REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

EXPEDITORS PHILIPPINES, INC.,
Respondent.

CTA EB NO. 2835
(CTA Case No. 9257)

Present:

Del Rosario, *P.J.*,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, *JJ.*

Promulgated:
FEB 26 2025 4:20 PM

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DECISION

RINGPIS-LIBAN, *J.*:

Before the Court *En Banc* is a Petition for Review[1] filed by the Commissioner of Internal Revenue (CIR) on December 11, 2023. The Petition for Review challenges the Decision dated June 29, 2023[2] (Assailed Decision) as well as the Resolution dated November 3, 2023[3] (Assailed Resolution) rendered by the Special First Division ("Court in Division")[4] of this Court in CTA Case No. 9257.

The respective dispositive portions of the Assailed Decision and Resolution are quoted hereunder:

[1] Court *En Banc's* Docket, pp. 6-15.
[2] *Id.*, pp. 17-33.
[3] *Id.*, pp. 35-38.
[4] Composed of Presiding Justice Roman G. Del Rosario, Associate Justice Catherine T. Manahan *(ponente)*, and Associate Justice Marian Ivy F. Reyes-Fajardo.

<u>**Assailed Decision:**</u>

"**WHEREFORE**, the Petition for Review is **GRANTED**. The FLD with Details of Discrepancies and Audit Results/Assessment Notices, all dated May 30, 2014, for deficiency income tax, IAET, WTC, EWT, VAT, FWT, FWVAT and DST; and, the FDDA dated January 12, 2016, all for taxable year 2009, are **CANCELLED** and **SET ASIDE.**

The Commissioner of Internal Revenue, his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of the foregoing assessments. This order of suspension is **IMMEDIATELY EXECUTORY** consistent with Section 4, Rule 39 of the Rules of Court, as amended.

SO ORDERED."

<u>**Assailed Resolution:**</u>

"**WHEREFORE**, the *Motion for Reconsideration (Decision of 29 June 2023)*, filed by respondent, is **DENIED**, for lack of merit.

SO ORDERED."

THE FACTS

The facts of the present case were laid down by the Court in Division in the Assailed Decision as follows:[5]

"Petitioner Expeditors Philippines, Inc. is a domestic corporation duly organized and validly existing under the laws of the Philippines, with principal office at the Pascor Bldg., 111 Pascor Drive, Sto. Niño, Parañaque City. It is engaged primarily in the business of logistics and freight forwarding.

Respondent is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of said office, including, among others, the power to cancel disputed assessments.

Petitioner received from the Bureau of Internal Revenue (BIR) the *Letter of Authority* (LOA) No. LOA-122-2010-00000107 dated September 20, 2010, authorizing Revenue Officers Ricardo Calma and Ma. Teresa Espino, and Group Supervisor Monica Zamora, to conduct an examination of the books of accounts and other accounting records of petitioner for all internal revenue taxes for the period January 1, 2009 to December 31, 2009.

[5] Court *En Banc's* Docket, pp. 17-20 (Citations omitted).

On June 14, 2012, petitioner executed a *Waiver of the Defense of Prescription under the Statute of Limitation of the National Internal Revenue Code*, which respondent accepted through Mr. Alfredo V. Misajon, OIC, Assistant Commissioner Large Taxpayer Service on June 20, 2012.

Thereafter, on March 25, 2013, petitioner received the letter dated January 15, 2013 (notice of informal conference) with *Details of Discrepancy*.

Subsequently, petitioner executed two (2) more *Waivers of the Defense of Prescription under the Statute of Limitation of the National Internal Revenue Code*, as follows:

Date Executed	***Date accepted by respondent***	***Accepted through:***
April 12, 2013	April 19, 2013	Mr. Alfredo V. Misajon, OIC, Assistant Commissioner Large Taxpayer Service
November 20, 2013	November 27, 2013	Mr. Alfredo V. Misajon, OIC, Assistant Commissioner Large Taxpayer Service

On April 21, 2014, petitioner received from respondent the *Preliminary Assessment Notice* (PAN) dated April 14, 2014, with *Details of Discrepancies*, for deficiency income tax, improperly accumulated earnings tax (IAET), WTC, EWT, VAT, FWT, FWVAT and DST, allegedly due for taxable year 2009.

Subsequently, respondent issued the *Formal Letter of Demand* (FLD) with *Details of Discrepancies* and *Audit Results/Assessment Notices*, all dated May 30, 2014, which petitioner received on June 2, 2014, assessing the latter for deficiency income tax, IAET, WTC, EWT, VAT, FWT, FWVAT and DST in the amount of P288,508,185.13, P23,717,518.08, P2,708,071.51, P21,137,249.02, P28,928,391.64, P25,173,653.19, P9,169,964.80, and P109,974.59, respectively, inclusive of increments, for taxable year 2009.

On July 1, 2014, petitioner, through counsel, filed its protest letter. Petitioner also filed its position paper (further explaining its protest) on September 1, 2014.

Respondent then issued the assailed FDDA dated January 12, 2016, which was received by petitioner on January 15, 2016, denying the protest of petitioner, and requesting the latter to pay for deficiency income tax, WTC, EWT, VAT, FWT, FWVAT, and DST, in the amounts of P333,439,317.00, P3,164,848.23, P24,685,526.16, P33,823,806.27, P29,400,317.59, P10,706,933.67 and P126,499.23, respectively.

Petitioner filed the present *Petition for Review (Re: Final Disputed Decision on Disputed Assessment)* on February 12, 2016. This case was initially raffled to this Court's Third Division.

On April 28, 2016, respondent posted his *Answer*. Petitioner filed its *Reply* on May 10, 2016. Thereafter, respondent transmitted to the Court the *BIR Records* on the assessment case of petitioner, consisting of 967 pages.

The Pre-Trial Conference was initially set on August 9, 2016.

On June 24, 2016, respondent posted a *Motion to Reset Pre-Trial Conference*, which the Court granted in its Resolution dated July 19, 2016. Thus, the Pre-Trial Conference was reset to and held on October 18, 2016. Prior thereto, *Respondent's Pre-Trial Brief* was filed on October 11, 2016, while *Pre-Trial Brief (for the Petitioner)* was filed on October 13, 2016.

Subsequently, on November 7, 2016, the parties submitted their *Joint Stipulation of Facts and Issues*. The Court then issued the Pre-Trial Order dated December 7, 2016.

Trial ensued."

On June 29, 2023, the Court in Division rendered the Assailed Decision.

Aggrieved, petitioner filed a Motion for Reconsideration[6] on July 26, 2023 which the Court in Division denied in the Assailed Resolution.

On November 22, 2023, petitioner filed a Motion for Extension of Time to File Petition for Review[7] which the Court *En Banc* granted in a Minute Resolution[8] dated December 5, 2023.

On December 11, 2023, petitioner filed the present Petition for Review via registered mail, within the extended period granted by this Court.

In a Minute Resolution dated January 22, 2024, this Court directed the respondent to file its Comment to the Petition for Review.[9]

On December 14, 2023, respondent filed its Comment (to Petition for Review).[10]

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[6] *Id.*, pp. 1-3.
[7] *Id.*, p. 5.
[8] *Id.*, pp. 6-15.
[9] *Id.*, p. 42.
[10] *Id.*, pp. 43-46.

In a Minute Resolution dated March 5, 2024, this Court referred the case to the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) for mediation.[11]

In a Minute Resolution dated May 15, 2024, this Court noted that the parties have decided not have their case mediated by PMC-CTA and, accordingly, submitted the case for decision.[12]

THE ISSUE

Petitioner submitted the following issue for this Court's decision, to wit:[13]

> "Whether respondent can be held liable for the deficiency income tax in the amount of Three Hundred Thirty Three Million, Four Hundred Thirty Nine Thousand Three Hundred Seventeen Pesos (Php333,439,317); deficiency Value-Added Tax in the amount of Thirty Three Million Eight Hundred Twenty Three Thousand Eight Hundred Six and Twenty Seven Centavos (Php33,823,806.27); deficiency withholding tax on compensation in the total amount of Three Million One Hundred Sixty Four Thousand Eight Hundred Forty Eight Pesos and Twenty Three Centavos (Php3,164,848.23); deficiency expanded withholding tax in the total amount of Twenty Four Million Six Hundred Eighty Five Thousand Five Hundred Twenty Six Pesos and Sixteen centavos (Php24,685,526.16); deficiency final withholding tax in the total amount of Twenty-Nine Million Four Hundred Thousand Three Hundred Seventeen Pesos and Fifty Nine centavos (Php29,400,317.59); deficiency final withholding VAT in the total amount of Ten Million Seven Hundred Six Thousand Nine Hundred Thirty Three Pesos and Sixty Seven Centavos (Php 10,706,933.67) and deficiency documentary stamp tax in the amount of One Hundred Twenty-Six Thousand Four Hundred Ninety Nine Pesos and Twenty Three Centavos (Php126,499.23) for taxable year 2009."

THE ARGUMENTS OF THE PARTIES

Petitioner solely argues that respondent is already estopped from raising the issue of the authority of the revenue officers who conducted the audit for taxable year ended December 31, 2009.

On the other hand, respondent counters that under the Revised Rules of the Court of Tax Appeals (RRCTA), this Court is not bound to adjudicate cases based only on issues agreed by the parties or raised during trial. Section 1, Rule

[11] *Id.*, p. 49.
[12] *Id.*, p. 51.
[13] *Id.*, pp. 11-12.

14 of the RRCTA expressly grants the CTA discretion to decide related issues necessary to achieve an orderly disposition of cases.

THE COURT *EN BANC'S* RULING

The Petition for Review lacks merit.

Timeliness of the Petition

The Court *En Banc* shall first determine whether the present Petition for Review was timely filed.

Section 3(b), Rule 8 of the RRCTA provides:

> "Rule 8 Procedure in Civil Cases
>
> xxx xxx xxx
>
> SEC. 3. *Who may appeal; period to file petition.* –
>
> xxx xxx xxx
>
> (b) 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**. xxx" (Emphasis supplied)

The records show that petitioner received the Assailed Resolution on November 8, 2023. Counting fifteen (15) days therefrom, petitioner had until November 23, 2023 within which to file his Petition for Review before the Court *En Banc.*

On November 22, 2023, however, petitioner filed via registered mail a Motion for Extension of Time to File Petition for Review,[14] which was granted in the Minute Resolution dated December 5, 2023.[15] The Court *En Banc* granted petitioner an additional period of fifteen (15) days from November 23, 2023 or until December 8, 2023 within which to file his Petition for Review before the Court *En Banc.* December 8, 2023 was declared a special nonworking holiday.[16] Accordingly, petitioner timely filed the present Petition for Review on December 11, 2023, well within the extended period.

[14] Court *En Banc's* Docket, pp. 1-3.
[15] *Id.*, p. 5.
[16] Republic Act No. 10966 (An Act Declaring December 8 of Every Year a Special Nonworking Holiday in the Entire Country to Commemorate the Feast of the Immaculate Conception of Mary, the Principal Patroness of the Philippines).

The Court in Division did not err in cancelling the subject assessment

After thorough evaluation of the factual antecedents of the present case, the arguments of the parties, as well as the relevant laws and jurisprudence on the matter, the Court *En Banc* finds that the present Petition for Review should be denied for lack of merit. Notably, petitioner merely recycled the arguments he previously raised in his Motion for Reconsideration before the Court in Division. As the records clearly show, these matters had already been thoroughly discussed and resolved by the Court in Division more particularly in the Assailed Resolution. Truth be told, there is nothing in his present Petition for Review that was not sufficiently passed upon by the Court in Division.

The following discussion provided by the Court in Division in its Assailed Decision as to why this Court is not precluded from taking cognizance of an issue not raised by the parties is very clear, and we quote:

> "It is settled that under the Revised Rules of the CTA, the CTA is not limited to the issues stipulated by the parties but it may also rule upon related issues necessary to achieve an orderly disposition of the case.
>
> The determination of the RO's authority is necessary in the achievement of an orderly disposition of the instant case, since the validity of the assessment emanates from the valid authority of the said RO. In the absence of an LOA, the assessment or examination is a nullity.
>
> In the instant case, LOA No. LOA-122-2010-00000107 dated September 20, 2010 authorized ROs Ricardo Calma and Ma. Teresa Espino, and Group Supervisor Monica Zamora to conduct the examination of petitioner's books of accounts and other accounting records for TY 2009. Subsequently, the case was reassigned to different ROs through a memorandum of assignment. There was no showing that a new LOA was issued to authorize the new ROs who continued the audit and investigation of petitioner's books of accounts and other accounting records for TY 2009. If the ROs who conducted the examination of the taxpayer are not duly authorized to do so, the assessment is inescapably void. A void assessment bears no fruit." *(Citations omitted)*

There is simply no merit in petitioner's contention that respondent should be deemed estopped from raising the issue of the authority of the revenue officers who conducted the audit on respondent's books. As the Supreme Court aptly explained in *Commissioner of Internal Revenue v. Kudos Metal Corporation*,[17] to wit:

[17] G.R. No. 178087, May 5, 2010.

> "As we have often said, the doctrine of estoppel is predicated on, and has its origin in, equity which, broadly defined, is justice according to natural law and right. **As such, the doctrine of estoppel cannot give validity to an act that is prohibited by law or one that is against public policy.** It should be resorted to solely as a means of preventing injustice and should not be permitted to defeat the administration of the law, or to accomplish a wrong or secure an undue advantage, or to extend beyond them requirements of the transactions in which they originate. Simply put, the doctrine of estoppel must be sparingly applied." *(Emphasis supplied and citations omitted)*

Guided by the above precepts, this Court holds that estoppel cannot be validly invoked to excuse petitioner's non-compliance with the mandatory requirement of issuing a separate or amended LOAs in cases of re-assignment or transfer of revenue officers originally named in the LOA and substituting or replacing them with new revenue officers to continue the audit or investigation. To rule otherwise would be to countenance the violation of the legal and public policy underpinnings of the aforesaid rule as duly clarified by the Supreme Court in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,[18] in this wise:

> "The practice of reassigning or transferring revenue officers originally named in the Letter of Authority *(LOA)* and substituting or replacing 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 Commissioner of Internal Revenue *(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 Bureau of Internal Revenue *(BIR)* rules and regulations on the requirement of an LOA in the grant of authority by the CIR or his duly authorized representative to examine the taxpayer's books of accounts."

The Court in Division thus correctly ruled in the Assailed Decision 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.[19]

In sum, petitioner miserably failed to raise any compelling reason to warrant the modification much less reversal of the Assailed Decision and Resolution.

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

[19] See also *Commissioner of Internal Revenue v. Manila Medical Services, Inc. (Manila Doctors Hospital)*, G.R. No. 255473, February 13, 2023.

WHEREFORE, premises considered, the Petition for Review filed by the CIR on December 11, 2023 is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice