

Title: Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.

Facts:

This case involves the Commissioner of Internal Revenue (petitioner) versus McDonald's Philippines Realty Corporation (respondent) concerning the invalidation of a deficiency value-added tax (VAT) assessment by the Court of Tax Appeals (CTA). The respondent is a foreign corporation licensed to operate in the Philippines, with the primary activity of purchasing and leasing McDonald's Restaurant sites.

On August 31, 2007, the Bureau of Internal Revenue (BIR) issued a Letter of Authority (LOA) authorizing specific revenue officers to examine the books of the respondent for all internal revenue taxes for 2006. Subsequently, on December 2, 2008, one of the originally authorized revenue officers was reassigned, and Rona Marcellano was designated to continue the audit without issuing a new LOA.

The petitioner eventually demanded payment for deficiency VAT for 2006. The respondent protested, arguing that Marcellano wasn't authorized to investigate since no new or amended LOA was provided to her. The CTA Division and En Banc agreed, declaring the assessment void due to the lack of authority. The case reached the Supreme Court upon the petitioner's review request.

Issues:

1. Whether the practice of substituting originally-named revenue officers in an LOA to continue an audit investigation without a separate or amended LOA violates the taxpayer's right to due process.
2. Whether such a practice usurps the statutory power of the Commissioner of Internal Revenue or his duly authorized representative to grant the authority to examine a taxpayer's books of accounts.
3. Whether the practice complies with existing BIR rules and regulations regarding the requirement of an LOA.

Court's Decision:

The Supreme Court denied the petition for lack of merit, affirming the CTA's decisions. The Court emphasized that identifying specifically named revenue officers in the LOA is a due process requirement for the validity of an audit or investigation by the BIR. Substituting revenue officers without a new or amended LOA violates the taxpayer's right to due process, usurps the statutory powers of the CIR, and does not comply with existing BIR rules and

regulations, particularly RMO No. 43-90 dated September 20, 1990, which requires the issuance of a new LOA for reassignment of cases.

Doctrine:

1. An LOA must be issued by the CIR or his duly authorized representative before any revenue officer can perform an examination or assessment. An LOA is a special authority granted to a specific revenue officer, and an examination or assessment conducted without such authority is a nullity.
2. If the original revenue officer authorized by an LOA is reassigned or transferred, the new revenue officer must be granted a separate or amended LOA naming them specifically to continue the audit or investigation to comply with due process requirements.
3. The use of a memorandum of assignment or referral memorandum without a new or amended LOA usurps the powers of the CIR and his authorized representatives to grant authority to examine taxpayer's books of accounts and should not be considered valid authorization for an audit or investigation.

Historical Background:

The practice of reassigning revenue officers without proper authorization had become endemic, with several CTA decisions including this case focusing on its legal implications. The Supreme Court's decision in this case is an affirmation of the rule of law—specifically, adherence to statutory prescriptions on tax administration by the CIR and the respect for taxpayer due process. This decision reiterates the importance of providing taxpayers with clear and definitive proof of the authority of revenue officers conducting audits and assessments, and aligns with the BIR's own recognition that the practice should be discontinued.