REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

ORIENT OVERSEAS CONTAINER LINE LTD., represented by OOCL (PHILIPPINES), INC.,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9179

Members:

CASTAÑEDA, JR., *Chairperson,*
MANAHAN, *JJ.*

Promulgated:
OCT 04 2018 10:48 am

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RESOLUTION

CASTAÑEDA, JR., *J.:*

For resolution of this Court is respondent Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration (Re: Decision promulgated 2 August 2018)* filed on August 15, 2018 with petitioner Orient Overseas Container Line Ltd.'s (OOCL) *Comment/Opposition (To the Commissioner of Internal Revenue's Motion for Reconsideration dated August 14, 2018)* filed on September 6, 2018.

Respondent assails the Decision dated August 2, 2018,[1] (the "Assailed Decision") of this Court granting petitioner's Petition for Review.

Respondent moves for reconsideration of the Assailed Decision based on the following grounds:[2]

1. The Honorable Court erred when it cancelled the assessment issued [by] respondent against petitioner on the ground that the revenue officer who conducted the audit was not named in the letter of authority; and

2. The Honorable Court erred in granting a relief that was not prayed for by petitioner. Respondent's basic right to fair play and due process was violated.

In its *Comment/Opposition,* petitioner asserts that this Court is not precluded from considering the issue on the lack of authority of the revenue officers to conduct the audit even if it was not raised during the proceedings.[3] Petitioner added that the authority of the revenue officers to conduct audit investigation goes into the validity of an assessment.[4] Thus, any assessment arising from the conduct of audit examination of a taxpayer's books of accounts by a revenue officer who is not duly authorized to do so is a complete nullity.[5]

Petitioner also argues that the lack of authority on the part of the revenue officers to conduct the audit investigation renders the deficiency tax assessment void.[6]

After judicious review of the arguments and counter-arguments raised by the parties as well as the relevant rules and jurisprudence on the matter, this Court finds no substantial matter much less any compelling reason that would warrant the modification let alone the reversal of the Assailed Decision. Petitioner's *Motion for*

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[1] Division Docket Vol. VI, pp. 2460-2475.
[2] *Id.,* pp. 2476-2477.
[3] *Id.,* p. 2501.
[4] *Id.,* p. 2502.
[5] *Id.*
[6] *Id.,* p. 2505.

Reconsideration is utterly devoid of any merit and thus, should be denied.

This Court already stressed in the Assailed Decision that while the lack of authority of the revenue officers to conduct the audit was not specifically raised as an issue, this Court is not precluded from taking cognizance of and rendering a ruling on the same. The decision of the Supreme Court in *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*[7] squarely serves as the legal basis on this particular matter.

This Court also maintains its position that the tax assessments issued by respondent against petitioner are intrinsically void because of absence of authority on the part of the revenue officers who conducted the examination of petitioner's books of accounts and other accounting records for the period from July 1, 2009 to June 30, 2010.

Based on the documentary evidence duly presented, the revenue officers named under LOA No. 125-2011-00000150 dated October 10, 2011 were different from those who actually examined petitioner's books of accounts and other accounting records for the period from July 1, 2009 to June 30, 2010. As the revenue officers who actually conducted the audit were not named in the said LOA, they cannot derive their authority therefrom. It was also established that these revenue officers conducted the audit on the basis of the Memorandum of Assignment No. LOA-125-2013-183 issued by Mr. Edwin T. Guzman, OIC-Chief of LTS-RLTAD II. As previously explained in the Assailed Decision, such Memorandum of Assignment cannot clothe these revenue officers with the requisite authority to conduct the audit of petitioner's books of accounts and other accounting records. This is due to the fact that the revenue official who issued such Memorandum of Assignment has 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 of LTS-RLTAD II is not one of the CIR's duly authorized representatives.

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

WHEREFORE, respondent's *Motion for Reconsideration (Re: Decision promulgated 2 August 2018)* is **DENIED** for lack of merit.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice