REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

EXCLUSIVE NETWORKS-PH INC., formerly TRANSITION SYSTEMS PHILS. PTE LTD., INC. herein represented by MICHELLE G. MEJIA,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9689

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ.*

Promulgated:
SEP 20 2021 2:55 PM

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RESOLUTION

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent's**) Motion for Reconsideration[1] (**MR**) posted on 11 March 2021[2], with petitioner Exclusive Networks-PH Inc.'s (**petitioner's**) Comment-Opposition[3] filed on 17 June 2021.

The MR seeks the reversal of the Court's Decision promulgated on 23 February 2021[4] (**assailed Decision**). The dispositive portion of the assailed Decision reads:

> ...
> **WHEREFORE,** in view of the foregoing, the Petition for Review filed by petitioner Exclusive Networks-PH Inc. (formerly Transition Systems Phils. Pte Ltd., Inc.) is hereby **GRANTED.** Accordingly, the Formal Letter of Demand with Details of

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1 Division Docket, Volume II, pp. 1147-1151.
2 Received on 22 March 2021.
3 Division Docket, Volume II, pp. 1155-1160.
4 Id., pp. 1123-1146.

Discrepancies Demand No. 43A-B270-13 and Assessment Notices dated 23 January 2017 issued against petitioner representing deficiency income tax and value-added tax for taxable year 2013 are **CANCELLED** and **SET ASIDE.**

Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his behalf is **ENJOINED** from proceeding with the collection of the taxes arising from the Formal Letter of Demand with Details of Discrepancies Demand No. 43A-B270-13 and Assessment Notices dated 23 January 2017 in the amounts of P16,377,797.24 and P7,570,452·47, inclusive of interest, representing deficiency income tax and value-added tax, respectively, for taxable year 2013.

SO ORDERED.

. . .

In his MR, respondent contends that the Court erred in ruling that the Revenue Officer (**RO**) who continued the audit was not armed with a Letter of Authority (**LOA**). Respondent argues that reliance on Revenue Memorandum Order (**RMO**) No. 43-90[5] on the issuance of an LOA in cases of reassignment or transfer of cases to another RO is untenable.

Corollary, respondent avers that under RMO No. 8-2006[6], only one (1) LOA per taxable year may be issued to a taxpayer thus the need for him to issue a Memorandum of Assignment (**MOA**) to another RO to continue the audit.

Respondent further insists that there is no requirement that the RO must be identified in the LOA to have authority. He adds that there will be instances where ROs would either retire, be reassigned, become ill, or die, prior to the completion of the audit. That is the reason why either a memorandum, referral memorandum and/or a MOA are given to other ROs to continue the investigation made by previous ROs.

Lastly, respondent maintains that what is important is that the audit of the taxpayer has been previously authorized by an LOA and only those taxpayers who were notified of that LOA may be subject to

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5 SUBJECT: Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit.

6 SUBJECT: Prescribing Guidelines and Procedures in the Implementation of the Letter of Authority Monitoring System (LAMS)

examination by ROs. As a result, any RO authorized to examine such taxpayer would be doing so pursuant to the same LOA.

In its Comment-Opposition, petitioner counters that respondent's submission that any RO may peruse the books of a taxpayer so long as the latter has been issued an LOA cannot be countenanced as the Supreme Court has already established the significance and purpose of an LOA in the case of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[7] (**Sony**).

Petitioner adds that ordinarily, ROs have no power to examine books and records of a taxpayer, as their power only emanates from respondent himself, who, in turn, delegates this authority to subordinate officials, particularly the Revenue Regional Director. Thus, pursuant to RMO No. 43-90, a new LOA should have been issued by no less that the Revenue Regional Director in the event of reassignment or transfer of cases to other ROs.

We resolve.

After considering the arguments raised by both parties, We are constrained to deny respondent's MR.

It must be emphasized that respondent's legal arguments have already been squarely addressed by the Supreme Court in the cases cited in the assailed Decision.

Nonetheless, if only to put to rest any doubt as to the propriety of its ruling, the Court shall briefly discuss its reasons for the denial of the instant MR and the consequent affirmation of the Court's assailed Decision.

As to respondent's argument that issuance of a new LOA is not necessary whenever there is a reassignment or transfer of cases to a new RO, the Supreme Court already ruled in *Commissioner of Internal Revenue v. Composite Materials, Inc.*[8] that:

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7 G.R. No. 178697, 17 November 2010.
8 G.R. No. 238352, 12 September 2018; Citations omitted and emphasis supplied.

> ...
>
> **As regards the issue on Revenue Officer Mary Anne P. Cruz's (RO Cruz) authority to examine CMI's records, the provisions of the National Internal Revenue Code of 1997, as amended, are clear that a Revenue Officer may only examine the taxpayer's books pursuant to a Letter of Authority (LOA) issued by the Regional Director. This was reiterated by the Court in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, ruling that in the absence of an LOA, the assessment or examination is a nullity.**
>
> Here, the CTA en banc found that the LOA issued in relation to the examination of CMI's book of accounts does not specifically mention the name of RO Cruz. Thus, the examination conducted by RO Cruz and the assessment issued against CMI was correctly declared null and void.
>
> Moreover, the Court agrees with the CTA en banc that the Referral Memorandum issued by a Revenue District Officer directing RO Cruz to continue with the examination of CMI's records is not equivalent to an LOA nor does it cure RO Cruz's lack of authority. **To be sure, Revenue Memorandum Order No. 43-90, which specified the guidelines in the issuance of LOAs states that any reassignment or transfer of cases to another RO or revalidation of an expired LOA shall require the issuance of a new LOA.**
>
> ...

With respect to respondent's contention that a new RO need not be specifically named in the LOA as long as one has already been issued to a taxpayer, the same is likewise untenable.

On the contrary, it is clear in *Sony* that an LOA is given to an appropriate RO assigned to perform assessment functions and that such LOA empowers that said RO to examine the books of account and other accounting records of the taxpayer, *viz:*

> ...
>
> Based on Section 13 of the Tax Code, a Letter of Authority or LOA is the authority given to the **appropriate revenue officer assigned** to perform assessment functions. It empowers or enables **said revenue officer** to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax...
>
> ...
>
> Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment. Equally

> important is that the revenue officer so authorized must not go beyond the authority given. **In the absence of such an authority, the assessment or examination is a nullity**.[9]
>
> . . .

Therefore, it is clear that the specifically assigned RO must be named in the LOA and that only him or her may examine the books of account and other accounting records of a taxpayer pursuant to such LOA. Otherwise, the assessment is a nullity.

With the foregoing disquisition, the Court finds no cogent reason to disturb the assailed Decision.

WHEREFORE, respondent Commissioner of Internal Revenue's Motion for Reconsideration dated 11 March 2021 is hereby **DENIED** for lack of merit.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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

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[9] Citation omitted and emphasis supplied.