

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

RICARDO TENCHAVEZ ANDRES
[KIDSTUFF MARKETING],

Petitioner,

CTA Case No. 10733

Members:

- versus -

UY, Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

Promulgated:

JUL 19 2022

10:37 AM

X ----- X

RESOLUTION

Records show that on June 21, 2022, petitioner filed a *Compliance/Manifestation* submitting the: 1) Special Power of Attorney executed by Ricardo T Andres; 2) *Judicial Affidavit* of Jesus D Tivoli; and 3) *Judicial Affidavit* of Wendy S Sacramento, pursuant to the Court's *Resolution* dated April 18, 2022.

Upon perusal of the attachments to the *Compliance/Manifestation*, the Court **NOTES** that the same suffer from the following infirmities:

1. The competent evidence of identity, i.e., Passport P5083960B, stated in the *acknowledgment* portion of the Special Power of Attorney executed by Ricardo T Andres refers to one Rosemarie Andres and not to Ricardo T Andres.
2. The *jurat* portion of the *Judicial Affidavit* of Jesus D Tivoli, and the *jurat* portion of the Attestation of Atty. Rosendo Bartolome

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Meneses therein, are not compliant with Rule IV, Sec. 2 (b),¹ in relation to Rule II, Sec. 12 (a),² of A.M. No. 02-8-13-SC or the 2004 Rules on Notarial Practice, as these failed to state the details of Jose D Tivoli and Atty. Rosendo Bartolome Meneses' competent evidence of identity.

3. The *jurat* portion of the *Judicial Affidavit* of Wendy S Sacramento, and the *jurat* portion of the Attestation of Atty. Rosendo Bartolome Meneses therein, are not compliant with Rule IV, Sec. 2 (b), in relation to Rule II, Sec. 12 (a), of A.M. No. 02-8-13-SC or the 2004 Rules on Notarial Practice, as these failed to state the details of Wendy S Sacramento and Atty. Rosendo Bartolome Meneses' competent evidence of identity.

Section 3, Rule 42 of the Revised Rules of Court provides, among other things, that the failure of the petitioner to comply with the contents of and the documents which should accompany the petition, shall be sufficient ground for the dismissal thereof, to wit:

"Rule 42

Petition for Review from the Regional Trial Courts to the Court of Appeals

Section 3. *Effect of failure to comply with requirements.* — The **failure of the petitioner to comply** with any of the foregoing requirements regarding the payment of the 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.**"

¹ RULE IV POWERS AND LIMITATIONS OF NOTARIES PUBLIC

SEC. 2. *Prohibitions.* —

(b) A person shall not perform a notarial act if the person involved as signatory to the instrument or document —

(1) is not in the notary's presence personally at the time of the notarization; and

(2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules.

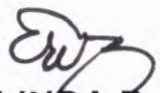
² RULE II DEFINITIONS

SEC. 12. *Competent Evidence of Identity.* — The phrase "competent evidence of identity" refers to the identification of an individual based on:

(a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual;

Thus, finding petitioner's *Compliance/Manifestation* and the attachments thereto as insufficient compliance with the Court's *Resolution* dated April 18, 2022, which gave petitioner one last opportunity to take appropriate action relative to the Court's observations³ in the said *Resolution*, the *Amended Petition for Review* filed on March 29, 2022 is hereby **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED.


ERLINDA P. UY
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


LANEE S. CUI-DAVID
Associate Justice

³ Paragraph 2 and the Dispositive portion of the *Resolution* dated April 18, 2022 reads as follows:

“Upon perusal of the *Amended Petition for Review*, the Court **NOTES** that the same still suffers from the following infirmities, to wit:

1. The *Amended Petition for Review* is still not compliant with Sections 6 (a) and (b), Rule 7 of A.M. No. 19-10-20-SC **for failure to attach the Judicial Affidavits of Jesus D. Tivoli and supposed second witness described as representative of the finance department of the organization.**
2. There is still **no proof of authority** of Atty. Rosendo Bartolome Meneses to file any and all pleadings and motions, and to represent petitioner, with full authority, during pre-trial.”

XXX XXX XXX

Accordingly, to avoid dismissal of the instant case, and in the interest of justice without compromising compliance with procedural requirements, petitioner is given one last opportunity **TO TAKE APPROPRIATE ACTION** in accordance with the aforementioned observations of this Court within **ten (10) days** from receipt hereof. Thereafter, the Court shall act accordingly.”