REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

UPS SCS (PHILIPPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9462

Members:

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

Promulgated:
JUN 08 2020
10:56 a.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is Respondent's **Motion for Reconsideration**, filed by registered mail on October 21, 2019, and received by the Court on October 28, 2019, with Petitioner's **Comment (Re: Motion for Reconsideration dated October 21, 2019)**, filed on December 23, 2019.

In his Motion, Respondent seeks reconsideration of the Decision promulgated on September 24, 2019, in cancelling his deficiency assessments against Petitioner based on an invalid Letter of Authority (LOA), the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. Accordingly, the Final Decision on Disputed Assessment dated July 25, 2016 demanding payment for petitioner's deficiency IT, VAT, EWT, WTC, FBT, DST, IAET, and compromise penalties for calendar year 2010 in the total amount of ₱130,451,420.43 is hereby **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED**."

Respondent claims that, contrary to the above Decision, the deficiency taxes he issued to Petitioner for taxable year 2010 was legally anchored under paragraph IV F.2.e. Revenue Memorandum Order (RMO) Nos. 8-2006 and 62-2010, which allows the head of investigating office to issue a Memorandum of Assignment (MOA) in cases of reassignment/retirement or resignation of the previously assigned revenue officer (RO) named in the LOA.

According to Respondent, since the ROs named in this case under LOA No. 052-2011-00000461 were transferred/reassigned to different Revenue District Offices, OIC-Revenue District Officer Rosita Meniano of RDO No. 52-Parañaque City (as head of the investigating office) has the authority to issue MOA No. 052-1464-2015 dated February 26, 2015, authorizing RO Mariano Flores and group supervisor (GS) Bernard Urbano to continue the audit/examination of Petitioner's books of account or accounting records for taxable year 2010. Thus, the deficiency tax assessments for taxable year 2010 issued against Petitioner resulting from such audit should be upheld.

On the other hand, in its comment, Petitioner emphasizes the ruling in the Decision assailed by Respondent, reiterating that RO Flores and GS Urbano indeed had no authority to investigate Petitioner's books of accounts and other accounting records for CY 2010. Petitioner cites Section 10 and 13 of the National Internal Revenue Code (NIRC) of 1997, as amended, in claiming that the MOA did not validly grant RO Flores and GS Mariano authority to investigate Petitioner's books of accounts and other accounting records for CY 2010 since it is the Revenue Regional Director that clothed with authority to issue LOA and not revenue district officers.

After due consideration, this Court finds respondent's Motion for Reconsideration bereft of merit. A simple perusal of Respondent's Motion reveals that the argument raised therein was already passed upon and extensively discussed in the assailed Decision.

To reiterate, the power to authorize examination of a taxpayer and issue assessments is primarily lodged with respondent CIR, pursuant to Section 6(A) of the NIRC of 1997, as amended. On the other hand, the said power may be delegated **as expressly authorized** under Section 7, in relation to Sections 10 and 13 of the same Tax Code, to wit:

> "**SEC 7.** *Authority of the Commissioner to Delegate Power.*– The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with the rank equivalent to a **division chief or higher**, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner: *x x x.*

> **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:
>
> x x x
>
> (c) **Issue Letters of Authority** for the examination of taxpayers within the region;"
>
> **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 supplied)*

Evidently, the power to issue LOA in relation to the power of respondent to make assessments may be expressly delegated to the Revenue Regional Director.

In the present case, aside from the fact that RO Flores and GS Urbano were not among those originally named in LOA No. 052-2011-00000461,[1] the alleged MOA authorizing them to audit/examine Petitioner's books of account and other accounting records for CY 2010 were only signed by OIC-Revenue District Officer Rosita Ung-Meniano of RDO No. 52 and not by a Revenue Regional Director. As such, RO Flores and GS Urbano were considered to have acted without authority when they conducted the audit and examination of Petitioner's books of accounts.

In view of the foregoing, Respondent's deficiency assessments were correctly found to be invalid, as the same was deemed to have been issued without authority. Accordingly, this Court finds no cogent reason to modify or reverse the assailed Decision.

WHEREFORE, premises considered, Respondent's Motion for Reconsideration is **DENIED** for lack of merit.

[1] *See* page 17 of the Decision, docket (vol. IV), p. 1909.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice