



Republic of the Philippines  
**Supreme Court**  
 Manila

**THIRD DIVISION**

**REPUBLIC OF THE  
 PHILIPPINES,**

**G.R. No. 260261**

*Petitioner,*

Present:

- versus -

CAGUIOA, *J.*, *Chairperson,*  
 INTING,\*  
 GAERLAN,  
 DIMAAMPAO, *and*  
 SINGH,\* *JJ.*

**ROBIEGIE CORPORATION,**  
*Respondent.*

Promulgated:  
**October 3, 2022**

*Misl DeBatt*

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**DECISION**

**GAERLAN, J.:**

At bar is a case involving the interplay of two statutory powers vested in the Commissioner of Internal Revenue (CIR): the power to reassign revenue officers and employees, and the power to investigate taxpayers' accounts.

Through the present petition<sup>1</sup> for review on certiorari, the Republic of the Philippines (the Republic) challenges the December 2, 2021 Decision<sup>2</sup> and the April 8, 2022 Resolution<sup>3</sup> of the Court of Tax Appeals (CTA) in CTA EB No. 2339 (CTA OC No. 023), which is an action for collection of deficiency taxes against Robiegie Corporation (Robiegie).

\* On official business.

<sup>1</sup> *Rollo*, pp. 12-39.

<sup>2</sup> *Id.* at 41-58. Penned by Associate Justice Erlinda P. Uy, with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr. (now retired), Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, Maria Rowena Modesto-San Pedro, and Marian Ivy Reyes-Fajardo concurring, and Associate Justice Lanee S. Cui-David (on leave).

<sup>3</sup> *Id.* at 71-76.

Robiegie Corporation is a Philippine corporation engaged in the business of operating a drugstore, with business address at 1614 Rizal Avenue, Sta. Cruz, Manila.<sup>4</sup>

On July 27, 2009, the Bureau of Internal Revenue (BIR) issued Letter of Authority (LOA) No. 00037842 (July 2009 LOA), which authorized Revenue Officer (RO) Jose Francisco David, Jr. (RO David), under Group Supervisor (GS) Felix M. Roy, to examine Robiegie's books of accounts and other accounting records for the taxable year of 2008.<sup>5</sup>

On January 28, 2010, Memorandum Referral No. 031-0006-10 was issued, reassigning the July 2009 LOA to RO Cecille D. Dy (RO Dy) under GS Jessica O. Bernales, with notice to Robiegie. Said LOA, together with the First Notice for Presentation of Books of Accounts and other accounting records, was served upon and duly received by Robiegie at its business address.<sup>6</sup>

On August 18, 2011, Regional Director Alfredo V. Misajon of the BIR Revenue Region No. 6-Manila issued a Preliminary Assessment Notice (PAN) to Robiegie, to inform the latter of the findings of the investigation conducted by RO Dy pursuant to the July 2009 LOA.<sup>7</sup>

On September 19, 2011, the BIR Revenue Region No. 6-Manila issued a Formal Letter of Demand (FLD) and Final Assessment Notices (FANs), assessing Robiegie with a total tax deficiency of ₱10,804,991.21 for the taxable year 2008, comprised of the following amounts: ₱315,680.28 in deficiency income tax; ₱10,397,181.78 in deficiency value added tax (VAT); ₱20,129.15 in deficiency expanded withholding tax (EWT); and ₱72,000.00 as compromise penalty.<sup>8</sup>

On June 23, 2017, after failing to find any leviable or garnishable property of Robiegie, the Republic, through the BIR, filed a complaint before the CTA to collect the claimed deficiency taxes.<sup>9</sup> The case proceeded to trial and argumentation with the full participation of both parties.<sup>10</sup>

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<sup>4</sup> Id. at 43.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id. at 43-44.

<sup>9</sup> Id. at 44.

<sup>10</sup> Id. at 44-45.

### The CTA Division Ruling<sup>11</sup>

On June 8, 2020, the Second Division of the CTA dismissed the Republic's complaint on the ground that the assessments against Robiegie are null and void for lack of authority of RO Dy to conduct an investigation into Robiegie's accounts. The CTA Second Division ruled that RO Dy had no authority to investigate Robiegie because such authority had been given to RO David pursuant to the July 2009 LOA. The Republic's witness, BIR-Manila Assessment Section Chief Edna A. Ortalla, admitted that RO David, to whom the July 2009 LOA was issued, took no part in the investigation and review of Robiegie's accounts; and that said investigation and review was conducted by BIR personnel who had not been issued an LOA for the purpose.<sup>12</sup>

In its motion for reconsideration, the Republic argued that the CTA Second Division's strict construction of LOAs will jeopardize the collection of taxes. The Republic asseverated that BIR regulations allow the reassignment of investigations to other revenue officers in cases of resignation, transfer, or other separation from service of the duly authorized RO prior to the conclusion of the investigation, and such reassignment is effected through Memoranda of Assignment (MOA) or memorandum referrals, since only one LOA per taxable year can be issued to a taxpayer. As applied to the case at bar, RO Dy had authority to conduct the investigation into Robiegie's accounts since the investigation was properly reassigned to her and she, therefore, derived her authority from the July 2009 LOA issued to RO David.<sup>13</sup>

In its August 26, 2020 Resolution,<sup>14</sup> the CTA Second Division rejected the Republic's arguments. It upheld the rule that an RO must be authorized through a validly issued LOA in order to conduct a valid investigation into a taxpayer's accounts. Without an LOA, any investigation by an RO into a taxpayer's accounts is null and void. While the tax court in division conceded that the reassignment of investigations to other ROs is not prohibited, such reassignment must still comply with the general principles on LOAs under Section 6(A) of the NIRC in relation to Revenue Memorandum Order (RMO) No. 43-90. Under said RMO, "the only BIR officials authorized to issue and

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<sup>11</sup> Penned by Associate Justice Juanito C. Castañeda, Jr. (now retired), with Associate Justices Cielito N. Mindaro-Grulla (now a member of the Judicial Integrity Board) and Jean Marie A. Bacorro-Villena concurring. The *rollo* does not include a copy of the decision, but such copy is uploaded to the CTA website.

<sup>12</sup> CTA Second Division Decision, pp. 12-13. Accessed through the CTA online case search system at [https://cta.judiciary.gov.ph/decres\\_caseno](https://cta.judiciary.gov.ph/decres_caseno).

<sup>13</sup> CTA Second Division Resolution, pp. 2-3. Accessed through the CTA online case search system at [https://cta.judiciary.gov.ph/decres\\_caseno](https://cta.judiciary.gov.ph/decres_caseno).

<sup>14</sup> Penned by Associate Justice Juanito C. Castañeda, Jr. (now retired), with Associate Justices Cielito N. Mindaro-Grulla (now a member of the Judicial Integrity Board) and Jean Marie A. Bacorro-Villena concurring. The *rollo* does not include a copy of the resolution, which is uploaded to the CTA website.

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sign [LOAs] 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.” Thus, the reassignment of an RO must also be made by a BIR official who is authorized to issue and sign an LOA. However, in the case at bar, the Republic admitted that the transfer of the Robiegie investigation to RO Dy through Memorandum Referral No. 031-0006-10 was issued and signed only by the Revenue District Officer.<sup>15</sup>

The Republic thus elevated the matter to the CTA *en banc*.<sup>16</sup>

### **The CTA *En Banc* Ruling**

The CTA *en banc* affirmed the ruling of its Second Division and upheld the necessity of an LOA in order for an RO to conduct a valid investigation into taxpayer accounts. Memorandum Referral No. 031-0006-10 is invalid, as it was not issued and signed by a BIR official empowered by law or regulation to issue LOAs or to authorize taxpayer examinations.<sup>17</sup> Likewise, RMO Nos. 8-2006, 62-2010, and 69-2010, which the Republic cites as bases for the reassignment of ROs through memoranda, in lieu of LOAs, are mere administrative issuances which cannot prevail over the clear import of Sections 6(A) and 13 of the NIRC.

The Republic cannot rely on Section 17 of the NIRC to justify the reassignment of investigating ROs without a corresponding LOA, as there is nothing in the said provision to justify dispensing with the requirement of an LOA. The rules applicable to the authority of ROs to conduct investigations and assess tax liabilities remain rooted in Sections 6(A) and 13 of the NIRC. The CIR’s general power to reassign BIR employees is distinct and separate from the CIR’s power to conduct tax investigations and to authorize BIR officials for such purpose.<sup>18</sup>

Contrary to the Republic’s asseverations, the ruling in *Commissioner of Internal Revenue v. Sony Philippines, Inc.*<sup>19</sup> (*Sony Philippines*) is applicable to the case at bar. Revenue officers are empowered to conduct taxpayer investigations through an LOA. Thus, an assessment based on an investigation by an RO without the proper LOA is null and void.<sup>20</sup>

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<sup>15</sup> CTA Second Division Resolution, pp. 3-6.

<sup>16</sup> *Rollo*, pp. 69-70.

<sup>17</sup> *Id.* at 48-52.

<sup>18</sup> *Id.* at 53-54.

<sup>19</sup> 649 Phil. 519 (2010).

<sup>20</sup> *Rollo*, pp. 55-56.

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Associate Justice Ma. Belen M. Ringpis-Liban (Justice Ringpis-Liban) concurred in the result on the basis of the finding that Memorandum Referral No. 031-0006-10 was issued and signed only by the Revenue District Officer. Had the memorandum referral been signed by a BIR official who can be authorized to issue an LOA under the NIRC, the same would have been valid and RO Dy would have acquired the requisite authority to investigate Robiegie.<sup>21</sup>

Through the assailed resolution, the tax court denied the Republic's motion for reconsideration; hence the present petition, where the Republic reiterates that: 1) an investigation conducted by an RO pursuant to a memorandum of assignment under an LOA issued in favor of another RO is valid under RMO Nos. 8-2006, 62-2010, and 69-2010, and a ruling to the contrary would unduly hamper the government's tax collection efforts, considering that under BIR regulations, only one LOA can be issued to a taxpayer within a taxable year;<sup>22</sup> 2) an LOA is not an authorization in favor of the ROs but a notification to the taxpayer that "any duly authorized [RO] may now conduct audit not because of, but rather, 'pursuant' to such letter of authority,"<sup>23</sup> 3) the RO's authority to investigate may or may not be included in the LOA, and may be made in any other document issued by the CIR or his duly authorized representative;<sup>24</sup> 4) the NIRC does not require the identification of a particular RO in an LOA; consequently, the authority in such LOA may be validly reassigned to different ROs depending on the exigencies of the service;<sup>25</sup> and 5) the CTA *en banc* erred in applying *Sony Philippines*, which involved a defect in the temporal coverage of the LOA and not a reassignment of the designated RO under the LOA.<sup>26</sup>

In its comment,<sup>27</sup> Robiegie echoes the reasoning of the CTA *en banc* and argues that ROs derive their investigatory powers from the CIR, and therefore can only investigate taxpayers pursuant to a validly issued LOA. ROs Dy and John Paul Leonardo (RO Leonardo), who conducted the investigation, reviewed the findings, and issued the assessments against Robiegie, did not have the requisite LOA to do so.<sup>28</sup>

### The Court's Ruling

The petition has no merit. The assessments issued against Robiegie are invalid as they are based on an unauthorized investigation into its accounts.

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<sup>21</sup> Id. at 59-64. Penned by Ma. Belen Ringpis-Liban.

<sup>22</sup> Id. at 17-24.

<sup>23</sup> Id. at 23.

<sup>24</sup> Id. at 23-24.

<sup>25</sup> Id. at 21-23.

<sup>26</sup> Id. at 28-30.

<sup>27</sup> Id. at 99-104.

<sup>28</sup> Id.

*LOA as the source of BIR revenue officers' investigatory powers*

The Republic's witnesses admitted during the trial that the investigation into Robiegie's accounts was conducted by RO Dy and reviewed by RO Leonardo, both of whom were not named in the original July 2009 LOA. The Republic's witnesses further admitted that the reassignment of the investigation to RO Dy and RO Leonardo was not made through an LOA but through a memorandum referral only.

The necessity of a validly issued LOA for the valid conduct of a taxpayer investigation by an RO is a well-settled doctrine embodied in our statutory and case law. In *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*,<sup>29</sup> which involved a deficiency value-added tax assessment in the context of the BIR's electronic "no-contact-audit approach," we discussed the dual function of an LOA as the modality for the delegation of the CIR's investigatory power and as a manifestation of due process:

An 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. An LOA is premised on the fact that the examination of a taxpayer who has already filed his tax returns is a power that statutorily belongs only to the CIR himself or his duly authorized representatives. x x x

x x x x

Based on [Section 6(A) of the NIRC], it is clear that unless authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken. The circumstances contemplated under Section 6 where the taxpayer may be assessed through best-evidence obtainable, inventory-taking, or surveillance among others has nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority.

x x x x

Contrary to the ruling of the CTA en banc, an LOA cannot be dispensed with just because none of the financial books or records being physically kept by MEDICARD was examined. To begin with, Section 6 of the NIRC requires an authority from the CIR or from his duly authorized representatives before an examination "of a taxpayer" may be made. The requirement of authorization is therefore not dependent on whether the

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<sup>29</sup> 808 Phil. 528 (2017).

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taxpayer may be required to physically open his books and financial records but only on whether a taxpayer is being subject to examination.

The BIR's RELIEF System has admittedly made the BIR's assessment and collection efforts much easier and faster. The ease by which the BIR's revenue generating objectives is achieved is no excuse however for its non-compliance with the statutory requirement under Section 6 and with its own administrative issuance. In fact, apart from being a statutory requirement, an LOA is equally needed even under the BIR's RELIEF System because the rationale of requirement is the same whether or not the CIR conducts a physical examination of the taxpayer's records: to prevent undue harassment of a taxpayer and level the playing field between the government's vast resources for tax assessment, collection and enforcement, on one hand, and the solitary taxpayer's dual need to prosecute its business while at the same time responding to the BIR exercise of its statutory powers. The balance between these is achieved by ensuring that any examination of the taxpayer by the BIR's revenue officers is properly authorized in the first place by those to whom the discretion to exercise the power of examination is given by the statute.<sup>30</sup>

Considering that an LOA clothes the appropriate revenue officer with the authority to assess and examine the books of account and records of a taxpayer, such power is necessarily subject to reasonable limitations. In particular, Section C(5) of RMO NO. 43-90, specifically requires that any re-assignment/transfer of cases to another RO shall require the issuance of a new LOA:

C. Other policies for issuance of L/As.

x x x x

5. Any re-assignment/transfer of cases to another RO(s), 64 and revalidation of L/As 65 which have already expired, shall require the issuance of a new L/A, with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As.

Just last year, in *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*,<sup>31</sup> which also involved the reassignment of a deficiency tax investigation to another RO without the issuance of a new LOA, we nullified the Formal Letter of Demand and Assessment Notice issued against the taxpayer on the basis of such investigation, thus:

A perusal of the records of the case discloses that electronic LOA SN: eLA201000017400 LOA-039-2010-00000072 issued against petitioner specifically authorized revenue officer Cacdac and group supervisor Andaya, to examine the books of accounts of petitioner for taxable year 2009[.] x x x

<sup>30</sup> Id. at 539-540, 545-546. Citations omitted.

<sup>31</sup> G.R. No. 241848, May 14, 2021.

x x x x

However, it appeared that Cacdac was not the revenue officer who actually conducted the audit of petitioner's books of accounts. It was revenue officer Bagausan who audited petitioner by virtue of a memorandum of assignment signed by revenue district officer Nacar[.] x x x

x x x x

The reassignment of the examination of petitioner's books of accounts pursuant to electronic LOA SN: eLA201000017400 LOA-039-2010-00000072 from revenue officer Cacdac to revenue officer Bagausan necessitates the issuance of a new LOA. This is clear under Revenue Memorandum Order (RMO) No. 43-90 or "An Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit," x x x

x x x x

Here, there was no new LOA issued naming Bagausan as the new revenue officer who would conduct the examination of petitioner's books of accounts. The authority of Bagausan is anchored only upon the memorandum of assignment signed by revenue district officer Nacar.

Section 13 of the NIRC requires that a revenue officer must be validly authorized before conducting an audit of a taxpayer:

x x x x

In addition, under RMO No. 43-90, only the following officers may validly issue a LOA:

D. Preparation and issuance of L/As.

x x x x

4. For the proper monitoring and coordination of the issuance of 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. (Emphasis supplied)

Thus, revenue officer Bagausan is not authorized by a new LOA to conduct an audit of petitioner's books of accounts for taxable year 2009.

x x x x

Here, as comprehensively discussed, there was no new LOA issued by the CIR or his duly authorized representative giving revenue officer Bagausan the power to conduct an audit on petitioner's books of accounts for taxable year 2009. The importance of the lack of the revenue officer's authority to



conduct an audit cannot be overemphasized because it goes into the validity of the assessment. The lack of authority of the revenue officers is tantamount to the absence of a LOA itself which results to a void assessment. Being a void assessment, the same bears no fruit.<sup>32</sup>

This Court was more emphatic in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*<sup>33</sup> (*McDonald's*), which opens with this categorical declaration:

The practice of reassigning or transferring revenue officers originally named in the Letter of Authority (LOA) and substituting or replacing them with new revenue officers to continue the audit or investigation without a separate or amended LOA (i) violates the taxpayer's right to due process in tax audit or investigation; (ii) usurps the statutory power of the Commissioner of Internal Revenue (CIR) or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and (iii) does not comply with existing Bureau of Internal Revenue (BIR) rules and regulations on the requirement of an LOA in the grant of authority by the CIR or his duly authorized representative to examine the taxpayer's books of accounts.<sup>34</sup>

In that case, the RO authorized to investigate the accounts of McDonald's Philippines Realty Corporation through a validly issued LOA was transferred to another assignment; and the investigation was reassigned to another RO through a referral memorandum, without the issuance of a new LOA. We likewise invalidated the resultant assessment and demand:

This case is an occasion for the Court to rule on a disturbing trend of tax audits or investigations conducted by revenue officers who are not specifically named or authorized in the LOA, under the pretext that the original revenue officer authorized to conduct the audit or investigation has been reassigned or transferred to another case or place of assignment, or has retired, resigned or otherwise removed from handling the audit or investigation.

This practice typically occurs as follows: (i) a valid LOA is issued to an authorized revenue officer; (ii) the revenue officer named in the LOA is reassigned or transferred to another office, case or place of assignment, or retires, resigns, or is otherwise removed from handling the case covered by the LOA; (iii) the revenue district officer or a subordinate official issues a memorandum of assignment, referral memorandum, or such equivalent document to a new revenue officer for the continuation of the audit or investigation; and (iv) the new revenue officer continues the audit or investigation, supposedly under the authority of the previously issued LOA.

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<sup>32</sup> Id.

<sup>33</sup> G.R. No. 242670, May 10, 2021.

<sup>34</sup> Id.

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This practice of reassigning or transferring revenue officers, who are the original authorized officers named in the LOA, and subsequently substituting or replacing them with new revenue officers who do not have a new or amended LOA issued in their name, has been the subject of several CTA decisions x x x.

The Court hereby puts an end to this practice.

x x x x

[I]t is clear that Marcellano was not authorized under a new and separate, or amended, LOA to continue the audit or investigation of the respondent's books of accounts for C.Y. 2006. The August 31, 2007 LOA was originally issued to revenue officers Eulema Demadura, Lover Loveres, Josa Gomez, and Ernallyn dela Cruz. The original revenue officer, Demadura, was transferred to another assignment. Pursuant to a mere referral memorandum, revenue officer Marcellano continued the audit of the respondent's books of accounts. No new LOA was issued in the name of Marcellano to conduct the audit of the respondent's books of accounts. Moreover, the August 31, 2007 LOA was not amended or modified to include the name of Marcellano. Hence, the authority under which Marcellano continued the audit or investigation was not pursuant to the statutory power of the CIR or his duly authorized representative to grant the authority to examine the taxpayer's books of accounts.<sup>35</sup>

The above-quoted rulings find mooring in Sections 5, 6(A) and 13 of the NIRC,<sup>36</sup> which vest tax compliance investigation powers in the CIR,

<sup>35</sup> Id.

<sup>36</sup> SEC. 5. Power of the Commissioner to Obtain Information, and to Summon, Examine, and Take Testimony of Persons. - In ascertaining the correctness of any return, or in making a return when none has been made, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability, or in evaluating tax compliance, **the Commissioner is authorized:**

(A) **To examine any book, paper, record, or other data which may be relevant or material to such inquiry;**

(B) **To obtain on a regular basis** from any person other than the person whose internal revenue tax liability is subject to audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the Bangko Sentral ng Pilipinas and government-owned or -controlled corporations, **any information such as, but not limited to, costs and volume of production, receipts or sales and gross incomes of taxpayers, and the names, addresses, and financial statements** of corporations, mutual fund companies, insurance companies, regional operating headquarters of multinational companies, joint accounts, associations, joint ventures of consortia and registered partnerships, and their members x x x

(C) **To summon the person liable for tax or required to file a return,** or any officer or employee of such person, or any person having possession, custody, or care of the books of accounts and other accounting records containing entries relating to the business of the person liable for tax, or any other person, **to appear before the Commissioner or his duly authorized representative at a time and place specified in the summons and to produce such books, papers, records, or other data, and to give testimony;**

(D) **To take such testimony of the person concerned,** under oath, as may be relevant or material to such inquiry; and

(E) To cause revenue officers and employees to make a canvass from time to time of any revenue district or region and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owning or having the care, management or possession of any object with respect to which a tax is imposed.

x x x x

SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. -

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subject to *delegation* to “duly authorized representatives” under Section 6(A). Notably, such powers are invested in the CIR alone,<sup>37</sup> who may then delegate such powers to his or her “duly authorized representatives” pursuant to law and regulations. The Republic’s asseveration that

an LOA is not an “authorization letter” of the revenue officers. It actually is issued to taxpayers and not to the revenue officer. It is issued to inform the taxpayer that audit of his person has been authorized by the Commissioner. Once served, any duly authorized revenue officer may now conduct audit not because of, but rather, “pursuant” to such letter of authority. Their authority to conduct audit may be included in the letter or it may in any other document issued by the Commissioner or his duly authorized representative. No strict form or title is necessary as that would give an illogical premium on form over substance - what is important is that audit of the taxpayer must be sanctioned by an LOA which had been previously issued.<sup>38</sup>

is therefore erroneous. The Republic’s construction of Section 13 of the NIRC to mean that an LOA is not an authorization but a mere notice of investigation to the taxpayer is blatantly contrary to the text of the law. First, the concept of *authorization* is inherent in the very language of Sections 6(A) and 13 of the NIRC, which speak of a “duly authorized representative”<sup>39</sup> and a “Letter of Authority.”<sup>40</sup> Second, the phrase “*pursuant to*” in Section 13 means “in the course of carrying out, in conformance to or agreement with, [or] according to.”<sup>41</sup> Thus, an RO *may* only examine taxpayers, in the course of carrying out, in conformance to or agreement with, or according to, a validly issued LOA. Stated differently, under the NIRC, the investigatory powers of the ROs flow from the LOA, which is the statutorily designated means by which the CIR delegates its investigative powers to the BIR revenue officers.

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(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 representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax, notwithstanding any law requiring the prior authorization of any government agency or instrumentality: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

SEC. 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.

<sup>37</sup> See Jose N. Nollado & Mercedita S. Nollado, THE NATIONAL INTERNAL REVENUE CODE OF THE PHILIPPINES ANNOTATED 60 (1996).

<sup>38</sup> *Rollo*, p. 23.

<sup>39</sup> NIRC, Sections 5(C) and 6(A).

<sup>40</sup> NIRC, Section 13.

<sup>41</sup> Philip Babcock Gove (ed.), WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE, UNABRIDGED 1848 (1993).

*The CIR's reassignment powers cannot be invoked to defeat the statutory LOA requirement*

To further justify its position that a valid LOA is not necessary for the reassignment of tax investigations to other ROs, the Republic relies on Section 17 of the NIRC, which provides:

**SEC. 17. Assignment of Internal Revenue Officers and Other Employees to Other Duties.** - The Commissioner may, subject to the provisions of Section 16 and the laws on civil service, as well as the rules and regulations to be prescribed by the Secretary of Finance upon the recommendation of the Commissioner, assign or reassign internal revenue officers and employees of the Bureau of Internal Revenue, without change in their official rank and salary, to **other or special duties connected with the enforcement or administration of the revenue laws** as the exigencies of the service may require: *Provided*, That internal revenue officers assigned to perform assessment or collection functions shall not remain in the same assignment for more than three (3) years; *Provided, further*, That assignment of internal revenue officers and employees of the Bureau to special duties shall not exceed one (1) year. (Emphasis and underlining supplied)

In *Castro v. Hechanova, et al.*,<sup>42</sup> (*Castro*) then CIR Benjamin Tabios (CIR Tabios) reassigned Revenue Regional Director Teodoro Castro (Castro) of Revenue Region No. 7 to the BIR central office. When Castro questioned the reassignment, CIR Tabios argued that it was justified under Section 12 of the 1939 NIRC; and this Court, in partially sustaining CIR Tabios' position, held that the reassignment is valid, but for only thirty days, unless a longer duration is approved by the President, under the then prevailing rules on reassignment of government personnel:

Under the law, respondents, as the administrative heads of the Bureau of Internal Revenue, not only have administrative supervision and control over the same, but are also specifically empowered to assign revenue personnel to other duties, thus:

“SEC. 12. ASSIGNMENT OF INTERNAL REVENUE AGENTS AND OTHER EMPLOYEES TO **OTHER** DUTIES.--The Collector of Internal Revenue may, with the approval of the Secretary of Finance, assign internal revenue agents and other officers and employees of the Bureau of Internal Revenue without change in their official character or salary to such **special duties** connected with the administration of the revenue laws as the best interest of the service may require.”

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<sup>42</sup> 124 Phil. 540 (1966).

[Castro], however, contends that for the exercise of the foregoing authority to be valid, the assignment of personnel should involve the performance of some “special duties” and should not result in any change in the official character of their positions and salaries. In assailing the validity of the travel assignment order in question, petitioner claims that being a regional director, to discharge the functions of Revenue Operations-head cannot be considered as performance of a special duty.

The term “special duties” mentioned in the law, evidently is here being equated by the petitioner with work requiring the use of some special talent or knowledge. *It may be pointed out, however, that the title of Section 12 of the Revenue Law mentions the assignment of revenue employees to “other duties”, and the body thereof refers to “such special duties connected with the administration of the revenue law.” To our mind, the “special duties” mentioned in the law refer not to a “special” or extraordinary or different undertaking, but to functions or work other than, or not related to, those regularly discharged by the employee concerned. In other words, to the employee reassigned or detailed to another post, the performance of work other than those he was regularly doing, constitutes the doing of “special duties”, which supports the view that the designation is not permanent but merely temporary.* And, there is nothing wrong, legally or personnel-wise, in the aforequoted provision, giving to the office administrator or supervisor, the authority to formulate a personnel program designed to improve the service and to carry out the same, utilizing approved techniques or methods in personnel management, to the end that the abilities of the employees may be harnessed to promote optimum public service. Of course, it must be realized that the exercise of this authority may be abused or carried out to serve some other purposes, as so charged in this case. But, as it was once said, “the possibility of abuse is not an argument against the concession of power, as there is no power that is not susceptible of abuse.”<sup>43</sup> (Emphasis, italics and underlining supplied)

Section 17 of the current NIRC is the statutory descendant of Section 12 of the 1939 NIRC. The current Section 17 retains the modifiers “*other*” and “*special*” to describe the duties to which revenue officers may be reassigned. However, the current provision departs from the old Section 12 in that: 1) Section 17 incorporates the principle enunciated by this Court in the above-quoted ruling, that such reassignments must be for a limited time only, *i.e.*, one year; and 2) Section 17 explicitly states that “internal revenue officers assigned to perform assessment or collection functions shall not remain in the same assignment for more than three (3) years.”<sup>44</sup>

In view of the foregoing, it becomes clear that Section 17 of the NIRC contemplates three types of reassignments: 1) reassignments to other and special duties, which shall not exceed one year, and, following the *Castro* ruling, must pertain to functions not regularly performed by the reassigned

<sup>43</sup> Id. at 543-545.

<sup>44</sup> The time limitation on assignments of revenue officers is intended to maximize productivity and to prevent familiarization and fraternizing between taxpayers and revenue officers. Rodelio T. Dascil, NIRC OF THE PHILIPPINES ANNOTATED 38 (2020).

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officer or employee; 2) reassignments of revenue officers involved in excise tax functions under Section 16; and 3) reassignments of revenue officers assigned to perform assessment or collection functions, which must be done every three (3) years. However, the text of Section 17 is clearly limited to the CIR's power to reassign BIR officers and employees. While the CIR is empowered and mandated to regularly reassign revenue officers who perform assessment or collection functions, such mandate is distinct and separate from the CIR's investigatory power, which is governed by other provisions of the NIRC. As the CTA *en banc* correctly points out:

[There is] nothing in [Section 17 which] would justify dispensing with the issuance of a valid LOA in favor of the Revenue Officer concerned. x x x

x x x x

[T]he statutory requirement of issuing a new LOA in no way prevents the CIR from validly assigning or re-assigning the Revenue Officers and employees of the BIR. It does not even require that audit must be completed before such employee can be transferred. Rather, what is simply required by the law is that in case of reassignment, a new LOA be issued to the Revenue Officer to whom the case is transferred to. To rule otherwise and dispense with the requirement of the issuance of an LOA runs counter to both law and jurisprudence.<sup>45</sup>

*Requisite of new LOA for a valid reassignment of tax investigation will not hamper internal revenue operations*

Contrary to the Republic's position, the issuance of a new LOA as a requisite for the valid reassignment of a tax investigation to a different RO will not necessarily impede the collection of taxes. The issuance of reassignment LOAs need not overburden the CIR as he/she can delegate the issuance thereof to his/her duly authorized representatives. Furthermore, such requisite is not irreconcilable with the "one LOA per taxpayer" rule.

As discussed above, the CIR's investigatory powers are delegable to the BIR's subordinate officials. Under Sections 5(C) and 6(A) of the NIRC, the CIR *or his duly authorized representative* may authorize the examination of a taxpayer after a return has been filed. Furthermore, Section 10(c) of the same Code directly authorizes the BIR Revenue Regional Directors to "issue Letters of authority for the examination of taxpayers within the region," subject to regulation by the CIR; and Section 10(h) mandated Revenue Regional Directors to "perform such other functions as may be

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<sup>45</sup> *Rollo*, pp. 54-55.

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provided by law and **as may be delegated** by the Commissioner.” Item 4, Part D of RMO No. 43-90 operationalizes these provisions:

For the proper monitoring and coordination of the issuance of 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.

Contrary to the Republic’s claims, the requirement of a new LOA for the valid reassignment of a tax investigation can be reconciled with the “one LOA per taxable year” rule under RMO Nos. 8-2006 and 43-90. Items 1 and 2 of Part IV.D. of RMO No. 8-2006 provide:

1. Only one (1) [LOA] shall be issued to the same taxpayer, for the same tax type and period, except where an [LOA] was issued for a specific tax type only and subsequently, another [LOA] was issued to the same taxpayer by the same or another office covering the investigation of all internal revenue taxes (AIRT) for the same taxable period. The [LOA] issued for AIRT purposes shall be allowed provided the coverage shall be limited to AIRT except for the specific tax type and said coverage shall be clearly stated on the face of the [LOA].

**2. In case two or more [LOA]s are issued to the same taxpayer for the same tax type and for the same period, the power to decide which [LOA] shall prevail shall be under the exclusive jurisdiction of the Commissioner (CIR). The LA prevailed upon shall be considered cancelled.** The concerned [Large Taxpayers Audit and Investigation Division] I and II/[Large Taxpayers District Office]/[Revenue District Office]/[National Investigation Division]/[Special Investigation Division]/[Task Force] shall indicate under Status Code “Cancelled” and select the appropriate Action Code “LA Cancelled by Order of the CIR”. Under the Remarks column, indicate “Cancelled by LA No. \_\_\_ issued by (name office). (Emphasis and underlining supplied)

Clearly, the “one LOA per taxable year” rule is not as ironclad as the Republic portrays it to be. Part IV.D., Item 2 of RMO No. 8-2006 authorizes the issuance of duplicate LOAs, subject to the CIR’s discretion to determine which of the two LOAs shall prevail. Obviously, when a tax investigation is reassigned to a different RO pursuant to the mandatory “rotation” of assessment officers under Section 17 of the NIRC, or for any other legally justified reason, the CIR or his/her duly authorized representatives may issue a new LOA to the newly assigned RO, and such LOA can be made to prevail over the LOA issued to the previous investigating officer. Since the CIR’s power to issue a LOA is delegable, the concomitant power to uphold the validity of a subsequently issued duplicate LOA is likewise delegable to the CIR’s duly authorized representatives, as enumerated in RMO No. 43-90. Stated differently, RMO

No. 8-2006 does not prohibit the issuance of a new LOA within the same taxable period if such new LOA is *necessitated* by the reassignment, retirement, or other inability of the incumbent RO to continue an investigation. The BIR official who will issue the new LOA also has the power to make it prevail over the old, previously issued LOA, subject of course to the control and regulation of the CIR as the statutorily designated tax investigator. It must be noted that Section 13 of the NIRC, in providing for the LOA as the mode of delegation of the CIR's investigatory powers to the ROs, likewise gave the CIR the power to regulate and define the parameters for the issuance of LOAs. The "one LOA per taxable year" rule under RMO Nos. 8-2006 and 43-90 is an example of such a regulation; and such regulation is only valid insofar as it is consistent with the provisions of the NIRC.

However, in the case at bar, not only did the BIR fail to issue a new LOA in favor of RO Dy to conduct the investigation into Robiegie's accounts, the Memorandum Referral which effected the transfer of the investigation to RO Dy was issued by a BIR official who did not have the requisite authority to issue LOAs. Consequently, the CTA correctly held that RO Dy had no authority to investigate Robiegie's accounts.

*The Sony Philippines doctrine applies in the present case*

The Republic's intransigent attitude<sup>46</sup> to the applicability of the *Sony Philippines* doctrine is misplaced. *Sony Philippines* contains a relatively early statement of the nature and function of LOAs:

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. The very provision of the Tax Code that the CIR relies on is unequivocal with regard to its power to grant authority to examine and assess a taxpayer.

**SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. –**

(A) Examination of Returns 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 representative **may authorize the examination of any taxpayer and the assessment of the correct amount of tax:** *Provided, however,* That failure to file a

<sup>46</sup> In *McDonald's*, supra note 33, the CIR also argued that *Sony Philippines* is not applicable to a case involving the necessity of a LOA for the valid reassignment of a tax investigation.

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return shall not prevent the Commissioner from **authorizing the examination of any taxpayer.** x x x (Emphases supplied)


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.<sup>47</sup>

Although *Sony Philippines* involves a different defect in a LOA, *i.e.*, that the LOA's temporal coverage was overbroad as it included "unverified prior years,"<sup>48</sup> the aforementioned legal principle therein is a judicially binding statement of the import of Sections 6(A) and 13 of the NIRC, which is generally applicable to all situations involving the nature and function of a LOA under the NIRC. The Supreme Court's interpretation of a statute constitutes part of such statute from the date of its original enactment, as the interpretation merely establishes the contemporaneous legislative intent effectuated by such statute.<sup>49</sup>

In conclusion, we reiterate that the power of a BIR revenue officer to conduct taxpayer investigations flows from a validly issued LOA, which is the statutorily defined modality for the delegation of the investigatory powers vested in the CIR by law. Thus, the reassignment of a taxpayer investigation to a different revenue officer must also be made pursuant to a LOA, the one-LOA-per-taxpayer rule notwithstanding. When a taxpayer investigation is transferred from one revenue officer to another, the responsible BIR official with authority to issue LOAs shall issue a new LOA to the new revenue officer assigned to the investigation. The old LOA in favor of the reassigned revenue officer shall be deemed cancelled, and the new LOA issued to the subsequently designated revenue officer shall prevail, in accordance with the provisions of RMO No. 8-2006, issued on February 1, 2006.

**WHEREFORE**, the present petition is **DENIED**. The December 2, 2021 Decision and the April 8, 2022 Resolution of the Court of Tax Appeals in CTA EB No. 2339 (CTA OC No. 023) are hereby **AFFIRMED**.

**SO ORDERED.**

  
**SAMUEL H. GAERLAN**  
Associate Justice

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<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> *Gubat Water District v. Commission on Audit*, G.R. No. 222054, October 1, 2019, quoting *Metropolitan Naga Water District v. Commission on Audit*, 782 Phil. 281 (2016); *Republic v. Remman Enterprises, Inc.*, 727 Phil. 608 (2014); *Senarillos v. Hermosissima*, 100 Phil. 501 (1956).

WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

*(On official business)*  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

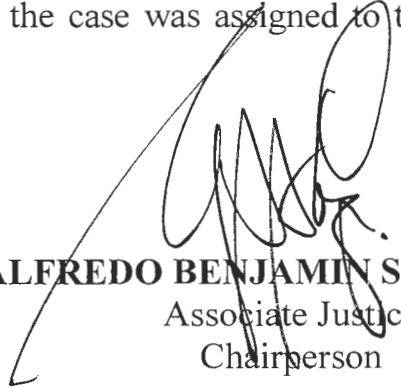


**JAPAR B. DIMAAMPAO**  
Associate Justice

*(On official business)*  
**MARIA FILOMENA D. SINGH**  
Associate Justice

### ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.




**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Chairperson

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**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

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