REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB No. 2194
(CTA Case No. 8783)

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, JJ.

- *versus* –

LINDE PHILIPPINES, INC. (formerly, CONSOLIDATED INDUSTRIAL GASES, INC.),
Respondent.

Promulgated:
JUL 0 1 2021 4:16 p.m.

x--x

RESOLUTION

CASTAÑEDA, JR., J.:

For resolution of the Court *En Banc* is petitioner Commissioner of Internal Revenue's *Motion for Reconsideration [re: Decision dated January 5, 2021]*[1] filed via registered mail on January 25, 2021 and received by the Court on February 10, 2021, with respondent Linde Philippines, Inc. (formerly, Consolidated Industrial Gases, Inc.)'s *Comment (To Motion for Reconsideration Re: Decision dated 05 January 2021)*[2] filed via registered mail on March 15, 2021 and received by the Court on May 19, 2021.

[1] Court *En Banc*'s Docket, pp. 130-137.
[2] *Id.*, pp. 142-155.

Petitioner's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on January 5, 2021,[3] ("Assailed Decision") affirming the judgment of the Third Division ("Court in Division") of this Court in CTA Case No. 8783. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the present Petition for Review is **DENIED** for lack of merit, and the Decision dated March 28, 2019 and Resolution dated November 15, 2019 in CTA Case No. 8783 are **AFFIRMED**.
>
> **SO ORDERED.**"

In his *Motion*, petitioner insists that the conduct of audit and investigation and the resulting assessments are valid as the same were in accordance with law and rules.[4] He likewise maintains that the Final Assessment Notice is valid and that respondent is not entitled to its claim for refund.[5]

On the other hand, respondent, in its *Comment* submits that the arguments raised by petitioner in his *Motion* are mere reiterations of those raised in his Petition for Review, and that these arguments have already been judiciously passed upon by this Court in the Assailed Decision.[6] As such, no new matters were raised in the present *Motion*.

After careful evaluation of the arguments raised by petitioner vis-à-vis the records of the case, the Court *En Banc* resolves to deny petitioner's *Motion* for lack of merit. Petitioner failed to raise any new or substantial matter let alone any compelling reason to warrant the modification much less reversal of this Court's findings.

The Court *En Banc* maintains its position that the tax assessments issued by petitioner against respondent are intrinsically void due to absence of authority on the part of the revenue officers who conducted the examination of respondent's books of accounts and other accounting records for the period from October 1, 2006 to September 30, 2007. The Memorandum Referral issued by Mr. Conrado C. Lee, OIC-Chief of the Large Taxpayers Audit and Investigation Division I cannot validly grant Revenue Officer Melinda G. Lim and Group Supervisor Theodore Maroket the authority to conduct the audit examination pursuant to LOA No. 200800010431 dated December 17, 2008. As OIC-Chief of the Large Taxpayers Audit and Investigation Division I, Mr. Lee does not have any power to authorize audit examination of taxpayers or to effect any

[3] *Id.*, pp. 101-121.
[4] *Id.*, pp. 131-134.
[5] *Id.*, p. 135.
[6] *Id.*, pp. 142-143.

modification or amendment to a previously-issued LOA because, as mentioned earlier, only the CIR or his duly authorized representatives are granted such power.

In the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*,[7] the Supreme Court held that absent any prior authority on the part of the revenue officers who conducted the audit examination of taxpayer's books of accounts and other accounting records, the deficiency tax assessment arising therefrom is a nullity.

In light of the above findings, the Court *En Banc* likewise maintains its ruling that respondent is entitled to its claim for refund. Respondent's entitlement to the claim for refund was sufficiently discussed in the Assailed Decision and thus need not be repeated here.

WHEREFORE, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[7] G.R. No. 178697, November 17, 2010, 649 Phil. 519.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice