REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2585** (CTA Case No. 9815)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **UY,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** and **CUI-DAVID,** *JJ*
CAPITOL STEEL CORPORATION, Respondent.	**Promulgated:** JUL 07 2022 3:40pm

x---x

RESOLUTION

On March 31, 2022, petitioner filed a *Petition for Review*[1] assailing the Decision dated June 30, 2021 and Resolution dated March 3, 2022, rendered by the First Division of this Court in CTA Case No. 9815 entitled "*Capitol Steel Corporation, Petitioner, vs. Commissioner of Internal Revenue, Respondent*".

In the *Resolution*[2] dated April 19, 2022, the Court noted that the attached *Verification and Certification of Non-Forum Shopping* is **not compliant** with Section 4 of Rule 7 of the 1997 Rules of Civil Procedure, as amended by A.M. No. 19-10-20-SC, for failure to allege the following attestations:

1. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

[1] EB Docket, pp. 7 to 16.
[2] EB Docket, pp. 44 to 46.

2. The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

Records show that petitioner received the April 19, 2022 *Resolution* on April 25, 2022[3]. Thus, petitioner had until April 29, 2022 to submit a compliant *Verification and Certification of Non-Forum Shopping.*

On May 31, 2022, a *Records Verification*[4] was issued by Leocadia D. Victoria, Records Officer 1, Receiving Unit, JRD or the Judicial Records Division of this Court stating that petitioner failed to comply with the Resolution dated April 19, 2022.

Hence, this Resolution.

Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals (RRCTA), provides that a petition for review should be **verified** and must contain a certification against forum shopping as provided in the Rules of Court, to wit:

> "**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. **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. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition." (Emphasis supplied.)

Further, Section 4(b), Rule 8 of the RRCTA[5], in relation to Section 5 of Rule 43 of the 1997 Rules of Civil Procedure[6], provides

[3] EB Docket, p. 43.
[4] EB Docket, p. 47.
[5] Section 4(b) of Rule 8 of the RRCTA provides as follows:
"**SEC. 4.** *Where to appeal; mode of appeal.* – xxx
(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. (n)"
[6] Section 5 of Rule 43 of the 1997 Rules of Civil Procedure provides as follows:
"**Section 5.** *How appeal taken.* — Appeal shall be taken by filing a **verified petition for review** in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency *a quo*. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner. xxx"

that an appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court *En Banc* by filing a **verified** petition for review.

The verification must contain the attestations stated in Section 4, Rule 7 of the 1997 Rules of Civil Procedure, as amended by A.M. No. 19-10-20-SC[7].

As mentioned earlier, the *Verification and Certification of Non-Forum Shopping* attached to the instant *Petition for Review* is **not** compliant therewith for failure to allege that the pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

It bears emphasis that a pleading required to be verified which lacks proper verification shall be treated as an unsigned pleading.[8]

Moreover, Section 7, Rule 43 of the 1997 Rules of Civil Procedure, provides as follows:

> **SEC. 7.** *Effect of failure to comply with requirements.-* The failure of petitioner to comply with any of the foregoing requirements regarding the payment of docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition **shall be sufficient ground for the dismissal thereof *(Emphasis supplied)***.

Accordingly, petitioner's failure to submit a compliant verification, despite the opportunity to do so, warrants the outright dismissal of the present petition.

---

[7] Section 4, Rule 7 of the 1997 Rules of Civil Procedure provides as follows:

"Section 4. *Verification.* - Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

(a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;

(b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery."

[8] *Ceferina Argallon-Jocson and Rodolfo Tuising vs Court of Appeals, et al.*, G.R. No. 162836, July 30, 2009.

WHEREFORE, in light of the foregoing considerations, the Instant *Petition for Review* filed by Commissioner of Internal Revenue Is hereby **DISMISSED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice