CTA Form No. 8

23-000527-0026

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11309

EMELINO T. MAESTRO,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. ANGELINA RAYANNA O. MAPAGU
ATTY. FAUSTINO B. LUMABAO, JR.
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City, Philippines

GALIAS & RIVERA LAW OFFICES
3/F Prestige Tower, F. Ortigas Jr. Road
Ortigas Center, 1605 Pasig City

GREETINGS:

You are hereby notified by these presents that on **August 6, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 13, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

EMELINO T. MAESTRO,
Petitioner,

CTA CASE NO. 11309

Members:

- versus -

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 06 2025 1:00PM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is petitioner Emelino T. Maestro's (**petitioner**'s) Petition for Review[1] filed on 08 November 2023, assailing respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Re: Motion for Reconsideration to Modify the Tax Agents' Regulations PACE Code No. PM-DAVE-06-16-2023-079"[2] dated 07 September 2023, which affirmed the decision[3] of Regional Director (**RD**) Edgar B. Tolentino (**Tolentino**). The latter's decision sustained the validity of Sections (3)(B)(a)[4], 4(A)(1)[5],

1 Division Docket, pp. 6-22.
2 Exhibit "R-1", id., pp. 118-119.
3 Exhibit "R-2", id., pp. 120-123.
4 SEC. 3. *The Accreditation Boards.*

...

B. *Jurisdiction* — The RRAB and RNAB shall have jurisdiction over and shall require accreditation with the BIR of the following persons:

a) Individual tax practitioners engaged in private practice who are Certified Public Accountants (CPAs); CPA-Lawyers who issues/sign auditor's certificates or otherwise perform functions exclusively pertaining to a CPA; and individuals other than CPAs who meet the qualifications prescribed in these Regulations[.]

5 SEC. 4. *Minimum Qualifications of Applicants.* — ...

8[6] and 13[7] of Revenue Regulations (**RR**) No. 11-2006[8], as amended by RR No. 04-2010[9] (**assailed regulations**), pursuant to Section 3(a)[10], Rule 8 in relation to Section 3(a)(1)[11], Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

PARTIES OF THE CASE

Petitioner is of legal age, Filipino, married and with postal address at Unit 101 SAGA Centre, 62 Scout Chuatoco, Brgy. Roxas, Quezon City. He is also a Certified Public Accountant (**CPA**). He may be served with pleadings, notices and processes at Galias and Rivera Law Offices (**DGR Law Offices**) at 3rd floor, Prestige Tower, F. Ortigas Jr. Rd., Ortigas Center, Pasig City.[12]

Respondent, on the other hand, is the duly appointed CIR who is charged with, among others, enforcement of revenue laws and collection of national internal revenue taxes and the power to decide tax protests. He or she may be served with pleadings, notices and processes at the Litigation Division, Room 703, Bureau of Internal Revenue (**BIR**)

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A. *For Individual Tax Agents:*

1. He must be a Certified Public Accountant (CPA) with current professional license from the Professional Regulations Commission (PRC)[.]

6 SEC. 8. *Suspension or Cancellation of Certificate of Accreditation.*

7 Sec. 13. *Sanctions.*

8 Consolidated Regulations on the Accreditation of Tax Practitioners/Agents As A Prerequisite to Their Practice or Representation Before the Bureau of Internal Revenue and Further Simplifying and Superseding Revenue Regulations No. 15-99.

9 Amending Revenue Regulations No. 11-2006 on the Accreditation of Tax Practitioners/Agents As A Prerequisite to Their Practice or Representation Before the Bureau of Internal Revenue[.]

10 **SEC. 3**. *Who may appeal; period to file petition.* —

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

11 **SEC. 3**. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

12 Division Docket, p. 94.

National Office Building, Senator Miriam Defensor-Santiago Avenue, Diliman, Quezon City.[13]

FACTS OF THE CASE

On 15 June 2006, the Secretary of Finance (**SOF**) Margarito B. Teves (**Teves**), as recommended by then CIR Jose Mario C. Buñag (**Buñag**), issued RR No. 11-2006[14], pursuant to Section 244[15], in relation to Section 6(G)[16] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, to prescribe administrative mechanisms in the accreditation and registration of tax agents and practitioners, thereby bestowing them official recognition relative to their tax practice/ representation before the BIR, and setting the minimum standards therefor.

Subsequently, RR 04-2010[17] was issued, amending several provisions of RR No. 11-2006. Specifically, Sections (3)(B)(a), 4(A)(1), 8 and 13 of RR No. 11-2006, as amended by RR 04-2010, are being assailed, to wit:

> ...
>
> SEC. 3. *The Accreditation Boards.* —
>
> ...
>
> > B. *Jurisdiction* — The RRAB and RNAB shall have jurisdiction over and shall require accreditation with the BIR of the following persons:
> >
> > a) Individual tax practitioners engaged in private practice who are Certified Public Accountants (CPAs); CPA-Lawyers who issue/sign auditor's certificates or otherwise perform functions exclusively pertaining to a CPA; and individuals other than CPAs who meet the qualifications prescribed in these Regulations[.]
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> ...

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13 Id., p. 101.

14 Supra at note 8.

15 SEC. 244. *Authority of Secretary of Finance to Promulgate Rules and Regulations.*

16 SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* —

...

(G) *Authority to Accredit and Register Tax Agents.* — ...

17 Supra at note 9.

SEC. 4. *Minimum Qualifications of Applicants.* — ...
A. *For Individual Tax Agents*:

1. He must be a Certified Public Accountant (CPA) with current professional license from the Professional Regulations Commission (PRC).

...

SEC. 8. *Suspension or Cancellation of Certificate of Accreditation.* —
A. *Causes for Suspension, Cancellation or Revocation.* — The accreditation certificate may be suspended, cancelled or revoked as the case may be, upon petition by a taxpayer or by the PICPA or by the TMAP and other similar professional organization, or upon petition by any internal revenue officer, or upon motu proprio action by the RRAB or RNAB, after due notice and hearing set for the purpose, based on any of the following grounds:

1. Conviction of any criminal offense under the National Internal Revenue Code, or of any offense involving dishonesty, or breach of trust;

2. Giving false or misleading information, or participating in any way in the giving of false or misleading information to the Bureau of Internal Revenue or to any officer or employee thereof, in connection with any matter pending before them, knowing such information to be false or misleading;

3. The use of false of misleading representations with intent to deceive a client or prospective client in order to procure employment, or representing that he can ably obtain special consideration or action from the Bureau of Internal Revenue or officer or employee thereof by improper or unlawful means;

4. Willfully failing to make a tax return in violation of the NIRC, or evading, attempting to evade or participating in any way in evading or attempting to evade any national internal revenue tax or payment thereof;

5. Knowingly counseling or suggesting to a client or prospective client of an illegal plan to evade taxes or payment thereof, or concealing assets to evade taxes or payment thereof;

6. Misappropriating or failing to remit, funds received from a client for the purpose of payment of taxes;

7. Directly or indirectly attempting to influence, or offering or agreeing to attempt to influence the official action of any officer or employee of the BIR by the use of threats, false accusations, duress

or coercion, or by offering any special inducement or promise of advantage or by bestowing any gift, favor or thing of substantial value;

8. Disbarment or suspension from the practice as an attorney or as a certified public accountant;

9. Contemptuous conduct in connection with practice before the BIR, including use of abusive language, making false accusations and statements, knowing them to be false, or circulating or publishing malicious or libelous matter;

10. Giving a false opinion, knowingly, recklessly or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or a pattern of providing incompetent opinions on questions arising under the Tax Code. False opinion includes those which reflect or result from a known misstatement of fact or law; from an assertion of a position known to be unwarranted under existing laws or regulations; from advising or assisting in conduct known to be illegal or fraudulent; from concealment of matters required by law or regulations to be revealed. For purposes of this paragraph, "reckless conduct" is a highly unreasonable omission or misrepresentation involving an extreme departure from the standards of ordinary care that a practitioner should observe under the circumstances arising from non-compliance by the taxpayer-client with existing provisions of the Tax Code, its rules and regulations, including financial accounting standards and tax accounting rules. "Reckless conduct" on the part of the tax agent/practitioner shall be presumed when there is substantial underdeclaration of client-taxpayer's taxable sales, receipts or income, or a substantial overstatement of its deductions as defined under Section 248 of the NIRC as amended, and such discrepancy is discovered by the Bureau in the conduct of its enforcement activities. A pattern of conduct is a factor that will be taken into account in determining whether a practitioner acted knowingly, recklessly, or through gross incompetence;

11. Failure to comply with the completion of the CPE; and

12. Consistent failure to indicate the BIR accreditation number in the documents filed with the BIR.

B. *Filing of Petitions for Disaccreditation/Suspension*

1. A Petition for Disaccreditation/Suspension of an Accredited Tax Agent may be filed with the RRAB or RNAB having jurisdiction over the residence or principal place of business of the accredited tax agent against whom the Petition is being filed.

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2. All Petitions must be filed together with appropriate documents to support the premises upon which the Petition is anchored.

3. Petitions filed by PICPA, TMAP or any other similar professional or non-governmental organization must be signed by the incumbent President of the organization concerned.

4. Petitions found to have been filed by fictitious persons or organizations, upon verification by the RRAB or RNAB concerned, shall be dismissed for lack of factual or legal bases.

C. *Administrative Proceedings*

1. No Accredited Tax Agent shall be suspended or disaccredited without a prior hearing set for the purpose.

2. The RRAB or RNAB with whom a Petition for Disaccreditation/ Suspension was filed shall conduct hearing(s) on such Petition, to allow both the Petitioner and the Accredited Tax Agent concerned to present their side of the case.

3. In the conduct of hearings, a quorum is sufficient to convene the RRAB or RNAB.

4. Upon termination of the hearing, the RRAB or RNAB shall decide by a majority vote of the members present and voting, whether to grant or deny the Petition.

5. In cases of disaccreditation or suspension, the RRAB or RNAB shall issue to the Tax Agent concerned a Notice of Disaccreditation/ Suspension signed by its Chairman. A copy of such Notice shall be sent to the Petitioner.

6. In the event that a Petition for Disaccreditation/Suspension is denied, the RRAB or RNAB shall inform both parties of such decision, in an official communication signed by its Chairman."

D. *Appeal —*

1. In the event that accreditation previously granted to a Tax Agent is cancelled, suspended or revoked, the applicant or Tax Agent concerned may appeal such disaccreditation/suspension to the Commissioner of Internal Revenue within fifteen (15) days from the date of receipt of the official notice of denial or Notice of Disaccreditation/Suspension.

2. The decision of the Commissioner of Internal Revenue shall be immediately executory.

> 3. The decision of the Commissioner of Internal Revenue may, in turn, be appealed by the applicant/Tax Agent concerned to the Secretary of Finance, through a Petition for Reconsideration, within fifteen (15) days from the date of receipt of such decision.
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> 4. The Secretary of Finance shall act on a Petition for Reconsideration within sixty (60) days from the date of filing of such Petition. In the event that the Secretary of Finance should be unable to act on such Petition within the specified period, the decision of the Commissioner shall be deemed sustained.
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> ...
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> Sec. 13. *Sanctions.* — Any TAP who violates any provision of Revenue Regulations No. 11-2006 or this Regulation shall, upon conviction for each act or omission, be punished by a fine of One Thousand Pesos (P1,000.00) or suffer imprisonment of not more than six (6) months, or both.
>
> ...

On 11 April 2023, petitioner filed before respondent a Request for Preliminary Investigation and Swift Resolution (**Request**) dated 07 April 2023 questioning the constitutionality of the aforesaid provisions of RR No. 11-2006, as amended by RR No. 04-2010 for regulating the accountancy profession.[18] On 18 May 2023, RD Tolentino issued a letter, denying petitioner's Request, which petitioner received on 30 May 2023.[19]

On 01 June 2023, petitioner filed his Motion for Reconsideration to Modify the Tax Agents' Regulations (**MR to Modify**) before respondent CIR.[20] Subsequently, on 20 September 2023, petitioner received a letter dated 07 September 2023 denying the latter's MR to Modify.[21]

Aggrieved, petitioner filed the present petition on 08 November 2023.[22]

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18 Par. 13, Facts of the Case, Petition for Review, Division Docket, p. 13.
19 Par. 14, id.
20 Par. 15, id.
21 Par. 16, id.
22 Supra at note 1.

PROCEEDINGS BEFORE THIS COURT

In the petition filed before Us, petitioner assails the validity of Sections (3)(B)(a)[23], 4(A)(1)[24], 8[25] and 13[26] of RR No. 11-2006[27], as amended by RR No. 04-2010.[28] Petitioner contends that, with their issuance, the BIR has encroached into the exclusive domain of the Professional Regulatory Board of Accountancy (**PRBA**) in regulating the practice of accountancy as a profession, thus violating Republic Act (**RA**) No. 9298[29], citing *Securities and Exchange Commission v. 1Accountants Party-List, Inc., et al.*[30] (**2022 1Accountants**).

On 16 January 2024, the Court issued Summons[31] on respondent. On 16 February 2024, respondent filed a "Motion for Extension of Time to File Answer".[32] In its Minute Resolution dated 01 March 2024[33], the Court granted the said motion and thereby extended respondent's deadline to file an Answer until 19 March 2024. In compliance therewith, respondent filed his or her "Answer Ad Cautelam"[34] on 19 March 2024.

In his or her Answer, respondent interposed the following special and affirmative defenses:

> (**1**) The Court has no jurisdiction over the case since the assailed regulations were issued pursuant to respondent's rule-making power or quasi-legislative power, *i.e.*, not appealable before the Court of Tax Appeals (**CTA**) but should be reviewed by the SOF, whose decision, in turn is appealable to the Office of the President and ultimately to the regular courts. Corollary thereto, the instant case does not fall under the "other matters" jurisdiction of the CTA since it does not involve a disputed assessment or a claim for refund;

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23 Supra at note 4.
24 Supra at note 5.
25 Supra at note 6.
26 Supra at note 7.
27 Supra at note 8.
28 Supra at note 9.
29 AN ACT REGULATING THE PRACTICE OF ACCOUNTANCY IN THE PHILIPPINES, REPEALING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 692, OTHERWISE KNOWN AS THE REVISED ACCOUNTANCY LAW, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.
30 G.R. No. 246027, 21 June 2022.
31 Division Docket, p. 47.
32 Id., pp. 49-52.
33 Id., p. 54.
34 Id., pp. 55-82.

(2) The SOF's decision is not appealable before the CTA under Section 7[35] of RA 9282[36];

(3) Petitioner failed to exhaust administrative remedies;

(4) Petitioner availed of the wrong remedy when he filed the instant petition, asserting that the proper recourse to assail the validity or constitutionality of executive issuances is through a petition for *certiorari* or prohibition, and not through an ordinary petition for review;

(5) Under the plain language of Section 6(G)[37] of the NIRC of 1997, as amended, respondent is empowered to accredit and register tax agents;

(6) Respondent does not regulate the accountancy profession since tax agents may or may not be CPAs;

(7) The case of *2022 1Accountants* is not on all fours with the instant case since, unlike the Securities and Exchange Commission (**SEC**), respondent enjoys a specific legislative grant of accreditation authority under the NIRC of 1997, as amended; and

(8) Petitioner has no legal personality to file the instant petition since his accreditation as tax agent/practitioner had already expired last 27 June 2004 and no pending application for renewal thereof.

Subsequently, the Pre-Trial Conference was set on 27 June 2024.[38] The parties respective Pre-Trial Briefs were filed on 21 June 2024.[39] During the Pre-Trial Conference[40], both parties agreed that, aside from the issues they presented in their Pre-Trial Briefs, the resolution of the case would mainly be the interpretation of the law, thus, they agreed to

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35 Section 7. Section 7 of the same Act is hereby amended to read as follows:
"Sec. 7. Jurisdiction. - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
1. Decisions of the Commissioner of Internal Revenue…
2. Inaction by the Commissioner of Internal Revenue…

36 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

37 Supra at note 16.

38 Notice of Pre-Trial Conference dated 15 April 2024, Division Docket, pp. 90-92.

39 Id., pp. 94-104.

40 Minutes of the hearing held on, and Order dated 27 June 2024, id., pp. 125-126 and p. 130, respectively.

submit their respective memoranda in support of their positions within thirty (30) days from the receipt thereof.[41] After they filed their memoranda on 29 July 2024[42], the present case was submitted for decision on 08 August 2024.[43]

ISSUES

As the parties so stated in their respective Pre-Trial Briefs[44], the following issues are submitted for this Court's determination —

I.

WHETHER THE HONORABLE COURT HAS JURISDICTION OVER THE INSTANT CASE.

II.

WHETHER PETITIONER HAS A LEGAL PERSONALITY TO FILE THE INSTANT PETITION.

III.

WHETHER PETITIONER VIOLATED THE DOCTRINE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES WHEN HE HASTILY SOUGHT THE INTERVENTION OF THE HONORABLE COURT IN QUESTIONING THE VALIDITY OF THE SUBJECT REVENUE ISSUANCES.

IV.

WHETHER THE ACCREDITATION OF CERTIFIED PUBLIC ACCOUNTANTS (CPAs) BY RESPONDENT COMMISSIONER OF INTERNAL REVENUE (CIR) AS TAX AGENTS IS VOID BECAUSE IT CURTAILS THEIR PRACTICE OF PROFESSION.

V.

WHETHER THE ACCREDITATION OF CERTIFIED PUBLIC ACCOUNTANTS (CPAs) BY RESPONDENT COMMISSIONER OF INTERNAL REVENUE (CIR) AS TAX AGENTS IS VOID BECAUSE IT DELEGATED THE POWER OF THE PROFESSIONAL REGULATORY BOARD OF ACCOUNTANCY (PRBA) TO SUPERVISE THE [ACCOUNTANCY] PROFESSION AND TO IMPOSE REGULATIONS ON THE [LATTER].

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41 See Order dated 27 June 2024, id., p. 130.
42 Id., pp. 132-185.
43 See Minute Resolution dated 08 August 2024, id., p. 187.
44 Supra at note 39.

ARGUMENTS

Petitioner, a CPA, argues that Sections (3)(B)(a)[45], 4(A)(1)[46], 8[47] and 13[48] of RR No. 11-2006[49], as amended by RR No. 04-2010[50], which require CPAs to be accredited with the BIR as tax agents, unlawfully restrict the practice of accountancy, a power he believes is exclusively delegated to the PRBA under RA 9298.[51] He also cites the *2022 1Accountants* case, asserting that the assailed regulations violate the doctrine of non-delegation of powers. According to petitioner, the authority to supervise the accountancy profession and impose regulatory requirements on CPAs has been exclusively conferred upon the PRBA. As such, it may not be further delegated to or exercised by the BIR.

Respondent, on the other hand, challenges the Court's jurisdiction over the case. He or she argues that the present petition (which attacks the validity of the subject BIR regulations), falls outside the Court's limited jurisdiction.

Respondent argues further that petitioner failed to exhaust administrative remedies, specifically to first appeal the assailed resolutions to the SOF. Additionally, respondent questions petitioner's legal standing to file the case in view of his lapsed accreditation as a tax agent. According to respondent, his expired accreditation shows that he no longer has any direct interest in the assailed regulations. Finally, respondent, in defending the assailed regulations, referred to Section 6(G)[52] of NIRC of 1997, as amended, which expressly authorizes the CIR to prescribe rules for tax practitioner accreditation, distinct and separate from the PRBA's mandate.

RULING OF THE COURT

Before addressing the issues raised in the present petition, it bears noting that what was filed before this Court is a petition captioned as a

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45 Supra at note 4.
46 Supra at note 5.
47 Supra at note 6.
48 Supra at note 7.
49 Supra at note 8.
50 Supra at note 9.
51 Supra at note 29.
52 Supra at note 16.

Petition for Review although petitioner prayed to nullify the assailed regulations.

At this early, We cannot but underscore that a Petition for Review is *not* the proper remedy to nullify the assailed regulations. Based on existing jurisprudence, petitions for *certiorari* and prohibition are deemed the appropriate remedies to raise constitutional issues and to review, prohibit or nullify the acts of legislative and executive officials, such as the instant case, under the expanded judicial power of the courts[53] — using Rule 65 of the Rules of Court as the procedural vehicle.[54]

Notwithstanding the foregoing observation, although captioned as *Petition for Review*, We are constrained to treat this instant petition as a Petition for *Certiorari* under Rule 65 since it, nevertheless, alleges that the subject BIR issuances are "void or invalid administrative issuances"[55] and that they were issued in "usurpation of legislative authority".[56] The averments in the complaint, not the nomenclature given by the parties, determine the nature of the action.[57] Likewise, jurisprudence is replete with cases where the Supreme Court has treated differently labeled actions as special civil actions for *certiorari* under Rule 65 for reasons such as justice, equity, and fair play.[58] This court's prerogative is embraced in its inherent power to adopt or modify its procedure to make it conformable to law and justice.[59]

In jurisprudence, judicial power includes the duty of the courts to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.[60] This

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53 See *Atty. Romulo B. Macalintal v. Commission on Elections, et al.*, G.R. Nos. 263590 & 263673, 27 June 2023; *Inmates of the New Bilibid Prison v. Secretary Leila M. De Lima, et al.*, G.R. Nos. 212719 & 214637, 25 June 2019.

54 See *Maria Carolina P. Araullo, et al. v. Benigno Simeon C. Aquino III, et al.*, G.R. Nos. 209287, 209135, 209136, 209155, 209164, 209260, 209442, 209517 & 209569, 01 July 2014.

55 Pars. 17-22, Arguments/Grounds for Allowance of the Petition, Petition for Review, supra at note 1, pp. 14-18.

56 Par. 31, Memorandum (For Petitioner Emelino T. Maestro), Division Docket, p. 144.

57 *Partido ng Manggagawa (PM), et al. v. The Hon. Commission of Elections (COMELEC)*, G.R. No. 164702, 15 March 2006.

58 Id.

59 Rules of Court, as amended, Rule 135, Section 5(g).

60 *GSIS Family Bank Employees Union v. Sec. Cesar L. Villanueva, et al.*, G.R. No. 210773, 23 January 2019.

provision articulates the courts' traditional and expanded powers of judicial review. Prior to the 1987 Constitution, judicial review is confined to its traditional ambit of settling actual controversies involving legally demandable and enforceable rights.[61]

Under the present Constitution, the expanded power of judicial review includes the "power to enforce rights conferred by law and determine grave abuse of discretion by any government branch or instrumentality". Its scope was deliberately enlarged to "prevent courts from seeking refuge behind the political question doctrine and turning a blind eye to abuses committed by the other branches of government."[62]

The broad grant of power under the expanded view contrasts with the remedy of *certiorari* under Rule 65 of the Rules of Court, which states:

> ...
> SECTION 1. *Petition for Certiorari.* - When any tribunal, board or officer *exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction*, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.[63]
> ...

REQUISITES OF THE EXERCISE OF JUDICIAL POWER

In court's the exercise of the expanded judicial power, the following requisites must concur: (1) there must be an actual case or justiciable controversy before the Court; (2) the question before the Court must be ripe for adjudication; (3) the person challenging the act must be a proper party; and (4) the issue of constitutionality must be

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[61] See *Maria Carolina P. Araullo, et al. v. Benigno Simeon C. Aquino III, et al.*, supra at note 54.
[62] *GSIS Family Bank Employees Union v. Villanueva*, supra at note 60.
[63] Italics in the original text and supplied.

raised at the earliest opportunity and must be the very *litis mota* of the case.[64]

A. ACTUAL CASE OR CONTROVERSY

The first requisite demands that there be an actual case calling for the exercise of judicial power by this Court. An actual case or controversy, in the words of *The Province of North Cotabato, et al. v. The Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP), et al.* [65], is one that:

> ...
> [I]nvolves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. ...
> ...
>
> Related to the requirement of an actual case or controversy is the requirement of ripeness. A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. For a case to be considered ripe for adjudication, it is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action. He must show that he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of.
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> ...

An actual and justiciable controversy exists in the present case. The incompatibility of the perspectives of the parties, *i.e.*, the power of the PRBA to regulate the accountancy profession *vis-à-vis* the CIR's power to accredit and register tax agents who are CPAs, satisfy the requirement for contrariety of legal rights.

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64 *Maria Carolina P. Araullo, et al. v. Benigno Simeon C. Aquino III, et al.*, supra at note 54.
65 G.R. Nos. 183591, 183752, 183893, 183951 & 183962, 14 October 2008; citations omitted.

B. RIPENESS

The issues being raised herein meet the requisite considering that respondent is already implementing the assailed regulations, and petitioner made averments that the former's implementation constitutes an undue delegation and a usurpation of legislative authority. As it stands, the present case has an actual controversy that is ripe for this Court's adjudication.

In cases involving administrative acts, ripeness is affected by the doctrine of exhaustion of administrative remedies, which requires the exhaustion of remedies within an agency's administrative process before external remedies can be applied.[66]

Respondent argues that petitioner's direct resort to this Court to challenge the assailed regulations violates the doctrine of exhaustion of administrative remedies, resulting in a lack of cause of action that justifies the dismissal of the petition. According to respondent, the jurisdiction to review the rulings of respondent rests with the SOF pursuant to Section 4[67] of the NIRC of 1997, as amended.

Respondent's interpretation is misplaced.

The distinction between Sections 4 and 244[68] of the NIRC of 1997, as amended, is not hairsplitting.[69] On one hand, Section 4 of the NIRC of 1997, as amended, provides the power of the CIR to interpret tax laws and to decide tax cases. The former is subject to the review of the SOF while the latter is subject to the exclusive appellate jurisdiction of the CTA.[70] On the other hand, Section 244 of the NIRC of 1997, as amended, vests the SOF with rule-making authority, exercised upon recommendation of the CIR. Notably, however, nothing in the said provision requires that a party must first seek recourse with the SOF as

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66 See *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc., et al.,* G.R. Nos. 207132 & 207205, 06 December 2016; *GSIS Family Bank Employees Union v. Sec. Cesar L. Villanueva, et al.,* supra at note 60.

67 SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.*

68 Supra at note 15.

69 See *Association of International Shipping Lines, Inc., et al. v. Secretary of Finance, et al.,* G.R. No. 222239, 15 January 2020.

70 National Internal Revenue Code (NIRC) of 1997, as amended, Section 4.

a precondition to invoking the jurisdiction of this Court to question the validity of such issuances.

Here, it is undisputed that the assailed regulations were promulgated pursuant to Section 244[71] of the NIRC of 1997, as amended[72], *i.e.*, pursuant to the SOF's rule-making or quasi-legislative power.

In challenging the validity of administrative issuances carried out pursuant to the agency's rule-making power, **the doctrine of exhaustion of administrative remedies does not stand as a bar in promptly resorting to the filing of a case in court**. The Supreme Court's pronouncement on the matter is unequivocal in the case of *Smart Communications, Inc. (SMART), et al. v. National Telecommunications Commission (NTC)*[73], where it was ruled that:

> ...
>
> In questioning the validity or constitutionality of a rule or regulation issued by an administrative agency, a party need not exhaust administrative remedies before going to court. **This principle applies only where the act of the administrative agency concerned was performed pursuant to its quasi-judicial function, and not when the assailed act pertained to its rule-making or quasi-legislative power.**
>
> ...

Accordingly, the doctrine of exhaustion finds no application in the present case.

Assuming *arguendo* that the doctrine of exhaustion of administrative remedies applies, the instant case would fall under one of its well-recognized exceptions, *i.e.*, when the issue involved is purely a legal question. The questions involved are purely legal[74], namely: (**a**) whether respondent's accreditation of the CPAs is void as it curtails their practice of profession; and (**b**) whether the accreditation of CPAs as tax agents is void because it is an overreach of the PRBA's delegated

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71 Supra at note 15.

72 First paragraph of Revenue Regulations (RR) No. 11-2006 states "[p]ursuant to Section 244 of the Tax Code of 1997, as last amended by Republic Act No. 9337, these Regulations are hereby promulgated to implement the provisions of Section 6(G)[.]"

73 G.R. Nos. 151908 & 152603, 12 August 2003; emphasis supplied.

74 Supra at note 41.

power to supervise the accountancy profession and to impose regulations on the latter.

The rule on exhaustion of administrative remedies also finds no application when the exhaustion will result in an exercise in futility.[75]

In this case, an appeal to the SOF would be a futile exercise because it was the SOF who issued the assailed regulations, upon the CIR's recommendation.

C. LEGAL STANDING

Respondent asseverates that petitioner has no legal standing to question the validity of the assailed regulations since his accreditation as a tax agent has lapsed. Tersely put, respondent claims that since petitioner is *not* a real party in interest, the present petition fails to state a cause of action.

We disagree.

Broadly speaking, standing means "a right of appearance in a court of justice on a given question".[76] Specifically, it requires the party to have "in its favor, the demandable and enforceable right or interest giving rise to a justiciable controversy after the right is violated by the offending party".[77] It is translated in civil actions into "real party in interest", "offended party" in criminal actions, and "interested party" in special proceedings.[78]

Petitioner, being a CPA, has sufficiently alleged a personal and substantial interest in the case. Indeed, an administrative regulation that is allegedly void, and which purports to unduly narrow or restrict the opportunity of CPAs to engage in tax practice, necessarily impairs— or at the very least, poses a credible and imminent threat to impair— petitioner's right to exercise his profession. While the right to practice accountancy is a privilege subject to regulation, any unjustified burden

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75 See *Gualberto Castro v. Honorable Secretary Ricardo Gloria*, G.R. No. 132174, 20 August 2001.

76 *Maria Carolina P. Araullo, et al. v. Benigno Simeon C. Aquino III, et al.*, supra at note 54.

77 See *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, supra at note 66.

78 *Atty. Romulo B. Macalintal v. Commission on Elections, et al.*, supra at note 53.

imposed upon it by a regulation that is allegedly devoid of any legal basis confers upon petitioner the requisite standing to assail its validity.

D. EARLIEST OPPORTUNITY and *LIS MOTA*

"Earliest opportunity" means that the question of invalidity of a governmental act should have been immediately raised at the earliest possible opportunity.[79] Anent thereto, the Supreme Court has held that when an administrative regulation is challenged as void or invalid, a party may raise its invalidity on every occasion that the regulation is being enforced.[80]

Here, the present petition stems from respondent's refusal to amend the assailed regulations and the continued enforcement thereof, thereby satisfying judicial recourse be pursued at the earliest opportunity.

As to the element of *lis mota*, it is required that the constitutionality or validity of a governmental act should be the threshold issue of the case, *i.e.*, the resolution of the case necessarily hinges on it, and it should be raised by either parties.[81] In the present case, the core of the dispute lies in the validity of the assailed regulations. As such, a determination of their constitutionality or validity is inescapable and indispensable to the resolution of the petition. Hence, the element of *lis mota* is deemed satisfied.

Inextricably linked to the exercise of judicial power is jurisdiction.[82] It is defined as the authority to hear and determine cases or the right to act in cases of the general class to which the proceedings in question belong.[83] For a court or an adjudicative body to have authority to dispose of a case on its merits and thus exercise judicial power, it must have jurisdiction over the subject matter. As case law

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79 See *Bank of the Philippine Islands v. Shemberg Biotech Corporation, et al.*, G.R. No. 162291, 11 August 2010.

80 See *Sergio I. Carbonilla, et al. v. Board of Airlines Representatives, et al.*, G.R. Nos. 193247 & 194276, 14 September 2011.

81 See *Boy Scouts of the Philippines v. Commission on Audit*, G.R. No. 177131, 07 June 2011.

82 Id.

83 See *The Diocese of Bacolod v. Commission on Elections, et al.*, G.R. No. 205728, 21 January 2015.

settles, jurisdiction over the subject matter is conferred only by the Constitution or by law.[84]

THE COURT OF TAX APPEALS (CTA)
HAS JURISDICTION OVER THE CASE

It is settled that the CTA, being a court of special jurisdiction, can only take cognizance of matters which are clearly within its jurisdiction as provided by law.[85] Section 7(a) of RA 1125[86], as amended by RA 9282[87], outlines the appellate jurisdiction of this Court, to wit:

> ...
> **Sec. 7.** *Jurisdiction.* — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters arising under the National Internal Revenue Code** or other laws administered by the Bureau of Internal Revenue;
>
> 2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;
>
> 3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

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84 *Alfredo J. Non, et. al. v. Office of the Ombudsman, et. al.*, G.R. No. 251177, 08 September 2020.

85 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

86 AN ACT CREATING THE COURT OF TAX APPEALS.

87 Supra at note 36.

4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

6. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;

7. Decisions of the Secretary of Trade and Industry, in the case of non-agricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.[88]

...

Respondent maintains that this Court has no jurisdiction over the case since the assailed regulations were made pursuant to respondent's rule-making power or quasi-legislative power, *i.e.*, not appealable before the CTA but should be reviewed by the SOF, whose decision, in turn is appealable to the Office of the President and ultimately to the regular court.

Respondent is mistaken.

[88] Italics in the original text and emphasis supplied.

In *Banco de Oro, et al. v. Republic of the Philippines, et al.*[89], the Supreme Court *En Banc* ruled, in no uncertain terms, that the CTA has jurisdiction to rule on the constitutionality or validity of a tax law or regulation or administrative issuance, to wit:

> ...
>
> The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund. It is only in the lawful exercise of its power to pass upon all matters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.
>
> This Court, however, declares that the Court of Tax Appeals **may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings).**
>
> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.
>
> **In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems. Petitions for writs of certiorari against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.**
>
> **Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, actions directly <u>challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals</u>.**
>
> Furthermore, with respect to administrative issuances (revenue orders, revenue memorandum circulars, or rulings), these are issued by the Commissioner under its power to make rulings or opinions in connection with the implementation of the provisions of

[89] G.R. No. 198756, 16 August 2016; citations omitted, italics in the original text, emphasis and underscoring supplied.

> internal revenue laws. Tax rulings, on the other hand, are official positions of the Bureau on inquiries of taxpayers who request clarification on certain provisions of the National Internal Revenue Code, other tax laws, or their implementing regulations. Hence, the determination of the validity of these issuances clearly falls within the exclusive appellate jurisdiction of the Court of Tax Appeals under Section 7(1) of Republic Act No. 1125, as amended, subject to prior review by the Secretary of Finance, as required under Republic Act No. 8424.
>
> ...

It bears stressing that what petitioner brought before this Court for resolution is the **constitutionality or validity of the assailed regulations that intend to enforce Section 6(G)[90] of the NIRC of 1997, as amended. It is anchored on the argument that the assailed regulations allegedly unlawfully restrict the practice of the accountancy profession. As such, the Court is of strong view that the case falls within its jurisdiction.**

Considering the foregoing disquisition, there is thus no bar for this Court to resolve the substantive issues raised in the petition.

THE ASSAILED REGULATIONS ARE VALID

The core of petitioner's challenge revolves around whether the assailed regulations constitute: (1) undue restriction on the practice of accountancy; (2) are *ultra vires* issuances; and (3) violate the doctrine of non-delegation of delegated powers.

A. THERE IS NO UNDUE RESTRICTION ON THE PRACTICE OF ACCOUNTANCY

Petitioner asserts that the assailed regulations impose an undue restriction on the practice of accountancy, a power exclusively delegated to the PRBA under Section 9 of RA 9298[91], to wit:

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90 Supra at note 16.

91 Supra at note 29.

...

SEC. 9. *Powers and Functions of the Board.* — The board shall exercise the following specific powers, functions and responsibilities:

(a) To prescribe and adopt the rules and regulations necessary for carrying out the provisions of this Act;

(b) To supervise the registration, licensure and **practice of accountancy** in the Philippines;

...

(d) To issue, suspend, revoke, or reinstate the Certificate of Registration for **the practice of the accountancy profession**[.][92]

...

To evaluate this claim, it is imperative to juxtapose the statutory powers of the PRBA under RA 9298[93], on one hand, with the BIR's regulatory authority under the NIRC of 1997, as amended, on the other hand.

RA 9298 is the governing law on the accountancy profession in the Philippines. It seeks to standardize and regulate the accounting education, the examination for registration of CPAs and, most importantly, vest the PRBA with the power of supervision, control and regulation over the practice of accountancy in the Philippines.[94] Section 9[95] of RA 9298 categorically confers upon the PRBA the authority to supervise and regulate the licensure and professional practice of CPAs.

Significantly, RA 9298 defines the "practice of accountancy" broadly to include the following:

...

SECTION 4. *Scope of Practice.* — The practice of accountancy shall include, but not limited to the following:

(a) Practice of Public Accountancy — shall constitute in a person, be it his/her individual capacity, or as a partner or as a staff

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[92] Emphasis supplied.
[93] Supra at note 29.
[94] Republic Act (RA) No. 9298, Section 3.
[95] SEC. 9. *Powers and Functions of the Board.*

member in an accounting or auditing firm, holding out himself/herself as one skilled in the knowledge, science and practice of accounting, and as a qualified person to render professional services as a certified public accountant; or offering or rendering, or both, to more than one client on a fee basis or otherwise, services such as the audit or verification of financial transaction and accounting records; or the preparation, signing, or certification for clients of reports of audit, balance sheet, and other financial, accounting and related schedules, exhibits, statements or reports which are to be used for publication or for credit purposes, or to be filed with a court or government agency, or to be used for any other purpose; or the design, installation, and revision of accounting system; or the **preparation of income tax returns when related to accounting procedures; or when he/she represents clients before government agencies on tax and other matters related to accounting or renders professional assistance in matters relating to accounting procedures and the recording and presentation of financial facts or data.**

(b) Practice and Commerce and Industry — shall constitute in a person involved in decision making requiring professional knowledge in the science of accounting, or when such employment or position requires that the holder thereof must be a certified public accountant.

(c) Practice in Education/Academe — shall constitute in a person in an educational institution which [involves] teaching of accounting, auditing, management advisory services, finances, business law, taxation and other technically related subjects: *Provided*, that members of the Integrated Bar of the Philippines may be allowed to teach business law and taxation subjects.

(d) Practice in the Government — shall constitute in a person who holds or is appointed to, a position in an accounting professional group in government or in a government-owned and/or controlled corporation including those performing proprietary functions, where decision making requires professional knowledge in the science in accounting, or where a civil service eligibility as a [certified public accountant] is a prerequisite.[96]

...

As can be gleaned from the foregoing, the role of a "tax agent" or "tax practitioner" falls squarely within the scope of the practice of

[96] Italics in the original text and emphasis supplied.

accountancy regulated by the PRBA. In contrast, respondent invokes Section 6(G) of NIRC of 1997, as amended, which states:

> ...
>
> SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* –
>
> ...
>
> *(G) Authority to Accredit and Register Tax Agents.* – The Commissioner shall accredit and register, based on their professional competence, integrity and moral fitness, individuals and general professional partnerships and their representatives who prepare and file tax returns, statements, reports, protests, and other papers with or who appear before, the Bureau for taxpayers.
>
> ...

From the above, the NIRC of 1997, as amended, clearly authorizes respondent to accredit and register individuals and general professional partnerships, along with their representatives, who prepare and file tax returns, statements, reports, protests, and other documents with, or appear before, the BIR.

Petitioner anchors his argument on the alleged conflict between such authority and the regulatory framework established under RA 9298, asserting that the BIR's imposition of a separate and mandatory accreditation process for CPAs [replete with continuing professional education (**CPE**) requirements, fees and penalties] amounts to a duplicative and undue restriction on a profession already under the exclusive supervision of PRBA.

We are not convinced.

The Supreme Court's recent Resolution in *Securities and Exchange Commission v. 1Accountants Party-List, Inc., et al.*[97] (**2025 1Accountants**), provides a pivotal re-examination of the regulatory reach of administrative agencies over licensed professionals. There, in abandoning *2022 1Accountants*, the Supreme Court upheld the SEC's authority to require accreditation of external auditors of covered entities, ruling as follows:

[97] G.R. No. 246027, 28 January 2025; italics in the original text, emphasis and underscoring supplied.

> ...
>
> To illustrate, CPAs engaged merely for bookkeeping or other non-audit services related to the accounting records or financial statements of a covered entity are not required to be accredited by the SEC. However, CPAs engaged to perform statutory audit of the AFS of a covered entity are required to be accredited. The fact that CPAs may still work for a covered entity without undergoing accreditation as long as they are not engaged to perform an independent audit of its AFS shows that it is **not the accountancy profession** **that is regulated by the SEC but** **only the activity of statutory audit of financial statements**. This is bolstered by the statement in Rule 68, paragraph 3(B)(i) of the SRC IRR, as amended, that "accreditation of independent auditors serves as a quality control mechanism or quality assurance review by the Commission *on the work* of the accredited external auditors."
>
> ...

It perforce becomes evident that the **regulation of a specific activity performed by members of a profession** does not *ipso facto* amount to **regulation of the profession itself**.

In *2025 1Accountants*, the Supreme Court categorically held that the State's sovereign prerogative to regulate the practice of professions prevails over the mere privilege to engage therein. It further clarified that accreditation mechanisms imposed by a regulatory agency are not intended to displace or supplant the licensure function of the PRBA, but rather to complement it—serving the legitimate objective of aligning the qualifications of professionals with the specialized needs of a regulated sector. Indeed, the Court noted that such accreditation is designed "to match the competence of external auditors with the specific requirements of a regulated industry."

Applying this rationale to the instant case, respondent's exercise of accreditation under Section 6(G)[98] of the NIRC of 1997, as amended, is of a similar character. Just as the SEC's accreditation of external auditors seeks to uphold investor confidence and financial probity within the capital markets, so too does the BIR's accreditation requirements serve a vital public purpose— to ensure the competence, integrity and moral fitness of those who act as tax agents or representatives before the BIR, thereby safeguarding the efficiency and integrity of tax administration and collection.

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[98] Supra at note 16.

Contrary to petitioner's contention, the BIR's accreditation of tax agents is not a sweeping regulation of the accountancy profession, but a narrowly tailored rule targeting a **specific activity: tax representation**. This regulatory distinction is crucial. The specialization of tax practice warrants agency-specific oversight to maintain the integrity of tax administration and safeguard the State's revenue collection interests. In this light, the principle of *lex specialis derogat generali*—that general legislation must give way to special legislation on the same subject and generally is so interpreted as to embrace only cases in which the special provisions are not applicable[99]—must be understood not as a rule of exclusion, but as a principle of harmonization. That is, while RA 9298[100] vests the PRBA with general authority over the accountancy profession, it does not preclude the BIR, as the agency statutorily charged with tax enforcement, from regulating those who engage in tax practice before it, provided such regulation does not encroach upon or nullify the core licensing functions of the PRBA.

Far from encroaching upon the PRBA's regulatory domain, respondent's accreditation requirements are narrowly confined to the specialized practice of tax representation before the BIR. Significantly, the scope of regulation is not limited to CPAs, but extends to all individuals (whether lawyers, finance professionals, or non-CPAs)[101], who seek to engage in tax practice before the BIR. This reinforces the conclusion that respondent is not attempting to control the accountancy profession at large but is rather regulating a distinct activity that falls within the core of its administrative competence.

Viewed thus, the BIR's accreditation of tax agents stands as a reasonable and necessary measure to ensure that practitioners maintain proficiency in the ever-evolving field of tax law and procedure. It is a legitimate exercise of power flowing from the BIR's express power to accredit tax agents and express mandate under the NIRC of 1997, as amended, to administer, enforce, and implement tax laws with efficacy and integrity.

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99 *Johanson V. Disuanco, et al. v. Miguel Luis R. Villafuerte*, G.R. No. 247391, 13 July 2021.
100 Supra at note 29.
101 Revenue Regulations (RR) No. 11-2006, as amended by RR No. 04-2010, Section 4.

B. THE ASSAILED REGULATIONS ARE NOT *ULTRA VIRES* ISSUANCES AND THERE IS NO USURPATION OF LEGISLATIVE AUTHORITY

We also do not share petitioner's view that respondent's accreditation rules are *ultra vires*, *i.e.*, issued beyond his or her powers and improperly impose licensing requirements without a clear statutory basis.

While the language of Section 6(G)[102] of the NIRC of 1997, as amended, may appear general, petitioner's argument, relying heavily on the now-abandoned doctrine in *2022 iAccountants*, questions whether this general grant of power empowers respondent to establish accreditation requirements that allegedly duplicates or supplants the professional licensure and regulatory functions conferred by Congress upon the PRBA under RA 9298.

The Supreme Court decisively ruled on this line of reasoning in *2025 iAccountants* case. There, the Supreme Court reversed its earlier stance and held that administrative agencies are empowered not only to exercise those powers expressly conferred by law, but also such powers as are implied, necessary, or incidental to effectively carry out their express mandates. In upholding the SEC's accreditation requirement for external auditors of covered entities, the Supreme Court recognized such regulation as a valid exercise of SEC's administrative authority to protect investors and ensure full and fair disclosure about securities.

The same principle applies *mutatis mutandis* to the present controversy. Not only is there a specific delegation to the BIR under Section 6(G) of the NIRC of 1997, as amended to "accredit and register tax agents", but the assailed regulations merely operationalize this delegation. Additionally, respondent's accreditation requirements may likewise be justified as incidental to the effective enforcement of the internal revenue laws.

Indeed, respondent's broad mandate to administer and enforce the internal revenue laws necessarily implies the authority to ensure

102 Supra at note 16.

that those who appear before the BIR on behalf of taxpayers—preparing tax returns, filing protests, or participating in audits—possess the requisite technical competence, moral integrity and ethical fitness. The imposition of CPE requirements specific to taxation, reasonable fees and sanctions for non-compliance are not arbitrary burdens, but measured tools designed to promote accurate tax compliance, deter abuse of process and enhance the integrity of tax administration.

Accordingly, the assailed regulations cannot be deemed *ultra vires*. They are a legitimate and necessary exercise of the BIR's delegated authority under the NIRC of 1997, as amended—squarely aligned with the State's overarching interest in securing an efficient, credible and transparent system of tax enforcement.

C. THERE IS NO VIOLATION OF THE DOCTRINE OF NON-DELEGATION OF DELEGATED POWERS

Citing *2022 iAccountants*, petitioner insists that the assailed regulations violate the principle of *potestas delegata non delegari potest* (what has been delegated cannot be delegated).[103] He argues that the Congress, having conferred upon the PRBA exclusive authority to regulate the accountancy profession under RA 9298, effectively barred any other agency, including the BIR, from exercising any form of regulatory control over CPAs.

Petitioner's line of reasoning cannot be sustained.

In *2025 iAccountants*, the Supreme Court categorically clarified that the exclusive delegation of regulatory power to a professional board does not *ipso facto* preclude other administrative agencies from imposing accreditation requirements upon practitioners—particularly where such requirements are indispensable to the fulfillment of the agency's own statutory functions. The Supreme Court held that the power to regulate professions remains a sovereign prerogative of the State and may, in proper cases, be exercised **<u>concurrently</u> by agencies with distinct regulatory mandates**. Accreditation by such agencies was characterized not as an encroachment upon the PRBA's licensure

[103] *Romeo P. Gerochi, et al. v. Department of Energy (DOE), et al.*, G.R. No. 159796, 17 July 2007.

authority, but as a "logical extension of existing regulatory practices" aimed at ensuring fitness and competence for specific regulated activities.

Applied to the instant case, this doctrinal clarification dispels the notion that the BIR's accreditation requirements for tax agents constitute an impermissible re-delegation of legislative power. Rather, these requirements reflect a valid exercise of respondent's express authority under Section 6(G)[104] of the NIRC of 1997, as amended.

It must be underscored that the BIR does not purport to license CPAs generally. Instead, it seeks only to impose qualifications and standards upon individuals—regardless of profession—who wish to represent taxpayers before the BIR. The function is narrowly confined to the sphere of tax practice, which involves not only technical knowledge of tax laws but also ethical conduct, due diligence and procedural compliance. Ensuring the professional competence and integrity of tax agents is a regulatory imperative directly tied to the BIR's mission of efficient and lawful tax administration. Thus, petitioner's invocation of the principle of *potestas delegata non delegari potest* must fail. The assailed regulations stand as a statutorily valid exercise of respondent's express power.

In fine, We find no constitutional or statutory infirmity in the assailed regulations. The accreditation of tax agents by the BIR is neither an encroachment upon the regulatory domain of the PRBA nor a violation of the doctrine of non-delegation of delegated powers. Rather, it is a legitimate exercise of the BIR's expressly and impliedly granted powers under the NIRC of 1997, as amended—necessary to ensure that those who act as intermediaries between taxpayers and the State do so with competence, integrity and fidelity to the law. To hold otherwise would unduly tie the hands of the tax authority, frustrate the effective enforcement of tax laws and weaken the State's capacity to safeguard its vital fiscal interests. Verily, what is regulated here is not the accountancy profession, but the specialized practice of tax representation before the BIR—a realm that the law has entrusted to the sound discretion of respondent. Accordingly, the petition must fail.

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104 Supra at note 16.

WHEREFORE, the foregoing premises considered, the Petition for Review filed by petitioner Emelino T. Maestro on 08 November 2023 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice