REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

KABALIKAT PARA SA MAUNLAD NA BUHAY, INC., Petitioner,	**CTA EB NO. 1238** (CTA Case No. 8336)
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1239** (CTA Case No. 8336)
	Present:
- versus -	**DEL ROSARIO,** *PJ*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS,** and **RINGPIS-LIBAN,** *JJ.*
KABALIKAT PARA SA MAUNLAD NA BUHAY, INC. Respondent.	**Promulgated:** MAR 25 2015 2:25 p.m.

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RESOLUTION

UY, *J.*:

Records show that Kabalikat Para Sa Maunlad Na Buhay (Kabalikat), petitioner in **CTA EB No. 1238,** filed the following pleadings by registered mail on February 17, 2015, which were received by the Court *En Banc* on March 2, 2015, *viz*:

1. **"Motion for Reconsideration"**[1], seeking the reconsideration and setting aside of this Court's Resolution dated January 13, 2015; and

2. **"Opposition/Counter-Manifestation"**[2], praying that the Court *En Banc* bar Atty. Solo V. Tibe's representation as collaborating counsel for Kabalikat and deny Atty. Tibe's prayer to be furnished with all pleadings, notices, and other processes from this Court.

On the other hand, in **CTA EB No. 1239**, the Commissioner of Internal Revenue (CIR) filed, on February 18, 2015, her **"Motion for Reconsideration [Of the Resolution dated January 13, 2015]"**[3], praying that the Court reconsider its Resolution dated January 13, 2015 and that her Petition for Review be substantially given due course of action by the Court.

Both Motions for Reconsideration lack merit.

In the Resolution dated January 13, 2015[4], the instant consolidated Petitions for Review were denied due course and accordingly dismissed by the Court *En Banc* for being insufficient in form pursuant to Section 7, Rule 43 of the 1997 Rules of Civil Procedure.[5]

In particular, CTA EB No. 1238 was dismissed on the ground that Kabalikat's Petition for Review failed to include a concise and direct statement of complete facts and to attach thereto either legible duplicate originals or certified true copies of the assailed Decision and Resolution. On the other hand, CTA EB No. 1239 was dismissed for failure of the CIR to show proof of authority of Mr. Gerardo R. Florendo to sign the Verification and Certification Against Forum-Shopping dated November 3, 2014 and to serve a copy of her Petition for Review to Kabalikat's counsel of record or to show proof of service thereof.

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[1] Docket (CTA EB No. 1238), pp. 100 to 109.
[2] Docket (CTA EB No. 1238), pp. 148 to 151.
[3] Docket (CTA EB No. 1238), pp. 43 to 46.
[4] Docket (CTA EB No. 1238), pp. 32 to 37.
[5] Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals provides that "[a]n appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal."

After a careful examination of the parties' Motions for Reconsideration, the Court *En Banc* finds both motions insufficient to cure the formal defects found in the parties' respective Petitions for Review.

In **CTA EB No. 1238**, while Kabalikat's Motion for Reconsideration contained the supposed revised statement of complete facts, it did not cure the lack thereof in Kabalikat's Petition for Review dated October 17, 2014 because said Motion for Reconsideration and the allegations contained therein cannot be considered as deemed incorporated in Kabalikat's Petition for Review. Neither may the Court consider the same as an Annex thereto. In other words, notwithstanding the filing of a Motion for Reconsideration, Kabalikat's Petition for Review dated October 17, 2014, as it stands, remains to be insufficient in form.

On the other hand, in **CTA EB No. 1239**, although the CIR claims that under Memo. Order No. V-634, as amended by Revenue Administrative Order No. 10-95 dated October 10, 1995, Regional Directors are authorized to sign petitions for review filed before this Court, she did not attach in her Motion for Reconsideration a duplicate original or certified true copy of the said Memo. Order to prove such authority. Thus, the Verification and Certification dated November 3, 2014 executed by Mr. Gerardo R. Florendo remains to be formally defective without the required proof of authority.

Moreover, while counsel for the CIR admits serving a copy of her Petition for Review on the law firm of Salvador & Associates and not on the Kabalikat's counsel of record and sincerely apologizes for such inadvertence, still, there is no showing that Kabalikat's counsel of record was served a copy of the CIR's Petition for Review in CTA EB No. 1239. Without such proof of service, the CIR's Petition for Review remains to be defective.

In the light of the foregoing considerations, the Court *En Banc* finds no cogent reason to recall and set aside its Resolution dated January 13, 2015 and reinstate the instant consolidated Petitions for Review.

WHEREFORE, the **"Motion for Reconsideration"** filed by Kabalikat Para Sa Maunlad Na Buhay on February 17, 2015 and the **"Motion For Reconsideration (Of the Resolution dated January 13, 2015)"** filed by the Commissioner of Internal Revenue on February 18, 2015, are hereby **DENIED** for lack of merit.

In view thereof, Kabalikat's **"Opposition/Counter-Manifestation"** filed on February 17, 2015 is now rendered **MOOT and ACADEMIC**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice