REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

BUREAU OF INTERNAL REVENUE REVENUE REGION No. 1 CALASIAO, PANGASINAN,
Plaintiff-Appellant,

- versus -

SHIRLEY DOMINGO CHU,
Accused-Appellee.

CTA CRIM. CASE NO. A-23
(RTC Criminal Case Nos. A-9316 & A-9317)

Members:

RINGPIS-LIBAN, *PJ Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

MAY 2 2 2026

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DECISION

The Case

Before the Court is a *Petition for Review* filed by the Bureau of Internal Revenue ("BIR") – Revenue Region No. 1 Calasiao, Pangasinan ("BIR-RR1"), seeking a review of pure questions of law in the Joint Resolution of the Regional Trial Court ("RTC") Branch 32 of Agoo, La Union ("RTC Br. 32") dated May 15, 2024,[1] which upheld the dismissal of the criminal cases filed by BIR-RR1 against accused-appellee, Shirley Domingo Chu, in Joint Resolution dated April 1, 2024.[2]

The Facts

Plaintiff-appellant BIR-RR1 issued a Formal Letter of Demand ("FLD") and Final Assessment Notices ("FAN") on January 10, 2015, with a demand for payment thereof until February 10, 2015, against accused-

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[1] Docket, pp. 75 to 82.
[2] *Id.* at 59 to 74.

appellee. The FLD/FAN was served to accused-appellee's attorney-in-fact/husband on January 15, 2015.[3]

Accused-appellee failed to pay the deficiency tax or to file a valid protest against the FLD/FAN within the 30-day period given to her, making the assessment final, executory, and demandable.[4]

On February 2, 2023, a Joint-Complaint Affidavit was filed by the BIR-RR1 against accused-appellee for her failure to pay her assessed deficiency income tax and value-added tax ("VAT") for the taxable year ("TY") 2011, with the Office of the Provincial Prosecutor of Bauang, La Union ("OPP-La Union") for preliminary investigation and the filing of appropriate criminal information with the court.[5]

On March 10, 2023, an Information was filed with the RTC of Agoo, La Union charging accused-appellee for willful failure to pay income tax and VAT in the aggregate amount of ₱1,797,284.79 for TY 2011 and was raffled to RTC Branch 31.[6]

The RTC Branch 31, dismissed the criminal case *motu proprio* for lack of jurisdiction on the basis that aggregate amount of the deficiency taxes is beyond the jurisdictional threshold of the RTC in tax criminal cases. The same was upheld after BIR-RR1 moved for its reconsideration.[7]

BIR-RR1 then filed a Joint Complaint-Affidavit for two counts of violation of *Section 255 of the National Internal Revenue Code of 1997, as amended, ("the Tax Code")* with the OPP-La Union. This resulted to two Informations: 1) for failure to pay deficiency income tax amounting to ₱730,252.56; and 2) for failure to pay deficiency VAT amounting to ₱411,391.27, and filed with the RTC of Agoo, La Union. This time, it was raffled with RTC Br. 32. The two Informations were then consolidated.[8]

On April 1, 2024, the RTC Br. 32 resolved to dismiss the criminal cases on the ground of lack of jurisdiction, ruling that since the aggregate total of the deficiency income tax and VAT amounting to ₱1,141,643.83 for the same TY 2011 that accused-appellee allegedly failed to be pay exceeds ₱1,000,000.00, the same should have been filed with the Court of Tax Appeals ("CTA"). The dismissal was upheld after BIR-RR1 moved for its reconsideration in a Joint Resolution dated May 15, 2024.

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[3] See Par. 5, Statement of Facts and Matters Involved, Petition for Review, *id.* at 6.
[4] See Par. 6, *id.*
[5] See Par. 11, *id.* at 7.
[6] See Par. 12, *id.*
[7] See RTC Br. 32 Joint Resolution dated April 1, 2024, *id.* at 65 to 67.
[8] *Id.* at 67 to 69.

On June 21, 2024, the BIR-RR1 filed the present *Petition for Review*[9] before this Court, via registered mail, appealing the dismissal of the criminal cases against accused-appellee by RTC Br. 32.

On September 13, 2024, BIR-RR1 filed its Appellant's Brief,[10] while accused-appellee filed her Appellee's Brief on May 27, 2025.[11]

In a Resolution dated July 30, 2025, the Court resolved to change the title of the present case to follow the title of the case as it was in the court of origin, in accordance with *Rule 9, Section 1 of the Revised Rules of the CTA ("RRCTA")*, in relation to *Rule 124, Section 1 of the Rules of Court*, thereby renaming the plaintiff-appellant to "People of the Philippines". Additionally, the case was deemed submitted for decision.[12]

Hence, this decision.

<u>The Issues</u>

The plaintiff-appellant raised the following issues for the Court's resolution:[13]

I. Whether the number of Informations filed before the Courts in violation of Section 255 of the 1997 National Internal Revenue Code, as amended, for Willful Failure to Pay Taxes, be based on "Per Tax Type" or "Aggregate Amount of All Tax Types" the delinquent taxpayer has failed to pay for the taxable period under audit investigation.

II. Whether or not the First Level Courts have jurisdiction over violations of Section 255 of the 1997 National Internal Revenue Code, as amended, considering that the imposable penalty therefor is imprisonment of not less than one (1) year but not more than ten (10) years.

III. Whether the determination of jurisdiction over criminal cases for violation of the 1997 National Internal Revenue Code, as amended, be based on the amount of tax involved or the imposable penalty for the crime committed.

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[9] *Id.* at 5 to 20.
[10] *Id.* at 50 to 83.
[11] *Id.* at 120 to 133.
[12] *Id.* at 137 to 139.
[13] Appellant's Brief, *id.* at 52 to 53.

Arguments of the Parties

Plaintiff-Appellant's Arguments:

Plaintiff-appellant argues that the number of Informations to be filed in court for violation of *Section 255 of the Tax Code* should be based on the number of tax types a delinquent taxpayer has been assessed for deficiencies and that the court's jurisdiction must be based on the amount per tax type and not on the aggregate total of all the taxes assessed. It also posits that the duration of the imposable penalty of imprisonment must be considered in determining which court has jurisdiction.

Asserting that the respective principal amount of deficiency income tax and VAT, as indicated in their respective Informations, are less than ₱1,000,000.00 and that the imposable penalty of imprisonment under *Section 255* is not less than one year but not more than 10 years, plaintiff-appellant argues that the RTC has proper jurisdiction thereon.

Accused-appellee's Counter-arguments:

Accused-appellee counter-argues that the RTC has no jurisdiction over the criminal cases filed against her since *Section 255 of the Tax Code* does not specify that separate offense should be filed if the taxpayer failed to pay different tax types. Accordingly, the plaintiff-appellant cannot separate these offenses defined and penalized under *Section 255*, which were all committed in 2011, as these offenses constitute a single act of violation of the said provision.

Since the alleged single act of violation of *Section 255* (*i.e.* failure to pay deficiency taxes in TY 2011) in this case comprise of an aggregate total exceeding ₱1,000,000.00, the RTC cannot acquire jurisdiction thereon.

The Ruling of the Court

The *Petition for Review* must be dismissed.

The Petition for Review was filed on time, but plaintiff-appellant's counsel lacks authority to file it.

Section 7(b)(2)(a) of the CTA Law empowers the CTA to exercise exclusive appellate jurisdiction in criminal offenses over appeals from judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respective territorial jurisdiction.

The foregoing provisions are echoed in *Rule 4, Section 3(b)(2) of the RRCTA*, which provides that the Court in Division shall exercise exclusive appellate jurisdiction over appeals from the judgments, resolutions, or orders of the Regional Trial Courts in their original jurisdiction in criminal offenses arising from violations of the *NIRC* or the *Tariff and Customs Code* and other laws administered by the Bureau of Internal Revenue or Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than one million pesos or where there is no specified amount claimed.

Meanwhile, *Rule 9, Section 9(a) of RRCTA* prescribes that an appeal to the Court in criminal cases decided by a Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal pursuant to *Sections 3(a) and 6, Rule 122 of the Rules of Court* ***within fifteen days from receipt of a copy of the decision or final order*** with the court which rendered the final judgment or order appealed from and by serving a copy upon the adverse party. The Court in Division shall act on the appeal.

Plaintiff-appellant, through its counsel, the legal officers of BIR-RR1, received the RTC's assailed Joint Resolution dated May 15, 2024 on June 11, 2024,[14] giving it until June 26, 2024 to file a petition for review before this Court. Accordingly, the *Petition for Review* filed by BIR-RR1 on June 21, 2024, via registered mail,[15] invoking the Court's appellate jurisdiction, was made on time.

However, an essential element involving appeals in criminal cases is that it be made by the proper authority or at least be clothed with the proper authority.

The present *Petition for Review* lacks both.

Rule 9, Section 10 of the RRCTA provides that:

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[14] *Id.* at 75.
[15] *Id.* at 46.

> SECTION 10. *Solicitor General as Counsel for the People and Government Officials Sued in their Official Capacity. — The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction.* He may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: Provided, however, such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.
> (Italics supplied.)

This is consistent with *Section 35(1), Chapter 12, Title III, Book IV of Executive Order No. 292 or the Administrative Code of 1987*, which specifies that it is the Office of the Solicitor General ("OSG") who shall represent the government and all its agencies and instrumentalities in cases in cases pending in the Court of Appeals and the Supreme Court:

> SECTION 35. *Powers and Functions. — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer.* When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of lawyers. It shall have the following specific powers and functions:
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> (1) *Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings*; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.
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> . . . .
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> (8) *Deputize legal officers of* government departments, *bureaus*, agencies and offices ***to assist the Solicitor General*** *and appear or represent the Government in cases involving their respective offices, brought before the courts*, and *exercise supervision and control over such legal Officers* with respect to such cases.
> (Italics and emphasis supplied.)

Notably, while the OSG has the sole authority to represent the government in all criminal proceedings before the Supreme Court and Court of Appeals, it may deputize legal officers of government bureaus (*i.e.* the BIR), to appear or represent the government in case involving its office brought before the courts. However, the extent of deputization of legal officers is merely on an assisting capacity. Accordingly, it is still the Solicitor General who shall exercise supervision and control over such deputized legal officers. Necessarily included in the power to control the deputized legal officers in appealed criminal cases is to cause the filing of an appeal with the proper court.

On the other hand, the Court is not unaware of *Section 220 of the Tax Code*, which states that:

> Section 220. *Form and Mode of Proceeding in Actions Arising under this Code.* – Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the Bureau of Internal Revenue but no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner.

Apparently, the *Tax Code* authorizes BIR legal officers to conduct civil and criminal actions in behalf of the government for proceedings instituted under the authority of the *Tax Code* or other laws enforced by the BIR. However, this is not sufficient to override the principal authority of the OSG to represent the government in courts, particularly in appealed cases. This matter was clarified in *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*,[16] ("*La Suerte*") *viz*:

> The *institution* or *commencement* before a proper court of civil and criminal actions and proceedings arising under the Tax Reform Act which "shall be conducted by legal officers of the Bureau of Internal Revenue" is not in dispute. *An appeal from such court, however, is not a matter of right. Section 220 of the Tax Reform Act must not be understood as overturning the long established procedure before this Court in requiring the Solicitor General to represent the interest of the Republic. This Court continues to maintain that it is the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings.* This pronouncement finds justification in the various laws defining the Office of the Solicitor General, beginning with Act No. 135, which took effect on 16 June 1901, up to the present Administrative Code of 1987. Section 35, Chapter 12, Title III, Book IV, of the said Code outlines the powers and functions of the Office of the Solicitor General . . .
> (Italics in the original.)

Based on the foregoing, *Section 220* is clear as to the BIR legal officers' authority to institute or commence civil and criminal actions and proceedings under the Tax Code. However, as clarified in the above case, such authority does not extend to appellate proceedings.

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[16] G.R. No. 144942 (Resolution), July 4, 2002.

Similarly, in this case, BIR-RR1 invokes the appellate jurisdiction of this Court to review RTC Br. 32's dismissal of the criminal cases before it. As such, it is essential that the instant *Petition for Review* be filed by OSG or, at least, that the BIR-RR1 be able to produce proof that it is deputized by the OSG for such purpose.

However, the case records bear nothing of any involvement by the OSG, or that it at least was given notice thereon. It was not served with copy/ies of the instant *Petition for Review* filed before this Court and any of the subsequent submissions made by the parties. This lack of notice on the OSG with respect to the present appeal herein confirms that the legal officers of BIR-RR1 were not deputized, hence, not authorized, to appeal the criminal cases dismissed by RTC Br. 32.

On the other hand, while the court has the prerogative to relax its procedural rules to serve the demands of substantial justice and equity, such is unavailing in this case.

First, plaintiff-appellant's counsel failed to explain why it by-passed the policy on the requisite deputization by the OSG prior to filing the present appeal before the Court.

To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioners must show reasonable cause justifying their non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantive justice, which petitioners failed to do. The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity. Petitioners urge a less rigid application of procedural rules to give way to the resolution of the case on its merits. However, the desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse, as in this case.[17]

Second, the legal officers of BIR-RR1 did not just by-pass the OSG's principal authority to file the instant *Petition for Review*, but they also did not notify the latter of the present appellate proceedings, even as a matter of courtesy.

In *Commissioner of Internal Revenue v. East Asia Utilities Corporation*,[18] the Supreme Court relaxed the procedural lapse of lack of authority by the BIR legal officers to file an appeal before it on behalf of the government. However, key in disregarding said lapse was that the OSG had

[17] *Babasa v. Real*, G.R. No. 254945 (Notice), March 1, 2021.
[18] G.R. No. 225266, November 16, 2020.

been notified of the proceedings since filing the motion for extension of time to file a petition for review and all issuances of the Supreme Court regarding the case's developments, thereby protecting the interests of the government.

But then, as already noted earlier, such notification to the OSG is absent from this case, rendering it unaware of the BIR-RR1's actions and depriving it of the opportunity to raise its own arguments to protect the government's interests herein. While the BIR-RR1's zeal in pursuing the criminal cases against the accused-appellee is commendable, the same cannot be used to justify any by-pass in the existing laws and policies with respect to criminal prosecution and appeals, especially in light of the *La Suerte* ruling. This apparent by-pass by BIR-RR1 cannot be countenanced and, thus, cannot warrant relaxation of rules.

Without the proper deputization from the OSG, the legal officers of BIR-RR1 have no authority to file the instant Petition, thereby rendering it dismissible.

ACCORDINGLY, the *Petition for Review* filed on June 21, 2024 is **DISMISSED** for lack of authority of plaintiff-appellant's counsel to file the same.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice