REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

R.A. TAGALA & CO. VENTURES, INC. (now RATC VENTURES, INC.), *Petitioner,*	**CTA Case No. 10217**
	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 10 2025 3:10 p.m.

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RESOLUTION

MANAHAN, *J.*:

For this Court's resolution is respondent Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration Re: Decision dated 19 July 2024* filed on August 12, 2024 with petitioner's *Opposition to Motion for Reconsideration* filed via accredited courier on September 6, 2024.

Respondent prays for the reversal of the Court's Decision dated July 19, 2024, the dispositive portion of which, reads as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **GRANTED**.
>
> Accordingly, the FLD and the Assessment Notices, both dated March 27, 2018 and the FDDA dated October 18, 2019 declaring petitioner liable for internal revenue tax deficiencies for TY 2014 are **CANCELLED** and **SET ASIDE**, for being **VOID**.
>
> Respondent or any person duly acting on his behalf is hereby **ENJOINED** from collecting or taking further action on the subject deficiency taxes against petitioner for TY 2014.
>
> **SO ORDERED.**"

Respondent sets forth the following sole argument in support of his Motion for Reconsideration, and we quote:

> "WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN RULING THAT THE INVESTIGATING REVENUE OFFICERS DO NOT HAVE THE AUTHORITY TO CONDUCT THE INVESTIGATION AND CONDUCT *(sic)* THE ASSESSMENT."

Respondent contends that the investigating revenue officers conducted the audit and investigation of petitioner's accounting records pursuant to a valid Letter of Authority (LOA) contrary to the Court's assailed conclusion. He maintains that an LOA was validly issued to petitioner naming therein Revenue Officer (RO) Agnes Rosal and Group Supervisor (GS) Mary Faye Quinto and that the subsequent Memorandum of Assignment (MOA) was later issued pursuant to said LOA, reassigning the investigation to RO Jimmy Belen, Jr. and GS Liza Lozada. Respondent clarifies that the term "pursuant to" based on Black's Law Dictionary means "a term meaning to conform to something, or something that is done in consequence of." In line with this definition, respondent suggests that the authority granted by the MOA emanates from the LOA, and as such continues until the completion of the investigation and does not result in the lack of authority of the new set of ROs nor in the invalidity of the deficiency tax assessment.

Respondent adds that there was no violation of petitioner's right to due process as it was duly notified that an investigation would be conducted on its tax records for taxable year (TY) 2014 and that it was informed that pertinent accounting records need to be submitted. He notes that petitioner was well aware that the ROs who conducted the said audit and investigation were different from the ones named in the LOA and did not object but actively participated in the investigation. Respondent emphasizes that there is no statutory requirement that the ROs be named in the LOA itself, and petitioner could not use this internal procedure to claim a vested right.

In its *Opposition to the Motion for Reconsideration*, petitioner maintains that the assailed Decision dated July 19, 2024 is based on the relevant laws, implementing rules and jurisprudence as applied to the facts of the case. Citing among others, the decision of the Supreme Court in the case of *Commissioner of Internal Revenue vs. McDonald's Philippines*

Realty Corporation[1] *(McDonald's* case*)* "that reassigning cases to new revenue officers by a mere MOA, Referral Memorandum or other similar documents which are typically signed only by the revenue district officer (RDO) and not by the CIR or his duly authorized representative (e.g. Regional Director, Deputy Commissioners, Assistant Commissioner), and not through a separate LOA is, in effect, a usurpation of the statutory power of the CIR or his duly authorized representative, and thus, invalid."

RULING OF THE COURT

We find respondent's arguments to be without merit.

The instant case is not novel as the Supreme Court in a number of cases, resolved the very same issue involving an LOA and the sufficiency (or insufficiency) of issuing a MOA for the continuation of the audit and investigation of a taxpayer's accounting records. The assailed Decision has elaborately cited the relevant laws and jurisprudence to emphasize the importance of issuing a new LOA to confer authority on the new set of officers who will continue the audit and investigation of a taxpayer's books of accounts and other accounting records.

It is well-established that the issuance of an LOA is part of due process and the absence thereof violates a taxpayer's right to due process.[2] An LOA is designed to ensure that the examination of a taxpayer's books of account and other accounting records is conducted only by the CIR himself or by his duly authorized representatives named in the LOA, pursuant to the clear wordings of Section 6 of the 1997 National Internal Revenue Code (NIRC), as amended, which reads as follows:

> "SECTION 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* -
>
> (A) Examination of Return and Determination of Tax Due. - After a return has been filed as required under the provisions of this Code, the **Commissioner** or **his duly authorized representatives** may authorize the examination

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[1] G.R. No. 242670, May 10. 2021.
[2] *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017.

> of any taxpayer and the assessment of the correct amount of tax[.]" *(Emphasis supplied)*

These duly authorized representatives or revenue officers base their authority upon an LOA issued by the CIR himself or by a Regional Director pursuant to Section 13 of the 1997 NIRC, as amended, quoted below:

> "SECTION 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)*

Revenue Memorandum Order (RMO) No. 43-90 issued by the CIR on September 20, 1990 identifies the officials authorized to issue and sign LOAs, and we quote:

> "D. Preparation and issuance of L/As
>
> xxx xxx xxx
>
> 4. For the proper monitoring and coordination of the issuance of the Letter of Authority, the only BIR officials authorized to issue and sign Letters of Authority are the Regional Directors, the Deputy Commissioners and the Commissioner. For the exigencies of the service, other officials may be authorized to issue and sign Letters of Authority but only upon prior authorization by the Commissioner himself."

As so often happens, the revenue officers named in the original LOA may not be able to complete their audit for various reasons such as transfer, re-assignment to another district, resignation, retirement, etc. and that a new set of officers will have to take over to continue and make their recommendation based on their findings. The only way that a taxpayer may be apprised of this development and to ensure that the revenue officers that will conduct the said examination have the proper authority is by means of an LOA containing their names. This was aptly discussed in the *McDonald's* case,[3] and we quote:

> "xxx xxx The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue officer who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA. If any revenue officer other than those named in the LOA conducted the examination and assessment, taxpayers would be in a situation where they cannot verify the existence of the authority of the revenue officer to conduct the examination and assessment. Due process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the authorized revenue officers. xxx xxx xxx."

In the fairly recent case of *Commissioner of Internal Revenue vs. Manila Medical Services, Inc. (Manila Doctors Hospital),*[4] the Supreme Court, remaining consistent with its position on this particular matter, succinctly ruled in this manner, thus:

> "Evidently, contrary to the CIR's argument, if the revenue officers that were previously indicated in a LOA were reassigned or transferred to another case and as such, a new revenue officer will handle the case that was previously assigned to them, the issuance of a new LOA in favor of the new handling revenue officer is required. Therefore, without the new LOA, RO Evangelista was not authorized to conduct the examination and assessment of the tax liabilities of MMS because LOA No. 2007-0034491, dated July 14, 2009, was issued to "RO E. Demadura/J. Macuha and Group Supervisor J. Tabor of the Special Investigation and Division." and not to her.
>
> To emphasize, the Court has consistently held that in cases where the BIR conducts an audit without a valid LOA, or in excess of the authority duly provided therefor, the resulting assessment shall be void and ineffectual. Hence, as a result of RO Evangelista's lack of authority, the assessment against MMS was therefore void."

WHEREFORE, premises considered, the CIR's *Motion for Reconsideration Re: Decision dated 19 July 2024* filed on August 12, 2024, is **DENIED** for lack of merit.

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[3] *Ibid.*
[4] G.R. No. 255473, February 13, 2023.

Accordingly, the Decision in the above-captioned case dated July 19, 2024, is hereby **AFFIRMED**.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice