

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ASURION HONG KONG LIMITED
- ROHQ,

Petitioner,

CTA EB NO. 3279
(CTA Case No. 10413)

- versus -

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

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COMMISSIONER OF INTERNAL
REVENUE,

Petitioner,

CTA EB NO. 3293
(CTA Case No. 10413)

Present:

- versus -

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

ASURION HONG KONG LIMITED
- ROHQ,

Respondent.

Promulgated:

SEP 08 2026

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RESOLUTION

For the Court's consideration are the following:

1. The *Compliance with Motion to Admit* filed by the Commissioner of Internal Revenue (**CIR**) on June 16, 2026; and

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2. The Records Verification dated June 18, 2026 issued by the Judicial Records Division, stating that the CIR failed to file a comment on the *Petition for Review* of Asurion Hong Kong Limited – ROHQ (**Asurion**) in CTA EB No. 3279.

To recall, in a Minute Resolution dated March 26, 2026, the Court directed the CIR in CTA EB No. 3293 to cure the following deficiencies in his *Petition for Review*, within five (5) days from notice:

1. Proof that the special counsels of the Bureau of Internal Revenue [**BIR**] are authorized by the Office of the Solicitor General [**OSG**] to file the present *Petition for Review*, was not attached;
2. Proof that Atty. Dante E. Tan is authorized to sign the *Verification and Certification of Non-Forum Shopping*, was not attached; and
3. The counsel for petitioner's valid e-mail address that will serve as their e-mail address of record and current PTR No. with date and place of issuance (as may be applicable), were not indicated in the *Petition for Review*.

In his *Compliance*, posted on April 6, 2026, the CIR submitted the following documents:

1. Revenue Delegation Authority Order (**RDAO**) No. 2-2007 dated March 1, 2007;
2. RDAO No. 3-2006 dated July 25, 2006;
3. Report for Duty of Atty. Dante E. Tan, Regional Director of Revenue Region No. 8B-South NCR (**Report for Duty**); and
4. Authorization and Deputization of BIR Lawyer dated February 11, 2021.

A reading of RDAO No. 2-2007¹ shows that it pertains to the authority of the CIR to delegate powers vested in him under the Tax Code, including the authority to institute civil, administrative, and criminal actions or cases. Among other things, it authorizes the Deputy Commissioner for the Legal and Inspection Group and the Regional Directors to approve and sign documents concerning the institution of civil, administrative, and criminal actions, as well as other cases emanating from their respective Regional Offices.

¹ SUBJECT: 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.

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On the other hand, RDAO No. 3-2006² authorizes the Deputy Commissioner for the Legal and Inspection Group, the Assistant Commissioner for Legal Service, Regional Directors, and, in their absence, the officials next in rank, to sign Special Powers of Attorney and to appoint and authorize legal officers to appear for and on behalf of the CIR before various Courts.

Meanwhile, the *Report for Duty* shows that Atty. Dante E. Tan (**Atty. Tan**) assumed office as Regional Director of Revenue Region No. 8B-South NCR on November 14, 2025.

While the *Verification and Certification of Non-Forum Shopping* was signed by Atty. Tan, Regional Director, pursuant to the authority granted under RDAO No. 2-2007, no written authorization from the OSG was submitted to the Court in compliance with the Minute Resolution dated March 26, 2026.

Further, a review of the Authorization and Deputization of BIR Lawyer dated February 11, 2021, reveals that it was issued by the Department of Justice, not the OSG, and pertains only to the deputation of designated BIR lawyers authorized to assist public prosecutors in criminal tax cases. Clearly, such authority does not extend to the present civil case. Consequently, the submitted documents do not constitute sufficient compliance with the Court's directive requiring proof of authorization from the OSG.

Nevertheless, the CIR was afforded another opportunity to comply with the noted deficiency. Accordingly, in the Minute Resolution dated June 1, 2026, the Court again directed the CIR to submit, within five days from notice, proof that the special counsels of the BIR were authorized by the OSG to file the present *Petition for Review*. In the same Minute Resolution, the CIR was likewise directed to file a comment on Asurion's *Petition for Review*.

Now, in his *Compliance with Motion to Admit*, the CIR avers that he received a copy of the Minute Resolution dated June 1, 2026 on June 2, 2026 and had only until June 8, 2026 to file the instant *Compliance*. However, the said Resolution was forwarded to the assigned BIR lawyer, Atty. Fely Rose R.

² SUBJECT: Delegation of Authority to the Deputy Commissioner-Legal and Inspection Group, Assistant Commissioner-Legal Service and Regional Directors to sign Special Power of Attorney, Appoint and Authorize Legal Officers of this Bureau to Appear for and on Behalf of the Commissioner of Internal Revenue for Purposes of Pre-Trial Conference.



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Daganta (**Atty. Daganta**), only on June 11, 2026, and was therefore not brought to her attention in time.

In the interest of substantial justice, the Court deems it proper to **GRANT** the CIR's *Compliance with Motion to Admit* and **ADMIT** the attached *Compliance*.

However, upon review of the CIR's second *Compliance*, the Court finds it still **insufficient** to satisfy the directive in the Minute Resolution dated June 1, 2026, *i.e.*, to submit proof that the special counsels of the BIR were authorized by the OSG to file the present *Petition for Review*.

The CIR explains that, upon inquiry by Atty. Atty. Daganta regarding the issuance of proof of authority to file the instant *Petition for Review*, the OSG allegedly informed her that BIR counsels are already authorized to represent the CIR pursuant to Revenue Memorandum Circular (**RMC**) No. 25-2010.³ According to the CIR, there was therefore no need for the OSG to issue a separate or specific authority for the filing of the present *Petition*. In support of this contention, Atty. Daganta attached a copy of RMC No. 25-2010 and argues that, as a duly issued administrative issuance, it is a matter of which the Court may take mandatory judicial notice.

The Court is not persuaded.

At the outset, the CIR's position rests solely on Atty. Daganta's account of her alleged communication with the OSG. Apart from the submitted copy of RMC No. 25-2010, the CIR failed to present any written certification, conformity, deputation, authority, or similar official issuance from the OSG evidencing its approval of the filing of the present *Petition for Review*. Consequently, the CIR's assertion remains unsupported by competent proof and falls short of the Court's directive to submit proof of authority from the OSG.

It is well-settled that the authority to represent the State in appeals before the Court is vested in the OSG, which is the principal law officer and legal defender of the government.⁴

³ SUBJECT: Publishing the Text of the Memorandum of Agreement between the Bureau of Internal Revenue (BIR) and the Office of the Solicitor General.

⁴ Sec. 2 of Executive Order No. 300 dated July 26, 1987 states:
SEC. 2. The Office of the Solicitor General shall be headed by the Solicitor General, who is the principal law Officer and legal defender of the Government. He shall have the authority and responsibility for the exercise of

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Book IV, Title III, Chapter 12 of Executive Order No. 292 or the Administrative Code of 1987, defines the OSG's authority to represent the Government and its agencies and instrumentalities in court proceedings, particularly in civil actions where the Government or its officers, in their official capacity, are parties, *viz.*:

SEC. 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 a lawyer. 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.**

....

(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.** (Emphasis supplied)

The OSG is likewise empowered to deputize legal officers of government departments, bureaus, agencies, and offices to assist it in representing the Government.⁵

Meanwhile, Section 220 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provides that BIR's legal



the Office's mandate and for the discharge of its duties and functions, and shall have supervision and control over the Office of its constituent units. The Solicitor General, who shall be appointed by the President, shall have the same qualifications for appointment, rank, prerogatives, and privileges as those of the Presiding Justice of the Court of Appeals. (Emphasis supplied)

⁵ *Province of Occidental Mindoro v. Agusan Petroleum and Mineral Corp.*, G.R. No. 248932, January 14, 2025 [Per J. Leonen, *En Banc*].

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officers shall conduct civil and criminal actions and proceedings instituted on behalf of the Government, thus:

SEC. 220. *Form and Mode of Proceeding in Actions Arising under this Code.* - **Civil and criminal actions and proceedings instituted in behalf of the Government** under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and **shall be conducted by legal officers of the Bureau of Internal Revenue** but no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner. (Emphasis supplied)

In *Province of Occidental Mindoro v. Agusan Petroleum and Mineral Corporation*,⁶ the Supreme Court, citing *Commissioner of Internal Revenue v. La Suerte Cigar & Cigarette Factory*⁷ (**La Suerte**) and *People v. Court of Tax Appeals-Third Division*,⁸ reiterated that the OSG has the primary responsibility to appear for the BIR in proceedings before the Court of Tax Appeals (CTA):

In *Commissioner of Internal Revenue v. La Suerte Cigar & Cigarette Factory*, the Court was asked to elucidate on the issue of legal representation in light of Section 220 of the National Internal Revenue Code of 1997 that allows the legal officers of the Bureau of Internal Revenue (BIR) to institute and conduct judicial action on behalf of the government. The Court maintained that it is the solicitor general who has the primary responsibility to appear for the government in appellate proceedings:

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.* This pronouncement finds

⁶ G.R. No. 248932, January 14, 2025 [Per J. Leonen, *En Banc*].

⁷ G.R. No. 144942, July 4, 2002, [Per J. Vitug, *En Banc*].

⁸ G.R. Nos. 251270 & 251291-301, September 5, 2022 [Per J. Dimaampao, Third Division].



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justification in the various laws defining the Office of the Solicitor General, beginning with Act No. 135, which took effect on 16 June 1901, up to the present Administrative Code of 1987.

....

Then again, in *People v. Court of Tax Appeals-Third Division*, the Court, following *La Suerte*, held that the BIR cannot persist in questioning the Court of Tax Appeal's acquittal of the private respondents despite the solicitor general's assessment that there was no valid ground to do so. (Citations omitted)

Consistent with the foregoing, in *Commissioner of Internal Revenue v. Second Division of the Court of Tax Appeals*,⁹ the Supreme Court, citing *La Suerte*, reiterated that a petition filed without the OSG's *imprimatur* is procedurally defective and **dismissible on that ground alone**:

It is the OSG's statutory mandate "to 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."

In *Commissioner of Internal Revenue v. La Suerte Cigar & Cigarette Factory*, the CIR's direct filing of a petition before this Court, absent the requisite authority or representation of the OSG, constituted a procedural defect tantamount to non-fulfillment of the mandatory verification requirement. The Court clarified:

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.*

Pursuant to the pronouncement in *La Suerte*, the OSG and the BIR entered into a Memorandum of Agreement, which was communicated to all revenue officers and other concerned parties *via* Revenue Memorandum Circular No. 025-10.



⁹ G.R. No. 280165, August 4, 2025 [Per J. Inting, Third Division].

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That representation of the CIR/BIR before this Court is *exclusive* to the OSG, particularly in petitions assailing CTA rulings, as pronounced in *La Suerte*, is clear from the very terms of said agreement:

B. Handling Cases

....

2. Cases appealed before the *Regional Trial Courts, Court of Appeals and the Court of Tax Appeals En Banc*.

a. The OSG hereby *deputizes* BIR handling lawyers to:

i. Appear before the Courts; and

ii. Continue the prosecution/litigation of appealed tax cases before the Regional Trial Courts, Court of Appeals, and the Court of Tax Appeals En Banc.

The BIR handling lawyer shall have the following responsibilities:

i. To appear before courts; and

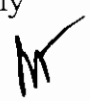
ii. To prepare all pleadings, motions, orders, decisions, resolutions, communications and other papers/documents in connection with the case.

b. The BIR shall periodically submit a list of handling lawyers to the OSG for purposes of deputation.

....

Verily, the OSG may deputize BIR lawyers; however, the latter's authority does not extend to representation before this Court. When the CIR is aggrieved by CTA rulings, it cannot proceed to this Court on its own, without the OSG's approval. In case the OSG finds it proper to proceed to the Supreme Court, it shall remain as the lead lawyer.

It has been held that **a petition filed without the OSG's *imprimatur*, when it is required, shall be defective; it shall be dismissible based on this ground alone.** While this rule was relaxed in *La Suerte*, the Court does not find any



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reason to do so in this case; the CIR/BIR is expected to observe the pronouncement in *La Suerte* and the guidelines set out in its own agreement with the OSG. (Emphasis supplied; citations omitted)

Thus, while Section 220 of the NIRC of 1997, as amended, authorizes BIR legal officers to initiate and conduct actions on behalf of the Government, such authority does not extend to appellate proceedings independently of the OSG. By express mandate of law and consistent jurisprudence, the **OSG retains the exclusive authority to represent the Government in appeals and to determine whether to seek recourse to higher courts.**

Notably, while the OSG may deputize BIR lawyers pursuant to Section 35(8), Title III, Chapter 12 of the Administrative Code of 1987, such deputation must be **express, case-specific, and subject to the OSG's supervision and control.** General issuances, administrative agreements, or standing arrangements do not suffice to establish the requisite authority to represent the Government in a particular appeal.

In this case, the *Petition for Review* was filed by the BIR lawyers on behalf of petitioner, without any showing of express deputation, written authority, or conformity from the OSG, despite several opportunities given to the BIR lawyers.

The latest document submitted by the BIR, namely RMC No. 25-2010 embodying the Memorandum of Agreement between the BIR and the OSG dated March 17, 2010, merely sets forth general policies governing coordination between the two offices. **Standing alone, it neither constitutes nor substitutes for** the OSG's specific authorization to initiate and pursue the present appeal.

Moreover, Atty. Daganta's claim that the OSG informed her that BIR lawyers are already authorized to file petitions for review before this Court pursuant to RMC No. 25-2010 is unsupported by any documentary evidence and remains a bare, self-serving allegation.

More importantly, none of the documents submitted by the CIR demonstrates that the OSG authorized the elevation of this case or exercised its discretion to pursue appellate review. Absent such imprimatur, the filing of the present *Petition* cannot



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be considered a valid invocation of this Court's appellate jurisdiction.

Settled jurisprudence holds that compliance with the requirement of representation by the OSG in appellate proceedings is not a mere technicality, but an essential condition for the proper institution of an appeal on behalf of the Government. As emphasized in *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*,¹⁰ the right to appeal is a statutory privilege, not a natural right, and must be exercised strictly in accordance with procedural rules. Failure to perfect an appeal within the prescribed period is jurisdictional and results in the loss of the remedy:

The right to appeal is not a natural right. It is also not part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.

The failure to timely perfect an appeal cannot simply be dismissed as a mere technicality, for it is jurisdictional. (Citations omitted)

Accordingly, a petition filed without the requisite authority or imprimatur of the OSG is **procedurally defective and dismissible on that ground alone.**

In fine, the instant *Petition for Review* in CTA EB No. 3293 was filed without the requisite authority or *imprimatur* of the OSG. Having repeatedly failed to demonstrate compliance with the Court's directive despite being afforded ample opportunity to do so, the CIR cannot validly invoke this Court's appellate jurisdiction. Accordingly, the *Petition* is **fatally defective and must be dismissed outright.**

WHEREFORE, premises considered, the instant *Petition for Review* in CTA EB No. 3293 is hereby **DISMISSED** for lack of the requisite authority or *imprimatur* of the Office of the Solicitor General, and for the CIR's failure to establish such authority despite having been afforded ample opportunity to do so.



¹⁰ G.R. No. 167606, August 11, 2010 [Per J. Mendoza, Second Division].

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Further, considering the CIR's failure to file a comment on the *Petition for Review* of Asurion Hong Kong Limited-ROHQ in CTA *EB* No. 3279, despite due notice, the said case is hereby deemed **SUBMITTED FOR DECISION**.

SO ORDERED.



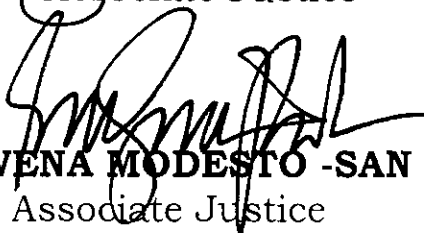
MA. BELEN RINGPIS-LIBAN

Presiding Justice



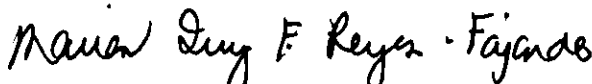
JEAN MARIE A. BACORRO-VILLENA

Associate Justice



MARIA ROWENA MODESTO -SAN PEDRO

Associate Justice



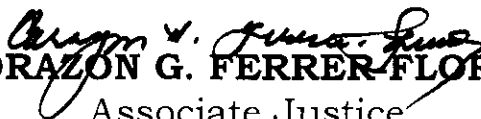
MARIAN IVY F. REYES-FAJARDO

Associate Justice



LANEE S. CUI-DAVID

Associate Justice



CORAZON G. FERRER-FLORES

Associate Justice



HENRY S. ANGELES

Associate Justice

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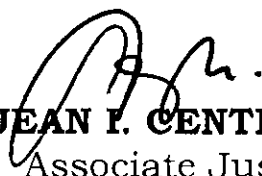
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PAOLO S. TESTON
Associate Justice



DEBBIE JEAN I. CENTENO-DIJAMCO
Associate Justice

