized and existing under the laws of the Philippines, with principal business address at 2nd Floor, Eugenio Lopez Jr. Communications Center, Eugenio Lopez Drive, Quezon City. It is the surviving entity of the merger among Star Songs, Inc., Star Recording, Inc., and respondent pursuant to a Plan of Merger on 21 April 2014, and assumed all the rights and obligations of the absorbed corporations. It is duly registered with the BIR with Tax Identification Number (“TIN”) 224-121-984-000.⁴

The Facts⁵

On 21 April 2014, Star Songs, Inc. executed a Plan of Merger with respondent and Star Recording, Inc. The merger was approved by the Securities and Exchange Commission (“SEC”) on 24 June 2014.

On 9 June 2015, respondent received a Letter of Authority (“LOA”) No. LOA-116-2015-00000012, dated 29 May 2015, signed by then Officer in Charge (“OIC”) – Assistant Commissioner of Internal Revenue (“CIR”) Nestor S. Valeroso of the Large Taxpayers Service (“LTS”), authorizing revenue officers (“ROs”) Reynante Martirez and Shella Samaniego, and Group Supervisor (“GS”) Rolando Balbido of the Regular Large Taxpayers Audit Division 1 (“RLTAD-1”), to audit and examine Star Songs, Inc.’s books of accounts and other accounting records for all internal revenue taxes including Documentary Stamp Tax (“DST”) and other taxes for the period from 1 January 2013 to 30 June 2014 pursuant to a mandatory audit because of the merger/consolidation.

Waivers were executed by respondent extending the period of assessment until 30 June 2017.

³ Assailed Decision, Annex “B”, Petition, *id.*, p. 40.

⁴ *Id.*, pp. 39-40.

⁵ *Id.*, pp. 40-44.

DECISION

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On 18 November 2016, Ms. Shirley A. Calapatia, Chief of RLTA-1, issued a Memorandum of Assignment (“MOA”) No. LOA-116-2016-1914 referring the continuation of the audit/verification of Star Songs, Inc.’s internal revenue tax liabilities for the period 1 January 2013 to 30 June 2014, pursuant to LOA No. LOA-116-2015-0000012, dated 29 May 2015, to RO Carolyn V. Mendoza and GS Rosario A. Arriola.

On 9 December 2016, petitioner issued a Preliminary Assessment Notice (“PAN”) against Star Songs, Inc.

Further, on 14 December 2016, respondent received a Letter, dated 6 December 2016, signed by OIC-Assistant CIR, LTS, Teresita M. Angeles, informing it that the audit and examination of Star Song, Inc.’s books of accounts and other accounting records has been reassigned to RO Carolyn V. Mendoza.

On 27 December 2016, respondent filed with the BIR a Protest to the PAN, dated 27 December 2016.

On 8 June 2017, respondent received a Formal Letter of Demand (“FLD”) with Final Assessment Notices (“FAN”), assessing Star Songs, Inc. of deficiency Income Tax (“IT”), Value-Added Tax (“VAT”), Expanded Withholding Tax (“EWT”), Final Withholding VAT (“FWVAT”) and DST for taxable year (“TY”) 2013 and for the period 1 January 2014 to 30 June 2014.

In response to the FLD/FAN, respondent filed on 7 July 2017 a Protest to the FLD/FAN. On 5 September 2017, respondent likewise filed a Supplemental Protest to the FLD/FAN.

Subsequently, on 28 May 2018, respondent received the Final Decision on Disputed Assessment (“FDDA”), dated 21 May 2018, finding Star Songs, Inc. liable for deficiency IT, VAT, EWT, FWT, DST and compromise penalty for TY 2013 and for the period 1 January 2014 to 30 June 2014.

On 27 June 2018, respondent filed with petitioner a Request for Reconsideration, dated 26 June 2018, requesting for reconsideration of the said FDDA.

On 9 November 2018, respondent received the Final Decision of petitioner, dated 8 November 2018, denying its aforesaid request for reconsideration. ✓

On 6 December 2018, respondent filed a Petition for Review before the Court in Division assailing the Final Decision.

On 3 December 2021, the Court in Division promulgated the Assailed Decision granting the Petition for Review.⁶

Accordingly, on 5 January 2022, petitioner moved for the reconsideration of the Assailed Decision.⁷

On 18 April 2022, the Court in Division issued the Assailed Resolution which denied petitioner's Motion for Reconsideration for lack of merit.⁸

Thus, the instant Petition was filed before the Court *En Banc* on 26 May 2022.

After being required to comment on the instant Petition,⁹ respondent filed its Comment on 4 July 2022.¹⁰

In a Resolution, dated 18 July 2022, the instant case was referred to mediation.¹¹ However, the parties failed to reach a settlement.¹² Thus, in a Resolution, dated 27 September 2022, the instant case was submitted for decision.¹³

Hence, this Decision.

The Assigned Errors¹⁴

In the Petition, petitioner raised the following issues for resolution by the Court *En Banc*:

**WHETHER OR NOT THE COURT IN
DIVISION ERRED IN RULING THAT NEW
ISSUES MAY BE RAISED BY RESPONDENT
ON ITS APPEAL; and**

⁶ *Id.*, pp. 38-39.

⁷ *Id.*, p. 40.

⁸ Annex "B", Petition, *id.*, p. 56.

⁹ Resolution, dated 23 June 2022, *id.*, pp. 61-63.

¹⁰ *Id.*, pp. 64-73.

¹¹ *Id.*, pp. 74-76.

¹² No Agreement to Mediate, *id.*, p. 77.

¹³ *Id.*, pp. 78-80.

¹⁴ *Id.*, pp. 12-13.

ASSUMING FOR THE SAKE OF ARGUMENT THAT NEW ISSUES MAY BE RAISED ON APPEAL, THE ASSESSMENT IS VALID AS IT WAS ISSUED PURSUANT TO A VALID LOA.

Arguments of the Parties

Petitioner presented the following arguments in the Petition:¹⁵

1. The Court in Division's jurisdiction in the instant case is appellate in nature. As such, no new issues may be raised on appeal.
2. The assessments were made pursuant to a valid LOA. The continuation of the audit by another RO not named in the LOA does not invalidate the assessment.

In its Comment, respondent alleged the following:¹⁶

1. The Petition is a reiteration of the allegations which the Court in Division had already ruled upon in the Assailed Decision and Assailed Resolution.
2. The Court may pass upon issues which were not raised in the administrative level.
3. The RO and GS who continued the audit of Star Songs, Inc.'s books of accounts were not authorized by a valid authority and thus, all of the subject tax assessments are void.

The Ruling of the Court En Banc

This Court resolves to **DENY** the **Petition** for lack of merit. ✓

¹⁵ *Id.*, pp. 13-29.

¹⁶ *Id.*, pp. 65-71.

**The Court *En Banc* has jurisdiction
over the present Petition.**

The jurisdiction of the Court *En Banc* is shown under ***Section 2 (a) (1), Rule 4 of the Revised Rules of the Court of Tax Appeals (“RRCTA”)***, to wit:

“SEC. 2. *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

x x x”

As clearly provided above, this Court has exclusive appellate jurisdiction over decisions or resolutions by the Court in Division in the exercise of its exclusive appellate jurisdiction over cases arising from administrative agencies such as the BIR. In the present Petition, petitioner is appealing the Assailed Resolution and Assailed Decision promulgated by the Court in Division which both ruled that the assessment issued by petitioner against respondent (for alleged deficiency IT, VAT, EWT, FWT, DST and compromise penalty for TY 2013 and for the period 1 January 2014 to 30 June 2014) is null and void since the ROs who conducted the audit and examination of Star Songs, Inc.’s books of accounts and other accounting records were not properly authorized to do so. Certainly, both the Assailed Resolution and Assailed Decision are decisions or resolutions of the Court in Division in the exercise of its exclusive appellate jurisdiction over an action by the BIR (*i.e.*, assessing a taxpayer for alleged deficiency taxes). Accordingly, the Court *En Banc* has exclusive appellate jurisdiction over such Assailed Resolution and Assailed Decision subject of the instant Petition.

As to the timeliness of the Petition’s filing, petitioner received the Assailed Resolution on 26 April 2022.¹⁷ Under ***Section 3 (b), Rule 8 of the RRCTA***, “[a] party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the

¹⁷ Annex “B”, Petition, *id.*, p. 55.

Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.”

On 6 May 2022, petitioner timely filed a Motion for Extension of Time to File Petition for Review.¹⁸ This Motion was granted by the Court *En Banc* in a Minute Resolution, dated 23 May 2022,¹⁹ which extended the period to file a Petition for Review by fifteen (15) days from 11 May 2022, the original deadline to file a Petition for Review (*i.e.*, fifteen (15) days from 26 April 2022), or until 26 May 2022. As petitioner filed the instant Petition on 26 May 2022, the Court *En Banc* properly assumed jurisdiction over the instant case.

An LOA is an instrument of due process. A taxpayer may still question the authority of the ROs who conducted an audit of its books of accounts and other accounting records even for the first time before this Court.

ROs conducting an examination of a taxpayer to determine the correct amount of taxes due should be armed with an LOA. This is a principle undeterred under our tax laws. An LOA is an instrument of due process for the protection of taxpayers. It guarantees that tax agents will act only within the authority given them in auditing a taxpayer.

The importance of an LOA as a due process requirement in issuing deficiency tax assessments was given paramount consideration by the High Court in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*,²⁰ to wit:

“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. – 

¹⁸ *Id.*, pp. 1-6.

¹⁹ *Id.*, p. 7.

²⁰ G.R. No. 222743, 5 April 2017, citing *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, 17 November 2010.

(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: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

X X X X

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 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.**

XXX XXX XXX

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

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.

XXX XXX XXX

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.**م

(Emphasis and underscoring, Ours.)

In fact, the Supreme Court even went further in highlighting the importance of an LOA as an instrument of due process when it recently ruled in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp. ("McDonald's Case")*²¹ that an LOA should specifically name the revenue officers who will pursue the tax audit, to wit:

"A. Due Process Requires Identification of Revenue Officers Authorized to Continue the Tax Audit or Investigation"

The issuance of an LOA prior to examination and assessment is a requirement of due process. It is not a mere formality or technicality. In *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, We have ruled that the issuance of a Letter Notice to a taxpayer was not sufficient if no corresponding LOA was issued. In that case, We have stated that '[d]ue process demands xx x that after [a Letter Notice] has serve its purpose, the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of the petitioner. Unfortunately, this was not done in this case.' The result of the absence of [an] LOA is the nullity of the examination and assessment based on the violation of the taxpayer's right to due process.

To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue officer who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA. If any revenue officer other than those named in the LOA conducted the examination and assessment, taxpayers would be in a situation where they cannot verify the existence of the authority of the revenue officer to conduct the examination and assessment. **Due process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the authorized revenue officers. In other words, identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment.**

We do not agree with the petitioner's statement that the LOA is not issued to the revenue officer and that the same is rather issued to the taxpayer. The petitioner uses this argument to claim that once the LOA is issued to the taxpayer, 'any' revenue officer may then act under such validly issued LOA.

The LOA is the concrete manifestation of the grant of authority bestowed by the CIR or his authorized representatives to the revenue officers, pursuant to Sections 6, 10(c) and 13 of the NIRC. Naturally, this grant of authority is issued or bestowed upon an agent of the BIR, i.e., a revenue officer. Hence, petitioner is mistaken to characterize the LOA as a

²¹ G.R. No. 242670, 10 May 2021.

document ‘issued’ to the taxpayer, and that once so issued, ‘any’ revenue officer may then act pursuant to such authority.”
(Emphasis and underscoring, Ours.)

In the case at bar, petitioner contends that respondent is already estopped from questioning the authority of the ROs who audited Star Songs, Inc.’s books of accounts and other accounting records since it did not raise this issue at the administrative level. This is terribly misplaced.

The taxpayer’s right to know the specific revenue officers who are authorized to examine his or her books of accounts and other accounting records is a due process requirement not only enshrined in the *NIRC* but also protected by the **1987 Constitution**. It protects taxpayers from unnecessary encroachment by the State over its person and property. As such, the principle of estoppel can never justify the non-compliance with the LOA requirement. In *Commissioner of Internal Revenue v. BASF Philippines, Inc.*²² (“*BASF*”), the Court *En Banc* recognized the necessity and vitality of an LOA such that it may not be the subject of estoppel, viz.:

“As regards petitioner’s argument that respondent is estopped from questioning the authority of the ROs, the Court *En Banc* finds the same without merit. Estoppel cannot be applied in this case to ratify the validity of the assessments made. The authority of the ROs who conducted the audit are vital in the assessment process. It is provided by the rules. The assessments cannot be considered valid just because respondent actively participated in the audit conducted by the ROs who replaced the originally named ROs in the LOA.”

Simply put, an LOA must particularly state the revenue officers authorized to audit/investigate a particular taxpayer. Otherwise, if the new revenue officer assigned to take over the audit of a taxpayer (due to the resignation, transfer, or death of the previous revenue officer) is not provided an LOA specifically in his or her name, any resulting assessment arising from the audit conducted by such new revenue officer is null and void.

Further, as enunciated in *BASF*, above, a taxpayer’s continuous participation in the audit conducted by a revenue officer not armed with an LOA does not preclude the former from assailing the lack of authority of the latter in later proceedings especially before this Court. ✓

²² CTA EB No. 2323, CTA Case No. 9747, 2 August 2021.

A Memorandum or MOA cannot take the place of an LOA.

In the *McDonald's Case*, the Supreme Court declared that a Memorandum or MOA cannot be used as a substitute for an LOA. A Memorandum or MOA simply notifies a taxpayer of the transfer of an audit/investigation to another set of revenue officers. Unlike an LOA, a Memorandum or MOA does not show that the new set of revenue officers who will pursue the audit are properly authorized to do so. In contrast, and importantly, an LOA is a special grant of authority to a specific set of revenue officers to examine a taxpayer's books of accounts and other accounting records for purposes of determining the taxes due. To underscore this, the Supreme Court has ruled, as follows:

“B. The Use of Memorandum of Assignment, Referral Memorandum, or Such Equivalent Document, Directing the Continuation of Audit or Investigation by an Unauthorized Revenue Officer Usurps the Functions of the LOA

It is true that the service of a copy of a memorandum of assignment, referral memorandum, or such other equivalent internal BIR document may notify the taxpayer of the fact of reassignment and transfer of cases of revenue officers. However, notice of the fact of reassignment and transfer of cases is one thing; proof of the existence of authority to conduct an examination and assessment is another thing. The memorandum of assignment, referral memorandum, or any equivalent document is not a proof of the existence of authority of the substitute or replacement revenue officer. The memorandum of assignment, referral memorandum, or any equivalent document is not issued by the CIR or his duly authorized representative for the purpose of vesting upon the revenue officer authority to examine a taxpayer's books of accounts. It is issued by the revenue district officer or other subordinate official for the purpose of reassignment and transfer of cases of revenue officers.

The petitioner wants the Court to believe that once an LOA has been issued in the names of certain revenue officers, a subordinate official of the BIR can then, through a mere memorandum of assignment, referral memorandum, or such equivalent document, rotate the work assignments of revenue officers who may then act under the general authority of a validly issued LOA. But **an LOA is not a general authority to any revenue officer. It is a special authority granted to a particular revenue officer.**

The practice of reassigning or transferring revenue officers, who are the original authorized officers named in the LOA, and subsequently substituting them with new revenue officers who do not have a separate LOA issued in their name, is in effect a usurpation of the statutory power of the CIR or his duly authorized representative. The memorandum of assignment, referral memorandum, or such other equivalent internal

document of the BIR directing the reassignment or transfer of revenue officers, is typically signed by the revenue district officer or other subordinate official, and not signed or issued by the CIR or his duly authorized representative under Sections 6, 10(c) and 13 of the NIRC. Hence, the issuance of such memorandum of assignment, and its subsequent use as a proof of authority to continue the audit or investigation, is in effect supplanting the functions of the LOA, since it seeks to exercise a power that belongs exclusively to the CIR himself or his duly authorized representatives.”
(Emphasis, Ours.)

In the present case, LOA No. LOA-116-2015-00000012, dated 29 May 2015, was issued by OIC – Assistant CIR Nestor S. Valeroso of the LTS authorizing ROs Reynante Martirez and Shella Samaniego, and GS Rolando Balbido of RLTAAD-1, to audit and examine Star Songs, Inc.’s books of accounts and other accounting records for all internal revenue taxes including DST and other taxes for the period from 1 January 2013 to 30 June 2014 pursuant to a mandatory audit because of a merger/consolidation that took place which included Star Songs, Inc. as one of the parties to such event.

Subsequently, Ms. Shirley A. Calapatia, Chief of RLTAAD-1, issued an MOA No. LOA-116-2016-1914 referring the continuation of the audit/verification of Star Songs, Inc.’s internal revenue tax liabilities for the period 1 January 2013 to 30 June 2014, pursuant to LOA No. LOA-116-2015-00000012 to RO Carolyn V. Mendoza and GS Rosario A. Arriola.

Through the audit/examination conducted by RO Mendoza and GS Arriola of Star Songs, Inc.’s books of accounts and other accounting records, the PAN, FLD/FAN, and FDDA were issued against Star Songs, Inc. In effect, these ROs were able to issue the present deficiency tax assessments against Star Songs, Inc. through a mere MOA, despite the clear requirement that all revenue officers conducting an audit/investigation of a taxpayer should be properly authorized with an LOA.

It is noteworthy that assessments issued without the requisite LOA are inescapably void.²³

Consequently, due to the absence of an LOA authorizing RO Mendoza and GS Arriola, to examine Star Songs, Inc., the present deficiency tax assessments are void. Accordingly, no tax collection can be pursued based on these assessments.

²³ *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, 5 April 2017.

**The subject MOA cannot be treated
as a valid LOA.**

It may be argued that an LOA does not partake a particular form. Following this line of argument, any document may qualify as an LOA provided that the essential requisites of an LOA are present.

To be effective, an LOA must be issued either by respondent himself or by his duly authorized representative. Under *Section 13 of the NIRC*, the duly authorized representative is the Revenue Regional Director. Under *Section D (4) of Revenue Memorandum Order No. ("RMO") 43-90*, petitioner expanded the list of duly authorized representatives who may issue Letters of Authority:

- "1. Regional Directors;
2. Deputy Commissioners;
3. Commissioner; and
4. Other officials that may be authorized by the Commissioner for the exigencies of service."²⁴

Likewise, under *RMO 29-07*,²⁵ all LOAs shall be issued and approved by the Assistant CIR / Head Revenue Executive Assistants as the same positions are equivalent to a Revenue Regional Director.

Guided by the above, a Memorandum or an MOA may be considered a valid and effective LOA, provided that it was issued by any of the persons so named.

In the present case, the subject MOA, as observed by the Court in Division and as confirmed by the Court *En Banc*, was issued only by Ms. Shirley A. Calapatia, Chief of RLTD-1. Again, through this MOA, the audit of Star Songs, Inc. was transferred from ROs Martirez and Samaniego, and GS Balbido, to RO Mendoza and GS Arriola. A Chief of RLTD 1 is not among those listed above who are authorized to issue LOAs. Hence, the subject MOA cannot qualify as a valid LOA.

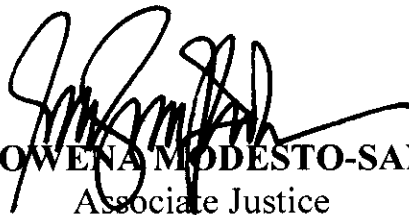
Considering that the ROs who examined and audited Star Songs, Inc.'s books of accounts and other accounting records are not armed with a proper LOA, the resulting deficiency tax assessment is undoubtedly null and void. ✓

²⁴ Commissioner of Internal Revenue v. Sugar Crafts, Inc., CTA EB No. 1757; CTA Case No. 8738, Resolution, dated 10 September 2019.

²⁵ Prescribing the Audit Policies, Guidelines and Standards at the Large Taxpayers Service, 26 September 2007.

WHEREFORE, the instant Petition is hereby **DENIED** for lack of merit. Accordingly, the Decision, dated 3 December 2021, and the Resolution, dated 18 April 2022, promulgated by the Court in Division are hereby **AFFIRMED**.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice

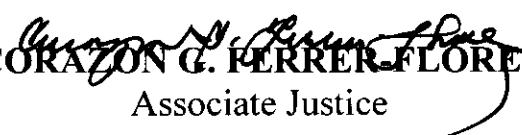

MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice

DECISION

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C E R T I F I C A T I O N

Pursuant to *Article VIII, Section 13 of the Constitution*, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

A handwritten signature in black ink, appearing to read 'Roman G. Del Rosario', with a large, stylized initial 'R' and 'D'.

ROMAN G. DEL ROSARIO

Presiding Justice