

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

REITOH COLD STORAGE INC., WE CTA **EB NO. 2786**
LEAD GROUP HOLDINGS INC., (CTA Case No. 10420)
ELENCE MARINE AND INDUSTRIAL

CORPORATION, MBPS CABLING
CORPORATION, GARUDA

CONSTRUCTION CORPORATION,
BCP DERMATOLOGICAL

CORPORATION, AUDIO VIDEO
SOLUTIONS CORPORATION,

DUNAMIS IMPORT-EXPORT PHILS.
INC., ALLEN V DRAGON

CORPORATION, MEDEV MEDICAL
DEVICES CORPORATION,

CHRYSALIS CONSTRUCTION AND
TRADING CORPORATION, PAPISS

INC., ICON REEFER CORPORATION,
JRT CONSTRUCTION AND TRADING

CORPORATION, DATALINK
SOLUTIONS TECHNOLOGY AND

CONSULTANCY INC., ABBE
TECHNOLOGY SOLUTIONS INC.,

EXEQUIEL BALANLAY ADORA, KEN
N RIE TRANSPORT INC., R2B2

REALTY & DEVELOPMENT
CORPORATION, G2K

CORPORATION, MAXX ENERGIE
VENTURES CORP. and

POWERSOURCE PHILIPPINES, INC.,

Petitioners,

Present:

DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, JJ.

-versus-

BUREAU OF INTERNAL REVENUE,
Respondent.

Promulgated:

NOV 08 2023

X- ----- X

R E S O L U T I O N

On August 24, 2023, petitioners were directed to submit a compliant Verification and Certification of Non-Forum Shopping and the authorization of Gina Mandigma to sign the aforesaid document in behalf of petitioners.

On September 8, 2023, petitioners filed a **Compliance** submitting a signed *Verification & Certification of Non-Forum Shopping* both by Maureen Braza and Gina Mandigma.

However, upon perusal of the abovementioned document, it still fails to comply with the requisites for a valid Verification and Certification against Forum Shopping by failing to include the phrase “*or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery*” therein, and that petitioners failed to submit the authorization of Gina Mandigma to sign the aforesaid document in behalf of petitioners.

Sections 4 and 5, Rule 7 of the Rules of Court, as amended, provides:

“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.**

The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.

A pleading required to be verified that contains a verification based on “information and belief,” or upon “knowledge, information and belief,” or lacks a proper verification, shall be treated as an unsigned pleading.

Section 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

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relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he [or she] 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 [or her] 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 [or she] should thereafter learn that the same or similar action or claim has been filed or is pending, he [or she] shall report that fact within five (5) calendar days therefrom to the court wherein his [or her] aforesaid complaint or initiatory pleading has been filed.

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.

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 shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his [or her] 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." (*Emphases supplied*)

Relative thereto, Section 3, Rule 17 of the Rules of Court, as amended, provides:

"Section 3. *Dismissal due to fault of plaintiff.* — **If, for no justifiable cause, the plaintiff fails to** appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to **comply with** these Rules or **any order of the court, the complaint may be dismissed** upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court."

WHEREFORE, premises considered, petitioners Petition for Review is hereby **DISMISSED** for failure to comply with the order of this Court.

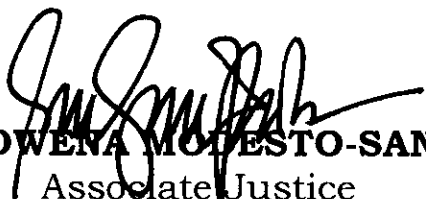
SO ORDERED.

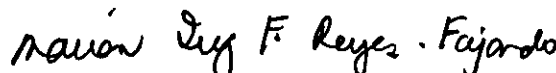

ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


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


CORAZON G. FERRER-FLORES
Associate Justice


HENRY S. ANGELES
Associate Justice