REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	C.T.A. EB No. 1297 (C.T.A. CASE No. 8165)
- versus -	
DEUTSCHE KNOWLEDGE SERVICES, PTE. LTD., Respondent.	

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DEUTSCHE KNOWLEDGE SERVICES PTE. LTD., Petitioner,	C.T.A. EB No. 1302 (C.T.A. CASE No. 8165)
- versus -	Present: DEL ROSARIO, *PJ* CASTAÑEDA, JR. BAUTISTA, UY,
COMMISSIONER OF INTERNAL REVENUE, Respondent.	CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, *JJ.*
	Promulgated: JUL 14 2015 4:12pm

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RESOLUTION

***Fabon-Victorino, J.*:**

Before the Court are the following:

(1) Petition for Review dated April 22, 2015 filed by the Commissioner of Internal Revenue (CIR) docketed as C.T.A. EB No. 1297 to which Deutsche Knowledge Services, PTE. LTD. filed its Comment dated June 15, 2015; and

(2) Petition for Review dated May 14, 2015 filed by Deutsche Knowledge Services PTE. LTD. docketed as C.T.A. EB No. 1302.

After considering the arguments/discussion raised by petitioner CIR in its Petition for Review docketed as C.T.A. EB No. 1297, together with the Comment thereon dated June 15, 2015 filed by respondent Deutsche Knowledge Services, PTE. LTD., this Court hereby resolves to give **DUE COURSE** to the Petition for Review.

Anent C.T.A. EB No. 1302, the record indicates that petitioner failed to submit a Board Resolution authorizing petitioner's representative to sign the verification and certification against forum shopping, as well as the certified true copies of the assailed Amended Decision promulgated on August 8, 2013 and Resolution of April 10, 2015 in CTA Case No. 8165.

Elementary is the rule that only individuals vested with authority by a valid board resolution may sign the certificate of non-forum shopping on behalf of a corporation. A petition for review is subject to dismissal if a certification was submitted unaccompanied by proof of the signatory's authority.[1]

Since petitioner is a corporation, the certification must be executed by an officer or member of the board of directors or by one who is duly authorized by a resolution of the board of directors; otherwise, the complaint will have to be dismissed. The lack of certification against forum shopping is generally not curable by mere amendment of the complaint, but shall be a cause for the dismissal of the case without prejudice. The same rule applies to certifications against forum shopping signed by a person on behalf of a corporation which are unaccompanied by proof that said

[1] Cosco Philippines Shipping, Inc. vs. Kemper Insurance Company, G.R. No. 179488, April 23, 2012

signatory is authorized to file the complaint on behalf of the corporation. x x x if a complaint is filed for and in behalf of the plaintiff who is not authorized to do so, the complaint is not deemed filed. An unauthorized complaint does not produce any legal effect. Hence, the court should dismiss the complaint on the ground that it has no jurisdiction over the complaint and the plaintiff.[2]

On the failure to attach certified true copies of the assailed Decision and Resolution, Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals, provides, as follows:

> SEC. 2. *Petition for review; contents.* - The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. **A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition**. (Emphasis supplied.)

Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals also provides, as follows:

> Sec. 4(b) An 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.

Corollarily, Section 6, Rule 43 of the Rules of Court provides:

> **Sec. 6.** *Contents of the petition.* The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; **(c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from,** together with certified true

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[2] Id.

> copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (Emphasis ours.)

No less than the Supreme Court has upheld the mandatory character of attaching the duplicate originals or certified true copies of the assailed decision to a petition for review.[3]

Section 6 of Rule 43 does not require that all of the supporting papers or annexes accompanying the petition should be certified true copies or duplicate originals. What is mandatory is the attachment of clearly legible duplicate originals or certified true copies of the challenged **judgment or final orders** of the lower courts.[4] Failure to comply with this requirement is a sufficient ground for the dismissal of the petition.[5]

This requirement is echoed in Section 7, Rule 43 of the Rules of Court which states that non-compliance with such mandatory requirement is a sufficient ground to dismiss the petition, thus:[6]

> **Sec. 7.** *Effect of failure to comply with requirements.* The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, **proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.** (Emphasis ours.)

Applying the foregoing provisions in the instant case, the failure to submit a board resolution for the authority of petitioner's representative to sign the verification and certification against forum shopping, as well as the certified

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[3] Philippine National Bank vs. Commissioner of Internal Revenue, G.R. No. 172458, December 14, 2011
[4] Kalayaan Arts and Crafts, Inc. vs. Manuel Anglo and Jorge Yanson, G.R. No. 143467, July 21, 2003
[5] Abapo, et al. vs. The Court of Appeals and San Miguel Corporation, G.R. No. 142405, September 30, 2004
[6] Philippine National Bank vs. Commissioner of Internal Revenue, G.R. No. 172458, December 14, 2011

true copies of the assailed Amended Decision promulgated on August 8, 2013 and Resolution dated April 10, 2015 in CTA Case No. 8165, warrants the outright dismissal of the Petition in C.T.A. EB No. 1302.

WHEREFORE, the parties in C.T.A. EB No. 1297 are hereby granted a period of thirty (30) days from notice, within which to file their respective memoranda. After the filing of the required pleading or the lapse of the period granted, the Petition for Review shall be deemed submitted for decision.

On the other hand, the Petition for Review dated May 14, 2015 filed by Deutsche Knowledge Services PTE. LTD. in C.T.A. EB No. 1302, is hereby **DISMISSED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen S L
MA. BELEN M. RINGPIS-LIBAN
Associate Justice