



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **December 5, 2022**, which reads as follows:

G.R. No. 261732 – PEOPLE OF THE PHILIPPINES, petitioner, versus VIVETECH CORPORATION/EDWIN B. LUMAGUE (President) and ROEDEL R. LUMAGUE (Treasurer), respondents.

x-----x

RESOLUTION

After reviewing the Petition for Review on *Certiorari*¹ (Petition) and its annexes, inclusive of the Court of Tax Appeals (CTA) *En Banc*'s Decision² dated November 5, 2021 and Resolution³ dated June 9, 2022 in CTA *EB* Crim No. 082, the Court resolves to **DENY** the Petition and **AFFIRM** the Decision and Resolution of the CTA since the petitioner, People of the Philippines, failed to sufficiently show that the CTA *En Banc* committed any reversible error as to warrant the exercise of this Court's discretionary appellate jurisdiction.

In the recent case of *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,⁴ the Court stressed that it was ending the Bureau of Internal Revenue's practice of substituting or replacing revenue officers with new ones without issuing a new or amended Letter of Authority (LOA) issued in their name. In ruling that audit examinations, and assessments arising therefrom, conducted by revenue officers who are not named in the LOA are void, the Court explained:

¹ *Rollo*, pp. 42-70.

² *Id.* at 71-93. Penned by Associate Justice Maria Rowena Modesto-San Pedro, with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, and Marian Ivy F. Reyes-Fajardo, concurring.

³ *Id.* at 94-97. Penned by Associate Justice Maria Rowena Modesto-San Pedro, with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, Marian Ivy F. Reyes-Fajardo, and Lanee S. Cui-David, concurring.

⁴ G.R. No. 242670, May 10, 2021.

The issuance of an LOA prior to examination and assessment is a requirement of due process. It is not a mere formality or technicality. In *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, We have ruled that the issuance of a Letter Notice to a taxpayer was not sufficient if no corresponding LOA was issued. In that case, We have stated that “[d]ue process demands x x x that after [a Letter Notice] has serve[d] its purpose, the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of the petitioner. Unfortunately, this was not done in this case.” The result of the absence of a LOA is the nullity of the examination and assessment based on the violation of the taxpayer’s right to due process.

To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his [or her] books of accounts. 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. In other words, identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment.

We do not agree with the petitioner’s statement that the LOA is not issued to the revenue officer and that the same is rather issued to the taxpayer. The petitioner uses this argument to claim that once the LOA is issued to the taxpayer, “any” revenue officer may then act under such validly issued LOA.

The LOA is the concrete manifestation of the grant of authority bestowed by the CIR or his [or her] authorized representatives to the revenue officers, pursuant to Sections 6, 10(c) and 13 of the NIRC. Naturally, this grant of authority is issued or bestowed upon an agent of the BIR, *i.e.*, a revenue officer. Hence, petitioner is mistaken to characterize the LOA as a document “issued” to the taxpayer, and that once so issued, “any” revenue officer may then act pursuant to such authority.⁵

Hence, the assessments against the taxpayer in this case were undoubtedly void. Since “[a] void assessment bears no valid fruit,”⁶ then there could be no civil liability that could validly be adjudged against the taxpayer.

All told, the Court finds that the CTA *En Banc* did not err in ruling that no civil liability should be adjudged in this case as there was no assessment from which the obligation to pay may be anchored.

⁵ Id. at 8-9. Citations omitted.

⁶ *Commissioner of Internal Revenue v. Reyes*, 516 Phil. 176, 189 (2006).

WHEREFORE, premises considered, the present Petition is hereby **DENIED**. The Decision dated November 5, 2021 and Resolution dated June 9, 2022 of the Court of Tax Appeals *En Banc* in CTA *EB* Crim No. 082 are hereby **AFFIRMED**.

SO ORDERED. (DIMAAMPAO, *J.*, on official leave.)

By authority of the Court:

Misael DC Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *JB 2/3/23*

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

COURT OF TAX APPEALS
Agham Road, Diliman
1104 Quezon City
(CTA EB Crim No. 082)

Atty. Terencio R. Yumang, Jr.
Counsel for Respondents
TERENCIO R. YUMANG, JR. & ASSOCIATES
Suite 1102, 11/F 139 Corporate Center
139 Valero Street, Salcedo Village
1227 Makati City

Attys. Wilmer Dekit and Albert C. Arpon
Litigation Division
BUREAU OF INTERNAL REVENUE
Room 703, 7/F BIR Bldg.
1100 Quezon City

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 261732

(178)
URES