REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

METROPOLITAN CEBU WATER DISTRICT,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. EB CASE NO. 1211
(CTA CASE NO. 8158)

Present:

DEL ROSARIO, *PJ*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

OCT 2 8 2014
4:23 p.m.

x- -x

RESOLUTION

The record shows that petitioner failed to submit a Board Resolution granting petitioner's representative the authority to sign the verification and certification against forum shopping in the Petition for Review. Petitioner also failed to attach to the same Petition for Review the certified true copies of the assailed Decision of March 25, 2014 and Resolution of July 11, 2014 in CTA Case No. 8158.

Elementary is the rule that only individuals vested with authority, through a valid board resolution, may sign the certificate of non-forum shopping in behalf of a corporation and that the action can be dismissed if the certification is unaccompanied by proof of signatory's authority.[1]

Since petitioner is a corporation, the certification must be executed by an officer or member of the board of directors or by one who is duly authorized by a resolution of the board of directors; otherwise, the complaint must be dismissed. The lack of certification against forum shopping is generally not curable by mere amendment of the complaint, and shall be a cause for the dismissal of the case without prejudice. The same rule applies to certifications against forum shopping signed by a person on behalf of a corporation which are unaccompanied by proof that said signatory is authorized to file the complaint for and in behalf of the corporation. x x x if a complaint is filed for and in behalf of the plaintiff who is not authorized to do so, the complaint is not deemed filed. An unauthorized complaint does not produce any legal effect. Hence, the court should dismiss the complaint on the ground that it has no jurisdiction over the complaint and the plaintiff.[2]

On the failure to attach certified true copies of the assailed Decision and Resolution, Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals, provides:

> 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**

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[1] Cosco Philippines Shipping, Inc. vs. Kemper Insurance Company, G.R. No. 179488, April 23, 2012; Cagayan Valley Drug Corporation vs. CIR, G.R. No. 151413, February 13, 2008.
[2] Id.

> **attached to the petition**. (Emphasis supplied.)

Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals further provides, as follows:

> Sec. 4(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.

In relation thereto, Section 6, Rule 43 of the Rules of Court states:

> **Sec. 6.** *Contents of the petition.* The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; **(c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from,** together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (Emphasis ours.)

Taking the foregoing Rules into consideration, the Supreme Court has already upheld the mandatory character of the requirement to attach duplicate originals or certified true copies of the assailed decision to a petition for review.[3]

Although Section 6 of Rule 43 does not require that all of the supporting papers or annexes accompanying the petition should be certified true copies or duplicate originals, it is mandatory that clear and legible duplicate originals or certified true copies of the **judgment or final orders** of the lower courts must be attached to petition.[4] Further, failure to comply with this requirement is a sufficient ground for the dismissal of the petition.[5]

This is evident in Section 7, Rule 43 of the Rules of Court, *viz*:[6]

> **Sec. 7.** *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.** (Emphasis ours.)

Applying the foregoing pertinent provisions of the Rules, the failure of petitioner to submit a board resolution for the authority of its representative to sign the verification and certification against forum shopping, as well as to submit the certified true legible copies of the assailed Decision promulgated on March 25, 2014 and Resolution dated July

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[3] Philippine National Bank vs. Commissioner of Internal Revenue, G.R. No. 172458, December 14, 2011.
[4] Kalayaan Arts and Crafts, Inc. vs. Manuel Anglo and Jorge Yanson, G.R. No. 143467, July 21, 2003.
[5] Abapo, et al. vs. The Court of Appeals and San Miguel Corporation, G.R. No. 142405, September 30, 2004.
[6] Philippine National Bank vs. Commissioner of Internal Revenue, G.R. No. 172458, December 14, 2011.

11, 2014 in CTA Case No. 8158, warrant the outright dismissal of the instant Petition.

WHEREFORE, the Petition for Review dated August 4, 2014 filed by Metropolitan Cebu Water District, is hereby **DISMISSED**.

SO ORDERED.

(On Leave)
ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice