REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2235** **(CTA CASE NO. 8980)**
	Present:
-versus-	DEL ROSARIO, *P.J.*, CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, *and* CUI-DAVID, *JJ.*
FPIP PROPERTY DEVELOPERS AND MANAGEMENT CORPORATION, Respondent.	**Promulgated:** APR 2 0 2022 8:54 p.m.

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RESOLUTION

CASTAÑEDA, JR., J.:

For resolution is petitioner's Motion for Reconsideration (Re: Decision dated 17 November 2021), which denied his petition for lack of merit, and respondent's Comment/Opposition (to the Motion for Reconsideration dated December 7, 2021).

Petitioner has raised no new matter for the reconsideration of the Court and merely reiterates the position that the taxpayer was not denied due process because it was able to participate in the administrative proceedings and present its side[1] and that it was clearly informed of the identity of the revenue officers who will continue the investigation or audit.[2]

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[1] *Rollo*, pp. 135-136.
[2] *Rollo*, pp. 136-140.

Petitioner *concedes* that a Referral Memorandum, which was issued by Chief of the Regular Large Taxpayers Audit Division 1, by itself, cannot be proof of the authority of the revenue officers named therein *but insists* that the same taken together with the Letter of Authority (LOA), issued by Commissioner Joel L. Tan-Torres, would suffice to prove that the revenue officers who continued the audit/investigation were empowered to do so.

In *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,[3] the Supreme Court clearly states that the use of *Referral Memorandum* directing the continuation of audit or investigation by an unauthorized revenue officer usurps the functions of the LOA. More specifically, as the facts of this case bear out, 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 names, is in effect a usurpation of the statutory power of the CIR or his duly authorized representative."

Accordingly, there is no compelling reason for the Court to modify or reverse its decision.

WHEREFORE, in view of the foregoing, the petitioner's Motion for Reconsideration (Re: Decision dated November 17, 2021) is **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
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

[3] G.R. No. 242670, May 10, 2021.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice