REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

-*versus*-

FLORENTINA VILLANUEVA,
Respondent.

CTA EB CRIM. NO. 100
(CTA Crim. Case No. A-11)

Present:

RINGPIS-LIBAN, *Acting P.J.,*
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
NOV 03 2025 4:30 pm

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D E C I S I O N

ANGELES, *J.*:

Before the Court *En Banc* is a *Petition for Review*[1] filed by the People of the Philippines (petitioner) against Florentina Villanueva (respondent), praying for the reversal of the *Decision*[2] and *Resolution*[3] (assailed Orders) promulgated on September 30, 2022 and January 6, 2023, respectively, and issued by the First Division (Court in Division) in CTA Crim. Case No. A-11. The assailed Orders denied petitioner's appeal from the *Decision*[4] dated August 2, 2017 and *Order*[5] dated December 1, 2017, issued by the Regional Trial Court (RTC) of Manila, Branch 21, in Criminal Case No. 08-261193, acquitting respondent of the crime of violation of Section 255, in relation to Sections 253(d) and 256 of the National Internal Revenue Code (NIRC) of 1997, as amended.

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[1] *En Banc* (EB) Docket, pp. 5-15, with Annexes.
[2] EB Docket, pp. 16-32.
[3] EB Docket, pp. 33-35.
[4] Division Docket, pp. 39-54.
[5] Division Docket, pp. 55-57.

ANTECEDENTS

Petitioner is represented by the Bureau of Internal Revenue (BIR), the government agency primarily tasked to collect internal revenue taxes for the support of the government. Respondent is represented by her counsel on record, Atty. Lazaro EC. Valdez, Jr.[6]

The facts of the case were stated by the Court in Division, as follows:

> The BIR, through Regional Director Ruperto P. Somera, issued on September 16, 2002, Letter of Authority (LOA) No. 2000 00048637 authorizing Revenue Officer (RO) Genaro Guevara to conduct an examination of [respondent's] books of accounts and other accounting records for all internal revenue taxes for the period from January 2000 to December 31, 2000. [Respondent] received the LOA on September 19, 2002.
>
> On September 19, 2002, a First Request for Presentation of Records was issued against [respondent], seeking the production of her books of accounts and accounting records for the purpose of the examination under the aforementioned LOA.
>
> For [respondent's] failure to produce the requested documents, RO Guevara recommended that a subpoena be issued against [respondent]. On November 4, 2002, a Final Notice was issued for [respondent] to produce the requested documents prior to the issuance of a subpoena.
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> Failing to heed the Final Notice, Summons and/or Subpoena *Duces Tecum* was issued on April 28, 2003, which [respondent] received on May 5, 2003.
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> RO Guevara then recommended that an assessment notice be issued against [respondent] for deficiency income tax and value-added tax (VAT) using the best evidence obtainable.
>
> A Pre-Assessment Notice (PAN) was issued on December 29, 2003, finding [respondent] liable for deficiency income tax, VAT and compromise penalty.
>
> The BIR issued a Formal Letter of Demand (FLD) denominated as Assessment No. 31-2000 on January 23, 2004, with attached Assessment Notices (ANs), ordering [respondent] to pay deficiency income tax and deficiency VAT in the amounts of ₱78,483.82 and ₱672,873.43, respectively, inclusive of interest and penalties, on or before February 23, 2004.
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> The BIR issued a First Notice dated June 22, 2004 and a Second Notice dated August 11, 2004, calling for the payment of

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[6] *Petition for Review* dated February 3, 2023, EB Docket, p. 6.

[respondent's] tax liabilities prior to undertaking summary remedies for collection.

On September 15, 2004, a Final Notice Before Seizure was issued against [respondent].

Thereafter, [respondent] received a Warrant of Distraint and/or Levy on February 4,2005, and a Warrant of Garnishment on March 9, 2005.

The Chief of the Legal Division of BIR Revenue Region No. 6 sent a Letter dated May 12, 2005 addressed to [respondent] informing her that the assessment was referred to said Division for judicial action to enforce collection.

On November 23, 2005, Regional Director Alfredo V. Misajon referred the criminal prosecution of [respondent] to the City Prosecutor of Manila, with the attached Affidavit of Atty. Maki T. Datu-Ramos II of the Legal Division, Revenue Region No. 6, BIR.

On April 26, 2007, the City Prosecutor of Manila approved a Resolution finding probable cause to charge [respondent] with violation of Section 255 of the NIRC of 1997, as amended.

Thus, on May 20, 2008, an Information was filed with the RTC of Manila charging appellee with Violation of Section 255, in relation to Sections 253(d) and 256 of the NIRC of 1997, as amended, the accusatory portion of which reads:

> "That on or about January 23, 2004, in the City of Manila, Philippines, the said accused, did then and there willfully and unlawfully fail, refuse and neglect, as she still fails, refuses and neglects to pay her deficiency income tax, value-added tax and compromise penalties for the year 2000 in the amount of [₱]90,483.82, [₱]688,873.43 and [₱]34,400.00, respectively, or all valued at [₱]813,757.25, under BÌR Assessment/Demand Notices No. 31-2000, without formally protesting against or appealing the same, despite due notice of said assessment and demand to do so, to the damage and prejudice of the Republic of the Philippines, in the total amount of [₱]813,757.25, Philippine Currency.
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> Contrary to law."[7]

The proceedings before the RTC were likewise narrated, to wit:

In an Order dated May 28. 2008, the RTC directed the issuance of a Warrant of Arrest against [respondent].

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[7] *Decision* dated September 30, 2022, EB Docket, pp. 17-19.

On May 30, 2008, the RTC issued an Order of Arrest against [respondent], and set her bail at P24,000.00.

The Certificate of Detention dated June 4, 2008 disclosed that [respondent] has been detained at the Warrant & Subpoena Section of the Manila Police District pursuant to the Order of Arrest issued by the RTC. On even date, [respondent] posted bail by depositing cash in the amount of P24,000.00. Accordingly, the RTC ordered her release from detention.

Arraignment was conducted on June 10, 2008, where [respondent] pleaded "NOT GUILTY".

During the pendency of this case before the RTC, [respondent] sent on September 26, 2008 an Offer of Compromise to the BIR, proposing the settlement of her tax liabilities of ₱420,840.48, exclusive of surcharges, interest and penalties, with initial down payment of ₱50,000.00 and the balance to be paid at ₱10,000.00 a month until fully paid.

On June 10, 2009, [respondent] filed a Manifestation and Motion informing the RTC that she sent a Letter dated June 8, 2009 to the BIR offering to settle her tax liability.

Pre-trial proceeded on July 22 2009.

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On November 21, 2013, pre-trial conference was completed, and a Pre-Trial Order was issued.

Thereafter, trial ensued xxx xxx xxx

On August 2, 2017, the RTC rendered the assailed Decision, acquitting [respondent] of the crime charged in the Information.

On August 22, 2017, [petitioner] filed a Motion for Reconsideration on the Civil Aspect of the Decision, praying that the assessment issued against [respondent] be declared valid, and the latter to pay her deficiency taxes, including charges and interests, pursuant to said assessment.

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On December 1, 2017, the RTC issued the assailed Order denying [respondent's] Motion for Reconsideration on the Civil Aspect of the Decision.[8]

Aggrieved by the RTC's findings, petitioner filed a *Notice of Appeal*[9] on January 26, 2018, which was given due course on January 29, 2018.[10]

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[8] *Decision* dated September 30, 2022, EB Docket, pp. 20-24.
[9] RTC Docket, pp. 475-476.
[10] *Order* dated January 29, 2018, RTC Docket, p. 477.

PROCEEDINGS BEFORE THE COURT IN DIVISION

On May 31, 2018, the Clerk of Court of RTC Manila, Branch 21, transmitted to the Court in Division the complete records of the case. This was received by the said Court on December 15, 2021.[11]

On April 12, 2022, in compliance with the Court's Notice to File Brief dated February 10, 2022, petitioner filed a *Motion for Leave to Admit Attached Appellant's Brief*,[12] which the Court granted on May 2, 2022.[13] However, per a Records Verification Report dated June 28, 2022, it was stated that respondent failed to file her Appellee's Brief, despite notice.[14] As such, the case was submitted for decision.[15]

The Court in Division promulgated the assailed Decision on September 30, 2022, the dispositive portion of which reads:

> **WHEREFORE**, the present appeal is **DENIED** for lack of merit. The Decision dated August 2, 2017 and Order dated December 1, 2017, both rendered by the Regional Trial Court of Manila, Branch 21, in Criminal Case No. 08-261193 are **AFFIRMED.**[16]

Petitioner filed a *Motion for Reconsideration (Re: Decision dated 30 September 2022)* on October 25, 2022,[17] to which respondent filed no comment.[18]

On January 6, 2023, the Court in Division promulgated the assailed Resolution, ultimately denying the aforesaid motion.

PROCEEDINGS BEFORE THIS COURT

After requesting for an extension of time,[19] which was granted by the Court,[20] petitioner filed the instant *Petition for Review*[21] on February 8, 2023. In a Resolution[22] dated March 30, 2023, respondent was ordered to file her comment thereon.

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[11] Division Docket, p. 5.
[12] Division Docket, pp. 25-38.
[13] *Resolution* dated May 2, 2022, RTC Docket, p. 257-258.
[14] Division Docket, p. 260.
[15] *Resolution* dated August 5, 2022, RTC Docket, p. 262.
[16] *Supra*, note 2.
[17] Division Docket, pp. 281-285.
[18] *Records Verification Report* dated November 28, 2022, RTC Docket, p. 288.
[19] EB Docket, pp. 1-2.
[20] *Resolution* dated January 26, 2023, EB Docket, pp. 4.
[21] *Supra*, note 1.
[22] EB Docket, pp. 38-39.

However, the Court received a Records Verification Report dated May 9, 2023, stating that no Return Card and/or Returned Registered Mail was received by the Court in connection with the Resolution dated March 30, 2023 which was addressed and sent to Atty. Valdez and the Office of the Solicitor General (OSG).[23]

Thus, on May 12, 2023, the EB Clerk of Court, Atty. Danilo B. Fernando, wrote a letter to the Postmaster of the Quezon City Post Office, requiring the latter to inform the Court within ten (10) days from notice, of the exact date when the Registered Letter No. RE 580-224-153 ZZ pertaining to the Resolution dated March 30, 2023 was delivered and received by Atty. Valdez with address at 1063 C. Zobel St. Ermita, Manila.[24]

On July 25, 2023, the Court received a Certification from the Office of the Postmaster of the Manila Central Post Office, stating that the record of the aforesaid registered letter was gutted by fire.[25] As such, in a Resolution[26] dated September 15, 2023, the Court reiterated the Resolution dated March 30, 2023, ordering respondent to file her comment on the instant *Petition for Review*.

The Court again received a Records Verification Report dated November 23, 2023, stating that no Return Card was received by the Court in connection with the Resolution dated September 15, 2023 which was addressed to Atty. Valdez.[27]

On December 5, 2023, Atty. Fernando wrote another letter to the Postmaster of the Quezon City Post Office, requiring the latter to inform the Court within ten (10) days from notice, of the exact date when the Registered Letter No. RE 493-574-402 pertaining to the Resolution dated September 15, 2023 was delivered and received by Atty. Valdez with address at 1063 C. Zobel St. Ermita, Manila.[28]

On March 26, 2024, Atty. Fernando wrote a letter, this time to the Postmaster of the Manila Central Post Office, making a similar request as in the aforesaid letter dated December 5, 2023.

Despite the foregoing letters, the Court received another Records Verification Report dated May 27, 2024, stating that no Return Card,

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[23] EB Docket, p. 41.
[24] EB Docket, p. 42.
[25] EB Docket, p. 45.
[26] EB Docket, pp. 48-49.
[27] EB Docket, p. 51.
[28] EB Docket, p. 52.

Returned Registered Mail or Certification from the Postmaster was received by its Judicial Records Division, relative to the Resolution dated September 15, 2023 sent to Atty. Valdez.[29]

In a Resolution[30] dated August 5, 2024, the Court resolved to give due course to the instant *Petition for Review*, considering that in the Notices of Resolution attached to the records of the case, in connection with the Resolutions dated March 30, 2023 and September 15, 2023, the same were personally served to respondent's address on record and received by one "Richard Villanueva" on April 15, 2023 and September 25, 2023, respectively. The Court further noted that as regards Atty. Valdez, since there is a notation "cannot find specific address," the said Resolutions were not personally served to him. Thereafter, the Court submitted the case for decision.

ASSIGNMENT OF ERRORS

Petitioner assigns the following errors of fact and law:

> WITH ALL DUE RESPECT, THE HONORABLE COURT *A QUO* ERRED IN AFFIRMING THE RULING OF THE REGIONAL TRIAL COURT THAT RESPONDENT-APPELLEE WAS NOT SERVED WITH THE ASSESSMENT NOTICES.
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> THE RIGHT OF THE BIR TO COLLECT THE DEFICIENCY TAXES IS BASED ON A VALID ASSESSMENT WHICH IS FINAL, EXECUTORY AND DEMANDABLE AND WHICH CAN NO LONGER BE DISTURBED.[31]

Petitioner argues that when a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged is deemed instituted with the criminal action; and that in civil cases, the burden of proof is on the plaintiff to establish his/her case by preponderance of evidence. Following this, petitioner submits that there is no need to prove that respondent received the Assessment Notices subject of this case.

Petitioner claims that respondent was very well aware of the existence of the deficiency tax assessment issued against her for taxable

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[29] EB Docket, p. 60.
[30] EB Docket, pp. 62-65.
[31] *Petition for Review* dated February 3, 2023, EB Docket, p. 9.

year 2000. Respondent even stipulated on the following facts during the Pre-Trial Conference before the RTC:

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> d. That on January 23, 2004, the BIR issued Assessment Notice No. 31-2000 to respondent-appellee FLORENTINA VILLANUEVA for deficiency income tax, value-added tax and compromise penalties for taxable year 2000 in the amounts of P78,483.82, P672,873.43 and P62,000.00, respectively;
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> e. That notices/demand for payment of the 2000 deficiency tax assessments were made upon respondent-appellee;
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> f. That appellee has offered to settle her 2000 deficiency tax liabilities by compromise settlement; and
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> g. That respondent-appellee made partial payments on April 26, 2012 in the amount P1,500.00 and on January 31, 2013 in the amount of P5,000.00

Petitioner maintains that it is clear from the foregoing stipulations/admissions that respondent has knowledge of the 2000 deficiency tax assessments issued by the BIR against her. Petitioner points out that while the Pre-Trial Order issued by the RTC does not show that it was signed by respondent and her counsel, it contains the following directive:

> The parties are enjoined to go over this Pre-Trial and manifest within five (5) days from receipt hereof any correction or amendment they may wish to incorporate herein as it shall no longer be subject to change once trial begins xxx xxx xxx

Petitioner emphasizes that the records of the case are bereft of any manifestation filed by respondent to amend or withdraw the facts stipulated in the Pre-Trial Order.

Petitioner adds that the fact that respondent made several offers to pay her 2000 deficiency tax liability clearly shows that she no longer contested the propriety of the subject assessment. Petitioner concludes that for failure of respondent to file a valid protest against the subject assessment, the same had long become final, executory and demandable, hence, overdue, delinquent and incontestable.

RULING OF THE COURT *EN BANC*

The instant *Petition* must be dismissed.

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Section 10, Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA) expressly provides the authority and duty of the OSG to represent the People of the Philippines in all cases brought to the CTA in the exercise of its appellate jurisdiction, *viz.*:

> **RULE 9**
> *Procedure in Criminal Cases*
>
> xxx xxx xxx
>
> 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.** *(Emphasis supplied)*

As early as in the cases of *Commissioner of Internal Revenue v. La Suerte Cigar & Cigarette Factory*[32] and *LG Electronics Philippines, Inc v. Commissioner of Internal Revenue*,[33] as well as in the recent case of *People v. Tuyay*,[34] the Supreme Court has consistently held that it is the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings.

Further, in *Cariño v. De Castro*,[35] the Supreme Court clarified that it is the OSG who is the appellate counsel of the People of the Philippines in all criminal cases.

The general rule is that only the Solicitor General can bring or defend actions on behalf of the Republic of the Philippines, and that actions filed in the name of the Republic, or its agencies and instrumentalities, if not initiated by the Solicitor General, should be summarily dismissed.[36]

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[32] G.R. No. 144942, July 4, 2002.
[33] G.R. No. 165451, December 3, 2014.
[34] G.R. No. 206579, December 1, 2021.
[35] G.R. No. 176084, April 30, 2008.
[36] *Republic v. "G" Holdings Inc.*, G.R. No. 141241, November 22, 2005.

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The only exceptions to the foregoing rule are: (1) when the government is adversely affected by a contrary position taken by the OSG; (2) when there is an express authorization by the OSG deputizing legal officers to assist the Solicitor General and appear or represent the government in cases involving their respective offices; and (3) when the dismissal of the petition could have a lasting effect on government tax revenues as in the case of *La Suerte Cigar*.[37]

With respect to the second exception, the Supreme Court in *Republic v. Viaje*[38] recognized the power of the OSG to deputize legal officers of government departments, bureaus, agencies and offices to assist it in representing the government. This notwithstanding, the High Court emphasized that the OSG's deputized counsel is "no more than the 'surrogate' of the Solicitor General in any particular proceeding" and the latter remains the principal counsel entitled to be furnished copies of all court orders, notices, and decisions.[39]

In this case, what is involved is an appeal filed by the People of the Philippines from the assailed Orders rendered by the Court in Division in CTA Crim. Case No. A-11. Thus, it is the Solicitor General through the OSG who is the proper party statutorily authorized to represent petitioner in the present appeal. While the OSG is allowed to deputize lawyers from the BIR to serve as special counsel for petitioner, such deputization must be express or at least apparent to this Court.

A perusal of the *Motion for Extension of Time to File Petition for Review* filed on January 25, 2023, and the *Petition for Review* filed on February 8, 2023, readily show that the same were executed, signed and filed by lawyers from the Legal Division of the BIR. **However, nowhere in the records of the case does it appear that the OSG duly deputized the said BIR lawyers as special counsel for purposes of initiating the present appeal.**

Neither do the records of the case bear any proof that the said *Motion* and *Petition* were served on the OSG. Scrutiny of the said *Motion* and *Petition* reveal that the same were copy furnished only to respondent and her counsel. It can be reasonably concluded, therefore, in the absence of sufficient contrary proof, that the OSG was not duly informed of the filing of the said *Motion* and *Petition* at the time they were respectively filed.

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[37] *Id.*
[38] G.R. No. 180993, January 27, 2016.
[39] *Id.*

Based on the foregoing, We find petitioner's *Motion* and *Petition* to have been filed without the conformity and participation of the OSG.

As no written authorization from the OSG was ever submitted as proof of authority to file the instant *Petition* on behalf of the OSG, this Court is constrained to consider the *Petition* as not validly filed. Consequently, the assailed Orders have attained finality.

It bears noting that in *Cariño v. De Castro*,[40] the Supreme Court affirmed the decision of the Court of Appeals which dismissed the petition for review filed before it because it was filed only by the private prosecutor and not by the OSG as mandated by law.

More squarely, in *People v. Tuyay*,[41] the High Court upheld the decision of the CTA *En Banc* which denied due course to the petition for review and dismissed the same on the ground that petitioner People of the Philippines was represented by Special Prosecutors and not by the OSG.

Applying the foregoing to the case at bar, with the instant *Petition* suffering from the fatal infirmity of lack of the requisite imprimatur from the OSG, the same must be dismissed.

WHEREFORE, premises considered, the *Petition for Review* filed on February 8, 2023 is **DISMISSED.** Accordingly, the *Decision* and *Resolution* promulgated on September 30, 2022 and January 6, 2023, respectively, are **AFFIRMED.**

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice

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[40] *Supra*, note 35.
[41] *Supra*, note 34.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate 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
Acting Presiding Justice