REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PRUDENTIALIFE PLANS, INC., herein represented by ATTORNEY DIONNE MARIE SANCHEZ, as Liquidator; and the Insurance Commission,
Petitioner,

\- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10339

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

FEB 06 2025 3:45 pm

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RESOLUTION

***FERRER-FLORES, J.*:**

For resolution is respondent's **Motion for Reconsideration Re: Decision dated 22 August 2024** (*Motion*) filed on September 19, 2024, with petitioner's **Comment/Opposition (Re: Motion for Reconsideration dated 19 September 2024)** filed on October 10, 2024.

The instant *Motion* assails the Decision of this Court (assailed Decision) promulgated on August 22, 2024, the dispositive portion of which reads:[1]

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**.
>
> Accordingly, the Formal Assessment Notice dated December 12, 2013 and the Final Decision on Disputed Assessment dated June 22, 2020, issued against petitioner, for the deficiency income tax, value-added tax, expanded withholding tax, withholding tax on compensation, fringe benefit tax, and documentary stamp tax, inclusive of interests in the amount of ₱1,307,337,964.92, and compromise penalties in the sum of ₱195,000.00, or in the aggregate amount of ₱1,307,532,964.92, for the

[1] Docket – Vol. III.

period April 1, 2008 to March 31, 2009, are **CANCELLED** and **SET ASIDE**.

Respondent and/or the concerned officers of the Bureau of Internal Revenue are hereby **ENJOINED** to **REFRAIN** from collecting the said amount from petitioner.

SO ORDERED.

In his *Motion*, respondent contends that the Court erred in granting a relief which was not prayed for by petitioner. He argues that respondent's right to due process was clearly violated as the alleged lack of authority of the revenue officers (ROs) was never raised by petitioner as an issue. Respondent also posits that petitioner was accorded due process and that it was able to participate in the administrative proceedings and was clearly informed of the identity of the ROs who will continue the investigation/audit. He claims that a new Letter of Authority (LOA) to be issued to the ROs who will continue the investigation/audit is violative of Revenue Memorandum Order (RMO) No. 8-2006, which mandates the issuance of only one LOA per taxable year to the same taxpayer. Finally, respondent posits that tax assessments are prima facie presumed correct and made in good faith.

On the other hand, petitioner asserts that the Court was well within the authority to consider the question on the scope of authority of the ROs who were not named in the LOA, even though the parties did not raise such issue in their pleadings. Further, petitioner avers that the Court correctly declared the subject assessment void since the Memorandum of Assignment (MOA) or any other similar document may not be considered as a valid substitute to an LOA. Lastly, petitioner insists that the issuance of a new LOA for the valid reassignment of a tax investigation to a different RO will not necessarily impede the collection of taxes.

The Court denies the *Motion for Reconsideration.*

A careful perusal of the instant *Motion* shows that the arguments raised herein have been determined and passed upon by this Court in the assailed Decision. Respondent failed to raise any novel reason for this Court to modify the assailed Decision.

In *Department of Energy vs. Commissioner of Internal Revenue*,[2] the Supreme Court, citing *Shangri-la International Hotel Management, Ltd. vs.*

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2 G.R. No. 260912 (Resolution), August 30, 2023.

Developers Group of Companies, Inc.,[3] held that, while a motion for reconsideration, by its nature, may tend to dwell on issues already resolved in the decision or resolution sought to be reconsidered, a circumstance which should not be an obstacle for a reconsideration, petitioners must still raise matters substantially plausible or compellingly persuasive to warrant a reversal of the Court's previous ruling.

At any rate, at the risk of being repetitive, the Court shall briefly address the arguments raised by respondent.

Respondent's contention that the Court should not have granted a relief which was not prayed for by petitioner is utterly baseless.

Section 1, Rule 14 of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA), reads as follows:

> RULE 14
> JUDGMENT, ITS ENTRY AND EXECUTION
>
> SECTION 1. – *Rendition of judgment* – xxx
>
> **In deciding a 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.** (Boldfacing supplied)

The Supreme Court confirmed this authority in *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*,[4] *viz*:

> **On whether the CTA can resolve an issue which was not raised by the parties, <u>we rule in the affirmative</u>.**
>
> **Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.** The text of the provision reads:
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> > **SECTION 1. *Rendition of judgment.* – xxx**
> >
> > **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.**

[3] G.R. No. 159938 (Resolution), January 22, 2007.
[4] G.R. No. 183408, July 12, 2017.

> **The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within authority to consider in its decision <u>the question on the scope of authority of the revenue officers who were named in the LOA</u> even though the parties had not raised the same in their pleadings or memoranda.** The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter. (Boldfacing and underlining supplied)

Clearly, as discussed in the assailed Decision, the Court has the power to review a related issue even if not raised by the parties necessary to achieve an orderly disposition of the case.[5]

The issue in the instant case involving the absence of a LOA and whether a MOA may replace the LOA in case of reassignment of ROs has been categorically settled by the Supreme Court in a number of cases.

As aptly discussed in the assailed Decision, an LOA is the authority given to the appropriate RO assigned to perform assessment functions.[6] The LOA commences the audit process and informs the taxpayer that it is under audit for possible deficiency tax assessment.[7] The RO, thus, must be granted an authority before the conduct of examination or assessment of taxpayer's account.[8]

The importance of the lack of the ROs' authority to conduct an audit cannot be overemphasized because it goes into the validity of the assessment. The lack of authority of the revenue officers is tantamount to the absence of a LOA itself which results in a void assessment. Being a void assessment, the same bears no fruit.[9] Thus, 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.[10]

While the Court is well aware of the possible reassignment of the ROs originally named in the LOA issued to the taxpayer, the Supreme Court has firmly ruled in *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corp., (McDonalds case)*[11] that a new or amended LOA is necessary for the substitute ROs to continue the audit or investigation, *viz*:

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5 *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017.
6 *Himlayang Pilipino Plans, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 241848, May 14, 2021.
7 *Commissioner of Internal Revenue vs. De La Salle University, Inc., et seq.*, G.R. Nos. 196596, 198841, and 198941, November 9, 2016.
8 *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010.
9 *Himlayang Pilipino Plans, Inc. vs. Commissioner of Internal Revenue*, supra.
10 *AFP General Insurance Corporation vs. Commissioner of Internal Revenue,* G.R. No. 222133, November 4, 2020.
11 G.R. No. 242670, May 10, 2021.

> x x x 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.

As noted by the Court, the original LOA No. 33828 dated August 4, 2009,[12] was issued by Officer in Charge – Assistant Commissioner of Internal Revenue (OIC-ACIR) of the Large Taxpayers Services (LTS) Zenaida G. Garcia, which authorized ROs Alexander Atienza, Melinda Lim, Nimfa Saga, and Gloria Morales, under Group Supervisor (GS) Theodore L. Maroket, to examine the books of accounts and other accounting records of petitioner for all internal revenue taxes for fiscal years (FY) 2009. However, OIC Chief – Regular Large Taxpayers Audit Division 2 (RLTAD 2) Edwin T. Guzman, assigned the case to RO Fadri and GS San Diego for the *"[c]ontinuation of the audit/investigation to replace the previously assigned Revenue Officer(s) who resigned/retired/transferred to another district office"* through the issuance of MOA No. LOA-125-2013-162 dated April 1, 2013.[13]

The Court found that neither RO Fadri nor GS San Diego was given the proper authority to continue the audit/investigation of petitioner's books of accounts for FY 2009. The Court likewise held that the subsequent issuance of LOA No. eLA201600094192 / LOA-125-2019-00000041 dated March 26, 2019[14] by OIC-ACIR-LTS Dizon did not cure the lack of authority of RO Fadri.

Clearly, RO Fadri and GS San Diego were not authorized to continue the investigation/audit of petitioner's books of accounts for FY 2009. The Court finds no sufficient reason to modify the assailed Decision.

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12 Exhibit "R-3", BIR Records, p. 1; Admitted Facts, par. 2, Pre-Trial Order dated April 26, 2022, Docket – Vol. 2, p. 738.

13 Exhibit "R-1", BIR Records, p. 370; Admitted Facts, par. 2, Pre-Trial Order dated April 26, 2022, Docket – Vol. 2, p. 738.

14 Exhibit "P-2", BIR Records, p. 630.

WHEREFORE, in light of the foregoing considerations, the **Motion for Reconsideration Re: Decision dated 22 August 2024** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice