REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SECURITIES TRANSFER SERVICES, INC.,
Petitioner,

CTA Case No. 8961

Members:

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

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

APR 05 2019 10:53 Am

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RESOLUTION

CASTAÑEDA, JR., *J.:*

For resolution of this Court is respondent CIR's *Motion for Reconsideration Re: Decision dated 08 January 2019*[1] filed via registered mail on January 24, 2019 with petitioner's *Comment (to Respondent's Motion for Reconsideration Re: Decision dated 08 January 2019)*[2] filed on March 11, 2019.

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[1] Division Docket, Vol. V, pp. 2214-2222.
[2] *Id.*, pp. 2240-2245.

Respondent CIR moves for reconsideration of the Decision dated January 8, 2019,[3] (the "Assailed Decision") of this Court granting the Petition for Review. The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, the present Petition for Review is **GRANTED**. Accordingly, the deficiency income tax, VAT, WTC, EWT, and DST for taxable year 2009 as found in respondent's FDDA dated December 2, 2014 in the total amount of Three Million Nine Hundred Eighty-Seven Thousand Nine Hundred Thirty Pesos and 20/100 (₱3,987,930.20) are **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED**."

In his *Motion for Reconsideration*, respondent moves for reconsideration of the Assailed Decision on the basis of the following grounds: [4]

GROUNDS

> THE SECOND DIVISION ERRED IN APPLYING RMO 43-90 AND REQUIRING ANOTHER LETTER OF AUTHORITY IN CASES OF REASSIGNMENT OR REVENUE OFFICERS.
>
> THE SECOND DIVISION OF THE HONORABLE COURT ERRED WHEN IT CANCELLED THE ASSESSMENT ISSUED AGAINST RESPONDENT SOLELY ON THE GROUND THAT THE MEMORANDUM OF ASSIGNMENT WAS SIGNED BY A DIVISION CHIEF.

On the other hand, petitioner in its *Comment* disagrees with respondent and asserts that this Court did not err in applying RMO 43-90 in requiring another letter of authority in cases of reassignment of revenue officers.[5] Petitioner also avers that this Court did not err when it cancelled the assessment because the memorandum of assignment was signed by a division chief allegedly not authorized by the CIR.[6] It

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[3] *Id*, pp. 2194-2213.
[4] *Id.*, p. 2214.
[5] *Id.*, pp. 2240-2243.
[6] *Id.*, pp. 2243-2244.

added that RMO 8-06 is no longer controlling and RMO 12-07 is applicable and the interpretation therein is more in accordance with RMO 43-90, Section 13 of the NIRC, and the Supreme Court cases.[7]

After judicious review of the case records and the arguments raised by the parties, this Court resolves to deny respondent's *Motion for Reconsideration*. This Court stands by its ruling that the Memoranda of Assignment issued by OIC-Chief and Chief of the BIR Large Taxpayers Regular Audit Division 1 cannot clothe the revenue officers who actually conducted the examination of petitioner's books of accounts and other accounting records for taxable year 2009 with the requisite authority to conduct the same. This is due to the fact that the revenue officials who issued such Memoranda of Assignment have no power whatsoever to authorize examination of taxpayers for assessment purposes or to effect any modification or amendment to a previously issued LOA. Only the CIR or his duly authorized representatives have that power as mandated by Sections 6, 7, 10 and 13 of the National Internal Revenue Code of 1997, as amended. An OIC-Chief or even the Chief of LTS-RAD 1 are not considered as the CIR's duly authorized representatives.

WHEREFORE, respondent's *Motion for Reconsideration Re: Decision dated 08 January 2019* is **DENIED** for lack of merit.

SO ORDERED.

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

I CONCUR:

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[7] *Id.*, p. 2244.