REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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CAGAYAN DE ORO DOCTORS, INC. (Madonna and Child Hospital),
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2234
(CTA CASE No. 9260)

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUN 13 2022 1:35 pm

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RESOLUTION

On September 21, 2021, petitioner filed a Manifestation (Re: Tax Amnesty Availment) by registered mail informing the Court that it has a pending application for compromise settlement and it also availed of the Tax Amnesty Act under Republic Act No. 11213 as implemented by Revenue Regulations No. 4-2019.[1]

Consequently, in a Resolution dated November 24, 2021, petitioner was *required* to explain in writing, pursuant to Section 5, Rule 7 of the Rules of Court, its reason for failing to disclose to the Court the July 22, 2016 application for compromise settlement and the January 24, 2020 tax amnesty availment pending with the Bureau of Internal Revenue. Furthermore,

[1] *Rollo*, pp. 91-95.

respondent was *ordered* to: (a) Comment on petitioner's Manifestation and/or explanation; and, (b) Manifest whether the present case has become moot.[2]

On January 5, 2022, petitioner filed its Compliance and Submission, which explained that its failure to disclose the pending applications for compromise and tax amnesty was due to inadvertence and that the mistake was neither "intentional nor calculated to defy" the rules much less delay the proceedings of the case. Finally, in its defense, it cited jurisprudence which called for the liberal application of the rules on forum shopping.[3]

On January 31, 2022, respondent filed his Comment and Manifestation stating that, contrary to petitioner's position, the assessments are not yet delinquent accounts covered by the Tax Amnesty Act because the taxpayer was able to file an appeal before the court *a quo*. Nonetheless, respondent manifested that an Authority to Cancel Assessment (ATCA) has already been issued to the petitioner and, thus, submits the resolution of this case to the discretion of the Court.[4]

The Court resolves to *dismiss* the petition.

The rule on the certification against forum shopping is embodied in Section 5, Rule 7 of the Rules of Court,[5] which provides:

> **"RULE 7**
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> **PARTS AND CONTENTS OF A PLEADING**
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> xxx xxx xxx
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> **SEC. 5.** *Certification Against Forum Shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.
>
> Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein

[2] *Rollo*, pp. 118-119.
[3] *Rollo*, pp. 120-122.
[4] *Rollo*, pp. 124-127.
[5] Prior to the 2019 amendments.

> shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (*Underscoring supplied*)

Notably, Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals also obliges the party filing the petition to ensure that the same *must contain* a certification against forum shopping as provided for in Section 3, Rule 46 of the Rules of Court. Otherwise, failure to do so is sufficient ground for dismissal of the petition:

> **"RULE 6**
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> **PLEADINGS FILED WITH THE COURT**
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> xxx xxx xxx
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> **SEC. 2.** *Petition for review; contents.* – The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. <u>The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court.</u> A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition. (RTCA, Rule 5, sec. 2a)" (*Underscoring supplied*)
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> **"RULE 46**
>
> **ORIGINAL CASES**
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> xxx xxx xxx
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> **SEC. 3.** *Contents and filing of petition; effect of noncompliance with requirements.* — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.
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> In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.
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> It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a

> clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.
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> The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.
>
> The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.
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> The failure of the petitioner to comply with any of the requirements shall be sufficient ground for the dismissal of the petition." (*Underscoring supplied*)

With respect to its *compromise application* filed on July 22, 2016, the Court notes that petitioner had several opportunities to comply with its undertaking to disclose its pending application. In fact, petitioner had more than two years to inform the court *a quo*, after it filed the petition on February 16, 2016 but before the lower court issued its assailed decision on August 5, 2019.[6] On appeal, it also had another chance to inform the Court of this pending application when it filed the petition on March 11, 2020.[7] Petitioner overlooked its clear duty under the rules before both the court *a quo* and this Court.

With respect to the *tax amnesty availment* filed on January 24, 2020,[8] the petitioner *once again* neglected its duty and left the fact undisclosed in the present petition.

For reasons known to the petitioner alone, it chose to inform the Court about these *two* applications only after the January 12, 2021 Resolution submitting the case for decision.

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[6] August 5, 2019 Decision, *Rollo*, p. 27.
[7] Verification and Certification of Non Forum Shopping, *Rollo*, p. 21.
[8] Manifestation (Re: Tax Amnesty Availment) and Tax Amnesty Return on Delinquencies (Annex C), *Rollo*, pp. 95 and 104.

As aptly stated by the Supreme Court in *Gabriel v. Court of Appeals*,[9] substantial compliance will *not* suffice in a matter involving strict observance:

> "xxx. The attestation contained in the certification of non-forum shopping requires personal knowledge by the party who executed the same. To deserve the Court's consideration, petitioners must show reasonable cause for failure to personally sign the certification. They must convince the Court that the outright dismissal of the petition would defeat the administration of justice. In this case, the petitioners did not give any explanation to warrant their exemption from the strict application of the rule. Downright disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction." (*Underscoring supplied*)

In view of the foregoing, the present petition is **DISMISSED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[9] G.R. No. 149909, October 11, 2007.

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