REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 3385** (CTA Case No. 10933)
	Present:
- versus -	**RINGPIS-LIBAN**, *P.J.*, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
NCH CUSTOMER SUPPORT SERVICES, INC., Respondent.	Promulgated: JUL 28 2026 11:45 am

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RESOLUTION

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Petition for Review" filed on 10 June 2026.[1] The instant Petition for Review assails the Decision dated 26 November 2025[2] (**assailed Decision**) of the Second Division and the subsequent Resolution dated 12 May 2026[3] (**assailed Resolution**) of the Special Second Division in CTA Case No. 10933, entitled *NCH Customer Support Services, Inc. v. Commissioner of Internal Revenue*.

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1 *Rollo*, pp. 01-11.

2 Id., pp. 26-52; Penned by Associate Justice Corazon G. Ferrer-Flores with Presiding Justice (then Associate Justice) Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro, concurring.

3 Id., pp. 54-57; Penned by Associate Justice Corazon G. Ferrer-Flores with Presiding Justice (then Associate Justice) Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro, concurring.

Attached to the Petition for Review are: (**1**) Revenue Delegation Authority Order (**RDAO**) No. 2-2007,[4] which states that the Deputy Commissioner for Legal and Inspection Group is authorized to approve and sign verifications, certifications against forum shopping, petitions for review, and other pleadings in cases of appeal for cases involving civil actions for collection of taxes; and (**2**) Revenue Memorandum Circular (**RMC**) No. 25-2010,[5] which provides that the Office of the Solicitor General (**OSG**) deputizes Bureau of Internal Revenue (**BIR**) handling lawyers to appear before the Court of Tax Appeals (**CTA**) *En Banc* for cases appealed before the latter, to wit:

> . . .
> **B. HANDLING CASES**
>
> . . .
> 2. Cases appealed before the Regional Trial Courts, Court of Appeals, and the Court of Tax Appeals *En Banc*.
>
>   a. The OSG hereby deputizes BIR handling lawyers to:
>
>   i. Appear before the Courts; and
>   ii. Continue the prosecution/litigation of appealed tax cases before the Regional Trial Courts, Court of Appeals, and the Court of Tax Appeals *En Banc*.
>
>   The BIR handling lawyer shall have the following responsibilities:
>
>   i. To appear before courts; and
>   ii. To prepare all pleadings, motions, orders, decisions, resolutions, communications, and other papers/documents in connection with the case.
>
>   b. The BIR shall periodically submit a list of handling lawyers to the OSG for purposes of deputation.
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> . . .

However, petitioner failed to submit proof of submission of a list of handling lawyers to the OSG for deputation, nor a written deputization or authority from the OSG authorizing BIR officials to file the instant Petition for Review.

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[4] Delegation of Authority With Regard To Institution Of Civil And Criminal Actions/Cases To Effect Recovery Of Taxes Or The Enforcement Of Any Fine, Penalty Or Forfeiture Under The Tax Code, With Regard To The Defense/s of The Bureau Of Internal Revenue In Cases/Actions Instituted Against It, And With Regard To Other Cases.

[5] Publishing the full text of the Memorandum Agreement between the Bureau of Internal Revenue (BIR) and the Office of the Solicitor General.

We resolve.

Under Section 2, Rule 3 of the 2019 Amended Rules of Civil Procedure (**Rules**), cases may only be prosecuted in the name of the real party in interest:

> **Section 2.** *Parties in interest.* – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, **every action must be prosecuted or defended in the name of the real party in interest**.

Pursuant to the Administrative Code of 1987, **in all civil actions, including tax cases, filed on behalf of the government, the OSG is the real party in interest.** This was the doctrine enunciated in the Supreme Court case of *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory,*[6] *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 which includes, but not limited to, its duty to –**
>
> "**(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.**
>
> "x x x x x x x x x

6 G.R. No. 144942, 04 July 2002; Citations omitted, emphasis supplied and in original text.

> "(3) Appear in any court in any action involving the validity of any treaty, law, executive order or proclamation, rule or regulation when in his judgment his intervention is necessary or when requested by the Court."
>
> In Gonzales vs. Chavez, the Supreme Court has said that, from the historical and statutory perspectives, the Solicitor General is the "principal law officer and legal defender of the government."
>
> . . .

Thus, it is abundantly clear that it is the OSG who must institute cases before this Court *En Banc*. The BIR itself recognized this through the issuance of RMC 25-2010, which provides that BIR officials may only handle cases before the CTA *En Banc* on behalf of the OSG when there is such a deputization to that effect. Consequently, **without the deputization order from the OSG, who is the real party in interest, the case filed by BIR officials cannot be deemed as validly filed.**

In the case at bar, **the instant Petition for Review was signed by BIR special counsels *sans* a written deputization or authority from the OSG.** As such, said BIR special counsel had no legal personality to file this case, in violation of Section 2, Rule 3 of the Rules.

Under Section 3, Rule 17 of the Rules, such violation shall result in the dismissal of the case:

> **Section 3.** *Dismissal due to fault of plaintiff.* – **If, for no justifiable cause, the plaintiff fails to** appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to **comply with these Rules** or any order of the court, **the complaint may be dismissed** upon motion of the defendant or **upon the court's own motion,** without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. **This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.**[7]

Accordingly, for petitioner's failure to submit a written deputization or authority from the OSG, the instant case shall be dismissed.

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[7] Emphasis supplied.

WHEREFORE, in view of the foregoing, the Commissioner of Internal Revenue's "Petition for Review" filed on 10 June 2026 is **DENIED** and the instant case is **DISMISSED** without prejudice.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice