Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

ESPER R. VARGAS, JR.,
Respondent.

CTA EB No. 1470
(CTA Case No. 8750)

Present:

DEL ROSARIO, *PJ,*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, *and*
MANAHAN, *JJ.*

Promulgated:

OCT 20 2017 3:37 p.m.

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DECISION

CASANOVA, *J.*:

This Petition for Review[1] was filed, *via* registered mail, by the Commissioner of Internal Revenue on June 14, 2016 pursuant to Section 2 (a)(1)[2] Rule 4 of Administrative Matters No. 05-11-07-CTA, otherwise known as the "Revised Rules of the Court of Tax Appeals". It assails the Decision[3] dated March 8, 2016 and Resolution[4] dated May 27, 2016,

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[1] CTA *En Banc* Rollo, pp. 1-15

[2] "**SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;"

[3] Division Docket, pp. 417-453

[4] *Ibid.*, pp. 497-504

rendered by the Third Division of the Court of Tax Appeals (CTA) in CTA Case No. 8750, which cancelled and set aside his assessments for deficiency income and value-added taxes and Warrant of Garnishment in the aggregate amount of ₱99,478,226.19 for calendar year (CY) 2007.

Petitioner Commissioner of Internal Revenue (CIR), is the one vested by law with the authority to assess and collect all national internal revenue taxes, fees, and charges. He holds office at the Bureau of Internal Revenue (BIR) National Office Building, Agham Road, Diliman, Quezon City.

On the other hand, respondent Esper R. Vargas, Jr. is a Filipino of legal age, married and a resident of Marikina City. He may be served with pleadings, notices, orders, resolutions, decisions and other court processes through his counsel Fondevilla Gonzales & Fondevilla with office address at 2nd Floor, KTAK Bldg., Rodeo Drive, Laguna Bel-Air 2, City of Santa Rosa, Laguna.

On July 1, 2009, petitioner issued a Letter Notice (LN) under LN No. 045-RLF-07-00-00063 against respondent stating that, based on the computerized matching conducted by the BIR from third party sources data *vis-à-vis* respondent's value-added tax (VAT) returns, respondent under-declared his local purchases for CY 2007 in the total amount of ₱107,568,674.75. Petitioner attributed to respondent the 2007 sales of Nestlē Philippines, Inc. to Cazemart, Inc. and assessed deficiency income tax and VAT therefrom.

The said LN was sent to respondent at B4 L14 Catleya Modesta Village, San Mateo, Rizal 1820 ("Rizal address").

On October 5, 2010, petitioner issued a Follow-up Letter against respondent stating that due to his lack of action on the LN, the letter serves as a final notice.

The said letter was also sent to the Rizal address.

Then, the following material events transpired, *to wit:*

On October 18, 2010, petitioner issued a Notice of Informal Conference (NIC) for alleged deficiency income tax, VAT and withholding tax for CY 2007.

On June 24, 2011, petitioner issued a Preliminary Assessment Notice (PAN) for deficiency income tax and VAT for CY 2007.

On July 20, 2011, petitioner issued a Final Assessment Notice (FAN) with attached Assessment Notices for deficiency income tax and VAT for CY 2007.

On June 25, 2013, petitioner issued a Preliminary Collection Letter (PCL) for the collection of the alleged deficiency taxes.

On July 10, 2013, petitioner issued a Final Notice before Issuance of Warrant of Distraint and Levy (Final Notice).

On November 12, 2013, petitioner issued and constructively served a Warrant of Distraint and/or Levy (WDL) under WDL No. 10-1277-13 to respondent for the reason that the latter cannot be contacted.

Incidentally, the NIC, PAN, FAN, PCL, Final Notice, and WDL were all sent to the Rizal address.

Thereafter, due to respondent's inaction over the said deficiency assessments, petitioner issued Warrants of Garnishment to several commercial banks. In response thereto, the Bank of the Philippine Islands (BPI) advised petitioner on November 22, 2013 that it has in its possession the amount of ₱433,926.95 under the name of respondent.

In the meantime, on November 25, 2013, respondent received a letter from BPI, informing him that BPI took note of petitioner's Notice of Garnishment. Thus, on that same day, respondent, through his personal accountant, Ms. Emelita R. Manalastas, secured a copy of the FAN dated July 20, 2011 from the BIR.

On December 23, 2013 petitioner filed with the Court of Tax Appeals (CTA) a Petition for Review with Application for Temporary Restraining Order and Writ of Preliminary Injunction.

Accordingly, trial ensued thereafter.

On March 8, 2016, the CTA-Division promulgated a Decision[5] which found petitioner's deficiency tax assessments void and, consequently, cancelled the Warrant of Garnishment, the *fallo* of which reads as follows:

> "**WHEREFORE**, the instant Petition for Review is hereby **GRANTED**. Respondent's assessment for deficiency income tax and VAT for CY 2007 in the aggregate amount of Php99,478,226.19, inclusive of interest, surcharges, and penalties under the Final Assessment Notice dated July 20, 2011 issued pursuant to Letter Notice No. 045-RLF-07-00-00063, and the Warrant of Garnishment addressed to the Bank of the Philippine Islands are hereby **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED**."

Then on March 29, 2016, petitioner filed a Motion for Reconsideration[6], praying that the above Decision be reconsidered by ordering respondent to pay the deficiency tax assessments plus increments thereof until full payment. Respondent, on his part, filed on April 7, 2016, a Motion for Partial Reconsideration[7] praying that the said Decision be partially reconsidered by awarding him actual damages in the form of filing fees and attorney's fees.

On May 27, 2016, the CTA-Division promulgated a Resolution[8] which upheld the conclusions reached in the assailed Decision. The CTA-Division found no merit in petitioner's Motion for Reconsideration and, denied respondent's Motion for Partial Reconsideration for being filed out of time.

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[5] *Supra* No. 3
[6] Division Docket, pp. 454-464
[7] Ibid., pp. 468-474
[8] *Supra* No. 4

Aggrieved, petitioner filed the instant Petition for Review on June 14, 2016, praying that the Court *En Banc* render judgment upholding the validity of the deficiency tax assessments and that respondent pay the amount indicated therein plus increments until its full payment.

In a Resolution[9] dated July 1, 2016, the Court *En Banc* directed respondent to file a Comment within ten (10) days from receipt thereof. In compliance, respondent filed, on July 29, 2016, his Comment On Petition For Review[10].

On August 9, 2016, the Court *En Banc* issued a Resolution[11] which gave due course to the instant Petition and granted the parties a period of thirty (30) days within which to file their respective memoranda.

Thus, on September 21, 2016, petitioner filed his Memorandum[12], while respondent filed, through registered mail, his Memorandum[13] on October 6, 2016. Consequently, in the November 3, 2016 Resolution[14], the Court *En Banc* deemed the instant case submitted for decision.

In his Petition for Review, petitioner reiterated the sole issue[15] he previously raised in his Motion for Reconsideration with the CTA-Division, *viz.*, "[t]he 3rd Division of the Honorable Court of Tax Appeals erred in ruling that the assessments made against Respondent are void for failure to comply with due process, and cannot be final, executory and demandable."

In support of his allegations, petitioner insists that contrary to the Decision, respondent was accorded due process considering that petitioner actually sent, through registered mail, the deficiency tax assessment notices to respondent at his registered address. In fact, the notices' proof of service was duly identified by petitioner's witness, Revenue Officer Betty Esplana, in her testimony during trial before the CTA-Division. However, since respondent vacated his registered address without informing the BIR, it logically follows that petitioner

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[9] CTA *En Banc* Rollo, pp. 67-68
[10] *Ibid.*, pp. 69-75
[11] *Id.*, pp. 77-78
[12] *Id.*, pp. 79-90
[13] Id., pp. 91-102
[14] *Id.*, pp. 105-106
[15] The Ground, page 4 of the Petition for Review, CTA *En Banc* Rollo, p.4; Motion for Reconsideration filed on March 29, 2016, *Supra* No. 6

cannot personally serve the said assessment notices to respondent. As such, petitioner has no recourse but to mail the assessment notices which is, therefore, considered received by respondent *via* constructive mode of service. In view of the foregoing, respondent was, indeed, given the opportunity to file his protest to the FAN with attached Assessment Notices dated July 20, 2011 pursuant to Section 3.1.5 of Revenue Regulations (RR) No. 12-99.

Conversely, respondent argues that petitioner failed to present evidence that respondent had actually received the assessments. The testimony of petitioner's lone witness, Revenue Officer Betty Esplana, merely confirmed that manner by which petitioner furnished respondent with the assessment notices, but, however, only assumed that respondent duly received the same by admitting that she simply left the notices inside the mailbox at the old address. Petitioner's witness also testified that she could not produce the registry return card showing actual receipt by respondent of the said mail matter.

After due consideration of the arguments presented by the parties and thorough evaluation of the records of this case, *We* find no merit in the instant Petition.

Notably, the arguments raised by petitioner in his Petition for Review and Memorandum were reiterations of the arguments he presented in his Motion for Reconsideration with the CTA-Division. No new matter was presented to warrant reversal or modification of the assailed Decision and Resolution.

At any rate, irrespective of the merits of petitioner's arguments, the issue of whether petitioner violated respondent's right to due process was already thoroughly discussed in the CTA-Division. Perusal of the findings, provisions of law applied, and jurisprudence cited in the Decision show that they were duly supported by documentary and testimonial evidence. As such, *We* see no reason to deviate from the conclusions reached by the CTA-Division. Quoted hereunder is an excerpt which sums up the *juicio* of the said Decision, *viz.*:

> "It is elementary that a taxpayer must actually receive any assessment issued by *[petitioner]* in order for the same to be valid. While the presumption exists that constructive service of an assessment – provided the same is properly addressed with

postage prepaid and is actually mailed - is received by the taxpayer in the ordinary course of mail, the same is merely a disputable presumption, which can be directly denied by the taxpayer. In such an instance, *[petitioner]* has the burden of proving that the assessment was indeed received by the taxpayer.

The facts of this case show that the assessments made against *[respondent]*, and the subsequent collection thereon, were made in violation of *[respondent's]* right to due process. *[Respondent]* had no opportunity to assail the assessment made by *[petitioner]* as he was not even aware that an assessment had been made against him. Notices, letters, and other communications pertaining to the assessment and the subsequent collection thereon were sent by *[petitioner]* to *[respondent]* purportedly to the latter's address either by registered mail or by constructive delivery, if at all. There is no proof that *[respondent]* was informed of the CY 2007 assessment up until BPI informed *[respondent]* on November 25, 2013 of the garnishment made on his account." *(Citations Omitted)*

Apparently, there is nothing, if not little, left to discuss or clarify on the matter of due process in the instant case, save for one material aspect - the non-issuance of a Letter of Authority (LOA). Remarkably, in the assailed Decision, it was undisputed that petitioner did not issue an LOA to any of his revenue examiners to inspect and examine petitioner's books of account for CY 2007 for any tax liability.[16] It is unfortunate that this fact was left undiscussed considering the paramount significance of issuing an LOA in a tax deficiency assessment. As such, on this facet, *We* would like to expound.

Verily, after a return has been filed by a taxpayer, the CIR or his duly authorized representative may authorize the examination of a taxpayer and the assessment of the correct amount of tax.[17] In this regard, Section 13 of the National Internal Revenue Code (NIRC) of 1997, as amended, states that, subject to rules and regulations, a Revenue Officer, pursuant to a Letter of Authority, may examine taxpayers in order to collect the correct amount of tax or to recommend

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[16] *See* The Facts, page 2 of the Decision dated March 8, 2016, Division Docket, p. 418; Par. 2, Facts, Joint Stipulation of Parties filed on May 26, 2014, *Ibid.*, p. 253; and Pre-Trial Order dated June 18, 2014, *Id.*, p. 262

[17] Section 6, of the National Internal Revenue Code of 1997, as amended

the assessment of any deficiency tax due.[18] As guide in the performance of this function, the BIR, issued Revenue Memorandum Order (RMO) No. 43-90[19] on September 20, 1990 for the purpose of prescribing a revised policy guidelines for the audit/investigation and issuance of LOAs to audit. The said RMO specifically states that, all audits/investigations, whether field audit or office audit, **should** be conducted under a Letter of Authority.[20]

Thereafter, on March 17, 2000, the BIR issued Revenue Audit Memorandum Order (RAMO) No. 1-00[21] which updated the Handbook on Audit Procedures and Techniques. The RAMO enumerates how a revenue officer should conduct a preliminary approach in tax examinations, *viz.*:

> "C. Serving of Letter of Authority
>
> 2.1 **On the first opportunity of the Revenue Officer to have personal contact with the taxpayer, he should present the Letter of Authority (LA)** together with a copy of the Taxpayer's Bill of Rights. The LA should be served by the Revenue Officer assigned to the case and no one else. He should have the proper identification card and should be in proper attire.
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> 2.2 **A Letter of Authority authorizes or empowers a designated Revenue Officer to examine, verify and scrutinize a taxpayer's books and records** in relation to his internal revenue tax liabilities for a particular period.

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[18] "**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." *(Emphasis Ours)*
[19] "AMENDMENT OF REVENUE MEMORANDUM ORDER NO. 37-90 PRESCRIBING REVISED POLICY GUIDELINES FOR EXAMINATION OF RETURNS AND ISSUANCE OF LETTERS OF AUTHORITY TO AUDIT"
[20] "C. Other policies for issuance of L/As.
1. All audits/investigations, whether field or office audit, should be conducted under a Letter of Authority. *x x x*"
[21] "UPDATED HANDBOOK ON AUDIT PROCEDURES AND TECHNIQUES VOLUME I (REVISION - YEAR 2000)"

> 2.3 **A Letter of Authority must be served or presented to the taxpayer within 30 days from its date of issue; otherwise, it becomes null and void unless revalidated.** The taxpayer has all the right to refuse its service if presented beyond the 30-day period depending on the policy set by top management. Revalidation is done by issuing a new Letter of Authority or by just simply stamping the words 'Revalidated on __________' on the face of the copy of the Letter of Authority issued." *(Emphases Ours)*

Needless to state, an audit and examination of a taxpayer's books of accounts should be performed in accordance with the procedures prescribed by law. Notably, the foregoing citations illustrates that the statements therein use the terms "must" and "should" which, applying the principle in statutory construction, impose a duty which is imperative and mandatory in nature. It affirms the rule that before any revenue officer can conduct an examination or assessment, there must first be a grant of authority.

By virtue, a Letter of Authority is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables the revenue officer to examine the books of accounts and other accounting records, in order to determine the correct tax liabilities of a particular taxpayer.[22]

Going back to the instant case, again, it was undisputed that no LOA was issued. The requirement of first having an authorization before an examination of a taxpayer may be made was not complied with. Time and again, *We* rule that a deficiency assessment issued without a valid authority is a nullity. As once held by the Supreme Court in the case of *COMMISSIONER OF INTERNAL REVENUE vs. SONY PHILIPPINES, INC.*,[23] "*x x x* 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."

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[22] Dakay Construction and Development Corporation vs. Commissioner of Internal Revenue, CTA EB No. 1294 (CTA Case No. 8265), September 20, 2016
[23] G.R. No. 178697, November 17, 2010

Going further, assuming *arguendo,* that respondent had indeed received petitioner's Letter Notice[24] (LN) dated July 1, 2009; petitioner still cannot seek refuge under an LN to justify his laxity for procedural due process. As held in the case of *MEDICARD PHILIPPINES, INC. vs. COMMISSIONER OF INTERNAL REVENUE,*[25] the Supreme Court settled the issue of whether an LN can be substituted for an LOA, the High Court explained that:

> "The following differences between an LOA and LN are crucial. First, an LOA addressed to a revenue officer is specifically required under the NIRC before an examination of a taxpayer may be had while an LN is not found in the NIRC and is only for the purpose of notifying the taxpayer that a discrepancy is found based on the BIR's RELIEF System. Second, an LOA is valid only for 30 days from date of issue while an LN has no such limitation. Third, an LOA gives the revenue officer only a period of 120 days from receipt of LOA to conduct his examination of the taxpayer whereas an LN does not contain such a limitation. Simply put, LN is entirely different and serves a different purpose than an LOA. Due process demands, as recognized under RMO No. 32-2005, that after an LN has serve its purpose, the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of the petitioner. Unfortunately, this was not done in this case.
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> Contrary to the ruling of the CTA *en banc*, an LOA cannot be dispensed with just because none of the financial books or records being physically kept by MEDICARD was examined. 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. The requirement of authorization is therefore not dependent on whether the taxpayer may be required to physically open his books and financial records but only on whether a taxpayer is being subject to examination.
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> The BIR's RELIEF System has admittedly made the BIR's assessment and collection efforts much easier and faster. The ease by which the BIR's revenue generating objectives is achieved is no excuse however for its non-compliance with the

[24] Exhibit "R-2", BIR Records, p. 2
[25] G.R. No. 222743, April 5, 2017

> statutory requirement under Section 6 and with its own administrative issuance. In fact, apart from being a statutory requirement, an LOA is equally needed even under the BIR's RELIEF System because the rationale of requirement is the same whether or not the CIR conducts a physical examination of the taxpayer's records: to prevent undue harassment of a taxpayer and level the playing field between the government's vast resources for tax assessment, collection and enforcement, on one hand, and the solitary taxpayer's dual need to prosecute its business while at the same time responding to the BIR exercise of its statutory powers. The balance between these is achieved by ensuring that any examination of the taxpayer by the BIR's revenue officers is properly authorized in the first place by those to whom the discretion to exercise the power of examination is given by the statute.
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> That the BIR officials herein were not shown to have acted unreasonably is beside the point because the issue of their lack of authority was only brought up during the trial of the case. What is crucial is whether the proceedings that led to the issuance of VAT deficiency assessment against MEDICARD had the prior approval and authorization from the CIR or her duly authorized representatives. Not having authority to examine MEDICARD in the first place, the assessment issued by the CIR is inescapably void." *(Citations Omitted)*

It is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law.[26] Considering the extensive machineries that the government has within its disposal, due process dictates that taxpayers must be properly informed and duly served of any tax deficiency assessments against them. Needless to say, the power to tax must be used justly and not treacherously in order to maintain the general public's trust and confidence in the government.

Hence, following the well-settled rule that a void assessment bears no fruit, petitioner's NIC, PAN, FAN, PCL, Final Notice, and WDL, cannot be validly used as bases for the issuance of a Warrant of Garnishment. For that reason, petitioner's assessment must fail.

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[26] Section 1, Article III, 1987 Philippine Constitution

WHEREFORE, the instant Petition for Review is hereby **DENIED** for lack of merit. The Decision dated March 8, 2016 and Resolution dated May 27, 2016 in CTA Case No. 8750 are both **AFFIRMED.**

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(With Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 1470** (CTA Case No. 8750)
	Present:
-versus-	**DEL ROSARIO**, *P.J.*, **CASTAÑEDA, JR.**, **BAUTISTA**, **UY**, **CASANOVA**, **FABON-VICTORINO**, **MINDARO-GRULLA**, **RINGPIS-LIBAN**, and **MANAHAN**, *JJ.*
ESPER R. VARGAS, JR., *Respondent.*	Promulgated:
	OCT 20 2017 3:37 p.m.

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CONCURRING OPINION

DEL ROSARIO, PJ.:

I concur in the denial of the Petition for Review filed by the Commissioner of Internal Revenue ***solely*** for the reason that the absence of a valid Letter of Authority (LOA), which authorizes the revenue officers to conduct an audit and investigation of respondent's books of accounts and other accounting records for calendar year ending December 31, 2007, rendered void *ab initio* the Final Assessment Notice with attached Assessment Notices, all dated July 20, 2011, issued against petitioner.

In ***Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.***,[1] the Supreme Court reiterated and confirmed the

[1] G.R. No. 183408, July 12, 2017.

power and jurisdiction of this Court to resolve the issue on the authority of revenue officers to conduct the audit, albeit the same was not raised by the parties in their pleadings or memoranda, *viz.*:

> "On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
>
> Under Section 1, Rule 4 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. – x x x
> >
> > 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.'
>
> The above section is clearly worded. **On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of revenue officers who were named in the LOA 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 supplied)*

For want of a valid LOA, ***Lancaster*** ultimately resolved to declare the assessment void, *viz.*:

> "In sum, and considering the foregoing premises, we find no cogent reason to overturn the assailed decision and resolution of the CTA. As the CTA decreed, Assessment Notice LTAID II IT-98-00007, dated 11 October 2002, in the amount of P6,466,065.50 for deficiency income tax should be cancelled and set aside. **<u>The assessment is void for being issued without valid authority</u>**. Furthermore, there is no legal justification for the disallowance of Lancaster's expenses for the purchase of tobacco in February and March 2008." *(Boldfacing and underscoring supplied)*

In other words, although the parties did not specifically put into issue the authority of the revenue officers to conduct the audit and investigation that ultimately led to the issuance of the deficiency tax assessment, the Court has the authority to rule upon matters which are vital in the disposition of the case; otherwise, the Court would abdicate its primary objective which is the just resolution of disputes brought before it.[2]

In the present case, the crux of the controversy revolves around whether respondent may be held liable for deficiency income tax and value-added tax for taxable year ending December 31, 2007

[2] Ramona T. Logronio vs. Roberto Taleseo, G.R. No. 134602, August 6, 1999.

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subject of the assessment issued by petitioner. **The issue about the revenue examiners' authority to conduct audit necessarily relates thereto as its absence makes the assessment a nullity.** The importance of the revenue officers' authority to conduct the audit cannot be over-emphasized as it goes into the issue of the validity of the assessment.

As cited in the *ponencia*, the Supreme Court's pronouncement in ***Medicard Philippines Inc. vs. Commissioner of Internal Revenue***[3] on the matter of the authority of revenue officers who conducted the audit and examination of the taxpayer is relevant. In *Medicard*, **the Supreme Court declared as void the disputed assessment for lack of an LOA authorizing the revenue officers to examine the taxpayer's books of account and other accounting records**.

Thus, in the absence of competent proof that the revenue examiners who conducted the audit and investigation of respondent's books of accounts and other accounting records for the calendar year ending December 31, 2007 were duly authorized pursuant to a valid LOA, I am of the view that the deficiency income tax and value-added tax assessment issued against respondent is void *ab initio*.

All told, I **VOTE** to **DENY** the Petition for Review filed by petitioner Commissioner of Internal Revenue.

ROMAN G. DEL ROSARIO
Presiding Justice

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