REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

COMPANIA DE GARAY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9540

Members:

CASTAÑEDA, JR., Chairperson,
MINDARO-GRULLA, and
BACORRO-VILLENA, *JJ.*

Promulgated:

JAN 08 2020 2:00 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For this Court's resolution is respondent's **Motion for Reconsideration Re: Decision dated 24 September 2019**, with petitioner's **Comment on Motion for Reconsideration (Re: Decision dated 24 September 2019)** filed through registered mail on November 7, 2019.

For easy reference, the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the instant Petition for Review is **GRANTED**. Accordingly, the assessments under Assessment Notice No. RR-16-099-082-2016 for deficiency Income Tax, Value Added Tax and Compromise

Penalty for taxable year 2012 are **CANCELLED** and **SET ASIDE**.

SO ORDERED."

In the instant motion, respondent asserts that the issuance of an LOA is not indispensable when it is respondent who issues an LN. On the other hand, petitioner counters by essentially reiterating the reasoning in the assailed Decision.

After considering the arguments of both parties, the Court rules in favor of petitioner.

It is worth stressing that a duly issued LOA is indispensable in assessment cases, even if it is respondent who issues an LN. This is *categorically* declared by the Supreme Court in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue.*[1] To reiterate:

> "The Court cannot convert the LN into the LOA required under the law even if the same was issued by the CIR himself. Under RR No. 12-2002, LN is issued to a person found to have underreported sales/receipts per data generated under the RELIEF system. Upon receipt of the LN, a taxpayer may avail of the BIR's Voluntary Assessment and Abatement Program. If a taxpayer fails or refuses to avail of the said program, the BIR may avail of administrative and criminal remedies, particularly closure, criminal action, or audit and investigation. Since the law specifically requires an LOA and RMO No. 32-2005 requires the conversion of the previously issued LN to an LOA, the absence thereof cannot be simply swept under the rug, as the CIR would have it. In fact Revenue Memorandum Circular No. 40-2003 considers an LN as a notice of audit or investigation only for the purpose of disqualifying the taxpayer from amending his returns."

Thus, for this reason alone, the Court finds the instant motion unmeritorious. Hence, the denial of the same is in order. *gr*

[1] G.R. No. 222743, April 5, 2017.

WHEREFORE, respondent's Motion for Reconsideration Re: Decision dated 24 September 2019 is **DENIED**, for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CIELITO N. MINDARO-GRULLA
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice