

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF
INTERNAL REVENUE,
Petitioner,

CTA EB NO. 2630
(CTA Case No. 9876)

Present:

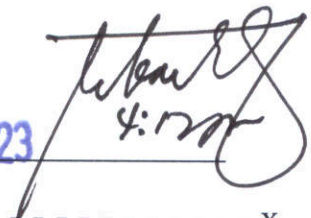
- versus -

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

INTEGREON MANAGED
SOLUTIONS
(PHILIPPINES), INC.,
Respondent.

Promulgated:

NOV 15 2023



X - - - - - X

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review¹ filed by petitioner Commissioner
of Internal Revenue (**petitioner/CIR**) pursuant to Section 11² of

¹ Filed on 03 June 2022, *Rollo*, pp. 1-21.

² **Sec. 11.** Section 18 of the same Act is hereby amended as follows:

SEC. 18. Appeal to the Court of Tax Appeals *En Banc*. - No civil proceeding involving matters arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA *en banc*."

Republic Act (RA) No. 9282.³ It seeks to reverse and set aside the Decision dated 07 December 2021⁴ (**assailed Decision**) and the Resolution dated 13 May 2022⁵ (**assailed Resolution**) of this Court's First Division⁶ in CTA Case No. 9876, entitled "*Integreon Managed Solutions (Philippines), Inc. v. Commissioner of Internal Revenue*". Both assailed Decision and Resolution granted respondent Integreon Managed Solutions (Philippines), Inc.'s (**respondent's/Integreon's**) prior Petition for Review and cancelled the Final Decision on Disputed Assessment⁷ (**FDDA**) and the Formal Assessment Notices⁸ (**FANs**) that the Bureau of Internal Revenue (**BIR**) had issued against it.

PARTIES OF THE CASE

Petitioner is the CIR who is charged with, among others, the duty of assessing and collecting internal revenue taxes. He or she holds office at the BIR, National Office Building, BIR Road, Diliman, Quezon City and may be served with summons and other legal processes through the undersigned counsels, with office address at Legal Division, BIR Region No. 8A – Makati City, 36th Floor Export Bank Plaza Building, Sen. Gil Puyat Ave. corner Chino Roces Ave., Makati City.

Respondent, on the other hand, is a corporation duly registered and existing under the laws of the Philippines, with principal office at 9th floor, 6750 Ayala Avenue, Makati City, Philippines. It is registered with the Securities and Exchange Commission (SEC) under SEC Registration No. CS200706361⁹. It has also been issued with BIR Tax Identification Number (TIN) 006-719-043-000.¹⁰ 

³ AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

⁴ *Rollo*, pp. 28-45.

⁵ *Id.*, pp. 23-26.

⁶ Penned by Associate Justice Catherine T. Manahan and concurred by Presiding Justice Roman G. Del Rosario and Associate Justice Marian Ivy F. Reyes-Fajardo.

⁷ Dated 01 June 2018, Exhibit "P-14", Division Docket, Volume II, pp. 688-690.

⁸ Dated 09 August 2017, *id.*, pp. 652-657.

⁹ Exhibit "P-1", *id.*, pp. 610-620.

¹⁰ Exhibit "P-2", *id.*, p. 622.

FACTS OF THE CASE

On 23 July 2015, respondent received Letter of Authority (LOA) No. AUDRo3/001545/2015 dated 16 July 2015¹¹, authorizing Revenue Officer (RO) Kristine Ami (Ami) and Group Supervisor (GS) Reynaldo Causapin (Causapin), to examine respondent's books of accounts for all internal revenue taxes for the period of 01 January 2014 to 31 December 2014, or for taxable year (TY) 2014. Then Regional Director Jonas DP Amora (RD Amora) issued and signed the said LOA.

On 17 May 2016, respondent received the BIR letter dated 16 May 2016¹² reassigning petitioner's audit to RO Talib A. Muti III (Muti) and GS Cadidia G. Carim (Carim), pursuant to the Memorandum of Assignment (first MOA) No. RR8-047-REA-0516-337 dated 06 May 2016.¹³ The Revenue District Officer, Atty. Shirley A. Calapatia (RDO Calapatia), signed the MOA.

Later, on 14 July 2017, petitioner issued a Preliminary Assessment Notice (PAN) Part I¹⁴, with Details of Discrepancies, and PAN Part II¹⁵, which both found respondent liable for alleged deficiency income tax (IT), value-added tax (VAT), withholding tax on compensation (WTC), expanded withholding tax (EWT), documentary stamp tax (DST) and compromise penalty. On 31 July 2017, in disagreement with the deficiency assessments, respondent filed its Protest to the PAN.¹⁶

Still later, petitioner issued the FAN Part I¹⁷, with Details of Discrepancies; the FAN Part II¹⁸; and, the Assessment Notices (ANs)¹⁹, all dated 09 August 2017. Unable to agree with the BIR's issuances, respondent filed its Protest (by way of a request for reinvestigation) against the FAN on 13 September 2017.²⁰ The said Protest was referred to RO Muti pursuant to MOA No. RR8-047-1017-745 dated 05 October 2017 (second MOA).²¹ 

¹¹ Exhibit "P-4", id., p. 624.

¹² Exhibit "P-5", id., p. 625.

¹³ Exhibit "P-6", id., p. 626.

¹⁴ Exhibit "P-8", id., pp. 628-632.

¹⁵ Id., p. 633.

¹⁶ Exhibit "P-9", id., pp. 634-645.

¹⁷ Supra at note 8.

¹⁸ Id.

¹⁹ See Exhibit "P-10", Division Docket, Volume II, pp. 646-651.

²⁰ See Exhibit "P-11", id., pp. 658-672.

²¹ Exhibit "P-7", id., p. 627.

Thereafter, on 10 November 2017²², respondent filed its supplemental protest letter. On 26 January 2018²³, it also submitted additional supporting documents to refute the findings of the alleged deficiency taxes. However, on 01 June 2018, petitioner denied the Protest to the FAN and issued the FDDA.²⁴

Aggrieved, on 19 July 2018, respondent (then petitioner) filed its Petition for Review²⁵ before this Court and the same was docketed as CTA Case No. 9876. It was raffled to the Court's First Division. After petitioner (then respondent) filed his or her Answer²⁶ thereto on 07 September 2018, respondent filed its Reply on 24 September 2018.²⁷

Subsequently, the case was referred to the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) for the possibility of amicable settlement.²⁸ However, the parties refused to have their case mediated; thus, the pre-trial conference was set.²⁹ Petitioner filed his or her Pre-Trial Brief on 09 November 2018³⁰ while respondent filed its Pre-Trial Brief on 01 March 2019.³¹

Thereafter, on 07 March 2019, the pre-trial proceeded.³² The parties submitted their Joint Stipulation of Facts and Issues (JSFI) on 27 March 2019³³, which the First Division approved in the Resolution dated 10 April 2019. The Court then issued the Pre-Trial Order dated 04 June 2019.³⁴

When trial ensued, respondent presented its witnesses, namely: (1) Zaira M. Congzon (**Congzon**), its Finance and Accounting Manager; (2) Ariel T. Lleba (**Lleba**), Tax Director of Navarro Amper & Co.; and, (3) Madonna Mia S. Dayego (**Dayego**), the Court-commissioned Independent Certified Public Accountant (ICPA). 

²² See “Supplemental Protest Letter and Submission of Additional Supporting Documents”, Exhibit “P-12”, id., pp. 673-685.

²³ Exhibit “P-13”, id., pp. 686-687.

²⁴ Supra at note 7.

²⁵ Division Docket, Volume I, pp. 12-37.

²⁶ Id., pp. 129-134.

²⁷ Id., pp. 138-150.

²⁸ See Resolution dated 14 November 2018, id., pp. 201-202.

²⁹ See Resolution dated 17 January 2019, id., pp. 209.

³⁰ Id., pp. 164-170.

³¹ Id., pp. 218-233.

³² See Order dated 07 March 2019, id., pp. 479-480.

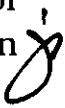
³³ Id., pp. 481-492.

³⁴ Id., pp. 532-546.

Congzon was the first to assume the witness stand where she identified her Judicial Affidavit³⁵ and testified that: (1) she is respondent's Finance and Accounting Manager; (2) BIR issued an LOA authorizing RO Ami and GS Causapin to conduct an audit of respondent's books of account for TY 2014; (3) respondent received the BIR letter dated 16 May 2016³⁶ which reassigned the audit to RO Muti and GS Carim pursuant to the MOA No. RR8-047-REA-0516-337 dated 06 May 2016³⁷; (4) due to the reassignment, respondent and its authorized representatives coordinated with RO Muti and GS Carim in relation to the audit; (5) after two (2) years of examination, petitioner issued the PAN, to which respondent filed its Protest; (6) petitioner also issued the FANs, which respondent also contested through a Protest (by way of a request for reinvestigation); (7) respondent submitted supplemental documents in support of its request for reinvestigation; (8) petitioner denied the Protest and issued the FDDA finding respondent liable for deficiency taxes; (9) respondent duly filed its judicial appeal with this Court to contest the deficiency assessments; and, (10) petitioner's assessments should be cancelled for lack of factual and legal basis.

On cross-examination, Congzon stated that the BIR letter dated 16 May 2016³⁸ was addressed to respondent's President. Also, she clarified that the Protest to the PAN was addressed to CIR Caesar Dulay (Dulay), through RD Glen A. Geraldino (RD Geraldino). However, the supplemental documents were addressed and submitted to RO Muti.³⁹ On redirect examination, Congzon answered that although the said BIR letter was addressed to respondent's President, she received the document when it was delivered to the office.⁴⁰ No re-cross examination was conducted.

On the Court's inquiry about the signatory of the MOA, Congzon confirmed that it was RDO Calapatia who signed it.⁴¹

As for Lleva, he testified that: (1) he is the Tax Director of respondent's external consultant, Navarro Amper & Co.; (2) in 

³⁵ Exhibit "P-22", Judicial Affidavit of Zaira M. Congzon, id., Volume II, pp. 794-815.

³⁶ Exhibit "P-5", supra at note 12.

³⁷ Exhibit "P-6", supra at note 13.

³⁸ Exhibit "P-5", supra at note 12.

³⁹ TSN dated 28 May 2019, pp. 8-11.

⁴⁰ Id., p. 12.

⁴¹ Id., p. 13.

connection with the assessment of respondent's books, he met with RO Muti and GS Carim to discuss the issues and arguments on petitioner's deficiency assessments; and, (3) he sent a letter addressed to RO Muti and GS Carim to request additional time to submit supplemental documents in relation to respondent's Protest to the FAN.⁴²

On cross-examination, Lleba declared that, in relation to the audit, he met with RO Muti and GS Carim on the first meeting. For the second meeting, it was only RO Muti with whom he had discussed the issues regarding petitioner's deficiency assessments. No redirect examination was conducted.⁴³

Dayego was the last to take the witness stand.⁴⁴ In her Judicial Affidavit⁴⁵, she declared that: (1) she is the court-commissioned ICPA; (2) she performed audit procedures to verify the documents in relation to respondent's petition of setting aside petitioner's deficiency assessments; (3) the results of her audit were summarized in the ICPA Report dated 14 May 2019⁴⁶ and the softcopies thereof were stored in a USB which she filed with this Court; and, (4) based on her audit, she recommended that ₱17,982,795.77 out of the alleged deficiency assessment of ₱27,438,415.12 should be reversed.

During her cross-examination, Dayego explained that in the process of verifying respondent's purchases and expenses, she was able to trace the aforesaid items of deficiency from the general ledgers, statement of accounts, and official receipts. No redirect examination was conducted.⁴⁷

Later, responding to the Court's query as regards the difference between the recommended reversal of ₱17,982,795.77 and the basic deficiency tax assessment of ₱27,438,415.12, Dayego answered that both parties failed to provide their respective supporting documents and/or factual bases for the said assessments, rendering her unable to verify or

⁴² Exhibit "P-23", Judicial Affidavit of Ariel T. Lleba, Division Docket, Volume II, pp. 816-822.

⁴³ TSN dated 28 May 2019, pp. 21-22.

⁴⁴ See Order dated 16 July 2019, Division Docket, Volume I, pp. 573-574.

⁴⁵ Exhibit "P-26", Judicial Affidavit of Madonna Mia S. Dayego, id., pp. 551-567.

⁴⁶ Filed on 21 May 2019, id., Volume II, pp. 856-966.

⁴⁷ TSN dated 16 July 2019, pp. 10-16.

confirm the information and provide any recommendations on the said discrepancy.

Subsequently, respondent filed its Formal Offer of Documentary Exhibits⁴⁸ (FOE) on 04 September 2019, to which petitioner filed his or her Comment thereto.⁴⁹ Respondent also filed its Reply (to the Comment)⁵⁰ and Motion to Admit Supplemental [FOE]⁵¹ on 03 October 2019 and 10 December 2019, respectively. After petitioner filed a comment/opposition on the motion⁵², the Court admitted all of respondent's exhibits and noted some discrepancies.⁵³

Petitioner then presented his or her lone witness, RO Muti, who testified that: (1) he was assigned to conduct the audit of respondent's books for TY 2014; (2) respondent's request for reinvestigation to the FAN was referred to him pursuant to MOA No. RR8-047-1017-745 dated 05 October 2017⁵⁴; (3) after examination of the documents, he recommended the FDDA's issuance; and, (4) the Details of Discrepancies attached to the FDDA shows the factual and legal bases for each deficiency assessment.⁵⁵

On cross-examination, RO Muti confirmed that he was assigned to conduct the audit of respondent's books by virtue of an MOA signed by RDO Calapatia and without any corresponding LOA.⁵⁶ No redirect examination was conducted.⁵⁷ When the Court asked who signed the MOA, he replied that it was RDO Calapatia who signed it.⁵⁸ 

⁴⁸ Division Docket, Volume II, pp. 603-609.

⁴⁹ See Comment (To Petitioner's Formal Offer of Evidence/Documentary Exhibits dated September 04, 2019) filed on 09 September 2019, id., pp. 967-974.

⁵⁰ See Reply (Re: Respondent's Comment dated September 9, 2019), id., pp. 991-999.

⁵¹ See Motion to Admit Supplemental Formal Offer of Documentary Exhibits, id., pp. 1008-1010; Supplemental Formal Offer of Documentary Exhibits, id., pp. 1011-1013.

⁵² See Comment/Opposition (To Petitioner's Supplemental Formal Offer of Evidence/ Documentary Exhibits dated December 10, 2019), id., pp. 1025-1027.

⁵³ See Resolution dated 31 January 2020, id., pp. 1030-1034.

⁵⁴ Exhibit "P-7", supra at note 21.

⁵⁵ Exhibit "R-3", Judicial Affidavit of Revenue Officer Talib A. Muti III, Division Docket, Volume I, pp. 177-184.

⁵⁶ TSN dated 15 September 2020, pp. 17-23.

⁵⁷ Id., p. 23.

⁵⁸ Id., pp. 25-28.

On 18 September 2020, petitioner filed his or her FOE with Manifestation.⁵⁹ After respondent filed its Comment⁶⁰ thereto, the Court admitted petitioner's exhibits and directed the parties to file their respective memoranda.⁶¹ On 09 December 2020, both parties submitted their memoranda.⁶² On 18 January 2021, the First Division submitted the case for decision.⁶³

Later, or on 07 December 2021, the First Division promulgated its assailed Decision⁶⁴ cancelling and setting aside petitioner's deficiency assessments against respondent. The dispositive portion reads:

...

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**. Accordingly, the subject FAN dated August 9, 2017, and the FDDA dated June 1, 2018, assessing [respondent] for deficiency income tax, VAT, WTC, and EWT, for taxable year 2014, in the total amount of ₱44,224,123.68, inclusive of increments, are **CANCELLED** and **SET ASIDE**.

[Petitioner], his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** from taking any further action against [respondent] arising from the subject FAN dated August 9, 2017, and the FDDA dated June 1, 2018.

SO ORDERED.

...

In resolving respondent's *Petition for Review*, the First Division applied the principle laid down in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*⁶⁵ (**McDonald's**) and found that RO Muti was not authorized to continue the examination of respondent's books of accounts and other accounting records for TY 2014 through a separate or an amended LOA. The Court adds that since it was only RDO Calapatia who signed the first MOA (authorizing the reassignment of RO Muti to continue the audit of respondent's

⁵⁹ See [Petitioner's] Formal Offer of Exhibits with Manifestation, Division Docket, Volume II, pp. 1047-1051.

⁶⁰ See Comment (Re: [Petitioner's] Formal Offer of Exhibits with Manifestation dated September 18, 2020), id., pp. 1057-1062.

⁶¹ See Resolution dated 29 October 2020, id., pp. 1064-1065.

⁶² [Respondent's] Memorandum id., pp. 1066-1101; [Petitioner's] Memorandum, id., pp. 1105-1119.

⁶³ See Resolution dated 18 January 2021, id., p. 1123.

⁶⁴ Supra at note 4.

⁶⁵ G.R. No. 242670, 10 May 2021.

books), she usurped petitioner's power (particularly RD Amora's) to extend authority in the examination of a taxpayer's books. Thus, in the absence of an LOA in RO Muti's favor, the deficiency assessments were rendered null and void.

Expectedly, petitioner filed his or her Motion for Reconsideration⁶⁶ (MR) on 05 January 2022. The First Division, however, was unswayed and denied the same.⁶⁷

Aggrieved by the First Division's actions, petitioner filed his or her Petition for Review before the Court *En Banc* on 03 June 2022.

ISSUE

Before Us, petitioner raises the following issue for resolution, to wit:

WHETHER THE REVENUE OFFICER (RO), TALIB A. MUTI III, HAS THE PROPER AUTHORITY TO CONTINUE THE AUDIT AND EXAMINATION OF THE BOOKS OF ACCOUNT OF RESPONDENT INTEGREON MANAGED SOLUTIONS (PHILIPPINES), INC.'S INTERNAL REVENUE TAX LIABILITIES FOR TAXABLE YEAR (TY) 2014.

In support of the above issue, petitioner contends that in granting authority for the assessment of a taxpayer's books, he or she complied with the requisites under Section 13⁶⁸ of the National Internal Revenue Code (NIRC) of 1997, as amended. According to petitioner: (1) an RO was designated to perform the assessment; (2) the CIR's authorized representative, RD Amora, issued the LOA; and, (3) the LOA authorized an RO to examine and audit respondent's books for internal revenue taxes for TY 2014.

Petitioner also maintains that the first MOA was issued pursuant to the original LOA. In fact, the said MOA indicated the original LOA number when respondent's case was reassigned to RO Muti and referred 

⁶⁶ Division Docket, Volume II, pp. 1146-1162.

⁶⁷ Supra at note 5.

⁶⁸ SEC. 13. *Authority of a Revenue Officer.* — ...

to him the former's request for reinvestigation against the FAN. Thus, RO Muti's examinations were done validly pursuant to an LOA.

Petitioner adds that the first MOA and the LOA are essentially the same since both contain all the necessary requisites under Section 13 of the NIRC of 1997, as amended. Likewise, petitioner asserts that under Revenue Memorandum Order (RMO) Nos. 62-10⁶⁹ and 69-10⁷⁰, an MOA shall be issued for "reassignment for continuance of the audit/investigation of a case to another RO due to resignation/retirement/transfer of the original RO". Hence, having the CIR's grant of authority in writing, the first MOA was enough for RO Muti to continue the investigation even without a separate or an amended LOA.

Moreover, petitioner claims that the issuance of a single LOA is more efficient and administratively feasible to monitor the process of assessments and to accommodate the reassignments of BIR officers. It does not violate nor deprive a taxpayer of any procedural due process.

Further, petitioner stresses that RDO Calapatia's power to issue the MOA stems from RMO No. 08-06.⁷¹ Being the head of the investigating office that has jurisdiction over respondent, RDO Calapatia could not be deemed to have usurped the CIR's statutory power to authorize the assessment.

Lastly, petitioner alleges that respondent could no longer question RO Muti's authority to audit respondent since it never raised the issue during the assessment stage. On the contrary, its representatives even continued to transact with RO Muti regarding the alleged deficiency taxes. As respondent is now in estoppel, the results of the assessment could only be deemed as valid and that respondent is liable for the deficiency taxes.

Respondent, on the other hand, counters that the arguments in the instant petition are mere reiterations of those that were already passed upon in the First Division's assailed Decision and assailed

⁶⁹ Supplemental Guidelines on the Electronic Issuance of Letters of Authority and Related Audit Policies and Procedures.

⁷⁰ Guidelines on the Issuance of Electronic Letters of Authority, Tax Verification Notices, and Memoranda of Assignment.

⁷¹ Prescribing the Guidelines and Procedures in the Implementation of the Letter of Authority Monitoring System (LAMS).

Resolution. According to it, petitioner still failed to prove that RO Muti was authorized with an LOA to conduct the audit of respondent's books.

Citing the cases of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*⁷² (**Sony**), *McDonald's*⁷³, and *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*⁷⁴ (**Medicard**), respondent reiterates that an LOA is the authority given to the appropriate RO to perform assessment functions, and the issuance thereof stems from the power that belongs to the CIR or his or her authorized representatives only. Hence, a resulting assessment from an audit that was conducted without a valid LOA is necessarily void, such as this case.

RULING OF THE COURT EN BANC

After a careful review of the records of the case and the parties' contrasting arguments, the Court *En Banc* is constrained to deny the present petition.

Before the Court *En Banc* proceeds to discuss the issues raised, We deem it propitious to state at the outset that the instant petition was filed on time. As the records show, petitioner received the assailed Resolution of 13 May 2022 on 25 May 2022. Pursuant to Section 3(b)⁷⁵, Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA)⁷⁶, counting fifteen (15) days from the receipt of the assailed Resolution, petitioner had until 09 June 2022 to file the instant petition. Petitioner filed the instant case on 03 June 2022 and, thus, within the prescribed period. 

⁷² G.R. No. 178697, 17 November 2010.

⁷³ Supra at note 65.

⁷⁴ G.R. No. 222743, 05 April 2017.

⁷⁵ SEC. 3. *Who may appeal; period to file petition.*

...

(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. 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 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.

⁷⁶ A.M. No. 05-11-07-CTA.

REVENUE OFFICER (RO) TALIB A. MUTI III AND GROUP SUPERVISOR (GS) CADIDIA G. CARIM WERE NOT DULY AUTHORIZED TO CONTINUE WITH THE EXAMINATION AND INVESTIGATION OF RESPONDENT'S BOOKS FOR TAXABLE YEAR (TY) 2014.

Responding to the central issue in this present petition and contrary to petitioner's claim (that an MOA sufficiently clothes an RO with authority to examine and investigate a taxpayer's tax liability, or that it has the same force and effect as that of an LOA), the Court *En Banc* finds that the RO in this case (RO Muti) has not been duly vested (by the first MOA issued to him) with any valid authority to continue with respondent's audit.

The Court *En Banc* has been consistent in ruling that the RO tasked to examine the books of accounts of taxpayers must be authorized by an LOA. Otherwise, the assessment for deficiency taxes resulting therefrom is void. Section 6(A) of the NIRC of 1997, as amended, reads:

...

SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. —

(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.⁷⁷

...

Section 10(c) of the NIRC of 1997, as amended, provides: 

...

SEC. 10. Revenue Regional Director. — Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the **Revenue Regional Director** shall, within the region and district offices under his jurisdiction, among others:

...

(c) **Issue Letters of Authority** for the examination of taxpayers within the region[.]⁷⁸

...

In relation to the above, Section 13 of the NIRC of 1997, as amended, likewise requires that the RO assigned to examine the taxpayer's books of accounts must be armed with an LOA, viz:

...

SEC. 13. Authority of a Revenue Officer. — Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a **Letter of Authority issued by the Revenue Regional Director**, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.⁷⁹

...

Under the said provision, an RO must be clothed with authority, through an LOA, to conduct the audit or investigation of the taxpayer. Absent such grant of authority through an LOA, the RO cannot conduct the audit of taxpayer's books of accounts and other accounting records because such right is statutorily conferred only upon petitioner.

Corollarily, Section D(4) of RMO No. 43-90⁸⁰ dated 20 September 1990, provides: 

⁷⁸ Emphasis supplied.

⁷⁹ Emphasis supplied.

⁸⁰ Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit dated 20 September 1990.

...

4. For the proper monitoring and coordination of the issuance of Letter of Authority, the only BIR officials authorized to issue and sign Letters of Authority are the **Regional Directors**, the **Deputy Commissioners** and the **Commissioner**. For the exigencies of the service, other officials may be authorized to issue and sign Letters of Authority but only upon prior authorization by the Commissioner himself.⁸¹

...

As can be gleaned from the foregoing, RO Muti's authority merely sprung from an MOA that RDO Calapatia issued. It is worthy to note that the first MOA dated 06 May 2016 and the corresponding change in RO and GS happened prior to the issuance of the PAN and FAN on 14 July 2017 and 09 August 2017, respectively.

In addition to the aforequoted Sections 6(A), 10(c) and 13 of the NIRC of 1997, as amended, which provide that only the CIR and his or her duly authorized representatives (*i.e.*, Deputy Commissioners, the Revenue Regional Directors, and such other officials as may be authorized by the CIR) may issue the LOA, **petitioner's own rules, specifically RMO No. 43-90⁸², mandate the issuance of a new LOA in cases of reassignment or transfer of examination to another RO.** It reads —

...

5. Any reassignment/transfer of cases to another RO(s), and revalidation of [LOAs] which have already expired, shall require the issuance of a new [LOA], with the corresponding notation thereto, including the previous [LOA] number and date of issue of said [LOAs].⁸³

...

Also, as stated in the assailed Decision and citing the case of *McDonald's*⁸⁴, the Supreme Court has already highlighted the difference between an MOA and an LOA in this wise:



⁸¹ Emphasis supplied.

⁸² Supra at note 80.

⁸³ Emphasis and underscoring supplied.

⁸⁴ Supra at note 65; Emphasis supplied.

...

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**.

...

Applying the above principles to the case at bar, the first MOA that RDO Calapatia signed, does not and cannot confer authority to RO 

Muti and GS Carim to continue the audit or investigation of respondent's books of accounts for TY 2014. As both are not authorized through an LOA, their investigation and subsequent assessments of respondent's tax deficiency could not be sanctioned.

Incidentally, while it may be gainsaid that *Mcdonald's* does not do away with the reassignment by the CIR himself or herself, such is not the case here.

In *Medicard*⁸⁵, the Supreme Court underscored the importance of an LOA, viz:

...

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. ...

...

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.**

...

... 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. ... 

...

⁸⁵

Supra at note 74; Citation omitted and emphasis supplied.

The Supreme Court, citing the case of *Sony*⁸⁶, went on to state:

...

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.

...

Further, the Supreme Court in *McDonald's*⁸⁷ concluded that:

...

In summary, We rule that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting 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 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 BIR rules and regulations, particularly RMO No. 43-90 dated September 20, 1990.

...

In this case, the records indisputably show that RO Muti and GS Carim continued the audit and/or investigation of respondent's books of account solely by virtue of an MOA.⁸⁸ Furthermore, only RDO Calapatia (an official who is *not* among those authorized to issue LOAs pursuant to existing laws and regulations, particularly Section 13⁸⁹ in relation to Section 10(c)⁹⁰ of the NIRC of 1997, as amended, Item D(4) of RMO No. 43-90⁹¹ and Item II(2)⁹² of RMO No. 29-07⁹³) signed the said MOA.



⁸⁶ Supra at note 72; Emphasis and underscoring supplied.

⁸⁷ Supra at note 65; Emphasis and underscoring supplied.

⁸⁸ Supra at note 13.

⁸⁹ Supra at p. 13.

⁹⁰ Supra at p. 12

⁹¹ Supra at note 80.

⁹² **II. AUDIT POLICIES AND GUIDELINES.**

...

2. All Letters of Authority (LOAs) shall be issued and approved by the Assistant Commissioner/ Head Revenue Executive Assistants.

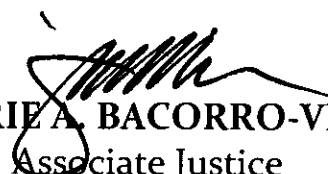
⁹³ Prescribing the Audit Policies, Guidelines and Standards at the Large Taxpayers Service.

As earlier stated, RO Muti and GS Carim could not be deemed to have been validly clothed with the proper authority to continue the audit and recommend the issuance of the assessments against respondent. Considering the absence of a new and valid LOA authorizing RO Muti to examine respondent's books of accounts and other accounting records as a result of the reassignment/transfer of the case to him, the deficiency tax assessments issued against it are inescapably void.

WHEREFORE, with the foregoing, petitioner Commissioner of Internal Revenue's Petition for Review filed on 03 June 2022 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 07 December 2021 and Resolution dated 13 May 2022, of the First Division in CTA Case No. 9876, entitled *Integreon Managed Solutions (Philippines), Inc. v. Commissioner of Internal Revenue*, are hereby **AFFIRMED**.

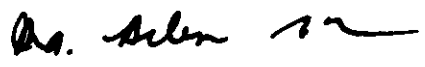
Accordingly, petitioner Commissioner of Internal Revenue or any person duly acting on his or her behalf is **ENJOINED** from pursuing any actions against respondent Integreon Managed Solutions (Philippines), Inc., relative to herein case.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON OFFICIAL BUSINESS

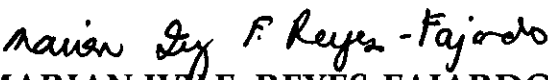
CATHERINE T. MANAHAN

Associate Justice

ON LEAVE

MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice


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 Section 13, Article VIII 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.


ROMAN G. DEL ROSARIO
Presiding Justice