

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

**MISAMIS ORIENTAL II RURAL CTA Case No. 9732
ELECTRIC SERVICE
COOPERATIVE, INC.
(MORESCO-II),**

Petitioner,

Present:

**DEL ROSARIO, P.J., Chairperson,
and
MANAHAN, JJ.**

-versus-

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Promulgated:

JUL 14 2021 2:22 pm

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RESOLUTION

MANAHAN, J.:

For resolution is respondent Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration (re: Decision dated November 11, 2020)* posted on December 7, 2020 and received by the Court on December 16, 2020, without petitioner's comment.¹

Respondent seeks reconsideration of the Decision of the Court promulgated on November 11, 2020 (assailed Decision), the dispositive portion of which reads:

"WHEREFORE, in light of the foregoing considerations, the instant Petition for Review is **GRANTED**. Accordingly, the FDDA dated November 15, 2017 is **WITHDRAWN** and **SET**

¹ Court's Resolution dated May 20, 2021 where the Court ordered petitioner's Comment and/or Opposition to the Motion for Consideration (*sic*) **expunged** from the records of the case for being belatedly filed.

ASIDE. Moreover, the FLD and FAN dated January 6, 2017, issued against petitioner for CY 2013 in the aggregate amount of Php22,907,377.10 are **CANCELLED** and **SET ASIDE**.

SO ORDERED.”

Respondent presents the following grounds for his Motion for Reconsideration, and we quote:

“GROUNDS FOR THE MOTION

I.

The Honorable Court erred in ruling that new issues may be raised by petitioner on its appeal before the Honorable Court.

II.

Assuming for the sake of argument that new issues may be raised on appeal, the assessment is valid as it was issued pursuant to a valid Letter of Authority.”

Respondent expressed his disagreement to the position of the Court that, it may for the first time on appeal, allow petitioner to raise new issues and consequently rule on matters such as the validity of the waiver and lack of authority of the revenue officers (ROs). He argues that the doctrine of trial *de novo* is not applicable in a situation where there is a Final Decision on the Disputed Assessment (FDDA) which is the subject of an appeal with the Court. Respondent maintains that since an FDDA was issued, the jurisdiction of the Court shifts from a trial court to a court exercising judicial review thereby limiting the scope of inquiry into determining whether the findings of the administrative body are consistent with the law and supported by evidence. Following this reasoning, the respondent asserts that the Court should have limited itself to the issues and documents raised in petitioner’s protests against the deficiency tax assessments and should not have probed into matters that have been raised for the first time on appeal.

Respondent cites the jurisprudential principle laid down in the case of *Pilipinas Total Gas, Inc. vs. CIR*,² where the Supreme Court supposedly made a distinction between what

² G.R. No. 207112, December 8, 2015.

has been resolved in the administrative level and what may be reviewed in the judicial or appellate level. Respondent concludes that only issues and documents raised in petitioner's protests may be the subject of review by the Court.

In the alternative, respondent contends that the deficiency tax assessment is valid as it was issued pursuant to a valid Letter of Authority (LOA). Respondent describes the administrative process in conducting an audit or examination of a taxpayer's books of accounts and other accounting records and claims that in actual practice, there is no statutory requirement that the ROs be named in the LOA itself, thus, ROs named in the LOA may not be the same ROs who will conclude the audit/examination. Respondent further submits that as far as the statute and applicable regulations are concerned, they merely require that the examination of the ROs be done "pursuant to" an LOA.

Petitioner attempted to file its comment/opposition to respondent's Motion for Reconsideration but was no longer allowed to do so due to late filing in violation of the Court's Resolution dated January 12, 2021 granting a period of five (5) days from receipt thereof to file the said comment.

After a careful review of the arguments and records of this case, the Court finds no reason to depart from the findings contained in the assailed Decision.

For emphasis, we reiterate the principle that cases brought before this Court are litigated *de novo*.³ That as a court of record, the Court of Tax Appeals (CTA), for the first time on appeal, may allow petitioner to assail the validity of the waiver and the deficiency tax assessments on the ground that the ROs lacked authority. In the case of *Philippine Airlines, Inc. vs. CIR*,⁴ the Supreme Court categorically ruled that "the review of the Court of Tax Appeals is not limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as argued by the CIR."

As to respondent's insistence that the ROs who continued the audit investigation on petitioner had the requisite authority, we find this to be without merit. This issue has already been well-settled particularly in a Supreme Court

³ *CIR vs. Univation Motor Philippines, Inc.*, G.R. No. 231581, April 10, 2019.

⁴ G.R. Nos. 206079-80 and 206309, January 17, 2018.

Resolution issued in 2020, which upheld the ruling of this Court that “any re-assignment/transfer of cases to another revenue officer(s), and revalidation of a LOA which had already expired, shall require the issuance of a new LOA.”⁵ Further, the Supreme Court in the same Resolution declared that “in the absence of a new LOA issued in favor of the revenue officers who recommended the issuance of the deficiency tax assessments against respondent, the resulting assessments are void.”

WHEREFORE, premises considered, respondent’s *Motion for Reconsideration (re: Decision dated November 11, 2020)* posted on December 7, 2020, is **DENIED** for lack of merit.

SO ORDERED.


CATHERINE T. MANAHAN
Associate Justice

I CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice

⁵ *CIR vs. Opulent Landowners, Inc.*, G.R. Nos 249883-84, January 27, 2020.