



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 20, 2023 which reads as follows:*

**“G.R. Nos. 241068-69 (Commissioner of Internal Revenue v. Medtecs International Corporation Limited).** — After a judicious study of the case, the Court resolves to **DENY** the instant Petition for Review on *Certiorari*<sup>1</sup> and **AFFIRM** the Decision dated March 13, 2018<sup>2</sup> and the Resolution dated August 6, 2018<sup>3</sup> of the Court of Tax Appeals (CTA) *En Banc* in CTA EB Nos. 1560-1561 for failure of petitioner Commissioner of Internal Revenue (CIR) to show any reversible error in the assailed decision or resolution.

First, the CTA *En Banc* was not prohibited from entertaining the issue on the revenue officer’s (RO) authority to assess respondent Medtecs International Corporation Limited (respondent) for the first time on appeal.

Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals,<sup>4</sup> clearly allows the CTA *En Banc* to rule on related issues necessary to achieve an orderly disposition of the case:

SECTION 1. *Rendition of judgment.* – The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its

<sup>1</sup> *Rollo*, pp. 11-37.

<sup>2</sup> *Id.* at 42-64. Penned by Associate Justice Erlinda P. Uy and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Lovell R. Bautista, Caesar A. Casanova, Cielito N. Mindaro-Grulla, and Catherine T. Manahan. Associate Justice Ma. Belen M. Ringpis-Liban dissented. Associate Justice Juanito C. Castañeda, Jr. joined the dissent of Associate Justice Ringpis-Liban. Associate Justice Esperanza R. Fabon-Victorino was on leave.

<sup>3</sup> *Id.* at 65-73. Penned by Associate Justice Erlinda P. Uy and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Lovell R. Bautista, Caesar A. Casanova, Cielito N. Mindaro-Grulla, and Catherine T. Manahan. Associate Justice Ma. Belen M. Ringpis-Liban maintained her dissent. Associate Justice Juanito C. Castañeda, Jr. joined the dissent of Associate Justice Ringpis-Liban. Associate Justice Esperanza R. Fabon-Victorino took no part. Presiding Justice Del Rosario wrote a separate concurring opinion.

<sup>4</sup> Effective: December 15, 2005.

assignment to a Member for the writing of the decision. The presiding justice or chairman of the Division shall include the case in an agenda for a meeting of the Court *en banc* or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court *en banc* or in Division agree on the draft decision, the *ponente* shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court *en banc* or in Division may submit a separate written concurring or dissenting opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the *rollo*.

**In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.** (Emphasis supplied)

In *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*,<sup>5</sup> the taxpayer questioned the authority of the RO only in their Motion for Reconsideration before the CTA *En Banc*. We held in that case that the failure of petitioner to raise at the earliest opportunity the RO's lack of authority does not preclude the Court from considering the same because the said issue goes into the intrinsic validity of the assessment itself.<sup>6</sup>

Second, it is well-established that the practice of reassigning or transferring ROs originally named in the Letter of Authority (LOA) and substituting them with new ROs to continue the audit or investigation without a separate or amended LOA is prohibited. In *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corporation*,<sup>7</sup> We held that "(t)he issuance of an LOA prior to examination and assessment is a requirement of due process"<sup>8</sup> and "is not a mere formality or technicality."<sup>9</sup> We further held that this practice:

- (i) violates the taxpayer's right to due process in tax audit or investigation;
- (ii) usurps the statutory power of the 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 BIR rules and regulations, particularly RMO No. 43-90 dated September 20, 1990.<sup>10</sup>

Since RO Mary Ann Canare's authority did not emanate from a separate or amended LOA, her authority to continue the audit of respondent's books of accounts for taxable year 2006 is unauthorized, rendering the assessment void.

<sup>5</sup> G.R. No. 241848, May 14, 2021.

<sup>6</sup> Id.

<sup>7</sup> G.R. No. 242670, May 10, 2021.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

Third, a perusal of Revenue Memorandum Order (RMO) No. 8-2006<sup>11</sup> shows that the issuance of an LOA, even during re-assignment, was not done away with.

In any case, Sec. 13 of the National Internal Revenue Code<sup>12</sup> (NIRC) requires that an RO must be validly authorized, through an LOA issued by the Revenue Regional Director, before conducting an audit of a taxpayer:

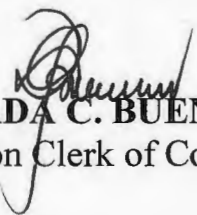
SEC. 13. *Authority of a Revenue Officer.* — Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a **Revenue Officer assigned to perform assessment functions** in any district may, **pursuant to a Letter of Authority** issued by 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. (Emphasis supplied)

Hence, even assuming RMO No. 8-2006 removed the requirement of an LOA, it cannot prevail over the clear letter of the NIRC, requiring an LOA for the RO to validly conduct an audit of a taxpayer.

**WHEREFORE**, the Petition for Review on *Certiorari* is **DENIED** for lack of merit. The Decision dated March 13, 2018 and the Resolution dated August 6, 2018 of the CTA *En Banc* in CTA EB Nos. 1560-1561 are **AFFIRMED**.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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<sup>11</sup> Entitled “PRESCRIBING GUIDELINES AND PROCEDURES IN THE IMPLEMENTATION OF THE LETTER OF AUTHORITY MONITORING SYSTEM (LAMS).” Dated: February 1, 2006.

<sup>12</sup> Entitled “AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES.” Effective: January 1, 1998.

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(CTA EB Nos. 1560 & 1561)  
(CTA Case No. 8538)

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