REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

BOHOL JSL ENTERPRISES, INCORPORATED,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **10575**

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
AUG 09 2024 8:15 AM

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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 21 March 2024)"[1] (**MR**) filed on 11 April 2024, with petitioner Bohol JSL Enterprises, Incorporated's (**petitioner**'s) "Comment (On Respondent's Motion for Reconsideration)"[2] (**Comment**) filed on 14 May 2024.[3]

The MR prays for the reversal of the Decision[4] promulgated on 21 March 2024 (**assailed Decision**) which cancelled and set aside the assessments issued against petitioner. The dispositive parts state –

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[1] Division Docket, Volume III, pp. 1162-1175.
[2] Id., pp. 1179-1186.
[3] Received by the Court on 17 May 2024.
[4] Division Docket, Volume III, pp. 1126-1161.

...

WHEREFORE, premises considered, the present Petition for Review filed on 08 July 2021 by petitioner Bohol JSL Enterprises, Incorporated is hereby **GRANTED**. Accordingly, the assailed Decision dated 21 May 2021, holding petitioner liable for deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT) and compromise penalty in the aggregate amount of ₱188,171,929.09, for taxable year (TY) 2010, is **CANCELLED** and **SET ASIDE**.

Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his behalf is hereby **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.

SO ORDERED.

...

In the MR, respondent reiterates his or her previous arguments in the Memorandum[5], stating that this Court erred in ruling that: (1) the Preliminary Assessment Notice (**PAN**) was not validly served; (2) the assessments had already prescribed; and, (3) Group Supervisor (**GS**) Algrecita A. Glovasa (**Glovasa**) was not duly authorized to conduct the audit of petitioner's books.

On the first contention, respondent argues that the PAN was validly served on petitioner through registered mail since the judicial pronouncement in *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*[6] merely requires for the presentation of the registry receipt to prove that petitioner received the mail containing the PAN. Moreover, petitioner admitted the receipts of the Letter of Authority (**LOA**), Notice of Informal Conference (**NIC**), Amended PAN, and Formal Letter of Demand (**FLD**) that is why it was able to file its Reply to the Amended PAN and Protest to the FLD to contest the assessments. Thus, there is no basis for the alleged violation of its due process.

On the second contention, respondent insists that the application of the ten (10) year period to assess is necessary as petitioner failed to disprove the substantial underdeclaration of 86.94% of its local purchases. He or she adds that under Part IV(D)(9)[7] of Revenue

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5 Id., pp. 1048-1073.
6 G.R. No. 185371, 08 December 2010.
7 IV. *Guidelines and Procedures*
...
D. *Investigating Offices*

Memorandum Order (**RMO**) No. 13-2012[8], absent a reply from Apo Cement Corporation on the Bureau of Internal Revenue's (BIR's) confirmation request can already consider that data in the request to be true and correct. Hence, there is a valid basis for petitioner's underdeclaration of purchases.

On the last contention, respondent claims that the whole assessment proceeding was valid and duly authorized since one LOA was duly issued pursuant to the mandate of RMO No. 8-2006[9] that only one LOA shall be issued to the same taxpayer for the same tax type and the same taxable period. Thus, any transfer or reassignment of the revenue officers (**ROs**) shall be duly supported by a Memorandum of Assignment, which is present in the instant case. Respondent avers further that the government's collection efforts will be greatly jeopardized should the Courts sustain the ruling that every RO who shall conduct a taxpayer's book must be actually named in the LOA.

In the Comment, petitioner claims that respondent failed to raise any new matter which was not considered in the assailed Decision, hence the MR must be denied outright. Nonetheless, to emphasize, petitioner maintains that the Court did not err when it ruled that: (1) respondent failed to prove petitioner's receipt of the PAN; (2) the period to assess had prescribed before respondent issued the Amended PAN and Amended FLD; and, (3) GS Glovasa was not authorized to continue the investigation of petitioner's books and accounting records.

We resolve.

An examination of respondent's arguments in the MR clearly shows these are a mere rehash of the issues that were painstakingly passed upon and discussed in the assailed Decision.

...
9. Send a Confirmation Request from TPI sources attesting to the veracity of the data included in the LN package (Annexes "I" and "I-1")

8 Revised Guidelines and Procedures in Handling Letter Notices Generated Through Third-Party Information Data Matching with Tax Returns.

9 Prescribing Guidelines and Procedures in the Implementation of the Letter of Authority Monitoring System (LAMS).

Although it seems futile to address again these arguments, We wish to underscore (especially for respondent's attention) the importance of the issuance of a new LOA in cases of reassignment to render the resulting assessment valid. Citing *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*[10] and RMO No. 43-90[11], in *Commissioner of Internal Revenue v. Manila Medical Services, Inc. (Manila Doctors Hospital)*[12], the Supreme Court repeats –

> ...
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> To emphasize, a 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. ...
>
> ...
>
> The importance of identifying the authorized revenue officer who will conduct the examination and assessment against a taxpayer was explained by the Court in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*:
>
>> 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.
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> Further, RMO No. 43-90 provides that:

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10 G.R. No. 242670, 10 May 2021.

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

12 G.R. No. 255473, 13 February 2023; Citations omitted, Italics in the original text; citations omitted and emphasis supplied.

x - x

> C. Other policies for issuance of L/As.
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> ...
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> 5. Any re-assignment/transfer of cases to another RO(s), and revalidation of L/As which have already expired, shall require the issuance of a new L/A, with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As.

Evidently, contrary to the CIR's argument, if the revenue officers that were previously indicated in a LOA were reassigned or transferred to another case and as such, a new revenue officer will handle the case that was previously assigned to them, the issuance of a new LOA in favor of the new handling revenue officer is required. Therefore, without the new LOA, RO Evangelista was not authorized to conduct the examination and assessment of the tax liabilities of MMS because LOA No. 2007-0034491, dated July 14, 2009, was issued to "RO E. Demadura/J. Macuha and Group Supervisor J. Tabor of the Special Investigation and Division," and not to her.

To emphasize, the Court has consistently held that in cases where the BIR conducts an audit without a valid LOA, or in excess of the authority duly provided therefor, the resulting assessment shall be void and ineffectual. Hence, as a result of RO Evangelista's lack of authority, the assessment against MMS was therefore void.

...

WHEREFORE, premises considered, respondent Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision dated 21 March 2024)" filed on 11 April 2024 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice