REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

ESSEX PHARMACEUTICALS, INC.,
Respondent.

CTA EB NO. 3093
(CTA Case No. 10742)

Present:

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

Promulgated:

JUN 10 2026 4:05 p.m.

x - x

DECISION

ANGELES, ***J.*:**

Before the Court of Tax Appeals *En Banc* (Court *En Banc*) is a *Petition for Review*[1] filed personally on March 10, 2025 by the Commissioner of Internal Revenue (CIR). The instant petition seeks reversal of the Resolution[2] dated January 30, 2025 (assailed Resolution), and partial nullification of the Decision[3] promulgated on September 10, 2024 (assailed Decision), wherein the Court of Tax Appeals Third Division (Court in Division) ordered petitioner to refund or issue a tax credit certificate in favor of Essex Pharmaceuticals Inc. (Essex) in the amount of ₱9,659,284.22, representing value-added taxes (VAT) erroneously paid on January 24, 2020, January 27, 2020, January 31, 2020, April 13, 2020, and April 21, 2020, respectively, on the importation of medicines intended for the treatment of persons with diabetes.

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[1] *En Banc* (EB) Docket, pp. 8 to 66, with annexes.
[2] Division Docket, pp. 465 to 480.
[3] *Id.* at 513 to 515.

PARTIES

Petitioner is the government official vested with the authority to administer and enforce national internal revenue taxes, including, among others, the assessment and collection of all internal revenue taxes, fees, and charges. Petitioner holds office at c/o Rm. 703, 7th Floor, Bureau of Internal Revenue (BIR) National Office, Diliman, Quezon City.[4]

Respondent is a corporation duly organized and existing under the laws of the Philippines, registered with the BIR as a VAT taxpayer, under Tax Identification Number (TIN) 005-376-872-00000, and with principal office at the 26th Floor Philamlife Tower, 8767 Paseo de Roxas, Makati City.[5]

FACTS

On January 22, 2020, Republic Act (RA) No. 11467 was approved by the President of the Philippines. Section 1 of RA No. 11467 amended Section 109(1)(AA)(i) of the National Internal Revenue Code of 1997 (Tax Code), as amended, as follows:

> Section 109.— x x x
>
> (AA) Sale of or importation of prescription drugs and medicines for:
>
> (i) Diabetes, high cholesterol, and hypertension beginning January 1, 2020; and
>
> (ii) Cancer, mental illness, tuberculosis, and kidney diseases beginning January 1, 2021.
>
> Provided, That the DOH shall issue a list of approved drugs and medicines for this purpose within sixty (60) days from the effectivity of this Act; and x x x

Between January 17, 2020 and April 21, 2020, respondent imported into the Philippines drugs used in treating diabetes, and paid a 12% VAT on the importation.[6]

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[4] *Id.* at 177 to 180.
[5] *Ibid.*
[6] Division Docket, pp. 465 to 480.

Date of Receipt per Statements of Settlement of Duties and Taxes	Description of Imported Drugs	Generic Name	Amounts of VAT Paid
January 24, 2020	VELMETIA 50/500MG 4X7TAB	Metformin + Sitagliptin	792,571.00
January 24, 2020	VELMETIA 50/500MG 4X7TAB	Metformin + Sitagliptin	761,136.00
January 24, 2020	VELMETIA 50/500MG 4X7TAB	Metformin + Sitagliptin	459,921.00
January 27, 2020	XELEVIA 50MG 4X7TAB	Sitagliptin	3,511,692.00
January 31, 2020	VELMETIA 50/1000MG 4X7TAB	Metformin + Sitagliptin	727,083.00
April 13, 2020	XELEVIA 50MG 4X7TAB	Sitagliptin	1,620,601.00
April 21, 2020	XELEVIA 100MG 4X7TAB	Sitagliptin	1,786,281.00

On June 23, 2020 the BIR issued Revenue Memorandum Circular (RMC) No. 62-2020.[7] Attached to the RMC is a letter from the Department of Health (DOH) enumerating the generic names of prescription drugs and medicines for diabetes, high-cholesterol, and hypertension which are VAT exempt under Section 1 of RA No. 11467.

Following respondent's importations of the subject medicines and payment of the corresponding VAT, the proceedings on its claim for refund unfolded as follows, as narrated by the Court in Division:[8]

> On July 1, 2021, [herein respondent] filed with [petitioner's] Regular Large Taxpayers Audit Division I an Application for Tax Credits/ Refunds (BIR Form No. 1914) and supporting documents for the amount of ₱9,659,284.22, representing the alleged erroneously paid VAT on its importation of VAT exempt medicines, for the period from January 23, 2020, to July 9, 2020. Subsequently, on August 17, 2021, and November 15, 2021,

[7] BIR Revenue Memorandum Circular No. 62 (2020).
[8] *Id.* at 513 to 515.

petitioner filed its transmittal letter and supplemental letter, respectively.

On December 13, 2021, [respondent] received from [petitioner], through Assistant Commissioner Manuel V. Mapoy, the letter dated October 26, 2021, denying the claim for refund.

[Respondent] filed the present Petition for Review on February 2, 2022. The case was raffled to this Court's Third Division. Within the extended period, [petitioner] filed his Answer on May 30, 2022.

On July 18, 2022, [petitioner] transmitted the BIR Records for the present case, consisting of two (2) parts, with one hundred fifty-one (151) pages for Part I, and twenty-seven pages (27) for Part II, in one (1) folder.

The Pre-Trial conference was set and held on September 15, 2022. Prior thereto, [respondent's] Pre-Trial Brief was filed on September 9, 2022, while [petitioner's] Pre-Trial Brief was submitted on September 12, 2022.

On October 17, 2022, the parties submitted their Joint Stipulation of Facts and Issues, which was admitted and approved in the Resolution dated October 25, 2022, thereby deeming the termination of the pre-trial. The Pre-Trial Order dated November 8, 2022, was then issued.

On November 4, 2022, the parties filed a Joint Motion to Amend Joint Stipulation of Facts and Issues to correct the description of certain documents to be presented by [respondent]. Consequently, the amended Pre-Trial Order dated January 18, 2023 was issued.

Trial then ensued, with the parties presenting and offering their respective testimonial and documentary evidence. [Respondent] presented Ms. Paula Mae A. Francisco, [respondent's] Tax Officer, and the Court-commissioned Independent Certified Public Accountant (ICPA), Ms. Maricelle L. Ricaforte.

The ICPA submitted her Report on January 3, 2023.

[Respondent] submitted its Formal Offer of Evidence for [Respondent] on March 7, 2023. [Petitioner] filed his Comment (On [Respondent's] Formal Offer of Evidence) on March 17, 2023. In the Resolution dated May 10, 2023,27 the Court admitted all of [respondent's] offered exhibits.

[Petitioner] presented his lone witness, Revenue Officer Michael Vincent. On May 26, 2023, [petitioner] filed his Formal Offer of Evidence On June 8, 2023, [respondent] filed its Comment (to [Petitioner's] Formal Offer of Evidence). In the Resolution dated July 13, 2023, the Court admitted [petitioner's] offered exhibits.

> Meanwhile, in the Resolution dated June 1, 2023 the present case was transferred to this Court's Second Division. [Respondent's] Memorandum was posted on August 22, 2023. [Petitioner], however, failed to file his memorandum. The present case was submitted for decision on September 12, 2023.

On September 10, 2024, the Court in Division rendered its decision in favor of respondent. The dispositive portion of the assailed Decision[9] is as follows:

> **WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **GRANTED**.
>
> Accordingly, [petitioner] is ordered to refund or issue a tax credit certificate in favor of [respondent] the amount of ₱9,659,284.22 representing VAT erroneously paid on January 24, 2020, January 27, 2020, January 31, 2020, April 13, 2020 and April 21, 2020, respectively, on the importation of medicines intended for the treatment of persons with diabetes.
>
> **SO ORDERED.**

Petitioner's *Motion for Reconsideration (Re: Decision dated 20 August 2024)*[10] (*Motion for Reconsideration*) was denied in the assailed Resolution,[11] the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, [petitioner's] Motion for Reconsideration (Re: Decision dated 20 August 2024) is **DENIED** for lack of merit.
>
> **SO ORDERED.**

On February 21, 2025, petitioner filed a *Motion for Extension of Time to File Petition for Review,*[12] requesting for an additional period of fifteen (15) days from February 07, 2025, or until February 22, 2025, to file a petition for review with the Court *En Banc*. The said motion was granted in the Minute Resolution dated February 24, 2025.[13]

On March 10, 2025, petitioner filed before this Court the instant *Petition for Review*, praying for the reversal of both the assailed

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9 *Ibid.*
10 *Id.* at 482 to 490.
11 *Id.* at 513 to 515.
12 EB Docket, pp. 1 to 6.
13 *Id.* at 4.

Decision and the assailed Resolution, and for the denial of the respondent's entire claim for refund.

On May 15, 2025, respondent filed its *Comment (on Petitioner's Petition for Review dated 10 March 2025)*.[14] Thereafter, the case was submitted for decision on June 11, 2025.

ISSUES

The issues raised in the instant *Petition for Review* are as follows:[15]

I. WHETHER OR NOT THE COURT IN DIVISION HAS JURISDICTION OVER THE INSTANT CASE.

II. WHETHER OR NOT THE COURT IN DIVISION ERRED IN RULING THAT THE MOTION FOR RECONSIDERATION FILED BY PETITIONER WAS UNSIGNED AND THEREFORE SHOULD BE DENIED OUTRIGHT

III. WHETHER OR NOT THE COURT IN DIVISION ERRED IN RULING THAT ESSEX IS ENTITLED TO A REFUND/ TAX CREDIT IN THE TOTAL AMOUNT OF ₱9,659,284.22.

ARGUMENTS OF THE PARTIES

Petitioner claims that the Court in Division has no jurisdiction over the claim for refund because the petition for review was not timely filed. Petitioner contends that respondent should have filed its petition for review before the Court in Division within thirty (30) days from the lapse of the ninety (90)-day period for the CIR to decide its claim for refund, or from the receipt of the CIR's decision, whichever is sooner. Petitioner further asserts that the "90+30 day ruling" is applicable as there is nothing erroneous on the payment of VAT by respondent. Thus, the petition for review was not timely filed.

Petitioner also claims that the Court in Division should have considered its *Motion for Reconsideration* dated October 01, 2024 instead of ruling that it was an unsigned pleading which should be denied outright for non-compliance with Section 3, Rule 7 of the 2019 Amendments to the 1997 Rules of Civil Procedure (2019 Amendments).[16] Petitioner explains that its failure to sign was committed through mere inadvertence and due to "voluminous case

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[14] *Id.* at 68 to 88, with Annexes.
[15] *Id.* at 10 to 11.
[16] EB Docket, p. 14.

records and drafting of pleadings were simultaneously being entertained," and asks for the "stretching the application of the rule a bit to cover petitioner's procedural lapses x x x which did not touch on public policy."[17] Petitioner adds that there was substantial compliance when it electronically filed a signed copy of its *Motion for Reconsideration* to the Court in Division on the next day, October 02, 2024.

Lastly, petitioner maintains that respondent failed to substantiate its administrative claim for refund for the sole reason that it failed to comply with Section 3 of Revenue Regulations No. 18-2020 dated June 26, 2020 in relation to the requirements under Item (II)(9) of Revenue Memorandum Order (RMO) No. 36-2020 as clarified in the answer to question 6 of RMO No. 99-2021.

Specifically, the total amount of importations in respondent's Schedule of Importations submitted as Annex "A.2" to its claim did not match the amounts reflected in its quarterly VAT returns. Thus, petitioner claims that the input VAT subject of the claim for refund may have already been charged against respondent's output VAT liabilities, and that respondent has failed to prove otherwise.

Respondent filed its Comment to the instant *Petition for Review* on May 15, 2025. It argues that petitioner erroneously questions the jurisdiction of the Court in Division based on prescriptive periods applicable to a refund of unutilized creditable input VAT under Section 112 of the Tax Code, as amended. Respondent insists that the present case is governed by Sections 204(C) and 229 of the Tax Code, as amended. Respondent points out that the letter dated October 26, 2021 signed by petitioner's Assistant Commissioner Manuel V. Mapoy acknowledges that the claim was for the refund of erroneously paid VAT. In any case, the stipulated issue in the Amended Pre-Trial Order refers to "VAT erroneously paid."

Respondent also argues that it has duly substantiated its claim for refund of VAT paid on its importation of exempt medicines. It states that the VAT erroneously paid on the importation of VAT-exempt medicines were not claimed as input tax in its monthly and quarterly VAT returns because these amounts were reported as "VAT Refund/TCC Claimed" (Item 23D), and were consequently excluded from the computation of VAT payable. Additionally, respondent explained that the difference between the amounts reflected in the Schedule of Importations is because input VAT connected to

[17] *Ibid.*

importations in 2019 and payment of additional VAT in 2019 pursuant to the Bureau of Customs' Prior Disclosure Program are not included in the refund claim.

RULING OF THE COURT

After a review of the records and the parties' submissions, We find that the instant *Petition for Review* cannot be given due course.

The Court En Banc has no jurisdiction over the instant Petition for Review

At the outset, the Court must first determine whether it has jurisdiction over the instant *Petition for Review*.

Section 2(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), in relation to Section 7(a)(1) of RA No. 1125, as amended by RA No. 9282, vests the Court *En Banc* with exclusive appellate jurisdiction to review decisions or resolutions on motions for reconsideration or new trial issued by the Court in Division in cases arising from the BIR, to wit:

> SEC. 2. *Cases within the jurisdiction of the Court en banc.*- The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
>
> (1) Cases arising from administrative agencies - Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

Section 3(b), Rule 8 of the RRCTA provides that a party adversely affected by a resolution of the Court in Division on a motion for reconsideration or new trial may appeal to the Court *En Banc* by filing a petition for review within fifteen (15) days from receipt thereof, subject to an additional period not exceeding fifteen (15) days upon proper motion seasonably filed. Thus,

> SEC. 3. Who may appeal; period to file petition.-
>
> (a) x x x

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(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review with in fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

In the present case, the Court in Division promulgated the assailed Resolution[18] on January 30, 2025. Petitioner received the same on February 07, 2025.[19] Petitioner had fifteen (15) days from receipt, or until February 22, 2025 to file an appeal or a motion for additional time. On February 21, 2025, petitioner filed its *Motion for Extension of Time to File Petition for Review.*[20] In a Minute Resolution dated February 24, 2025, the motion was granted and Petitioner was given until March 08, 2025 to file his petition for review.[21] Since March 08, 2025 fell on a Saturday, the present petition was timely filed on the next working day, on March 10, 2025.

At first glance, therefore, the instant *Petition for Review* appears to have been seasonably filed. However, the timeliness of the *Petition for Review* depends on whether petitioner's *Motion for Reconsideration* before the Court in Division validly interrupted the running of the reglementary period.

This Court's exercise of its appellate jurisdiction is conditioned upon compliance with Section 1, Rule 8 of the RRCTA, which requires that a petition for review of a decision or resolution of the Court in Division be preceded by the filing of a timely motion for reconsideration or new trial with the Court in Division.

Here, the records show that petitioner received the assailed Decision on September 16, 2024.[22] On October 01, 2024, or on the last day of the fifteen (15)-day reglementary period, petitioner personally filed its *Motion for Reconsideration.*[23] However, the motion was not signed.[24] It was only on October 02, 2024, after the

[18] Division Docket, pp. 513 to 515.
[19] EB Docket, p. 1.
[20] *Id.* at 1 to 6.
[21] *Id.* at 4.
[22] *Id.* at 28.
[23] Division Docket, p. 482.
[24] *Ibid.*

lapse of the reglementary period, that petitioner electronically filed a signed copy thereof.[25]

Petitioner nevertheless insists that it substantially complied with the applicable rules when it electronically filed a signed copy of the pleading on the following day. The contention is untenable.

Section 3(a), Rule 7 of the 2019 Amendments categorically provides that "every pleading and other written submission to the court must be signed by the party or counsel representing him or her." Relatedly, Section 11, Rule 15 provides that "the rules applicable to pleadings shall apply to written motions insofar as signature and other matters of form are concerned." Moreover, Section 5(a)(4) of the same Rule expressly classifies a motion for reconsideration as a litigious motion. These provisions, as amended, were adopted by this Court in CTA *En Banc* Resolution No. 9-2020.[26]

The mandatory character of the signature requirement is evident from the use of the word "**must**" in Section 3(a), Rule 7 of the 2019 Amendments. Moreover, this requirement is not merely a technicality. Under Section 3(b) of the same rule, the counsel's signature constitutes a certification that counsel has read the submission; that its legal and factual contentions are warranted by existing law, jurisprudence, or evidence; and that it is not being presented for any improper purpose.

Recently, in *Bryan Ta-Ala y Constantino v. People of the Philippines*,[27] the Supreme Court applied Section 3, Rule 7 of the 2019 Amendments, and emphasized that it is the "lawyer's signature which supplies a pleading with legal effect and elevates it from a mere scrap of paper to a court document." Necessarily, an unsigned motion for reconsideration is not a valid written submission which the Court may recognize as having been duly filed, much less one capable of interrupting the running of the reglementary period.

Here, although petitioner filed a document denominated as a *Motion for Reconsideration* on October 01, 2024, or on the last day of the reglementary period, the same bore no signature of petitioner or its counsel. At that point, there was no valid motion for reconsideration before the Court in Division. Petitioner's electronic transmission of a signed copy on October 02, 2024, one (1) day after

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[25] EB Docket, pp. 58 to 66.
[26] August 07, 2020.
[27] G.R. No. 254800, June 20, 2022 [Per J. Lazaro-Javier, Second Division].

the period to appeal had passed, cannot retroactively give legal effect into the unsigned paper filed the previous day.

Petitioner's bare invocation of the interests of substantial justice likewise does not warrant a contrary conclusion. Petitioner attributes the omission to "inadvertence and that voluminous case records and drafting of pleadings were simultaneously being entertained." Petitioner's explanation amounts only to ordinary pressure of work, which cannot justify disregarding a mandatory requirement affecting the finality of a judgment.

Neither does *Dizon v. Matti, Jr.*,[28] compel the relaxation of the rules in petitioner's favor. In that case, the Supreme Court relaxed the effect of an unsigned motion for reconsideration under the former Section 3, Rule 7, of the Rules of Court which then expressly authorized the court, in its discretion, to allow the deficiency to be remedied when caused by mere inadvertence and not intended for delay. That express curative provision is no longer found in the present rule. In any event, even assuming that such a relaxation of the rules may still be allowed under the current rules, petitioner has failed to present any compelling circumstance justifying such liberality and warranting the relaxation of the rules.

Accordingly, petitioner failed to file a timely and valid motion for reconsideration before the Court in Division. The condition precedent under Section 1, Rule 8 of the RRCTA was not satisfied. The assailed Decision consequently became final and executory upon the lapse of the reglementary period on October 01, 2024, and the Court *En Banc* cannot acquire jurisdiction to review the same through the instant *Petition for Review*.

It bears stating that, "perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case."[29]

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[28] G.R. No. 215614, March 27, 2019 [Per. J. Caguioa, Second Division].
[29] *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010. [Per J. Mendoza, Second Division].

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Petitioner was not authorized to file the instant Petition for Review

The instant *Petition for Review* must likewise be dismissed for failure of the petitioner to establish the authority of the BIR lawyers who filed the same. "[A] petition filed without the OSG's imprimatur, when it is required, shall be defective; it shall be dismissible based on this ground alone."[30]

It is well-settled that the authority to represent the State in appeals before the Court is vested in the Office of the Solicitor General ("OSG"), which is the principal law officer and legal defender of the Government.[31] Section 35(1), Chapter 12, Title III, Book IV, of the Administrative Code of 1987 states:

> Section 35. *Powers and Functions.* - The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of lawyers. It shall have the following specific powers and functions:
>
> (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.

Thus, "the OSG is, by law, constituted the law office of the Government whose specific powers and functions include that of representing the Republic and/or the people before any court in any action which affects the welfare of the people as the ends of justice may require."[32]

We are not unaware of Section 220 of the Tax Code, as amended, which provides that "civil and criminal actions and proceedings instituted [o]n behalf of the Government [...] shall be

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[30] *Commissioner of Internal Revenue and LT Collection Enforcement Agency v. Second Division of the Hon. Court of Tax Appeals and American Wire & Cable Co., Inc.*, G.R No. 280165, August 04, 2025, [Per J. Inting, Third Division].
[31] Executive Order No. 300, Section 2, July 26, 1987.
[32] *Ramon A. Gonzales v. Hon. Francisco J. Chavez*, G.R. No. 97351, February 04, 1992 [Per J. Romero, *En Banc*].

conducted by legal officers of the Bureau of Internal Revenue." However, in *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory* (*La Suerte*),[33] the Supreme Court explained that the OSG's primary responsibility remains notwithstanding Section 220 of the Tax Code, as amended. Thus:

> 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.

BIR lawyers are not absolutely prohibited from appearing for petitioner before the Court *En Banc*. However, their authority to do so must proceed from the OSG. Following the Supreme Court's pronouncement in *La Suerte*, the OSG and the BIR entered into a Memorandum of Agreement, published through Revenue Memorandum Circular No. 025-10,[34] governing the representation of the CIR and the BIR in appealed tax cases. Moreover, Section 35(8), Chapter 12, Title III, Book IV of the Administrative Code of 1987 states that the OSG exercises supervision and control over such deputized lawyers. Thus:

> Section 35. Powers and Functions. – x x x
>
> (8) Deputize legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts, and exercise supervision and control over such legal officers with respect to such cases.

The Supreme Court explained in *Republic of the Philippines, represented by the Land Registration Authority v. Raymundo Viaje, et. al.*,[35] 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."

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[33] G.R. No. 144942, July 04, 2002, [Per J. Vitug, *En Banc*].
[34] Revenue Memorandum Circular No. 025-10, March 17, 2020.
[35] G.R. No. 180993, January 27, 2016 [Per J. Reyes, Third Division].

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In the same vein, in *Republic of the Philippines represented by Philippine Economic Zone Authority (PEZA) v. Heirs of Cecilio and Moises Cuizon*,[36] the Supreme Court upheld the Court of Appeals' dismissal of a petition for review filed by lawyers of the PEZA without the OSG's imprimatur, "[a]bsent showing of authority under the PEZA Charter and or proper deputation from the OSG."

Here, the instant *Petition for Review* was filed by the lawyers of the BIR on petitioner's behalf. The records, however, do not show any notice or written authority from the OSG authorizing the filing of the appeal. Attached to the petition is a copy of Revenue Delegation Authority Order (RDAO) No. 02-2007.[37] This, however, does not establish the authority of the BIR lawyers who filed the instant *Petition for Review*.

First, RDAO No. 02-2007 is a delegation issued by the CIR alone. This cannot substitute for the OSG's deputation under Section 35(8) of the Administrative Code of 1987, and in the Memorandum of Agreement between the OSG and the BIR. The authority to represent the Government in appellate proceedings, or to deputize government lawyers comes from the OSG, not from the agency seeking review of an adverse judgment.

Second, RDAO No. 02-2007 was issued prior to the Memorandum of Agreement entered by the BIR and the OSG in 2010.

Third, a careful reading of the RDAO shows that it delegates "authority to institute civil, administrative and criminal actions/cases for among others, the recovery of taxes or the enforcement of any fine, penalty or forfeiture under the Tax Code."[38] It does not purport to authorize the filing an appeal before this Court *En Banc*.

Verily, the instant *Petition for Review* was filed by the BIR's lawyers without the requisite authorization from the OSG. Thus, there was a lack of legal personality to file an appeal, and We cannot give due course to the *Petition for Review*.

Based on the foregoing, We need not belabor on the issues raised by the parties. The *Petition for Review* was filed without the

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[36] G.R. No. 191531, March 06, 2013 [Per. J. Perez, Second Division].
[37] 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
[38] EB Docket, p. 24.

requisite authority of the OSG and, in any event, an appeal was not validly perfected in accordance with law and the applicable rules. There being no valid appeal before this Court, the assailed Decision has attained finality and may no longer be disturbed.

WHEREFORE, premises considered, the instant *Petition for Review,* is hereby **DISMISSED.**

Accordingly, the assailed Decision and the assailed Resolution, promulgated in CTA Case No. 10742, are **AFFIRMED.**

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

(I concur in the result)
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

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice